



New Zealand No. 1 (2022)

# Free Trade Agreement

between the United Kingdom of Great Britain and Northern Ireland and  
New Zealand

London, 28 February 2022

[The Agreement is not in Force]

*Presented to Parliament  
by the Secretary of State for Foreign, Commonwealth and Development Affairs  
by Command of His Majesty  
October 2022*



© Crown copyright 2022

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit [nationalarchives.gov.uk/doc/open-government-licence/version/3](https://nationalarchives.gov.uk/doc/open-government-licence/version/3)

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at [www.gov.uk/official-documents](http://www.gov.uk/official-documents)

Any enquiries regarding this publication should be sent to us at Treaty Section, Foreign, Commonwealth and Development Office, King Charles Street, London, SW1A 2AH

ISBN 978-1-5286-3737-4  
E02809270 10/22

Printed on paper containing 40% recycled fibre content minimum

Printed in the UK by HH Global on behalf of the Controller of His Majesty's Stationery Office

**CHAPTER 11**  
**FINANCIAL SERVICES**

**Article 11.1**  
**Definitions**

For the purposes of this Chapter:

**“commercial presence”** means any type of business or professional establishment, including through:

- (a) the constitution, acquisition, or maintenance of an enterprise; or
- (b) the creation or maintenance of a branch or a representative office,

within the territory of a Party for the purpose of supplying a service including, but not limited to, supplying a financial service;

**“cross-border financial service supplier of a Party”** means a person of a Party that is engaged in the business of supplying a financial service within the territory of the Party and that seeks to supply or supplies a financial service through the cross-border supply of that service;

**“cross-border trade in financial services”** or **“cross-border supply of financial services”** means the supply of a financial service:

- (a) from the territory of a Party into the territory of the other Party;
- (b) in the territory of a Party to a person of the other Party; or
- (c) by a national of a Party in the territory of the other Party,

but does not include the supply of a financial service in the territory of a Party by an investment in that territory;

**“enterprise of a Party”** means an enterprise as defined in Article 1.3 (General Definitions – Initial Provisions and General Definitions) constituted or organised under the law in force in any part of the territory of a Party and that carries out substantial business activities in the territory of that Party;<sup>1</sup>

---

<sup>1</sup> An enterprise shall be deemed to carry out substantial business activities in the territory of a Party if it has a genuine link to the economy of that Party. As to whether an enterprise has a genuine link to the economy of a Party should be established by an overall examination, on a case-by-case basis, of the relevant circumstances. These circumstances may include whether the enterprise:

- (a) has a continuous physical presence, including through ownership or rental of premises, in the territory of that Party;

**“established financial service supplier”** means a financial service supplier that supplies a financial service through commercial presence;

**“established financial service supplier of the other Party”** means an established financial service supplier located in the territory of a Party that is controlled by a person of the other Party;

**“financial service”** means any service of a financial nature, including insurance and insurance related services, banking and other financial services (excluding insurance), and services incidental or auxiliary to a service of a financial nature. Financial services include the following activities:

- (a) insurance and insurance related services:
  - (i) direct insurance (including co-insurance):
    - (A) life; and
    - (B) non-life;
  - (ii) reinsurance and retrocession;
  - (iii) insurance intermediation, such as brokerage and agency; and
  - (iv) services auxiliary to insurance, such as consultancy, actuarial, risk assessment, and claim settlement services;
- (b) banking and other financial services (excluding insurance):
  - (i) acceptance of deposits and other repayable funds from the public;
  - (ii) lending of all types, including consumer credit, mortgage credit, factoring, and financing of commercial transactions;
  - (iii) financial leasing;
  - (iv) all payment and money transmission services, including credit, charge and debit cards, travellers’ cheques, and bankers’ drafts;
  - (v) guarantees and commitments;

- 
- (b) has its central administration in the territory of that Party;
  - (c) employs staff in the territory of that Party; and
  - (d) generates turnover and pays taxes in the territory of that Party.

- (vi) trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:
  - (A) money market instruments (including cheques, bills, or certificates of deposits);
  - (B) foreign exchange;
  - (C) derivative products including futures and options;
  - (D) exchange rate and interest rate instruments, including products such as swaps and forward rate agreements;
  - (E) transferable securities; and
  - (F) other negotiable instruments and financial assets, including bullion;
- (vii) participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately), and provision of services related to such issues;
- (viii) money broking;
- (ix) asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository, and trust services;
- (x) settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;
- (xi) provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services; and
- (xii) advisory, intermediation, and other auxiliary financial services on all the activities listed in subparagraphs (i) to (xi), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions, and on corporate restructuring and strategy;

**“financial service supplier”** means a person of a Party that supplies, or seeks to supply, a financial service, but does not include a public entity;

**“investment”** means “investment” as defined in Article 14.1 (Definitions – Investment),<sup>2</sup> except that, with respect to “loans” and “debt instruments” referred to in that Article:

- (a) a loan to or debt instrument issued by an established financial service supplier is an investment only if it is treated as regulatory capital by the Party in whose territory the established financial service supplier is located; and
- (b) a loan granted by or debt instrument owned by an established financial service supplier, other than a loan to or debt instrument issued by an established financial service supplier referred to in subparagraph (a), is not an investment;

**“investor”** means a Party, or a person of a Party, that attempts to make, is making, or has made an investment in the territory of the other Party;

**“new financial service”** means a financial service, including services related to existing and new products or the manner in which a product is delivered, that is not supplied by any financial service supplier in the territory of one Party, but which is supplied in the territory of the other Party;

**“person of a Party”** means a national or an enterprise of a Party and, for greater certainty, does not include a branch of an enterprise of a non-party;

**“public entity”** means:

- (a) a government, a central bank or a monetary authority of a Party or any entity owned or controlled by a Party, that is principally engaged in carrying out governmental functions or activities for governmental purposes, not including an entity principally engaged in supplying financial services on commercial terms; or
- (b) a private entity performing functions normally performed by a central bank or monetary authority when exercising those functions; and

**“self-regulatory organisation”** means a non-governmental body, including any securities or futures exchange or market clearing agency, or other organisation or association, that exercises its own or delegated regulatory or supervisory authority over financial service suppliers.

---

<sup>2</sup> For greater certainty, a loan granted by or debt instrument owned by a cross-border financial service supplier, other than a loan to or debt instrument issued by an established financial service supplier, is an investment for the purposes of Chapter 14 (Investment), if such loan or debt instrument meets the criteria for investments set out in Article 14.1 (Definitions – Investment).

**Article 11.2**  
**Scope**

1. This Chapter shall apply to any measure adopted or maintained by a Party affecting trade in financial services with respect to:
  - (a) an established financial service supplier of the other Party;
  - (b) an investor of the other Party, and an investment of that investor, in an established financial service supplier in the Party's territory; and
  - (c) cross-border trade in financial services.
  
2. Chapter 14 (Investment) and Chapter 9 (Cross-Border Trade in Services) apply to measures described in paragraph 1 only to the extent that those Chapters or Articles of those Chapters are incorporated into this Chapter:
  - (a) Articles 14.11 (Minimum Standard of Treatment – Investment) to Article 14.19 (Corporate Social Responsibility – Investment) and Article 9.11 (Denial of Benefits – Cross-Border Trade in Services) are incorporated into and made a part of this Chapter.
  - (b) Article 9.9 (Payments and Transfers – Cross-Border Trade in Services) is incorporated into and made a part of this Chapter to the extent that cross-border trade in financial services is subject to obligations pursuant to subparagraphs 1(c) and 1(d) of Article 11.5 (National Treatment) and subparagraph 1(c) of Article 11.6 (Market Access).
  
3. This Chapter shall not apply to a measure adopted or maintained by a Party relating to:
  - (a) activities or services forming part of a public retirement plan or statutory system of social security; or
  - (b) activities or services conducted for the account or with the guarantee or using the financial resources of the Party, including its public entities,

except that this Chapter applies to the extent that a Party allows any of the activities or services referred to in subparagraphs (a) or (b) to be conducted by its financial service suppliers in competition with a public entity or a financial service supplier.
  
4. This Chapter shall not apply to government procurement of financial services.

5. This Chapter shall not apply to subsidies or grants with respect to the cross-border supply of financial services, including government-supported loans, guarantees, and insurance.
6. This Chapter does not impose any obligation on a Party with respect to a national of the other Party who seeks access to its employment market or who is employed on a permanent basis in its territory, and does not confer any right on that national with respect to that access or employment.

### **Article 11.3 Specific Exceptions**

1. This Agreement does not apply to measures taken or activities conducted by a central bank or monetary authority or by any other public entity in pursuit of monetary policies and related credit policies, or exchange rate policies.
2. This Agreement does not require a Party to furnish or allow access to information relating to the affairs and accounts of individual consumers, financial service suppliers or to any confidential information which, if disclosed, would interfere with specific regulatory, supervisory, or law enforcement matters, or would otherwise be contrary to public interest or prejudice legitimate commercial interests of particular enterprises.

### **Article 11.4 Prudential Exception**

1. This Agreement does not prevent a Party from adopting or maintaining measures for prudential reasons,<sup>3</sup> including:
  - (a) the protection of investors, depositors, policyholders, or persons to whom a financial service supplier owes a fiduciary duty;
  - (b) the maintenance of the safety, soundness, integrity, or financial responsibility of an established financial service supplier, cross-border financial service supplier, or a financial service supplier; or
  - (c) ensuring the integrity and stability of a Party's financial system.
2. Where such measures do not conform with the provisions of this Agreement, they shall not be used as a means of avoiding the Party's commitments or obligations under this Agreement.

---

<sup>3</sup> The Parties understand that this includes the maintenance of the safety, soundness, integrity, or financial responsibility of payment, settlement, and clearing systems.



**Article 11.5**  
**National Treatment**

1. Each Party shall accord to:
  - (a) established financial service suppliers of the other Party, treatment no less favourable than that it accords, in like situations, to its own established financial service suppliers;
  - (b) investors and investments of investors of the other Party in established financial service suppliers, treatment no less favourable than that it accords, in like situations, to its own investors and to investments of its own investors in established financial service suppliers;
  - (c) financial services as specified by the Party in Annex 11A (Cross-Border Trade in Financial Services) or cross-border financial service suppliers of the other Party seeking to supply or supplying such financial services, treatment no less favourable than that it accords to its own like financial services and financial service suppliers; and
  - (d) cross-border financial service suppliers of the other Party seeking to supply or supplying financial services as defined in subparagraph (b) or subparagraph (c) of the definition of “cross-border trade in financial services” or financial services supplied through such cross-border trade, treatment no less favourable than that it accords to its own like financial services and financial service suppliers.
  
2. A Party may meet the requirement of paragraph 1 by according to:
  - (a) established financial service suppliers of the other Party, either formally identical treatment or formally different treatment to that it accords, in like situations, to its own established financial service suppliers;
  - (b) investors and investments of investors of the other Party in established financial service suppliers, either formally identical treatment or formally different treatment to that it accords, in like situations, to its own investors and investments of its own investors in established financial service suppliers; or
  - (c) financial services and cross-border financial service suppliers of the other Party, either formally identical treatment or formally different treatment to that it accords to its own like financial services and financial service suppliers.
  
3. Formally identical or formally different treatment shall be considered to be less favourable if it modifies the conditions of competition in favour of:

- (a) established financial service suppliers of the Party compared to established financial service suppliers of the other Party, in like situations;
  - (b) investors and investments of investors of the Party in established financial service suppliers compared to investors and investments of investors of the other Party in established financial service suppliers, in like situations; or
  - (c) financial services or financial service suppliers of the Party compared to like financial services or cross-border financial service suppliers of the other Party.
4. Nothing in this Article shall be construed to require a Party to compensate for any inherent competitive disadvantages which result from the foreign character of the relevant financial services or financial service suppliers.

**Article 11.6**  
**Market Access**

1. A Party shall not adopt or maintain, with respect to:
- (a) an established financial service supplier of the other Party;
  - (b) an investor or an investment of an investor of the other Party in an established financial service supplier in the Party's territory; or
  - (c) a cross-border financial service supplier of the other Party:
    - (i) seeking to supply or supplying the financial services as specified by the Party in Annex 11A (Cross-Border Trade in Financial Services); or
    - (ii) engaged in the cross-border trade in financial services or seeking to supply such services as defined in subparagraph (b) or subparagraph (c) of the definition of "cross-border trade in financial services",
- on the basis of its entire territory a measure that:
- (d) imposes limitations on:
    - (i) the number of established financial service suppliers or cross-border financial service suppliers, whether in the form of numerical quotas, monopolies, exclusive service suppliers, or the requirement of an economic needs test;

- (ii) the total value of financial service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;
  - (iii) the total number of financial service operations or the total quantity of financial services output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test;
  - (iv) the participation of foreign capital in terms of maximum percentage limit on foreign shareholding in established financial service suppliers or the total value of individual or aggregate foreign investment in established financial service suppliers; or
  - (v) the total number of natural persons that may be employed in a particular financial services sector or that an established financial service supplier or cross-border financial service supplier may employ and who are necessary for, and directly related to, the supply of a specific financial service in the form of numerical quotas or the requirement of an economic needs test; or
- (e) restricts or requires specific types of legal entity or joint venture through which an established financial service supplier or cross-border financial service supplier may supply a financial service.
2. This Article does not prevent a Party imposing terms, conditions, and procedures for the authorisation of the establishment and expansion of a commercial presence provided that they do not circumvent the Party's obligation under paragraph 1 and are consistent with the other provisions of this Chapter.

#### **Article 11.7** **Financial Data and Information<sup>4</sup>**

1. Neither Party shall restrict a financial service supplier of the other Party from transferring information, including transfers of data by electronic means, where such transfers are necessary for the conduct of the ordinary business of the financial service supplier.

---

<sup>4</sup> For New Zealand, this Article does not apply to:

- (a) New Zealand's overseas investment approval framework, including decisions under it, as set out in the *Overseas Investment Act 2005*, *Overseas Investment Regulations 2005*, and *Fisheries Act 1996*; and
- (b) New Zealand's disaster and compulsory insurance schemes, as set out in the *Accident Compensation Act 2001* and *Earthquake Commission Act 1993*.

2. Subject to paragraphs 3 and 4, it is prohibited for a Party to require, as a condition for conducting business in the Party's territory, a financial service supplier of the other Party to use, store, or process information in the Party's territory. This prohibition also applies to circumstances in which a financial service supplier of the other Party uses the services of an external business for such use, storage, or processing of information.
3. Each Party has the right to require that information of a financial service supplier of the other Party is used, stored, or processed in its territory, where it is not able to ensure access to information required for the purposes of financial regulation and supervision, provided that the following conditions are met:
  - (a) to the extent practicable, the Party provides a financial service supplier of the other Party with a reasonable opportunity to remediate any lack of access to information; and
  - (b) the Party or its regulatory authorities consult the other Party or its regulatory authorities before imposing any requirements to a financial service supplier of the other Party to use, store, or process information in its territory.
4. Nothing in this Article shall restrict the right of a Party to adopt or maintain measures inconsistent with paragraph 1 or paragraph 2 to achieve a legitimate public policy objective, such as the protection of personal data, personal privacy, and the confidentiality of individual records and accounts, provided that such measures:
  - (a) are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade; and
  - (b) do not impose restrictions on transfers of information greater than are required to achieve the objective.

### **Article 11.8**

#### **Payment and Clearing**

Under terms and conditions that accord national treatment, each Party shall grant to established financial service suppliers of the other Party in its territory access to payment and clearing systems operated by public entities, and to official funding and refinancing facilities available in the normal course of ordinary business. This Article does not confer access to the Party's lender of last resort facilities.

**Article 11.9**  
**Self-Regulatory Organisations**

If a Party requires a financial service supplier of the other Party to be a member of, participate in, or have access to, a self-regulatory organisation to supply a financial service in or into the territory of that Party, or grants a privilege or advantage when supplying a financial service through a self-regulatory organisation, then the requiring Party shall ensure that the self-regulatory organisation observes the obligations contained in Article 11.5 (National Treatment).

**Article 11.10**  
**Senior Management and Boards of Directors**

1. Neither Party shall require established financial service suppliers of the other Party to engage natural persons of any particular nationality as members of the board of directors, senior managerial, or other essential personnel.
2. Neither Party shall require that more than a simple majority of the board of directors of established financial service suppliers of the other Party be composed of persons residing in the territory of the Party.

**Article 11.11**  
**Transparency**

1. The Parties recognise that transparent measures of general application governing the activities of financial service suppliers are important in facilitating their ability to gain access to and operate in each other's markets. Each Party commits to promote regulatory transparency in financial services.
2. Each Party shall:
  - (a) ensure that all measures of general application to which this Chapter applies are administered in a reasonable, objective, and impartial manner;
  - (b) to the extent practicable and in a manner consistent with its legal system ensure that its laws, regulations, procedures, and administrative rulings of general application to which this Chapter applies are promptly published or made available in such a manner as to enable an interested person and the other Party to become acquainted with them;
  - (c) to the extent practicable, ensure advance publication of any laws, regulations, procedures, and administrative rulings of general application to which this Chapter applies that it proposes to adopt and

provide an interested person and the other Party a reasonable opportunity to comment on these proposed measures;

- (d) maintain or establish appropriate mechanisms to respond, within a reasonable period of time, to an inquiry or a request for information from an interested person regarding measures of general application to which this Chapter applies;
  - (e) allow, to the extent practicable, a reasonable period of time between the final publication of a law or regulation of general application to which this Chapter applies and the date when it enters into effect; and
  - (f) ensure that measures of general application adopted or maintained by a self-regulatory organisation of the Party, to which this Chapter applies, are promptly published or otherwise made available in a manner that enables interested persons to become acquainted with them.
3. If a Party adopts or maintains measures relating to authorisation for the supply of a service, the Party shall ensure that:
- (a) the regulatory authority reaches and administers its decisions in a manner independent from any supplier of the services for which authorisation is required;<sup>5</sup>
  - (b) such measures are based on objective and transparent criteria;<sup>6</sup>
  - (c) the procedures are impartial, and that the procedures are adequate for applicants to demonstrate whether they meet the requirements, if such requirements exist;
  - (d) the procedures do not in themselves unjustifiably prevent fulfilment of requirements; and
  - (e) such measures do not discriminate between men and women.<sup>7</sup>
4. If a Party requires authorisation for the supply of a financial service, the regulatory authorities of the Party shall:
- (a) make publicly available the information necessary for financial service suppliers to comply with the requirements and procedures for

---

<sup>5</sup> This provision does not mandate a particular administrative structure; it refers to the decision-making process and administering of decisions.

<sup>6</sup> Such criteria may include, amongst other things, competence and the ability to supply a service, including to do so in a manner consistent with a Party's regulatory requirements. Competent authorities may assess the weight to be given to each criterion.

<sup>7</sup> Differential treatment that is reasonable and objective, and aims to achieve a legitimate purpose, and adoption by Parties of temporary special measures aimed at accelerating de facto equality between men and women, shall not be considered discrimination for the purposes of this subparagraph.

obtaining, maintaining, amending, and renewing such authorisation. Such information shall include, amongst other things, as applicable:

- (i) fees;
  - (ii) contact information of regulatory authorities;
  - (iii) procedures for appeal or review of decisions concerning applications;
  - (iv) procedures for monitoring or enforcing compliance with the terms and conditions of licences;
  - (v) opportunities for public involvement, such as through hearings or comments;
  - (vi) indicative timeframes for processing of an application;
  - (vii) any other relevant requirements and procedures; and
  - (viii) technical standards;
- (b) avoid, to the extent practicable, requiring an applicant to approach more than one competent authority for each application for authorisation. If a service is within the jurisdiction of multiple competent authorities, multiple applications for authorisation may be required;
- (c) permit, to the extent practicable, submission of an application at any time throughout the year.<sup>8</sup> If a specific time period for applying exists, the Party shall ensure that the regulatory authorities allow a reasonable period for the submission of an application;
- (d) taking into account their competing priorities and resource constraints, endeavour to accept applications in electronic format;
- (e) accept copies of documents, that are authenticated in accordance with the Party's domestic law, in place of original documents, unless the regulatory authorities require original documents to protect the integrity of the authorisation process;
- (f) ensure that the authorisation fees charged by regulatory authorities are reasonable, transparent, and do not in themselves constitute a restriction on the supply of the relevant service;

---

<sup>8</sup> Competent authorities are not required to start considering applications outside of their official working hours and working days.

- (g) if they consider an application complete for processing under the Party's domestic laws and regulations,<sup>9</sup> within a reasonable period of time after the submission of the application ensure that:
  - (i) the processing of the application is completed; and
  - (ii) the applicant is informed of the decision concerning the application, to the extent possible in writing;<sup>10</sup>
- (h) on request of an applicant, inform the applicant of the status of their application for authorisation within a reasonable period of time;
- (i) if they consider an application incomplete for processing under the Party's domestic laws and regulations, within a reasonable period of time, to the extent practicable:
  - (i) inform the applicant that the application is incomplete;
  - (ii) at the request of the applicant, identify the additional information required to complete the application, or otherwise provide guidance on why the application is incomplete; and
  - (iii) provide the applicant with the opportunity<sup>11</sup> to provide the additional information required to complete the application, and ensure that any deadlines for the additional information required are made clear to the applicant,

however, if none of the above is practicable, and the application is rejected due to incompleteness, ensure that they so inform the applicant within a reasonable period of time;
- (j) before rejecting an application for authorisation, notify the applicant with the relevant reasons and give the applicant the opportunity to make written or oral representations in support of the application;
- (k) on request of an unsuccessful applicant, to the extent possible, inform the applicant of the reasons for rejection of the application and, if applicable, the procedures for resubmission of an application. An applicant should not be prevented from submitting another revised application solely on the basis that an application had been previously rejected; and

---

<sup>9</sup> Competent authorities may require that all information is submitted in a specified format to consider it "complete for processing".

<sup>10</sup> "in writing" may include electronic form.

<sup>11</sup> Such opportunity does not require a competent authority to provide extension of deadlines.



- (l) ensure that authorisation, once granted, enters into effect without undue delay, subject to the applicable terms and conditions.<sup>12</sup>
5. Before the regulatory authority of a Party adopts a final law or regulation of general application, it shall endeavour, to the extent practicable, to address in writing the substantive comments received from interested persons with respect to the proposed measure.<sup>13</sup>
6. Chapter 21 (Good Regulatory Practice and Regulatory Cooperation) and Chapter 29 (Transparency) do not apply to a measure covered by this Chapter.

**Article 11.12**  
**Financial Services New to the Territory of a Party**

1. Each Party shall permit financial service suppliers of the other Party to supply a new financial service that the first Party would permit its own financial services suppliers to supply domestically, in like situations. For cross-border financial service suppliers, this Article only applies to the financial services specified in Annex 11A (Cross-Border Trade in Financial Services).
2. Notwithstanding subparagraph 1(e) of Article 11.6 (Market Access), a Party may determine the institutional and juridical form through which the new financial service may be supplied and may require authorisation for the supply of the service. Where such authorisation is required, a decision shall be made within a reasonable time, and the authorisation may only be refused for prudential reasons.
3. To support innovation in financial services, the Parties shall endeavour to collaborate, share knowledge, experiences and developments in financial services, to advance financial integrity, consumer wellbeing and protection, financial inclusion, competition, financial stability, and facilitate cross-border development of new financial services.
4. The Parties understand that nothing in this Article prevents a financial service supplier of a Party from applying to the other Party to request that it authorises the supply of a financial service that is not supplied in the territory of a Party. That application shall be subject to the law of the Party to which the application is made and, for greater certainty, shall not be subject to this Article.

---

<sup>12</sup> Competent authorities are not responsible for delays due to reasons outside their competence.

<sup>13</sup> For greater certainty, a Party may address those comments collectively on an official website.

**Article 11.13**  
**Diversity in Finance**

1. The Parties recognise the importance of building a diverse, including gender-balanced, financial services industry, and the positive impact such diversity has on balanced decision-making, consumers, workplace culture, investment, and competitive markets.
2. Each Party shall endeavour to share best practices to promote diversity in financial services. Diversity includes, but is not limited to, gender, ethnicity, and professional and educational background.
3. Each Party shall endeavour to promote diversity and inclusion in financial services by encouraging financial service suppliers to develop objectives and strategies that promote diversity and inclusion, including, but not limited to, remuneration policies on management bodies and governing bodies that implement the principle of equal pay for work of equal value.

**Article 11.14**  
**Sustainable Finance**

1. The Parties recognise the importance of international cooperation to facilitate the inclusion of environmental, social, and governance considerations in investment decision-making and other business activities, in order, thereby, to increase investment in sustainable activities.
2. The inclusion of environmental considerations in investment decision-making and other business activities involves, inter alia, the assessment and pricing of climate-related risks and opportunities, and the exploration of environmental and sustainable projects and infrastructure.
3. The Parties acknowledge the importance of encouraging financial services suppliers to develop an approach to managing climate-related financial risks. Specifically, the Parties recognise the importance of encouraging the uptake of climate-related financial disclosures for financial service suppliers, including forward-looking information, in line with initiatives in international fora, such as the Task Force on Climate-Related Financial Disclosures.
4. The Parties shall cooperate in relevant international fora, and where agreeable, in the development and adoption of internationally recognised standards for the inclusion of environmental, social, and governance considerations in investment decision-making and other business activities.

**Article 11.15**  
**Financial Services Dispute Settlement**

1. Chapter 31 (Dispute Settlement) applies, as modified by this Article, to the settlement of disputes arising under this Chapter.
2. The Parties shall ensure for disputes arising under this Chapter that in addition to the requirements set out in Article 31.8 (Qualifications of Arbitrators – Dispute Settlement):
  - (a) the Panel shall have the necessary expertise<sup>14</sup> relevant to financial services, which may include the regulation of financial service suppliers; and
  - (b) the appointed arbitrator acting as chair shall, where possible, have prior experience as counsel or arbitrator in dispute settlement proceedings.
3. If the Secretary-General of the Permanent Court of Arbitration is responsible for appointing an arbitrator pursuant to paragraph 5 of Article 31.7 (Composition of a Panel – Dispute Settlement), the Parties shall request that the Secretary-General appoint an arbitrator in accordance with the principles in subparagraphs 2(a) and 2(b).
4. Notwithstanding paragraph 4 of Article 31.15 (Temporary Remedies in Case of Non-Compliance – Dispute Settlement), in considering what concessions or other obligations to suspend where a panel has found that the measure of the responding Party is inconsistent with its obligations under this Agreement or that it has otherwise failed to carry out its obligations under this Agreement and the inconsistency affects:
  - (a) the financial services sector and any other sector, the complaining Party may suspend obligations in the financial services sector that have an effect that does not exceed the level of nullification or impairment in the complaining Party’s financial services sector; or
  - (b) only a sector other than the financial services sector, the complaining Party may not suspend obligations in the financial services sector.

**Article 11.16**  
**Institutional**

1. The Financial Services Working Group established under Article 30.10 (Working Groups – Institutional Provisions) (“the Working Group”) shall include a principal representative of each Party who shall be an official of the

---

<sup>14</sup> For greater certainty, this requirement may be satisfied by a majority of arbitrators having the necessary expertise relevant to financial services.

Party's authority responsible for financial services. For the United Kingdom, the Working Group representative shall be an official from HM Treasury or its successor. For New Zealand, the Working Group representatives shall include an official from the Ministry of Foreign Affairs and Trade, in coordination with financial services regulators.

2. The Working Group shall:
  - (a) provide a forum to discuss and review the implementation of the Chapter;
  - (b) consider financial services matters arising from the implementation of the Agreement; and
  - (c) provide reports on the request of the Services and Investment Sub-Committee regarding implementation of this Chapter.
3. The Working Group may meet, by agreement of the Parties, and such meetings may be physical or virtual, as mutually agreed.
4. The Parties may invite, if they consider it appropriate, representatives of their domestic financial regulatory authorities to attend meetings of the Working Group.

#### **Article 11.17 Consultation**

1. A Party may request consultations with the other Party regarding any matter arising under this Agreement that affects financial services. The other Party shall give sympathetic consideration to the request. The consulting Parties shall report the results of their consultations to the Working Group.
2. Each Party shall ensure that when there are consultations pursuant to paragraph 1, its delegation includes officials with the relevant expertise in the area covered by this Chapter. For the United Kingdom, this includes officials of HM Treasury or its successor. For New Zealand, this includes officials from the Ministry of Foreign Affairs and Trade, in coordination with financial services regulators.
3. For greater certainty, nothing in this Article shall be construed to require a Party to derogate from its law regarding sharing of information between regulatory authorities, or the requirements of an agreement or arrangement between financial authorities of the Parties, or to require a regulatory authority to take any action that would interfere with specific regulatory, supervisory, administrative, or enforcement matters.

**Article 11.18**  
**Recognition of Prudential Measures**

1. A Party may recognise a prudential measure of a non-party in the application of a measure covered by this Chapter. That recognition may be:
  - (a) accorded unilaterally;
  - (b) achieved through harmonisation or other means; or
  - (c) based upon an agreement or arrangement with the non-party.
2. A Party according recognition of a prudential measure under paragraph 1 shall provide adequate opportunity to the other Party to demonstrate that circumstances exist in which there are or will be equivalent regulation, oversight, implementation of regulation and, if appropriate, procedures concerning the sharing of information between the Parties.
3. If a Party recognises a prudential measure under subparagraph 1(c) and the circumstances described in paragraph 2 exist, the Party shall provide adequate opportunity to the other Party to negotiate accession to the agreement or arrangement, or to negotiate a comparable agreement or arrangement.

**Article 11.19**  
**Non-Conforming Measures**

1. Article 11.5 (National Treatment), Article 11.6 (Market Access), and Article 11.10 (Senior Management and Boards of Directors) shall not apply to:
  - (a) any existing non-conforming measure that is maintained by a Party at:
    - (i) the central level of government, as set out by that Party in Section A of its Schedule in Annex III (Financial Services Non-Conforming Measures);
    - (ii) a regional level of government, as set out by that Party in Section A of its Schedule in Annex III (Financial Services Non-Conforming Measures); or
    - (iii) a local level of government;
  - (b) the continuation or prompt renewal of any non-conforming measure referred to in subparagraph (a);

- (c) an amendment to any non-conforming measure referred to in subparagraph (a), to the extent that the amendment does not decrease the conformity of the measure as it existed:
    - (i) immediately before the amendment, with subparagraphs 1(a) and 1(b) of Article 11.5 (National Treatment), subparagraphs 1(a) and 1(b) of Article 11.6 (Market Access), or Article 11.10 (Senior Management and Boards of Directors); or
    - (ii) on the date of entry into force of this Agreement for the Party applying the non-conforming measure, with subparagraph 1(c) of Article 11.5 (National Treatment) or subparagraph 1(c) of Article 11.6 (Market Access); or
  - (d) any non-conforming measure that a Party adopts or maintains with respect to sectors, subsectors or activities, as set out by that Party in Section B of its Schedule in Annex III (Financial Services Non-Conforming Measures).
2. A non-conforming measure, set out in a Party's schedule to Annex I (Cross-Border Trade in Services and Investment Non-Conforming Measures) or Annex II (Cross-Border Trade in Services and Investment Non-Conforming Measures) as not subject to Article 14.6 (National Treatment – Investment), Article 14.5 (Market Access – Investment), Article 14.9 (Senior Management and Boards of Directors – Investment), Article 9.5 (National Treatment – Cross-Border Trade in Services), or Article 9.4 (Market Access – Cross-Border Trade in Services), shall be treated as a non-conforming measure not subject to Article 11.5 (National Treatment), Article 11.6 (Market Access), or Article 11.10 (Senior Management and Boards of Directors), as the case may be, to the extent that the non-conforming measure is covered by this Chapter.
  3. A Party shall not adopt any measure or series of measures after the date of entry into force of this Agreement that are covered by Annex III (Financial Services Non-Conforming Measures) of each Party and that require, directly or indirectly, an investor of the other Party, by reason of nationality, to sell or otherwise dispose of an investment existing at the time the measure or series of measures became effective.
  4. Article 11.5 (National Treatment) shall not apply to any measure that falls within an exception to, or derogation from, the obligations which are imposed by:
    - (a) Article 17.7 (National Treatment – Intellectual Property); or
    - (b) Article 3 of the TRIPS Agreement, if the exception or derogation relates to matters not addressed by Chapter 17 (Intellectual Property).

**Article 11.20**  
**Provision of Back-Office Functions**

1. Each Party recognises that the performance of the back-office functions of an established financial service supplier in its territory by the head office or an affiliate of the established financial service supplier, or by an unrelated service supplier, either inside or outside its territory, is important to the effective management and efficient operation of that established financial service supplier.
2. While a Party may require established financial service suppliers to ensure compliance with its domestic law applicable to those functions, they recognise the importance of avoiding the imposition of arbitrary requirements on the performance of those functions.
3. Nothing in paragraph 1 prevents a Party from requiring an established financial service supplier in its territory to retain certain functions.

## ANNEX 11A

### CROSS-BORDER TRADE IN FINANCIAL SERVICES

#### Schedule of New Zealand

1. Subparagraph 1(c) of Article 11.5 (National Treatment) and subparagraph 1(c) of Article 11.6 (Market Access) shall apply to the cross-border supply of trade in financial services, as defined in subparagraph (a) of the definition of “cross-border trade in financial services” or “cross-border supply of financial services” in Article 11.1 (Definitions), with respect to:
  - (a) insurance risks relating to:
    - (i) maritime shipping and commercial aviation and space launching and freight (including satellites), with such insurance to cover any or all of the following: goods being transported, the vehicle transporting the goods, and any liability arising therefrom;
    - (ii) goods in international transit;
    - (iii) credit and suretyship;
    - (iv) land vehicles including motor vehicles;
    - (v) fire and natural forces;
    - (vi) other damage to property;
    - (vii) general liability;
    - (viii) miscellaneous financial loss; and
    - (ix) difference in conditions and difference in limits, where the difference in conditions or difference in limits cover is provided under a master policy issued by an insurer to cover risks across multiple jurisdictions;
  - (b) reinsurance and retrocession, as referred to in subparagraph (a)(ii) of “financial service” in Article 11.1 (Definitions);
  - (c) services auxiliary to insurance, as referred to in subparagraph (a)(iv) of “financial service” in Article 11.1 (Definitions); and
  - (d) insurance intermediation, such as brokerage and agency, as referred to in subparagraph (a)(iii) of “financial service” in Article 11.1



(Definitions), of insurance risks relating to services listed in subparagraphs (a) and (b).

2. Paragraph 1 does not permit suppliers of the services listed in subparagraphs 1(a)(iii) to subparagraph 1(a)(ix) to provide a service to a retail client.
3. In this Schedule, for New Zealand, “retail client” means:
  - (a) a natural person; or
  - (b) a retail client as defined in clause 3 of schedule 5 of the *Financial Markets Conduct Act 2013*.

*Banking and other financial services (excluding insurance)*

4. Subparagraph 1(c) of Article 11.5 (National Treatment) and subparagraph 1(c) of Article 11.6 (Market Access) shall apply to the cross-border supply of trade in financial services, as defined in subparagraph (a) of the definition of “cross-border trade in financial services” or “cross-border supply of financial services” in Article 11.1 (Definitions), with respect to:
  - (a) provision and transfer of financial information and financial data processing and related software, as referred to in subparagraph (b)(xi) of “financial service” in Article 11.1 (Definitions);
  - (b) advisory and other auxiliary services, excluding intermediation, relating to banking and other financial services, as referred to in subparagraph (b)(xii) of “financial service” in Article 11.1 (Definitions); and
  - (c) portfolio management services by a financial services supplier of the United Kingdom to:
    - (i) a registered scheme; and
    - (ii) insurance companies.
5. For the purposes of the commitment made in subparagraph 4(c):
  - (a) a “registered scheme” means a registered scheme as defined under the *Financial Markets Conduct Act 2013*;
  - (b) “portfolio management” means managing portfolios in accordance with mandates given by clients on a discretionary client-by-client basis where such portfolios include one or more financial instruments; and
  - (c) portfolio management services do not include:

- (i) custodial services;
- (ii) trustee services; or
- (iii) execution services.

## ANNEX 11A

### CROSS-BORDER TRADE IN FINANCIAL SERVICES

#### Schedule of the United Kingdom

##### *Insurance and insurance-related services*

1. Article 11.5 (National Treatment) and Article 11.6 (Market Access) apply to the cross-border supply or trade in financial services, as defined in subparagraph (a) of the definition of “cross-border supply of financial services” in Article 11.1 (Definitions) with respect to:
  - (a) insurance of risks relating to:<sup>1</sup>
    - (i) maritime shipping and commercial aviation and space launching and freight (including satellites), with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods, and any liability arising therefrom;
    - (ii) goods in international transit;
    - (iii) credit and suretyship;
    - (iv) land vehicles;
    - (v) fire and natural forces;
    - (vi) other damage to property;
    - (vii) motor vehicle liability, except in relation to any liability which, in accordance with domestic law, must be insured by an insurer who is authorised under such laws;
    - (viii) general liability;
    - (ix) miscellaneous financial loss; and
    - (x) difference in conditions and difference in limits, where the difference in conditions or difference in limits cover is

---

<sup>1</sup> For greater certainty, insurance activities in the categories mentioned in subparagraphs 1(a)(iii) to subparagraph 1(a)(x) are included in the scope of the commitments only where a supplier is carrying on that insurance business entirely outside that Party’s territory.

provided under a master policy issued by an insurer to cover risks across multiple jurisdictions;

- (b) reinsurance and retrocession;
  - (c) insurance intermediation, such as brokerage and agency, as referred to in subparagraph (a)(iii) of the definition of “financial service” in Article 11.1 (Definitions), of insurance risks related to the services listed in subparagraphs (a) and (b); and
  - (d) services auxiliary to insurance as described in subparagraph (a)(iv) of the definition of financial service in Article 11.1 (Definitions).
2. Paragraph 1 does not permit suppliers of the services listed in subparagraphs 1(a)(iii) to subparagraph 1(a)(x) to provide a service to a retail client.
3. In this Schedule, for the United Kingdom, “retail client” means:
- (a) a natural person; or
  - (b) an enterprise which satisfies two or more of the requirements specified in section 465(3) of the *Companies Act 2006*.

*Banking and other financial services (excluding insurance)*

4. Article 11.5 (National Treatment) and Article 11.6 (Market Access) apply to the cross-border supply or trade in financial services, as defined in subparagraph (a) of the definition of cross-border supply of financial services in Article 11.1 (Definitions) with respect to:
- (a) the provision and transfer of financial information, and financial data processing and related software, as described in subparagraph (b)(xi) of the definition of “financial service” (excluding insurance) in Article 11.1 (Definitions);
  - (b) advisory and other auxiliary financial services relating to banking and other financial services, as described in subparagraph (b)(xii) of the definition of “financial service” (excluding insurance) in Article 11.1 (Definitions), but not intermediation as described in that subparagraph; and
  - (c) portfolio management services by a financial service supplier of New Zealand to:
    - (i) a collective investment vehicle or management company of such a vehicle;

- (ii) insurance companies; and
  - (iii) pension funds and management companies of such funds.
- 5. For the purposes of the commitment made in subparagraph 4(c):
  - (a) a collective investment vehicle means:
    - (i) a collective investment scheme as defined in section 235 of the *Financial Services and Markets Act 2000*; or
    - (ii) an alternative investment fund as defined in regulation 3 of the *Alternative Investment Fund Managers Regulations 2013*;
  - (b) portfolio management means managing portfolios in accordance with mandates given by clients on a discretionary client-by-client basis where such portfolios include one or more financial instruments; and
  - (c) portfolio management services do not include:
    - (i) custodial services;
    - (ii) trustee services; or
    - (iii) execution services.

**CHAPTER 12**  
**TELECOMMUNICATIONS**

**Article 12.1**  
**Definitions**

For the purposes of this Chapter:

**“associated facilities”** means those services, physical infrastructures, and other facilities associated with, or necessary for, a telecommunications network or service that enable or support the provision of services via that network or service or have the potential to do so;

**“end-user”** means a final consumer of, or subscriber to, a public telecommunications service, including a service supplier other than a supplier of public telecommunications services;

**“essential facilities”** means facilities of a public telecommunications network or service that:

- (a) are exclusively or predominantly provided by a single or limited number of suppliers; and
- (b) cannot feasibly be economically or technically substituted in order to supply a service;

**“interconnection”** means the linking of public telecommunications networks used by the same or different suppliers of telecommunications networks or services in order to allow the users of one supplier to communicate with users of the same or another supplier or to access services provided by another supplier. Services may be provided by the suppliers involved or any other supplier who has access to the network;

**“international mobile roaming service”** means a commercial mobile service provided pursuant to an agreement between suppliers of public telecommunications services that enables an end-user whose mobile handset or other device normally accesses public telecommunication services in the territory of one Party to use their mobile handset or other device for voice, data, or messaging services in the territory of the other Party;

**“leased circuits”** means telecommunications services or facilities between two or more designated points that are set aside for the dedicated use of, or availability to, a user;

**“major supplier”** means a supplier of public telecommunications networks or services that has the ability to materially affect the terms of participation, having

regard to price and supply, in a relevant market for public telecommunications networks or services as a result of control over essential facilities or the use of its position in that market;

**“measures of a Party”** means measures adopted or maintained by:

- (a) central, regional, or local governments or authorities; or
- (b) non-governmental bodies in the exercise of powers delegated by central, regional, or local governments or authorities;

**“network element”** means a facility or equipment used in supplying a telecommunications service, including features, functions, and capabilities provided by means of that facility or equipment;

**“non-discriminatory”** means treatment no less favourable than that accorded, in like situations, to other users of like public telecommunications networks or services;

**“number portability”** means the ability of end-users of public telecommunications services who so request to retain, at the same location in the case of a fixed line, the same telephone numbers when switching between the same category of suppliers of public telecommunications services;

**“public telecommunications network”** means telecommunications infrastructure used to provide public telecommunications services;

**“public telecommunications service”** means any telecommunications service that is offered to the public generally;

**“reference interconnection offer”** means an interconnection offer by a major supplier that is made publicly available, so that any supplier of public telecommunications services that is willing to accept it may obtain interconnection with the major supplier on that basis;

**“telecommunications”** means the transmission and reception of signals by any electromagnetic means;

**“telecommunications network”** means transmission systems and, if applicable, switching or routing equipment and other resources, including network elements which are not active, which permit the transmission and reception of signals by wire, radio, optical, or other electromagnetic means;

**“telecommunications regulatory authority”** means the body or bodies responsible for the regulation of telecommunications networks and services covered by this Chapter;

**“telecommunications service”** means a service that consists wholly or mainly in the transmission and reception of signals over telecommunications networks,

including over networks used for broadcasting, but does not include a service providing, or exercising editorial control over, content transmitted using telecommunications networks and services;

**“universal service”** means the minimum set of services that must be made available to all users or a set of users in the territory of a Party or in a subdivision thereof, regardless of their geographical location; and

**“user”** means a service consumer or a service supplier using a public telecommunications network or service.

## **Article 12.2 Objectives**

The Parties recognise the importance of the availability of high quality telecommunications services for enabling persons and businesses to access the benefits of trade, as well as the importance of ensuring competition in the telecommunication markets.

## **Article 12.3 Scope**

1. This Chapter shall apply to measures of a Party affecting trade in telecommunications services.

2. This Chapter shall not apply to:

- (a) measures affecting services providing, or exercising editorial control over, content transmitted using telecommunications networks or services;
- (b) audio-visual services; or
- (c) measures relating to broadcast or cable distribution of radio or television programming,

except to ensure that a service supplier of audio-visual services or a service supplier operating a broadcast station or cable system has continued access to and use of public telecommunications networks and services.

3. Nothing in this Chapter shall be construed as requiring a Party:

- (a) to authorise a service supplier of the other Party to establish, construct, acquire, lease, operate, or supply telecommunications networks or services other than as provided for in this Agreement; or



- (b) to establish, construct, acquire, lease, operate, or supply telecommunications networks or services not offered to the public generally, or to oblige a service supplier under its jurisdiction to do so.

#### **Article 12.4** **Approaches to Regulation**

1. The Parties recognise the value of competitive markets to deliver a wide choice in the supply of telecommunications services and to enhance consumer welfare, and that economic regulation may not be needed if there is effective competition or if a service is new to a market. Accordingly, the Parties recognise that regulatory needs and approaches differ market by market, and that each Party may determine how to implement its obligations under this Chapter.
2. In this respect, the Parties recognise that a Party may:
  - (a) engage in direct regulation either in anticipation of an issue that the Party expects may arise or to resolve an issue that has already arisen in the market;
  - (b) rely on the role of market forces, particularly with respect to market segments that are, or are likely to be, competitive or that have low barriers to entry, such as services provided by telecommunications suppliers that do not own network facilities; or
  - (c) use any other appropriate means that benefit the long-term interest of end-users.

#### **Article 12.5** **Access and Use**

1. Each Party shall ensure that any service supplier of the other Party has access to and use of public telecommunications networks or services, including leased circuits, offered in its territory on reasonable and non-discriminatory terms and conditions. This obligation shall be applied, inter alia, to paragraphs 2 to 6.
2. Each Party shall ensure that service suppliers of the other Party are permitted to:
  - (a) purchase or lease and attach terminal or other equipment that interfaces with a public telecommunications network;

- (b) provide services to individual or multiple end-users over leased or owned circuits;
  - (c) connect private leased or owned circuits with public telecommunications networks and services or with circuits leased or owned by another service supplier;
  - (d) use operating protocols of the service supplier's choice; and
  - (e) perform switching, signalling, processing, and conversion functions.
3. Each Party shall ensure that service suppliers of the other Party may use public telecommunications networks and services for the movement of information in its territory or across its borders, including for intracorporate communications of those service suppliers, and for access to information contained in databases or otherwise stored in machine-readable form in the territory of a Party.
4. Notwithstanding paragraph 3, a Party may take such measures as are necessary to ensure the security and confidentiality of communications and to protect the privacy of personal data of end-users of public telecommunications networks or services, subject to the requirement that those measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade in services.
5. Each Party shall ensure that no condition is imposed on access to and use of public telecommunications networks and services other than as necessary:
- (a) to safeguard the public service responsibilities of suppliers of public telecommunications networks or services, in particular their ability to make their networks and services available to the public generally; or
  - (b) to protect the technical integrity of public telecommunications networks or services.
6. Provided that they satisfy the criteria set out in paragraph 5, conditions for access to and use of public telecommunications networks and services may include:
- (a) restrictions on resale or shared use of such services if a Party requires a major supplier to offer its service for resale;
  - (b) a requirement to use specified technical interfaces, including interface protocols, for interconnection with such networks and services;
  - (c) a requirement, if necessary, for the interoperability of such networks and services;

- (d) type approval of terminal or other equipment that interfaces with the network and technical requirements relating to the attachment of such equipment to such networks;
- (e) restrictions on interconnection of private leased or owned circuits with such networks or services or with circuits leased or owned by another service supplier; or
- (f) notification, registration, and licensing.

**Article 12.6**  
**Access to Essential Facilities**

1. Each Party shall ensure that a major supplier in its territory provides access to its essential facilities to suppliers of public telecommunications networks or services on reasonable, transparent, and non-discriminatory terms and conditions for the purpose of providing public telecommunications services, except when this is not necessary to achieve effective competition on the basis of the facts collected and the assessment of market conditions conducted by the telecommunications regulatory authority. The major supplier's essential facilities may include, inter alia, network elements, leased circuits services, and associated facilities.
2. Each Party shall determine those essential facilities required to be made available pursuant to paragraph 1, and to what extent those essential facilities are to be unbundled. That determination shall be based, inter alia, on the objective of achieving effective competition and the benefit of the long-term interest of end-users.
3. If a Party requires a major supplier to offer its public telecommunications services for resale, the Party shall ensure that that supplier does not impose unreasonable or discriminatory conditions on the resale of its public telecommunications services.

**Article 12.7**  
**Interconnection**

1. The Parties recognise that interconnection should in principle be agreed on the basis of commercial negotiation between the suppliers of public telecommunications networks or services concerned.
2. Each Party shall ensure that a supplier of public telecommunications networks or services in its territory:

- (a) provides interconnection with a supplier of public telecommunications networks or services of the other Party; or
- (b) enters into negotiations for interconnection with a supplier of public telecommunications networks or services of the other Party, if requested to do so by that supplier.

**Article 12.8**  
**Interconnection with Major Suppliers**

1. Each Party shall ensure that a major supplier of public telecommunications networks or services in its territory provides interconnection:
  - (a) at any technically feasible point in the major supplier's network;
  - (b) on request, at points in addition to the network termination points offered to the majority of users, subject to charges that reflect the cost of construction of necessary additional facilities;
  - (c) under non-discriminatory terms and conditions (including as regards rates, technical standards, and specifications, including quality and maintenance) and of a quality no less favourable than that provided for its own like services, or for like services of its subsidiaries or other affiliates; and
  - (d) on a timely basis, and on terms and conditions (including rates, technical standards, and specifications) that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the suppliers do not need to pay for network components or facilities that they do not require for the service to be provided.
2. Each Party shall ensure that major suppliers make publicly available, as appropriate:
  - (a) a reference interconnection offer or another standard interconnection offer containing the rates, terms and conditions that the major supplier offers generally to suppliers of public telecommunications services; or
  - (b) the terms and conditions of an interconnection agreement in effect.
3. Each Party shall make publicly available the applicable procedures for interconnection negotiations with a major supplier in its territory.

**Article 12.9**  
**Number Portability**

Each Party shall ensure that suppliers of public telecommunications services provide number portability on a timely basis, without impairment of quality, reliability, or convenience, and on reasonable and non-discriminatory terms and conditions.

**Article 12.10**  
**Scarce Resources**

1. Each Party shall ensure that the allocation and granting of rights of use of scarce resources related to telecommunications, including radio spectrum and frequencies, numbers, and rights of way, is carried out using procedures that are objective, timely, transparent, and non-discriminatory, and shall endeavour to take into account the public interest, including the promotion of competition.
2. Each Party shall make publicly available the current state of allocated frequency bands, but detailed identification of radio spectrum allocated for specific government uses is not required.
3. Each Party may rely on market-based approaches, such as bidding procedures, to assign radio spectrum and frequencies for commercial use.
4. A measure of a Party allocating and assigning radio spectrum and managing frequency is not per se inconsistent with Article 9.4 (Market Access – Cross-Border Trade in Services) and Article 14.5 (Market Access – Investment). Accordingly, each Party retains the right to establish and apply spectrum and frequency management measures that may have the effect of limiting the number of suppliers of telecommunications services, provided that it does so in a manner consistent with this Agreement. This includes the ability to allocate frequency bands taking into account current and future needs and spectrum availability.

**Article 12.11**  
**Competitive Safeguards on Major Suppliers**

1. Each Party shall adopt or maintain appropriate measures for the purpose of preventing suppliers of public telecommunications networks or services in its territory that, alone or together, are a major supplier from engaging in or continuing anti-competitive practices.
2. The anti-competitive practices referred to in paragraph 1 include, in particular:

- (a) engaging in anti-competitive cross-subsidisation;
- (b) using information obtained from competitors with anti-competitive results; and
- (c) not making available to other services suppliers on a timely basis technical information about essential facilities and commercially relevant information that are necessary for them to provide services.

### **Article 12.12 Treatment by Major Suppliers**

Each Party shall ensure that a major supplier in its territory accords suppliers of public telecommunications networks or services of the other Party treatment no less favourable than that major supplier accords in like circumstances to its subsidiaries or affiliates regarding:

- (a) the availability, provisioning, rates, or quality of like telecommunications services; and
- (b) the availability of technical interfaces necessary for interconnection.

### **Article 12.13 Regulatory Principles**

1. Each Party shall ensure that its telecommunications regulatory authority is legally distinct from, and functionally independent to, any supplier of public telecommunications networks, equipment, and services. With a view to ensuring the independence and impartiality of telecommunications regulatory bodies, each Party shall ensure that its telecommunications regulatory authority does not hold a financial interest or maintain an operating or management role<sup>1</sup> in any supplier of public telecommunications services, networks, or equipment. A Party that retains ownership or control of suppliers of telecommunications networks or services shall ensure effective structural separation of the regulatory function from activities associated with ownership or control.
2. Each Party shall ensure that regulatory decisions and procedures of its telecommunications regulatory authority or other competent authority, related to this Chapter, are impartial with respect to all market participants.

