

Draft explanatory memorandum on the Free Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and New Zealand

Title: Free Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and New Zealand

1. Introduction

1.1. This draft explanatory memorandum has been prepared by the Department for International Trade. Separately, an independently scrutinised impact assessment of the Treaty has also been presented to Parliament today. This explanatory memorandum has not been prepared for the purpose of fulfilling the statutory obligations under Part 2 of the Constitutional Reform and Governance Act 2010 (CRaG Act); an explanatory memorandum will be provided subsequently for that purpose. The procedure under Part 2 of the CRaG Act will not be commenced until the report has been laid under section 42 of the Agriculture Act 2020.

2. Subject matter and purpose of the Treaty

2.1. The Free Trade Agreement (FTA) between the UK and New Zealand will from now on be referred to as the Treaty in this document. The Treaty is a comprehensive agreement which establishes a deeper trading relationship between the UK and New Zealand. Trade agreements aim to reduce barriers to trade and investment between countries. Barriers can be taxes charged on goods as they cross borders (tariffs), or different rules and regulations that can add to trade costs (non-tariff measures). Barriers make it more difficult and costly to trade or invest overseas. Reducing these barriers can improve the flow of trade between countries and help businesses to access new markets.

2.2. The Government has a manifesto commitment to secure a free trade agreement with New Zealand.

2.3. The Treaty establishes a free trade area between the Parties consistent with Article XXIV of the General Agreement on Tariffs and Trade 1994 and Article V of the General Agreement on Trade in Services.

2.4. It covers both trade in goods – creating preferential tariff and quota arrangements and including provisions on rules of origin, customs, and technical barriers to trade – and trade in services – including financial services and mobility – as well as investment and digital trade. It contains commitments in Chapters usually included in trade agreements such as Intellectual Property, Government Procurement, and the Environment, as well as new or less common Chapters such as on Consumer Protection, Trade and Development and Animal Welfare.

3. Background

3.1. Before this Treaty, the UK and New Zealand traded with one another on Most Favoured Nation (MFN) terms (treating all other World Trade Organization members equally). As part of this, New Zealand makes use of certain existing bound UK tariff

commitments which offer preferential access to New Zealand, most notably in respect of sheepmeat. For UK goods exporters, trading on MFN terms meant tariffs of up to 10% on specified products and of 5% for the majority of goods which faced a tariff. As a member of the European Union, the UK did not have a free trade agreement with New Zealand.

- 3.2. Total trade between the UK and New Zealand was worth £2.3 billion in 2020. In 2020, the UK's largest goods exports to New Zealand were cars (£133.5 million), mechanical power generators (intermediate) (£67.7 million) and specialised machinery (capital) (£40.3 million). The UK was the sixth largest direct investor in New Zealand and the fourth largest recipient of New Zealand Foreign Direct Investment (FDI) in 2020. UK individuals and companies had £900 million directly invested in New Zealand in 2020.
- 3.3. In 2020, services made up 29% of total UK trade with New Zealand, down from 36% in 2019. In 2020, the UK's largest services exports to New Zealand were insurance and pension (£149 million), telecommunications, computer and IT (£82 million), and IP (£64 million).
- 3.4. This Treaty builds on existing agreements with New Zealand which help facilitate trade. For example, at the end of the Transition Period, the UK Government transitioned the Agreement on Mutual Recognition in Relation to Conformity Assessment and the Agreement on Sanitary Measures Applicable to Trade in Live Animals and Animal Product between the European Community and New Zealand to ensure continuity for businesses when the UK left the EU.
- 3.5. The Treaty is also an important step towards the UK joining the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). Accession to CPTPP will provide greater opportunities for business through increased and more secure access to a diverse range of markets. Accession could also see 99.9% of UK exports being eligible for tariff-free trade with CPTPP members.

4. Framework of the Treaty

Entry into force, termination, and amendment

- 4.1. The Treaty will enter into force on such date as the Parties may agree in writing following delivery of the latter of the Parties' written notifications confirming completion of their respective applicable legal requirements and procedures for entry into force.
- 4.2. The Treaty may be terminated by either Party giving six months' written notice, unless the Parties agree otherwise.
- 4.3. The Treaty may be amended if the Parties so agree in writing. Such amendments take effect on a date agreed by the Parties following delivery of the latter of the Parties' notifications confirming completion of their respective applicable internal requirements for entry into force, unless the Parties agree otherwise. This amendment process as a default would engage the parliamentary scrutiny process set out in the Constitutional Reform and Governance Act 2010.
- 4.4. The Joint Committee also has the power to agree modifications, subject to any necessary legal procedures, to the following provisions of the Treaty:
 - Annex 2A (Schedule of Tariff Commitments);
 - Annex 3A (Product Specific Rules of Origin);

- the Parties' schedules in Annex 16A (Government Procurement Schedules);
- Annex 31A (Rules of Procedure) or Annex 31B (Code of Conduct);
- Appendix 7A-a (Oenological Practices Authorised Under the Laws and Regulations of New Zealand as Referred to in Subparagraph 18(b) of Section A of Annex 7A (Wine and Distilled Spirits)); or
- Annex 22A (List of Environmental Goods).