---

<sup>1</sup> This paragraph shall not be construed to prohibit a government entity of a Party other than the telecommunication regulatory body from owning equity in a supplier of public telecommunications services.

3. Each Party shall ensure that its telecommunications regulatory authority acts independently by not seeking or taking instructions from any person outside the authority when exercising responsibilities assigned under national law which are relevant to the enforcement of obligations in this Chapter.<sup>2</sup>
4. Each Party shall ensure that the telecommunications regulatory authority is sufficiently empowered to carry out the responsibilities assigned to it relevant to the enforcement of obligations set out in this Chapter. Such power shall be exercised transparently and in a timely manner.
5. Each Party shall provide its telecommunications regulatory authority with the power to ensure that suppliers of telecommunications networks or services provide it, promptly on request, with all the information, including financial information, that is necessary to enable the telecommunications regulatory authority to carry out its tasks in accordance with this Chapter. Information requested shall be treated in accordance with the requirements of confidentiality.
6. Each Party shall ensure that a supplier of telecommunications networks or services affected by a decision of the telecommunications regulatory authority has the right to appeal against that decision<sup>3</sup> to an appeal body that is independent of the telecommunications regulatory authority and of the affected supplier. Pending the outcome of the appeal, the decision of the telecommunications regulatory authority shall stand, unless interim measures are granted in accordance with national law.
7. Each Party shall ensure that its telecommunications regulatory authority reports regularly, inter alia, on the state of the electronic communications market, on its human and financial resources, and how those resources are attributed. Each Party shall ensure that these reports and any decisions it issues are made publicly available.

#### **Article 12.14 Authorisation<sup>4</sup>**

1. If a Party requires an authorisation for the provision of telecommunications networks or services, it shall make publicly available the types of services requiring authorisation, together with all authorisation criteria, applicable procedures, and terms and conditions generally associated with the authorisation.

---

<sup>2</sup> For greater certainty, this paragraph shall not apply in respect of a measure of a Party allocating and assigning radio spectrum and managing frequency referred to in paragraph 4 of Article 12.10 (Scarce Resources).

<sup>3</sup> For greater certainty, this right of appeal may be limited to points of law in accordance with the laws of a Party.

<sup>4</sup> For greater certainty, authorisation can include licensing.

2. Each Party shall endeavour to authorise the provision of telecommunications networks or services without a formal procedure and to permit the supplier to start providing its networks or services without having to wait for a decision by the telecommunications regulatory authority. If a Party requires a formal authorisation decision, it shall state a reasonable period of time normally required to obtain that decision and communicate this in a transparent manner. It shall endeavour to ensure that the decision is taken within the stated period of time.
3. Each Party shall ensure that any authorisation criteria or applicable procedure, as well as any obligation or condition imposed on or associated with an authorisation, is objective, transparent, non-discriminatory, and related to and not more burdensome than necessary for the kind of service provided.
4. Each Party shall ensure that an applicant receives in writing, which may include in electronic form, the reasons for the denial or the revocation of an authorisation, or the imposition of supplier-specific conditions or the refusal to renew any authorisation. In such cases, an applicant shall have a right of appeal before an appeal body.
5. Each Party shall ensure that administrative fees imposed on suppliers are objective, transparent, non-discriminatory, and commensurate with the administrative costs reasonably incurred in the management, control, and enforcement of the obligations set out in this Chapter. Administrative fees do not include payments for rights to use scarce resources and mandated contributions to universal service provision.

#### **Article 12.15 Transparency**

To the extent not already provided for in this Agreement, each Party shall make publicly available:

- (a) the responsibilities of its telecommunications regulatory authority in an easily accessible and clear form, in particular if those responsibilities are given to more than one body;
- (b) its measures relating to public telecommunications networks or services, including:
  - (i) regulations implemented by its telecommunications regulatory authority, together with the basis for these regulations;
  - (ii) tariffs and other terms and conditions of services;



- (iii) specifications of technical interfaces;
  - (iv) conditions for attaching terminal or other equipment to the public telecommunications networks;
  - (v) notification, permit, registration, or licensing requirements, if any; and
- (c) information on bodies responsible for preparing, amending, and adopting standards-related measures.

#### **Article 12.16 Universal Service Obligation**

1. Each Party has the right to define the kind of universal service obligation it wishes to maintain.
2. Each Party shall administer any universal service obligation that it maintains in a manner that is transparent, non-discriminatory, and neutral with respect to competition. Each Party shall ensure that its universal service obligation is not more burdensome than necessary for the kind of universal service that it has defined. Universal service obligations defined according to these principles shall not be regarded per se as anti-competitive.
3. If a Party designates a universal service supplier, it shall do so in a manner that is efficient, transparent, non-discriminatory, and open to all suppliers of public telecommunication networks or services.
4. If a Party decides to compensate a universal service supplier, it shall ensure that such compensation is determined through a competitive process or a determination of net costs.

#### **Article 12.17 International Mobile Roaming Services**

1. The Parties shall endeavour to cooperate on promoting transparent and reasonable rates for international mobile roaming services that can help promote the growth of trade between the Parties and enhance consumer welfare.
2. Each Party shall consider steps to enhance transparency and competition with respect to international mobile roaming rates and technological alternatives to roaming services, including:

- (a) ensuring that information regarding retail rates is easily accessible to consumers, such as making information on retail rates accessible to consumers through industry codes of practice; and
  - (b) minimising impediments to the use of mobile roaming and technological alternatives, whereby consumers when visiting the territory of a Party from the territory of the other Party can access telecommunications services using the device of their choice.
3. Nothing in this Article shall require a Party to regulate rates or conditions for international mobile roaming services.

### **Article 12.18 Dispute Resolution**

1. Each Party shall ensure that, in the event of a dispute arising between suppliers of telecommunications networks or services in connection with the rights and obligations that arise from this Chapter, and at the request of a supplier involved in the dispute, the telecommunications regulatory authority issues a binding decision within a reasonable period of time to resolve the dispute.
2. Each Party shall ensure that, if its telecommunications regulatory authority declines to initiate any action on a request to resolve a dispute, the telecommunications regulatory authority shall, upon request, provide a written explanation for its decision within a reasonable period of time.
3. Each Party shall ensure that a decision issued by its telecommunications regulatory authority is made publicly available, having regard to the requirements of business confidentiality.
4. Each Party shall ensure that the suppliers involved in the dispute:
  - (a) are given a full statement of the reasons on which the decision is based; and
  - (b) may appeal the decision, in accordance with paragraph 6 of Article 12.13 (Regulatory Principles).
5. For greater certainty, the procedure referred to in paragraphs 1 and 2 shall not preclude a supplier of telecommunications networks or services involved in a dispute from bringing an action before the courts in accordance with the laws and regulations of the Party.

### **Article 12.19 Confidentiality**

1. Each Party shall ensure that suppliers that acquire information from another supplier in the process of negotiating arrangements pursuant to Articles 12.5 (Access and Use) to Article 12.8 (Interconnection with Major Suppliers) use that information solely for the purpose for which it was supplied and respect, at all times, the confidentiality of information transmitted or stored.<sup>5</sup>
2. Each Party shall adopt or maintain measures, in accordance with its laws and regulations, to protect the confidentiality of telecommunications and related traffic data of users over public telecommunications networks and services, without unduly restricting trade in telecommunications services.

**Article 12.20**  
**Flexibility in the Choice of Technology**

1. Neither Party shall prevent a supplier of public telecommunications services from choosing the technologies it wishes to use to supply its services.
2. Notwithstanding paragraph 1, a Party may take measures to protect a legitimate public policy interest, provided that any measure is not applied in a manner that creates unnecessary obstacles to trade in services.

**Article 12.21**  
**Cooperation**

1. The Parties recognise the transformational impact of telecommunications networks, infrastructure, and technologies (including those that are new and emerging), and the importance of these technologies to the Parties' respective economies and societies.
2. Accordingly, each Party shall adopt or maintain measures to:
  - (a) encourage a diverse and competitive market for telecommunications services and networks in its territory; and
  - (b) protect the security, resilience, and integrity of its telecommunications infrastructure.
3. The Parties shall endeavour to:
  - (a) exchange information on the opportunities and challenges associated with telecommunications networks, infrastructure, and technologies; and

---

<sup>5</sup> For greater certainty, a Party can meet this obligation through the enforcement of non-disclosure agreements between the suppliers.

- (b) work together in international forums to promote a shared approach to these opportunities and challenges.

## CHAPTER 13

### TEMPORARY ENTRY OF BUSINESS PERSONS

#### Article 13.1 Definitions

For the purposes of this Chapter:

**“business person”** means a national, who is engaged in trade in goods, the supply of services, or the conduct of investment activities;

**“immigration formality”** means a visa, permit, pass, or other document, or electronic authority, granting temporary entry;

**“immigration measure”** means any measure affecting the entry and stay of foreign nationals; and

**“temporary entry”** means entry into and temporary stay in the territory of a Party by a business person of the other Party who does not intend to establish permanent residence.

#### Article 13.2 Objectives

The objectives of this Chapter are to:

- (a) facilitate temporary entry of natural persons for business purposes on a reciprocal basis; and
- (b) ensure an expeditious and transparent process to facilitate the temporary entry of natural persons for business purposes,

while recognising the need of a Party to ensure its security and to protect its domestic labour force and employment.

#### Article 13.3 Scope

1. This Chapter shall apply to measures that affect the temporary entry of business persons of a Party into the territory of the other Party who fall into the scope of the categories set out in Annex 13A (Schedule of Commitments for Temporary Entry of Business Persons).

2. This Chapter shall not apply to measures affecting natural persons seeking access to the employment market of the other Party, nor to measures regarding citizenship, nationality, residence, or employment on a permanent basis.
3. Nothing in this Agreement shall prevent a Party from applying measures to regulate temporary entry, including those measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across, its borders, provided that those measures are not applied in a manner as to nullify or impair the benefits accruing to the other Party under this Chapter.
4. The sole fact that a Party requires business persons of the other Party to obtain an immigration formality shall not be regarded as nullifying or impairing the benefits accruing to the other Party under this Chapter.
5. For greater certainty, all requirements provided for in the law of each Party regarding employment and social security measures shall continue to apply, including laws and regulations concerning minimum wages as well as collective wage agreements.
6. Commitments on the temporary entry of business persons as set out in Annex 13A (Schedule of Commitments for Temporary Entry of Business Persons) shall not apply in cases where the intent or effect of the temporary entry is to interfere with or otherwise affect the outcome of a labour or management dispute or negotiation, or the employment of a natural person who is involved in that dispute or negotiation.

#### **Article 13.4 Application Procedures**

1. As expeditiously as possible after receipt of a completed application for an immigration formality, each Party shall make a decision on the application and inform the applicant of the decision including, if approved, the period of stay and other conditions.
2. At the request of an applicant, a Party in receipt of a completed application for temporary entry shall endeavour to provide, without undue delay, information concerning the status of the application.
3. Each Party shall ensure that fees charged by its competent authority for the processing of an application for an immigration formality are reasonable, in that they do not unduly impair or delay trade in goods or services or the conduct of investment activities under this Agreement.

**Article 13.5**  
**Grant of Temporary Entry**

1. Each Party shall set out in Annex 13A (Schedule of Commitments for Temporary Entry of Business Persons) its commitments for the temporary entry of business persons in its territory. Annex 13A (Schedule of Commitments for Temporary Entry of Business Persons) shall specify the conditions and limitations for temporary entry and stay, including length of stay, for each category of business persons specified by that Party.
2. A Party shall grant temporary entry or extension of temporary stay to business persons of the other Party to the extent provided for in those commitments made pursuant to paragraph 1, provided that those business persons:
  - (a) follow the granting Party's prescribed application procedures for the immigration formality sought; and
  - (b) meet all relevant eligibility requirements for temporary entry into, or extension of temporary stay in, the granting Party.
3. The sole fact that a Party grants temporary entry or extension of temporary stay to a business person of the other Party pursuant to this Chapter shall not be construed to exempt that business person from meeting any applicable licensing or other requirements, including any mandatory codes of conduct, to practise a profession or otherwise engage in business activities.
4. A Party shall not adopt or maintain limitations in the form of numerical quotas on the total number for each category of business persons of the other Party granted temporary entry in accordance with Annex 13A (Schedule of Commitments for Temporary Entry of Business Persons). A Party shall not maintain or adopt the requirement of an economic needs test, except as provided for in Annex 13A (Schedule of Commitments for Temporary Entry of Business Persons).

**Article 13.6**  
**Provision of Information**

1. Further to Article 29.2 (Publication – Transparency) and Article 29.5 (Provision of Information – Transparency), each Party shall make publicly available information relating to the current requirements for temporary entry by business persons of the other Party, permitted in accordance with Annex 13A (Schedule of Commitments for Temporary Entry of Business Persons).
2. The information referred to in paragraph 1 shall include, where applicable, the following information:
  - (a) categories of immigration formality;

- (b) documentation required and conditions to be met;
  - (c) method of filing an application and options on where to file, such as consular offices or online;
  - (d) application fees and an indicative timeframe of the processing of an application;
  - (e) the maximum length of stay under each category of immigration formality;
  - (f) conditions for any available extension or renewal;
  - (g) rules regarding accompanying dependents;
  - (h) available review or appeal procedures; and
  - (i) relevant measures of general application pertaining to the temporary entry of business persons of the other Party.
3. With respect to the information referred to in paragraphs 1 and 2, each Party shall endeavour to promptly inform the other Party, either through existing mechanisms or the Services and Investment Sub-Committee, of the introduction of any new requirements and procedures or of the changes in any requirements and procedures that affect the effective application for the grant of entry into, and where applicable, permission to work in, its territory.

### **Article 13.7 Institutional Arrangements**

The Services and Investment Sub-Committee will review and monitor the implementation and operation of this Chapter and perform other functions in accordance with Article 9.14 (Services and Investment Sub-Committee – Cross Border Trade in Services).

### **Article 13.8 Relation to Other Chapters**

1. Except for this Chapter, Chapter 1 (Initial Provisions and General Definitions), Chapter 30 (Institutional Provisions), Chapter 31 (Dispute Settlement), Chapter 33 (Final Provisions), Article 29.2 (Publication – Transparency), and Article 29.5 (Provision of Information – Transparency), no provision of this Agreement shall impose any obligation on a Party regarding its immigration measures.



2. Nothing in this Chapter shall be construed to impose obligations or commitments with respect to other Chapters of this Agreement.

### **Article 13.9 Dispute Settlement**

1. The Parties shall endeavour to settle any differences arising out of the implementation of this Chapter amicably through consultations or negotiations.<sup>1</sup>
2. Neither Party shall have recourse to dispute settlement under Chapter 31 (Dispute Settlement) regarding a refusal to grant temporary entry unless:
  - (a) the matter involves a pattern of practice; and
  - (b) the business persons affected have exhausted all available administrative remedies regarding the particular matter.
3. The remedies referred to in subparagraph 2(b) shall be deemed to be exhausted if a final determination in the matter has not been issued by the other Party within a reasonable period of time after the date of the institution of proceedings for the remedy, including any proceedings for review or appeal, and the failure to issue such a determination is not attributable to delays caused by the business persons concerned.

### **Article 13.10 Cooperation on Return and Readmissions**

The Parties acknowledge that the temporary entry of business persons requires the Parties' full cooperation to support the return and readmission of business persons staying in a Party in contravention of its law for temporary entry.

---

<sup>1</sup> For greater certainty, this includes by way of the mechanisms set out in Article 31.3 (Cooperation – Dispute Settlement).

## ANNEX 13A

### SCHEDULE OF COMMITMENTS FOR TEMPORARY ENTRY OF BUSINESS PERSONS

#### Schedule of New Zealand

1. The following sets out New Zealand's commitments in accordance with Article 13.5 (Grant of Temporary Entry) in respect of the entry and temporary stay of business persons.
2. For the purposes of this Schedule, the term "CPC" means the Provisional Central Product Classification (Statistical Papers Series M No. 77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991).
3. For the purposes of this Schedule, the term "enterprise of a party" means an enterprise of a party as defined in Article 9.1 (Definitions – Cross-Border Trade in Services).

#### A. Business Visitors

Description of Category	Conditions and Limitations (including length of stay)
<p><u>Definition:</u></p> <p><b>Business Visitors</b> comprise a business person:</p> <p>(a) who is seeking temporary entry to New Zealand for the purpose of:</p> <p>(i) <b>meetings and consultations:</b> business persons attending meetings or conferences, or engaged in consultations with business associates;</p> <p>(ii) <b>training seminars:</b> personnel of an enterprise who enter the territory of a Party to receive informal training in techniques and work practices which are relevant to the operation of the enterprise,</p>	<p>Entry for a period not exceeding in aggregate three months in any calendar year.</p>

<p>provided that the training received is confined to observation, familiarisation, and theoretical instruction only and does not lead to the award of a formal qualification;<sup>1</sup></p> <p>(iii) <b>trade fairs and exhibitions:</b> personnel attending a trade fair for the purpose of promoting their company or its products or services;</p> <p>(iv) <b>sales:</b> representatives of a supplier of services or goods taking orders or negotiating the sale of services or goods or entering into agreements to sell services or goods for that supplier, but not delivering goods or supplying services themselves;</p> <p>(v) <b>purchasing:</b> buyers purchasing goods or services for an enterprise, or management and supervisory personnel, engaging in a commercial transaction carried out in the territory of the Party of which the short-term business visitor is a natural person;</p> <p>(vi) <b>commercial transactions:</b> management and supervisory personnel and financial services personnel (including insurers, bankers, and investment brokers) engaging in a commercial transaction for an enterprise of a Party of which the short-term business visitor is a natural person;</p> <p>(vii) undertaking business consultations or negotiations</p>	
---	--

---

<sup>1</sup> “formal qualification” means a qualification under the New Zealand Qualifications Framework.

<p><b>concerning the establishment, expansion, or winding up of a business enterprise or investment in New Zealand, or any related matter;</b></p> <p>(b) who is not seeking to enter the labour market of New Zealand; and</p> <p>(c) whose principal place of business, actual place of remuneration, and predominant place of accrual of profits remain outside New Zealand.</p>	
---	--

**B. Intra-Corporate Transferees**

<b>Description of Category</b>	<b>Conditions and Limitations (including length of stay)</b>
<p><b>The partner and dependent children accompanying the Intra-Corporate Transferee</b></p> <p>New Zealand shall allow the entry and temporary stay of the partner and any dependent children accompanying an Intra-Corporate Transferee of the United Kingdom that have been granted entry and temporary stay. The period of temporary stay for that partner and, where relevant, dependent children, shall be the same as that granted to the Intra-Corporate Transferee.</p> <p>For the purposes of this commitment:</p> <p><b>“partner”</b> means any spouse or civil partner of an Intra-Corporate Transferee from the United Kingdom, including under a marriage, civil union, or equivalent union or partnership, recognised as such in accordance with the law of New Zealand. For greater certainty, this includes any unmarried or same sex partner of the Intra-Corporate Transferee; and</p> <p><b>“dependent children”</b> means children under the age of 20 who are dependent on the Intra-Corporate Transferee and who are recognised as dependent children in accordance with the law of New Zealand where:</p> <p>(i) the Intra-Corporate Transferee has the legal right to remove them from their home country; or</p> <p>(ii) both of the children's parents will be granted entry and temporary stay in accordance with this Agreement.</p>	

<p><u>Definition:</u></p> <p><b>Intra-Corporate Transferees</b> comprise an <b>executive, manager, or a specialist;</b></p> <p>(a) who is an employee of a goods supplier, service supplier, or investor of a Party with a commercial presence in New Zealand; and</p> <p>(b) whose salary and any related payments are paid entirely by the service supplier or enterprise that employs the Intra-Corporate Transferee.</p> <p>For the purposes of this definition, <b>“executive”</b> means a business person who primarily directs the management of an enterprise, exercises wide latitude in decision making, and receives only general supervision or direction from higher level executives, the board of directors, or stockholders of the enterprise. An executive would not directly perform tasks related to the actual provision of the service or the operation of the enterprise.</p> <p>Executives must have been employed by their employer for at least 12 months prior to their proposed transfer to New Zealand.</p> <p>For the purposes of this definition, <b>“manager”</b> means a business person who will be responsible for or directs the entire or a substantial part of the operations of the enterprise in New Zealand, receiving general supervision or direction principally from higher level executives, the board of directors, or stockholders of the enterprise; supervising and controlling the work of other supervisory, professional, or managerial employees;</p>	<p><u>Executives and managers:</u> Entry for a period of initial stay up to a maximum of three years.</p> <p><u>Decision making timelines:</u></p> <p>(i) To the extent practicable, the competent authorities of New Zealand shall adopt a decision on the immigration formality application, or a renewal of it, and shall notify the decision to the applicant in writing, in accordance with the notification procedures under the relevant law of New Zealand, as soon as possible but no later than 15 days from the date on which the complete application was submitted.</p> <p>(ii) Where it is not practicable for a decision to be made within 15 days, the competent authorities of New Zealand shall endeavour to make a decision within a reasonable period of time thereafter.</p> <p>(iii) Where the information or documentation for the application is incomplete, and additional information is required to process the application, the competent authorities shall endeavour to notify the applicant within a reasonable period of time of the additional information that is required and set a reasonable deadline for providing it. The 15 day period shall be suspended until the competent authorities have received the required additional information.</p>
--	---

<p>and having the authority to establish goals and policies of the entire or a substantial part of the operations of the enterprise.</p> <p>Managers must have been employed by their employer for at least 12 months prior to their proposed transfer to New Zealand.</p> <p>For the purposes of this definition, “<b>specialist</b>” means a business person with advanced trade, technical, or professional skills within an organisation who possesses knowledge at an advanced level of technical expertise, and who possesses proprietary knowledge of the organisation’s service, research equipment, techniques, or management. Such specialists are responsible for or employed in a particular aspect of an organisation’s operations in New Zealand. Skills are assessed in terms of the applicant’s employment experience, qualifications, and suitability for the position.</p>	<p><u>Specialists:</u> Entry for a period of initial stay up to a maximum of three years.</p>
--	---

**C. Contractual Services Suppliers**

<b>Description of Category</b>	<b>Conditions and Limitations (including length of stay)</b>
<p><u>Definition:</u></p> <p><b>“Contractual Services Supplier”</b> means a business person employed by an enterprise of the United Kingdom that:</p> <p>(a) is not an agency for placement and supply services of personnel and is not acting through such an agency;</p> <p>(b) has not established in the territory of New Zealand; and</p>	<p>Entry for a cumulative period of not more than six months in any 12 month period or for the duration of the contract, whichever is less. Subject to economic needs tests.</p> <p>The Contractual Service Supplier entering New Zealand has been offering such services as an employee of the enterprise supplying the services for at least the year immediately preceding the date of submission of an</p>

<p>(c) has concluded a <i>bona fide</i> contract to supply services to a final consumer in New Zealand, requiring the presence on a temporary basis of its employees in New Zealand in order to fulfil the contract to supply services.</p> <p>A Contractual Services Supplier must have:</p> <p>(a) a tertiary-level degree of at least three years in duration;<sup>2</sup> and</p> <p>(b) at least six years of experience.</p> <p>The six years of experience must be relevant to the field of the contract to supply services.</p> <p>Only in respect of the service sectors or sub-sectors set out below:</p> <p>(a) Legal advisory services in respect of public international law and foreign law (part of CPC 861);</p> <p>(b) accounting, auditing, and bookkeeping services (CPC 862);</p> <p>(c) taxation advisory services (part of CPC 863);</p> <p>(d) urban planning and landscape architectural services (CPC 8674);</p> <p>(e) medical and dental services (CPC 9312);</p> <p>(f) midwives services (part of CPC 93191);</p> <p>(g) services provided by nurses, physiotherapists, and paramedical personnel (part of CPC 93191);</p>	<p>application for entry into New Zealand.</p> <p>The Contractual Services Supplier entering New Zealand must have a valid employment contract with that enterprise in the United Kingdom and receive pay, while in New Zealand, that is at least equivalent to that which a comparable New Zealand worker providing services in the same or similar field would be expected to receive. The contractual services supplier must be employed on conditions that are equivalent to New Zealand minimum employment standards.</p> <p>The Contractual Services Supplier does not receive remuneration for the provision of services in the territory of New Zealand other than the remuneration paid by the enterprise employing the Contractual Services Supplier or from a source outside New Zealand.</p> <p>The number of persons covered by the services contract shall not be larger than necessary to provide the services as stipulated in the contract.</p> <p>The contract to supply services shall comply with the law of New Zealand.</p>
---	---

<sup>2</sup> For greater certainty, these qualifications must be recognised by the appropriate New Zealand authority where New Zealand law requires such recognition as a condition of the provision of that service in New Zealand.

<p>(h) research and development services (CPC 851-853);</p> <p>(i) advertising services (CPC 871);</p> <p>(j) market research and opinion polling (CPC 864);</p> <p>(k) management consulting services (CPC 865);</p> <p>(l) services related to management consulting (CPC 866);</p> <p>(m) technical testing and analysis services (CPC 8676);</p> <p>(n) related scientific and technical consulting services (CPC 8675);</p> <p>(o) mining (advisory and consulting only) (part of CPC 883 + 5115);</p> <p>(p) translation and interpretation services (CPC 87905**);</p> <p>(q) telecommunication services (CPC 752);</p> <p>(r) postal and courier services (advisory and consulting only) (part of CPC 751);</p> <p>(s) insurance and insurance related advisory and consulting services (part of CPC 812);</p> <p>(t) other financial services advisory and consulting services (parts of CPC 8131**, 8133**);</p> <p>(u) transport advisory and consulting services (parts of CPC 74490**, 74590**, 74690**); or</p>	
---	--



(v) manufacturing advisory and consulting services (part of CPC 884-885).	
---	--

#### D. Installers and Servicers

Description of Category	Conditions and Limitations (including length of stay)
<p><b>“Installers and Servicers”</b> comprise a business person who is an Installer or Servicer of machinery or equipment, in situations when such installation or servicing by the supplying company is a condition of purchase of the machinery or equipment. An Installer or Servicer cannot perform services that are not related to the service activity that is the subject of the contract.</p>	<p>Entry for periods not exceeding three months in any 12 month period.</p>

#### E. Independent Professionals

Description of Category	Conditions and Limitations (including length of stay)
<p><u>Definition:</u></p> <p><b>“Independent Professionals”</b> means a self-employed business person with advanced technical or professional skills, without the requirement for a commercial presence, working under a valid contract in New Zealand.</p> <p>An Independent Professional must have:</p> <p>(a) a qualification resulting from at least three years of formal post-secondary school education leading to a degree or diploma recognised as comparable to the domestic standard in New Zealand;<sup>3</sup> and</p>	<p>Entry for a period of stay up to a maximum of 12 months and subject to economic needs tests.</p>

<sup>3</sup> For greater certainty, these qualifications must be recognised by the appropriate New Zealand authority where under New Zealand law such recognition is a condition of the provision of that service in New Zealand.

<p>(b) at least six years of experience.</p> <p>The six years of experience must be relevant to the field of the contract to supply services.</p> <p>Only in respect of the service sectors set out in New Zealand's Schedule of Specific Commitments in the WTO (as currently set out in GATS/SC/62, GATS/SC/62/Suppl.1, and GATS/SC/62/Suppl.2) and the additional service sectors set out below.</p> <p>1. BUSINESS SERVICES</p> <p>A. Professional Services</p> <p>(a) Legal services (international and foreign law) (part of CPC 861**)</p> <p>(f) Integrated engineering services (CPC 8673)</p> <p>(g) Consultancy related to urban planning and landscape architectural services (part of CPC 86711**)</p> <p>B. Computer and Related Services</p> <p>(e) Maintenance and repair of office machinery and equipment including computers (CPC 84500)</p> <p>(f) Other computer services (CPC 84990)</p> <p>F. Other Business Services</p> <p>(c) Management consultancy services (CPC 8650)</p> <p>(d) Services related to management consultancy (CPC 8660)</p> <p>(f) Services incidental to animal husbandry (CPC 88120)</p> <p>(k) Placement and supply services of Personnel (CPC 8720)</p> <p>(p) Photographic services (CPC 8750)</p> <p>(s) Convention services (part of CPC 64110**)</p> <p>(t) Other (credit reporting, collection agency services, interior design, telephone</p>	
---	--

<p>answering and duplicating services) (CPC 87901, 87902, 87907, 87903, 87904)</p> <p>5. EDUCATIONAL SERVICES</p> <p>E. Other Education Services (part of CPC 92900**)</p> <ul style="list-style-type: none"> <li>- Language training provided in private specialist language institutions;</li> <li>- Tuition in subjects taught at the primary and secondary levels, provided by private specialist institutions operating outside the New Zealand compulsory school system.</li> </ul> <p>6. ENVIRONMENTAL SERVICES</p> <ul style="list-style-type: none"> <li>A. Waste Water Management</li> <li>B. Waste Management</li> <li>C. Sanitation and similar services (CPC 94030)</li> <li>D. Protection of ambient air and climate: consultancy only (Part of 94040)</li> <li>E. Noise and vibration abatement: consultancy only (Part of CP 94050)</li> <li>F. Protection of biodiversity and landscape: consultancy only (Part of 94090)</li> <li>G. Other environmental and ancillary services: consultancy only (Part of 94090)</li> </ul>	
--	--

1. Notwithstanding the commitments set out above, New Zealand reserves the right to adopt or maintain any measure with respect to ships' crews.
2. With respect to audio-visual services, New Zealand immigration instructions stipulate a special procedure for the granting of visas to entertainers, performing artists, and associated support personnel for work purposes. To be eligible for a work visa or work permit, those applicants must come within the policy guidelines agreed to between the Minister of Immigration, independent promoters, agents, or producers, and the relevant performing artists' unions.

## Schedule of the United Kingdom

1. The following sets out the United Kingdom’s commitments in accordance with Article 13.5 (Grant of Temporary Entry) in respect of the temporary entry of business persons.
2. For the purposes of this Schedule, the term “CPC” means the Provisional Central Product Classification (Statistical Papers Series M No. 77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991).
3. For the purposes of this Schedule, the term “enterprise of a Party” means an enterprise that carries out substantial business activities in the territory of New Zealand.

Description of Category	Conditions and Limitations (including length of stay)
<p><b>A. Business visitors</b></p> <p>Commitments under this category are made under the following headings:</p> <ul style="list-style-type: none"> <li>• Business visitors for establishment purposes; and</li> <li>• Short-term business visitors.</li> </ul>	
<p><u>Definition:</u></p> <p><b>“Business visitors for establishment purposes”</b> means business persons working in a senior position within an enterprise of a Party who are responsible for setting up an enterprise in the United Kingdom, do not offer nor provide services, do not engage in any economic activity other than what is required for establishment purposes, and do not receive remuneration within the United Kingdom.</p>	<p>Business visitors for establishment purposes must be employed by an enterprise other than a non-profit organisation.</p> <p>Temporary stay for a period not exceeding 90 days in any 12 month period.</p> <p>The United Kingdom shall grant temporary entry of Business visitors for establishment purposes without the requirement of a work permit or other prior approval procedure of similar intent.</p>
<p><b>“Short-term business visitors”</b> are permitted to engage in the following activities during their temporary stay:</p>	<p>The United Kingdom shall allow the temporary entry of Short-term business visitors subject to the following conditions:</p>

<p>(i) meetings and consultations: business persons attending meetings or conferences, or engaged in consultations with business associates;</p> <p>(ii) training seminars: personnel of an enterprise who enter the United Kingdom to receive training in techniques and work practices which are utilised by companies or organisations in the United Kingdom, provided that the training received is confined to observation, familiarisation, and classroom instruction only;</p> <p>(iii) trade fairs and exhibitions: personnel attending a trade fair for the purpose of promoting their company or its products or services;</p> <p>(iv) sales: representatives of a supplier of services or goods taking orders or negotiating the sale of services or goods or entering into agreements to sell services or goods for that supplier, but not delivering goods or supplying services themselves;</p> <p>(v) purchasing: buyers purchasing goods or services for an enterprise, or management and supervisory personnel, engaging in a commercial transaction carried out in New Zealand; and</p> <p>(vi) commercial transactions: management and supervisory personnel and financial services personnel (including insurers, bankers, and investment brokers) engaging in a commercial transaction for an enterprise of a Party.</p>	<p>(a) the Short-term business visitors are not engaged in selling their goods or supplying services to the general public;</p> <p>(b) the Short-term business visitors do not, on their own behalf, receive remuneration from within the United Kingdom; and</p> <p>(c) the Short-term business visitors are not engaged in the supply of a service in the framework of a contract concluded between an enterprise that has not established in the United Kingdom, and a consumer in the United Kingdom.</p> <p>Temporary stay for a period not exceeding 90 days in any 12 month period.</p> <p>The United Kingdom shall grant temporary entry of Short-term business visitors without the requirement of a work permit or other prior approval procedure of similar intent.</p>
---	--

Description of Category	Conditions and Limitations (including length of stay)
<p><b>B. Intra-Corporate Transferees (Managers, Specialists)</b></p> <p>1. Commitments under this category are made under the following headings:</p> <ul style="list-style-type: none"> <li>• managers; and</li> <li>• specialists.</li> </ul> <p><b>The partner and dependent children accompanying the Intra-corporate transferee</b></p> <p>2. The United Kingdom shall allow the temporary entry of the partner and dependent children accompanying an intra-corporate transferee of New Zealand granted temporary entry for the same period as the period of temporary stay granted to the intra-corporate transferee. For the purposes of this commitment:</p> <p style="padding-left: 40px;"><b>“the partner”</b> means any spouse or civil partner of an intra-corporate transferee from New Zealand, including under a marriage, civil partnership, or equivalent union or partnership, recognised as such in accordance with the law of the United Kingdom. For greater certainty, this also includes any unmarried or same sex partner who, when accompanying an intra-corporate transferee from New Zealand, may be granted temporary entry under the relevant law of the United Kingdom; and</p> <p style="padding-left: 40px;"><b>“dependent children”</b> means children who are dependent on the intra-corporate transferee and who are recognised as dependent children in accordance with the law of the United Kingdom where:</p> <ul style="list-style-type: none"> <li>(a) the intra-corporate transferee has sole responsibility for the children; or</li> <li>(b) both of the children's parents are being granted temporary entry in accordance with this Agreement.</li> </ul> <p>For greater certainty, with respect to the partner and dependent children of an intra-corporate transferee, temporary entry is without prejudice to the law of the United Kingdom applicable to temporary entry.</p>	
<p><u>Definition:</u></p> <p><b>“Intra-corporate transferees”</b> means business persons who:</p>	

<p>(a) have been employed by an enterprise of a Party, or have been partners in it, for a period of not less than one year immediately preceding the date of their application for the temporary entry in the United Kingdom;</p> <p>(b) are temporarily transferred to an enterprise, in the United Kingdom, which forms part of the same group of the originating enterprise including its representative office, subsidiary, branch, or head company; and</p> <p>(c) belongs to one of the following categories:</p> <p style="padding-left: 40px;">(i) <b>managers:</b> business persons working in a senior position, who primarily direct the management of the enterprise, receiving general supervision or direction principally from the board of directors or from stockholders of the business or their equivalent, including at least:</p> <p style="padding-left: 80px;">(A) directing the enterprise or a department thereof;</p> <p style="padding-left: 80px;">(B) supervising and controlling the work of other supervisory, professional or managerial employees; or</p> <p style="padding-left: 80px;">(C) having the personal authority to recruit and dismiss or to recommend recruitment, dismissal or other personnel-related actions; or</p>	<p>Intra-corporate transferees must be employed by an enterprise other than a non-profit organisation.</p> <p>Temporary stay for a period not exceeding three years.</p> <p>Decision making timelines:</p> <p style="padding-left: 40px;">(a) To the extent practicable, the competent authorities of the United Kingdom shall adopt a decision on the immigration formality application, or a renewal of it, and shall notify the decision to the applicant in writing, in accordance with the notification procedures under the relevant law of the United Kingdom, as soon as possible but no later than 90 days after the date on which the complete application was submitted.</p> <p style="padding-left: 40px;">(b) Where it is not practicable for a decision to be made within 90 days, the competent authorities of the United Kingdom shall endeavour to make the decision within a reasonable period of time thereafter.</p> <p style="padding-left: 40px;">(c) Where the information or documentation for the application is incomplete, and additional information is required to process the application, the competent authorities shall endeavour to notify the applicant within a reasonable period of time of the additional information that is required and set a reasonable deadline for providing it. The 90 day period shall be suspended until the competent</p>
--	---

<p>(ii) <b>specialists:</b> business persons who possess specialised knowledge essential to the enterprise's production, research equipment, techniques, processes, procedures, or management. In assessing such knowledge, account shall be taken not only of knowledge specific to the enterprise, but also of whether the business person has a high level of qualification referring to a type of work or trade requiring specific technical knowledge, including membership of an accredited profession.</p>	<p>authorities have received the required additional information.</p>
---	---

Description of Category	Conditions and Limitations (including length of stay)
<p><b>C. Contractual Service Suppliers</b></p>	
<p><u>Definition:</u></p> <p><b>“Contractual service suppliers”</b> means business persons employed by an enterprise of a Party which:</p> <p>(a) is not an agency for placement and supply services of personnel and is not acting through such an agency;</p> <p>(b) has not established in the territory of the United Kingdom; and</p> <p>(c) has concluded a <i>bona fide</i> contract to supply services to a final consumer in the United Kingdom, requiring the presence on a temporary basis of its employees in the United Kingdom in order to</p>	<p>The business persons are engaged in the supply of a service on a temporary basis as employees of an enterprise which has obtained a service contract not exceeding 12 months.</p> <p>Temporary stay for a cumulative period of not more than six months in any 12 month period or for the duration of the contract, whichever is less.</p> <p>Entry for the following sub-sectors is subject to an economic needs test:</p> <p>(i) engineering services and integrated engineering services (CPC 8672 and 8673);</p> <p>(ii) management consulting services (CPC 865);</p>



<p>fulfil the contract to supply services.</p> <p>The United Kingdom makes commitments only in the service sectors or sub-sectors set out below:</p> <p>(i) legal advisory services in respect of public international law and foreign law (part of CPC 861);</p> <p>(ii) accounting and bookkeeping services (CPC 86212 other than "auditing services", 86213, 86219 and 86220);</p> <p>(iii) taxation advisory services (CPC 863). Taxation advisory services does not include legal advisory and legal representational services on tax matters, which are under legal advisory services in respect of public international law and foreign law;</p> <p>(iv) architectural services and urban planning and landscape architectural services (CPC 8671 and 8674);</p> <p>(v) engineering services and integrated engineering services (CPC 8672 and 8673);</p> <p>(vi) research and development services (CPC 851, 852 excluding psychologists services (part of CPC 85201, which is under medical and dental services), and 853);</p> <p>(vii) advertising services (CPC 871);</p> <p>(viii) market research and opinion polling services (CPC 864);</p> <p>(ix) management consulting services (CPC 865);</p> <p>(x) services related to management consulting (CPC 866);</p>	<p>(iii) services related to management consulting (CPC 866);</p> <p>(iv) research and development services (CPC 851, 852 excluding psychologists services (part of CPC 85201, which is under medical and dental services), and 853); and</p> <p>(v) postal and courier services (CPC 751, advisory and consulting services only).</p> <p>The business persons entering the United Kingdom have been offering such services as employees of the enterprise supplying the services for at least the year immediately preceding the date of submission of an application for entry into the United Kingdom and possess, at the date of submission of an application for entry into the United Kingdom at least three years professional experience in the sector of activity which is the subject of the contract. Professional experience shall be obtained after having reached the age of majority.</p> <p>The business persons entering the United Kingdom shall possess:</p> <p>(a) a university degree or a qualification demonstrating knowledge of an equivalent level; and</p> <p>(b) the professional qualifications legally required to exercise that activity in the United Kingdom.</p> <p>Where the degree or qualification has not been obtained in the United Kingdom, the United Kingdom may evaluate whether this is equivalent</p>
---	---

<p>(xi) technical testing and analysis services (CPC 8676);</p> <p>(xii) maintenance and repair of metal products, of (non-office) machinery, of (non-transport and non-office) equipment, and of personal and household goods (CPC 633, 7545, 8861, 8862, 8864, 8865 and 8866);</p> <p>(xiii) translation and interpretation services (CPC 87905, excluding official or certified activities);</p> <p>(xiv) telecommunication services (CPC 7544, advisory and consulting services only);</p> <p>(xv) postal and courier services (CPC 751, advisory and consulting services only);</p> <p>(xvi) site investigation work (CPC 5111);</p> <p>(xvii) insurance and insurance related services (advisory and consulting services only); and</p> <p>(xviii) other financial services advisory and consulting services.</p>	<p>to a university degree required in its territory.</p> <p>The business person does not receive remuneration for the provision of services in the territory of the United Kingdom other than the remuneration paid by the enterprise employing the business person or from a source outside the United Kingdom.</p> <p>The access accorded relates only to the service activity which is the subject of the contract and does not confer entitlement to exercise the professional title of the United Kingdom where the service is provided.</p> <p>The number of persons covered by the service contract shall not be larger than necessary to fulfil the contract, as it may be requested by the laws, regulations or other legal requirements of the United Kingdom.</p> <p>The contract to supply services shall comply with the requirements of the law that apply in the United Kingdom.</p> <p>The United Kingdom may adopt or maintain a measure relating to qualification requirements, qualification procedures, technical standards, licensing requirements or licensing procedures that does not constitute a limitation within the meaning of Article 13.5 (Grant of Temporary Entry). Those measures, which include requirements to obtain a licence, to obtain recognition of qualifications in regulated sectors, or to pass specific examinations, such as language examinations, even if not listed in this Annex, apply in any case to contractual service suppliers of New Zealand.</p>
---	--

Description of Category	Conditions and Limitations (including length of stay)
<b>D. Independent Professionals</b>	
<p><u>Definition:</u></p> <p><b>“Independent professionals”</b> means business persons who:</p> <p>(a) are engaged in the supply of a service and established as self-employed in the territory of New Zealand;</p> <p>(b) have not established in the territory of the United Kingdom; and</p> <p>(c) have concluded a <i>bona fide</i> contract (other than through an agency for placement and supply services of personnel) to supply services to a final consumer in the United Kingdom, requiring their presence on a temporary basis in the United Kingdom in order to fulfil the contract to supply services.</p> <p>The United Kingdom makes commitments only in the service sectors or sub-sectors set out below:</p> <p>(i) legal advisory services in respect of public international law and foreign law (part of CPC 861);</p> <p>(ii) architectural services and urban planning and landscape architectural services (CPC 8671 and 8674);</p> <p>(iii) research and development services (CPC 851, 852 excluding psychologists services (part of CPC 85201, which is under medical and dental services), and 853);</p> <p>(iv) management consulting services (CPC 865);</p>	<p>The business persons are engaged in the supply of a service on a temporary basis as self-employed persons established in New Zealand and have obtained a service contract for a period not exceeding 12 months.</p> <p>Temporary stay for a cumulative period of not more than six months in any 12 month period or for the duration of the contract, whichever is less.</p> <p>Entry for the following sub-sectors is subject to an economic needs test:</p> <p>(i) management consulting services (CPC 865);</p> <p>(ii) services related to management consulting (CPC 866);</p> <p>(iii) research and development services (CPC 851, 852 excluding psychologists services, and 853); and</p> <p>(iv) postal and courier services (CPC 751, advisory and consulting services only).</p> <p>The business persons entering the United Kingdom possess, at the date of submission of an application for entry into the United Kingdom, at least six years professional experience in the sector of activity which is the subject of the contract.</p> <p>The business persons entering the United Kingdom shall possess:</p>

<p>(v) services related to management consulting (CPC 866);</p> <p>(vi) translation and interpretation services (CPC 87905, excluding official or certified activities);</p> <p>(vii) telecommunication services (CPC 7544, advisory and consulting services only);</p> <p>(viii) postal and courier services (CPC 751, advisory and consulting services only);</p> <p>(ix) insurance and insurance related services (advisory and consulting services only); and</p> <p>(x) other financial services (advisory and consulting services only).</p>	<p>(a) a university degree or a qualification demonstrating knowledge of an equivalent level; and</p> <p>(b) the professional qualifications legally required to exercise that activity in the United Kingdom.</p> <p>Where the degree or qualification has not been obtained in the United Kingdom, the United Kingdom may evaluate whether this is equivalent to a university degree required in its territory.</p> <p>The access accorded relates only to the service activity which is the subject of the contract and does not confer entitlement to exercise the professional title of the United Kingdom where the service is provided.</p> <p>The contract to supply services shall comply with the requirements of the law that apply in the United Kingdom.</p> <p>The United Kingdom may adopt or maintain a measure relating to qualification requirements, qualification procedures, technical standards, licensing requirements or licensing procedures that does not constitute a limitation within the meaning of Article 13.5 (Grant of Temporary Entry). Those measures, which include requirements to obtain a licence, to obtain recognition of qualifications in regulated sectors, or to pass specific examinations, such as language examinations, even if not listed in this Annex, apply in any case to independent professionals of New Zealand.</p>
--	--

## CHAPTER 14

### INVESTMENT

#### Article 14.1 Objectives

The objective of this Chapter is to encourage and promote the flow of investment between each Party on a mutually advantageous basis, under conditions of transparency within a stable framework of rules to ensure the protection and security of investments by investors of the other Party within each Party's territory, while recognising the right of each Party to regulate in order to achieve legitimate public policy objectives, such as the protection of public health, safety, and the environment.

#### Article 14.2 Definitions

For the purposes of this Chapter:

**“activities performed in the exercise of governmental authority”** means activities which are performed, including services which are supplied, neither on a commercial basis nor in competition with one or more economic operators;

**“covered investment”** means, with respect to a Party, an investment in its territory of an investor of the other Party, made in accordance with the applicable law at the time the investment is made,<sup>1</sup> in existence as of the date of entry into force of this Agreement or established, acquired, or expanded thereafter;

**“enterprise”** means an enterprise as defined in Article 1.3 (General Definitions – Initial Provisions and General Definitions), and a branch or a representative office of an enterprise;

**“enterprise of a Party”** means an enterprise constituted or organised under the law of that Party or a branch located in the territory of that Party, that carries out substantial business activities in the territory of that Party;<sup>2, 3</sup>

---

<sup>1</sup> For greater certainty, minor or technical breaches of law shall not deprive investors and covered investments of treaty protection.

<sup>2</sup> For greater certainty, the inclusion of a “branch” in the definitions of “enterprise” and “enterprise of a Party” is without prejudice to a Party's ability to treat a branch under its law as an entity that has no independent legal existence and is not separately organised.

<sup>3</sup> An enterprise shall be deemed to carry out substantial business activities in the territory of a Party if it has a genuine link to the economy of that Party. As to whether an enterprise has a genuine link to the economy of a Party, this should be established by an overall examination, on a case-by-case basis, of the relevant circumstances. These circumstances may include whether the enterprise:

**“freely usable currency”** means a “freely usable currency” as determined by the International Monetary Fund under its Articles of Agreement and amendments thereto, or any currency that is used to make international payments and is widely traded in the international principal exchange markets;

**“investment”** means every kind of asset that an investor owns or controls, directly or indirectly, that has the characteristics of an investment, including characteristics such as the commitment of capital or other resources, the expectation of gain or profit, or the assumption of risk. Forms that an investment may take include:

- (a) an enterprise;
- (b) shares, stock, and other forms of equity participation in an enterprise;
- (c) bonds, including government issued bonds, debentures, other debt instruments, and loans;<sup>4</sup>
- (d) futures, options, and other derivatives;
- (e) rights under turnkey, construction, management, production, concession, revenue-sharing, and other similar contracts;
- (f) intellectual property rights;
- (g) licences, authorisations, permits, concessions, and similar rights conferred pursuant to a Party’s law; and
- (h) other tangible or intangible, movable or immovable property, and related property rights, such as leases, mortgages, liens, and pledges,

but investment does not mean an order or judgment entered in a judicial or administrative action.

Returns that are invested shall be treated as investments. Any alteration of the form in which assets are invested or reinvested does not affect their qualification as investments;

- 
- (a) has a continuous physical presence, including through ownership or rental of premises, in the territory of that Party;
  - (b) has its central administration in the territory of that Party;
  - (c) employs staff in the territory of that Party; and
  - (d) generates turnover and pays taxes in the territory of that Party.

<sup>4</sup> Some forms of debt, such as bonds, debentures, and long-term notes, are more likely to have the characteristics of an investment, while other forms of debt, such as claims to payment that are immediately due and result from the sale of goods or services, are less likely to have those characteristics.

**“investor of a Party”** means:

- (a) a Party;
- (b) an enterprise of a Party; or
- (c) a national,

that attempts to make, is making, or has made an investment in the territory of the other Party;

**“person of a Party”** means a national or an enterprise of a Party; and

**“returns”** means the amounts yielded by, or derived from, an investment, including profits, dividends, interest, capital gains, royalty payments, management fees, technical assistance fees, and other fees.

### **Article 14.3** **Scope**

1. This Chapter shall apply to measures adopted or maintained by a Party relating to:
  - (a) investors of the other Party;
  - (b) covered investments; and
  - (c) with respect to Article 14.8 (Performance Requirements) and Article 14.18 (Investment and Environmental, Health, and Other Regulatory Objectives), all investments in the territory of that Party.
2. A Party’s obligations under this Chapter shall apply to measures adopted or maintained by:<sup>5</sup>
  - (a) the central, regional, or local governments or authorities of that Party; and
  - (b) any person, including a state enterprise or any other body, when it exercises any government authority delegated to it by central, regional, or local governments or authorities of that Party.

---

<sup>5</sup> For greater certainty, a Party’s obligations under this Chapter shall also apply to measures adopted or maintained by any other person or entity acting on the instructions of, or under the direction or control of, a person or body listed under subparagraphs (a) or (b), to the extent that those measures are attributable to a Party under international law.

3. With respect to the establishment of an investment, Articles 14.5 to Article 14.9 shall not apply to any measure relating to activities performed in the exercise of governmental authority.
4. For greater certainty, this Chapter shall not bind a Party in relation to any act or fact that took place or any situation that ceased to exist before the date of entry into force of this Agreement.
5. Articles 14.5 to Article 14.9 shall not apply to any measure with respect to audio-visual services.
6. In the event of any inconsistency between this Chapter and a bilateral, plurilateral, or multilateral air services agreement to which both Parties are party, the air services agreement shall prevail in determining the rights and obligations of the Parties.
7. If the Parties have the same obligations under this Agreement and a bilateral, plurilateral, or multilateral air services agreement, a Party may invoke the dispute settlement procedures of this Agreement only after any dispute settlement procedures in the other agreement have been exhausted.

#### **Article 14.4 Relation to Other Chapters**

1. In the event of any inconsistency between this Chapter and another Chapter, the other Chapter shall prevail to the extent of the inconsistency.
2. A requirement of a Party that a service supplier of the other Party post a bond or other form of financial security as a condition for the cross-border supply of a service does not in itself make this Chapter applicable to measures adopted or maintained by the Party relating to that cross-border supply of the service. This Chapter shall apply to measures adopted or maintained by a Party relating to the posted bond or financial security, to the extent that the bond or financial security is a covered investment.
3. This Chapter shall not apply to measures adopted or maintained by a Party to the extent that they are covered by Chapter 11 (Financial Services).

#### **Article 14.5 Market Access**

Neither Party shall adopt or maintain, with respect to the establishment, acquisition, expansion, management, conduct, operation, or sale or other disposition of an investment of an investor of a Party or of a non-party in its territory, a measure that:



- (a) imposes limitations on:
  - (i) the number of enterprises that may carry out a specific economic activity whether in the form of numerical quotas, monopolies, exclusive suppliers, or the requirement of an economic needs test;
  - (ii) the total value of transactions or assets in the form of numerical quotas or the requirement of an economic needs test;<sup>6</sup>
  - (iii) the total number of operations or the total quantity of output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test;
  - (iv) the participation of foreign capital in terms of maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment; or
  - (v) the total number of natural persons that may be employed in a particular sector or that an enterprise may employ and who are necessary for, and directly related to, the performance of economic activity in the form of numerical quotas or the requirement of an economic needs test; or
- (b) requires that an economic activity is carried out through a specific type of legal entity or by a joint venture.

**Article 14.6**  
**National Treatment**

Each Party shall accord to investors of the other Party and covered investments treatment no less favourable than the treatment it accords, in like situations, to its own investors and to their investments with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments in its territory.

**Article 14.7**  
**Most-Favoured-Nation Treatment**

1. Each Party shall accord to investors of the other Party and covered investments treatment no less favourable than the treatment it accords, in like situations, to investors of a non-party and to their investments with respect to

---

<sup>6</sup> Subparagraphs (a)(i), (a)(ii), and (a)(iii) do not cover measures adopted or maintained in order to limit the production of an agricultural or fisheries product.

the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments in its territory.<sup>7</sup>

2. Paragraph 1 shall not be construed as obliging a Party to extend to investors of the other Party or to covered investments the benefit of any treatment resulting from measures providing for recognition, including the recognition of the standards or criteria for the authorisation, licencing, or certification of a natural person or enterprise to carry out an economic activity, or the recognition of prudential measures as referred to in paragraph 3 of the GATS Annex on Financial Services.
3. For greater certainty, the treatment referred to in paragraph 1 does not encompass international dispute resolution procedures or mechanisms other than those set out in this Agreement.

#### **Article 14.8 Performance Requirements**

1. Neither Party shall, in connection with the establishment, acquisition, expansion, management, conduct, operation, or sale or other disposition of an investment of an investor of a Party or of a non-party in its territory, impose or enforce any requirement, or enforce any commitment or undertaking:<sup>8</sup>
  - (a) to export a given level or percentage of goods or services;
  - (b) to achieve a given level or percentage of domestic content;
  - (c) to purchase, use, or accord a preference to goods produced in its territory, or to purchase goods from a person in its territory;
  - (d) to relate in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with that investment;
  - (e) to restrict sales of goods or services in its territory that the investment produces or supplies by relating those sales in any way to the volume or value of its exports or foreign exchange earnings;
  - (f) to restrict exportation or sale for export;

---

<sup>7</sup> For greater certainty, this paragraph does not cover treatment accorded by the United Kingdom to investors (and to their investments) of territories for whose international relations the United Kingdom is responsible.

<sup>8</sup> For greater certainty, a condition for the receipt or continued receipt of an advantage referred to in paragraph 2 does not constitute a “requirement” or a “commitment or undertaking” for the purposes of paragraph 1.

- (g) to transfer a particular technology, a production process, or other proprietary knowledge to a person in its territory;
- (h) to locate the regional or world headquarters of an enterprise in its territory;
- (i) to hire a given number or percentage of its nationals;
- (j) to achieve a given level or value of research and development in its territory;
- (k) to supply exclusively from the territory of that Party the goods that the investment produces or the services that it supplies to a specific regional market or to the world market;
- (l)
  - (i) to purchase, use, or accord a preference to, in its territory, technology of that Party or of a person of that Party;<sup>9</sup> or
  - (ii) that prevents the purchase or use of, or the according of a preference to, in its territory, a particular technology; or
- (m) to adopt:
  - (i) a given rate or amount of royalty under a licence contract; or
  - (ii) a given duration of the term of a licence contract,

in regard to any licence contract in existence at the time the requirement is imposed or enforced, or any commitment or undertaking is enforced, or any future licence contract<sup>10</sup> freely entered into between the investor or investment and a person in its territory, provided that the requirement is imposed or enforced or the commitment or undertaking is enforced in a manner that constitutes direct interference with that licence contract by an exercise of non-judicial governmental authority of a Party. For greater certainty, subparagraph (m) shall not apply when the licence contract is concluded between the investor or investment and a Party.

2. Neither Party shall condition the receipt or continued receipt of an advantage, in connection with the establishment, acquisition, expansion, management, conduct, operation, or sale or other disposition of an investment of an investor of a Party or of a non-party in its territory, on compliance with any requirement:

---

<sup>9</sup> For the purposes of this Article, the term “technology of a Party or of a person of a Party” includes technology that is owned by a Party or a person of a Party, and technology for which a Party or a person of a Party holds an exclusive licence.

<sup>10</sup> A “licence contract” referred to in this subparagraph means any contract concerning the licensing of technology, a production process, or other proprietary knowledge.

- (a) to achieve a given level or percentage of domestic content;
  - (b) to purchase, use, or accord a preference to goods produced in its territory, or to purchase goods from a person in its territory;
  - (c) to relate in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with that investment;
  - (d) to restrict sales of goods or services in its territory that the investment produces or supplies by relating those sales in any way to the volume or value of its exports or foreign exchange earnings; or
  - (e) to restrict exportation or sale for export.
3. For greater certainty, nothing in paragraph 1 shall be construed as preventing the enforcement by a Party of an undertaking voluntarily given<sup>11</sup> by a person in relation to a takeover or merger.
4. Nothing in paragraph 2 shall be construed to prevent a Party from conditioning the receipt or continued receipt of an advantage, in connection with an investment of an investor of a Party or of a non-party in its territory, on compliance with a requirement to locate production, supply a service, train or employ workers, construct or expand particular facilities, or carry out research and development, in its territory.
5. Subparagraphs 1(g), 1(l), and 1(m) shall not apply:
- (a) if a Party authorises use of an intellectual property right in accordance with Article 31 or Article 31bis of the TRIPS Agreement, or to measures requiring the disclosure of data or proprietary information that fall within the scope of, and are consistent with, paragraph 3 of Article 39 of the TRIPS Agreement; or
  - (b) if the requirement is imposed or enforced, or the commitment or undertaking is enforced, by a court or administrative tribunal, or by a competition authority to remedy a situation<sup>12</sup> determined after a judicial or administrative process to be anti-competitive under a Party's competition law.<sup>13</sup>

---

<sup>11</sup> An “undertaking voluntarily given” means that it is not required by a Party as a condition of the approval of the takeover or merger.

<sup>12</sup> For greater certainty, for the purposes of this subparagraph “situation” includes any feature of a market (whether behavioural or structural) which may be subject to investigation or study under New Zealand’s competition studies laws or regulations or the United Kingdom’s market investigation law.

<sup>13</sup> The Parties recognise that a patent does not necessarily confer market power.

6. Subparagraph 1(m) shall not apply if the requirement is imposed or enforced or the commitment or undertaking is enforced by a tribunal as equitable remuneration under the Party's copyright law.
7. Subparagraphs 1(a), 1(b), 1(c), 2(a), and 2(b), shall not apply to qualification requirements for goods or services with respect to export promotion and foreign aid programmes.
8. Subparagraphs 1(l) and 1(m) shall not be construed to prevent a Party from adopting or maintaining measures to protect legitimate public welfare objectives, provided that those measures are not applied in an arbitrary or unjustified manner, or in a manner that constitutes a disguised restriction on international trade or investment.
9. Subparagraphs 2(a) and 2(b) shall not apply to requirements imposed or enforced by an importing Party relating to the content of goods necessary to qualify for preferential tariffs or preferential quotas.
10. For greater certainty, paragraphs 1 and 2 shall not apply to any requirement other than the requirements set out in those paragraphs.
11. This Article is without prejudice to the obligations of a Party under the *Agreement on Trade-Related Investment Measures* in Annex 1A to the WTO Agreement.
12. This Article shall not preclude enforcement of any commitment, undertaking, or requirement between private parties, if a Party did not impose or require the commitment, undertaking, or requirement.

**Article 14.9**  
**Senior Management and Boards of Directors**

A Party shall not require that an enterprise that is a covered investment appoint to senior management or board of director positions natural persons of a particular nationality or who are resident in the territory of that Party.

**Article 14.10**  
**Non-Conforming Measures**

1. Articles 14.5 (Market Access) to Article 14.9 (Senior Management and Boards of Directors) shall not apply to:
  - (a) any existing non-conforming measure that is maintained by a Party at:

- (i) the central or regional level of government, as set out by that Party in its Schedule to Annex I (Cross-Border Trade in Services and Investment Non-Conforming Measures); or
    - (ii) a local level of government;
  - (b) the continuation or prompt renewal of any non-conforming measure referred to in subparagraph (a); or
  - (c) an amendment to any non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Articles 14.5 (Market Access) to Article 14.9 (Senior Management and Board of Directors).
2. Articles 14.5 (Market Access) to Article 14.9 (Senior Management and Boards of Directors) shall not apply to any measure that a Party adopts or maintains with respect to sectors, sub-sectors, or activities, as set out by that Party in its Schedule to Annex II (Cross-Border Trade in Services and Investment Non-Conforming Measures).
  3. Neither Party shall, under any measure adopted after the date of entry into force of this Agreement and covered by its Schedule to Annex II (Cross-Border Trade in Services and Investment Non-Conforming Measures), require an investor of the other Party, by reason of its nationality, to sell or otherwise dispose of a covered investment existing at the time the measure becomes effective.
  4. (a) Article 14.6 (National Treatment) shall not apply to any measure that falls within an exception to, or derogation from, the obligations which are imposed by:
    - (i) Article 17.7 (National Treatment – Intellectual Property); or
    - (ii) Article 3 of the TRIPS Agreement, if the exception or derogation relates to matters not addressed by Chapter 17 (Intellectual Property).
  - (b) Article 14.7 (Most-Favoured-Nation Treatment) shall not apply to any measure that falls within Article 5 of the TRIPS Agreement, or an exception to, or derogation from, the obligations which are imposed by:
    - (i) Article 17.7 (National Treatment – Intellectual Property); or
    - (ii) Article 4 of the TRIPS Agreement.

5. Articles 14.5 (Market Access) to Article 14.9 (Senior Management and Boards of Directors) shall not apply to any measure with respect to government procurement.
6. Articles 14.5 (Market Access) to Article 14.9 (Senior Management and Boards of Directors) shall not apply to a subsidy or grant provided by a Party, including a government supported loan, guarantee, or insurance.
7. Each Party shall endeavour to progressively remove the non-conforming measures.

**Article 14.11**  
**Minimum Standard of Treatment<sup>14</sup>**

1. Each Party shall accord to covered investments treatment in accordance with applicable customary international law principles, including fair and equitable treatment and full protection and security.
2. For greater certainty, paragraph 1 prescribes the customary international law minimum standard of treatment of aliens as the standard of treatment to be afforded to covered investments. The concepts of “fair and equitable treatment” and “full protection and security” do not require treatment in addition to or beyond that which is required by that standard, and do not create additional substantive rights. The obligations in paragraph 1 provide that:
  - (a) “fair and equitable treatment” includes the obligation not to deny justice in criminal, civil, or administrative adjudicatory proceedings in accordance with the principle of due process embodied in the principal legal systems of the world; and
  - (b) “full protection and security” requires each Party to provide the level of police protection required under customary international law.
3. A determination that there has been a breach of another provision of this Agreement, or of a separate international agreement, does not establish that there has been a breach of this Article.
4. For greater certainty, the mere fact that a Party takes or fails to take an action that may be inconsistent with an investor’s expectations does not constitute a breach of this Article, even if there is loss or damage to the covered investment as a result.
5. For greater certainty, the mere fact that a subsidy or grant has not been issued, renewed or maintained, or has been modified or reduced, by a Party, does not

---

<sup>14</sup> Article 14.11 (Minimum Standard of Treatment) shall be interpreted in accordance with Annex 14A (Customary International Law).

constitute a breach of this Article, even if there is loss or damage to the covered investment as a result.

**Article 14.12**  
**Treatment in Case of Armed Conflict or Civil Strife**

1. Notwithstanding Article 14.10 (Non-Conforming Measures), each Party shall accord to investors of the other Party and to covered investments non-discriminatory treatment with respect to measures it adopts or maintains relating to losses suffered by investments in its territory owing to armed conflict or civil strife.
2. Notwithstanding paragraph 1, if an investor of a Party, in a situation referred to in paragraph 1, suffers a loss in the territory of the other Party resulting from:
  - (a) requisitioning of its covered investment or part thereof by the latter's forces or authorities; or
  - (b) destruction of its covered investment or part thereof by the latter's forces or authorities, which was not required by the necessity of the situation,the latter Party shall provide the investor restitution, compensation, or both, as appropriate, for that loss.
3. Paragraph 1 shall not apply to existing measures relating to subsidies or grants that would be inconsistent with Article 14.6 (National Treatment) but for Article 14.10 (Non-Conforming Measures).

**Article 14.13**  
**Transfers**

1. Each Party shall permit all transfers relating to a covered investment to be made freely and without delay into and out of its territory. Those transfers include:
  - (a) contributions to capital, including the initial contribution;
  - (b) returns;
  - (c) proceeds from the sale of all or any part of the covered investment or from the partial or complete liquidation of the covered investment;
  - (d) payments made under a contract, including a loan agreement;



- (e) payments made pursuant to Article 14.12 (Treatment in Case of Armed Conflict or Civil Strife) and Article 14.14 (Expropriation and Compensation);
  - (f) payments arising out of a dispute; and
  - (g) earnings and other remuneration of foreign personnel in connection with the covered investment.
2. Each Party shall permit transfers relating to a covered investment to be made in a freely usable currency at the market rate of exchange prevailing at the time of transfer.
  3. Neither Party shall require its investors to transfer, or penalise its investors for failing to transfer, the income, earnings, profits, or other amounts derived from, or attributable to, investments in the territory of the other Party.
  4. Notwithstanding paragraphs 1 and 2, each Party may prevent or delay a transfer through the equitable, non-discriminatory, and good faith application of its law relating to:
    - (a) bankruptcy, insolvency, or the protection of the rights of creditors;
    - (b) issuing, trading, or dealing in securities, futures, options, or derivatives;
    - (c) criminal or penal offences;
    - (d) financial reporting or record keeping of transfers when necessary to assist law enforcement or financial regulatory authorities;
    - (e) ensuring compliance with orders or judgments in judicial or administrative proceedings; or
    - (f) social security, public retirement, or compulsory savings schemes.
  5. For greater certainty, nothing in this Article shall be construed to prevent a Party from applying its law relating to the imposition of economic sanctions provided that doing so does not constitute a disguised restriction on transfers.

**Article 14.14**  
**Expropriation and Compensation<sup>15</sup>**

1. Neither Party shall expropriate or nationalise a covered investment either directly or indirectly through measures equivalent to expropriation or nationalisation (expropriation), except:
  - (a) for a public purpose;
  - (b) in a non-discriminatory manner;
  - (c) on payment of prompt, adequate, and effective compensation in accordance with paragraphs 2, 3, and 4; and
  - (d) in accordance with due process of law.
2. Compensation shall:
  - (a) be paid without delay;
  - (b) be equivalent to the fair market value of the expropriated investment immediately before the expropriation took place (the date of expropriation);
  - (c) not reflect any change in value occurring because the intended expropriation had become known earlier; and
  - (d) be fully realisable and freely transferable.
3. If the fair market value is denominated in a freely usable currency, the compensation paid shall be no less than the fair market value on the date of expropriation, plus interest at a commercially reasonable rate for that currency, accrued from the date of expropriation until the date of payment.
4. If the fair market value is denominated in a currency that is not freely usable, the compensation paid, converted into the currency of payment at the market rate of exchange prevailing on the date of payment, shall be no less than:
  - (a) the fair market value on the date of expropriation, converted into a freely usable currency at the market rate of exchange prevailing on that date; plus
  - (b) interest, at a commercially reasonable rate for that freely usable currency, accrued from the date of expropriation until the date of payment.

---

<sup>15</sup> This Article shall be interpreted in accordance with Annex 14B (Expropriation).

5. This Article shall not apply to the issuance of compulsory licences granted in relation to intellectual property rights in accordance with the TRIPS Agreement, or to the revocation, limitation, or creation of intellectual property rights, to the extent that the issuance, revocation, limitation, or creation is consistent with Chapter 17 (Intellectual Property) and the TRIPS Agreement.<sup>16</sup>
6. For greater certainty, a Party's decision not to issue, renew, or maintain a subsidy or grant, or decision to modify or reduce a subsidy or grant:
  - (a) in the absence of any specific commitment under law or contract to issue, renew, or maintain that subsidy or grant; or
  - (b) in accordance with any terms or conditions attached to the issuance, renewal, modification, reduction, and maintenance of that subsidy or grant,

standing alone, does not constitute an expropriation.

#### **Article 14.15 Subrogation**

If a Party, or any agency, institution, statutory body, or corporation designated by a Party, makes a payment to an investor of the Party under a guarantee, a contract of insurance, or other form of indemnity that it has entered into with respect to a covered investment, the other Party in whose territory the covered investment was made shall recognise the subrogation or transfer of any rights the investor would have possessed under this Chapter with respect to the covered investment but for the subrogation, and the investor shall be precluded from pursuing these rights to the extent of the subrogation.

#### **Article 14.16 Special Formalities and Disclosure of Information**

1. Nothing in Article 14.6 (National Treatment) shall be construed to prevent a Party from adopting or maintaining a measure that prescribes special formalities in connection with covered investments, such as a requirement that covered investments be legally constituted under the law of a Party, provided that those formalities do not materially impair the protections afforded by a Party to investors of the other Party and covered investments pursuant to this Chapter.

---

<sup>16</sup> For greater certainty, the Parties recognise that, for the purposes of this Article, the term "revocation" of intellectual property rights includes the cancellation or nullification of those rights, and the term "limitation" of intellectual property rights includes exceptions to those rights.

2. Notwithstanding Article 14.6 (National Treatment) and Article 14.7 (Most-Favoured-Nation Treatment), a Party may require an investor of the other Party, or a covered investment, to provide information concerning an investment solely for informational or statistical purposes. Each Party shall protect that information that is confidential from any disclosure that would prejudice the competitive position of the investor or the covered investment. Nothing in this paragraph shall be construed to prevent a Party from otherwise obtaining or disclosing information in connection with the equitable and good faith application of its law.

**Article 14.17**  
**Denial of Benefits**

Each Party may deny the benefits of this Chapter to an investor of the other Party that is an enterprise of that Party and to covered investments of that investor if:

- (a) a non-party or a person of a non-party owns or controls the enterprise; and
- (b) the denying Party adopts or maintains a measure with respect to the non-party or the person of the non-party which prohibits transactions with the enterprise or which would be violated or circumvented if the benefits of this Chapter were accorded to the enterprise or to the investments of that enterprise.

**Article 14.18**  
**Investment and Environmental, Health, and Other Regulatory Objectives**

1. Nothing in this Chapter shall be construed to prevent a Party from adopting, maintaining, or enforcing, in a manner consistent with this Chapter, any measure that it considers appropriate to ensure that investment activity in its territory is undertaken in a manner sensitive to environmental, health, or other regulatory objectives.
2. The Parties recognise the importance of environmental protection, including with respect to climate change mitigation and adaptation, and recall each Party's rights and obligations relating to the protection of the environment provided for in this Agreement.

**Article 14.19**  
**Corporate Social Responsibility**

The Parties reaffirm the importance of each Party encouraging enterprises operating within its territory or subject to its jurisdiction to voluntarily incorporate

into their internal policies those internationally recognised standards, guidelines, and principles of corporate social responsibility that have been endorsed or are supported by that Party, such as the *OECD Guidelines for Multinational Enterprises* and the *United Nations Guiding Principles on Business and Human Rights*.

## **ANNEX 14A**

### **CUSTOMARY INTERNATIONAL LAW**

The Parties confirm their shared understanding that “customary international law” generally and as specifically referenced in Article 14.11 (Minimum Standard of Treatment) results from a general and consistent practice of States that they follow from a sense of legal obligation. The customary international law minimum standard of treatment of aliens refers to all customary international law principles that protect the investments of aliens.

## ANNEX 14B

### EXPROPRIATION

The Parties confirm their shared understanding that:

1. An action or a series of actions by a Party cannot constitute an expropriation unless it interferes with a tangible or intangible property right or property interest in an investment.
2. Article 14.14 (Expropriation and Compensation) addresses two situations. The first is direct expropriation, in which an investment is nationalised or otherwise directly expropriated through formal transfer of title or outright seizure.
3. The second situation addressed by Article 14.14 (Expropriation and Compensation) is indirect expropriation, in which an action or series of actions by a Party has an effect equivalent to direct expropriation without formal transfer of title or outright seizure.
  - (a) The determination of whether an action or series of actions by a Party, in a specific fact situation, constitutes an indirect expropriation, requires a case-by-case, fact-based inquiry that considers, among other factors:
    - (i) the economic impact of the government action, although the fact that an action or series of actions by a Party has an adverse effect on the economic value of an investment, standing alone, does not establish that an indirect expropriation has occurred;
    - (ii) the extent to which the government action interferes with distinct, reasonable investment-backed expectations;<sup>17</sup> and
    - (iii) the character of the government action.
  - (b) Non-discriminatory regulatory actions by a Party that are designed and applied to protect legitimate public welfare objectives, such as public health, safety, and the environment, do not constitute indirect expropriations, except in rare circumstances.

---

<sup>17</sup> For greater certainty, whether an investor's investment-backed expectations are reasonable depends, to the extent relevant, on factors such as whether the government provided the investor with binding written assurances and the nature and extent of governmental regulation or the potential for government regulation in the relevant sector.

**CHAPTER 15**  
**DIGITAL TRADE**

**Article 15.1**  
**Definitions**

For the purposes of this Chapter:

**“cipher”** or **“cryptographic algorithm”** means a mathematical procedure or formula for combining a key with plaintext to create a ciphertext;

**“ciphertext”** means data in a form that cannot be easily understood without subsequent decryption;

**“commercial information and communication technology product”** or **“commercial ICT product”** means a product that is designed for commercial applications and whose intended function is information processing and communication by electronic means, including transmission and display, or electronic processing applied to determine or record physical phenomena, or to control physical processes;

**“computing facilities”** means a computer server or storage device for processing or storing information for commercial use;

**“covered person”** means:

- (a) a covered investment as defined in Article 14.2 (Definitions – Investment);
- (b) an investor of a Party as defined in Article 14.2 (Definitions – Investment); or
- (c) a service supplier of a Party as defined in Article 9.1 (Definitions – Cross-Border Trade in Services),

but does not include a financial service supplier as defined in Article 11.1 (Definitions – Financial Services);

**“cryptography”** means the principles, means, or methods for the transformation of data in order to conceal or disguise its content, prevent its undetected modification, or prevent its unauthorised use, and is limited to the transformation of information using one or more secret parameters, for example, crypto variables or associated key management;



**“digital innovation”** means the development, implementation, or adoption of new or improved digital technologies, digital processes, or digital organisational methods;

**“electronic authentication”** or **“e-authentication”** means an electronic process or act of verifying that enables the confirmation of:

- (a) the electronic identification of a person; or
- (b) the origin and integrity of data in electronic form;

**“electronic invoicing”** or **“e-invoicing”** means the automated creation, exchange, and processing of requests for payments between suppliers and buyers using a structured digital format;

**“electronic seal”** means data in electronic form used by an enterprise which is attached to or logically associated with other data in electronic form to ensure the latter’s origin and integrity;

**“electronic signature”** means data in electronic form which is attached to or logically associated with other data in electronic form that is:

- (a) used to identify the signatory in relation to the data in electronic form; and
- (b) used by a signatory to agree on the data in electronic form to which it relates;<sup>1</sup>

**“electronic transmission”** or **“transmitted electronically”** means a transmission made using an electromagnetic means, including by photonic means;

**“emerging technology”** means an enabling and innovative technology that has potentially significant application across a wide range of existing and future sectors, including artificial intelligence, distributed ledger technologies, quantum technologies, immersive technologies, sensing technologies, and the Internet of Things;

**“encryption”** means the conversion of data (plaintext) through the use of a cryptographic algorithm into a ciphertext using the appropriate key;

**“key”** means a parameter used in conjunction with a cryptographic algorithm that determines its operation in such a way that a person with knowledge of the key can reproduce or reverse the operation, but a person without knowledge of the key cannot;

---

<sup>1</sup> For greater certainty, nothing in this provision prevents a Party from according greater legal effect to an electronic signature that satisfies certain requirements, such as indicating that the electronic data message has not been altered or verifying the identity of the signatory.

**“personal information”** means information, including data, about an identified or identifiable natural person;

**“trade administration documents”** means the forms and documents that must be completed by or for an importer or exporter in connection with the import or export of goods; and

**“unsolicited commercial electronic message”** means an electronic message which is sent for commercial or marketing purposes, without the consent of the recipient or despite the explicit rejection of the recipient, directly to a natural person, or enterprise if provided for in a Party’s laws and regulations, via a public telecommunications service. For the purposes of this Agreement, this covers electronic mail, text and multimedia messages (SMS and MMS), and other forms of electronic messages governed by a Party’s laws and regulations.<sup>2</sup>

## **Article 15.2 Objectives**

The Parties recognise the economic growth and opportunities provided by digital trade and the importance of:

- (a) adopting frameworks that promote consumer confidence in digital trade;
- (b) promoting interoperability of regulatory frameworks to facilitate digital trade;
- (c) avoiding unnecessary barriers to the use and development of digital trade; and
- (d) digital inclusion, including participation of Māori, women, persons with disabilities, rural populations, low socio-economic groups as well as enterprises, individuals, and other groups that disproportionately face barriers to digital trade.

## **Article 15.3 Scope and General Provisions**

1. This Chapter shall apply to measures adopted or maintained by a Party affecting trade enabled by electronic means.
2. This Chapter shall not apply to:
  - (a) audio-visual services; or

---

<sup>2</sup> For greater certainty, an unsolicited commercial electronic message does not include a message sent by or on behalf of a Party.

- (b) government procurement, except for Article 15.5 (Conclusion of Contracts by Electronic Means), Article 15.7 (Electronic Authentication), and Article 15.9 (Electronic Invoicing).
- 3. Article 15.12 (Commercial Information and Communication Technology Products that Use Cryptography), Article 15.14 (Cross-Border Transfer of Information by Electronic Means), and Article 15.15 (Location of Computing Facilities) shall not apply to information held or processed by or on behalf of a Party, or measures related to such information, including measures related to its collection.
- 4. Article 15.14 (Cross-Border Transfer of Information by Electronic Means) and Article 15.15 (Location of Computing Facilities) shall not apply to aspects of a Party's measures that do not conform with an obligation in Chapter 9 (Cross-Border Trade in Services) or Chapter 14 (Investment), to the extent that such measures are adopted or maintained in accordance with:
  - (a) Article 9.8 (Non-Conforming Measures – Cross-Border Trade in Services) or Article 14.10 (Non-Conforming Measures – Investment); or
  - (b) any exception that is applicable to the obligations in Chapter 9 (Cross-Border Trade in Services) and Chapter 14 (Investment).

#### **Article 15.4 Customs Duties**

- 1. Neither Party shall impose customs duties on electronic transmissions, including content transmitted electronically, between a person of a Party and a person of the other Party.
- 2. For greater certainty, paragraph 1 shall not preclude a Party from imposing internal taxes, fees, or other charges on electronic transmissions, including content transmitted electronically, provided that those taxes, fees, or charges are imposed in a manner consistent with this Agreement.
- 3. The Parties shall cooperate in relevant international fora to promote the adoption of commitments by non-parties not to impose customs duties on electronic transmissions.

#### **Article 15.5 Conclusion of Contracts by Electronic Means**

- 1. Except in circumstances otherwise provided for in its law, a Party shall not adopt or maintain measures that:

- (a) deprive an electronic contract of legal effect, enforceability, or validity, solely on the ground that the contract has been made by electronic means; or
  - (b) otherwise create obstacles for the use of electronic contracts.
2. Recognising the importance of increasing the use of electronic contracts, the Parties should review and reduce the circumstances referred to in paragraph 1.

**Article 15.6**  
**Domestic Electronic Transactions Framework**

1. Each Party shall maintain a legal framework governing electronic transactions consistent with the principles of the *UNCITRAL Model Law on Electronic Commerce* done at New York on 12 June 1996 or the *United Nations Convention on the Use of Electronic Communications in International Contracts* done at New York on 23 November 2005.
2. Each Party shall endeavour to:
  - (a) avoid any unnecessary regulatory burden on electronic transactions; and
  - (b) facilitate input by interested persons in the development of its legal framework for electronic transactions.
3. The Parties recognise the importance of facilitating the use of electronic transferable records. When developing measures relating to electronic transferrable records, each Party shall take into account the *UNCITRAL Model Law on Electronic Transferable Records* done at New York on 13 July 2017.

**Article 15.7**  
**Electronic Authentication**

1. Except in circumstances otherwise provided for under its laws and regulations, neither Party shall deny the legal effect or admissibility as evidence in legal proceedings of an electronic document, an electronic signature, an electronic seal, or the authenticating data resulting from electronic authentication, solely on the ground that it is in electronic form.
2. Neither Party shall adopt or maintain a measure that would:

- (a) prohibit parties to an electronic transaction from mutually determining the appropriate electronic authentication method for their transaction; or
  - (b) prevent parties to an electronic transaction from being able to prove to judicial and administrative authorities that the use of electronic authentication in that transaction complies with the applicable legal requirements.
- 3. Notwithstanding paragraph 2, a Party may require that for a particular category of transactions, the method of electronic authentication is certified by an authority accredited in accordance with its law or meets certain performance standards which shall be objective, transparent, and non-discriminatory and shall only relate to the specific characteristics of the category of transactions concerned.
- 4. The Parties shall encourage the use of interoperable electronic authentication, and recognise the benefits of working towards mutual recognition of electronic authentication. To this end, the Parties shall endeavour to share information, where appropriate, on matters related to e-authentication.
- 5. To the extent provided for under its laws or regulations, a Party shall apply paragraphs 1 to 4 to electronic processes or means of facilitating or enabling electronic transactions, such as electronic time stamps and electronic registered delivery services.

### **Article 15.8** **Digital Identities**

- 1. The Parties recognise that:
  - (a) the cooperation of the Parties on digital identities will increase regional and global connectivity; and
  - (b) each Party may have different implementations of, and legal approaches to, digital identities.
- 2. The Parties shall strengthen cooperation and facilitate initiatives to promote compatibility and interoperability between their respective regimes for digital identities, including exploring:
  - (a) the development and maintenance of appropriate frameworks to increase technical and service interoperability between each Party's implementation of digital identities;
  - (b) supporting the development of international frameworks on digital identity regimes;

- (c) identifying use cases for the mutual recognition of digital identities; and
  - (d) the exchange of knowledge and expertise on best practices relating to digital identity policies and regulations, technical implementation and security standards, promotion, and user adoption.
3. For greater certainty, nothing in this Article shall prevent a Party from adopting or maintaining measures inconsistent with paragraph 2 to achieve a legitimate public policy objective.

#### **Article 15.9 Electronic Invoicing**

1. The Parties recognise the importance of e-invoicing to increase the efficiency, accuracy, and reliability of commercial transactions. Each Party also recognises the benefits of ensuring interoperability of e-invoicing systems to support digital trade and that these systems can be used for business-to-business and business-to-consumer digital transactions.
2. Each Party shall ensure that the implementation of measures related to e-invoicing in its jurisdiction is designed to support cross-border interoperability. When developing measures related to e-invoicing, each Party shall take into account international frameworks, guidelines, or recommendations, where these exist.
3. The Parties shall share best practices pertaining to e-invoicing.

#### **Article 15.10 Paperless Trading**

1. Each Party shall make trade administration documents that it issues or controls available to the public in electronic form.
2. Each Party shall endeavour to accept a trade administration document submitted electronically as the legal equivalent of the paper version of that document.
3. The Parties shall, where appropriate, cooperate bilaterally and in international fora on matters related to paperless trading, such as enhancing the standardisation and acceptance of electronic trade administration documents.
4. In developing initiatives concerning the use of paperless trading, each Party shall take into account the principles and guidelines agreed by relevant international bodies.

**Article 15.11**  
**Unsolicited Commercial Electronic Messages**

1. Each Party shall adopt or maintain measures regarding unsolicited commercial electronic messages that:
  - (a) require suppliers of unsolicited commercial electronic messages to facilitate the ability of recipients to prevent ongoing reception of those messages; or
  - (b) require the consent, as specified according to the laws and regulations of each Party, of recipients to receive commercial electronic messages,and otherwise provide for the minimisation of unsolicited commercial electronic messages.
2. Each Party shall ensure that unsolicited commercial electronic messages are clearly identifiable as such, clearly disclose on whose behalf they are made and contain the necessary information to enable recipients to request cessation free of charge and at any time.
3. Each Party shall provide access to either redress or recourse against suppliers of unsolicited commercial electronic messages that do not comply with the measures adopted or maintained pursuant to paragraphs 1 and 2.
4. The Parties shall endeavour to cooperate in appropriate cases of mutual concern regarding the regulation of unsolicited commercial electronic messages.

**Article 15.12**  
**Commercial Information and Communication Technology Products that Use Cryptography**

1. Neither Party shall impose or maintain a technical regulation or conformity assessment procedure that requires a manufacturer or supplier of a commercial ICT product that uses cryptography, as a condition of the manufacture, sale, distribution, import, or use of that commercial ICT product, to:
  - (a) transfer or provide access to any proprietary information relating to cryptography, including by disclosing a particular technology or production process or other information, for example, a private key or other secret parameter, algorithm specification, or other design detail, to that Party or a person in the territory of that Party;

- (b) partner or otherwise cooperate with a person in the territory of that Party in the development, manufacture, sale, distribution, import, or use of the commercial ICT product; or
  - (c) use or integrate a particular cipher or cryptographic algorithm.
2. Notwithstanding paragraph 1 of Article 15.3 (Scope and General Provisions), this Article shall apply to commercial ICT products that use cryptography.<sup>3</sup> This Article shall not apply to:
- (a) a Party's law enforcement authorities requiring service suppliers using encryption to provide access to encrypted and unencrypted communications pursuant to that Party's legal procedures;
  - (b) the regulation of financial instruments;
  - (c) a requirement that a Party adopts or maintains relating to access to networks, including user devices, that are owned or controlled by that Party, including those of central banks;
  - (d) measures by a Party adopted or maintained pursuant to supervisory, investigatory, or examination authority relating to financial service suppliers or financial markets;
  - (e) the manufacture, sale, distribution, import, or use of a commercial ICT product by or for a Party; or
  - (f) a commercial ICT product other than a good.

### **Article 15.13**

#### **Personal Information Protection**

1. The Parties emphasise the economic and social benefits of protecting the personal information of users of digital trade and the contribution that this makes to enhancing consumer confidence in digital trade.
2. Each Party shall adopt or maintain a legal framework that provides for the protection of the personal information of the users of digital trade. In the development of its legal framework for the protection of personal information, each Party shall take into account principles and guidelines of relevant international bodies.
3. The Parties recognise that the principles underpinning a robust personal information protection framework include:

---

<sup>3</sup> For greater certainty, for the purposes of this Article, a commercial ICT product does not include a financial instrument.



- (a) collection limitation;
  - (b) data quality;
  - (c) purpose specification;
  - (d) use limitation;
  - (e) security safeguards;
  - (f) openness;
  - (g) individual participation; and
  - (h) accountability.
4. Each Party shall adopt non-discriminatory practices in protecting users of digital trade from personal information protection violations occurring within its jurisdiction.
5. Each Party shall publish information on the personal information protections it provides to users of digital trade, including how:
- (a) an individual can pursue a remedy; and
  - (b) an enterprise can comply with any legal requirements.
6. Each Party shall pursue the development of mechanisms to promote compatibility and interoperability between these different regimes for protecting personal information. These mechanisms may include the recognition of regulatory outcomes, whether accorded autonomously or by mutual arrangement, or broader international frameworks. To this end, the Parties shall exchange information on any mechanisms applied in their respective jurisdictions and explore ways to extend these or other suitable arrangements to promote compatibility and interoperability between them.

#### **Article 15.14**

##### **Cross-Border Transfer of Information by Electronic Means**

1. The Parties recognise that each Party may have its own regulatory requirements concerning the transfer of information by electronic means.
2. Each Party shall allow the cross-border transfer of information by electronic means, including personal information, if this activity is for the conduct of the business of a covered person.

3. Nothing in this Article shall prevent a Party from adopting or maintaining a measure inconsistent with paragraph 2 to achieve a legitimate public policy objective, provided that the measure:
  - (a) is not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade; and
  - (b) does not impose restrictions on transfers of information greater than are required to achieve the objective.

### **Article 15.15 Location of Computing Facilities**

1. The Parties recognise that each Party may have its own regulatory requirements regarding the use of computing facilities, including requirements that seek to ensure the security and confidentiality of communications.
2. Neither Party shall require a covered person to use or locate computing facilities in that Party's territory as a condition for conducting business in that territory.
3. Nothing in this Article shall prevent a Party from adopting or maintaining a measure inconsistent with paragraph 2 to achieve a legitimate public policy objective, provided that the measure:
  - (a) is not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade; and
  - (b) does not impose restrictions on the use or location of computing facilities greater than are required to achieve the objective.

### **Article 15.16 Open Internet Access**

Subject to their applicable policies, laws, and regulations, each Party recognises the benefits of consumers<sup>4</sup> in their territory having the ability to:

- (a) access, distribute, and use services and applications of their choice available on the Internet, subject to reasonable network management which does not block or slow down traffic based on commercial reasons;

---

<sup>4</sup> For the purposes of this Article, "consumer" means a natural person or enterprise using the Internet for personal, trade, or business or professional purposes.

- (b) connect devices of their choice to the Internet, provided that these devices do not harm the network; and
- (c) access information on the network management practices of their Internet access service supplier.

### **Article 15.17**

#### **Open Government Data**

1. For the purposes of this Article, government data and information means non-proprietary data and information held by the central level of government and, to the extent provided for under a Party's laws and regulations, by other levels of government.
2. The Parties recognise that facilitating public access to and use of government data and information fosters economic and social development, competitiveness, and innovation. To this end, each Party is encouraged to expand the coverage of government data and information digitally available for public access and use, through engagement and consultation with interested stakeholders, and Māori in the case of New Zealand.
3. To the extent that a Party makes government data and information available to the public, it shall endeavour to ensure that the data and information is in a machine-readable and open format and can be searched, retrieved, used, reused, and redistributed.
4. Each Party shall provide interested persons with the opportunity to request the disclosure of specific government data and information.
5. The Parties shall cooperate, as appropriate, to identify ways in which each Party can expand access to and the use of government data and information that the Party has made public, with a view to enhancing and generating business opportunities, especially for SMEs.

### **Article 15.18**

#### **Cooperation on Cyber Security Matters**

1. The Parties recognise the importance of promoting secure digital trade to achieve global prosperity and recognise that threats to cyber security undermine confidence in digital trade.
2. The Parties further recognise the importance of:
  - (a) building the capabilities of their respective national entities responsible for cyber security incident response, taking into account the evolving nature of cyber security threats;

- (b) using and strengthening existing collaboration mechanisms for cooperating to anticipate, identify, and mitigate malicious intrusions or dissemination of malicious code that affect the electronic networks of the Parties, and using those mechanisms to swiftly address cyber security incidents;
  - (c) workforce development in the area of cyber security, including through possible initiatives relating to mutual recognition of qualifications, and promoting diversity and equality; and
  - (d) maintaining a dialogue on matters related to cyber security, including for the sharing of information and experiences for awareness and best practices.
3. Given the evolving nature of cyber security threats, the Parties recognise that risk-based approaches may be more effective than prescriptive approaches in addressing those threats including in the context of digital trade. Accordingly, each Party shall encourage enterprises within its jurisdiction to use risk-based approaches that rely on open and transparent industry standards to:
- (a) manage cyber security risks and to detect, respond to, and recover from cybersecurity events; and
  - (b) otherwise improve the cyber security resilience of these enterprises and their customers.

**Article 15.19**  
**Digital Innovation and Emerging Technologies**

1. The Parties recognise the increasing social and economic importance of digital innovation and emerging technologies, and the importance of the safe and responsible development and use of emerging technologies to foster public trust.
2. The Parties further recognise that digital innovation and emerging technologies:
  - (a) have important roles in promoting economic competitiveness and facilitating international trade and investment flows; and
  - (b) may require coordinated action, including between the Parties, across multiple sectors and trade policy areas to maximise their economic and social benefits, including trade between the Parties. When taking that action, the Parties shall take into consideration relevant international frameworks.

3. Each Party shall endeavour to develop governance and policy frameworks for the trusted, safe, and responsible use of emerging technologies. To this end, in developing those frameworks, the Parties recognise the importance of:
  - (a) taking into account the principles and guidelines of relevant international bodies, such as the OECD and the Global Partnership on Artificial Intelligence;
  - (b) utilising risk-based or outcome-based approaches to regulation that take into account industry-led standards and risk management best practices; and
  - (c) having regard to the principles of technological interoperability and technological neutrality.
4. The Parties shall cooperate, as appropriate, on matters related to digital innovation and emerging technologies with respect to trade. This may include:
  - (a) exchanging information, and sharing experiences and best practices on the development and implementation of law and policies, including matters of enforcement and compliance;
  - (b) cooperating on developments relating to emerging technologies, including ethical use, industry-led standards, and algorithmic transparency, to address issues such as unintended biases and exacerbation of existing divides, by ensuring human diversity is recognised in the development of technologies; and
  - (c) participating actively in international fora.

#### **Article 15.20** **Digital Inclusion**

1. The Parties recognise the importance of digital inclusion, that all people and businesses can participate in, contribute to, and benefit from digital trade. To this end, the Parties recognise the importance of expanding and facilitating digital trade opportunities by removing barriers to participation in digital trade, and that this may require tailored approaches, developed in consultation with Māori, enterprises, individuals, and other groups that disproportionately face such barriers.
2. To promote digital inclusion, the Parties shall cooperate on matters relating to digital inclusion, including participation of Māori, women, persons with disabilities, rural populations, and low socio-economic groups as well as

other individuals and groups that disproportionately face barriers to digital trade. This may include:

- (a) enhancing cultural and people-to-people links, including for Māori, through promoting business development services;
  - (b) identifying and addressing barriers to accessing digital trade opportunities;
  - (c) improving digital skills and access to online business tools; and
  - (d) sharing methods and procedures for developing datasets and conducting analysis to identify barriers and trends over time in relation to Māori, women, and other groups which face barriers to digital trade to inform the development of digital trade policies, including developing methods for monitoring their participation in digital trade.
3. The Parties recognise the role played by SMEs, including Māori-led and women-led enterprises, in economic growth and job creation, and the need to address the barriers to participation in digital trade for those entities. To this end, the Parties shall:
  - (a) foster close cooperation on digital trade between SMEs of the Parties;
  - (b) encourage their participation in platforms that help link them with international suppliers, buyers, and other potential business partners; and
  - (c) share best practices in improving digital skills and leveraging digital tools and technology to improve access to capital and credit, participation in government procurement opportunities, and other areas that could help SMEs adapt to digital trade.
4. The Parties also recognise the digital divide between developed and developing countries, and the role for digital trade in promoting economic development and poverty reduction. The Parties shall endeavour to undertake and strengthen cooperation, including through existing mechanisms, to promote the participation of developing countries in digital trade. This may include sharing best practices, active engagement in international fora, and promoting developing countries' participation in, and contribution to, the global development of rules on digital trade, which may include other WTO members as appropriate.
5. The Parties shall also participate actively at the WTO and in other international fora to promote initiatives for advancing digital inclusion in digital trade.

**Article 15.21**  
**Cooperation**

1. The Parties shall, where appropriate, cooperate and participate actively in international fora, including the WTO, to promote the development of international frameworks for digital trade.
2. In addition to areas of cooperation between the Parties identified in other parts of this Chapter, the Parties shall exchange information on and share experiences and best practices on regulatory matters relating to digital trade.
3. The Parties shall endeavour to cooperate to promote and facilitate collaboration between governmental entities, enterprises, and other non-governmental entities on digital technologies and services, including digital innovation and emerging technologies, in relation to opportunities in trade, investment, and research and development, including in the areas of pandemic preparedness, clean technology, and low emissions technology.

**Article 15.22**  
**Review**

1. To take into account developments in digital trade, the Parties shall review the operation and implementation of this Chapter and Article 11.7 (Financial Data and Information – Financial Services) within two years of the date of entry into force of this Agreement unless the Parties agree otherwise.
2. In the context of that review, and following the release of the Waitangi Tribunal’s Report Wai 2522 dated 19 November 2021, New Zealand:
  - (a) reaffirms its continued ability to support and promote Māori interests under this Agreement; and
  - (b) affirms its intention to engage Māori to ensure the review outlined in paragraph 1 takes account of the continued need for New Zealand to support Māori to exercise their rights and interests, and meet its responsibilities under Te Tiriti o Waitangi/the Treaty of Waitangi and its principles.

**CHAPTER 16**  
**GOVERNMENT PROCUREMENT**

**Article 16.1**  
**Definitions**

For the purposes of this Chapter:

**“commercial goods or services”** means goods or services of a type generally sold or offered for sale in the commercial marketplace to, and customarily purchased by, non-governmental buyers for non-governmental purposes;

**“construction service”** means a service that has as its objective the realisation by whatever means of civil or building works, based on Division 51 of the United Nations Provisional Central Product Classification (CPC Prov.);

**“electronic auction”** means an iterative process that involves the use of electronic means for the presentation by suppliers of either new prices, or new values for quantifiable non-price elements of the tender related to the evaluation criteria, or both, resulting in a ranking or re-ranking of tenders;

**“in writing”** or **“written”** means any worded or numbered expression that can be read, reproduced, and later communicated. It may include electronically transmitted and stored information;

**“limited tendering”** means a procurement method whereby the procuring entity contacts a supplier or suppliers of its choice;

**“measure”** means any law, regulation, procedure, administrative guidance or practice, or any action of a procuring entity relating to a covered procurement;

**“multi-use list”** means a list of suppliers that a procuring entity has determined satisfy the conditions for participation in that list, and that the procuring entity intends to use more than once;

**“notice of intended procurement”** means a notice published by a procuring entity inviting interested suppliers to submit a request for participation, a tender, or both;

**“offset”** means any condition or undertaking that requires the use of domestic content, a domestic supplier, the licensing of technology, technology transfer, investment, counter-trade, or similar action to encourage local development or to improve a Party's balance-of-payments accounts;

**“open tendering”** means a procurement method whereby all interested suppliers may submit a tender;



**“procuring entity”** means an entity listed in Annex 16A (Government Procurement Schedules);

**“qualified supplier”** means a supplier that a procuring entity recognises as having satisfied the conditions for participation;

**“selective tendering”** means a procurement method whereby only qualified suppliers are invited by the procuring entity to submit a tender;

**“services”** includes construction services, unless otherwise provided in this Chapter;

**“standard”** means a document approved by a recognised body that provides for common and repeated use, rules, guidelines, or characteristics for goods or services, or related processes and production methods, with which compliance is not mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking, or labelling requirements as they apply to a good, service, process, or production method;

**“supplier”** means a person or group of persons that provides or could provide goods or services; and

**“technical specification”** means a tendering requirement that:

- (a) lays down the characteristics of goods or services to be procured, including quality, performance, safety, and dimensions, or the processes and methods for their production or provision; or
- (b) addresses terminology, symbols, packaging, marking, or labelling requirements, as they apply to a good or service.

## **Article 16.2**

### **Scope**

#### *Application of Chapter*

1. This Chapter shall apply to any measure regarding covered procurement.
2. For the purposes of this Chapter, covered procurement means government procurement:
  - (a) of goods, services, or any combination thereof as specified in each Party's Schedule to Annex 16A (Government Procurement Schedules);
  - (b) by any contractual means, including: purchase, lease, and rental or hire purchase, with or without an option to buy;

- (c) for which the value, as estimated in accordance with paragraphs 6 to 8, equals or exceeds the relevant threshold specified in a Party's Schedule to Annex 16A (Government Procurement Schedules) at the time of publication of a notice in accordance with Article 16.6 (Notices);
  - (d) by a procuring entity; and
  - (e) that is not otherwise excluded from coverage under this Agreement.
3. Unless otherwise provided in a Party's Schedule to Annex 16A (Government Procurement Schedules), this Chapter shall not apply to:
- (a) the acquisition or rental of land, existing buildings, or other immovable property or the rights thereon;
  - (b) non-contractual agreements or any form of assistance that a Party provides, including cooperative agreements, grants, loans, equity infusions, guarantees, and fiscal incentives;
  - (c) the procurement or acquisition of fiscal agency or depository services, liquidation and management services for regulated financial institutions, or services related to the sale, redemption, and distribution of public debt, including loans and government bonds, notes, and other securities;
  - (d) public employment contracts; or
  - (e) procurement conducted:
    - (i) for the specific purpose of providing international assistance including development aid;
    - (ii) under the particular procedure or condition of an international agreement relating to the stationing of troops or relating to the joint implementation by the signatory countries of a project; or
    - (iii) under the particular procedure or condition of an international organisation, or funded by international grants, loans, or other assistance where the applicable procedure or condition would be inconsistent with this Chapter.
4. Each Party shall specify the following information in its Schedule to Annex 16A (Government Procurement Schedules):
- (a) in Section A, the central government entities whose procurement is covered by this Chapter;

- (b) in Section B, the sub-central government entities whose procurement is covered by this Chapter;
  - (c) in Section C, all other entities whose procurement is covered by this Chapter;
  - (d) in Section D, the goods covered by this Chapter;
  - (e) in Section E, the services, other than construction services, covered by this Chapter;
  - (f) in Section F, the construction services covered by this Chapter;
  - (g) in Section G, any General Notes; and
  - (h) in Section H, the publication of information required under Article 16.5 (Information on the Procurement System).
5. Where a procuring entity, in the context of covered procurement, requires persons not covered under a Party's Schedule to Annex 16A (Government Procurement Schedules) to procure in accordance with particular requirements, Article 16.4 (General Principles) shall apply *mutatis mutandis* to those requirements.

#### *Valuation*

6. In estimating the value of a procurement for the purpose of ascertaining whether it is a covered procurement, a procuring entity shall:
- (a) neither divide a procurement into separate procurements, nor select or use a particular valuation method for estimating the value of a procurement with the intention of totally or partially excluding it from the application of this Chapter; and
  - (b) include the estimated maximum total value of the procurement over its entire duration, whether awarded to one or more suppliers, taking into account all forms of remuneration, including:
    - (i) premiums, fees, commissions, and interest; and
    - (ii) where the procurement provides for the possibility of options, the total value of such options.
7. Where an individual requirement for a procurement results in the award of more than one contract, or in the award of contracts in separate parts (“recurring contracts”), the calculation of the estimated maximum total value shall be based on:

- (a) the value of recurring contracts of the same type of good or service awarded during the preceding 12 months or the procuring entity's preceding fiscal year, adjusted, where possible, to take into account anticipated changes in the quantity or value of the good or service being procured over the following 12 months; or
  - (b) the estimated value of recurring contracts of the same type of good or service to be awarded during the 12 months following the initial contract award or the procuring entity's fiscal year.
8. In the case of procurement by lease, rental or hire purchase of goods or services, or procurement for which a total price is not specified, the basis for valuation shall be:
- (a) in the case of a fixed-term contract:
    - (i) where the term of the contract is 12 months or less, the total estimated maximum value for its duration; or
    - (ii) where the term of the contract exceeds 12 months, the total estimated maximum value, including any estimated residual value;
  - (b) where the contract is for an indefinite period, the estimated monthly instalment multiplied by 48; and
  - (c) where it is not certain whether the contract is to be a fixed-term contract, subparagraph (b) shall be used.

**Article 16.3**  
**General Exceptions**

1. Subject to the requirement that such measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination between the Parties where the same conditions prevail, or a disguised restriction on international trade, nothing in this Chapter shall be construed to prevent a Party from imposing or enforcing measures:
- (a) necessary to protect public morals, order, or safety;
  - (b) necessary to protect human, animal, or plant life or health;
  - (c) necessary to protect intellectual property; or
  - (d) relating to goods or services of persons with disabilities, philanthropic institutions, or prison labour.

2. The Parties understand that subparagraph 1(b) includes environmental measures necessary to protect human, animal, or plant life or health, and measures necessary to mitigate climate change.