Committees

4.5. The Treaty establishes a Joint Committee, which is responsible for supervising the implementation and operation of the Treaty. This Treaty establishes six sub-committees in the following areas:

- Services and Investment (including Cross-Border Trade in Services, Financial Services, Domestic Regulation, Temporary Entry of Business Persons, Telecommunications, Investment, and Digital Trade Chapters);
- Sanitary and Phytosanitary Measures (SPS);
- Trade in Goods;
- Environment and Climate Change;
- Inclusive Trade (including Trade and Development, Trade and Gender Equality, Small and Medium-Sized Enterprises (SMEs) and Māori Trade and Economic Cooperation Chapters); and
- Labour.

4.6. In addition to the sub-committees a further seven working groups have been established:

- Intellectual Property (reporting to the Joint Committee);
- Government Procurement (reporting to the Joint Committee);
- Animal Welfare (reporting to the SPS sub-committee);
- Rules of Origin (RoO) and Customs and Trade Facilitation (reporting to the Trade in Goods sub-committee);
- Wine and Distilled Spirits (reporting to the Trade in Goods sub-Committee);
- Professional Services (reporting to the Services and Investment sub-committee); and
- Financial Services (reporting to the Services and Investment sub-Committee)

Dispute Resolution

4.7. The Treaty includes a state-to-state dispute settlement mechanism. This mechanism applies in full to all Chapters of the Treaty, aside as noted in paragraphs 4.8 – 4.10 below.

4.8. The Chapters to which this mechanism applies in part are:

- Trade Remedies.

4.9. The Chapters which modify aspects of this mechanism are:

- Environment, Financial Services, Trade and Labour, Intellectual Property, Technical Barriers to Trade, Anti-Corruption and Temporary Entry of Business Persons.

4.10. The Chapters to which this mechanism does not apply are:

- Competition, Trade and Development, Good Regulatory Practice (GRP), SMEs, Trade and Gender Equality, SPS, Māori Trade and Economic Cooperation and Animal Welfare.

General Exceptions

4.11. The Treaty includes a series of exceptions that provide circumstances that allow for the Parties to justify taking non-conforming measures, as long they meet the conditions of the exception. These exceptions allow the UK to protect domestic policy space and regulate in the public interest. Measures can be justified on grounds such as the protection of human, animal or plant life or health or measures necessary to mitigate climate change (GATT Article XX and GATS Article XIV, as incorporated), or on the grounds of national security, or in situations of economic difficulty.

4.12. Protecting the NHS is a fundamental principle of the Government's trade policy. In this Treaty, there are no measures which undermine this commitment. The General Exceptions and General Provisions Chapter recalls specific protections throughout the agreement applicable to the NHS.

4.13. We have agreed an exception that will protect the New Zealand government's ability to adopt measures it deems necessary to accord more favourable treatment to Māori, including to fulfil its obligations under the Treaty of Waitangi, and an exception for measures necessary to protect national works or specific sites of historical or archaeological value, or to support creative arts of national value.

Protocol on Ireland/Northern Ireland

4.14. The 'Relation to Other Agreements' article in the Initial Provisions and General Definitions Chapter provides for the relationship between the FTA and the Protocol on Ireland/Northern Ireland. The article sets out that nothing in the Treaty shall preclude the United Kingdom from adopting or maintaining measures further to the Protocol on Ireland/Northern Ireland, as long as those measures are not used as a means of arbitrary or unjustified discrimination against the other Party or as a disguised restriction on trade.

Review Clauses

4.15. The Treaty contains a general review provision as well as Chapter-specific review clauses in the Technical Barriers to Trade, Digital, State-Owned Enterprises and Designated Monopolies and Intellectual Property Chapters.

4.16. General Review: The General Review clause sets out that the Parties will undertake a review of the Treaty in the 7th year following the date of entry into force of the Treaty. The review will be undertaken with a view to updating and enhancing

the Treaty, and ensuring the Treaty remains relevant to trade and investment issues facing the Parties.