## **Article 16.4 General Principles**

### *Non-discrimination*

1. With respect to any measure regarding covered procurement, each Party, including its procuring entities, shall accord immediately and unconditionally to the goods and services of the other Party and to the suppliers of the other Party, treatment no less favourable than the treatment the Party, including its procuring entities, accords to domestic goods, services, and suppliers.
2. With respect to any measure regarding covered procurement, a Party, including its procuring entities, shall not:
  - (a) treat a locally established supplier less favourably than another locally established supplier on the basis of the degree of foreign affiliation or ownership; or
  - (b) discriminate against a locally established supplier on the basis that the goods or services offered by that supplier for a particular procurement are goods or services of the other Party.

### *Use of electronic means*

3. When conducting covered procurement, a procuring entity shall use electronic means:
  - (a) for the publication of notices; and
  - (b) to the widest extent practicable for information exchange and communication, the publication of tender documentation and the submission of tenders.
4. When conducting covered procurement by electronic means, a procuring entity shall:
  - (a) ensure that the procurement is conducted using information technology systems and software, including those related to authentication and encryption of information, that are generally available and interoperable with other generally available information technology systems and software; and

- (b) maintain mechanisms that ensure the integrity of requests for participation and tenders, including establishment of the time of receipt and the prevention of inappropriate access.

*Conduct of procurement*

- 5. A procuring entity shall conduct covered procurement in a transparent and impartial manner that:
  - (a) is consistent with this Chapter, using methods such as open tendering, selective tendering, and limited tendering;
  - (b) avoids conflicts of interest; and
  - (c) prevents corrupt practices.

*Rules of origin*

- 6. For purposes of covered procurement, a Party shall not apply rules of origin to goods or services imported from or supplied from the other Party that are different from the rules of origin the Party applies at the same time in the normal course of trade to imports or supplies of the same goods or services from the same Party.

*Offsets*

- 7. With regard to covered procurement, a Party, including its procuring entities, shall not seek, take account of, impose, or enforce any offset at any stage of a procurement.

*Measures not specific to procurement*

- 8. Paragraphs 1 and 2 shall not apply to: customs duties and charges of any kind imposed on, or in connection with, importation; the method of levying such duties and charges; and other import regulations or formalities and measures affecting trade in services other than measures governing covered procurement.

**Article 16.5**  
**Information on the Procurement System**

- 1. Each Party shall:
  - (a) promptly publish any law, regulation, judicial decision, administrative ruling of general application, standard contract clause mandated by law or regulation and incorporated by reference in notices or tender documentation, and procedure regarding covered

- procurement, and any modifications thereof, in an officially designated electronic or paper medium that is widely disseminated and remains readily accessible to the public; and
- (b) provide an explanation thereof to the other Party, on request.
2. Each Party shall list in Section H of its Schedule to Annex 16A (Government Procurement Schedules):
    - (a) the electronic or paper media in which the Party publishes the information described in paragraph 1;
    - (b) the electronic media in which the Party publishes the notices required by Article 16.6 (Notices), paragraph 8 of Article 16.8 (Qualification of Suppliers), and paragraph 2 of Article 16.17 (Transparency of Procurement Information); and
    - (c) the electronic media where the Party publishes its procurement data pursuant to paragraph 4 of Article 16.17 (Transparency of Procurement Information).
  3. Each Party shall promptly notify the other Party of any modification to the Party's information listed in Section H of its Schedule to Annex 16A (Government Procurement Schedules).

## **Article 16.6**

### **Notices**

#### *Electronic publication of procurement notices*

1. Notices of intended procurement and notices of planned procurement shall be directly accessible by electronic means, free of charge, through a single point of access, as listed in Section H of each Party's Schedule to Annex 16A (Government Procurement Schedules).

#### *Notice of intended procurement*

2. For each covered procurement, a procuring entity shall publish a notice of intended procurement in the electronic medium listed in Annex 16A (Government Procurement Schedules), except in the circumstances described in Article 16.14 (Limited Tendering). The notice shall remain readily accessible to the public, at least until expiration of the time period indicated in the notice.
3. Unless otherwise provided in this Chapter, each notice of intended procurement shall include:

- (a) the name and address of the procuring entity and other information necessary to contact the procuring entity and obtain all relevant documents relating to the procurement, and their cost and terms of payment, if any;
- (b) a description of the procurement, including the nature and the quantity of the goods or services to be procured or, where the quantity is not known, the estimated quantity;
- (c) for recurring contracts, an estimate, if possible, of the timing of subsequent notices of intended procurement;
- (d) a description of any options;
- (e) the timeframe for delivery of goods or services or the duration of the contract;
- (f) the procurement method that will be used and whether it will involve negotiation or electronic auction;
- (g) where applicable, the address and any final date for the submission of requests for participation in the procurement;
- (h) the address and the final date for the submission of tenders;
- (i) the language or languages in which a tender or a request for participation may be submitted, if it may be submitted in a language other than an official language of the Party of the procuring entity;
- (j) a list and brief description of any conditions for participation of suppliers, including any requirements for specific documents or certifications to be provided by suppliers in connection therewith, unless those requirements are included in tender documentation that is made available to all interested suppliers at the same time as the notice of intended procurement; and
- (k) where, pursuant to Article 16.8 (Qualification of Suppliers), a procuring entity intends to select a limited number of qualified suppliers to be invited to tender, the criteria that will be used to select them and, where applicable, any limitation on the number of suppliers that will be permitted to tender.

*Notice of planned procurement*

4. Procuring entities are encouraged to publish in the electronic medium listed in Annex 16A (Government Procurement Schedules), as early as possible in each fiscal year, a notice regarding their future procurement plans (“notice of planned procurement”). The notice of planned procurement should include



the subject matter of the procurement and the planned date of the publication of the notice of intended procurement.

5. A procuring entity covered under Section B or Section C of a Party's Schedule to Annex 16A (Government Procurement Schedules) may use a notice of planned procurement as a notice of intended procurement provided that the notice of planned procurement includes as much of the information referred to in paragraph 3 as is available to the entity and a statement that interested suppliers should express their interest in the procurement to the procuring entity.

### **Article 16.7 Conditions for Participation**

1. A procuring entity shall limit any conditions for participation in a procurement to those that are essential to ensure that a supplier has the legal and financial capacities and the commercial and technical abilities to undertake the relevant procurement.
2. In establishing the conditions for participation, a procuring entity:
  - (a) shall not impose the condition that, in order for a supplier to participate in a procurement, the supplier has previously been awarded one or more contracts by a procuring entity of the Party or that the supplier has prior work experience in the territory of that Party; and
  - (b) may require relevant prior experience where essential to meet the requirements of the procurement.
3. In assessing whether a supplier satisfies the conditions for participation, a procuring entity:
  - (a) shall evaluate the financial capacity and the commercial and technical abilities of a supplier on the basis of that supplier's business activities both inside and outside the territory of the Party of the procuring entity; and
  - (b) shall base its evaluation on the conditions that the procuring entity has specified in advance in notices or tender documentation.
4. Where there is supporting evidence, a Party, including its procuring entities, may exclude a supplier on grounds such as:
  - (a) bankruptcy;
  - (b) false declarations;

- (c) significant or persistent deficiencies in performance of any substantive requirement or obligation under a prior contract or contracts;
- (d) final judgments in respect of serious crimes or other serious offences;
- (e) professional misconduct or acts or omissions that adversely reflect on the commercial integrity of the supplier;
- (f) failure to pay taxes; or
- (g) human rights violations by the supplier or in the supplier's supply chain.

## **Article 16.8**

### **Qualification of Suppliers**

#### *Registration systems and qualification procedures*

1. A Party, including its procuring entities, may maintain a supplier registration system under which interested suppliers are required to register and provide certain information.
2. A Party, including its procuring entities, shall not adopt or apply any registration system or qualification procedure with the purpose or the effect of creating unnecessary obstacles to the participation of suppliers of the other Party in its procurement.
3. If a Party or a procuring entity maintains a supplier registration system, it shall:
  - (a) ensure that interested suppliers have access to information on the registration system through electronic means and that interested suppliers may request registration at any time; and
  - (b) if a request by a supplier is made, inform the supplier within a reasonable period of time of the decision with respect to this request and if the request is rejected this decision must be duly motivated.
4. Each Party shall ensure that:
  - (a) its procuring entities make efforts to minimise differences in their qualification procedures; and
  - (b) where its procuring entities maintain registration systems, the entities make efforts to minimise differences in their registration systems.

*Selective tendering*

5. Where a procuring entity intends to use selective tendering, the entity shall:
  - (a) include in the notice of intended procurement at least the information specified in subparagraphs 3(a), 3(b), 3(f), 3(g), 3(j), and 3(k) of Article 16.6 (Notices) and invite suppliers to submit a request for participation; and
  - (b) provide, by the commencement of the time period for tendering, at least the information in subparagraphs 3(c), 3(d), 3(e), 3(h), and 3(i) of Article 16.6 (Notices) to the qualified suppliers that it notifies as specified in subparagraph 3(b) of Article 16.12 (Time Periods).
6. A procuring entity shall allow all qualified suppliers to participate in a particular procurement, unless the procuring entity states in the notice of intended procurement any limitation on the number of suppliers that will be permitted to tender and the criteria for selecting the limited number of suppliers.
7. Where the tender documentation is not made publicly available from the date of publication of the notice referred to in paragraph 5, a procuring entity shall ensure that those documents are made available at the same time to all the qualified suppliers selected in accordance with paragraph 6.

*Multi-use lists*

8. A Party, including its procuring entities, may establish or maintain a multi-use list, provided that it makes continuously available in the electronic medium listed in Annex 16A (Government Procurement Schedules) a notice inviting interested suppliers to apply for inclusion on the list.
9. The notice provided for in paragraph 8 shall include:
  - (a) a description of the goods or services, or categories thereof, for which the list may be used;
  - (b) the conditions for participation to be satisfied by suppliers for inclusion on the list and the methods that the procuring entity will use to verify that a supplier satisfies the conditions;
  - (c) the name and address of the procuring entity and other information necessary to contact the entity and obtain all relevant documents relating to the list; and
  - (d) the period of validity of the list and the means for its renewal or termination, or where the period of validity is not provided, an

indication of the method by which notice will be given of the termination of use of the list.

10. A procuring entity shall allow suppliers to apply at any time for inclusion on a multi-use list and shall include on the list all qualified suppliers within a reasonably short time.
11. Where a supplier that is not included on a multi-use list submits a request for participation in a procurement based on a multi-use list and all required documents within the time period provided for in paragraph 2 of Article 16.12 (Time Periods), a procuring entity shall examine the request. The procuring entity shall not exclude the supplier from consideration in respect of the procurement on the grounds that the entity has insufficient time to examine the request, unless, in exceptional cases, due to the complexity of the procurement, the entity is not able to complete the examination of the request within the time period allowed for the submission of tenders.

*Section B and Section C entities*

12. A procuring entity covered under Section B or Section C of a Party's Schedule to Annex 16A (Government Procurement Schedules) may use a notice inviting suppliers to apply for inclusion on a multi-use list as a notice of intended procurement, provided that:
  - (a) the notice is published in accordance with paragraph 8 and includes the information as required under paragraph 9, as much of the information required under paragraph 3 of Article 16.6 (Notices) as is available, and a statement that it constitutes a notice of intended procurement, or that only the suppliers on the multi-use list will receive further notices of procurement covered by the multi-use list; and
  - (b) the entity promptly provides to suppliers that have expressed an interest in a given procurement to the entity, sufficient information to permit them to assess their interest in the procurement, including all remaining information required in paragraph 3 of Article 16.6 (Notices), to the extent such information is available.
13. A procuring entity covered under Section B or Section C of a Party's Schedule to Annex 16A (Government Procurement Schedules) may allow a supplier that has applied for inclusion on a multi-use list in accordance with paragraph 12 to tender in a given procurement, where there is sufficient time for the procuring entity to examine whether the supplier satisfies the conditions for participation.

*Information on procuring entity decisions*

14. A procuring entity shall promptly inform any supplier that submits a request for participation in a procurement, or application for inclusion on a multi-use list, of the procuring entity's decision with respect to the request or application.
15. Where a procuring entity rejects a supplier's request for participation in a procurement or application for inclusion on a multi-use list, ceases to recognise a supplier as qualified, or removes a supplier from a multi-use list, the entity shall promptly inform the supplier and, on request of the supplier, promptly provide the supplier with a written explanation of the reasons for its decision.

**Article 16.9**

**Technical Specifications and Tender Documentation**

*Technical specifications*

1. A procuring entity shall not prepare, adopt, or apply any technical specification or prescribe any conformity assessment procedure with the purpose or the effect of creating unnecessary obstacles to international trade.
2. In prescribing the technical specifications for the goods or services being procured, a procuring entity shall, where appropriate:
  - (a) set out the technical specification in terms of performance and functional requirements, rather than design or descriptive characteristics; and
  - (b) base the technical specification on international standards, where such exist; otherwise, on national technical regulations, recognised national standards, or building codes.
3. Where design or descriptive characteristics are used in the technical specifications, a procuring entity should indicate, where appropriate, that it will consider tenders of equivalent goods or services that demonstrably fulfil the requirements of the procurement by including words such as “or equivalent” in the tender documentation.
4. A procuring entity shall not prescribe technical specifications that require or refer to a particular trademark or trade name, patent, copyright, design, type, specific origin, producer, or supplier, unless there is no other sufficiently precise or intelligible way of describing the procurement requirements and provided that, in those cases, the entity includes words such as “or equivalent” in the tender documentation.

5. A procuring entity shall not seek or accept, in a manner that would have the effect of precluding competition, advice that may be used in the preparation or adoption of any technical specification for a specific procurement from a person that may have a commercial interest in the procurement.
6. For greater certainty, a Party, including its procuring entities, may, in accordance with this Article, prepare, adopt, or apply technical specification to promote the conservation of natural resources or protect the environment.

*Tender documentation*

7. A procuring entity shall make available to suppliers tender documentation that includes all information necessary to permit suppliers to prepare and submit responsive tenders. Unless already provided in the notice of intended procurement, that documentation shall include a complete description of:
  - (a) the procurement, including the nature and the quantity of the goods or services to be procured or, where the quantity is not known, the estimated quantity and any requirements to be fulfilled, including any technical specifications, conformity assessment certification, plans, drawings, or instructional materials;
  - (b) any conditions for participation of suppliers, including a list of information and documents that suppliers are required to submit in connection with the conditions for participation;
  - (c) all evaluation criteria the entity will apply in the awarding of the contract, and, except where price is the sole criterion, the relative importance of such criteria;
  - (d) where the procuring entity will conduct the procurement by electronic means, any authentication and encryption requirements or other requirements related to the submission of information by electronic means;
  - (e) where the procuring entity will hold an electronic auction, the rules, including identification of the elements of the tender related to the evaluation criteria, on which the auction will be conducted;
  - (f) any other terms or conditions, including terms of payment and any limitation on the means by which tenders may be submitted, such as whether on paper or by electronic means; and
  - (g) any dates for the delivery of goods or the supply of services.
8. In establishing any date for the delivery of goods or the supply of services being procured, a procuring entity shall take into account such factors as the complexity of the procurement, the extent of subcontracting anticipated and

the realistic time required for production, de-stocking, and transport of goods from the point of supply or for supply of services.

9. The evaluation criteria set out in the notice of intended procurement or tender documentation may include, among others, price and other cost factors, quality, technical merit, environmental characteristics, and terms of delivery.
10. A procuring entity shall promptly:
  - (a) make available tender documentation to ensure that interested suppliers have sufficient time to submit responsive tenders;
  - (b) provide, on request, the tender documentation to any interested supplier; and
  - (c) reply to any reasonable request for relevant information by any interested or participating supplier, provided that such information does not give that supplier an advantage over other suppliers.

#### *Modifications*

11. Where, prior to the award of a contract, a procuring entity modifies the criteria or requirements set out in the notice of intended procurement or tender documentation provided to participating suppliers, or amends or reissues a notice or tender documentation, it shall transmit in writing all such modifications or amended or reissued notice or tender documentation:
  - (a) to all suppliers that are participating at the time of the modification or amendment or reissuance, where those suppliers are known to the entity, and in all other cases, in the same manner as the original information was made available; and
  - (b) in adequate time to allow those suppliers to modify and resubmit amended tenders, as appropriate.

#### *Preliminary market research and engagement*

12. For greater certainty, a procuring entity may, prior to publication of a notice of intended procurement, conduct market research and engagement with suppliers with a view to informing and developing technical specifications and other tender documentation for a particular procurement or informing suppliers of its procurement plans and requirements. A procuring entity shall take appropriate steps to ensure that suppliers participating in such market research or engagement do not gain an unfair advantage over other interested suppliers.

**Article 16.10**  
**Environmental, Social, and Labour Considerations**

A Party, including its procuring entities, may:

- (a) take into account environmental, social, and labour considerations at any stage of a procurement, provided they are non-discriminatory and are indicated in the notice of intended procurement or tender documentation; and
- (b) take appropriate measures to ensure compliance with its environmental, social, and labour law, international obligations, including under Chapter 22 (Environment) and Chapter 23 (Trade and Labour), and standards of conduct, ethics, and integrity, provided they are non-discriminatory.

**Article 16.11**  
**Facilitation of Participation by SMEs**

1. The Parties recognise the important contribution that SMEs can make to economic growth and employment and the importance of facilitating the participation of SMEs in procurement.
2. The Parties shall:
  - (a) upon request, provide information on the measures designed to assist, promote, encourage, or facilitate participation by SMEs in government procurement covered by this Chapter; and
  - (b) cooperate and share best practice in relation to measures to facilitate participation by SMEs in government procurement covered by this Chapter.
3. Each Party shall endeavour to facilitate participation by SMEs in covered procurement, and shall to the extent possible and appropriate:
  - (a) seek opportunities to simplify administrative processes;
  - (b) make all tender documentation available free of charge;
  - (c) require prompt payment, including in subcontracting; and
  - (d) consider the size, design, and structure of the procurement, including dividing procurement opportunities into smaller lots and promoting the use of joint bidding and subcontracting by SMEs.



## **Article 16.12 Time Periods**

### *General*

1. A procuring entity shall, consistent with its own reasonable needs, provide sufficient time for suppliers to prepare and submit requests for participation and responsive tenders, taking into account such factors as:
  - (a) the nature and complexity of the procurement;
  - (b) the extent of subcontracting anticipated; and
  - (c) the time necessary for transmitting tenders by non-electronic means from foreign as well as domestic points where electronic means are not used.

Such time periods, including any extension of the time periods, shall be the same for all interested or participating suppliers.

### *Deadlines*

2. A procuring entity that uses selective tendering shall establish that the final date for the submission of requests for participation shall not, in principle, be less than 25 days after the date of publication of the notice of intended procurement. Where a state of urgency duly substantiated by the procuring entity renders this time period impracticable, the time period may be reduced to no less than 10 days.
3. Except as provided for in paragraphs 4, 5, 7, and 8, a procuring entity shall establish that the final date for the submission of tenders shall not be less than 40 days after the date on which:
  - (a) in the case of open tendering, the notice of intended procurement is published; or
  - (b) in the case of selective tendering, the entity notifies suppliers that they will be invited to submit tenders, whether or not it uses a multi-use list.
4. A procuring entity may reduce the time period for tendering established in accordance with paragraph 3 to no less than 10 days where:
  - (a) the procuring entity has published a notice of planned procurement as described in paragraph 4 of Article 16.6 (Notices) at least 40 days and no more than 12 months in advance of the publication of the notice of intended procurement, and the notice of planned procurement contains:

- (i) a description of the procurement;
  - (ii) the approximate final dates for the submission of tenders or requests for participation;
  - (iii) a statement that interested suppliers should express their interest in the procurement to the procuring entity;
  - (iv) the address from which documents relating to the procurement may be obtained; and
  - (v) as much of the information that is required for the notice of intended procurement under paragraph 3 of Article 16.6 (Notices), as is available;
- (b) the procuring entity, for recurring contracts, indicates in an initial notice of intended procurement that subsequent notices will provide time periods for tendering based on this paragraph; or
- (c) a state of urgency duly substantiated by the procuring entity renders the time period for tendering established in accordance with paragraph 3 impracticable.
5. A procuring entity may reduce the time period for tendering established in accordance with paragraph 3 by five days for each one of the following circumstances:
- (a) the notice of intended procurement is published by electronic means;
  - (b) all the tender documentation is made available by electronic means from the date of the publication of the notice of intended procurement; and
  - (c) the entity accepts tenders by electronic means.
6. The use of paragraph 5, in conjunction with paragraph 4, shall in no case result in the reduction of the time period for tendering established in accordance with paragraph 3 to less than 10 days after the date on which the notice of intended procurement is published.
7. Notwithstanding any other provision in this Article, where a procuring entity purchases commercial goods or services, or any combination thereof, it may reduce the time period for tendering established in accordance with paragraph 3 to no less than 13 days, provided that it publishes by electronic means, at the same time, both the notice of intended procurement and the tender documentation. In addition, where the entity accepts tenders for commercial

goods or services by electronic means, it may reduce the time period established in accordance with paragraph 3 to no less than 10 days.

8. Where a procuring entity covered under Section B or Section C of a Party's Schedule to Annex 16A (Government Procurement Schedules) has selected all or a limited number of qualified suppliers, the time period for tendering may be fixed by mutual agreement between the procuring entity and the selected suppliers. In the absence of agreement, the period shall not be less than 10 days.

### **Article 16.13 Negotiation**

1. A Party may provide for its procuring entities to conduct negotiations:
  - (a) where the entity has indicated its intent to conduct negotiations in the notice of intended procurement required under paragraph 2 of Article 16.6 (Notices); or
  - (b) where it appears from the evaluation that no tender is obviously the most advantageous in terms of the specific evaluation criteria set out in the notice of intended procurement or tender documentation.
2. A procuring entity shall:
  - (a) ensure that any elimination of suppliers participating in negotiations is carried out in accordance with the evaluation criteria set out in the notice of intended procurement or tender documentation; and
  - (b) where negotiations are concluded, provide a common deadline for the remaining participating suppliers to submit any new or revised tenders.

### **Article 16.14 Limited Tendering**

1. Provided that it does not use this provision for the purpose of avoiding competition among suppliers or in a manner that discriminates against suppliers of the other Party or protects domestic suppliers, a procuring entity may use limited tendering and may choose not to apply Articles 16.6 (Notices) to Article 16.8 (Qualification of Suppliers), paragraphs 7 to 11 of Article 16.9 (Technical Specifications and Tender Documentation), Article 16.12 (Time Periods), Article 16.13 (Negotiation), Article 16.15 (Electronic Auctions), and Article 16.16 (Treatment of Tenders and Awarding of Contracts) only under any of the following circumstances:

- (a) where:
  - (i) no tenders were submitted or no suppliers requested participation;
  - (ii) no tenders that conform to the essential requirements of the tender documentation were submitted;
  - (iii) no suppliers satisfied the conditions for participation; or
  - (iv) the tenders submitted have been collusive,provided that the requirements of the tender documentation are not substantially modified;
- (b) where the goods or services can be supplied only by a particular supplier and no reasonable alternative or substitute goods or services exist for any of the following reasons:
  - (i) the requirement is for a work of art;
  - (ii) the protection of patents, copyrights, or other exclusive rights; or
  - (iii) due to an absence of competition for technical reasons;
- (c) for additional deliveries by the original supplier of goods or services that were not included in the initial procurement where a change of supplier for such additional goods or services:
  - (i) cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, software, services, or installations procured under the initial procurement; and
  - (ii) would cause significant inconvenience or substantial duplication of costs for the procuring entity;
- (d) insofar as is strictly necessary where, for reasons of extreme urgency brought about by events unforeseeable by the procuring entity, the goods or services could not be obtained in time using open tendering or selective tendering;
- (e) for goods purchased on a commodity market;
- (f) where a procuring entity procures a prototype or a first good or service that is developed at its request in the course of, and for, a particular contract for research, experiment, study, or original development.

Original development of a first good or service may include limited production or supply in order to incorporate the results of field testing and to demonstrate that the good or service is suitable for production or supply in quantity to acceptable quality standards, but does not include quantity production or supply to establish commercial viability or to recover research and development costs;

- (g) for purchases made under exceptionally advantageous conditions that only arise in the very short term in the case of unusual disposals such as those arising from liquidation, receivership, or bankruptcy, but not for routine purchases from regular suppliers; or
  - (h) where a contract is awarded to a winner of a design contest provided that:
    - (i) the contest has been organised in a manner that is consistent with the principles of this Chapter, in particular relating to the publication of a notice of intended procurement; and
    - (ii) the participants are judged by an independent jury with a view to a design contract being awarded to a winner.
2. A procuring entity shall prepare a report in writing on each contract awarded under paragraph 1. The report shall include the name of the procuring entity, the value and kind of goods or services procured, and a statement indicating the circumstances and conditions described in paragraph 1 that justified the use of limited tendering.

#### **Article 16.15 Electronic Auctions**

Where a procuring entity intends to conduct a covered procurement using an electronic auction, the entity shall provide each participant, before commencing the electronic auction, with:

- (a) the automatic evaluation method, including the mathematical formula, that is based on the evaluation criteria set out in the tender documentation and that will be used in the automatic ranking or re-ranking during the auction;
- (b) the results of any initial evaluation of the elements of its tender where the contract is to be awarded on the basis of the most advantageous tender; and
- (c) any other relevant information relating to the conduct of the auction.

**Article 16.16**  
**Treatment of Tenders and Awarding of Contracts**

*Treatment of tenders*

1. A procuring entity shall receive, open, and treat all tenders under procedures that guarantee the fairness and impartiality of the procurement process, and the confidentiality of tenders.
2. A procuring entity shall not penalise any supplier whose tender is received after the time specified for receiving tenders if the delay is due solely to mishandling on the part of the procuring entity.
3. Where a procuring entity provides a supplier with an opportunity to correct unintentional errors of form between the opening of tenders and the awarding of the contract, the procuring entity shall provide the same opportunity to all participating suppliers.

*Awarding of contracts*

4. To be considered for an award, a tender shall be submitted in writing and shall, at the time of opening, comply with the essential requirements set out in the notices and tender documentation, and be from a supplier that satisfies the conditions for participation.
5. Unless a procuring entity determines that it is not in the public interest to award a contract, the entity shall award the contract to the supplier that the entity has determined to be capable of fulfilling the terms of the contract and that, based solely on the evaluation criteria specified in the notices and tender documentation, has submitted:
  - (a) the most advantageous tender; or
  - (b) where price is the sole criterion, the lowest price.
6. Where a procuring entity receives a tender with a price that is abnormally lower than the prices in other tenders submitted, it may verify with the supplier that it satisfies the conditions for participation and is capable of fulfilling the terms of the contract.
7. A procuring entity shall not use options, cancel a procurement, or modify awarded contracts in a manner that circumvents the obligations under this Chapter.

**Article 16.17**  
**Transparency of Procurement Information**

*Information provided to suppliers*

1. A procuring entity shall promptly inform participating suppliers of the entity's contract award decisions and, on the request of a supplier, shall do so in writing. Subject to paragraphs 2 and 3 of Article 16.19 (Disclosure of Information), a procuring entity shall, on request, provide an unsuccessful supplier with an explanation of the reasons why the entity did not select its tender and the relative advantages of the successful supplier's tender.

*Publication of award information*

2. No later than 72 days after the award of each contract covered by this Chapter, a procuring entity shall publish a notice in the appropriate electronic medium listed in Annex 16A (Government Procurement Schedules) and the information shall remain readily accessible for a reasonable period of time. The notice shall include at least the following information:
  - (a) a description of the goods or services procured, including a classification code of the goods or services procured, such as the CPC Prov.;
  - (b) the name and address of the procuring entity;
  - (c) the name and address of the successful supplier;
  - (d) the value of the successful tender or the highest and lowest offers taken into account in the award of the contract;
  - (e) the date of award; and
  - (f) the type of procurement method used, and in cases where limited tendering was used in accordance with Article 16.14 (Limited Tendering), a description of the circumstances justifying the use of limited tendering.

*Maintenance of documentation, reports, and electronic traceability*

3. Each procuring entity shall, for a period of at least three years from the date it awards a contract, maintain:
  - (a) the documentation and reports of tendering procedures and contract awards relating to covered procurement, including the reports required under Article 16.14 (Limited Tendering); and

- (b) data that ensure the appropriate traceability of the conduct of covered procurement by electronic means.

*Access to procurement data*

- 4. Each Party shall ensure that data on the notices concerning awarded contracts under paragraph 2 is available to the public, electronically, in a form permitting analysis, including the export or download of that data into an accessible and manipulable format. Each Party shall list in Section H of its Schedule to Annex 16A (Government Procurement Schedules) the electronic medium to access the relevant data and information.
- 5. The data described in paragraph 4 shall:
  - (a) for awarded contracts covered by this Chapter, include the information in paragraph 2; and
  - (b) be updated at least annually.

**Article 16.18**  
**Ensuring Integrity in Procurement Practices**

- 1. Each Party shall ensure that criminal or administrative measures exist that can address corruption, fraud, and other illegal acts in its procurement.
- 2. These measures may include procedures to render ineligible for, or exclude from, participation in the Party's procurements, either indefinitely or for a stated period of time, suppliers that the Party has determined to have engaged in corrupt, fraudulent, or other illegal acts. When applying such procedures, each Party, including its procuring entities:
  - (a) may consider the seriousness of the supplier's acts or omissions and any remedial measures or mitigating factors; and
  - (b) shall provide a supplier of the other Party directly implicated:
    - (i) reasonable opportunity to present facts and arguments in support of its position prior to the decision to render ineligible for, or exclude from, participation being made; and
    - (ii) notice that such a decision has been made and the reasons for the decision.
- 3. Each Party shall ensure that it has in place policies or procedures to address potential conflicts of interest on the part of those engaged in or having influence over a procurement.



4. Each Party may put in place policies or procedures that require successful suppliers to maintain and enforce appropriate measures, such as internal controls, business ethics, and compliance programmes, for preventing and detecting corruption, fraud, and other illegal acts.

#### **Article 16.19 Disclosure of Information**

##### *Provision of information*

1. On request of the other Party, a Party shall provide promptly any information necessary to determine whether a procurement was conducted fairly, impartially, and in accordance with this Chapter, including information on the characteristics and relative advantages of the successful tender. In cases where release of the information would prejudice competition in future tenders, the Party that receives the information shall not disclose it to any supplier, except after consulting with, and obtaining the agreement of, the Party that provided the information.

##### *Non-disclosure of information*

2. Notwithstanding any other provision of this Chapter, a Party, including its procuring entities, shall not provide to any particular supplier information that might prejudice fair competition between suppliers.
3. Nothing in this Chapter shall be construed to require a Party, including its procuring entities, authorities, and review bodies, to disclose confidential information where disclosure:
  - (a) would impede law enforcement;
  - (b) might prejudice fair competition between suppliers;
  - (c) would prejudice the legitimate commercial interests of particular persons, including the protection of intellectual property; or
  - (d) would otherwise be contrary to the public interest.

#### **Article 16.20 Domestic Review Procedures**

1. Each Party shall provide a timely, effective, transparent, and non-discriminatory administrative or judicial review procedure through which a supplier may challenge:
  - (a) a breach of this Chapter; or

- (b) where the supplier does not have a right to challenge directly a breach of the Chapter under the domestic law of a Party, a failure to comply with a Party's measures implementing this Chapter, arising in the context of a covered procurement, in which the supplier has, or has had, an interest. The procedural rules for all challenges shall be in writing and made generally available.
- 2. In the event of a complaint by a supplier, arising in the context of covered procurement in which the supplier has, or has had, an interest, that there has been a breach or a failure as referred to in paragraph 1, the Party of the procuring entity conducting the procurement shall encourage the entity and the supplier to seek resolution of the complaint through consultations. The procuring entity shall accord impartial and timely consideration to any such complaint in a manner that is not prejudicial to the supplier's participation in ongoing or future procurement or its right to seek corrective measures under the administrative or judicial review procedure.
- 3. Each supplier shall be allowed a sufficient period of time to prepare and submit a challenge, which in no case shall be less than 10 days after the time when the basis of the challenge became known or reasonably should have become known to the supplier.
- 4. Each Party shall establish or designate at least one impartial administrative or judicial authority that is independent of its procuring entities to receive and review a challenge by a supplier arising in the context of a covered procurement.
- 5. Where a body other than an authority referred to in paragraph 4 initially reviews a challenge, the Party shall ensure that the supplier may appeal the initial decision to an impartial administrative or judicial authority that is independent of the procuring entity whose procurement is the subject of the challenge.
- 6. Each Party shall ensure that a review body that is not a court shall have its decision subject to judicial review or have procedures that provide that:
  - (a) the procuring entity shall respond in writing to the challenge and disclose all relevant documents to the review body;
  - (b) the participants to the proceedings (“participants”) shall have the right to be heard prior to a decision of the review body being made on the challenge;
  - (c) the participants shall have the right to be represented and accompanied;
  - (d) the participants shall have access to all proceedings;

- (e) the participants shall have the right to request that the proceedings take place in public and that witnesses may be presented; and
  - (f) the review body shall make its decisions or recommendations in a timely fashion, in writing, and shall include an explanation of the basis for each decision or recommendation.
7. Each Party shall adopt or maintain procedures that provide for:
- (a) rapid interim measures to preserve the supplier's opportunity to participate in the procurement. Such interim measures may result in suspension of the procurement process. The procedures may provide that overriding adverse consequences for the interests concerned, including the public interest, may be taken into account when deciding whether such measures should be applied. Just cause for not acting shall be provided in writing; and
  - (b) where a review body has determined that there has been a breach or a failure as referred to in paragraph 1, corrective action or compensation for the loss or damages suffered, which may be limited to either the costs for the preparation of the tender or the costs relating to the challenge, or both.

**Article 16.21**  
**Modifications and Rectifications of Annex**

1. A Party may modify or rectify its Schedule to Annex 16A (Government Procurement Schedules) in accordance with paragraphs 3 to 11.
2. The Parties recognise the importance of maintaining accurate and up-to-date information in their Schedules to Annex 16A (Government Procurement Schedules).

*Notification of proposed modification*

3. A Party shall notify any proposed modification or rectification (collectively referred to as a “modification”) to its Schedule to Annex 16A (Government Procurement Schedules) in writing to the other Party, through the contact point designated under Article 30.5 (Contact Points – Institutional Provisions).
4. The notification of proposed modification shall contain:
  - (a) for any proposed withdrawal of an entity on the grounds that government control or influence over the entity's covered

procurement has been effectively eliminated, evidence of such elimination; or

- (b) for any other proposed modification, information as to the likely consequences of the change for the coverage provided for in this Chapter.

- 5. The Party may include the offer of compensatory adjustment pursuant to paragraph 6 in its notification of proposed modification.

*Compensatory adjustments*

- 6. Subject to paragraphs 7 and 8, a Party shall provide appropriate compensatory adjustments for a change in coverage, if necessary, to maintain a level of coverage comparable to the coverage that existed prior to the modification.

- 7. A Party shall not be required to provide compensatory adjustments to the other Party if the proposed modification:

- (a) covers a procuring entity over which the Party has effectively eliminated its control or influence in respect of covered procurement by that procuring entity; or

- (b) is negligible in its effect, including rectifications of a purely formal nature and minor modifications to its Schedule to Annex 16A (Government Procurement Schedules), such as:

- (i) changes in the name of a procuring entity;

- (ii) the merger of one or more procuring entities listed within a Section of a Party's Schedule to Annex 16A (Government Procurement Schedules);

- (iii) the separation of a procuring entity listed in a Party's Schedule to Annex 16A (Government Procurement Schedules) into two or more procuring entities that are all added to the procuring entities listed in the same Section of the Annex; or

- (iv) changes in website references.

- 8. The Parties may agree another form of resolution as an alternative to compensatory adjustments.

*Objection to notification*

- 9. If the other Party disputes that:

- (a) compensatory adjustments pursuant to paragraph 6 are adequate to maintain a level of coverage comparable to the coverage that existed prior to the modification; or
- (b) the modification is a change provided for in subparagraph 7(a) or 7(b),

it shall notify the modifying Party of its objection in writing within 45 days of receipt of the notification of proposed modification referred to in paragraphs 3 and 4 or shall be deemed to have agreed to the proposed modification, and compensatory adjustments if provided, including for the purposes of Chapter 31 (Dispute Settlement).

- 10. Where a Party submits an objection pursuant to paragraph 9, it shall set out, as may apply, the reasons why it believes:
  - (a) the modification is not a change provided for in subparagraph 7(a) or 7(b) and describe the effect of the proposed modification on the coverage provided for in the Chapter; and
  - (b) a compensatory adjustment pursuant to paragraph 6 is not adequate to maintain a level of coverage comparable to the coverage that existed prior to the modification.
- 11. The Joint Committee shall adopt a modification to the Schedule to Annex 16A (Government Procurement Schedules), in accordance with subparagraph 2(g) of Article 30.2 (Functions of the Joint Committee – Institutional Provisions) to reflect any agreed modification or rectification pursuant to paragraph 9, or the conclusion of dispute settlement proceedings.

**Article 16.22**  
**Government Procurement Working Group**

- 1. The Government Procurement Working Group established under Article 30.10 (Working Groups – Institutional Provisions) shall be composed of government representatives of each Party.
- 2. The Government Procurement Working Group shall meet by agreement of the Parties, and may meet virtually, to address matters related to the implementation and operation of this Chapter, such as:
  - (a) considering matters regarding government procurement that are referred to it by a Party;
  - (b) exchanging information relating to government procurement opportunities, including those at sub-central levels, in each Party;

- (c) experience and best practices, including on the use and adoption of information technology in conducting procurement and of measures to promote environmental, social, and labour considerations in government procurement;
- (d) facilitation of participation by SMEs in covered procurement, as provided for in Article 16.11 (Facilitation of Participation by SMEs); and
- (e) facilitation of participation by women in government procurement to the extent possible, acknowledging the objectives in Chapter 25 (Trade and Gender Equality).

### **Article 16.23 Further Negotiations**

1. The Parties shall enter into negotiations on market access with a view to making improvements to coverage of sub-central and other entities as soon as possible following New Zealand local authorities, State Services, or State Sector entities being either:
  - (a) covered by New Zealand in another international trade agreement; or
  - (b) required to follow the New Zealand *Government Procurement Rules*<sup>1</sup> in the future,unless as at the date this Agreement enters into force, that entity was required to follow the New Zealand *Government Procurement Rules*.
2. For greater certainty, the obligation in paragraph 1 shall not apply if the entity is in one of the following categories that are required to follow the New Zealand *Government Procurement Rules* on the date of entry into force of this Agreement: Crown Agents, Autonomous Crown Entities, Independent Crown Entities, Crown Entity companies<sup>2</sup> and Public Finance Act schedule 4A Companies,<sup>3</sup> or local authorities in respect of procurement related to transport projects funded in whole or in part by the New Zealand Transport Agency.

---

<sup>1</sup> The New Zealand *Government Procurement Rules* are New Zealand's primary instrument for regulating government procurement. A Whole of Government Direction granted on 22 April 2014 under section 107 of the *Crown Entities Act 2004* required certain classes of entities to follow the *Government Procurement Rules*.

<sup>2</sup> As defined in sections 7a and 7b of the *Crown Entities Act 2004* but excluding Crown Research Institutes.

<sup>3</sup> As listed in schedule 4A of the *Public Finance Act 1989*.

## ANNEX 16A

### GOVERNMENT PROCUREMENT SCHEDULES

#### Schedule of New Zealand

##### Section A Central Government Entities

Unless otherwise specified, Chapter 16 (Government Procurement) covers procurement by entities listed in this Section, subject to the following thresholds:

*Thresholds:*

Goods	SDR 130,000
Services	SDR 130,000
Construction Services	SDR 5,000,000

*List of entities:*

1. Ministry for Primary Industries;
2. Department of Conservation;
3. Department of Corrections;
4. Crown Law Office;
5. Ministry of Business, Innovation and Employment;
6. Ministry for Culture and Heritage;
7. Ministry of Defence;
8. Ministry of Education;
9. Education Review Office;
10. Ministry for the Environment;
11. Ministry of Foreign Affairs and Trade;
12. Government Communications Security Bureau;
13. Ministry of Health;
14. Inland Revenue Department;
15. Department of Internal Affairs;
16. Ministry of Justice;
17. Land Information New Zealand;
18. Te Puni Kōkiri Ministry of Māori Development;
19. New Zealand Customs Service;
20. Ministry for Pacific Peoples;
21. Department of the Prime Minister and Cabinet;
22. Serious Fraud Office;
23. Ministry of Social Development;
24. Public Service Commission;
25. Statistics New Zealand;

26. Ministry of Transport;
27. The Treasury;
28. Oranga Tamariki – Ministry for Children;
29. Ministry for Women;
30. New Zealand Defence Force;
31. New Zealand Police;
32. Ministry of Housing and Urban Development;
33. Pike River Recovery Agency.

*Note to Section A:*

1. All agencies subordinate to the above listed central government entities are covered.

## **Section B Sub-Central Government Entities**

Unless otherwise specified, Chapter 16 (Government Procurement) covers procurement by entities listed in this Section, subject to the following thresholds:

*Thresholds:*

Goods	SDR 200,000
Services	SDR 200,000
Construction Services	SDR 5,000,000

*List of entities:*

1. Auckland District Health Board (Note 1);
2. Canterbury District Health Board (Note 1);
3. Capital and Coast District Health Board (Note 1);
4. Counties Manukau District Health Board (Note 1);
5. Hutt District Health Board (Note 1);
6. MidCentral District Health Board (Note 1);
7. South Canterbury District Health Board (Note 1);
8. Waikato District Health Board (Note 1);
9. Waitemata District Health Board (Note 1);
10. Bay of Plenty District Health Board (Note 1);
11. Southern District Health Board (Note 1);
12. Auckland Council (Note 2);
13. Wellington City Council (Note 2);
14. Christchurch City Council (Note 2);
15. Waikato Regional Council (Note 2);
16. Bay of Plenty Regional Council (Note 2);
17. Greater Wellington Regional Council (Note 2);



18. Canterbury Regional Council (Note 2);
19. Nelson Marlborough District Health Board (Note 1);
20. Northland District Health Board (Note 1);
21. Hawkes Bay District Health Board (Note 1);
22. Lakes District Health Board (Note 1);
23. Tairāwhiti District Health Board (Note 1);
24. Taranaki District Health Board (Note 1);
25. Wairarapa District Health Board (Note 1);
26. West Coast District Health Board (Note 1);
27. Whanganui District Health Board (Note 1).

*Notes to Section B:*

1. For greater certainty, procurement undertaken by the listed District Health Boards through their agent healthAlliance Limited is covered.
2. Coverage of these entities is limited to the procurement of goods, services, and construction services relating to transport projects funded, in whole or in part, by the New Zealand Transport Agency for which the value of the procurement equals or exceeds the applicable threshold specified above. For greater certainty, this Chapter shall not apply to any other procurement by these entities.

### **Section C Other Entities**

Unless otherwise specified, Chapter 16 (Government Procurement) covers procurement by entities listed in this Section, subject to the following thresholds:

*Thresholds:*

Goods	SDR 400,000
Services	SDR 400,000
Construction Services	SDR 5,000,000

*List of entities:*

1. Accident Compensation Corporation (Note 1);
2. Civil Aviation Authority of New Zealand;
3. Energy Efficiency and Conservation Authority;
4. Kāinga Ora – Homes and Communities;
5. Maritime New Zealand;
6. New Zealand Antarctic Institute;
7. Fire and Emergency New Zealand (Note 5);
8. New Zealand Qualifications Authority;

9. New Zealand Tourism Board;
10. New Zealand Trade and Enterprise;
11. New Zealand Transport Agency;
12. Ōtākaro Limited (Note 4);
13. Sport and Recreation New Zealand (Note 2);
14. Tertiary Education Commission;
15. Education New Zealand;
16. Callaghan Innovation;
17. Earthquake Commission (Note 6);
18. Environmental Protection Authority; (Note 6)
19. Health Promotion Agency;
20. Health Quality and Safety Commission;
21. Health Research Council of New Zealand;
22. New Zealand Blood Service (Note 7);
23. New Zealand Walking Access Commission;
24. Real Estate Authority (Note 8);
25. Social Workers Registration Board;
26. WorkSafe New Zealand;
27. Guardians of New Zealand Superannuation (Note 9);
28. New Zealand Infrastructure Commission;
29. New Zealand Lotteries Commission;
30. Climate Change Commission;
31. Electoral Commission (Note 10);
32. Financial Markets Authority;
33. Education Payroll Limited (Note 11);
34. Research and Education Advanced Network New Zealand Limited;
35. Tāmaki Redevelopment Company Limited (Note 12);
36. Airways Corporation of New Zealand Limited;
37. Meteorological Service of New Zealand Limited;
38. KiwiRail Holdings Limited;
39. Transpower New Zealand Limited (Note 3);
40. Government Superannuation Fund Authority;
41. New Zealand Artificial Limb Service;
42. Public Trust;
43. Commerce Commission;
44. External Reporting Board;
45. Health and Disability Commissioner;
46. Human Rights Commission;
47. New Zealand Productivity Commission;
48. Takeovers Panel;
49. Crown Irrigation Investments Limited;
50. New Zealand Growth Capital Partners Limited;
51. Television New Zealand Limited;
52. City Rail Link Limited;
53. Crown Infrastructure Partners Limited;
54. New Zealand Green Investment Finance Limited.

*Notes to Section C:*

1. Accident Compensation Corporation: This Chapter does not cover procurement of pension fund management, public insurance and fund placements, investments and financial services related to securities, or trading on an exchange.
2. Sport and Recreation New Zealand: This Chapter shall not apply to the procurement of goods and services containing confidential information related to enhancing competitive sport performance.
3. Transpower New Zealand Limited: The following procurements are excluded from cover:
  - (a) electrical stringing services (part of the total range of activities covered by CPC Prov. 5134);
  - (b) tower painting services (part of the total range of activities covered by CPC Prov. 5173); and
  - (c) for greater certainty, projects funded directly by private sector customers where those projects would not be undertaken except for the funding provided by those customers.
4. Ōtākaro Limited: All procurement is covered (including procurement that was undertaken by the Christchurch Earthquake Recovery Authority and transferred to Ōtākaro Limited upon its disestablishment) and all obligations in the Chapter specifically relating to Section A, central government entities shall apply. For greater certainty, the thresholds are SDR 130,000 for Goods and Services and SDR 5,000,000 for Construction Services, and any agencies subordinate to Ōtākaro Limited are covered.
5. Fire and Emergency New Zealand: This Chapter shall only cover procurement that was undertaken by the New Zealand Fire Service Commission. For the avoidance of doubt, the following procurements are excluded from cover: any procurement by Fire and Emergency New Zealand that was previously conducted by Rural Fire Authorities, Rural Fire Committees, or Territorial Authorities (for the purposes of their functions under the *Forest and Rural Fires Act 1977*).
6. Earthquake Commission: This Agreement does not cover procurement of pension fund management, public insurance and fund placements, and investments and financial services.
7. Except for the procurement of plasma fractionation services.
8. Except for legal services and arbitration and conciliation services.

9. Guardians of New Zealand Superannuation: This Chapter does not cover procurement of pension fund management, fund placements, and investments and financial services.
10. Electoral Commission: This Chapter does not cover procurement of services to administer the general election.
11. Education Payroll Limited: This Chapter does not cover procurement for maintenance of schools' payrolls.
12. Tāmaki Redevelopment Company Limited: This Agreement does not cover procurement relating to the production, transport, or distribution of drinking water.
13. For entities listed in this Section, Chapter 16 (Government Procurement) shall cover only those entities listed and does not extend to subordinate or subsidiary agencies, unless otherwise specified.

#### **Section D Goods**

Unless otherwise specified, Chapter 16 (Government Procurement) covers procurement of all goods by the entities listed in Sections A, B, and C.

#### **Section E Services**

1. Unless otherwise specified, Chapter 16 (Government Procurement) covers procurement of all services by the entities listed in Sections A, B, and C.
2. Chapter 16 (Government Procurement) does not cover any of the following services as identified in accordance with the Provisional Central Product Classification (CPC Prov.) as set out in document MTN.GNS/W/120:
  - (a) procurement of research and development services (CPC Prov. 851-853);
  - (b) procurement of public health services (CPC Prov. 931, including 9311, 9312, and 9319);
  - (c) procurement of education services (CPC Prov. 921, 922, 923, 924, and 929);
  - (d) procurement of welfare services (CPC Prov. 933 and 913); and
  - (e) procurements listed in Section G.

## **Section F Construction Services**

*List of construction services (Division 51, CPC Prov.):*

Unless otherwise specified, Chapter 16 (Government Procurement) covers procurement of all construction services in Division 51 of the Provisional Central Product Classification (CPC Prov.) as set out in document MTN.GNS/W/120.

## **Section G General Notes**

1. The following General Notes apply without exception to Chapter 16 (Government Procurement), including to Sections A to F.
2. Chapter 16 (Government Procurement) does not cover:
  - (a) for greater certainty, governmental provision of goods and services to persons or governmental authorities not specifically covered under this Schedule for New Zealand;
  - (b) procurement of goods or services in respect of contracts for construction, refurbishment, or furnishing of chanceries abroad;
  - (c) procurement of goods or services outside the territory of New Zealand for consumption outside the territory of New Zealand;
  - (d) for greater certainty under subparagraph 3(b) of Article 16.2 (Scope), commercial sponsorship arrangements;
  - (e) any procurement made by an entity covered under Sections A, B, or C of this Schedule for New Zealand on behalf of an organisation that is not an entity covered under Sections A, B, or C of this Schedule for New Zealand;
  - (f) procurement by an entity covered under Sections A, B, or C of this Schedule for New Zealand from another entity covered under Sections A, B, or C of this Schedule for New Zealand, except where tenders are called, in which case, Chapter 16 (Government Procurement) shall apply; and
  - (g) any procurement for the purposes of developing, protecting, or preserving national treasures of artistic, historic, or archaeological value or of cultural heritage.

3. For greater certainty, a procuring entity may apply limited tendering procedures under subparagraphs 1(b)(ii) and 1(b)(iii) of Article 16.14 (Limited Tendering) in relation to unsolicited unique proposals.<sup>1</sup>

## **Section H Publication of Information**

The information to be published under Article 16.5 (Information on the Procurement System) will be published as follows:

Laws and regulations: [www.legislation.govt.nz](http://www.legislation.govt.nz)

Judicial decisions: [www.justice.govt.nz](http://www.justice.govt.nz) (online); New Zealand Law Reports (print)

Standard contract clauses, *Government Procurement Rules*, and procedures regarding government procurement: [www.procurement.govt.nz](http://www.procurement.govt.nz)

New procurement opportunities: [www.gets.govt.nz](http://www.gets.govt.nz)

Statistical reporting: <https://www.mbie.govt.nz/cross-government-functions/new-zealand-government-procurement-and-property/open-data/>

---

<sup>1</sup> As defined and handled according to the New Zealand Government guidance document, “*Unsolicited Unique Proposals – How to deal with uninvited bids*” (May 2013), updated from time to time.

## Schedule of the United Kingdom

### Section A Central Government Entities

#### *Thresholds:*

Unless otherwise specified, Chapter 16 (Government Procurement) shall apply to central government entities listed in this Section where the value of the procurement is estimated to equal or exceed the following thresholds:

Goods	SDR 130,000
Services	SDR 130,000
Construction Services	SDR 5,000,000

#### *List of entities:*

The following central government contracting authorities of the United Kingdom:

(Note: this list is exhaustive)

1. Attorney General's Office:
  - 1.1. Government Legal Department.
2. Cabinet Office:
  - 2.1. Office of the Parliamentary Counsel;
  - 2.2. Boundary Commission for England;
  - 2.3. Crown Commercial Service.
3. Charity Commission;
4. Crown Estate – Vote Expenditure Only;
5. Crown Prosecution Service;
6. Department for Business, Energy and Industrial Strategy:
  - 6.1. Competition Appeal Tribunal;
  - 6.2. Competition and Markets Authority;
  - 6.3. Competition Service;
  - 6.4. Intellectual Property Office;
  - 6.5. Nuclear Decommissioning Authority;
  - 6.6. Meteorological Office (known as "Met Office");
  - 6.7. Office of Manpower Economics;
  - 6.8. Oil and Gas Authority;
  - 6.9. UK Research and Innovation.
7. Department for Education:
  - 7.1. Office for Students.
8. Ministry of Housing, Communities and Local Government;
9. Department for Digital, Culture, Media and Sport:
  - 9.1. Arts Council England;
  - 9.2. British Library;

- 9.3. British Museum;
- 9.4. The Gambling Commission;
- 9.5. Historic Buildings and Monuments Commission for England (known as "Historic England");
- 9.6. Imperial War Museum;
- 9.7. National Gallery;
- 9.8. National Maritime Museum;
- 9.9. National Portrait Gallery;
- 9.10. Natural History Museum;
- 9.11. Board of Trustees of the Science Museum (known as "Science Museum Group");
- 9.12. Tate Gallery;
- 9.13. Victoria and Albert Museum;
- 9.14. Wallace Collection.
- 10. Department for Environment, Food and Rural Affairs:
  - 10.1. Natural England;
  - 10.2. Plant Variety Rights Office;
  - 10.3. Royal Botanic Gardens, Kew.
- 11. Department of Health and Social Care:
  - 11.1. NHS Business Services Authority;
  - 11.2. NHS Commissioning Board (known as "NHS England");
  - 11.3. NHS Trusts;
  - 11.4. NHS Foundation Trusts.
- 12. Department for International Trade;
- 13. Department for Transport:
  - 13.1. Maritime and Coastguard Agency;
  - 13.2. Highways England Company Ltd (known as "Highways England").
- 14. Department for Work and Pensions:
  - 14.1. Office for Nuclear Regulation;
  - 14.2. Pensions Regulator;
  - 14.3. Social Security Advisory Committee.
- 15. Export Credits Guarantee Department (known as "UK Export Finance");
- 16. Foreign, Commonwealth and Development Office:
  - 16.1. Wilton Park.
- 17. Government Actuary's Department;
- 18. Government Communications Headquarters;
- 19. Home Office:
  - 19.1. HM Inspectorate of Constabulary and Fire & Rescue Services.
- 20. Corporate Officer of the House of Commons;
- 21. Corporate Officer of the House of Lords;
- 22. Ministry of Defence:
  - 22.1. Defence Equipment & Support.
- 23. Ministry of Justice:
  - 23.1. Court of Appeal (England and Wales);
  - 23.2. Employment Appeals Tribunal;
  - 23.3. Employment Tribunals;
  - 23.4. First-tier Tribunal;
  - 23.5. Her Majesty's Courts and Tribunals Service;



- 23.6. Law Commission;
- 23.7. Legal Aid Agency – England and Wales;
- 23.8. Office of the Official Solicitor to the Senior Courts and the Public Trustee;
- 23.9. Office of the Public Guardian;
- 23.10. Parole Board;
- 23.11. UK Supreme Court;
- 23.12. Upper Tribunal.
- 24. The National Archives;
- 25. National Audit Office;
- 26. National Savings and Investments;
- 27. Northern Ireland Assembly Commission;
- 28. Northern Ireland Ministers:
  - 28.1. Agricultural Wages Board for Northern Ireland;
  - 28.2. Attorney General for Northern Ireland;
  - 28.3. Department of Agriculture, Environment and Rural Affairs;
  - 28.4. Department for Communities;
    - 28.4.1. National Museums Northern Ireland;
    - 28.4.2. Northern Ireland Housing Executive;
  - 28.5. Department for the Economy:
    - 28.5.1. Belfast Metropolitan College;
    - 28.5.2. Consumer Council Northern Ireland (with respect only to the functions transferred from the National Consumer Council which were themselves transferred from the Gas and Electricity Consumer Council);
    - 28.5.3. Health and Safety Executive for Northern Ireland;
    - 28.5.4. Northern Regional College;
    - 28.5.5. North West Regional College;
    - 28.5.6. South Eastern Regional College;
    - 28.5.7. Southern Regional College;
    - 28.5.8. South West College;
    - 28.5.9. Stranmillis University College;
  - 28.6. Department of Education;
    - 28.6.1. Council for Catholic Maintained Schools;
  - 28.7. Department of Finance;
  - 28.8. Department of Health:
    - 28.8.1. Northern Ireland Fire and Rescue Service;
  - 28.9. Department for Infrastructure;
  - 28.10. Department of Justice:
    - 28.10.1. Coroners Service;
    - 28.10.2. County Courts;
    - 28.10.3. Court of Appeal and High Court of Justice in Northern Ireland;
    - 28.10.4. Crown Court;
    - 28.10.5. Enforcement of Judgements Office;
    - 28.10.6. Forensic Science Northern Ireland;
    - 28.10.7. Legal Service Agency Northern Ireland;
    - 28.10.8. Magistrates' Courts;

- 28.10.9. Pensions Appeals Tribunals (Northern Ireland);
- 28.10.10. Police Ombudsman Northern Ireland;
- 28.10.11. Police Retraining and Rehabilitation Trust;
- 28.10.12. Police Service of Northern Ireland;
- 28.10.13. Probation Board for Northern Ireland;
- 28.10.14. Office of the Social Security Commissioners and Child Support Commissioners (Northern Ireland);
- 28.10.15. State Pathologist's Department;
- 28.11. Executive Office:
  - 28.11.1. Maze Long Kesh Development Corporation.
- 29. Northern Ireland Office:
  - 29.1. Office of the Chief Electoral Officer for Northern Ireland;
  - 29.2. Public Prosecution Service for Northern Ireland.
- 30. Office for National Statistics:
  - 30.1. National Health Service Central Register.
- 31. Parliamentary Works Sponsor Body;
- 32. Parliamentary and Health Service Ombudsman;
- 33. Postal business of the Post Office;
- 34. Privy Council Office;
- 35. Restoration and Renewal Delivery Authority Ltd;
- 36. HM Revenue and Customs;
- 37. Royal Hospital, Chelsea;
- 38. Royal Mint;
- 39. Rural Payments Agency;
- 40. Scotland, Auditor-General;
- 41. Scotland, Crown Office and Procurator Fiscal Service;
- 42. Scotland, National Records of Scotland;
- 43. Scotland, Queen's and Lord Treasurer's Remembrancer;
- 44. Scotland, Registers of Scotland;
- 45. The Scotland Office;
- 46. The Scottish Ministers:
  - 46.1. Architecture and Design Scotland;
  - 46.2. Crofting Commission;
  - 46.3. Lands Tribunal for Scotland;
  - 46.4. National Galleries of Scotland;
  - 46.5. National Library of Scotland;
  - 46.6. National Museums of Scotland;
  - 46.7. Royal Botanic Garden, Edinburgh;
  - 46.8. Scottish Courts and Tribunals Service;
  - 46.9. Scottish Further and Higher Education Funding Council;
  - 46.10. Scottish Law Commission;
  - 46.11. Special Health Boards;
  - 46.12. Health Boards;
  - 46.13. The Office of the Accountant of Court;
  - 46.14. High Court of Justiciary;
  - 46.15. Court of Session:
    - 46.16. HM Inspectorate of Constabulary;
  - 46.17. Parole Board for Scotland;

- 46.18. Pensions Appeal Tribunals (Scotland);
- 46.19. Scottish Land Court;
- 46.20. Sheriff Courts;
- 46.21. Scottish Natural Heritage;
- 46.22. Scottish Police Authority;
- 46.23. First-tier Tribunal for Scotland;
- 46.24. Upper Tribunal for Scotland;
- 46.25. Historic Environment Scotland.
- 47. The Scottish Parliamentary Corporate Body;
- 48. HM Treasury:
  - 48.1. United Kingdom Debt Management Office.
- 49. The Wales Office - Office of the Secretary of State for Wales;
- 50. The Welsh Ministers:
  - 50.1. Agricultural Dwelling House Advisory Committees (Wales);
  - 50.2. Agricultural Land Tribunal for Wales;
  - 50.3. Higher Education Funding Council for Wales;
  - 50.4. Local Democracy and Boundary Commission for Wales;
  - 50.5. Rent Assessment Committee (Wales);
  - 50.6. The Royal Commission on the Ancient and Historical Monuments of Wales;
  - 50.7. Valuation Tribunal for Wales; and
  - 50.8. Welsh National Health Service Trusts and Local Health Boards.

*Notes to Section A:*

1. Procurement by any subordinated entity of any central government contracting authority listed in Section A is covered provided it does not have separate legal personality.
2. As far as procurement by entities in the field of defence and security is concerned, only non-sensitive and non-warlike materials contained in the list in Section D are covered.

**Section B**  
**Sub-Central Government Entities**

*Thresholds:*

Unless otherwise specified, Chapter 16 (Government Procurement) shall apply to sub-central government entities listed in this Section where the value of the procurement is estimated to equal or exceed the following thresholds:

Goods	SDR 200,000
Services	SDR 200,000
Construction Services	SDR 5,000,000

*List of entities:*

1. All contracting authorities which are bodies governed by public law, for England, Wales and Northern Ireland, as defined by the *Public Contracts Regulations 2015* and, for Scotland, the *Public Contracts (Scotland) Regulations 2015*.
  - (a) “Bodies governed by public law” as defined by the *Public Contracts Regulations 2015* means any bodies that have all of the following characteristics:
    - (i) they are established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character;
    - (ii) they have legal personality; and
    - (iii) they have any of the following characteristics:
      - (A) they are financed, for the most part, by the State, regional or local authorities, or by other bodies governed by public law;
      - (B) they are subject to management supervision by those authorities or bodies; or
      - (C) they have an administrative, managerial, or supervisory board; more than half of whose members are appointed by the State, regional or local authorities, or by other bodies governed by public law.
  - (b) “Body governed by public law” as defined by the *Public Contracts (Scotland) Regulations 2015* means a body that has legal personality, is established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character and which:
    - (i) is financed for the most part by the State, regional or local authorities, or by any other body governed by public law;
    - (ii) is subject to management supervision by any such authority or body; or
    - (iii) has an administrative, managerial, or supervisory board more than half the members of which were appointed by any body referred to in subparagraph (i).

- (c) An indicative list of contracting authorities which are bodies governed by public law follows.

**Indicative list of contracting authorities which are bodies governed by public law:**

**Bodies:**

1. Health and Safety Executive;
2. Advisory, Conciliation and Arbitration Service;
3. Homes England;
4. NHS Blood and Transplant Service;
5. Environment Agency;
6. Scottish Enterprise;
7. Ordnance Survey Limited;
8. Financial Conduct Authority.

**Categories:**

1. Maintained schools;
2. Universities and colleges financed for the most part by other contracting authorities;
3. National Museums and Galleries;
4. Fire and Rescue Authorities;
5. Clinical Commissioning Groups;
6. Police Authorities;
7. Police and Crime Commissioners;
8. New Town Development Corporations;
9. Urban Development Corporations;
10. National Park Authorities;
11. Registered providers of social housing.

*Note to Section B:*

1. For greater certainty, procurement by regional and local contracting authorities of the local government administrative units falling under International Territorial Level 1, 2, and 3 and smaller administrative units are not covered in this Section.

**Section C  
Other Entities**

*Thresholds:*

Unless otherwise specified, Chapter 16 (Government Procurement) shall apply to other government entities listed in this Section where the value of the procurement is estimated to equal or exceed the following thresholds:

Goods	SDR 400,000
Services	SDR 400,000
Construction Services	SDR 5,000,000

*List of entities:*

1. All utilities whose procurement is covered by the *Utilities Contracts Regulations 2016* and the *Utilities Contracts (Scotland) Regulations 2016* which:
  - (a) are one of the following entities:
    - (i) a central government contracting authority covered in Section A;
    - (ii) a body governed by public law covered in Section B; or
    - (iii) a public undertaking;<sup>2</sup> and
  - (b) have as one of their activities any of those referred to below or any combination thereof:
    - (i) the provision or operation of fixed networks intended to provide a service to the public in connection with the production, transport, or distribution of electricity or the supply of electricity to such networks;

---

<sup>2</sup> According to the *Utilities Contracts Regulations 2016*, a “public undertaking” means any undertaking over which contracting authorities may exercise directly or indirectly a dominant influence by virtue of:

- (a) their ownership of that undertaking;
- (b) their financial participation in that undertaking; or
- (c) the rules which govern that undertaking.

According to the *Utilities Contracts (Scotland) Regulations 2016*, a “public undertaking” means a person over which one or more contracting authorities are able to exercise, directly or indirectly, a dominant influence by virtue of one or more of the following:

- (a) their ownership of that person;
- (b) their financial participation in that person; or
- (c) the rights accorded to them by the rules which govern that person.

According to both the *Utilities Contracts Regulations 2016* and the *Utilities Contracts (Scotland) Regulations 2016*, a dominant influence on the part of contracting authorities is presumed in any of the following cases in which those authorities, directly or indirectly:

- (a) hold the majority of the undertaking's subscribed capital;
- (b) control the majority of the votes attaching to shares issued by the undertaking; or
- (c) can appoint more than half of the undertaking's administrative, management, or supervisory body.

- (ii) the provision or operation of networks<sup>3</sup> providing a service to the public in the field of transport by urban railway, automated systems, tramway, trolley bus, bus, or cable; or
  - (iii) the provision or operation of networks providing a service to the public in the field of transport by railways.<sup>4</sup>
2. All utilities whose procurement is covered by the *Utilities Contracts Regulations 2016* and the *Utilities Contracts (Scotland) Regulations 2016* which:
    - (a) are regional contracting authorities of the local government administrative units falling under International Territorial Level 1 or 2; and
    - (b) have as one of their activities operating in the field of transport by urban railway, automatic systems, tramway, trolley bus, bus, and cable.
  3. Indicative lists of contracting authorities and public undertakings fulfilling the criteria set out above follow.

**Indicative lists of contracting authorities and public undertakings fulfilling the criteria laid down in Section C:**

**Production, transport, or distribution of electricity**

1. A person licensed under section 6 of the *Electricity Act 1989*;
2. A person licensed under Article 10(1) of the *Electricity (Northern Ireland) Order 1992*.

**Contracting entities in the field of urban railway, tramway, trolleybus, or bus services**

1. London Bus Services Limited;
2. London Underground Limited;
3. Transport for London;
4. A subsidiary of Transport for London within the meaning of section 424(1) of the *Greater London Authority Act 1999*;
5. Strathclyde Partnership for Transport;
6. Transport for Greater Manchester;
7. Tyne and Wear Passenger Transport (trading as ‘Nexus’);

---

<sup>3</sup> As regards transport services, a network shall be considered to exist where the service is provided under operating conditions laid down by a competent authority of the United Kingdom such as conditions on the routes to be served, the capacity to be made available, or the frequency of the service.

<sup>4</sup> E.g. the provision or operation of networks (within the meaning of footnote 2) providing a service to the public in the field of transport by high-speed or conventional trains.

8. Brighton and Hove City Council;
9. South Yorkshire Passenger Transport Executive;
10. Blackpool Transport Services Limited;
11. Conwy County Borough Council;
12. A person who provides a London local service as defined in section 179(1) of the *Greater London Authority Act 1999* (a bus service) in pursuance of an agreement entered into by Transport for London under section 156(2) of that Act or in pursuance of a transport subsidiary's agreement as defined in section 169 of that Act;
13. Northern Ireland Transport Holding Company;
14. A person who holds a bus operator's licence under section 4(1) of the *Transport Act (Northern Ireland) 1967* which authorises him to provide a regular service within the meaning of that licence.

### **Contracting entities in the field of rail services**

1. Network Rail plc;
2. Northern Ireland Transport Holding Company;
3. Northern Ireland Railways Company Limited;
4. Providers of rail services which operate on the basis of special or exclusive rights granted by the Department of Transport or any other competent authority.

#### *Notes to Section C:*

1. Procurement for the pursuit of an activity listed above when exposed to competitive forces in the market concerned are not covered by Chapter 16 (Government Procurement).
2. Chapter 16 (Government Procurement) does not cover procurement by procuring entities included in this Section:
  - (a) for the purchase of water and for the supply of energy or of fuels for the production of energy;
  - (b) for purposes other than the pursuit of their activities as listed in this Section or for the pursuit of those activities outside of the United Kingdom;
  - (c) for purposes of resale or hire to third parties, provided that the procuring entity enjoys no special or exclusive right to sell or hire the subject of such contracts and other entities are free to sell or hire it under the same conditions as the procuring entity.
3. Chapter 16 (Government Procurement) does not cover procurement:



- (a) by a procuring entity to an affiliated undertaking;<sup>5</sup> or
- (b) by a joint venture, formed exclusively by a number of procuring entities for the purpose of carrying out activities within the meaning of subparagraphs 1(b)(i) to 1(b)(iii), or 2(b) of this Section, to an undertaking which is affiliated with one of these procuring entities,

for services or supplies contracts provided that at least 80 per cent of the average turnover of the affiliated undertaking with respect to services or supplies for the preceding three years derives respectively from the provision of those services or supplies to undertakings with which it is affiliated.<sup>6</sup>

4. Chapter 16 (Government Procurement) does not cover procurement:

- (a) by a joint venture, formed exclusively by a number of procuring entities for the purposes of carrying out activities within the meaning of subparagraphs 1(b)(i) to 1(b)(iii), or 2(b) of this Section, to one of these procuring entities; or
- (b) by a procuring entity to such a joint venture of which it forms part, provided that the joint venture has been set up to carry out the activity concerned over a period of at least three years, and the instrument setting up the joint venture stipulates that the procuring entities, which form it, will be part thereof for at least the same period.

#### **Section D Goods**

1. Chapter 16 (Government Procurement) covers the procurement of all goods procured by the entities listed in Sections A to C, unless otherwise specified in this Agreement.
2. Chapter 16 (Government Procurement) covers only the goods that are described in the Chapters of the 2017 Harmonized Commodity Description and Coding Systems (HS) specified below and that are procured by the Ministry of Defence and Agencies for defence or security activities in the United Kingdom:

---

<sup>5</sup> “affiliated undertaking” means any undertaking over which the procuring entity may exercise, directly or indirectly, a dominant influence, or which may exercise a dominant influence over the procuring entity, or which, in common with the procuring entity, is subject to the dominant influence of another undertaking by virtue of ownership, financial participation, or the rules which govern it.

<sup>6</sup> When, because of the date on which an affiliated undertaking was created or commenced activities, the turnover is not available for the preceding three years, it will be sufficient for that undertaking to show that the turnover referred to in this paragraph is credible, in particular by means of business projections.

<b>HS Chapter</b>	<b>Description</b>
Chapter 25:	Salt, sulphur, earths and stone, plastering materials, lime and cement
Chapter 26:	Metallic ores, slag and ash
Chapter 27:	Mineral fuels, mineral oils and products of their distillation, bituminous substances, mineral waxes  except: ex 27.10: special engine fuels
Chapter 28:	Inorganic chemicals, organic and inorganic compounds of precious metals, of rare-earth metals, of radio-active elements and isotopes  except: ex 28.09: explosives ex 28.13: explosives ex 28.14: tear gas ex 28.28: explosives ex 28.32: explosives ex 28.39: explosives ex 28.50: toxic products ex 28.51: toxic products ex 28.54: explosives
Chapter 29:	Organic chemicals  except: ex 29.03: explosives ex 29.04: explosives ex 29.07: explosives ex 29.08: explosives ex 29.11: explosives ex 29.12: explosives ex 29.13: toxic products ex 29.14: toxic products ex 29.15: toxic products ex 29.21: toxic products ex 29.22: toxic products ex 29.23: toxic products ex 29.26: explosives ex 29.27: toxic products ex 29.29: explosives
Chapter 30:	Pharmaceutical products

Chapter 31:	Fertilisers
Chapter 32:	Tanning and dyeing extracts, tannings and their derivatives, dyes, colours, paints and varnishes, putty, fillers and stoppings, inks
Chapter 33:	Essential oils and resinoids, perfumery, cosmetic or toilet preparations
Chapter 34:	Soap, organic surface-active agents, washing preparations, lubricating preparations, artificial waxes, prepared waxes, polishing and scouring preparations, candles and similar articles, modelling pastes and "dental waxes"
Chapter 35:	Albuminoidal substances, glues, enzymes
Chapter 37:	Photographic and cinematographic goods
Chapter 38:	Miscellaneous chemical products  except: ex 38.19: toxic products
Chapter 39:	Artificial resins and plastic materials, cellulose esters and ethers, articles thereof  except: ex 39.03: explosives
Chapter 40:	Rubber, synthetic rubber, factice, and articles thereof  except: ex 40.11: bullet-proof tyres
Chapter 41:	Raw hides and skins (other than fur skins) and leather
Chapter 42:	Articles of leather, saddlery and harness, travel goods, handbags and similar containers, articles of animal gut (other than silkworm gut)
Chapter 43:	Furskins and artificial fur, manufactures thereof
Chapter 44:	Wood and articles of wood, wood charcoal
Chapter 45:	Cork and articles of cork

Chapter 46:	Manufactures of straw of esparto and of other plaiting materials, basket ware and wickerwork
Chapter 47:	Paper-making material
Chapter 48:	Paper and paperboard, articles of paper pulp, of paper or of paperboard
Chapter 49:	Printed books, newspapers, pictures and other products of the printing industry, manuscripts, typescripts and plans
Chapter 65:	Headgear and parts thereof
Chapter 66:	Umbrellas, sunshades, walking-sticks, whips, riding-crops and parts thereof
Chapter 67:	Prepared feathers and down and articles made of feathers or of down, artificial flowers, articles of human hair
Chapter 68:	Articles of stone, of plaster, of cement, of asbestos, of mica and of similar materials
Chapter 69:	Ceramic products
Chapter 70:	Glass and glassware
Chapter 71:	Pearls, precious and semi-precious stones, precious metals, rolled precious metals, and articles thereof; imitation jewellery
Chapter 73:	Iron and steel and articles thereof
Chapter 74:	Copper and articles thereof
Chapter 75:	Nickel and articles thereof
Chapter 76:	Aluminium and articles thereof
Chapter 77:	Magnesium and beryllium and articles thereof
Chapter 78:	Lead and articles thereof
Chapter 79:	Zinc and articles thereof
Chapter 80:	Tin and articles thereof

- Chapter 81: Other base metals employed in metallurgy and articles thereof
- Chapter 82: Tools, implements, cutlery, spoons and forks, of base metal, parts thereof
- except:  
ex 82.05: tools  
ex 82.07: tools, parts
- Chapter 83: Miscellaneous articles of base metal
- Chapter 84: Boilers, machinery and mechanical appliances, parts thereof
- except:  
ex 84.06: engines  
ex 84.08: other engines  
ex 84.45: machinery  
ex 84.53: automatic data-processing machines  
ex 84.55: parts of machines under heading No 84.53  
ex 84.59: nuclear reactors
- Chapter 85: Electrical machinery and equipment, parts thereof
- except:  
ex 85.13: telecommunication equipment  
ex 85.15: transmission apparatus
- Chapter 86: Railway and tramway locomotives, rolling-stock and parts thereof; railway and tramway tracks fixtures and fittings, traffic signalling equipment of all kinds (not electrically powered)
- except:  
ex 86.02: armoured locomotives, electric  
ex 86.03: other armoured locomotives  
ex 86.05: armoured wagons  
ex 86.06: repair wagons  
ex 86.07: wagons
- Chapter 87: Vehicles, other than railway or tramway rolling-stock, and parts thereof
- except:  
ex 87.08: tanks and other armoured vehicles  
ex 87.01: tractors  
ex 87.02: military vehicles

- ex 87.03: breakdown lorries
  - ex 87.09: motorcycles
  - ex 87.14: trailers
- Chapter 89: Ships, boats and floating structures
- except:  
ex 89.01 A: warships
- Chapter 90: Optical, photographic, cinematographic, measuring, checking, precision, medical and surgical instruments and apparatus, parts and accessories thereof
- except:  
ex 90.05: binoculars  
ex 90.13: miscellaneous instruments, lasers  
ex 90.14: telemeters  
ex 90.28: electrical and electronic measuring instruments  
ex 90.11: microscopes  
ex 90.17: medical instruments  
ex 90.18: mechano-therapy appliances  
ex 90.19: orthopaedic appliances  
ex 90.20: X-ray apparatus
- Chapter 91: Manufacture of watches and clocks
- Chapter 92: Musical instruments, sound recorders or reproducers, television image and sound recorders or reproducers, parts and accessories of such articles
- Chapter 94: Furniture and parts thereof, bedding, mattresses, mattress supports, cushions and similar stuffed furnishings
- except:  
ex 94.01 A: aircraft seats
- Chapter 95: Articles and manufactures of carving or moulding material
- Chapter 96: Brooms, brushes, powder-puffs and sieves
- Chapter 98: Miscellaneous manufactured articles

## Section E Services

Chapter 16 (Government Procurement) covers the following services, which are identified in accordance with the United Nations Provisional Central Product Classification (CPC Prov.) as contained in document MTN.GNS/W/120.<sup>7</sup>

Description	CPC Prov.
1. Maintenance and repair services	6112, 6122, 633, 886
2. Hotel and other lodging services (see note 1)	641
3. Land transport services and courier services, except transport of mail	712 (except 71235), 7512
4. Air transport services of passengers and freight	73 (except 7321)
5. Telecommunications and related services	752, 754
6. Financial services	ex 81
a. Insurance services	812, 814
b. Banking and investment services <sup>8</sup>	
7. Computer and related services	84
8. Legal services (see notes 1 and 2)	861
9. Accounting, auditing and bookkeeping services	862
10. Taxation services	863
11. Market research and public opinion polling services	864
12. Management consulting services and related services	865, 866 <sup>9</sup>
13. Architectural services; engineering services and other technical services	867
14. Advertising services	871
15. Investigation and security services (see note 1)	873
16. Building-cleaning services	874, 82201-82206

<sup>7</sup> Except for services which entities have to procure from another entity pursuant to an exclusive right established by a published law, regulation, or administrative provision.

<sup>8</sup> Except for the procurement or acquisition of fiscal agency or depository services, liquidation, and management services for regulated financial institutions or services related to the sale, redemption, and distribution of public debt, including loans and government bonds, notes, and other securities.

<sup>9</sup> Except arbitration and conciliation services.

<b>Description</b>	<b>CPC Prov.</b>
17. Publishing and printing services on a fee or contractual basis	88442
18. Sewage and refuse disposal; sanitation and similar services	94

*Notes to Section E:*

1. Hotel and other lodging services (CPC Prov. 641), legal services (CPC Prov. 861), and investigation and security services (CPC Prov. 873, except 87304) contracts are included under the national treatment regime for suppliers and services providers of New Zealand, provided their value equals or exceeds GBP 663,540 when they are awarded by procuring entities covered under Sections A and B, and their value equals or exceeds GBP 884,720 when they are awarded by procuring entities covered under Section C.<sup>10</sup>
2. The following legal services (CPC Prov. 861) are not covered:
  - (a) legal representation of a client by a lawyer in:
    - (i) an arbitration or conciliation held in the United Kingdom, another country, or before an international arbitration or conciliation instance; or
    - (ii) judicial proceedings before the courts, tribunals, or public authorities of the United Kingdom, another country, or before international courts, tribunals, or institutions;
  - (b) legal advice given:
    - (i) in preparation of any of the proceedings referred to in subparagraph (a); or
    - (ii) where there is a tangible indication and high probability that the matter to which the advice relates will become the subject of those proceedings,

provided that the advice is given by a lawyer;
  - (c) document certification and authentication services which must be provided by notaries;
  - (d) legal services provided by trustees or appointed guardians or other legal services, the providers of which are designated by a court or tribunal in the United Kingdom or are designated by law to carry out

---

<sup>10</sup> The United Kingdom may adjust the thresholds of these services to account for changes to these values in its domestic law as a result of inflation. The United Kingdom shall notify New Zealand of the current thresholds in its currency immediately after this Agreement enters into force, and the adjusted thresholds in its currency thereafter in a timely manner.



specific tasks under the supervision of those tribunals or courts; and

- (e) other legal services which in the United Kingdom are connected, even occasionally, with the exercise of official authority,

where “lawyer” means a person practising as an advocate, barrister, or solicitor in any part of the United Kingdom or Gibraltar.

3. For greater certainty, Section E does not cover procurement of the following services:
  - (a) Human health services (CPC Prov. 931);
  - (b) Administrative healthcare services (CPC Prov. 91122); and
  - (c) Supply services of nursing personnel and supply services of medical personnel (CPC Prov. 87206 and 87209).

## **Section F Construction Services**

*Construction services:*

All services listed in Division 51 (CPC Prov.), as contained in document MTN/GNS/W/120.

## **Section G General Notes**

1. Chapter 16 (Government Procurement) does not cover:
  - (a) procurement of agricultural products made in furtherance of agricultural support programmes and human feeding programmes (e.g. food aid including urgent relief aid); and
  - (b) procurement for the acquisition, development, production, or co-production of programme material by broadcasters and contracts for broadcasting time.
2. Procurement by procuring entities covered under Sections A and B in connection with activities in the fields of drinking water, energy, transport, and the postal sector are not covered by Chapter 16 (Government Procurement), unless covered under Section C.

3. For greater certainty, concessions contracts as defined under the *Concession Contracts Regulations 2016* and *Concessions Contracts (Scotland) Regulations 2016* are not covered by Chapter 16 (Government Procurement).

## **Section H Publication of Information**

Electronic or paper media utilised for the publication of laws, regulations, judicial decisions, administrative rulings of general application, standard contract clauses, and procedures regarding government procurement covered by this Agreement pursuant to Article 16.5 (Information on the Procurement System):

1. Legislation - [www.legislation.gov.uk](http://www.legislation.gov.uk); and
2. Jurisprudence - law reports, including those published on [www.judiciary.gov.uk](http://www.judiciary.gov.uk) (for England, Wales, and Northern Ireland) and [www.scotscourts.gov.uk](http://www.scotscourts.gov.uk) (for Scotland).

Electronic media utilised for the publication of notices required by Article 16.6 (Notices), paragraph 8 of Article 16.8 (Qualification of Suppliers), and paragraph 2 of Article 16.17 (Transparency of Procurement Information), pursuant to Article 16.5 (Information on the Procurement System):

1. The UK Find a Tender service, being a single web-based portal which is provided by or on behalf of the Cabinet Office at [www.find-tender.service.gov.uk](http://www.find-tender.service.gov.uk).

Electronic media utilised for the publication of its procurement data required under paragraph 4 of Article 16.17 (Transparency of Procurement Information), pursuant to Article 16.5 (Information on the Procurement System):

1. The UK Find a Tender service, being a single web-based portal which is provided by or on behalf of the Cabinet Office at [www.find-tender.service.gov.uk](http://www.find-tender.service.gov.uk).

**CHAPTER 17**  
**INTELLECTUAL PROPERTY**

**Section A**  
**General Provisions**

**Article 17.1**  
**Definitions**

For the purposes of this Chapter:

**“Berne Convention”** means the *Berne Convention for the Protection of Literary and Artistic Works* done at Berne on 9 September 1886, as revised at Paris on 24 July 1971 and amended on 28 September 1979;

**“broadcasting”** means the transmission by wire or wireless means, including by cable or satellite, for public reception of sounds or images and sounds or the representations thereof, and including transmission of encrypted signals if the means for decrypting are provided to the public by the transmitting broadcasting organisation or with its consent, and **“broadcast”** shall be construed accordingly;

**“Budapest Treaty”** means the *Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure* done at Budapest on 28 April 1977, as amended on 26 September 1980;

**“covered subject matter”** means each and all of the subject matter categories covered in Section H (Copyright and Related Rights), being works, performances, phonograms, and broadcasts;

**“Declaration on TRIPS and Public Health”** means the *Declaration on the TRIPS Agreement and Public Health* (WT/MIN(01)/DEC/2) adopted on 14 November 2001;

**“fixation”** means the embodiment of sounds or moving images or representations thereof, in each case, from which they can be perceived, reproduced, or communicated through a device;

**“Hague Agreement”** means the *Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs* done at Geneva on 2 July 1999;

**“intellectual property”** refers to all categories of intellectual property that are the subject of Sections 1 through 7 of Part II of the TRIPS Agreement. The protection of intellectual property includes protection against unfair competition as referred to in Article 10bis of the Paris Convention;

**“Madrid Protocol”** means the *Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks* done at Madrid on 27 June 1989, as amended on 3 October 2006 and 12 November 2007;

**“Marrakesh Treaty”** means the *Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled* done at Marrakesh on 27 June 2013;

**“Nice Agreement”** means the *Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks* done at Nice on 15 June 1957, as revised at Geneva on 13 May 1977 and amended on 8 September 1979;

**“Paris Convention”** means the *Paris Convention for the Protection of Industrial Property* done at Paris on 20 March 1883, as revised at Stockholm on 14 July 1967 and amended on 28 September 1979;

**“performers”** means actors, singers, musicians, dancers, and other persons who act, sing, deliver, declaim, play in, interpret, or otherwise perform literary or artistic works or expressions of folklore, and **“performances”** shall be construed accordingly;

**“phonogram”** means the fixation of the sounds of a performance or of other sounds other than in the form of a fixation incorporated in a cinematographic or other audio-visual work;

**“producer of a phonogram”** means a person that takes the initiative and has the responsibility for the first fixation of the sounds of a performance or other sounds or the representations of sounds;

**“PCT”** means the *Patent Cooperation Treaty (PCT)* done at Washington on 19 June 1970, as amended on 28 September 1979 and modified on 3 February 1984 and 3 October 2001;

**“Rome Convention”** means the *Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations* done at Rome on 26 October 1961;

**“Singapore Treaty”** means the *Singapore Treaty on the Law of Trade Marks* done at Singapore on 27 March 2006;

**“trade secret”** means information that:

- (a) is secret in the sense that it is not, as a body or in the precise configuration and assembly of its components, generally known among or readily accessible to persons within the circles that normally deal with the kind of information in question;

- (b) has commercial value because it is secret; and
- (c) has been subject to reasonable steps under the circumstances, by the person lawfully in control of the information, to keep it secret;

“**trade secret holder**” means any person lawfully in control of a trade secret;

“**WCT**” means the *WIPO Copyright Treaty* done at Geneva on 20 December 1996;

“**WIPO**” means the World Intellectual Property Organization;

for greater certainty, “**work**” includes a cinematographic work, photographic work, and computer program; and

“**WPPT**” means the *WIPO Performances and Phonograms Treaty* done at Geneva on 20 December 1996.

### **Article 17.2 Objectives**

The protection and enforcement of intellectual property rights should contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations.

### **Article 17.3 Principles**

1. A Party may, in formulating or amending its laws and regulations, adopt measures necessary to protect public health and nutrition, and to promote the public interest in sectors of vital importance to their socio-economic and technological development, provided that such measures are consistent with the provisions of this Chapter.
2. Appropriate measures, provided that they are consistent with the provisions of this Chapter, may be needed to prevent the abuse of intellectual property rights by right holders or the resort to practices which unreasonably restrain trade or adversely affect the international transfer of technology.

### **Article 17.4 Understandings in Respect of this Chapter**

Having regard to the underlying public policy objectives of national systems, the Parties recognise the need to:

- (a) promote innovation and creativity;
- (b) facilitate the diffusion of information, knowledge, technology, culture, and the arts; and
- (c) foster competition and open and efficient markets,

through their respective intellectual property systems, while respecting the principles of transparency and due process, and taking into account the interests of relevant stakeholders, including right holders, users, and the general public.

#### **Article 17.5 Nature and Scope of Obligations**

1. The Parties affirm their existing rights and obligations with respect to each other under the TRIPS Agreement. This Chapter shall complement and further specify the rights and obligations of the Parties under the TRIPS Agreement and other international agreements in the field of intellectual property to which they are parties.
2. A Party may, but shall not be obliged to, provide more extensive protection for, or enforcement of, intellectual property rights under its law than is required by this Chapter, provided that such protection or enforcement does not contravene this Chapter. Each Party shall be free to determine the appropriate method of implementing the provisions of this Chapter within its own legal system and practice.

#### **Article 17.6 Understandings Regarding Certain Public Health Measures**

The Parties affirm their commitment to the Declaration on TRIPS and Public Health. In particular, the Parties have reached the understanding that the obligations of this Chapter do not and should not prevent a Party from taking measures to protect public health. Accordingly, while reiterating their commitment to this Chapter, the Parties affirm that this Chapter can and should be interpreted and implemented in a manner supportive of each Party's right to protect public health and, in particular, to promote access to medicines for all. Each Party has the right to determine what constitutes a national emergency or other circumstances of extreme urgency, it being understood that public health crises, including those relating to HIV/AIDS, tuberculosis, malaria, COVID-19, and other epidemics, can represent a national emergency or other circumstances of extreme urgency.

**Article 17.7**  
**National Treatment**

1. In respect of all categories of intellectual property covered in this Chapter, each Party shall accord to nationals<sup>1</sup> of the other Party treatment no less favourable than it accords to its own nationals with regard to the protection<sup>2</sup> of intellectual property rights, subject to the exceptions already provided for in, respectively, the Paris Convention, the Berne Convention, the Rome Convention, the WPPT, and the *Treaty on Intellectual Property in Respect of Integrated Circuits* adopted at Washington on 26 May 1989. In respect of performers, producers of phonograms, and broadcasting organisations, this obligation only applies in respect of the rights provided under this Agreement.<sup>3</sup>
2. Each Party may avail itself of the exceptions referred to under paragraph 1 in relation to its judicial and administrative procedures, including requiring a national of the other Party to designate an address for service of process in its territory, or to appoint an agent in its territory, only where those exceptions are:
  - (a) necessary to secure compliance with laws or regulations that are not inconsistent with this Chapter; and
  - (b) not applied in a manner that would constitute a disguised restriction on trade.
3. Paragraph 1 shall not apply to procedures provided for in multilateral agreements concluded under the auspices of WIPO relating to the acquisition or maintenance of intellectual property rights.

**Article 17.8**  
**International Agreements**

Each Party affirms that it has ratified or acceded to the following agreements:

- (a) TRIPS Agreement;
- (b) Paris Convention;
- (c) Berne Convention;

---

<sup>1</sup> For the purposes of this Article, “nationals” has the same meaning as in the TRIPS Agreement.

<sup>2</sup> For the purposes of this paragraph, “protection” shall include matters affecting the availability, acquisition, scope, maintenance, and enforcement of intellectual property rights as well as matters affecting the use of intellectual property rights specifically covered by this Chapter.

<sup>3</sup> For greater certainty, this national treatment obligation applies to Article 17.45 (Broadcasting and Communication to the Public of Phonograms Published for Commercial Purposes) only to the extent that the other Party provides for the same type of right under paragraph 1 of that Article.

- (d) WCT;
- (e) WPPT;
- (f) Marrakesh Treaty;
- (g) Madrid Protocol;
- (h) Nice Agreement;
- (i) Singapore Treaty;
- (j) Budapest Treaty; and
- (k) PCT.

### **Article 17.9 Transparency**

1. Each Party shall endeavour to publish online its laws, regulations, procedures, and administrative rulings of general application concerning the protection and enforcement of intellectual property rights.
2. Each Party shall, subject to its law, endeavour to publish online information that it makes public concerning applications for trade marks, geographical indications, registered designs, patents, and plant variety rights.<sup>4,5</sup>
3. Each Party shall, subject to its law, publish online information that it makes public concerning registered or granted trade marks, geographical indications, designs, patents, and plant variety rights, sufficient to enable the public to become acquainted with those registered or granted rights.<sup>6</sup>

### **Article 17.10 Application of Chapter to Existing Subject Matter and Prior Acts**

1. Unless otherwise provided in this Chapter, this Chapter gives rise to obligations in respect of all subject matter existing at the date of entry into force of this Agreement and that is protected on that date in the territory of a Party where protection is claimed, or that meets or comes subsequently to meet the criteria for protection under this Chapter.

---

<sup>4</sup> For greater certainty, paragraphs 2 and 3 are without prejudice to a Party's obligations under Article 17.27 (Electronic Trade Marks System).

<sup>5</sup> For greater certainty, paragraph 2 does not require a Party to publish online the entire dossier for the relevant application.

<sup>6</sup> For greater certainty, paragraph 3 does not require a Party to publish online the entire dossier for the relevant registered or granted intellectual property right.



2. Unless otherwise provided in this Chapter, a Party shall not be required to restore protection to subject matter that, on the date of entry into force of this Agreement, has fallen into the public domain in its territory.
3. This Chapter shall not give rise to obligations in respect of acts that occurred before the date of entry into force of this Agreement.

**Article 17.11**  
**Exhaustion of Intellectual Property Rights**

Nothing in this Agreement shall prevent a Party from determining whether or under what conditions the exhaustion of intellectual property rights applies under its legal system.

**Section B**  
**Cooperation**

**Article 17.12**  
**Contact Points**

1. As of the date of entry into force of this Agreement, each Party shall provide the other Party with a contact point for communication on all matters covered by this Chapter.
2. Each Party shall promptly notify the other Party of any amendments to the details of their contact point.

**Article 17.13**  
**Cooperation and Dialogue**

1. The Parties recognise the growing importance of the protection of intellectual property in further promoting trade and investment between them, and shall cooperate and engage in dialogue on the subject matter covered by this Chapter.<sup>7</sup> This may include through appropriate coordination and exchange of information between their respective intellectual property offices, or other agencies or institutions, as determined by each Party. The areas of cooperation and dialogue shall include, at least:
  - (a) exchanging information relating to developments in the Parties' domestic and international intellectual property policy;

---

<sup>7</sup> For greater certainty, the Parties may comply with this Article by cooperating under the auspices of the Working Group whose functions are set out in Article 17.14 (Intellectual Property Working Group).

- (b) intellectual property administration and registration systems (where the Parties have such systems in place);
  - (c) cooperation between their respective collective management organisations;
  - (d) intellectual property issues relevant to SMEs including using, protecting, and enforcing intellectual property rights;
  - (e) cooperation on public and business educational awareness campaigns on intellectual property rights;
  - (f) cooperation on intellectual property issues relevant to science, technology, and innovation activities, including in the areas of clean growth, low-carbon, and environmentally beneficial technologies and other climate friendly technologies; and
  - (g) best practices, projects, and programmes aimed at reducing intellectual property rights infringement, including in relation to:
    - (i) preventing exports of counterfeit goods, including with other countries;
    - (ii) sharing of experience of intellectual property rights enforcement between customs and law enforcement bodies;
    - (iii) public awareness campaigns on the impact of intellectual property infringement; and
    - (iv) voluntary stakeholder initiatives to reduce intellectual property infringement, including over the Internet and other marketplaces.
2. In addition, the Parties shall endeavour to cooperate in relation to activities for improving the international intellectual property regulatory framework, including by working together on relevant activities in international organisations including the WTO and the WIPO.

**Article 17.14**  
**Intellectual Property Working Group**

1. The Intellectual Property Working Group established under Article 30.10 (Working Groups – Institutional Provisions) (“the Working Group”) shall be composed of representatives of each Party and with Māori in the case of New Zealand for functions under subparagraph 3(b). The Working Group may also invite experts to attend meetings and advise the Working Group on

any matter falling within its functions.<sup>8</sup>

2. The Working Group shall meet as often as necessary to carry out its functions set out under this Chapter and, in any event, within three months of a Party making a request for a meeting. The Working Group may meet physically or virtually, as agreed by the Parties. The Working Group shall make decisions by mutual agreement.
3. The Working Group shall:
  - (a) carry out the functions specified in Articles 17.33 (Consultations on Recognition and Protection of Geographical Indications) and 17.34 (Ongoing Review of this Section);
  - (b) carry out the functions specified in Article 17.20 (Section Review);
  - (c) carry out any functions as directed by the Joint Committee;
  - (d) monitor and consider matters relating to the implementation and operation of this Chapter; and
  - (e) report to the Joint Committee on the performance of its activities, including the outcome of any reviews of the Chapter or Sections thereof.
4. The Working Group may make recommendations or submit proposals for decisions to be adopted by the Joint Committee, including recommendations or proposals arising out of any review of this Chapter or Sections thereof.

### **Article 17.15** **Patent Cooperation and Work Sharing**

1. The Parties recognise the importance of improving the quality and efficiency of their respective patent registration systems as well as simplifying and streamlining the procedures and processes of their respective patent offices to the benefit of all users of the patent system and the public as a whole.
2. Further to paragraph 1, the Parties shall endeavour to cooperate through their respective patent offices to facilitate the sharing and use of search and examination work of the Parties. This may include:
  - (a) making search and examination results available to the patent offices

---

<sup>8</sup> Experts may include, among others, experts from the private sector and appropriate Māori representatives.

- of the other Party;<sup>9</sup> and
- (b) exchanging information on quality assurance systems and quality standards relating to patent examination.
3. In order to reduce the complexity and cost of obtaining the grant of a patent, the Parties shall endeavour to cooperate to reduce differences in the procedures and processes of their respective patent offices.

### **Article 17.16 Cooperation on Request**

Cooperation activities undertaken under this Chapter are subject to the availability of resources, and on request, and on terms and conditions mutually decided upon between the Parties. The Parties affirm that cooperation under this Section is additional to and without prejudice to other past, ongoing, and future cooperation activities, both bilateral and multilateral, between the Parties, including between their respective intellectual property offices.

## **Section C Intellectual Property and Issues Related to Genetic Resources, Traditional Knowledge, and Traditional Cultural Expressions**

### **Article 17.17 Cooperation**

1. The Parties recognise the relevance of intellectual property systems and traditional knowledge associated with genetic resources to each other, when that traditional knowledge is related to those intellectual property systems.
2. The Parties shall endeavour to cooperate through their respective agencies responsible for intellectual property, or other relevant institutions, with the inclusive participation of Māori, if such participation is relevant and practicable, to enhance the understanding of:
  - (a) issues connected with traditional knowledge associated with genetic resources, and genetic resources; and
  - (b) matters of interest to Māori relating to intellectual property, and issues relating to genetic resources, traditional knowledge, and traditional cultural expressions.

---

<sup>9</sup> The Parties recognise the importance of multilateral efforts to promote the sharing and use of search and examination results with a view to improving the quality of search and examination processes and to reducing the costs for both applicants and patent offices.

**Article 17.18**  
**Patent Examination and Traditional Knowledge Associated with Genetic Resources**

The Parties shall endeavour to pursue quality patent examination, which may include:

- (a) that in determining prior art, relevant publicly available documented information related to traditional knowledge associated with genetic resources may be taken into account;
- (b) an opportunity for third parties to cite, in writing, to the competent examining authority prior art disclosures that may have a bearing on patentability, including prior art disclosures related to traditional knowledge associated with genetic resources;
- (c) if applicable and appropriate, the use of databases or digital libraries containing traditional knowledge associated with genetic resources; and
- (d) cooperation in the training of patent examiners in the examination of patent applications related to traditional knowledge associated with genetic resources.

**Article 17.19**  
**WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore**

1. The Parties shall, without prejudice to their respective positions, work under the auspices of WIPO to promote a multilateral outcome at the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (“WIPO IGC”).
2. Relevant to promoting a multilateral outcome at the WIPO IGC the Parties shall, to the extent appropriate, cooperate through their respective relevant agencies and institutions and, where relevant and practicable, with the inclusive participation of Māori, by:
  - (a) sharing information with each other; and
  - (b) in response to any reasonable request, engaging actively in dialogue.

**Article 17.20**  
**Section Review**

1. The Parties affirm the importance of the WIPO IGC as a forum for multilateral cooperation.
2. If an international instrument is agreed at the WIPO IGC, the Parties shall, under the auspices of the Working Group:
  - (a) conduct consultations under this Article;
  - (b) enter into those consultations as soon as reasonably practicable and, in any event, no later than two years after the date of entry into force of that international instrument;
  - (c) agree a timetable at an initial meeting held within the time frame specified in subparagraph (b);
  - (d) review this Section with a view to considering whether to amend this Agreement in accordance with the international instrument; and
  - (e) endeavour to complete a review under this Article in a timely manner.
3. If this Agreement does not enter into force before the date the Parties would otherwise have been required to enter into consultations under subparagraph 2(b), the Parties shall, under the auspices of the Working Group, enter into consultations as soon as reasonably practicable after the date of entry into force of this Agreement and, in any event, no later than four months after the date of entry into force of this Agreement.
4. If the criteria requiring consultations under paragraph 2 have not been met within two years of the date of entry into force of this Agreement, the Parties shall, without prejudice to the possibility of a review under paragraph 2, review this Section with a view to considering provisions on genetic resources, traditional knowledge, and traditional cultural expressions. The Parties shall, under the auspices of the Working Group:
  - (a) enter into consultations as soon as reasonably practicable and, in any event, no later than four months after the expiry of the time period referred to in this paragraph;
  - (b) consider the Parties' interests on genetic resources, traditional knowledge, and traditional cultural expressions; and
  - (c) endeavour to complete a review under this Article in a timely manner.

**Section D**  
**Trade Marks**

**Article 17.21**  
**Types of Signs Registrable as Trade Marks**

Neither Party shall require, as a condition of registration, that a sign be visually perceptible. A Party may require a concise and accurate description of a trade mark.

**Article 17.22**  
**Rights Conferred**

Each Party shall provide that the owner of a registered trade mark has the exclusive right to prevent all third parties not having the owner's consent from using in the course of trade identical or similar signs for goods or services that are identical or similar to those in respect of which the trade mark is registered, where such use would result in a likelihood of confusion. In the case of the use of an identical sign for identical goods or services, a likelihood of confusion shall be presumed. The rights described above shall not prejudice any existing prior rights, nor shall they affect the possibility of a Party making rights available on the basis of use.

**Article 17.23**  
**Exceptions**

Each Party may provide limited exceptions to the rights conferred by a trade mark, such as fair use of descriptive terms, provided that such exceptions take account of the legitimate interests of the owner of the trade mark and of third parties.

**Article 17.24**  
**Well-Known Trade Marks**

For the purposes of giving effect to the protection of well-known trade marks, as referred to in Article 6bis of the Paris Convention and paragraphs 2 and 3 of Article 16 of the TRIPS Agreement, each Party recognises the importance of the *Joint Recommendation Concerning Provisions on the Protection of Well-Known Marks* adopted by the Assembly of the Paris Union for the Protection of Industrial Property and the General Assembly of WIPO at the Thirty-Fourth Series of Meetings of the Assemblies of the Member States of WIPO from 20 to 29 September 1999.

**Article 17.25**  
**Procedural Aspects of Examination, Opposition, and Cancellation**

Each Party shall provide a system for the examination and registration of trade marks that includes amongst other things:

- (a) communicating to the applicant in writing, preferably by electronic means, the reasons for any refusal to register a trade mark;
- (b) providing the applicant with an opportunity to respond to communications from the competent authorities, to contest any initial refusal, and to make a judicial appeal of any final refusal to register a trade mark;
- (c) providing an opportunity to oppose an application for the registration of a trade mark and an opportunity to seek cancellation<sup>10</sup> of a trade mark registration through, at a minimum, administrative procedures; and
- (d) requiring administrative decisions in opposition and cancellation proceedings to be reasoned and in writing, which are preferably provided by electronic means.

**Article 17.26**  
**Bad Faith Applications**

Each Party shall provide, in accordance with its law, that its competent authority has the authority to refuse an application or cancel a registration where the application to register the trade mark was made in bad faith.

**Article 17.27**  
**Electronic Trade Marks Systems**

Each Party shall provide a:

- (a) system for the electronic application for, and maintenance of, trade mark registrations; and
- (b) publicly available electronic information system, including an online database, of trade mark applications and registered trade marks.

---

<sup>10</sup> For greater certainty, cancellation for the purposes of this Section may be implemented through an invalidation or revocation proceeding.



**Article 17.28**  
**Term of Protection for Trade Marks**

Each Party shall provide that initial registration and each renewal of registration of a trade mark is for a term of no less than 10 years.

**Article 17.29**  
**Efforts toward the Harmonisation of Trade Mark Systems**

The Parties recognise the importance of reducing differences in law and practice between the Parties' respective systems for the protection of trade marks. Each Party shall endeavour to cooperate in international fora, including WIPO, where appropriate and as resources permit, to harmonise standards of protection, and procedures, for the registration of trade marks.

**Article 17.30**  
**Domain Names**

1. In connection with each Party's system for the management of its country code top-level domain (ccTLD) domain names, the Parties recognise the benefits of appropriate remedies being available, at least in cases in which a person registers or holds, with a bad faith intent to profit, a domain name that is identical or confusingly similar to a trade mark.
2. The Parties understand that such remedies may, but need not, include revocation, cancellation, transfer, damages, or injunctive relief.