Key parts of the Treaty and its impacts

Goods

Market Access

- 4.17.** Removing or reducing tariffs makes it easier and less expensive to trade physical products between our countries. From the day of entry into force, the Treaty will provide tariff-free access for all UK-originating exports to New Zealand, saving businesses more than £17m by reducing tariff costs per year compared to existing trade. For example, tariffs of up to 10% on textiles, apparel, ceramics, motorhomes, buses, automotive parts, gin, chocolate, and biscuits will be cut to zero upon entry into force.
- 4.18.** The Treaty features mechanisms to protect the UK's farming industry – including through quotas, product specific safeguards and gradual tariff reductions over time for a range of goods imported from New Zealand.
- 4.19.** In particular, the Treaty provides for up to 15 years of limited tariff free imports of certain agricultural products, including beef and sheepmeat, from New Zealand. In further detail, this includes: a quota on duty-free imports of beef from New Zealand for 10 years, which is followed by a product-specific safeguard for a further 5 years. This results in a limit on the volume of duty-free imports of beef from New Zealand for a total of 15 years. Sheepmeat will be subject to a quota on duty-free imports from New Zealand for 15 years. In addition to this, this quota will only be available once New Zealand has filled its existing substantial WTO access by 90%. For butter and cheese, separate quotas will apply limiting the volume of duty-free imports from New Zealand for 5 years. For apples, a seasonal quota will apply, limiting the volume of duty-free imports permitted from New Zealand for 3 years.

Trade Remedies

- 4.20.** The Chapter provides for the protection of UK businesses from dumped or subsidised imports, as well as unforeseen surges in imports. It will allow for trade remedy measures to be applied in a proportionate manner, and investigations into these matters to be conducted transparently.
- 4.21.** The Chapter also includes a general bilateral safeguard mechanism which will apply to all goods, including beef, sheepmeat, butter, cheese, and apples. This will provide a temporary safety net for domestic industries where there is evidence that an increase in imports is causing, or threatens to cause, serious injury to a particular industry as a result of tariff liberalisation through the Treaty. The mechanism will be available for beef and sheepmeat for 15 years and 20 years respectively.

Sanitary and Phytosanitary (SPS) Measures

- 4.22.** This Chapter contains provisions that facilitate trade whilst ensuring the protection of human, animal and plant life and health. The UK already has a

separate high standard Sanitary Agreement with New Zealand which covers and effectively facilitates our trade in live animals and animal products. The UK and NZ have separately agreed that composite products, as defined by EU retained law Commission Decision 2007/275/EC of 17 April 2007, will be brought into the scope of the Sanitary Agreement, which will take these products outside the scope of this Chapter. Therefore, the Chapter focuses on plants, plant products, and processed plant-based foods.

- 4.23.** The Chapter will allow businesses to benefit from increased transparency and cooperation on SPS requirements, which will help enhance the flow of trade. Provisions on regionalisation will allow for trade to continue in the event of a pest outbreak where pest prevalence varies within the territory of a Party. The Chapter also provides clear and ambitious commitments to cooperate to reduce the development and spread of antimicrobial resistance.
- 4.24.** The Treaty protects the rights and freedom of both Parties to regulate to uphold standards and does not change the current import requirements or domestic legislation in place in the UK. The Treaty does not create any new permissions or authorisations for imports from New Zealand and does not compromise on our high environmental protection, animal welfare, plant health, and food standards. All products imported into the UK will, as they do now, have to comply with our import requirements.

Animal Welfare

- 4.25.** The UK and New Zealand recognise that it is inappropriate to weaken or reduce the protection of farmed animal welfare for the purposes of encouraging bilateral trade or investment. The Treaty therefore includes non-regression and non-derogation clauses on animal welfare which contain commitments for the UK and New Zealand to not lower their animal welfare standards in their laws and regulations in a manner materially affecting trade and investment between them.
- 4.26.** The Treaty commits the UK and New Zealand to work in close partnership on a range of animal welfare matters. This includes cooperation provisions with New Zealand to enhance animal welfare standards through sharing information and expertise, agreement to work together in international fora, and a strong statement that animals are recognised as sentient beings. This agreement protects the UK's sovereign right to regulate our own animal welfare policies.

Technical Barriers to Trade

- 4.27.** This Chapter facilitates closer cooperation between our governments to help unblock trade barriers and reduce the likelihood of new barriers forming. Sector-specific provisions on cosmetics, medicines, including veterinary medicines, and medical devices will facilitate closer cooperation in those industries in particular.
- 4.28.** This Chapter will make it easier to establish when the UK and New Zealand's product laws are equivalent to each other, paving the way to reduce the number of products which need to meet two different sets of regulations.
- 4.29.** The Wine and Distilled Spirits Annex will reduce trade barriers in labelling and make lot codes mandatory. The Annex also sets out a list of oenological

practices that the UK will recognise for New Zealand wine. A side letter on oenological practices confirms the process that the UK will use to assess other practices that New Zealand have requested. There is also a side letter confirming existing protections for Scotch Whisky in New Zealand under the New Zealand Fair Trading Act 1986.

Services and Investment

Cross-Border Trade in Services

- 4.30.** The UK and New Zealand have agreed a comprehensive services package including on professional services, commitments to prohibit unnecessary bureaucracy getting in the way of services trade, and unprecedented market access commitments from New Zealand, providing certainty for New Zealand and UK business and supporting the overall trade and investment relationship.
- 4.31.** The Cross-Border Trade in Services Chapter provides commitments for cross-border trade in services that ensures certainty for services suppliers in their continuing access to each other's markets and prohibits discrimination against each other's service suppliers. These guarantees apply by default across services sectors, except for specific reservations that are made using the negative listing approach. New Zealand has agreed to the full negative listing approach in connection to its market access commitments for the first time in an FTA. These benefits have also been extended to UK vessels flying the British flag or vessels flying the New Zealand flag.
- 4.32.** The Chapter includes additional sector-specific rules via an International Maritime Transport Services annex and an Express Delivery Services annex. The International Maritime Transport Services annex includes provisions that ensure UK and New Zealand vessels have non-discriminatory access to ports and maritime auxiliary services and are permitted to move empty containers and provide feeder services between ports, subject to reservations.
- 4.33.** The Express Delivery Services Annex includes provisions that create a level playing field for UK and New Zealand express delivery providers. The annex reaffirms the UK's and New Zealand's right to define the kind of universal service obligations they wish to adopt or maintain.
- 4.34.** The UK and New Zealand have also agreed a Professional Services and Recognition of Professional Qualifications Annex which includes provisions designed to deliver long-term benefits for UK and New Zealand professionals who want to work in or supply services to each other's territory. These provisions aim to support those seeking to have their professional qualifications recognised in the other Party's territory. This is achieved primarily through provisions which encourage relevant bodies to operate routes to recognition and to establish dialogues with their counterparts. This will be supported by a government-led Professional Services Working Group. The Annex includes legal services provisions which guarantee that UK and New Zealand lawyers can practise foreign and international legal advisory services, including arbitration, mediation and conciliation, in the other country's territory using their existing qualifications and "home" title. Provisions

also establish a bespoke legal services regulatory dialogue with the aim of addressing remaining barriers such as those relating to requalification. Recognising the importance of sustainability skills in architecture, the Annex also provides for a dialogue between relevant bodies in New Zealand and the UK responsible for regulating the profession of architects, to consider the potential inclusion of sustainability skills, such as sustainable design or energy efficiency, as a requirement for recognition.

- 4.35.** The Treaty includes a Chapter on Domestic Regulation, which aims to reduce ‘behind the border’ barriers by ensuring that service suppliers seeking authorisation to supply a service or invest in each other’s markets have greater certainty around the authorisation procedure for obtaining or amending a licence. The provisions build on the agreed disciplines contained within the WTO Joint Initiative on Services Domestic Regulation and include commitments on publication of information, authorisation fees, processing of applications, allocation of limited numbers of licenses, and appeals of administrative decisions. The authorisation process is supported by commitments to process applications electronically, making the process more accessible for UK businesses.

Financial Services

- 4.36.** The Financial Services Chapter secures UK companies’ ability to deliver high-value financial services to clients in New Zealand supporting the long-term competitiveness and stability of the UK’s financial services sector. The Chapter includes non-discrimination rules that will ensure that both UK and New Zealand firms are treated fairly when providing services in the other Party’s markets. The Chapter also secures important commitments to facilitate cross-border financial services trade – including for the insurance and asset management sectors – ensures the free flow of financial data across borders and promotes innovation in financial services in both countries. Furthermore, the Chapter supports our shared goals in promoting sustainable finance, recognising the importance of environmental, social and governance considerations and seeking to facilitate continued cooperation, including through the development of global standards in international fora.

Temporary Entry of Business Persons

- 4.37.** The Temporary Entry of Business Persons Chapter provides that UK contractual service suppliers in sectors such as legal services, research and manufacturing, can enter and temporarily stay in New Zealand for the purposes of supplying a service. New Zealand will create a new visa route to implement these commitments.
- 4.38.** The Chapter also secures entry to New Zealand for UK independent professionals for a large number of sectors. UK managers and specialists can transfer to their company locations in New Zealand and these business persons can stay for up to 3 years initially. Transferred managers and specialists working at their company locations in New Zealand, will also be able to bring their partners and dependent children with them. The commitments in this Chapter apply to UK permanent residents as well as British citizens.