**Section E**  
**Geographical Indications**

**Article 17.31**  
**Scope of Application of this Section**

This Section shall apply to the recognition and protection of geographical indications in the territories of the Parties for wines, spirits, agricultural products, and foodstuffs.

**Article 17.32**  
**Recognition and Protection of Geographical Indications**

The Parties recognise that geographical indications may be protected through a trade mark or sui generis system or other legal means.

**Article 17.33**  
**Consultations on Recognition and Protection of Geographical Indications**

1. The Parties shall enter into consultations to review this Section if, after this Agreement has been signed by the Parties:
  - (a) New Zealand signs an international agreement with a non-party that includes obligations requiring New Zealand to adopt any substantive change to New Zealand's geographical indications regime; or
  - (b) New Zealand adopts any substantive change to New Zealand's geographical indications regime for a reason other than that in subparagraph (a).
2. For the purposes of this Article, a substantive change to New Zealand's geographical indications regime includes:
  - (a) the introduction of a sui generis scheme for the registration and protection of geographical indications for agricultural products or foodstuffs; or
  - (b) any substantive change to the system or standard of protection<sup>11</sup> provided under New Zealand's sui generis scheme for the registration and protection of geographical indications for wine and spirits in effect on the date this Agreement is signed by both Parties.
3. New Zealand shall, through the contact point referred to in Article 17.12 (Contact Points):
  - (a) promptly notify the United Kingdom of the signature of an international agreement as described in subparagraph 1(a) or the date of adoption of a domestic change as described in subparagraph 1(b); and
  - (b) provide any relevant information about the substantive change to New Zealand's geographical indications regime as described in subparagraph 1(a) or subparagraph 1(b).
4. If the Parties are required to enter consultations under paragraph 1, the Parties shall:
  - (a) conduct those consultations under the auspices of the Working Group;

---

<sup>11</sup> For the purposes of this Section, "system or standard of protection" shall include, but not be limited to, matters affecting the availability, acquisition, scope, maintenance, use, and enforcement of geographical indications.

- (b) enter into those consultations as soon as reasonably practicable after the signature of an international agreement as described in subparagraph 1(a) or the date of adoption of a domestic change as described in subparagraph 1(b) and, in any event, no later than four months after the date of that event;
  - (c) agree a timetable at an initial meeting held within the time frame specified in subparagraph (b) or paragraph 5;
  - (d) as part of those consultations, review this Section with a view to amending this Agreement so that no less favourable treatment is applied under this Section in relation to the standard of protection of geographical indications than the standard applied under.<sup>12</sup>
    - (i) the international agreement referred to in subparagraph 1(a); or
    - (ii) the domestic change referred to in subparagraph 1(b); and
  - (e) use reasonable endeavours to complete a review under this Article in a timely manner.
5. If this Agreement has not entered into force by the date the Parties would otherwise have been required to enter into consultations under subparagraph 4(b), the Parties shall enter into consultations as soon as reasonably practicable after the date of entry into force of this Agreement and, in any event, no later than four months after the date of entry into force of this Agreement.
6. If the Parties agree to amend this Section pursuant to a review under this Article conducted as part of consultations under:
- (a) subparagraph 1(a), no further review shall be required under this Article or Article 17.34 (Alternative Review of this Section), unless the Parties agree otherwise; or
  - (b) subparagraph 1(b), no further review shall be required under Article 17.34 (Alternative Review of this Section), unless the Parties agree otherwise.

---

<sup>12</sup> Nothing in this Article requires New Zealand to agree to amendments to this Section prior to implementing the applicable substantive domestic change to New Zealand's geographical indications regime.

**Article 17.34**  
**Alternative Review of this Section**

1. Subject to paragraph 6 of Article 17.33 (Consultations on Recognition and Protection of Geographical Indications), two years after the date of entry into force of this Agreement, the Parties shall enter into consultations to review this Section with a view to considering further provisions governing the recognition and protection of geographical indications.
2. If the Parties are required to enter consultations under paragraph 1, the Parties shall:
  - (a) conduct the review under the auspices of the Working Group;
  - (b) enter into consultations as soon as reasonably practicable and, in any event, no later than four months after the expiry of the time period in paragraph 1;
  - (c) consider the Parties' interests and sensitivities concerning the recognition and protection of geographical indications; and
  - (d) use reasonable endeavours to complete a review under this Article in a timely manner.
3. If the Parties do not agree to amend this Section following a review, the Parties shall conduct further reviews if agreed.<sup>13</sup>
4. A review of this Section conducted under this Article shall be undertaken without prejudice to the possibility of a consultation or review under Article 17.33 (Consultations on Recognition and Protection of Geographical Indications).
5. If, pursuant to a review of this Section under this Article, the Parties agree to amend this Section, no further review shall be required under this Article, unless the Parties agree otherwise.

**Article 17.35**  
**Lists of Geographical Indications**

1. If, pursuant to a review of this Section under Article 17.33 (Consultations on Recognition and Protection of Geographical Indications) or Article 17.34 (Ongoing Review of this Section), the Parties agree to amend this Section to permit specific geographical indications to be identified and protected under this Agreement, without limiting what may otherwise be agreed, and where

---

<sup>13</sup> The Parties acknowledge that, where a general review of the Agreement under Article 17.3 (General Review) starts within 12 months of the conclusion of a review of this Section under this Article, the Parties shall not normally consider issues arising relating to this Section as part of that general review.

a Party intends to seek protection for a geographical indication in the territory of the other Party:

- (a) that Party (Party A) shall notify the contact point nominated by the other Party (Party B), referred to in Article 17.12 (Contact Points), of a list of geographical indications protected in Party A's territory for which it intends to seek protection in the territory of Party B under this Agreement; and
  - (b) Party B shall examine and publish for opposition the notified geographical indications under its domestic requirements as soon as reasonably practicable following receipt of Party A's list.
2. As part of any amendments made to this Section, the Parties shall ensure that an Annex is added to this Agreement that lists the geographical indications of each Party that are protected in the other Party under this Agreement, and that geographical indications that have completed and passed an examination and opposition procedure in the other Party, as referred to in subparagraph 1(b), can be added to that Annex without undue delay.

## **Section F Registered Designs**

### **Article 17.36 Protection of Registered Designs**

1. Each Party shall provide for the protection of independently created industrial designs that are new or original. This protection shall be provided by registration and shall confer an exclusive right upon their holder in accordance with the provisions of this Article.
2. Each Party may provide limited exceptions to the protection of industrial designs, provided that such exceptions do not unreasonably conflict with the normal exploitation of protected industrial designs and do not unreasonably prejudice the legitimate interests of the owner of the protected design, taking account of the legitimate interests of third parties.
3. Each Party shall ensure that an owner of a protected industrial design has at least the right to prevent third parties not having the owner's consent from making, selling, or importing articles bearing or embodying a copy, or substantial copy, of the protected design, when such acts are undertaken for commercial purposes.

**Article 17.37**  
**Duration of Protection**

Each Party shall ensure that the total term of protection available for registered designs is no less than 15 years.

**Article 17.38**  
**Electronic Industrial Design System**

Each Party shall provide a:

- (a) system for the electronic application for the registration of industrial designs; and
- (b) publicly available electronic information system, which must include an online database of registered industrial designs.

**Article 17.39**  
**Relationship to Copyright**

Each Party may provide that the subject matter of a design, including the unregistered appearance of a product, may be protected under copyright law if the conditions for such protection are met. The extent to which, and the conditions under which, such protection is conferred, including the level of originality required, shall be determined by each Party.

**Article 17.40**  
**International Registration of Industrial Designs**

Each Party shall make all reasonable efforts to accede to the Hague Agreement if it is not already party to it.

**Section G**  
**Copyright and Related Rights**

**Article 17.41**  
**Authors**

Each Party shall provide for authors the exclusive right to authorise or prohibit:

- (a) the direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part, of their works;

- (b) any form of distribution to the public, by sale or other transfer of ownership, of the original and copies of their works;
- (c) the communication to the public of their works, by wire or wireless means, including the making available to the public of their works in such a way that members of the public may access them from a place and at a time individually chosen by them;<sup>14</sup> and
- (d) the commercial rental to the public of originals or copies of their works comprising at least sound recordings, computer programs,<sup>15</sup> and films.

#### **Article 17.42** **Performers**

Each Party shall provide for performers the exclusive right to authorise or prohibit:

- (a) the fixation of their unfixed performances;
- (b) the direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part, of their performances fixed in phonograms;
- (c) any form of distribution to the public, by sale or other transfer of ownership, of their performances fixed in phonograms;
- (d) the making available to the public of their performances fixed in phonograms, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them;
- (e) the broadcasting and the communication to the public of their unfixed performances, except where the performance is itself already a broadcast performance; and
- (f) the commercial rental to the public of their performances fixed in phonograms.

---

<sup>14</sup> The Parties understand that the mere provision of physical facilities for enabling or making a communication does not in itself amount to communication within the meaning of this Chapter.

<sup>15</sup> A Party may exclude computer programs where the program itself is not the essential object of the rental.

**Article 17.43**  
**Producers of Phonograms**

Each Party shall provide for producers of phonograms the exclusive right to authorise or prohibit:

- (a) the direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part of their phonograms;
- (b) any form of distribution to the public, by sale or other transfer of ownership, of their phonograms;
- (c) the making available to the public of their phonograms, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them; and
- (d) the commercial rental of their phonograms to the public.

**Article 17.44**  
**Broadcasting Organisations**

Each Party shall provide for broadcasting organisations the exclusive right to authorise or prohibit:

- (a) the fixation of their broadcasts;
- (b) the direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part, of fixations of their broadcasts;
- (c) the making available to the public of fixations of their broadcasts, in such a way that members of the public may access them from a place and at a time individually chosen by them;
- (d) the distribution to the public, by sale or otherwise, of fixations of their broadcasts;
- (e) the rebroadcasting of their broadcasts; and
- (f) the communication to the public of their broadcasts if such communication is made in places accessible to the public against payment of an entrance fee.



**Article 17.45**  
**Broadcasting and Communication to the Public of Phonograms Published for Commercial Purposes<sup>16</sup>**

1. With respect to the direct or indirect use of phonograms published for commercial purposes for broadcasting or for any communication to the public, each Party shall provide for performers and producers of those phonograms:
  - (a) a right to a single equitable remuneration consistent with Article 15(1), Article 15(2), and Article 15(4) of the WPPT; or
  - (b) the exclusive right to authorise or prohibit such use.
2. The Parties shall discuss measures to ensure adequate remuneration for performers and producers of phonograms when phonograms published for commercial purposes are used for broadcasting or for any communication to the public.

**Article 17.46**  
**Artist's Resale Right**

1. Each Party shall provide, for the benefit of the author of an original work of art, a resale right that is defined as an inalienable right, which cannot be waived, even in advance, and the right to receive a royalty based on the sale price obtained for any resale of the work, subsequent to the first transfer of the work by the author.
2. Each Party shall provide that the right referred to in paragraph 1 shall apply to all acts of resale involving any sellers, buyers, or intermediaries acting in the course of business of dealing in works of art, such as salesrooms, art galleries, and, in general, any dealers in works of art.
3. Each Party may provide that the right referred to in paragraph 1 shall not apply to acts of resale where the seller has acquired the work directly from the author less than three years before that resale and where the resale price does not exceed a certain minimum amount specified in a Party's law.
4. Each Party may determine the procedure for collection of the royalty, its amount and the criteria for the works, resales and authors eligible to receive the royalty under its domestic law.
5. Each Party shall provide the right referred to in this Article for authors of the other Party on a reciprocal basis.

---

<sup>16</sup> For the purposes of this Article, phonograms made available to the public by wire or wireless means in such a way that members of the public may access them from a place and at a time individually chosen by them shall be considered as if they had been published for commercial purposes.

6. Each Party shall implement its obligations under this Article no later than two years after the date of entry into force of this Agreement.

**Article 17.47**  
**Limitations and Exceptions**

1. Each Party may provide for limitations or exceptions to the rights covered in this Section only in certain special cases that do not conflict with a normal exploitation of covered subject matter and do not unreasonably prejudice the legitimate interests of the right holder.
2. This Article does not reduce or extend the scope of applicability of the limitations and exceptions to any rights permitted by international agreements such as the TRIPS Agreement, the Berne Convention, the Rome Convention, the WCT, or the WPPT.

**Article 17.48**  
**Term of Protection**

1. Each Party shall provide that the rights of an author of a work within the meaning of Article 2 of the Berne Convention shall run for the life of the author and for 70 years after the author's death.
2. In the case of a work of joint authorship, each Party shall provide that the term referred to in paragraph 1 shall be calculated from the death of the last surviving author.
3. Notwithstanding paragraphs 1 and 2, where the term of protection of a work is not determined by reference to the life of a natural person, each Party shall provide that the term of protection shall expire 70 years after the creation of the work or, if lawfully made available to the public within 70 years from creation, 70 years after the first such making available.
4. Each Party shall provide that the rights of broadcasting organisations shall expire 50 years after the first transmission of a broadcast, whether this broadcast is transmitted by wire or over the air, including by cable or satellite.
5. Each Party shall provide that the rights of performers for their performances otherwise than in phonograms shall expire 50 years after the date of the fixation of the performance or, if lawfully made available to the public during this time, 50 years after the first such making available.
6. Each Party shall provide that the rights of performers for their performances in phonograms shall expire 50 years after the date of fixation of the

performance or, if lawfully made available to the public during this time, 70 years after the first such making available.

7. Each Party shall provide that the rights of producers of phonograms shall expire 50 years after the fixation being made or, if lawfully made available to the public during this time, 70 years after the first such making available. Each Party may adopt effective measures to ensure that the profit generated during the 20 years of protection beyond 50 years is shared fairly between the performers and the producers of phonograms.
8. Each Party shall provide that the terms laid down in this Article shall be calculated from 1 January of the year following the event.
9. Each Party may provide for longer terms of protection than those provided for in this Article.
10. The obligations in this Article shall only commence applying 15 years after the date of entry into force of this Agreement.

#### **Article 17.49** **Collective Management Organisations**

1. The Parties shall endeavour to promote cooperation between the collective management organisations established in their respective territories, for the purpose of fostering the availability of works and other protected subject matter in the territories of the Parties, and the transfer of rights revenue between the respective collective management organisations for the use of such works or other protected subject matter.
2. The Parties shall endeavour to promote the transparency of collective management organisations established in their respective territories, particularly in relation to the collection of rights revenues, the deductions they make from the rights revenue collected, their distribution policies, and the repertoire they represent.
3. Where a collective management organisation established in the territory of a Party has entered into a representation agreement with a collective management organisation established in the territory of the other Party, the Parties recognise the importance of non-discriminatory treatment by their respective collective management organisation of any right holder, whose rights this organisation manages under the representation agreement.
4. Where a collective management organisation represents a collective management organisation established in the territory of the other Party by way of a representation agreement, the Parties recognise the importance of:

- (a) accurate, regular, and diligent payment of amounts owed to the represented collective management organisation by the representing collective management organisation; and
- (b) the provision of information on the amount of rights revenue collected on the represented organisation's behalf and any deductions made to this rights revenue by the representing collective management organisation.

**Article 17.50**  
**Technological Protection Measures**

1. Each Party shall provide adequate legal protection and effective legal remedies against the circumvention of effective technological measures that are used by authors, performers, producers of phonograms, or broadcasting organisations in connection with the exercise of their rights under this Section and that restrict acts, in respect of the covered subject matter, which are not authorised by the authors, the performers, the producers of phonograms, or the broadcasting organisations concerned or permitted by the domestic law of that Party.
2. A Party may adopt or maintain appropriate measures, as necessary, to ensure that the adequate legal protection and effective legal remedies under paragraph 1 do not prevent beneficiaries of exceptions or limitations provided for in accordance with Article 17.47 (Limitations and Exceptions) from enjoying such exceptions or limitations.

**Article 17.51**  
**Rights Management Information**

1. Each Party shall provide adequate and effective legal remedies against any person knowingly performing, without authority, any of the following acts knowing, or having reasonable grounds to know, that it will induce, enable, facilitate, or conceal an infringement of any copyright or related rights as provided by the law of the Party:
  - (a) to remove or alter any electronic rights management information; or
  - (b) to distribute, import for distribution, broadcast, communicate, or make available to the public covered subject matter knowing that electronic rights management information has been removed or altered without authority.
2. Each Party may adopt or maintain appropriate limitations or exceptions to measures implementing paragraph 1. The obligations set out in this Article

are without prejudice to the limitations and exceptions to infringement of copyright and related rights under a Party's law.

3. For the purposes of this Article, "rights management information" means:
  - (a) information that identifies covered subject matter, the author, performer, producer of a phonogram, or any other right holder with respect to covered subject matter;
  - (b) information about the terms and conditions of use of covered subject matter; or
  - (c) any numbers or codes that represent the information described in subparagraph (a) or subparagraph (b), when any of these items of information is attached to covered subject matter, or appears in connection with the communication or making available of covered subject matter to the public.

## **Section H Patents**

### **Article 17.52 Rights Conferred**

1. A patent shall confer on its owner the following exclusive rights:
  - (a) if the subject matter of a patent is a product, to prevent third parties not having the owner's consent from the acts of making, using, offering for sale, selling, or importing for these purposes that product; and
  - (b) if the subject matter of a patent is a process, to prevent third parties not having the owner's consent from the act of using the process, and from the acts of using, offering for sale, selling, or importing for these purposes at least the product obtained directly by that process.
2. Patent owners shall have the right to assign, or transfer by succession, the patent and to conclude licensing contracts.

### **Article 17.53 Patentable Subject Matter**

1. Subject to paragraphs 2 and 3, each Party shall make patents available for any invention, whether a product or process, in all fields of technology, provided

that the invention is new, involves any inventive step, and is capable of industrial application.<sup>17</sup>

2. A Party may exclude from patentability inventions, the prevention within its territory of the commercial exploitation of which is necessary to protect *ordre public* or morality, including to protect human, animal, or plant life or health, or to avoid serious prejudice to the environment, provided that such exclusion is not made merely because the exploitation is prohibited by its law.
3. A Party may also exclude from patentability:
  - (a) diagnostic, therapeutic, and surgical methods for the treatment of humans or animals; and
  - (b) plants and animals other than micro-organisms, and essentially biological processes for the production of plants or animals other than non-biological and microbiological processes. However, each Party shall provide for the protection of plant varieties either by patents or by an effective *sui generis* system or by any combination thereof.

#### **Article 17.54 Exceptions**

A Party may provide limited exceptions to the exclusive rights conferred by a patent, provided that those exceptions do not unreasonably conflict with a normal exploitation of the patent and do not unreasonably prejudice the legitimate interests of the patent owner, taking account of the legitimate interests of third parties.

#### **Article 17.55 Regulatory Review Exception**

Without prejudice to the scope of, and consistent with, Article 17.54 (Exceptions), each Party shall adopt or maintain a regulatory review exception for pharmaceutical products<sup>18</sup> that permits a third person to do an act that would otherwise infringe a patent in the territory of that Party, if the act is done for purposes related to generating information to meet requirements for marketing approval of a pharmaceutical product in that Party, or another country, or both.

---

<sup>17</sup> For the purposes of this Article, the terms “inventive step” and “capable of industrial application” may be deemed by a Party to be synonymous with the terms “non-obvious” and “useful” respectively.

<sup>18</sup> For greater certainty, this Article does not limit a Party’s ability to adopt or maintain regulatory review exceptions for any other patented inventions.

**Article 17.56**  
**Other Use Without Authorisation of the Right Holder**

The Parties understand that nothing in this Chapter limits a Party's rights and obligations under Article 31 or Article 31bis of the TRIPS Agreement.

**Article 17.57**  
**Amendments, Corrections, and Observations**

Neither Party shall revoke or invalidate a patent, either totally or in part, without the patent owner being given the opportunity to make observations on the intended revocation or invalidation, and to make amendments and corrections where permitted under a Party's law within a reasonable time limit.

**Article 17.58**  
**Publication of Patent Applications**

1. Recognising the benefits of transparency in the patent system, each Party shall endeavour to publish unpublished pending patent applications promptly after the expiration of 18 months from the filing date or, if priority is claimed, from the earliest priority date.
2. If a pending application is not published promptly in accordance with paragraph 1, a Party shall publish that application or the corresponding patent, as soon as practicable.
3. Each Party shall provide that an applicant may request the early publication of an application prior to the expiration of the period referred to in paragraph 1.

**Article 17.59**  
**Information Relating to Published Patent Applications and Granted Patents**

For published patent applications and granted patents, and in accordance with the Party's requirements for prosecution of such applications and patents, each Party shall make available to the public at least the following information, to the extent that such information is in the possession of the competent authorities and is generated on, or after, the date of the entry into force of this Agreement:

- (a) search and examination results, including details of, or information related to, relevant prior art searches;
- (b) as appropriate, non-confidential communications from applicants;  
and

- (c) patent and non-patent related literature citations submitted by applicants and relevant third parties.

**Article 17.60**  
**Conditions on Patent Applicants**

1. Each Party shall require an applicant for a patent to disclose the invention in a manner sufficiently clear and complete for the invention to be carried out by a person skilled in the art.
2. A Party may require an applicant for a patent to provide information concerning the applicant's corresponding foreign applications and grants.

**Section I**  
**Undisclosed Test or Other Data**

**Article 17.61**  
**Protection of Undisclosed Test or Other Data for Agricultural Chemical Products**

1. If a Party requires, as a condition for approving the marketing of a new agricultural chemical product, the submission of undisclosed test or other data, that Party shall ensure that, in accordance with its law, either:
  - (a) third persons are not permitted, without the consent of the person that previously submitted such information, to market the same or a similar<sup>19</sup> product on the basis of that information, or the marketing approval granted to the person that submitted that information, for a period of at least 10 years from the date of marketing approval of the previously approved agricultural chemical product; or
  - (b) applicants for marketing approval are generally required to submit a full set of test data, even in cases where there was a prior application for the same product, for a period of at least 10 years, from the date of approval of a prior application.<sup>20</sup>

---

<sup>19</sup> For greater certainty, for the purposes of this Section, an agricultural chemical product is "similar" to a previously approved agricultural chemical product if the marketing approval, or, in the alternative, the applicant's request for such approval, of that similar agricultural chemical product is based upon the undisclosed test or other data concerning the safety and efficacy of the previously approved agricultural chemical product, or the prior approval of that previously approved product.

<sup>20</sup> For greater certainty, nothing in this Article prevents a Party from applying reasonable exceptions in its law in order to protect animal welfare or prevent unnecessary animal testing.



2. For the purposes of this Article, a new agricultural chemical product is a product that contains<sup>21</sup> a chemical entity that has not been previously approved in the territory of the Party for use in an agricultural chemical product.

#### **Article 17.62**

##### **Protection of Undisclosed Test or Other Data for Pharmaceutical Products**

1. If a Party requires, as a condition for approving the marketing of a new pharmaceutical product, the submission of undisclosed test or other data, that Party shall not permit third persons, without the consent of the person that previously submitted that information, to place on the market the same or a similar<sup>22</sup> product on the basis of:
  - (a) that information; or
  - (b) the marketing approval granted to the person that submitted that information, for at least five years from the date of marketing approval of the previously approved pharmaceutical product; such date to be determined in accordance with each Party's law.
2. For the purposes of this Article, a new pharmaceutical product means a pharmaceutical product that does not contain<sup>23</sup> a chemical entity or biologic that has been previously approved in that Party.

#### **Section J**

##### **Trade Secrets**

#### **Article 17.63**

##### **Trade Secrets**

1. In the course of ensuring effective protection against unfair competition as provided in Article 10*bis* of the Paris Convention, each Party shall provide that trade secret holders shall have the possibility of preventing their trade secrets from being disclosed to, acquired by, or used by others without their consent in a manner contrary to honest commercial practices.

---

<sup>21</sup> For the purposes of this Article, a Party may treat "contain" as meaning utilise. For greater certainty, for the purposes of this Article, a Party may treat "utilise" as requiring the new chemical entity to be primarily responsible for the product's intended effect.

<sup>22</sup> For greater certainty, for the purposes of this Section, a pharmaceutical product is "similar" to a previously approved pharmaceutical product if the marketing approval, or, in the alternative, the applicant's request for that approval, of that similar pharmaceutical product is based upon the undisclosed test or other data concerning the safety and efficacy of the previously approved pharmaceutical product, or the prior approval of that previously approved product.

<sup>23</sup> For the purposes of this Article, a Party may treat "contain" as meaning utilise.

2. Subject to paragraphs 3 and 4, each Party shall provide that at least each of the following shall be considered contrary to honest commercial practices:
  - (a) the acquisition of a trade secret without the consent of the trade secret holder, whenever carried out by unauthorised access to, appropriation of, or copying of any documents, objects, materials, substances, or electronic files, lawfully under the control of the trade secret holder, containing the trade secret or from which the trade secret can be deduced;
  - (b) the use or disclosure of a trade secret whenever carried out, without the consent of the trade secret holder, by a person who is found to meet any of the following conditions:
    - (i) having acquired the trade secret in a manner referred to in subparagraph (a);
    - (ii) being in breach of a confidentiality agreement or any other duty not to disclose the trade secret; or
    - (iii) being in breach of a contractual or any other duty to limit the use of the trade secret; and
  - (c) the acquisition, use or disclosure of a trade secret whenever carried out by a person who, at the time of the acquisition, use, or disclosure, knew or ought, under the circumstances, to have known that the trade secret had been obtained directly or indirectly from another person who was disclosing the trade secret in a manner referred to in subparagraph (b).
3. Nothing in this subsection shall be understood as requiring a Party to consider any of the following conduct as contrary to honest commercial practices:
  - (a) independent discovery or creation;
  - (b) reverse engineering of a product by a person who is lawfully in possession of it and who is free from any legally valid duty to limit the acquisition of the relevant information;
  - (c) acquisition, use, or disclosure of information as required or permitted by the Party's law;
  - (d) in the exercise of the right of workers or workers' representatives to information and consultation in accordance with the Party's law; or
  - (e) use by employees of their experience and skills honestly acquired in the normal course of their employment.

4. Each Party may provide for limited exceptions and limitations to the rights of trade secret holders in circumstances where the legitimate interests of third parties, the general public, or the Party outweigh the legitimate interests of trade secret holders, such as in the following cases:
  - (a) for exercising the right to freedom of expression and information, including respect for the freedom and pluralism of the media;
  - (b) for revealing misconduct, wrongdoing, or illegal activity, provided that the person acquiring, using, and disclosing the trade secret did so for the purpose of protecting the general public interest; and
  - (c) disclosure by workers to their representatives as part of the legitimate exercise by those representatives of their functions in accordance with the Party's law, provided that such disclosure was necessary for that exercise.

## **Section K Enforcement**

### **Sub-Section K.1 Enforcement – General Obligations**

#### **Article 17.64 General Obligations**

1. Each Party shall provide for the measures, procedures, and remedies set out in this Section in respect of the enforcement of intellectual property rights:
  - (a) measures, procedures, and remedies must be:
    - (i) fair, equitable, and effective;
    - (ii) applied in such a manner as to avoid the creation of barriers to legitimate trade, including electronic commerce, and to provide for safeguards against their abuse; and
    - (iii) be implemented in a manner consistent with the Party's laws, including laws concerning freedom of expression, fair process, and the right to privacy;
  - (b) measures and procedures must not be unnecessarily complicated or costly, entail unreasonable time-limits, or give rise to unwarranted delays; and

- (c) remedies must be dissuasive and proportionate, taking into account the seriousness of the infringement and the interests of third parties.
- 2. The Parties recognise the importance of ensuring that right holders<sup>24</sup> and alleged infringers have access to justice.
- 3. For the purposes of enforcing intellectual property rights and defending claims of infringement of intellectual property rights, each Party shall:
  - (a) have in place an effective judicial system;
  - (b) permit the use of alternative dispute resolution mechanisms; and
  - (c) endeavour to promote alternative dispute resolution.
- 4. This Section does not create any obligation:
  - (a) to put in place a judicial system for the enforcement of intellectual property rights distinct from that for the enforcement of law in general, nor does it affect the capacity of each Party to enforce its law in general; or
  - (b) with respect to the distribution of resources as between the enforcement of intellectual property rights and the enforcement of law in general.

**Sub-Section K.2  
Enforcement – Civil Remedies**

**Article 17.65  
Entitled Applicants**

Each Party shall make available to a right holder civil judicial procedures concerning the enforcement of any intellectual property right covered under this Chapter.

**Article 17.66  
Provisional Measures for Preserving Evidence**

- 1. Each Party shall provide that its judicial authorities may order prompt and effective provisional measures to preserve relevant evidence in relation to an alleged infringement, subject to the protection of confidential information.

---

<sup>24</sup> For greater certainty, references in this Section to a right holder shall include a trade secret holder; and do not limit the persons a Party may permit to enforce intellectual property rights, in accordance with its law.

2. Each Party shall provide that its judicial authorities may adopt provisional measures, where appropriate, without the other party having been heard, in particular if any delay is likely to cause irreparable harm to the right holder or if there is a demonstrable risk of evidence being destroyed. Each Party may provide that such measures include the detailed description, with or without the taking of samples, or the physical seizure of the infringing goods, and the materials and implements used in the production or distribution of these goods and related documents.

**Article 17.67**  
**Provisional and Precautionary Measures**

1. Each Party shall provide that its judicial authorities may, on request of the applicant:
  - (a) order against the alleged infringer an interlocutory injunction intended to prevent any imminent infringement of an intellectual property right, or to forbid, on a provisional basis and subject, as appropriate, to a recurring penalty payment where provided for by its law, the continuation of the alleged infringements of that right, or to make such continuation subject to the lodging of guarantees intended to ensure the compensation of the right holder;
  - (b) order against an intermediary whose services are being used by an alleged infringer of intellectual property rights an interlocutory injunction for the same purpose and under the same conditions as apply under subparagraph (a); and
  - (c) order the seizure or delivery up of goods suspected of infringing rights in a trade mark, copyright or related right or, where a Party's law allows, any other intellectual property right.
2. In the case of an alleged infringement committed on a commercial scale, each Party shall provide that if the applicant demonstrates circumstances likely to endanger the recovery of damages, its judicial authorities may order the precautionary seizure of the movable and immovable property of the alleged infringer, including the blocking of the alleged infringer's bank accounts and other assets.

**Article 17.68**  
**Safeguards**

1. Each Party shall provide that its judicial authorities have the authority to require the applicant for measures provided for in Article 17.66 (Provisional

Measures for Preserving Evidence) or Article 17.67 (Provisional and Precautionary Measures) to provide:

- (a) reasonably available evidence in order to satisfy the judicial authority, with a sufficient degree of certainty, that the applicant's right is being infringed or that the infringement is imminent; and
  - (b) security or equivalent assurance set at a level:
    - (i) that is sufficient to protect the person against whom a measure is sought and to prevent abuse; and
    - (ii) that shall not unreasonably deter recourse to those procedures.
2. Each Party shall provide that in relation to a civil judicial proceeding concerning the enforcement of an intellectual property right, its judicial or other authorities have the authority to:
- (a) order a party, at whose request a measure was taken and who has abused the enforcement proceeding, to adequately compensate a person wrongly enjoined or restrained for injury suffered because of that abuse;
  - (b) order a party to pay the defendant's expenses, which may include appropriate attorneys' fees; and
  - (c) impose sanctions on a party to the proceedings, counsel, experts, or other persons subject to the court's jurisdiction for violation of judicial orders concerning the protection of confidential information produced or exchanged in that proceeding.

#### **Article 17.69 Right to Information**

1. Each Party shall provide that, in the context of civil proceedings concerning an infringement of an intellectual property right and in response to a justified and proportionate request of the claimant, the competent judicial authorities may order a person specified in paragraph 2 to provide relevant information in that person's control or possession on the origin and distribution networks of the goods or services that infringe or allegedly infringe an intellectual property right.
2. An order described in paragraph 1 shall be available against:
  - (a) a person who has infringed, or is alleged to have infringed, an intellectual property right; and

- (b) any other person who was:
  - (i) found in possession of the infringing, or allegedly infringing, goods on a commercial scale;
  - (ii) found to be using the infringing, or allegedly infringing, services on a commercial scale;
  - (iii) found to be providing, on a commercial scale, services used in the infringing, or allegedly infringing, activities; or
  - (iv) indicated by the person referred to in subparagraph (b)(i), subparagraph (b)(ii), or subparagraph (b)(iii) as being involved in the production, manufacture, or distribution of the goods, or the provision of the services.
- 3. The information referred to in paragraph 1 may include:
  - (a) the names and addresses of the producers, manufacturers, distributors, suppliers, and other previous holders of the goods or services, as well as the intended wholesalers and retailers; or
  - (b) information on the quantities produced, manufactured, delivered, received, or ordered, as well as the price obtained for the goods or services in question.
- 4. This Article shall apply without prejudice to other provisions in a Party's law that:
  - (a) permit the competent authorities or order the infringer or alleged infringer to provide additional information;
  - (b) govern the use in civil or criminal proceedings of the information communicated under this Article;
  - (c) govern responsibility for the misuse of the right of information;
  - (d) afford an opportunity for refusing to provide information where doing so would amount to an admission of a person's participation, or that of their close relatives, in an infringement of an intellectual property right;
  - (e) govern the protection of confidentiality of information sources;
  - (f) govern personal data; or
  - (g) govern privilege.

**Article 17.70**  
**Injunctions**

1. Each Party shall provide that, if its judicial authority has found an infringement of an intellectual property right, the authority may grant an injunction aimed at prohibiting the continuation of the infringement.
2. The injunction provided for in paragraph 1 shall be available against:
  - (a) the infringer; or
  - (b) an intermediary whose services are used by an infringer to infringe an intellectual property right.

**Article 17.71**  
**Corrective Measures**

1. Each Party shall provide that, on request of the applicant and without prejudice to any damages due to the right holder by reason of the infringement, its judicial authorities may order the definitive removal from the channels of commerce, or the destruction of goods that were found to be infringing an intellectual property right. Each Party shall provide that its judicial authorities may also order, as appropriate, the destruction of materials and implements predominantly used in the creation or manufacture of those goods.
2. Each Party shall provide that its judicial authorities may order the measures referred to in paragraph 1 to be carried out at the expense of the infringer.

**Article 17.72**  
**Damages**

1. Each Party shall provide that, on application of an injured party, its judicial authorities may order an infringer, who knowingly or with reasonable grounds to know, engaged in an infringing activity, to pay the right holder adequate compensation for the injury the right holder has suffered as a result of the infringement.
2. A Party may provide that its judicial authorities have the authority to order recovery of profits even where the infringer did not knowingly, or with reasonable grounds to know, engage in infringing activity.



**Article 17.73**  
**Costs**

Each Party shall provide that its judicial authorities may order, in accordance with its law, that reasonable and proportionate legal costs and other expenses incurred by the successful party in legal proceedings concerning the infringement of intellectual property rights shall be borne by the unsuccessful party.

**Sub-Section K.3**  
**Enforcement – Border Measures**

**Article 17.74**  
**Border Measures**

1. Each Party:
  - (a) shall provide for applications and procedures to suspend the release of, or to detain, suspected goods under customs control; and
  - (b) may provide for applications in respect of other goods that are suspected of infringing intellectual property rights.
2. For the purposes of this Article:
  - (a) “competent authorities” may include the appropriate judicial, administrative, or law enforcement authorities under a Party’s law; and
  - (b) “suspected goods” means goods that are suspected of infringing a trade mark or copyright under the law of the Party providing for applications and procedures under paragraph 1.
3. With respect to the initiation of the procedures provided for in paragraph 1 by a right holder, each Party shall provide that the relevant right holder is required:
  - (a) to provide adequate evidence to satisfy the competent authorities that, under its law, there is *prima facie* an infringement of the right holder’s intellectual property right; and
  - (b) to supply sufficient information that may reasonably be expected to be within the right holder’s knowledge to make the suspected goods reasonably recognisable by its competent authorities.

4. A Party may provide that, if its competent authorities have detained or suspended the release of suspected goods, those authorities may inform the right holder of the names and addresses of the consignor, exporter, consignee, or importer; a description of the goods; the quantity of the goods; and, if known, the country of origin of the goods. This paragraph is without prejudice to a Party's law pertaining to privacy or confidentiality.
5. Each Party shall provide that its competent authorities may initiate border measures *ex officio*, without the need for a formal complaint from a third party or right holder, with respect to suspected goods under customs control that are imported or destined for export. Each Party shall provide for its customs authorities to use risk management to identify suspected goods, which may include random selection.
6. Each Party shall ensure that its competent authorities decide about granting or recording applications to suspend the release of suspected goods, within a reasonable period of time after the initiation of procedures described in paragraph 1.
7. Each Party shall adopt and maintain procedures under which its competent authorities may determine, within a reasonable period after initiation of procedures described in paragraph 1, whether suspected goods infringe an intellectual property right.
8. Each Party shall provide that its competent authorities have the authority to order the destruction or disposal of suspected goods under customs control following a determination that the goods are infringing an intellectual property right. In cases in which the goods are not destroyed, each Party shall provide that, except in exceptional circumstances, the goods are disposed of outside the channels of commerce in such a manner as to avoid any harm to the right holder. With regard to counterfeit trade mark goods, the simple removal of the trade mark unlawfully affixed shall not be sufficient, other than in exceptional cases, to permit the release of the goods into the channels of commerce.
9. Each Party may provide that, if requested by the customs authorities, the holder of the granted or recorded application shall be obliged to reimburse the costs incurred by the customs authorities, or other parties acting on behalf of customs authorities, including storage, handling, and any costs relating to the destruction or disposal of the goods.
10. Each Party may exclude from the application of this Article small quantities of goods of a non-commercial nature contained in travellers' personal luggage or sent in small consignments.
11. It is understood that there shall be no obligation to apply the procedures described in this Article to imports of goods put on the market in another

country by, or with the consent of, the right holder,<sup>25</sup> or to goods in transit.

#### **Sub-Section K.4 Enforcement – Criminal Remedies**

##### **Article 17.75 Criminal Offences**

1. Each Party shall provide for criminal procedures and penalties to be applied at least in cases of wilful trade mark counterfeiting or copyright or related rights piracy on a commercial scale. For the purposes of this Article, the term “on a commercial scale” includes at least:
  - (a) acts carried out for commercial advantage or financial gain; and
  - (b) significant acts, not carried out for commercial advantage or financial gain, that have a substantial prejudicial impact on the interests of the copyright or related rights holder in relation to the marketplace.<sup>26</sup>
2. Each Party shall treat wilful importation or exportation of counterfeit trade mark goods or pirated copyright goods on a commercial scale as unlawful activities subject to criminal penalties.<sup>27</sup>
3. Each Party shall provide for criminal procedures and penalties to be applied in cases of wilful importation<sup>28</sup> and domestic use, in the course of trade and on a commercial scale, of a label or packaging:
  - (a) to which a trade mark has been applied without authorisation that is identical to, or cannot be distinguished from, a trade mark registered in its territory; and
  - (b) that is intended to be used in the course of trade on goods that are identical to goods for which that trade mark is registered.

---

<sup>25</sup> For greater certainty, the consent of the right holder to their goods being imports of goods put on the market in another country may be express or implicit.

<sup>26</sup> A Party may comply with this subparagraph by addressing such significant acts under its criminal procedures and penalties for non-authorised uses of protected works, performances, and phonograms in its law. A Party may also provide that the volume and value of any infringing items may be taken into account in determining whether the act has a substantial prejudicial impact on the interests of the copyright or related right holder in relation to the marketplace.

<sup>27</sup> A Party may comply with this paragraph by providing that distribution or sale of counterfeit trade mark goods or pirated copyright goods on a commercial scale is an unlawful activity subject to criminal penalties.

<sup>28</sup> A Party may comply with the obligation relating to importation of labels or packaging through its laws concerning distribution.

4. With respect to the offences specified in this Article,<sup>29</sup> each Party shall provide that criminal liability for aiding and abetting is available under its law.

**Article 17.76**  
**Penalties**

1. With respect to the offences specified in Article 17.75 (Criminal Offences), each Party shall provide for penalties that include imprisonment and monetary fines sufficiently high to provide a deterrent to future acts of infringement, consistent with the level of penalties applied for crimes of a corresponding gravity.
2. Each Party shall provide that its judicial authorities may, in determining penalties, account for the seriousness of the circumstances, which may include circumstances that involve threats to, or effects on, health or safety.

**Article 17.77**  
**Seizure, Forfeiture, and Destruction**

1. With respect to the offences specified in Article 17.75 (Criminal Offences), each Party shall provide the following:
  - (a) its judicial or other competent authorities shall have the authority to order the seizure of suspected counterfeit trade mark goods or pirated copyright goods, any related materials and implements used in the commission of the alleged offence, documentary evidence relevant to the alleged offence, and assets derived from, or obtained through, the alleged infringing activity. If a Party requires identification of items subject to seizure as a prerequisite for issuing a judicial order referred to in this subparagraph, that Party shall not require the items to be described in greater detail than necessary to identify them for the purpose of seizure;
  - (b) its judicial authorities shall have the authority in accordance with that Party's law to order the forfeiture of any assets derived from, or obtained through, the infringing activity;
  - (c) subject to paragraph 2, its judicial authorities shall have the authority, in accordance with that Party's law, to order the forfeiture or destruction of:
    - (i) counterfeit trade mark goods or pirated copyright goods;

---

<sup>29</sup> Each Party shall also provide that the offences specified in this Article are applicable in any free trade zones in a Party.

- (ii) materials and implements that have been predominantly used in the creation of pirated copyright goods or counterfeit trade mark goods; and
    - (iii) any other labels or packaging to which a counterfeit trademark has been applied and that have been used in the commission of the offence; and
  - (d) its judicial or other competent authorities shall have the authority to release or, in the alternative, provide access to, goods, material, implements, and other evidence held by the relevant authority to a right holder for civil infringement proceedings.
2. With respect to forfeiture or destruction ordered in accordance with subparagraph 1(c), each Party shall provide that:
- (a) in cases in which destruction of counterfeit trade mark goods or pirated copyright goods is not ordered, the judicial or other competent authorities shall ensure that, except in exceptional circumstances, those goods are disposed of outside the channels of commerce in such a manner as to avoid causing any harm to the right holder; and
  - (b) in cases in which forfeiture or destruction is ordered, it shall occur without compensation of any kind to the offender.
3. With respect to the offences specified in Article 17.75 (Criminal Offences), a Party may provide that its judicial authorities may order the seizure or forfeiture of assets, or alternatively, a fine, the value of which corresponds to the assets derived from, or obtained directly or indirectly through, the infringing activity.

**Article 17.78**  
***Ex Officio* Enforcement**

Each Party shall provide that its competent authorities may act upon their own initiative to initiate legal action with respect to the offences specified in Article 17.75 (Criminal Offences), without the need for a formal complaint by a third party or right holder.

**Article 17.79**  
**Liability of Legal Persons**

Each Party shall provide that legal persons<sup>30</sup> as well as natural persons may incur liability for the offences specified in Article 17.75 (Criminal Offences) in accordance with its law.

**Sub-Section K.5**  
**Enforcement in the Digital Environment**

**Article 17.80**  
**General Obligations on Enforcement in the Digital Environment**

Each Party shall provide that the enforcement measures, procedures and remedies, referred to in Sub-Sections K.2 (Enforcement – Civil Remedies) and K.4 (Enforcement – Criminal Remedies), including expeditious remedies to prevent infringement, as applicable, are available under its law to proceed against an act of infringement of intellectual property rights that takes place in the digital environment or over digital networks, including through electronic commerce platforms and social media.

**Article 17.81**  
**Limitations on Liability of Online Service Providers**

1. The Parties recognise that the services of online service providers (“OSPs”) are increasingly used in the course of the infringement of intellectual property rights, and that OSPs are often in the best position to bring such infringing activities to an end.
2. Each Party shall introduce or maintain measures that apply, in appropriate cases, to limit the liability of, or remedies available against, an OSP for copyright and related rights infringement by a user of its services. For greater certainty, a Party may extend these measures to cover other intellectual property rights.
3. Each Party shall ensure that the measures introduced or maintained under paragraph 2 include conditions to qualify for the limitation, in accordance with a Party’s law, including, where practicable, requiring the OSP to take action to prevent access to the materials infringing copyright or related rights.
4. This Article shall not affect the ability of a court or administrative authority, in accordance with the legal system of a Party, to require the OSP to terminate or prevent an infringement, including by the grant of a blocking order under Article 17.82 (Blocking Orders).

---

<sup>30</sup> For the purposes of this Article, the term “legal person” shall mean bodies corporate.

**Article 17.82**  
**Blocking Orders**

Each Party shall ensure that injunctions as provided for in Article 17.67 (Provisional and Precautionary Measures) and Article 17.70 (Injunctions):

- (a) are available against an OSP, where its online services are used by a third party to infringe an intellectual property right; and
- (b) include injunctions requiring that OSPs disable access to infringing content.

**Article 17.83**  
**Procedures for Domain Registries**

Each Party shall encourage its domain registry to take appropriate, timely, and effective measures to suspend domains used for infringing intellectual property on their respective country-code top-level domains.<sup>31</sup>

**Article 17.84**  
**Disclosure of Information**

Each Party shall provide that, in accordance with its law, its competent authorities<sup>32</sup> may order an online service provider to disclose expeditiously to a right holder information sufficient to identify a subscriber whose account was allegedly used for infringement, if that right holder has filed a legally sufficient claim of trade mark or copyright or related rights infringement, and if such information is being sought for the purpose of protecting or enforcing those rights.

**Sub-Section K.6**  
**Enforcement Practices with Respect to Intellectual Property Rights**

**Article 17.85**  
**Transparency of Judicial Decisions and Administrative Rulings**

Each Party shall provide that final judicial decisions and administrative rulings of general application pertaining to the enforcement of intellectual property rights:

---

<sup>31</sup> For greater certainty, this Article is without prejudice to the independence of each Party's domain registry.

<sup>32</sup> For the purposes of this Article, "competent authorities" may include the appropriate judicial, administrative, regulatory, or law enforcement authorities under a Party's law.

- (a) preferably are in writing and state any relevant findings of fact and the reasoning or the legal basis on which the decisions and rulings are based; and
- (b) are published or, if publication is not practicable, otherwise made available to the public in a national language of the Party in such a manner as to enable interested persons and the other Party to become acquainted with them.

**Article 17.86**  
**Voluntary Stakeholder Initiatives**

Each Party shall endeavour to promote cooperative efforts within the business community to effectively address intellectual property infringement, including in the digital environment, while preserving legitimate competition. This may include encouraging the establishment of public or private advisory groups to address issues of at least trade mark counterfeiting and copyright piracy.

**Article 17.87**  
**Public Awareness**

Each Party shall, as appropriate, endeavour to promote public awareness of the importance of respecting intellectual property rights, including in the digital environment, and the detrimental effect of the infringement of intellectual property rights. This may include cooperation with the business community, civil society organisations, and right holder representatives.

**Article 17.88**  
**Specialised Enforcement Expertise, Information and Domestic Coordination**

1. Each Party shall encourage the development of specialised expertise within its competent authorities responsible for the enforcement of intellectual property rights, including with respect to infringement taking place in the digital environment.
2. Each Party shall, as appropriate, promote internal coordination between, and facilitation of joint actions by, its competent authorities with respect to the enforcement of intellectual property rights, subject to the Party's available resources.



**Article 17.89**  
**Environmental Considerations in Destruction and Disposal of Infringing Goods**

The Parties recognise the importance of having due regard to environmental matters in their enforcement practices relating to the destruction and disposal of goods that have been found to infringe intellectual property rights.

**CHAPTER 18**  
**COMPETITION**

**Article 18.1**  
**Objectives**

The objectives of this Chapter are to promote economic efficiency and consumer welfare through the maintenance and enforcement of law to address anti-competitive activities and promote competition, and through cooperating on matters covered by this Chapter. The pursuit of these objectives will help to secure the benefits of this Agreement, including facilitating bilateral trade and investment between the Parties.

**Article 18.2**  
**Competition Law and Authorities**

1. Each Party shall maintain competition law in their respective territories which:
  - (a) proscribes anti-competitive agreements between enterprises, including cartel agreements;
  - (b) proscribes anti-competitive practices by enterprises that have substantial market power; and
  - (c) effectively addresses mergers with substantial anti-competitive effects.
2. Subject to paragraph 3, each Party shall ensure its competition law applies to all commercial activities in its territory regardless of an enterprise's nationality or ownership. This does not preclude a Party from applying its competition law to commercial activities outside its borders that have the object, or which have or may have the effect of, restricting competition within its jurisdiction.
3. Each Party may provide for certain exemptions from the application of its competition law provided that those exemptions are transparent, established in its law, and based on public policy grounds.
4. Each Party shall maintain an authority or authorities responsible and competent for the effective application and enforcement of its competition law ("national competition authorities"). Each Party's national competition authorities shall be operationally independent.

5. Each Party shall enforce its competition law in a manner which does not discriminate on the basis of nationality or ownership.

### **Article 18.3 Procedural Fairness**

1. Each Party shall ensure that its national competition authorities provide transparency, including in writing, regarding the applicable competition laws, regulations, and procedural rules pursuant to which competition law investigations are conducted and pursuant to which any sanction or remedy<sup>1</sup> is imposed.
2. Each Party's national competition authorities shall endeavour to conduct their investigations subject to definitive deadlines or within a reasonable timeframe, if the investigations are not subject to definitive deadlines.
3. Each Party shall ensure that any public notice confirming or revealing the existence of a pending or ongoing investigation avoids any statement or implication that a person has in fact violated the Party's competition law. This does not preclude the issuing of provisional, reasoned objections by a Party's national competition authorities.
4. Each Party shall afford to a person a reasonable opportunity to be legally represented and shall respect legal privilege, if not waived or lost, for lawful confidential communications between the legal representative and the person (and where relevant, a third party) if the communications concern the soliciting or rendering of legal advice.
5. Each Party shall ensure that, where information which is protected as confidential or privileged by its law is obtained by its national competition authorities during investigations, that information is not disclosed, subject to applicable legal exceptions.
6. Each Party shall ensure that before it imposes a sanction or remedy against a person pursuant to its competition law, it affords that person a reasonable opportunity to:
  - (a) be provided with information and evidence regarding the national competition authority's concerns, including identification of the relevant specific competition law engaged;
  - (b) engage with the relevant national competition authority at key points on significant legal, factual, and procedural issues;

---

<sup>1</sup> For the purposes of this Article, "remedy" includes decisions to decline to clear a merger or clear a merger subject to undertakings or conditions.

- (c) be heard and to present evidence before the relevant body (or as relevant, the applicable staff of that body) responsible for the imposition of the sanction or remedy including, if applicable, offering the analysis of a properly qualified expert, which may be in writing; and
- (d) where applicable, cross-examine any witness testifying before any court or independent tribunal,

except that a Party may provide for these opportunities within a reasonable time after it imposes an interim sanction or remedy.

- 7. Each Party may authorise its national competition authorities to resolve any civil or administrative matters that may give rise to a person being subject to a sanction or remedy by consent of that person and the national competition authorities. Each Party may provide for such voluntary resolutions to be subject to review by a court or independent tribunal for approval or a public comment period before becoming final.
- 8. Each Party shall ensure that all final decisions in civil or administrative matters made pursuant to its competition law are in writing and that those decisions set out the findings of fact and conclusions of law on which they are based. Each Party shall make public those final decisions, with the exception of any confidential material contained therein.
- 9. Each Party shall provide a person that is subject to the imposition of a sanction or remedy made pursuant to its competition law with the opportunity to seek review of the sanction or remedy by a court or independent tribunal (subject to the applicable rules of that court or tribunal), save that the Parties shall not be required to provide that opportunity where the person voluntarily agreed to the imposition of the sanction or remedy.
- 10. Each Party's national competition authorities shall maintain measures to preserve evidence which they have identified as being relevant, including exculpatory evidence, that they collected as part of an investigation until the investigation is complete and any review by a court or independent tribunal of any sanction or remedy imposed is exhausted.