Investment

- 4.39.** The Investment Chapter encourages further investment into UK nations and regions and creates opportunities for British companies to invest and grow their businesses in New Zealand – supporting the existing £2.3bn direct investment relationship we currently have.
- 4.40.** The Treaty includes provisions on market access for investors, prohibiting certain quantitative restrictions and providing greater certainty and transparency for investors across the economy.
- 4.41.** The Treaty also allows UK and New Zealand enterprises to maintain control over business operations and recruitment through ambitious commitments to prohibit residency and nationality requirements for board members and senior managers, subject to specific reservations taken by each Party using a negative listing approach.
- 4.42.** The Treaty ensures that fewer UK investments will be subject to review by New Zealand’s Overseas Investment Office. Only UK investments over NZD \$200m, other than those in certain sensitive sectors, will have to be reviewed whereas previously the threshold was NZD \$100m.
- 4.43.** The Treaty provides non-discriminatory treatment for UK investors and investment protections to guarantee fair treatment and protection from expropriation of assets without compensation. In light of the UK-New Zealand investment relationship the Treaty does not include an Investor-State Dispute Settlement (ISDS) mechanism.

Additional important parts of the agreement

Digital Trade

- 4.44.** The Treaty supports areas like e-commerce, electronic authentication and signatures, cybersecurity, and tackling spam. It facilitates the free flow of data which underpins fundamental aspects of goods and services trade in the modern economy, whilst saving UK businesses from the unnecessary cost of setting up servers in New Zealand. It guarantees that personal data protections frameworks will remain in place in both countries and ensures these frameworks include important standards around transparency and accountability. The Treaty also commits to cooperation in a number of areas including on digital innovation, emerging technologies and digital inclusion, which will help ensure that progress in digital trade is inclusive and beneficial for all.

Telecommunications

- 4.45.** The Telecommunications Chapter enables easier access to New Zealand’s telecommunications networks for UK service suppliers and vice versa. The Treaty includes key provisions on regulatory principles, authorisation, and a commitment to cooperate on international mobile roaming rates. The Chapter includes commitments on competitive safeguards on major suppliers, ensuring the telecommunications market is protected from anti-competitive practices, benefitting both suppliers and consumers. The Chapter also allows for specific co-operation with New Zealand on

technological information in telecommunications and to underpin the security of networks.

Intellectual Property

- 4.46. The Intellectual Property (IP) Chapter builds on existing shared international standards that support our economies through adequate, effective and balanced protection and enforcement of IP rights.
- 4.47. The Chapter includes a commitment from New Zealand to extend the term of copyright and rights in performances. This will align with the UK term of protection and shall be implemented within 15 years of the agreement coming into force. Holders of these rights will then enjoy additional remuneration for their works when exploited in New Zealand.
- 4.48. New Zealand will introduce an artist resale right and begin a process which will result in reciprocal arrangements for artist resale royalties, this will ultimately provide new income streams for our visual artists.
- 4.49. The Chapter requires New Zealand to make all reasonable efforts to join the UK as a member of the multilateral Hague Agreement on Industrial Designs, to provide new benefits for designers in both countries.
- 4.50. The Chapter includes a commitment that if New Zealand introduces a bespoke Geographical Indication (GI) scheme for agricultural products or foodstuffs, the UK will be able to put forward GIs for potential protection subject to New Zealand's legal procedures. If such schemes have not been introduced within two years of entry into force of the Treaty, GI provisions in the Treaty will be reviewed by New Zealand and the UK. There will also be opportunity for further reviews beyond this.

Procurement

- 4.51. The Procurement Chapter builds on the commitments made by the UK and New Zealand in the World Trade Organization (WTO) Agreement on Government Procurement (GPA) and includes new commitments that are stronger than those made by New Zealand in CPTPP. It includes stronger rules for procurement covered by the Treaty that ensure procurement is fair, transparent and non-discriminatory, and provides new legally guaranteed access to government procurement contracts tendered by both central government and the wider public sector for suppliers from both Parties.
- 4.52. Procurement covered by the Treaty must be advertised and conducted electronically, ensuring that UK suppliers have the same immediate access to New Zealand procurement opportunities as New Zealand suppliers.
- 4.53. UK businesses will receive legally guaranteed access to fair, transparent and non-discriminatory procurement for contracts from key central government departments and wider public sector entities in New Zealand that are covered under the Treaty.

Open and fair competition

- 4.54. Through Chapters on Competition, Consumer Protection (a first-of-kind in the UK's independent trade policy) and State-Owned Enterprises and Designated

Monopolies (SOEs), the Treaty commits New Zealand and the UK to maintain our existing rules and practices that provide for open and fair competition. The Chapters require New Zealand and the UK to uphold strong competition regimes, maintain consumer protection laws, and follow rules with respect to SOEs that ensure private enterprises do not face unfair competition and therefore gain the most benefit from the market access provided for by the Treaty.

- 4.55. The UK and New Zealand have committed to further negotiations within five years after Entry into Force. Further negotiations will cover: the possibility of extending the application of rules to SOEs owned or controlled by sub-central levels of government; and extending non-commercial assistance rules to protect the Parties from potential negative effects of services supplied by SOEs in non-party markets.

Environment

- 4.56. The UK and New Zealand have agreed a comprehensive Environment Chapter which sets out our shared commitment to mutually supportive trade and environmental policies and includes ambitious commitments in a number of areas including an environmental goods list, and commitments on coal and fossil fuels.

- 4.57. The Chapter ensures neither Party can waive or fail to domestically enforce environmental laws to create a competitive advantage and that both Parties have recourse to dispute settlement if any obligations in the Chapter are not upheld by the other Party. The Treaty also preserves both the UK's and New Zealand's right to regulate for environmental and climate change measures. This means both Parties can establish their own levels of environmental protection, including for the UK to pursue net zero.

- 4.58. The Chapter affirms commitments under multilateral environmental agreements, including the Paris Agreement, and includes commitments on areas including coal and fossil fuel subsidies, environmental goods and services, sustainable forest management and the circular economy.

Labour

- 4.59. The Treaty helps ensure high domestic protection for workers through commitments to international labour standards, and to not derogate from those standards to encourage trade and investment. It also contains commitments for the effective enforcement of labour laws, whilst protecting the UK's right to regulate.

- 4.60. The Treaty also addresses other areas of trade and labour, such as promoting gender equality in the workplace, tackling modern slavery in supply chains, and encouraging good business practice and corporate social responsibility.

Small and Medium-Sized Enterprises

- 4.61. The UK and New Zealand have committed to enhancing the ability of SMEs to benefit from the Treaty, and to promote SME participation in international trade. Both countries have committed to establishing and maintaining information in digital form that SMEs can draw on when trading. The UK and New Zealand have also agreed to a framework outlining the ways that both countries might cooperate on issues related to SME trade in the future.

- 4.62. Beyond the SME Chapter, the UK and New Zealand have committed to a range of additional outcomes across the Treaty which are targeted at reducing the compliance and other costs and obstacles SMEs face when trading.
- 4.63. There were over 230,000 British SMEs exporting goods and services in 2018, making up 98% of all exporters – and after agreeing a dedicated SME Chapter and reducing trade barriers across the board, we see considerable scope for the number of SMEs exporting to New Zealand to increase.

Trade and Gender Equality

- 4.64. In the Treaty, the UK and New Zealand agree to cooperate to support women as workers, businesswomen, business owners and entrepreneurs to fully access and benefit from the opportunities created under the Treaty.
- 4.65. Cooperation activities may include promoting financial inclusion, building trade-related capacity and enhancing skills of women at work, in business and at senior levels, fostering women's entrepreneurship and supporting economic opportunities for diverse groups of women in trade and investment. The UK and New Zealand also commit to develop a framework for analysing sex or gender-disaggregated data, and gender-focused analysis of trade policies.
- 4.66. A standalone Trade and Gender Equality Chapter complements gender provisions across the Treaty, including in areas such as services, small and medium sized enterprises, financial services, procurement, labour, development and digital trade.

Trade and Development

- 4.67. The Treaty is one of the first bilateral free trade agreements to include a dedicated Trade and Development Chapter. It underlines the importance of promoting inclusive economic growth, as well as the instrumental role that sustainable trade and investment can play in contributing to economic development.
- 4.68. Through the Trade and Development Chapter, the UK and New Zealand recognise the value of undertaking and increasing cooperation related to trade and development, including through the sharing of best practice on policy and programming and joint advocacy on trade and development issues in multilateral fora. The Chapter is also critical for the monitoring of any impacts of the Treaty on developing countries.
- 4.69. The Trade and Development Chapter is supported by provisions weaved into other priority Chapters which will ensure the whole Treaty supports trade and development objectives. These Chapters include Rules of Origin and Origin Procedures, Technical Barriers to Trade, Digital Trade, Trade and Gender Equality and Cross-Border Trade in Services.

Māori Trade and Economic Cooperation

- 4.70. This Chapter focuses on the unique relationship that exists between Māori, New Zealand and the United Kingdom.
- 4.71. The Chapter recognises the importance of the Treaty of Waitangi to New Zealand, and acknowledges that the New Zealand Crown has now succeeded the

British Crown and assumed all rights and obligations under that Treaty. It also recognises the importance of increasing Māori participation in trade and the value of Māori concepts in doing so, noting that obligations in this respect fall only on New Zealand.