#### **Article 18.4** **Private Rights of Action**

- 1. For the purposes of this Article, "private right of action" means the right of a person to seek redress, including injunctive, monetary, or other remedies, from a court or other independent tribunal for injury to that person's business or property caused by a violation of competition law.

2. Recognising that a private right of action is an important supplement to the public enforcement of competition law, each Party shall maintain laws or other measures that provide a private right of action, both independently and following a finding of violation by a national competition authority.
3. Each Party shall ensure that a right provided pursuant to paragraph 2 is available to persons of the other Party on terms that are no less favourable than those available to its own persons.
4. A Party may establish reasonable criteria for the exercise of any rights it creates or maintains in accordance with this Article.

### **Article 18.5 Cooperation**

1. The Parties recognise the importance of cooperation between their respective national competition authorities to promote effective application and enforcement of competition law. To this end, the Parties may cooperate, through their national competition authorities, on issues relating to the application and enforcement of competition law. That cooperation may include:
  - (a) notification by a Party to the other Party of its activities relating to application and enforcement of competition law that it considers may substantially affect the important interests of the other Party, as promptly as reasonably possible;
  - (b) exchange of information between the Parties to foster understanding or to facilitate effective application and enforcement of competition law; and
  - (c) coordination of investigations that raise the same or related concerns relating to the application or enforcement of competition law.
2. The Parties agree that it is in their common interest to work together on technical cooperation activities to strengthen competition policy development and the application and enforcement of competition law. Technical cooperation activities may include:
  - (a) the exchange of information on the development and implementation of competition policy and law, including in relation to competition issues in digital markets;
  - (b) the sharing of competition-related studies, reviews, and research, including in relation to competition issues in digital markets; and

- (c) the exchange of officials of policy agencies or national competition authorities to deepen cooperation and knowledge sharing.
- 3. Any cooperation under paragraphs 1 and 2 shall be compatible with each Party's law and important interests and within the Parties' available resources.
- 4. To implement the objectives of this Article, the Parties may enter into a separate agreement on cooperation and coordination which may provide for, among other things, enhanced information sharing and mutual legal assistance in non-criminal law enforcement.

### **Article 18.6 Transparency**

- 1. The Parties recognise the value of making competition enforcement and advocacy policies as transparent as possible.
- 2. Each Party shall make public or require the following to be made public, including on an official website:
  - (a) its competition laws and regulations;
  - (b) exemptions and immunities to its competition law; and
  - (c) guidelines and any rules issued in relation to the administration and enforcement of its competition law,but shall not be required to make public its internal operating procedures.

### **Article 18.7 Consultation**

- 1. In order to foster understanding between the Parties or to address specific matters that arise under this Chapter, a Party shall enter into consultations upon request by the other Party. In its request, the requesting Party shall indicate, if relevant, how the matter affects trade or investment between the Parties.
- 2. The Party addressed shall accord full and sympathetic consideration to the concerns of the requesting Party and shall reply promptly to the request.
- 3. To facilitate discussion of the matter that is the subject of the consultations, each Party shall endeavour to provide relevant non-confidential, non-privileged information to the other Party.

**Article 18.8**  
**Non-Application of Dispute Settlement**

Neither Party shall have recourse to dispute settlement under Chapter 31 (Dispute Settlement) for a matter arising under this Chapter.

## CHAPTER 19

### STATE-OWNED ENTERPRISES AND DESIGNATED MONOPOLIES

#### Article 19.1 Definitions

For the purposes of this Chapter:

**“Arrangement”** means the *Arrangement on Officially Supported Export Credits*, developed within the framework of the OECD, or a successor undertaking, whether developed within or outside of the OECD framework, that has been adopted by at least 12 original WTO Members that were Participants to the Arrangement as of 1 January 1979;

**“commercial activities”** means activities which an enterprise undertakes with an orientation toward profit-making<sup>1</sup> and which result in the production of a good or supply of a service that will be sold to a consumer in the relevant market in quantities and at prices determined by the enterprise;<sup>2</sup>

**“commercial considerations”** means price, quality, availability, marketability, transportation, and other terms and conditions of purchase or sale, or other factors that would normally be taken into account in the commercial decisions of a privately owned enterprise in the relevant business or industry;

**“designate”** means to establish, designate, or authorise a monopoly, or to expand the scope of a monopoly to cover an additional good or service;

**“designated monopoly”** means a privately owned monopoly that is designated after the date of entry into force of this Agreement and any government monopoly that a Party designates or has designated;

**“government monopoly”** means a monopoly that is owned, or controlled through ownership interests, by a Party or by another government monopoly;

**“independent pension fund”** means an enterprise that is owned, or controlled through ownership interests, by a Party that:

- (a) is engaged exclusively in the following activities:
  - (i) administering or providing a plan for pension, retirement, social security, disability, death or employee benefits, or any

---

<sup>1</sup> For greater certainty, activities undertaken by an enterprise which operates on a not-for-profit basis or on a cost-recovery basis are not activities undertaken with an orientation toward profit-making.

<sup>2</sup> For greater certainty, measures of general application to the relevant market shall not be construed as the determination by a Party of pricing, production, or supply decisions of an enterprise.



combination thereof, solely for the benefit of natural persons who are contributors to such a plan and their beneficiaries; or

- (ii) investing the assets of these plans;
- (b) has a fiduciary duty to the natural persons referred to in subparagraph (a)(i); and
- (c) is free from investment direction from the government of the Party;<sup>3</sup>

**“market”** means the geographical and commercial market for a good or service;

**“monopoly”** means an entity, including a consortium or government agency, that in any relevant market in the territory of a Party is designated as the sole provider or purchaser of a good or service, but does not include an entity that has been granted an exclusive intellectual property right solely by reason of the grant;

**“non-commercial assistance”**<sup>4</sup> means assistance to a state-owned enterprise by virtue of that state-owned enterprise’s government ownership or control, where:

- (a) **“assistance”** means:
  - (i) direct transfers of funds or potential direct transfers of funds or liabilities, such as:
    - (A) grants or debt forgiveness;
    - (B) loans, loan guarantees, or other types of financing on terms more favourable than those commercially available to that enterprise; or
    - (C) equity capital inconsistent with the usual investment practice, including for the provision of risk capital, of

---

<sup>3</sup> Investment direction from the government of a Party:

- (a) does not include general guidance with respect to risk management and asset allocation that is not inconsistent with usual investment practices; and
- (b) is not demonstrated, alone, by the presence of government officials on the enterprise’s board of directors or investment panel.

<sup>4</sup> For greater certainty, non-commercial assistance does not include:

- (a) intra-group transactions within a corporate group including state-owned enterprises, for example, between the parent and subsidiaries of the group, or among the group’s subsidiaries, when normal business practices require reporting the financial position of the group excluding these intra-group transactions;
- (b) other transactions between state-owned enterprises that are consistent with the usual practices of privately owned enterprises in arm’s length transactions; or
- (c) a Party’s transfer of funds, collected from contributors to a plan for pension, retirement, social security, disability, death or employee benefits, or any combination thereof, to an independent pension fund for investment on behalf of the contributors and their beneficiaries.

private investors; or

- (ii) goods or services other than general infrastructure on terms more favourable than those commercially available to that enterprise;
- (b) **“by virtue of that state-owned enterprise’s government ownership or control”**<sup>5</sup> means that the Party or any of the Party’s state enterprises or state-owned enterprises:
- (i) explicitly limits access to the assistance to the Party’s state-owned enterprises;
  - (ii) provides assistance which is predominately used by the Party’s state-owned enterprises;
  - (iii) provides a disproportionately large amount of the assistance to the Party’s state-owned enterprises; or
  - (iv) otherwise favours the Party’s state-owned enterprises through the use of its discretion in the provision of assistance;

**“public service mandate”** means a government mandate pursuant to which a state-owned enterprise makes available a service, directly or indirectly, to the general public in its territory;<sup>6</sup>

**“sovereign wealth fund”** means an enterprise owned, or controlled through ownership interests, by a Party that:

- (a) serves solely as a special purpose investment fund or arrangement<sup>7</sup> for asset management, investment, and related activities, using financial assets of a Party; and
- (b) is a Member of the International Forum of Sovereign Wealth Funds or endorses the *Generally Accepted Principles and Practices* (“Santiago Principles”) issued by the International Working Group of Sovereign Wealth Funds, October 2008, or such other principles and practices as may be agreed to by the Parties,

---

<sup>5</sup> In determining whether the assistance is provided “by virtue of that state-owned enterprise’s government ownership or control”, account shall be taken of the extent of diversification of economic activities within the territory of the Party, as well as of the length of time during which the non-commercial assistance programme has been in operation.

<sup>6</sup> For greater certainty, a service to the general public includes:

- (a) the distribution of goods; and
- (b) the supply of general infrastructure services.

<sup>7</sup> For greater certainty, the Parties understand that the word “arrangement” as an alternative to “fund” allows for a flexible interpretation of the legal arrangement through which the assets can be invested.

and includes any special purpose vehicles established solely for those activities described in subparagraph (a) wholly owned by the enterprise, or wholly owned by the Party but managed by the enterprise; and

**“state-owned enterprise”** means an enterprise that is principally engaged in commercial activities in which a Party:

- (a) directly owns more than 50 per cent of the share capital;
- (b) controls, through ownership interests, the exercise of more than 50 per cent of the voting rights; or
- (c) holds the power to appoint a majority of members of the board of directors or any other equivalent management body.

## **Article 19.2**

### **Scope<sup>8</sup>**

1. This Chapter shall apply to the activities of state-owned enterprises and designated monopolies of a Party that affect trade or investment between Parties. This Chapter shall also apply to the activities of state-owned enterprises of a Party that cause adverse effects in the market of a non-party as provided in Article 19.7 (Adverse Effects).
2. Nothing in this Chapter shall prevent a central bank or monetary authority of a Party from performing regulatory or supervisory activities or conducting monetary and related credit policy and exchange rate policy.
3. Nothing in this Chapter shall prevent a financial regulatory body of a Party, including a non-governmental body, such as a securities or futures exchange or market, clearing agency, or other organisation or association, from exercising regulatory or supervisory authority over financial services suppliers.
4. Nothing in this Chapter shall prevent a Party, or one of its state enterprises or state-owned enterprises, from undertaking activities for the purpose of the resolution of a failing or failed established financial service supplier or any other failing or failed enterprise principally engaged in the supply of financial services.
5. This Chapter shall not apply with respect to a sovereign wealth fund of a Party, except:

---

<sup>8</sup> For the purposes of this Chapter, the terms “financial service supplier”, “established financial service supplier”, and “financial services” have the same meaning as in Article 11.1 (Definitions – Financial Services).

- (a) paragraphs 1 and 3 of Article 19.6 (Non-Commercial Assistance) shall apply with respect to a Party's indirect provision of non-commercial assistance through a sovereign wealth fund; and
  - (b) paragraph 2 of Article 19.6 (Non-Commercial Assistance) shall apply with respect to a sovereign wealth fund's provision of non-commercial assistance.
- 6. This Chapter shall not apply with respect to:
  - (a) an independent pension fund of a Party; or
  - (b) an enterprise owned or controlled by an independent pension fund of a Party, except:
    - (i) paragraphs 1 and 3 of Article 19.6 (Non-Commercial Assistance) shall apply with respect to a Party's direct or indirect provision of non-commercial assistance to an enterprise owned or controlled by an independent pension fund; and
    - (ii) paragraphs 1 and 3 of Article 19.6 (Non-Commercial Assistance) shall apply with respect to a Party's indirect provision of non-commercial assistance through an enterprise owned or controlled by an independent pension fund.
- 7. This Chapter shall not apply to:
  - (a) government procurement; or
  - (b) audio-visual services.
- 8. Nothing in this Chapter shall prevent a state-owned enterprise of a Party from providing goods or services exclusively to that Party for the purposes of carrying out that Party's governmental functions.
- 9. Nothing in this Chapter shall be construed to prevent a Party from:
  - (a) establishing or maintaining a state enterprise or a state-owned enterprise; or
  - (b) designating a monopoly.
- 10. Article 19.4 (Non-Discriminatory Treatment and Commercial Considerations), Article 19.6 (Non-Commercial Assistance), and Article 19.9

(Transparency) shall not apply to any service supplied in the exercise of governmental authority.<sup>9</sup>

11. Subparagraphs 1(b), 1(c), 2(b), and 2(c) of Article 19.4 (Non-Discriminatory Treatment and Commercial Considerations) shall not apply to the extent that a Party's state-owned enterprise or designated monopoly makes purchases and sales of goods or services pursuant to:
  - (a) any existing non-conforming measure that the Party maintains, continues, renews, or amends in accordance with Article 9.8 (Non-Conforming Measures – Cross-Border Trade in Services), Article 11.19 (Non-Conforming Measures – Financial Services), and Article 14.10 (Non-Conforming Measures – Investment) as set out in its Schedule to Annex I (Cross-Border Trade in Services and Investment Non-Conforming Measures) or in Section A of its Schedule to Annex III (Financial Services Non-Conforming Measures); or
  - (b) any non-conforming measure that the Party adopts or maintains with respect to sectors, subsectors, or activities in accordance with Article 9.8 (Non-Conforming Measures – Cross-Border Trade in Services), Article 11.19 (Non-Conforming Measures – Financial Services), and Article 14.10 (Non-Conforming Measures – Investment) as set out in its Schedule to Annex II (Cross-Border Trade in Services and Investment Non-Conforming Measures) or in Section B of its Schedule to Annex III (Financial Services Non-Conforming Measures).
12. Article 19.4 (Non-Discriminatory Treatment and Commercial Considerations), Article 19.6 (Non-Commercial Assistance), and Article 19.9 (Transparency) shall not apply with respect to a Party's state-owned enterprises or designated monopolies as set out in Annex 19D (Application to Sub-Central State-Owned Enterprises and Designated Monopolies).

### **Article 19.3 Delegated Authority**

Each Party shall ensure that when its state-owned enterprises, state enterprises, and designated monopolies exercise any regulatory, administrative, or other governmental authority that the Party has directed or delegated to such entities to carry out, those entities act in a manner that is not inconsistent with that Party's obligations under this Agreement.<sup>10</sup>

---

<sup>9</sup> For the purposes of this paragraph, "a service supplied in the exercise of governmental authority" has the same meaning as in the GATS, including the meaning in the Annex on Financial Services where applicable.

<sup>10</sup> Examples of regulatory, administrative, or other governmental authority include the power to expropriate, grant licences, approve commercial transactions, or impose quotas, fees, or other charges.

**Article 19.4**  
**Non-Discriminatory Treatment and Commercial Considerations**

1. Each Party shall ensure that each of its state-owned enterprises, when engaging in commercial activities:
  - (a) acts in accordance with commercial considerations in its purchase or sale of a good or service, except to fulfil any terms of its public service mandate that are not inconsistent with subparagraph (c)(ii);
  - (b) in its purchase of a good or service:
    - (i) accords to a good or service supplied by an enterprise of the other Party treatment no less favourable than it accords to a like good or a like service supplied by enterprises of the Party or of any non-party; and
    - (ii) accords to a good or service supplied by an enterprise that is a covered investment in the Party's territory treatment no less favourable than it accords to a like good or a like service supplied by enterprises in the relevant market in the Party's territory that are investments of investors of the Party or of any non-party; and
  - (c) in its sale of a good or service:
    - (i) accords to an enterprise of the other Party treatment no less favourable than it accords to enterprises of the Party or of any non-party; and
    - (ii) accords to an enterprise that is a covered investment in the Party's territory treatment no less favourable than it accords to enterprises in the relevant market in the Party's territory that are investments of investors of the Party or of any non-party.<sup>11</sup>
2. Each Party shall ensure that each of its designated monopolies:
  - (a) acts in accordance with commercial considerations in its purchase or sale of the monopoly good or service in the relevant market, except to fulfil any terms of its designation that are not inconsistent with subparagraphs (b), (c), or (d);
  - (b) in its purchase of the monopoly good or service:

---

<sup>11</sup> Paragraph 1 shall not apply with respect to the purchase or sale of shares, stock, or other forms of equity by a state-owned enterprise as a means of its equity participation in another enterprise.

- (i) accords to a good or service supplied by an enterprise of the other Party treatment no less favourable than it accords to a like good or a like service supplied by enterprises of the Party or of any non-party; and
  - (ii) accords to a good or service supplied by an enterprise that is a covered investment in the Party's territory treatment no less favourable than it accords to a like good or a like service supplied by enterprises in the relevant market in the Party's territory that are investments of investors of the Party or of any non-party;
- (c) in its sale of the monopoly good or service:
- (i) accords to an enterprise of the other Party treatment no less favourable than it accords to enterprises of the Party or of any non-party; and
  - (ii) accords to an enterprise that is a covered investment in the Party's territory treatment no less favourable than it accords to enterprises in the relevant market in the Party's territory that are investments of investors of the Party or of any non-party; and
- (d) does not use its monopoly position to engage in, either directly or indirectly, including through its dealings with its parent, subsidiaries, or other entities the Party or the designated monopoly owns, anti-competitive practices in a non-monopolised market in its territory that negatively affect trade or investment between the Parties.<sup>12</sup>
3. Subparagraphs 1(b), 1(c), 2(b), and 2(c) shall not preclude a state-owned enterprise or designated monopoly from:
- (a) purchasing or selling goods or services on different terms or conditions including those relating to price; or
  - (b) refusing to purchase or sell goods or services,
- provided that such differential treatment or refusal is undertaken in accordance with commercial considerations.

---

<sup>12</sup> For greater certainty, a Party may comply with the requirements of this subparagraph through the enforcement or implementation of its generally applicable national competition laws and regulations, its economic regulatory laws and regulations, or other appropriate measures.

**Article 19.5**  
**Legal and Regulatory Framework**

1. Each Party shall respect and make best use of relevant international standards including, amongst other things, the *OECD Guidelines on Corporate Governance of State-Owned Enterprises* done at Paris on 8 July 2015.
2. Each Party shall provide its courts with jurisdiction over civil claims against an enterprise owned or controlled through ownership interests by a foreign government based on a commercial activity carried on in its territory.<sup>13</sup> This shall not be construed to require a Party to provide jurisdiction over those claims if it does not provide jurisdiction over similar claims against enterprises that are not owned or controlled through ownership interests by a foreign government.
3. Each Party shall ensure that any administrative body that the Party establishes or maintains that regulates a state-owned enterprise exercises its regulatory discretion in an impartial manner with respect to enterprises that it regulates, including enterprises that are not state-owned enterprises.<sup>14</sup>

**Article 19.6**  
**Non-Commercial Assistance**

1. Neither Party shall cause<sup>15</sup> adverse effects to the interests of the other Party through the use of non-commercial assistance that it provides, either directly or indirectly,<sup>16</sup> to any of its state-owned enterprises with respect to:
  - (a) the production and sale of a good by the state-owned enterprise;
  - (b) the supply of a service by the state-owned enterprise from the territory of the Party into the territory of the other Party; or
  - (c) the supply of a service in the territory of the other Party through an enterprise that is a covered investment in the territory of that other Party.

---

<sup>13</sup> This paragraph shall not be construed to preclude a Party from providing its courts with jurisdiction over claims against enterprises owned or controlled through ownership interests by a foreign government other than those claims referred to in this paragraph.

<sup>14</sup> For greater certainty, the impartiality with which an administrative body exercises its regulatory discretion is to be assessed by reference to a pattern or practice of that administrative body.

<sup>15</sup> For the purposes of paragraphs 1 and 2, it must be demonstrated that the adverse effects claimed have been caused by the non-commercial assistance. Thus, the non-commercial assistance must be examined within the context of other possible causal factors to ensure an appropriate attribution of causality.

<sup>16</sup> For greater certainty, indirect provision includes the situation in which a Party entrusts or directs an enterprise that is not a state-owned enterprise to provide non-commercial assistance.



2. Each Party shall ensure that its state enterprises and state-owned enterprises do not cause adverse effects to the interests of the other Party through the use of non-commercial assistance that the state enterprise or state-owned enterprise provides to any of its state-owned enterprises with respect to:
  - (a) the production and sale of a good by the state-owned enterprise;
  - (b) the supply of a service by the state-owned enterprise from the territory of the Party into the territory of the other Party; or
  - (c) the supply of a service in the territory of the other Party through an enterprise that is a covered investment in the territory of that other Party.
3. Neither Party shall cause injury to a domestic industry<sup>17</sup> of the other Party through the use of non-commercial assistance that it provides, either directly or indirectly, to any of its state-owned enterprises that is a covered investment in the territory of that other Party in circumstances where:
  - (a) the non-commercial assistance is provided with respect to the production and sale of a good by the state-owned enterprise in the territory of the other Party; and
  - (b) a like good is produced and sold in the territory of the other Party by the domestic industry of that other Party.<sup>18</sup>
4. A service supplied by a state-owned enterprise of a Party within that Party's territory shall be deemed not to cause adverse effects.<sup>19</sup>

#### **Article 19.7 Adverse Effects**

1. For the purposes of paragraphs 1 and 2 of Article 19.6 (Non-Commercial Assistance), adverse effects arise if the effect of the non-commercial assistance is:
  - (a) that the production and sale of a good by a Party's state-owned enterprise that has received the non-commercial assistance displaces

---

<sup>17</sup> The term "domestic industry" refers to the domestic producers as a whole of the like good, or to those domestic producers whose collective output of the like good constitutes a major proportion of the total domestic production of the like good, excluding the state-owned enterprise that is a covered investment that has received the non-commercial assistance referred to in this paragraph.

<sup>18</sup> In situations of material retardation of the establishment of a domestic industry, it is understood that a domestic industry may not yet produce and sell the like good. However, in these situations, there must be evidence that a prospective domestic producer has made a substantial commitment to commence production and sales of the like good.

<sup>19</sup> For greater certainty, this paragraph shall not be construed to apply to a service that itself is a form of non-commercial assistance.

or impedes from the Party's market imports of a like good of the other Party or sales of a like good produced by an enterprise that is a covered investment in the territory of the Party;

- (b) that the production and sale of a good by a Party's state-owned enterprise that has received the non-commercial assistance displaces or impedes from the market of a non-party imports of a like good of the other Party;
  - (c) a significant price undercutting by a good produced by a Party's state-owned enterprise that has received the non-commercial assistance and sold by the enterprise in:
    - (i) the market of a Party as compared with the price in the same market of imports of a like good of the other Party or a like good that is produced by an enterprise that is a covered investment in the territory of the Party, or significant price suppression, price depression, or lost sales in the same market; or
    - (ii) the market of a non-party as compared with the price in the same market of imports of a like good of the other Party, or significant price suppression, price depression, or lost sales in the same market;
  - (d) that services supplied by a Party's state-owned enterprise that has received the non-commercial assistance displace or impede from the market of the other Party a like service supplied by a service supplier of that other Party; or
  - (e) a significant price undercutting by a service supplied in the market of the other Party by a Party's state-owned enterprise that has received the non-commercial assistance as compared with the price in the same market of a like service supplied by a service supplier of that other Party, or significant price suppression, price depression, or lost sales in the same market.<sup>20</sup>
2. For the purposes of subparagraphs 1(a), 1(b), and 1(d), the displacing or impeding of a good or service includes any case in which it has been demonstrated that there has been a significant change in relative shares of the market to the disadvantage of the like good or like service. "Significant change in relative shares of the market" shall include any of the following situations:

---

<sup>20</sup> The purchase or sale of shares, stock, or other forms of equity by a state-owned enterprise that has received non-commercial assistance as a means of its equity participation in another enterprise shall not be construed to give rise to adverse effects as provided for in paragraph 1.

- (a) there is a significant increase in the market share of the good or service of the Party's state-owned enterprise;
- (b) the market share of the good or service of the Party's state-owned enterprise remains constant in circumstances in which, in the absence of the non-commercial assistance, it would have declined significantly; or
- (c) the market share of the good or service of the Party's state-owned enterprise declines, but at a significantly slower rate than would have been the case in the absence of the non-commercial assistance.

The change must manifest itself over an appropriately representative period sufficient to demonstrate clear trends in the development of the market for the good or service concerned, which, in normal circumstances, shall be at least one year.

- 3. For the purposes of subparagraphs 1(c) and 1(e), price undercutting shall include any case in which such price undercutting has been demonstrated through a comparison of the prices of the good or service of the state-owned enterprise with the prices of the like good or service.
- 4. Comparisons of the prices in paragraph 3 shall be made at the same level of trade and at comparable times, and due account shall be taken for factors affecting price comparability. If a direct comparison of transactions is not possible, the existence of price undercutting may be demonstrated on some other reasonable basis, such as, in the case of goods, a comparison of unit values.
- 5. Non-commercial assistance that a Party provides:
  - (a) before the signing of this Agreement; or
  - (b) within three years after the signing of this Agreement, pursuant to a law that is enacted, or contractual obligation undertaken, prior to the signing of this Agreement,

shall be deemed not to cause adverse effects.

- 6. For the purposes of subparagraphs 1(b) and 2(b) of Article 19.6 (Non-Commercial Assistance), the initial capitalisation of a state-owned enterprise, or the acquisition by a Party of a controlling interest in an enterprise, that is principally engaged in the supply of services within the territory of the Party, shall be deemed not to cause adverse effects.

## **Article 19.8**

### **Injury**

1. For the purposes of paragraph 3 of Article 19.6 (Non-Commercial Assistance), the term “injury” shall be taken to mean material injury to a domestic industry, threat of material injury to a domestic industry, or material retardation of the establishment of such an industry. A determination of material injury shall be based on positive evidence and involve an objective examination of the relevant factors, including the volume of production by the covered investment that has received non-commercial assistance, the effect of such production on prices for like goods produced and sold by the domestic industry, and the effect of such production on the domestic industry producing like goods.<sup>21</sup>
2. With regard to the volume of production by the covered investment that has received non-commercial assistance, consideration shall be given as to whether there has been a significant increase in the volume of production, either in absolute terms or relative to production or consumption in the territory of the Party in which injury is alleged to have occurred. With regard to the effect of the production by the covered investment on prices, consideration shall be given as to whether there has been a significant price undercutting by the goods produced and sold by the covered investment as compared with the price of like goods produced and sold by the domestic industry, or whether the effect of production by the covered investment is otherwise to depress prices to a significant degree or to prevent price increases, which otherwise would have occurred, to a significant degree. No one or several of these factors can necessarily give decisive guidance.
3. The examination of the impact on the domestic industry of the goods produced and sold by the covered investment that received the non-commercial assistance shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, such as actual and potential decline in output, sales, market share, profits, productivity, return on investments, or utilisation of capacity; factors affecting domestic prices; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital or investments and, in the case of agriculture, whether there has been an increased burden on government support programmes. This list is not exhaustive, nor can one or several of these factors necessarily give decisive guidance.
4. It must be demonstrated that the goods produced and sold by the covered investment are, through the effects<sup>22</sup> of the non-commercial assistance, causing injury within the meaning of this Article. The demonstration of a causal relationship between the goods produced and sold by the covered

---

<sup>21</sup> The periods for examination of the non-commercial assistance and injury shall be reasonably established and shall end as closely as practical to the date of initiation of the proceeding before the panel pursuant to Chapter 31 (Dispute Settlement).

<sup>22</sup> As set out in paragraphs 2 and 3.

investment and the injury to the domestic industry shall be based on an examination of all relevant evidence. Any known factors other than the goods produced by the covered investment which at the same time are injuring the domestic industry shall be examined, and the injuries caused by these other factors must not be attributed to the goods produced and sold by the covered investment that has received non-commercial assistance. Factors which may be relevant in this respect include, among other things, the volumes and prices of other like goods in the market in question, contraction in demand or changes in the patterns of consumption, and developments in technology and the export performance and productivity of the domestic industry.

5. A determination of a threat of material injury shall be based on facts and not merely on allegation, conjecture, or remote possibility and shall be considered with special care. The change in circumstances which would create a situation in which non-commercial assistance to the covered investment would cause injury must be clearly foreseen and imminent. In making a determination regarding the existence of a threat of material injury, there should be consideration of relevant factors<sup>23</sup> and of whether the totality of the factors considered lead to the conclusion that further availability of goods produced by the covered investment is imminent and that, unless protective action is taken, material injury would occur.

### **Article 19.9 Transparency**

1. Each Party shall provide to the other Party or otherwise make publicly available on an official website a list of its state-owned enterprises no later than six months after the date of entry into force of this Agreement for that Party, and thereafter shall update the list annually.
2. Each Party shall promptly notify the other Party or otherwise make publicly available on an official website the designation of a monopoly or expansion of the scope of an existing monopoly and the terms of its designation.

---

<sup>23</sup> In making a determination regarding the existence of a threat of material injury, a panel pursuant to Chapter 31 (Dispute Settlement) should consider, among other things, such factors as:

- (a) the nature of the non-commercial assistance in question and the trade effects likely to arise therefrom;
- (b) a significant rate of increase in sales in the domestic market by the covered investment, indicating a likelihood of substantially increased sales;
- (c) sufficient freely disposable, or an imminent, substantial increase in, capacity of the covered investment indicating the likelihood of substantially increased production of the good by that covered investment, taking into account the availability of export markets to absorb additional production;
- (d) whether prices of goods sold by the covered investment will have a significant depressing or suppressing effect on the price of like goods; and
- (e) inventories of like goods.

3. On the written request of the other Party, a Party shall promptly provide the following information concerning a state-owned enterprise or a government monopoly, provided that the request includes an explanation of how the activities of the entity may be affecting trade or investment between the Parties:
  - (a) the percentage of shares that the Party, its state-owned enterprises, or designated monopolies cumulatively own, and the percentage of votes that they cumulatively hold, in the entity;
  - (b) a description of any special shares or special voting or other rights that the Party, its state-owned enterprises, or designated monopolies hold, to the extent these rights are different than the rights attached to the general common shares of the entity;
  - (c) the government titles of any government official serving as an officer or member of the entity's board of directors;
  - (d) the entity's annual revenue and total assets over the most recent three-year period for which information is available;
  - (e) any exemptions and immunities from which the entity benefits under the Party's law; and
  - (f) any additional information regarding the entity that is publicly available, including annual financial reports and third-party audits, and that is sought in the written request.
4. On the written request of the other Party, a Party shall endeavour to provide in writing no later than two months after the date of that request, information regarding any policy or programme it has adopted or maintains that provides for non-commercial assistance, provided that the request includes an explanation of how the policy or programme affects or could affect trade or investment between the Parties.
5. When a Party provides a response pursuant to paragraph 4, the information it provides shall be sufficiently specific to enable the requesting Party to understand the operation of and evaluate the policy or programme and its effects or potential effects on trade or investment between the Parties. The Party responding to a request shall ensure that the response it provides contains the following information:
  - (a) the form of the non-commercial assistance provided under the policy or programme, for example, grant or loan;
  - (b) the names of the government agencies, state-owned enterprises, or state enterprises providing the non-commercial assistance and the

- names of the state-owned enterprises that have received or are eligible to receive the non-commercial assistance;
- (c) the legal basis and policy objective of the policy or programme providing for the non-commercial assistance;
  - (d) with respect to goods, the amount per unit of the non-commercial assistance or, in cases where this is not possible, the total amount or the annual amount budgeted for the non-commercial assistance, indicating, if possible, the average amount per unit in the previous year;
  - (e) with respect to services, the total amount or the annual amount budgeted for the non-commercial assistance, indicating, if possible, the total amount in the previous year;
  - (f) with respect to policies or programmes providing for non-commercial assistance in the form of loans or loan guarantees, the amount of the loan or amount of the loan guaranteed, interest rates, and fees charged;
  - (g) with respect to policies or programmes providing for non-commercial assistance in the form of the provision of goods or services, the prices charged, if any;
  - (h) with respect to policies or programmes providing for non-commercial assistance in the form of equity capital, the amount invested, the number and a description of the shares received, and any assessments that were conducted with respect to the underlying investment decision;
  - (i) the duration of the policy or programme or any other time-limits attached to it; and
  - (j) statistical data permitting an assessment of the effects of the non-commercial assistance on trade or investment between the Parties.
6. If a Party considers that it has not adopted or does not maintain any policies or programmes referred to in paragraph 4, it shall so inform the requesting Party in writing.
7. If any relevant points in paragraph 5 have not been addressed in the written response, an explanation shall be provided in the written response itself.
8. The Parties recognise that the provision of information under paragraphs 5 and 7 does not prejudice the legal status of the assistance that was the subject of the request under paragraph 4 or the effects of that assistance under this Agreement.

9. When a Party provides written information pursuant to a request under this Article and informs the requesting Party that it considers the information to be confidential, the requesting Party shall not disclose the information without the prior consent of the Party providing the information.

#### **Article 19.10 Technical Cooperation**

The Parties shall, where appropriate and subject to available resources, engage in mutually agreed technical cooperation activities, including:

- (a) exchanging information regarding the Parties' experiences in improving the corporate governance and operation of their state-owned enterprises;
- (b) sharing best practices on policy approaches to ensure a level playing field between state-owned and privately owned enterprises, including policies related to competitive neutrality; and
- (c) organising international seminars, workshops, or any other appropriate forum for sharing technical information and expertise related to the governance and operations of state-owned enterprises.

#### **Article 19.11 Contact Points**

Each Party shall designate a contact point from its relevant authorities and notify the other Party of the contact details of its contact point within 90 days of the date of entry into force of this Agreement, in order to facilitate communication between the Parties on any matter relating to this Chapter. Each Party shall promptly notify the other Party of any change to its contact point or those contact details.

#### **Article 19.12 Exceptions**

1. Nothing in Article 19.4 (Non-Discriminatory Treatment and Commercial Considerations) or Article 19.6 (Non-Commercial Assistance) shall be construed to:
  - (a) prevent the adoption or enforcement by a Party of measures to respond temporarily to a national or global economic emergency; or
  - (b) apply to a state-owned enterprise with respect to which a Party has adopted or enforced measures on a temporary basis in response to a



national or global economic emergency, for the duration of that emergency.

2. Paragraph 1 of Article 19.4 (Non-Discriminatory Treatment and Commercial Considerations) shall not apply with respect to the supply of financial services by a state-owned enterprise pursuant to a government mandate if that supply of financial services:
  - (a) supports exports or imports, provided that these services are:
    - (i) not intended to displace commercial financing; or
    - (ii) offered on terms no more favourable than those that could be obtained for comparable financial services in the commercial market;<sup>24</sup>
  - (b) supports private investment outside the territory of the Party, provided that these services are:
    - (i) not intended to displace commercial financing; or
    - (ii) offered on terms no more favourable than those that could be obtained for comparable financial services in the commercial market; or
  - (c) is offered on terms consistent with the Arrangement, provided that it falls within the scope of the Arrangement.
3. The supply of financial services by a state-owned enterprise pursuant to a government mandate shall be deemed not to give rise to adverse effects under subparagraphs 1(b), 1(c), 2(b), or 2(c) of Article 19.6 (Non-Commercial Assistance), where the Party in which the financial service is supplied requires a local presence in order to supply those services, if that supply of financial services:<sup>25</sup>
  - (a) supports exports and imports, provided that these services are:

---

<sup>24</sup> In circumstances where no comparable financial services are offered in the commercial market:

- (a) for the purposes of subparagraphs 2(a)(ii), 2(b)(ii), 3(a)(ii), and 3(b)(ii), the state-owned enterprise may rely as necessary on available evidence to establish a benchmark of the terms on which such services would be offered in the commercial market; and
- (b) for the purposes of subparagraphs 2(a)(i), 2(b)(i), 3(a)(i), and 3(b)(i), the supply of the financial services shall be deemed not to be intended to displace commercial financing.

<sup>25</sup> For the purposes of this paragraph, in cases where the country in which the financial service is supplied requires a local presence in order to supply those services, the supply of the financial services identified in this paragraph through an enterprise that is a covered investment shall be deemed to not give rise to adverse effects.

- (i) not intended to displace commercial financing; or
    - (ii) offered on terms no more favourable than those that could be obtained for comparable financial services in the commercial market;
  - (b) supports private investment outside the territory of the Party, provided that these services are:
    - (i) not intended to displace commercial financing; or
    - (ii) offered on terms no more favourable than those that could be obtained for comparable financial services in the commercial market; or
  - (c) is offered on terms consistent with the Arrangement, provided that it falls within the scope of the Arrangement.
4. Article 19.6 (Non-Commercial Assistance) shall not apply with respect to an enterprise located outside the territory of a Party over which a state-owned enterprise of that Party has assumed temporary ownership as a consequence of foreclosure or a similar action in connection with defaulted debt, or payment of an insurance claim by the state-owned enterprise, associated with the supply of the financial services referred to in paragraphs 2 and 3, provided that any support the Party, a state enterprise, or state-owned enterprise of the Party, provides to the enterprise during the period of temporary ownership is provided in order to recoup the state-owned enterprise's investment in accordance with a restructuring or liquidation plan that will result in the ultimate divestiture from the enterprise.
5. Article 19.4 (Non-Discriminatory Treatment and Commercial Considerations), Article 19.6 (Non- Commercial Assistance), Article 19.9 (Transparency), and Article 19.11 (Contact Points) shall not apply with respect to a state-owned enterprise or designated monopoly if, in any one of the three previous consecutive fiscal years, the annual revenue derived from the commercial activities of the state-owned enterprise or designated monopoly was less than a threshold amount which shall be calculated in accordance with Annex 19A (Threshold Calculation).<sup>26</sup>
6. Subparagraphs 1(b) and 2(b) of Article 19.6 (Non-Commercial Assistance) shall not apply to New Zealand, or any of its existing and future state enterprises or state-owned enterprises, with respect to:

---

<sup>26</sup> When a Party invokes this exception during consultations under Article 31.5 (Consultations – Dispute Settlement), the Parties should exchange and discuss available evidence concerning the annual revenue of the state-owned enterprise or the designated monopoly derived from the commercial activities during the three previous consecutive fiscal years in an effort to resolve during the consultations period any disagreement regarding the application of this exception.

- (a) the supply of construction, operation, maintenance, or repair services of physical infrastructure supporting communications between New Zealand and the United Kingdom; and
- (b) the supply of air transport services and maritime transport services to the extent that they provide a connection for New Zealand to the rest of the world, provided that non-commercial assistance for the supply of air transport services:
  - (i) is provided in order to maintain ongoing operations; and
  - (ii) does not cause:
    - (A) a significant increase in the entity's market share of the service; or
    - (B) a significant price undercutting by the service supplied by the entity as compared with the price in the same market of a like service supplied by a service supplier of the other Party, or significant price suppression, price depression, or lost sales in the same market.

**Article 19.13**  
**Process for Developing Information**

Annex 19B (Process for Developing Information Concerning State-Owned Enterprises and Designated Monopolies) applies in any dispute under Chapter 31 (Dispute Settlement) regarding a Party's conformity with Article 19.4 (Non-Discriminatory Treatment and Commercial Considerations) or Article 19.6 (Non-Commercial Assistance).

## ANNEX 19A

### THRESHOLD CALCULATION

1. On the date of entry into force of this Agreement, the threshold referred to in paragraph 5 of Article 19.12 (Exceptions) shall be 200 million Special Drawing Rights (SDRs).
2. The amount of the threshold shall be adjusted at three-year intervals with each adjustment taking effect on 1 January. The first adjustment shall take place on the first 1 January following the date of entry into force of this Agreement, in accordance with the formula set out in this Annex.
3. The threshold shall be adjusted for changes in general price levels using a composite SDR inflation rate, calculated as a weighted sum of cumulative per cent changes in the Gross Domestic Product (GDP) deflators of SDR component currencies over the three-year period ending 30 June of the year prior to the adjustment taking effect, and using the following formula:

$$T_1 = (1 + (\sum w_i^{SDR} \cdot \Pi_i^{SDR}))T_0$$

where:

$T_0$  = threshold value at base period;  
 $T_1$  = new (adjusted) threshold value;  
 $w_i^{SDR}$  = respective (fixed) weights of each currency,  $i$ , in the SDR (as at 30 June of the year prior to adjustment taking effect); and  
 $\Pi_i^{SDR}$  = cumulative per cent change in the GDP deflator of each currency,  $i$ , in the SDR over the three-year period ending 30 June of the year prior to adjustment taking effect.

4. Each Party shall convert the threshold into national currency terms where the conversion rates shall be the average of monthly values of that Party's national currency in SDR terms over the three-year period to 30 June of the year before the threshold is to take effect. Each Party shall notify the other Party of their applicable threshold in their respective national currencies.
5. For the purposes of this Chapter, all data shall be drawn from the International Monetary Fund's *International Financial Statistics* database.
6. The Parties shall consult if a major change in a national currency *vis-à-vis* the SDR were to create a significant problem with regard to the application of this Chapter.

## ANNEX 19B

### PROCESS FOR DEVELOPING INFORMATION CONCERNING STATE-OWNED ENTERPRISES AND DESIGNATED MONOPOLIES

1. If a panel has been established pursuant to Chapter 31 (Dispute Settlement) to examine a complaint arising under Article 19.4 (Non-Discriminatory Treatment and Commercial Considerations) or Article 19.6 (Non-Commercial Assistance), the Parties may exchange written questions and responses, as set forth in paragraphs 2, 3, and 4, to obtain information relevant to the complaint that is not otherwise readily available.
2. The questioning Party may provide written questions to the answering Party within 15 days of the date the panel is established. The answering Party shall provide its responses to the questions to the questioning Party within 30 days of the date it receives the questions.
3. The questioning Party may provide any follow-up written questions to the answering Party within 15 days of the date it receives the responses to the initial questions. The answering Party shall provide its responses to the follow-up questions to the questioning Party within 30 days of the date it receives the follow-up questions.
4. If the questioning Party considers that the answering Party has failed to cooperate in the information gathering process under this Annex, the questioning Party shall inform the panel and the answering Party in writing within 30 days of the date the responses to the questioning Party's final questions are due, and provide the basis for its view. The panel shall afford the answering Party an opportunity to reply in writing.
5. A Party that provides written questions or responses to the other Party pursuant to these procedures shall, on the same day, provide the questions or answers to the panel. In the event that a panel has not yet been composed, each Party shall, upon the composition of the panel, promptly provide the panel with any questions or responses it has provided to the other Party.
6. The answering Party may designate information in its responses as confidential information, in accordance with the procedures set out in the Rules of Procedure established under Article 31.23 (Rules of Procedure and Code of Conduct – Dispute Settlement), or other rules of procedure agreed to by the disputing Parties.
7. The time periods in paragraphs 2, 3, and 4 may be modified upon agreement of the Parties or approval by the panel.
8. In determining whether a Party has failed to cooperate in the information gathering process, the panel shall take into account the reasonableness of the

questions and the efforts the answering Party has made to respond to the questions in a cooperative and timely manner.

9. In making findings of fact in its initial report, the panel should draw adverse inferences from instances of non-cooperation by a Party in the information gathering process.
10. The panel may deviate from the time period set out in paragraph 3 of Article 31.12 (Reports of a Panel – Dispute Settlement) for the issuance of the initial report if necessary to accommodate the information gathering process.
11. The panel may seek additional information from a Party that was not provided to the panel through the information gathering process where the panel considers the information necessary to resolve the dispute. However, the panel shall not request additional information to complete the record where the information would support a Party's position and the absence of that information in the record is the result of that Party's non-cooperation in the information gathering process.

## **ANNEX 19C**

### **FURTHER NEGOTIATIONS**

Within five years of the date of entry into force of this Agreement, the Parties shall conduct further negotiations on extending the application of:

- (a) the disciplines in this Chapter to the activities of state-owned enterprises that are owned or controlled by a sub-central level of government, and designated monopolies designated by a sub-central level of government, where such activities have been listed in Annex 19D (Application to Sub-Central State-Owned Enterprises and Designated Monopolies); and
- (b) the disciplines in Article 19.6 (Non-Commercial Assistance) and Article 19.7 (Adverse Effects) to address effects caused, in a market of a non-party, by the supply of services by a state-owned enterprise.

## ANNEX 19D

### APPLICATION TO SUB-CENTRAL STATE-OWNED ENTERPRISES AND DESIGNATED MONOPOLIES

Pursuant to paragraph 12 of Article 19.2 (Scope), the following obligations shall not apply with respect to a state-owned enterprise owned or controlled by a sub-central level of government and a designated monopoly designated by a sub-central level of government.<sup>27</sup>

- (a) for New Zealand:
  - (i) paragraph 1 of Article 19.4 (Non-Discriminatory Treatment and Commercial Considerations);
  - (ii) paragraph 2 of Article 19.4 (Non-Discriminatory Treatment and Commercial Considerations);
  - (iii) subparagraphs 1(a) and 2(a) of Article 19.6 (Non-Commercial Assistance), with respect to the production and sale of a good in competition with a like good produced and sold by a covered investment in the territory of New Zealand;
  - (iv) subparagraphs 1(b), 1(c), 2(b), and 2(c) of Article 19.6 (Non-Commercial Assistance);
  - (v) paragraph 3 of Article 19.6 (Non-Commercial Assistance); and
  - (vi) paragraph 1 of Article 19.9 (Transparency);
- (b) for the United Kingdom:
  - (i) paragraph 1 of Article 19.4 (Non-Discriminatory Treatment and Commercial Considerations);
  - (ii) paragraph 2 of Article 19.4 (Non-Discriminatory Treatment and Commercial Considerations);
  - (iii) subparagraphs 1(a) and 2(a) of Article 19.6 (Non-Commercial Assistance), with respect to the production and sale of a good in competition with a like good produced and sold by a covered investment in the territory of the United Kingdom;

---

<sup>27</sup> For the purposes of this Annex, “sub-central level of government” means the regional level of government and the local level of government of a Party.



- (iv) subparagraphs 1(b), 1(c), 2(b), and 2(c) of Article 19.6 (Non-Commercial Assistance);
- (v) paragraph 3 of Article 19.6 (Non-Commercial Assistance);  
and
- (vi) paragraph 1 of Article 19.9 (Transparency).

**CHAPTER 20**  
**CONSUMER PROTECTION**

**Article 20.1**  
**Objectives**

1. The objectives of this Chapter are to:
  - (a) promote transparent and effective measures to protect consumers;
  - (b) promote effective enforcement of consumer protection measures;
  - (c) enhance consumer trust and welfare; and
  - (d) facilitate cooperation between the Parties' respective national consumer protection agencies or other relevant bodies on matters related to consumer protection.
  
2. The Parties recognise that, in addition this Chapter, there are provisions in other Chapters of this Agreement that seek to enhance cooperation among the Parties on consumer issues or that otherwise may be of particular benefit to consumers. In particular, the Parties note the provisions benefitting consumers engaged in online commercial activities set out in Chapter 15 (Digital Trade), including Article 15.11 (Unsolicited Commercial Electronic Messages – Digital Trade) and Article 15.13 (Personal Information Protection – Digital Trade).

**Article 20.2**  
**Consumer Protection Law**

1. Each Party shall maintain measures against fraudulent, deceptive, misleading, or unfair commercial activities. Fraudulent, deceptive, misleading, or unfair commercial activities include:
  - (a) making misrepresentations or false claims as to material qualities, price, suitability for purpose, quantity, or origin of goods or services;
  - (b) advertising goods or services for supply without intention to supply;
  - (c) charging consumers for goods or services for supply without intention to supply; or
  - (d) charging or debiting consumers' financial, telephone, or other accounts without authorisation.

2. Each Party shall maintain measures that:
  - (a) require goods provided to be of reasonable and satisfactory quality at the time of delivery and consistent with the supplier's claims regarding the quality of the goods;
  - (b) require services provided to be performed with reasonable skill and care, in a reasonable time, and consistent with the supplier's claims regarding the quality of the services; and
  - (c) provide consumers with appropriate redress when a supplier breaches the measures described in subparagraphs (a) and (b).

### **Article 20.3 Online Consumer Protection**

Each Party shall provide consumers engaged in online commercial activities with a level of protection not less than that provided under its law to consumers engaged in other forms of commerce.<sup>1</sup>

### **Article 20.4 Transparency**

1. The Parties recognise the value of transparency in relation to consumer protection law.
2. Each Party shall publish information on the consumer protections it provides to consumers, including for consumers engaged in online commercial activities. That information shall include how:
  - (a) consumers can pursue remedies; and
  - (b) enterprises can comply with any legal requirements.
3. Each Party shall encourage enterprises to publish their policies and procedures related to consumer protection.

---

<sup>1</sup> The form of protection provided by each Party may be different as between online and other forms of commerce, provided that the level of protection provided to consumers engaged in online commercial activities is, in its effect, not less than that provided to consumers engaged in other forms of commerce.

**Article 20.5**  
**Consumer Redress in Cross-Border Transactions**

1. The Parties recognise the importance of robust, effective, and accessible consumer redress mechanisms in protecting consumers engaged in cross-border trade, and promoting the continued growth of cross-border trade in goods and services.
2. The Parties shall cooperate to identify obstacles to consumers in accessing redress mechanisms for claims involving consumers of a Party transacting with suppliers of the other Party, and consider appropriate measures to enhance the ability of consumers to seek, and suppliers to facilitate, effective and timely redress.

**Article 20.6**  
**Cooperation**

1. The Parties shall cooperate on matters of mutual interest related to consumer protection, including with respect to:
  - (a) enforcement of consumer protection laws and regulations against fraudulent, deceptive, misleading, or unfair commercial activities; and
  - (b) online consumer protection, including building consumer confidence in digital trade.

Such cooperation shall be in a manner compatible with each Party's respective law and within their available resources.

2. The Parties acknowledge the importance of cooperation and coordination internationally and the work of multilateral organisations in this area, including the OECD Committee on Consumer Policy, and the International Consumer Protection and Enforcement Network.

**Article 20.7**  
**Consultations**

1. In order to foster understanding between the Parties, or to address specific matters that arise under this Chapter, a Party shall enter into consultations upon request by the other Party. In its request, the requesting Party shall indicate, if relevant, how the matter affects trade or investment between the Parties.
2. The Party addressed shall accord full and sympathetic consideration to the concerns of the requesting Party and shall reply promptly to the request.

3. To facilitate discussion of the matter that is the subject of the consultations, each Party shall endeavour to provide relevant non-confidential, non-privileged information to the other Party.
4. This Article shall not apply to matters arising under Article 20.3 (Online Consumer Protection).

**Article 20.8**  
**Non-Application of Dispute Settlement**

Neither Party shall have recourse to dispute settlement under Chapter 31 (Dispute Settlement) for a matter arising under this Chapter, except for matters arising under Article 20.3 (Online Consumer Protection).

**CHAPTER 21**  
**GOOD REGULATORY PRACTICE AND REGULATORY**  
**COOPERATION**

**Article 21.1**  
**Definitions**

For the purposes of this Chapter:

**“regulatory authority”** means:

- (a) for New Zealand, any central government organisation that administers a regulatory measure covered by this Agreement;
- (b) for the United Kingdom, a ministerial department of the central level of government; and

**“regulatory measure”** means:

- (a) for New Zealand:
  - (i) a Public Act of the Parliament of New Zealand; or
  - (ii) a Regulation made by Order in Council,  
which is a measure of general application related to any matter covered by this Agreement, excluding:
    - (iii) any measure that would have no or only minor impacts on businesses, individuals, or not-for-profit entities;
    - (iv) any measure imposing, abolishing, or varying any tax, duty, levy, or other charge (or any measure in connection with that measure);
    - (v) any measure in connection with public sector procurement;
    - (vi) any measure in connection with the giving of grants or other financial assistance by or on behalf of a public sector organisation;
    - (vii) any measure which is to have effect for a period of less than 12 months; or
    - (viii) any measure related to managing, mitigating, or alleviating the impacts of declared emergency events;

- (b) for the United Kingdom:
  - (i) an Act of the UK Parliament; or
  - (ii) a statutory instrument made by a Minister of the Crown under an Act of the UK Parliament,  
  
which makes provision in relation to a matter covered by this Agreement which relates to a business activity, excluding:
    - (iii) any measure imposing, abolishing, or varying any tax, duty, levy, or other charge (or any measure in connection with that measure);
    - (iv) any measure in connection with public sector procurement;
    - (v) any measure in connection with the giving of grants or other financial assistance by or on behalf of a public authority; or
    - (vi) any measure which is to have effect for a period of less than 12 months.