- 4.72. The Chapter recognises various aspects of Māori participation in trade and investment; sets out a framework for cooperation to support NZ's efforts to ensure that Māori businesses are also able to maximise the opportunities arising from the FTA.
- 4.73. The Chapter sets out provisions for collaborating on enhancing the ability of Māori-owned enterprises to access and benefit from the trade and investment opportunities of the FTA, developing links between UK enterprises and Māori-owned enterprises and entrepreneurship (in line with provisions in the SME Chapter), and continuing to support science, research and innovation links as appropriate between the UK and Māori communities.
- 4.74. These provisions will be carried out through the existing cooperation framework between the UK and New Zealand facilitated by the British High Commission in New Zealand. Activities will be subject to the resources available to each Party and are not intended to impose any legal or financial obligations on the UK. These provisions do not create any obligation on the UK to treat Māori businesses differently from other UK or NZ businesses.
- 4.75. The Chapter also recognises that NZ may adopt or maintain measures to respect, preserve and promote traditional knowledge, but a clarification makes clear that for the UK the Chapter does not create any requirement to change intellectual property law or policy. It also makes clear that nothing in the Chapter constitutes recognition by the UK that Genetic Resources, Traditional Knowledge or Traditional Cultural Expressions are forms of intellectual property or are protectable as intellectual property.
- 4.76. The Chapter also acknowledges the significance of the Haka Ka Mate to Ngāti Toa Rangatira (a Māori iwi (tribe)) and provides for the UK and NZ to jointly endeavour to identify appropriate means to advance recognition and protection of the Haka Ka Mate. Additionally, the Chapter specifies that there will be no change to the UK's IP rules to achieve this outcome (or any other outcomes from the Chapter).
- 4.77. The Inclusive Trade Committee has a remit to monitor and review the implementation of the Chapter.

5. Implementation

Primary Legislation

- 5.1. A need for primary legislation has been identified in order to implement the Procurement Chapter of the Treaty. For this Chapter, we need to introduce new primary legislation in order to implement the Treaty.
- 5.2. For procurement covered by the Treaty, this comprises:
- Extending the duty owed to suppliers by UK procuring authorities under domestic legislation to suppliers from New Zealand, which has the effect of providing

New Zealand suppliers with access to the additional procurement markets provided under the Treaty that are over and above those covered by the GPA; and

- Extending the rights enjoyed by suppliers under domestic legislation to challenge procuring authorities for a breach of domestic procurement legislation and seek redress in UK courts to suppliers from New Zealand.

5.3. Primary legislation will also be needed to implement changes over the lifetime of the Treaty, including:

- Any updates to financial thresholds in the Treaty above which procurement obligations apply;
- Implementing any modifications or rectifications of coverage e.g. when there are Machinery of Government
- changes and departmental mergers, or removal of entities that are privatised; and
- Progressive changes to coverage over time.

Secondary Legislation

5.4. The Government will work to implement the tariffs and rules of origin protocol in regulations to be made under the Taxation (Cross-border Trade) Act 2018.

5.5. Secondary legislation will be required to extend UK copyright protection to New Zealand wired broadcasts to comply with the provisions of the Intellectual Property Chapter.

5.6. Secondary legislation will be required with respect to wine labelling.

Immigration Rules

5.7. Changes to the Immigration Rules will be required to implement commitments in the Schedule of Commitments for Temporary Entry of Business Persons relating to the temporary entry of contractual service suppliers and independent professionals.

Territorial Application

5.8. The Treaty will apply to the United Kingdom of Great Britain and Northern Ireland.

The territorial application of the following Chapters of the Treaty extends to the Crown Dependencies:

- (A) Chapter 2 (National Treatment and Market Access for Goods);
- (B) Chapter 3 (Rules of Origin and Origin Procedures); and
- (C) Chapter 4 (Customs Procedures and Trade Facilitation); and
- (D) Chapter 5 (Sanitary and Phytosanitary Measures); and
- (E) Chapter 6 (Animal Welfare).

This will take effect immediately upon entry into force of this Treaty.

5.9. The Treaty includes a mechanism which will allow for further extension to the Crown Dependencies and Overseas Territories. It is intended that further parts of this Treaty will be extended to the Crown Dependencies and parts of the Treaty to

Gibraltar once extension negotiations with New Zealand have taken place and the necessary implementing measures, e.g. legislation, are in place for the territories. DIT will work with the Crown Dependencies and Gibraltar in this regard, as well as any Overseas Territory that wishes this Treaty to be extended to it in future.

6. Financial

6.1. There will be no significant financial implications.

7. Impact Assessment

7.1. The Impact Assessment has been published and deposited in the House libraries. It has been independently scrutinised.

8. Human Rights

8.1. None.

9. Reservations and Declarations

9.1. No reservations or declarations have been made in relation to the Treaty.

10. Consultation

10.1. Our negotiating strategy was based on the results of one of the largest public consultations in UK history, and we spoke to businesses and interest groups in every part of the UK. In July 2019, the Department of International Trade published a summary of over 146,000 responses on a potential agreement with New Zealand.

10.2. We published the UK's approach to negotiating a free trade agreement with New Zealand in June 2020 a part of which responded to the consultation as well as an initial economic scoping assessment.

Devolved Administrations (DAs)

10.3. The UK Government is responsible for negotiating international trade agreements on behalf of all parts of the UK. However, DIT recognises that modern trade agreements interact with areas of devolved competence and that the DAs have interests across a range of areas.

10.4. DIT has created engagement structures at all levels to ensure a constructive approach to working with the DAs. These include the quarterly Ministerial Forum for Trade, regular bilateral ministerial meetings, the six-weekly Senior Officials Group, Chief Negotiator calls running parallel to negotiation rounds, six-weekly Chapter-specific policy roundtables and weekly working level engagement.

10.5. The DAs were consulted regularly after each negotiation round. Through this process DA priorities were registered, and the engagement was focused on those priorities through negotiations. The DAs were also able to directly input into both mandates and negotiating text in areas of devolved competence. Chapter leads also provided the DAs with technical updates across all areas of the FTA (both devolved and reserved).

10.6. During the negotiation sprint before, and after, the agreement in principle, senior officials from DIT increased their frequency of meetings with DA counterparts. This ensured DA officials were briefed on the key decision points

between negotiators and could feed in their views, in real time. DIT also shared a copy of the AIP document in advance and held several sessions, before publication, to ensure all of its aspects were fully understood. The Minister for Trade Policy also discussed the negotiation with DA Ministers and will continue to do so, both bilaterally and at the Ministerial Forum for Trade.

- 10.7.** The Treaty text and the impact assessment were shared with the DAs before signature. An embargoed copy of the final Treaty text was also shared.

Crown Dependencies (CDs) and Overseas Territories (OTs)

- 10.8.** The UK is committed to seeking to represent the interests of the Crown Dependencies (CDs) and Overseas Territories (OTs) in all international free trade agreements, acknowledging that they have varied and specific interests which differ from agreement to agreement.

- 10.9.** DIT has shared relevant written information and text with the CDs and OTs, where appropriate, and held policy specific discussions through a contact group established to support engagement on all issues related to international trade.

- 10.10.** We consult regularly with the CDs and the OTs at official and ministerial level and have highlighted to New Zealand our role in representing their interests throughout all stages of the negotiation.

Other stakeholders

- 10.11.** DIT engages extensively with a wide variety of stakeholders including businesses, civil society, professional services regulators, academics and consumer groups through the Strategic Advisory Group and Trade Advisory Groups (TAGs) and other stakeholder forums.

- 10.12.** We are committed to an open and transparent approach to trade negotiations, as well as regular engagement and discussion relating to ongoing negotiations. This involves sharing the Treaty Chapter text with stakeholders who have been most closely involved with negotiations through our TAGs.

- 10.13.** All TAG members have been consulted throughout the Treaty negotiations and the TAGs are key forums for sharing sensitive information. We are able to share with those stakeholders who have signed a Confidentiality Agreement which facilitate sensitive discussions by creating a secure framework for the sharing of confidential information with external stakeholders.

- 10.14.** Our post-round reporting ensured stakeholders were kept up to date. This involved a joint UK-New Zealand stakeholder briefing, our sector Trade Advisory Groups, Strategic Trade Advisory Group, Parliament and through a statement published on Gov.uk. DIT also uses several other mechanisms for consulting stakeholders and informing policy development including: ‘town hall’ style briefings, roundtables, webinars and bilateral and group engagements.

Trade Union Advisory Group (TUAG)

- 10.15.** Chaired by the Minister for International Trade, Ranil Jayawardena MP, this group provides a dedicated forum for representatives from some of the UK’s leading trade unions to advise the Government on how to protect and advance the interests of workers as part of its trade policy.

Civil Society Roundtables

10.16. Chaired by the Minister for International Trade, Ranil Jayawardena MP, the department holds a series of roundtables dedicated to engagement with key civil society organisations and think-tanks. These roundtables enable a broad cross-section of organisations to engage with Ministers on key issues including the environment, animal welfare, gender equality and international development.

10.17. The meetings complement DIT's engagement with civil society organisations through other fora, including the Strategic Trade Advisory Group, which has been expanded to incorporate greater civil society representation, including an Environment and Climate seat.

11. Ministerial Responsibility

11.1. The Secretary of State for the Department for International Trade has overall responsibility for the trading relationship with New Zealand and for this Treaty.

11.2. The Secretary of State for Foreign, Commonwealth and Development Affairs has overall responsibility for UK policy relating to the UK's relations with New Zealand.

The Secretary of State for the Department for International Trade approves this draft explanatory memorandum.