## **Article 21.2 General Principles**

1. The purpose of this Chapter is to promote good regulatory practice, and regulatory cooperation between the Parties, with the aim of:
  - (a) promoting an effective, transparent, and predictable regulatory environment;
  - (b) promoting compatible regulatory approaches and reducing unnecessarily burdensome, duplicative, or divergent regulatory requirements;
  - (c) discussing regulatory measures, practice, or approaches of the Parties, including how to enhance their effective and efficient application; and
  - (d) reinforcing bilateral cooperation between the Parties in international fora.
2. Each Party shall be free to determine its approach to good regulatory practice and regulatory cooperation under this Agreement in a manner consistent with its own legal framework, practice, and relevant principles of governance.
3. Each Party shall be free to identify its regulatory priorities and prepare and adopt regulatory measures to address those priorities to ensure the levels of

protection that the Party considers appropriate to achieve its public policy objectives, which may include health, safety, and environmental goals.

4. This Chapter shall not be construed so as to require a Party to:
- (a) take actions that would undermine or impede the timely adoption of regulatory measures to achieve its public policy objectives, or would otherwise risk undermining or compromising those public policy objectives;
  - (b) achieve any particular regulatory outcome; or
  - (c) adopt or apply domestic procedures, processes, and mechanisms that are unlikely to be cost effective for that Party.

### **Article 21.3** **Internal Coordination Processes and Mechanisms**

Each Party shall maintain internal coordination processes and mechanisms that foster good regulatory practice and promote the application of good regulatory practice principles to its regulatory measures. Each Party shall make descriptions of those processes and mechanisms freely and publicly available through a digital medium.

### **Article 21.4** **Public Consultation**

In addition to paragraph 2 of Article 29.2 (Publication – Transparency), when developing a proposed<sup>1</sup> major<sup>2</sup> regulatory measure,<sup>3</sup> each Party is encouraged to:

- (a) make its consultation documentation freely and publicly available through a digital medium, including information on how to provide input; and
- (b) make publicly available a summary of how relevant input received has informed the development of the proposed regulatory measure.

---

<sup>1</sup> For New Zealand, for the purposes of this Chapter, obligations with respect to proposed regulatory measures apply to Government-initiated proposals only.

<sup>2</sup> Each Party may determine what constitutes a “major” regulatory measure for the purposes of its obligations under this Chapter.

<sup>3</sup> For greater certainty, for the purposes of this Chapter, a proposed major regulatory measure could take the form of a set of proposed policy options or policy changes that would need to be given effect, in whole or in part, by creating, amending, or repealing a regulatory measure.



## **Article 21.5**

### **Impact Assessment**

1. Each Party shall endeavour to carry out, in accordance with its own rules and procedures, proportionate impact assessments of proposed major regulatory measures.
2. Each Party shall establish and maintain processes and mechanisms for carrying out proportionate impact assessments. Those processes and mechanisms shall consider:
  - (a) the need for a regulatory measure, including the nature and the significance of the issue that a regulatory measure intends to address;
  - (b) any feasible and appropriate regulatory or non-regulatory options, including the option of not regulating, if available, that would achieve the Party's public policy objectives; and
  - (c) reasonably obtainable existing information including relevant scientific, technical, economic, or other information, within the boundaries of the authorities, mandates, and resources of the regulatory authority responsible for undertaking the impact assessment.
3. When conducting regulatory impact assessments, a Party may take into consideration the potential impact of the proposed regulatory measure on SMEs.<sup>4</sup>
4. Each Party shall, in accordance with its own rules and procedures, publish the findings of its impact assessments in a timely manner. The Party may explain the grounds for concluding that the selected option achieves its public policy objectives effectively.

## **Article 21.6**

### **Access to Regulatory Measures**

In addition to paragraphs 1 and 4 of Article 29.2 (Publication – Transparency), each Party shall ensure, consistent with its own rules and procedures, that its regulatory measures that are in effect are freely available and searchable.

---

<sup>4</sup> For the United Kingdom, for the purposes of this Chapter, “SMEs” means small and micro businesses.

**Article 21.7**  
**Periodic Review of Measures**

1. Each Party shall endeavour to maintain processes or mechanisms to promote periodic reviews of major regulatory measures at intervals it deems appropriate.
2. Each Party shall endeavour to ensure that periodic reviews consider, where appropriate:
  - (a) whether there are opportunities to achieve its public policy objectives more effectively and efficiently;<sup>5</sup> and
  - (b) whether those regulatory measures are likely to remain fit for purpose.

**Article 21.8**  
**Cooperation General Provisions**

1. The Parties shall cooperate to facilitate the implementation of this Chapter and to maximise the benefits arising from it, including those envisioned in paragraph 1 of Article 21.2 (General Principles).
2. Each Party may propose a good regulatory practice or a regulatory cooperation activity to the other Party through the designated contact points in accordance with Article 21.10 (Contact Points on Good Regulatory Practice) and Article 21.13 (Contact Points on Regulatory Cooperation) respectively or through direct contact between the relevant regulatory authorities.

**Article 21.9**  
**Cooperation on Good Regulatory Practice**

1. Good regulatory practice cooperation activities may include:
  - (a) information exchanges, dialogues, or meetings between policy officials responsible for oversight of good regulatory practice;
  - (b) engaging with interested persons, including business and consumers;
  - (c) seeking to collaborate in relevant international fora; and
  - (d) other activities that the Parties may agree.

---

<sup>5</sup> For greater certainty, this may include whether unnecessary regulatory burdens, including on SMEs, can be reduced.

2. The Parties may undertake cooperation activities under this Article on a voluntary basis.

**Article 21.10**  
**Contact Points on Good Regulatory Practice**

1. Each Party shall designate and notify a contact point on good regulatory practice to facilitate communication and cooperation between the Parties on any good regulatory practice covered by this Chapter.
2. Each Party shall promptly notify the other Party of any change to its good regulatory practice contact point.

**Article 21.11**  
**General Principles on Regulatory Cooperation**

1. The Parties affirm the importance of regulatory cooperation and its role in:
  - (a) facilitating economic activity, trade, and investment, including the efficient operation of value chains;
  - (b) helping to reduce or remove potential regulatory barriers;
  - (c) improving the effectiveness of domestic regulation; and
  - (d) facilitating innovation, including the adoption of new technologies and dealing with the risks and opportunities arising out of those new technologies,

while furthering public policy objectives, and ensuring certainty and predictability for businesses.

2. The Parties affirm the importance of undertaking regulatory cooperation in the most efficient way, having regard to the full range of regulatory cooperation activities. Activities include considering unilateral recognition or adoption and less formal arrangements such as information sharing and joint capacity building, along with equivalence, harmonisation, and mutual recognition.
3. The Parties recognise the value of regulatory cooperation, both bilaterally and in concert with other trading partners. The Parties may, whenever practicable and mutually beneficial, approach regulatory cooperation in a way that is open to participation by other international trading partners. Each Party may also, whenever practicable and mutually beneficial, approach regulatory cooperation with other international trading partners in a way that is open to participation by the other Party. The Parties may share information and,

where appropriate, take a coordinated approach to influencing regulatory settings in non-parties and the development of international models in international fora.

4. Where a Party is engaging in regulatory cooperation activities with a non-party, it is encouraged to give positive consideration to a request from the other Party to participate in this activity.

### **Article 21.12** **Regulatory Cooperation Activities**

1. Regulatory cooperation activities may include:
  - (a) information exchanges, dialogues, or meetings between policy officials;
  - (b) formal cooperation, including mutual recognition, equivalence, or harmonisation;
  - (c) engaging with interested persons, including business and consumers; and
  - (d) other activities that the Parties may agree.
2. Where the Parties agree to engage in a regulatory cooperation activity, and where they agree it is appropriate, each Party shall endeavour to:
  - (a) inform the other Party of the development of new regulatory measures or the revision of existing regulatory measures that are relevant for the regulatory cooperation activity;
  - (b) on request, provide information and discuss measures that are relevant for the regulatory cooperation activity; and
  - (c) consider, when developing new regulatory measures or revising existing regulatory measures, any regulatory approaches by the other Party on the same or a related manner.
3. The Parties acknowledge the importance of regulators having a mandate and powers that enable them to cooperate with each other. Each Party shall endeavour to encourage informal cooperation between its regulators and their counterparts in the other Party to address barriers to trade and investment.
4. The regulatory cooperation contact points in Article 21.13 (Contact Points on Regulatory Cooperation) shall endeavour to:

- (a) proactively identify potential opportunities for undertaking regulatory cooperation between regulatory authorities of the Parties;
  - (b) consider regulatory cooperation activities that respond to business concerns or issues raised by regulatory authorities, where those concerns or issues are not solely addressed in other Chapters of this Agreement; and
  - (c) prioritise those cases that would reduce regulatory barriers for SMEs or best support the efficient operation of value chains that operate between the Parties, including those that extend into other regions.
5. The contact points shall endeavour to ensure that regulatory cooperation activities under this Chapter add value in addition to any related initiatives underway in other relevant fora or other Chapters of this Agreement.

**Article 21.13**  
**Contact Points on Regulatory Cooperation**

1. Each Party shall designate and notify a contact point on regulatory cooperation, to facilitate communication and cooperation between the Parties on any regulatory cooperation matter covered by this Chapter.
2. Each Party shall promptly notify the other Party of any change to its regulatory cooperation contact point.

**Article 21.14**  
**Relation to Other Chapters**

In the event of any inconsistency between this Chapter and another Chapter of this Agreement, the other Chapter shall prevail to the extent of the inconsistency.

**Article 21.15**  
**Dispute Settlement**

Neither Party shall have recourse to dispute settlement under Chapter 31 (Dispute Settlement) for a matter arising under this Chapter.

## CHAPTER 22

### ENVIRONMENT

#### Article 22.1 Definitions

For the purposes of this Chapter:

“**2030 Agenda**” means the *UN 2030 Agenda for Sustainable Development* adopted by the UN General Assembly Resolution 70/1 on 25 September 2015, and its Sustainable Development Goals;

“**CITES**” means the *Convention on International Trade in Endangered Species of Wild Fauna and Flora* done at Washington, D.C. on 3 March 1973;

“**environmental law**” means a law or regulation of a Party, or provision thereof, including any that implements the Party’s obligations under a multilateral environmental agreement, the primary purpose of which is the protection of the environment, including the mitigation of climate change, or the prevention of a danger to human life or health, through:

- (a) the prevention, abatement, or control of: the release, discharge, or emission of pollutants or environmental contaminants including greenhouse gases;
- (b) the control of environmentally hazardous or toxic chemicals, substances, materials, or wastes, and the dissemination of information related thereto;
- (c) the protection or conservation of wild flora or fauna, including endangered species, their habitat, and specially protected natural areas;<sup>1, 2</sup> or
- (d) the protection, preservation, and enhancement of natural water resources,

but does not include laws or regulations, or a provision thereof, directly related to worker safety or health nor any laws or regulations, or provision thereof, the primary purpose of which is managing the subsistence or aboriginal harvesting of natural resources;

---

<sup>1</sup> For the purposes of this Chapter, the term “specially protected natural areas” means those areas as defined by the Party in its legislation.

<sup>2</sup> The Parties recognise that such protection or conservation may include the protection or conservation of biological diversity.

**“Montreal Protocol”** means the *Montreal Protocol on Substances that Deplete the Ozone Layer* done at Montreal on 16 September 1987;

**“Paris Agreement”** means the *Paris Agreement* done at Paris on 12 December 2015 by the Conference of the Parties to the UNFCCC at its 21st session; and

**“UNFCCC”** means the *United Nations Framework Convention on Climate Change* done at New York on 9 May 1992.

## **Article 22.2**

### **Māori Environmental Concepts**

In order to acknowledge the special relationship of Māori with the environment in New Zealand, the Parties include the following concepts for the purposes of this Chapter:

**“kaitiakitanga”** refers to the Māori concept of active stewardship, guardianship, and protection of our natural surroundings (land, sea, water, and air), and of the mauri of the environment; and

**“mauri”** refers to the essential quality and vitality of a being or entity. It is also used for a physical object or ecosystem in which this essence is located. All objects have mauri. A waterway, for example, or a mountain have a mauri including through their connection to the land.

## **Article 22.3**

### **Context and Objectives**

1. The Parties recall the *Agenda 21* and the *Rio Declaration on Environment and Development* adopted by the UN Conference on Environment and Development in 1992, the *Johannesburg Plan of Implementation of the World Summit on Sustainable Development* of 2002, the Outcome Document of the UN Conference on Sustainable Development of 2012 titled *The Future We Want* endorsed by the UN General Assembly Resolution 66/288 adopted on 27 July 2012, and the 2030 Agenda.
2. The objectives of this Chapter are to promote mutually supportive trade and environmental policies; promote high levels of environmental protection and effective enforcement of environmental laws; encourage the Parties to address the urgent threat of climate change; and enhance the capacities of the Parties to address trade or investment-related environmental issues, including through cooperation.
3. The Parties recognise that:

- (a) sustainable development encompasses economic development, social development, and environmental protection, all three being interdependent and mutually reinforcing, and affirm their commitment to promote the development of international trade and investment in a way that contributes to the objective of sustainable development;
- (b) enhanced cooperation to protect and conserve the environment and sustainably manage their natural resources brings benefits that can contribute to sustainable development, strengthen their environmental governance, and complement the objectives of this Agreement;
- (c) the urgent need to address climate change, as outlined in the *Intergovernmental Panel on Climate Change Special Report on Global Warming of 1.5°C*, is a contribution to the economic, social, and environmental objectives of sustainable development; and
- (d) the environment plays an important role in the economic, social, and cultural well-being of Māori in the case of New Zealand, and acknowledge the importance of engaging with Māori in the long-term conservation of the environment.

#### **Article 22.4** **General Commitments**

1. The Parties recognise the sovereign right of each Party to establish its own environmental priorities and levels of environmental protection relating to the environment, including mitigation of and adaptation to climate change, and those which a Party establishes pursuant to the multilateral environmental agreements to which it is a party, and to establish, maintain, or modify its relevant law and policies accordingly.
2. Each Party shall endeavour to ensure that its environmental and other relevant law and policies provide for, and encourage, high level of environmental protection, and to continue to improve its respective level of environmental protection.
3. Without prejudice to paragraph 1, the Parties recognise that it is inappropriate to encourage trade or investment by weakening or reducing the protection afforded in their respective environmental laws. Accordingly, a Party shall not waive or otherwise derogate from, or offer to waive or otherwise derogate from, its environmental laws in a manner that weakens or reduces the protection afforded in that law in order to encourage trade or investment between the Parties.



4. Neither Party shall fail to effectively enforce its environmental laws through a sustained or recurring course of action or inaction to encourage trade or investment between the Parties.
5. The Parties recognise that each Party retains the right to exercise discretion and to make decisions regarding:
  - (a) investigations, prosecutions, and regulatory and compliance matters; and
  - (b) the allocation of environmental enforcement resources with respect to other environmental laws determined to have higher priority.

Accordingly, the Parties understand that with respect to the enforcement of environmental laws, a Party is in compliance with paragraph 4 if a course of action or inaction reflects a reasonable exercise of that discretion, or results from a *bona fide* decision regarding the allocation of those resources in accordance with priorities for enforcement of its environmental laws.

6. The Parties further recognise that it is inappropriate to establish or use their environmental laws in a manner which would constitute a disguised restriction on trade or investment between the Parties.

#### **Article 22.5** **Multilateral Environmental Agreements**

1. The Parties recognise the important role multilateral environmental agreements play in protecting the environment, including reducing biodiversity loss and addressing climate change, and the need to enhance the mutual supportiveness between trade and environmental laws and policies.
2. Each Party affirms its commitment to implement the multilateral environmental agreements to which it is a party.
3. In accordance with Article 22.19 (Cooperation) the Parties shall cooperate as appropriate with respect to environmental issues of mutual interest related to multilateral environmental agreements, in particular trade-related issues, including:
  - (a) exchanging information on the implementation of multilateral environmental agreements to which a Party is a party;
  - (b) exchanging information on ongoing negotiations of new multilateral environmental agreements; and
  - (c) exchanging each Party's respective views on becoming a party to additional multilateral environmental agreements.

## **Article 22.6 Climate Change**

1. The Parties recognise the importance of achieving the objectives of the UNFCCC and the Paris Agreement in order to address the urgent threat of climate change, and the role of trade and investment in pursuing this objective, and commit to working together to take actions to address climate change. The Parties recognise that nothing in this Agreement prevents a Party from taking measures to fulfil its commitments under the UNFCCC and the Paris Agreement provided that such measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination against the other Party or a disguised restriction on trade. The Parties reaffirm their right to make use of the general exceptions and general provisions in Chapter 32 (General Exceptions and General Provisions), recalling their understanding that the measures referred to in Article XX(b) of GATT 1994 and Article XIV(b) of GATS include environmental measures necessary to protect human, animal or plant life or health and measures necessary to mitigate climate change, and that Article XX(g) of GATT 1994 applies to measures relating to the conservation of living and non-living exhaustible natural resources.
  
2. Accordingly, the Parties affirm their commitment to implement the Paris Agreement and to take action to reduce greenhouse gas emissions with the aim of strengthening the global response to climate change by holding the increase in global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels, and their ambition of achieving their respective domestic net zero targets by 2050, and shall:
  - (a) promote the mutual supportiveness of trade, investment, and climate policies and measures;
  - (b) facilitate and promote trade and investment in goods and services of particular relevance for climate change mitigation and adaptation; and
  - (c) promote carbon pricing as an effective policy tool for reducing greenhouse gas emissions efficiently, and promote environmental integrity in the development of international carbon markets.
  
3. In accordance with Article 22.19 (Cooperation) the Parties shall cooperate bilaterally and in international fora, including at the WTO and the UN, to address matters of mutual interest with respect to trade-related aspects of climate change policies and measures, and on ways to mitigate and adapt to climate change, that may include:
  - (a) implementation of the Paris Agreement;

- (b) international trade-related aspects of the fight against climate change, such as carbon leakage and systems of carbon pricing, and linking emissions trading schemes;
- (c) supporting the development, adoption, and implementation of ambitious and effective greenhouse gas emissions reduction measures by the International Maritime Organization to be implemented by ships engaged in international trade;
- (d) supporting the development, adoption, and implementation of ambitious and effective greenhouse gas emissions reduction measures by the International Civil Aviation Organization; and
- (e) policies, laws, and measures that can contribute to a reduction in greenhouse gas emissions and increased climate resilience and ways to mitigate and adapt to climate change.

**Article 22.7**  
**Environmental Goods and Services**

1. The Parties recognise the importance of facilitating trade and investment in environmental goods and services, including clean technology, as a means of improving environmental and economic performance, contributing to clean growth and jobs, and encouraging sustainable development while addressing global environmental challenges including climate change.
2. Accordingly, each Party shall:
  - (a) eliminate customs duties on originating goods of the other Party upon entry into force of this Agreement on HS six-digit subheadings containing the environmental goods listed in Annex 22A (Environmental Goods List),<sup>3</sup> in accordance with Chapter 2 (National Treatment and Market Access for Goods) and Annex 2A (Schedule of Tariff Commitments for Goods). The Environment and Climate Change Sub-Committee established under Article 30.9 (Sub-Committees – Institutional Provisions) shall keep this list under review, in conjunction with other relevant committees established under this Agreement, as appropriate, and may make recommendations to the Joint Committee for modifications to Annex 22A (Environmental Goods List). In keeping this list under review, the Environment and Climate Change Sub-Committee may consider factors such as the extent to which a good contributes to the clean growth and sustainable development objectives of the Parties,

---

<sup>3</sup> For the purposes of this Agreement, the environmental goods listed in Annex 22A (Environmental Goods List) are goods which can positively contribute to the clean growth and sustainable development objectives of the Parties, including climate change mitigation and adaptation, and wider environmental goals.

advances in available technologies, any potential dual-use of proposed environmental goods, relevant multilateral or plurilateral developments, and other environmental and climate factors; and

- (b) facilitate and promote trade and investment in environmental goods and services, and endeavour to address any potential tariff and non-tariff barriers to such trade and investment that may be identified by a Party, including by working through the Environment and Climate Change Sub-Committee and in conjunction with other relevant committees established under this Agreement, as appropriate.
3. In accordance with Article 22.19 (Cooperation) the Parties shall cooperate on ways to enhance trade in environmental goods and services. Areas of cooperation may include:
- (a) renewable and low carbon energy;
  - (b) energy efficient products and services;
  - (c) clean transport including uptake of electric vehicles;
  - (d) energy storage technologies;
  - (e) sustainable financial services;
  - (f) clean heat;
  - (g) carbon capture, utilisation, and storage;
  - (h) climate change adaptation and resilience technologies and services;
  - (i) conservation of biological diversity, pollution abatement, and water conservation; and
  - (j) identification of, and further liberalisation of trade in, environmental services.
4. The Parties acknowledge that achieving the objectives of the UNFCCC and the Paris Agreement requires collective action. Accordingly, the Parties shall also cooperate in international fora, including at the WTO and under the UN Environment Programme, on ways to further facilitate and liberalise global trade in environmental goods and services.

**Article 22.8**  
**Fossil Fuel Subsidy Reform and Transition to Clean Energy**

1. The Parties recognise the need to reduce the use of fossil fuels and to support the global transition to clean energy in order to further the implementation of the Sustainable Development Goals of the 2030 Agenda and the objectives of the UNFCCC and Paris Agreement. The Parties further recognise that fossil fuel subsidies can distort trade and investment, disadvantage renewable and clean energy, encourage wasteful consumption, and contribute significantly to global greenhouse gas emissions.
2. Accordingly, each Party shall:
  - (a) take steps to eliminate harmful fossil fuel subsidies where they exist, with limited exceptions in support of legitimate public policy objectives;
  - (b) as fellow members of the Powering Past Coal Alliance, end unabated coal-fired electricity generation in their territories as part of a clean energy transition aligned with the goals of the Paris Agreement;
  - (c) encourage the transition to clean energy for electricity, heat, and transport;
  - (d) ensure that information on fossil fuel support measures, including any subsidies, is published;
  - (e) end new direct financial support, such as officially supported export credits, for fossil fuel energy in non-parties, except in limited circumstances where it:
    - (i) meets a legitimate policy goal, such as improved safety or environmental standards; or
    - (ii) supports a clean energy transition aligned with the goals of the Paris Agreement;
  - (f) end international aid funding for fossil fuel energy except in limited circumstances where it is not feasible to provide access to energy solely from renewable sources and the aid:
    - (i) is essential as part of a humanitarian response;
    - (ii) is to meet a legitimate policy goal such as improved safety or environmental standards; or
    - (iii) supports a clean energy transition aligned with the goals of the Paris Agreement; and

- (g) encourage non-parties to develop and undertake best practice approaches to fossil fuel subsidy reform.
3. The Parties shall cooperate bilaterally and in relevant international fora such as the WTO, UNFCCC, and G20 in relation to fossil fuel subsidy reform and the transition to clean energy.

### **Article 22.9** **Marine Capture Fisheries<sup>4</sup>**

1. The Parties recognise the importance of kaitiakitanga in conserving and sustainably managing fisheries and the mauri of marine ecosystems, and the role of trade in pursuing these objectives.
2. The Parties acknowledge their roles in the marine fisheries sector and recognise the importance of the conservation and sustainable use of fisheries resources and marine ecosystems, and the role of trade in pursuing these objectives.
3. In this regard, the Parties acknowledge that inadequate fisheries management, fisheries subsidies that contribute to overfishing and overcapacity, and illegal, unreported and unregulated (“IUU”) fishing<sup>5</sup> threaten fish stocks, the environment, trade, and livelihoods, and recognise the need for individual and collective action to end such practices.
4. Accordingly, each Party shall operate a fisheries management system designed to:
  - (a) prevent overfishing and overcapacity;
  - (b) reduce bycatch of non-target species and juveniles;
  - (c) promote the recovery of overfished stocks; and
  - (d) minimise adverse impacts on associated marine ecosystems.

Such a management system shall be based on the best scientific evidence available, the precautionary approach, an ecosystem-based approach, and

---

<sup>4</sup> For greater certainty, this Article does not apply with respect to aquaculture or inland fishing.

<sup>5</sup> The term “illegal, unreported and unregulated fishing” is to be understood to have the same meaning as paragraph 3 of the *International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing* of the UN Food and Agricultural Organisation (“FAO”) done at Rome on 2 March 2001 (“2001 IUU Fishing Plan of Action”).

internationally recognised best practices as reflected in relevant international instruments.<sup>6</sup>

5. Each Party shall promote the long-term conservation of sharks, marine turtles, seabirds, marine mammals, and other species recognised as threatened in relevant international agreements to which each Party is a party.
6. The Parties recognise that the implementation of a fisheries management system that is designed to prevent overfishing and overcapacity and to promote the recovery of overfished stocks must include the control, reduction, and eventual elimination of all subsidies that contribute to overfishing and overcapacity or IUU fishing. To that end, neither Party shall grant or maintain any of the following subsidies<sup>7</sup> within the meaning of Article 1.1 of the SCM Agreement that are specific within the meaning of Article 2 of the SCM Agreement:
  - (a) subsidies for fishing<sup>8</sup> that negatively affect<sup>9</sup> fish stocks that are in an overfished<sup>10</sup> condition;
  - (b) subsidies for the transfer of fishing vessels<sup>11</sup> from the United Kingdom or New Zealand to other States, including through the creation of joint enterprises;
  - (c) subsidies for operations that increase the fishing capacity of a fishing vessel, or for equipment that increases the ability of a fishing vessel

---

<sup>6</sup> These instruments include, as they may apply, the *United Nations Convention on the Law of the Sea* done at Montego Bay on 10 December 1982 (“UNCLOS”), the *United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks* done at New York on 4 December 1995 (“UN Fish Stocks Agreement”), the *FAO Code of Conduct for Responsible Fisheries* adopted on 31 October 1995, the 1993 *FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas* done at Rome on 24 November 1993 (“Compliance Agreement”), and the 2001 IUU Fishing Plan of Action.

<sup>7</sup> For the purposes of this Article, a subsidy shall be attributable to the Party conferring it, regardless of the flag of the vessel involved or the application of rules of origin to the fish involved.

<sup>8</sup> For the purposes of this paragraph, “fishing” means searching for, attracting, locating, catching, taking or harvesting fish, or any activity which can reasonably be expected to result in the attracting, locating, catching, taking or harvesting of fish.

<sup>9</sup> The negative effect of those subsidies shall be determined based on the best scientific evidence available.

<sup>10</sup> For the purposes of this Article, a fish stock is overfished if the stock is at such a low level that mortality from fishing needs to be restricted to allow the stock to rebuild to a level that produces maximum sustainable yield or alternative reference points based on the best scientific evidence available. Fish stocks that are recognised as overfished by the national jurisdiction where the fishing is taking place or by a relevant Regional Fisheries Management Organisation shall also be considered overfished for the purposes of this paragraph.

<sup>11</sup> The term “fishing vessel” refers to any vessel, ship or other type of boat used for, equipped to be used for, or intended to be used for fishing or fishing-related activities.

- to find fish, except where they meet legitimate public policy goals such as improved safety or sustainability;
- (d) subsidies provided to fishing for fish stocks managed by a Regional Fisheries Management Organisation or Arrangement where the subsidising Party or vessel flag State is not a member or cooperating non-member of the Organisation or Arrangement;
  - (e) subsidies provided to fishing or fishing-related activities<sup>12</sup> conducted without the permission of the flag State where required and, if operating in another State's waters, without permission of that State;
  - (f) subsidies provided to any fishing vessel or operator while listed by the flag State, the subsidising Party, the FAO or a relevant Regional Fisheries Management Organisation, or Arrangement for IUU fishing in accordance with the rules and procedures of that State, Party, organisation, or arrangement and in conformity with international law; or
  - (g) subsidies provided to any vessel or operator that has been found to have committed a serious violation of conservation or management measures within the preceding 12 months.
7. Subsidy programmes that are established by a Party before the date of entry into force of this Agreement for that Party and which are inconsistent with subparagraphs 6(a) to subparagraph 6(c) shall be brought into conformity with that paragraph as soon as possible and no later than three years after the date of entry into force of this Agreement for that Party.
8. In relation to subsidies that are not prohibited by subparagraphs 6(a) to subparagraph 6(g) and taking into consideration a Party's social and developmental priorities, each Party shall make best efforts to refrain from introducing new, or extending or enhancing existing, subsidies within the meaning of Article 1.1 of the SCM Agreement, to the extent they are specific within the meaning of Article 2 of the SCM Agreement, that contribute to overfishing, overcapacity, or IUU fishing.
9. With a view to achieving the objective of eliminating subsidies that contribute to overfishing and overcapacity, the Parties shall review the disciplines in paragraph 5 within the Environment and Climate Change Sub-Committee, including their implementation, two years after the date of entry into force of this Agreement and thereafter at intervals not exceeding five years unless the Parties agree otherwise.

---

<sup>12</sup> The term "fishing-related activities" means any operation in support of, or in preparation for, fishing, including the landing, packaging, processing, trans-shipping, or transporting of fish that have not been previously landed at port, as well as the provisioning of personnel, fuel, gear, and other supplies at sea.



10. Each Party shall notify the other Party within one year of the date of entry into force of this Agreement and every two years thereafter of any subsidy within the meaning of Article 1.1 of the SCM Agreement that is specific within the meaning of Article 2 of the SCM Agreement that the Party grants or maintains to persons engaged in fishing or fishing-related activities.
11. These notifications shall cover subsidies provided within the previous two year period and shall include the information required under Article 25.3 of the SCM Agreement and the following information:<sup>13</sup>
  - (a) programme name;
  - (b) legal basis and granting authority for the programme;and, to the extent possible,
  - (c) catch data by species in the fishery for which the subsidy is provided;
  - (d) status of the fish stocks in the fishery for which the subsidy is provided (for example, overfished, fully fished, and underfished);
  - (e) fleet capacity in the fishery for which the subsidy is provided;
  - (f) conservation and management measures in place for the relevant fish stock; and
  - (g) total imports and exports per species.
12. Each Party shall also provide, to the extent possible, information in relation to other fisheries subsidies that the Party grants or maintains that are not covered by paragraph 6, for example, fuel subsidies.
13. A Party may request additional information from the notifying Party regarding the notifications under paragraphs 10 and 11. The notifying Party shall respond to that request in writing as quickly as possible and in a comprehensive manner. In the event that any requested information is not provided by the notifying Party, that Party shall explain the absence of such information in its response.
14. A Party shall meet the notification requirements of the preceding paragraphs through:
  - (a) notification under Article 25 of the SCM Agreement; or

---

<sup>13</sup> Sharing information and data on existing fisheries subsidy programmes does not prejudice their legal status, effects, or nature under the GATT 1994 or the SCM Agreement and is intended to complement WTO data reporting requirements.

- (b) publication, by the Party or on its behalf, on a publicly accessible website. The website address on which this publication is made shall be communicated to the other Party in each instance.
15. The Parties recognise the importance of concerted international action to address IUU fishing as reflected in regional and international instruments.<sup>14</sup> In support of efforts to combat IUU fishing practices and to help prevent, deter, and eliminate trade in products from species harvested from those practices, each Party shall:
- (a) implement monitoring, control, surveillance, compliance, and enforcement systems, including by adopting, reviewing, or revising, as appropriate, effective measures to:
    - (i) deter vessels that are flying its flag<sup>15</sup> and its nationals from engaging in IUU fishing activities and take effective action in response to IUU fishing where it occurs; and
    - (ii) deter exporters, importers, trans-shippers, buyers, consumers, equipment suppliers, bankers, insurers, and other services suppliers and the public from doing business with vessels or operators engaging in IUU fishing, such as through measures prohibiting such business;
  - (b) cooperate with regard to electronic traceability and certification, and exchange of information and assistance with a particular focus on the New Zealand/United Kingdom IUU exchange of letters;<sup>16</sup>
  - (c) implement port State measures including through actions consistent with the Port State Measures Agreement;<sup>17</sup> and
  - (d) act consistently with conservation and management measures, including catch documentation schemes, of Regional Fisheries Management Organisations where that Party is not a member, so as not to undermine them.

---

<sup>14</sup> Regional and international instruments include, as they may apply, the 2001 IUU Fishing Plan of Action, the *2005 Rome Declaration on Illegal, Unreported and Unregulated Fishing* done at Rome on 12 March 2005 (“Declaration on IUU”), the *Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing* done at Rome on 22 November 2009 (“PSMA”), as well as instruments establishing and adopted by Regional Fisheries Management Organisations, which are defined as intergovernmental fisheries organisations or arrangements, as appropriate, that have the competence to establish conservation and management measures.

<sup>15</sup> For the purposes of this paragraph, for the United Kingdom, “vessels that are flying its flag” is to be understood to mean vessels that are both flying the United Kingdom flag and registered on the United Kingdom register of British ships.

<sup>16</sup> The exchange of letters recording understandings reached between New Zealand and the United Kingdom on *Catch Certification for Fisheries Products Imported into the United Kingdom* of 9 December 2020 and 18 December 2020, respectively.

<sup>17</sup> PSMA.

16. The Parties shall cooperate bilaterally, regionally, and in international fora to further the objective of sustainable development on international fisheries and related trade issues, including bycatch reduction, combatting IUU fishing and the trade in IUU products, and strengthening international rules on and transparency of fisheries subsidies.
17. The Parties agree to coordinate and collaborate on compliance activities and research with regard to fisheries under the jurisdiction of Regional Fisheries Management Organisations and Arrangements in which both Parties operate.
18. The Parties shall afford appropriate recognition of the sustainability and fisheries compliance performance of each other's vessels and operators in the consideration of their applications for foreign fishing licences.

#### **Article 22.10 Sustainable Agriculture**

1. The Parties recognise the increasing impact that global challenges to kaitiakitanga of mauri such as land degradation, drought, the emergence of new pests and diseases, climate change, and loss of biodiversity, have on the development of productive sectors such as agriculture.
2. Recalling Sustainable Development Goal 2 of the 2030 Agenda, the Parties also recognise the importance of strengthening and implementing policies that contribute to the development of more productive, sustainable, inclusive, and resilient agricultural systems.
3. Accordingly, each Party shall:
  - (a) take measures to, and promote efforts to, reduce greenhouse gas emissions from agricultural production; and
  - (b) promote sustainable agriculture and associated trade.
4. Consistent with Article 22.19 (Cooperation), the Parties shall cooperate on the development and the implementation of integrated policies that promote sustainable agriculture consistent with Sustainable Development Goal 2 and the Parties' specific circumstances. Areas of cooperation may include:
  - (a) encouraging sustainable methods of improving agricultural productivity;
  - (b) integrating the protection and sustainable use of ecosystems and natural resources in agricultural systems;
  - (c) adaptation and resilience to climate change in relation to agriculture; and

- (d) research and collaboration on methods to measure and reduce emissions from agriculture.

**Article 22.11**  
**Sustainable Forest Management**

1. The Parties recognise the importance of:
  - (a) kaitiakitanga in the conservation of the mauri, and the conservation and sustainable management of forests and the sustainable production of forest products in providing environmental and ecosystem services; economic and social benefits and opportunities for present and future generations including by addressing climate change and reducing biodiversity loss; and the role of trade in pursuing this objective; and
  - (b) combatting illegal logging, illegal deforestation and forest degradation, and associated trade, including with respect to non-parties.
2. The Parties acknowledge their role as consumers, producers, and traders of forest products, and the importance of sustainable supply chains for forest products and commodities that can generally be associated with deforestation in addressing greenhouse gas emissions and biodiversity loss and achieving sustainable forest management.
3. Accordingly, each Party shall:
  - (a) promote the conservation and sustainable management of forests;
  - (b) contribute to combatting illegal logging, illegal deforestation, and associated trade, including with respect to non-parties;
  - (c) promote trade in forest products harvested in accordance with the law of the country of harvest and from sustainably managed forests;
  - (d) promote trade in legally and sustainably produced commodities which could otherwise be associated with deforestation; and
  - (e) endeavour to reduce deforestation and forest degradation, including from land use and land use change.
4. In accordance with Article 22.19 (Cooperation) the Parties shall cooperate on ways to promote sustainable forest management and land use practices in support of the Sustainable Development Goals of the 2030 Agenda. Such cooperation may include:

- (a) initiatives designed to combat illegal logging, illegal deforestation and forest degradation, and associated trade, including assurance schemes;
- (b) the encouragement of sustainable supply chains for forest products and commodities that can generally be associated with deforestation;
- (c) methodologies for the assessment and monitoring of supply chains for forest products and commodities that can generally be associated with deforestation; and
- (d) policies on sustainable supply chains.

**Article 22.12**  
**Conservation of Biological Diversity**

1. The Parties recognise the role that terrestrial and marine biological diversity plays in achieving sustainable development, including through the provision of ecosystem services and genetic resources, and the importance of conservation and sustainable use of biological diversity. The Parties recognise that climate change can contribute to biodiversity loss, and that biologically diverse ecosystems including marine ecosystems can adapt better to the impacts of climate change and help to mitigate climate change through the natural sequestration and storage of carbon.
2. The Parties also recognise the importance of respecting, protecting, preserving, and maintaining knowledge, innovations, and practices of Māori in the case of New Zealand, embodying traditional lifestyles that contribute to the conservation and sustainable use of biological diversity.
3. The Parties acknowledge that threats to terrestrial and marine biological diversity include climate change, illegal take of and illegal trade in wild flora and fauna, the movement of terrestrial and aquatic invasive alien species across borders through trade-related pathways, habitat degradation and destruction, pollution, and unsustainable use.
4. The Parties further recognise the particular harms caused to conservation from the illegal trade in ivory, and the importance of appropriate regulation of domestic markets worldwide for ivory and goods containing ivory as a means of supporting international conservation efforts.
5. The Parties affirm their commitment to implement CITES<sup>18</sup> and shall endeavour to implement, as appropriate, CITES resolutions that aim to

---

<sup>18</sup> For the purposes of this Article, CITES includes existing and future amendments, as well as any existing and future reservations, exemptions, and exceptions, that are applicable to a Party.

protect and conserve species whose survival is threatened by international trade.

6. Accordingly, each Party shall:
  - (a) take measures to combat the illegal trade in wildlife, including with respect to non-parties as appropriate;
  - (b) take appropriate measures to protect and conserve native wild fauna and flora that it has identified to be at risk including from trade-related activities within its territory, including by taking measures to conserve the ecological integrity of specially protected natural areas;
  - (c) continue efforts to combat the illegal trade in ivory, including through appropriate domestic restrictions on commercial activities concerning ivory and goods containing ivory;
  - (d) promote and encourage the conservation and sustainable use of biodiversity including in trade-related activities, in accordance with its law or policy; and
  - (e) promote the conservation of marine ecosystems and species, including those in the areas beyond national jurisdiction.
  
7. In accordance with Article 22.19 (Cooperation) the Parties may cooperate on matters of mutual interest such as:
  - (a) protection of terrestrial and marine ecosystems and ecosystem services, including marine ecosystems and species in areas beyond national jurisdiction from trade-related impacts;
  - (b) combatting illegal take of and illegal trade in or unsustainable use of wild flora and fauna, including through consultation with interested non-government entities;
  - (c) opportunities to encourage non-party efforts to close their domestic ivory markets;
  - (d) sharing information and management experiences on the movement, prevention, detection, control, and eradication of invasive alien species, with a view to enhancing efforts to assess and address the risks and adverse impacts of invasive alien species;
  - (e) access to genetic resources and the fair and equitable sharing of benefits from their utilisation consistent with the objectives of the *Convention on Biological Diversity* done at Rio de Janeiro on 5 June 1992; and

- (f) identifying opportunities, consistent with their respective law and in accordance with applicable international agreements, to enhance law enforcement cooperation and information sharing.

**Article 22.13**  
**Resource Efficient and Circular Economy**

1. The Parties recognise that the transition towards a circular economy and greater resource efficiency can reduce adverse environmental and climate impacts of products and production processes, improve resource security, and contribute to their respective efforts to achieve their international commitments, including Sustainable Development Goal 12 of the 2030 Agenda. The Parties further recognise the role that trade can play in achieving this transition through trade in second-hand goods, end-of-life products, secondary materials or waste, as well as trade in related services.
2. The Parties also recognise that policy objectives to facilitate the transition to a resource efficient and circular economy include: extending product lifetimes; increasing the proportion of materials and products that are reused and recycled; and reducing waste throughout supply chains.
3. Accordingly, each Party shall:
  - (a) encourage resource efficient product design, including the designing of products to be easier to reuse, dismantle, or recycle at end of life;
  - (b) encourage environmental labelling, including eco-labelling, to make it easier for consumers to make more sustainable choices;
  - (c) endeavour to avoid the generation of waste, including electronic waste, by encouraging reuse, repair, and remanufacture as well as the recycling of waste where it does occur, and strive to reduce the amount of waste sent to landfill; and
  - (d) encourage relevant public entities to consider the policy objectives in paragraph 2 in their purchasing decisions in accordance with Article 16.10 (Environmental, Social, and Labour Considerations – Government Procurement).
4. In accordance with Article 22.19 (Cooperation) the Parties shall cooperate on ways to encourage a transition towards a resource efficient and circular economy, which may include:
  - (a) policies and practices to encourage the shift to a resource efficient and circular economy;

- (b) promoting and facilitating trade that contributes to a resource efficient and circular economy, including trade in secondary materials and used goods, and goods for repair, reuse, and remanufacture; and
- (c) resource efficient product design and related product information and quality standards for secondary materials and goods.

**Article 22.14**  
**Ozone Depleting Substances and Hydrofluorocarbons**

1. The Parties recognise that emissions of ozone depleting substances can significantly deplete and otherwise modify the ozone layer in a manner that is likely to result in adverse effects on human health and the environment. The Parties further recognise that the continued consumption and emission of ozone depleting substances and hydrofluorocarbons can undermine efforts to address global environmental challenges including climate change.
2. Accordingly, each Party shall: take measures to control the production and consumption of, and trade in, substances controlled by the Montreal Protocol;<sup>19, 20, 21</sup> pursue a more ambitious phase-down of hydrofluorocarbons; and endeavour to reduce the use of pre-charged equipment containing hydrofluorocarbons.
3. Consistent with Article 22.19 (Cooperation) the Parties shall cooperate to address matters of mutual interest related to ozone-depleting substances and hydrofluorocarbons which may include:
  - (a) environmentally friendly alternatives to ozone-depleting substances and hydrofluorocarbons and barriers to their uptake;

---

<sup>19</sup> For greater certainty, this provision pertains to substances controlled by the Montreal Protocol and any existing amendments or adjustments to the Montreal Protocol, including the *Kigali Amendment* done at Kigali on 15 October 2016 (“Kigali Amendment”), and any future amendments or adjustments to which the Parties are party.

<sup>20</sup> A Party shall be deemed in compliance with this provision if it maintains the measure or measures implementing its obligations under the Montreal Protocol (for New Zealand, the *Ozone Layer Protection Act 1996*; for the United Kingdom, *Regulation (EC) 1005/2009* as it applies in Great Britain as retained EU law and as it applies in Northern Ireland directly, and *Regulation (EU) 517/2014* as it applies in Great Britain as retained EU law, and as it applies in Northern Ireland directly, as amended by *The Ozone-Depleting Substances and Fluorinated Greenhouse Gases (Amendment Act) (EU Exit) Regulations 2019* and *The Ozone-Depleting Substances and Fluorinated Greenhouse Gases (Amendment Act) (EU Exit) Regulations 2020*), or any subsequent measure or measures, including any amendments to the measure or measures listed, that provide an equivalent or higher level of environmental protection as the measure or measures listed.

<sup>21</sup> If compliance with this provision is not established pursuant to footnote 20, to establish a violation of this provision, a Party must demonstrate that the other Party has failed to take measures to control the production and consumption of, and trade in, substances controlled by the Montreal Protocol in a manner that is likely to result in adverse effects on human health and the environment, in a manner affecting trade or investment between the Parties.



- (b) refrigerant management practices, policies, and programmes, including lifecycle management of coolants and refrigerants;
- (c) methodologies for stratospheric ozone measurements;
- (d) combating illegal trade in ozone-depleting substances and hydrofluorocarbons; and
- (e) emerging technologies for sustainable heat pumps, cooling, and refrigeration that use environmentally friendly refrigerants.

**Article 22.15**  
**Air Quality**

1. The Parties recognise that air pollution is a serious threat to public health and ecosystem integrity, and note that reducing air pollution can help reduce emissions of greenhouse gases and contribute to addressing climate change and other environmental problems. Accordingly, the Parties recognise the value of an integrated approach in addressing air pollution and climate change.
2. Noting that some production, consumption, and transport activities can cause air pollution and that air pollution can travel long distances, the Parties recognise the importance of reducing domestic and transboundary air pollution, and that cooperation can be beneficial in achieving these objectives. To that end, each Party shall endeavour to reduce air pollution.
3. In accordance with Article 22.19 (Cooperation) the Parties shall cooperate to address matters of mutual interest with respect to air quality, which may include:
  - (a) ambient air quality planning;
  - (b) modelling and monitoring, including spatial distribution of main sources and their emissions;
  - (c) measurement and inventory methodologies for air quality and emissions' measurements; and
  - (d) reduction, control, and prevention technologies and practices.

**Article 22.16**  
**Protection of the Marine Environment from Ship Pollution and Marine Litter**

1. The Parties recognise the importance of:

- (a) protecting and preserving the marine environment and the impact of pollution from ships on climate change; and
  - (b) taking action to prevent and reduce marine litter, including plastics and microplastics, in order to preserve marine and coastal ecosystems, prevent the loss of biodiversity, and mitigate marine litter's costs and impacts, including impacts on human health.
2. Accordingly, each Party shall:
- (a) take measures to prevent the pollution of the marine environment from ships,<sup>22, 23, 24</sup> and
  - (b) take measures to prevent and reduce marine litter, recognising the global nature of the challenge of marine litter.
3. Recognising that the Parties are taking action to address marine litter in other fora, in accordance with Article 22.19 (Cooperation) the Parties shall cooperate to address matters of mutual interest with respect to combatting pollution of the marine environment from marine litter and ships, which may include:
- (a) addressing land and sea based pollution, including accidental and deliberate pollution from ships, and pollution from routine operations of ships;
  - (b) promoting waste management infrastructure, including the development of technologies to minimise ship-generated waste;
  - (c) adequacy of port waste reception facilities;
  - (d) advancing efforts related to abandoned, lost, or otherwise discarded fishing gear;

---

<sup>22</sup> For greater certainty, this provision pertains to pollution regulated by the *International Convention for the Prevention of Pollution from Ships* done at London on 2 November 1973, as modified by the *Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ship* done at London on 17 February 1978, and the *Protocol of 1997 to Amend the International Convention for the Prevention of Pollution from Ships 1973*, as modified by the *Protocol of 1978* relating thereto, done at London on 26 September 1997 (“MARPOL Convention”), and any existing and future amendments to the MARPOL Convention to which the Parties are party.

<sup>23</sup> A Party shall be deemed in compliance with this provision if it maintains the measure or measures implementing its obligations under the MARPOL Convention (for New Zealand, the *Maritime Transport Act 1994*; for the UK, the *Merchant Shipping Act 1995* and regulations made under the Act) or any subsequent measure or measures, including any amendments to the measure or measures listed, that provide an equivalent or higher level of environmental protection as the measure or measures listed.

<sup>24</sup> If compliance with this provision is not established pursuant to footnote 23, to establish a violation of this provision, a Party must demonstrate that the other Party has failed to take measures to prevent the pollution of the marine environment from ships, in a manner affecting trade or investment between the Parties.

- (e) circular economy measures relevant to addressing marine litter;
- (f) increased protection in special areas; and
- (g) enforcement measures including notifications to flag states and as appropriate by port states.

#### **Article 22.17**

#### **Voluntary Mechanisms to Enhance Environmental Performance**

1. The Parties recognise that flexible, voluntary mechanisms, for example, voluntary auditing and reporting, market-based incentives, voluntary sharing of information and expertise, and public-private partnerships, can contribute to the achievement and maintenance of high levels of environmental protection and complement domestic regulatory measures. The Parties acknowledge that those mechanisms should be designed in a manner that maximises their environmental benefits and avoids the creation of unnecessary barriers to trade.
2. With respect to paragraph 1, each Party shall, in accordance with its laws, regulations, or policies, and to the extent it considers appropriate, encourage:
  - (a) the use of flexible and voluntary mechanisms to protect natural resources and the environment in its territory; and
  - (b) its relevant authorities, businesses and business organisations, non-governmental organisations, and other interested persons involved in the development of criteria used to evaluate environmental performance, with respect to these voluntary mechanisms, to continue to develop and improve those criteria.
3. Further, if private sector entities or non-governmental organisations develop voluntary mechanisms for the promotion of products based on their environmental qualities, each Party shall endeavour to encourage those entities and organisations to develop voluntary mechanisms that, among other things:
  - (a) are truthful, are not misleading, and take into account scientific and technical information;
  - (b) if applicable and available, are based on relevant international standards, recommendations, guidelines, and best practices;
  - (c) promote competition and innovation; and
  - (d) do not treat a product less favourably on the basis of origin.

**Article 22.18**  
**Responsible Business Conduct and Corporate Social Responsibility**

1. The Parties recognise the importance of responsible business conduct and corporate social responsibility practices including responsible supply chain management and the role of trade in pursuing this objective.
2. Accordingly, each Party shall:
  - (a) encourage enterprises operating in its territory or jurisdiction to adopt principles of responsible business conduct and corporate social responsibility that are related to the environment, consistent with internationally recognised standards and guidelines that have been endorsed or are supported by that Party; and
  - (b) provide supportive policy frameworks that encourage businesses to behave in a manner that takes into account those principles of responsible business conduct and corporate social responsibility related to the environment.
3. In accordance with Article 22.19 (Cooperation) the Parties may cooperate on responsible business conduct and corporate social responsibility bilaterally and in international fora as appropriate.

**Article 22.19**  
**Cooperation**

1. The Parties recognise the importance of cooperation as a mechanism to implement this Chapter, to enhance its benefits, and to strengthen the Parties' joint and individual capacities to protect the environment and to promote sustainable development and clean growth as they strengthen their trade and investment relations.
2. Accordingly, the Parties shall cooperate as appropriate on the matters identified in this Chapter, and may cooperate on other matters where there is mutual benefit from that cooperation. Such cooperation may take place bilaterally and in international fora, including the WTO, the OECD, under the UN Environment Programme, and under multilateral environmental agreements.
3. Each Party shall, through the contact points designated in accordance with Article 22.20 (Institutional Arrangements):
  - (a) share its priorities for cooperation with the other Party, including the objectives of that cooperation;

- (b) propose cooperation activities related to the implementation of this Chapter; and
  - (c) develop and participate in cooperation activities and programmes in accordance with the priorities identified by the Environment and Climate Change Sub-Committee.
- 4. Cooperation may be undertaken through various means including: dialogues; workshops; seminars; conferences; collaborative programmes and projects; internships; graduate trainee programmes; technical assistance to promote and facilitate training; the sharing of information, data, and best practices on policies and procedures; joint analysis; and the exchange of experts. Cooperation may include non-governmental bodies or organisations and non-parties to this Agreement, where mutually agreed.
- 5. All cooperative activities under this Chapter are subject to the availability of funds and of human and other resources, and to the applicable laws and regulations of the Parties. The Parties shall decide, on a case-by-case basis, the funding of cooperative activities.
- 6. Each Party shall promote public participation in the development and implementation of cooperative activities, as appropriate, and make publicly available information related to cooperative activities developed under this Chapter.

#### **Article 22.20 Institutional Arrangements**

- 1. Each Party shall designate a contact point within 90 days of the date of entry into force of this Agreement. Each Party shall notify the other Party promptly in the event of any change to its contact point.
- 2. The contact points shall:
  - (a) facilitate regular communication between the Parties;
  - (b) act as a channel for communication with the public in their respective territories;
  - (c) coordinate cooperative activities; and
  - (d) receive and respond to requests for information in accordance with this Chapter.
- 3. The Environment and Climate Change Sub-Committee shall be composed of official level representatives from the relevant trade, environment, and

climate national authorities of each Party responsible for the implementation of this Chapter.

4. The Environment and Climate Change Sub-Committee shall meet within one year of the date of entry into force of this Agreement and thereafter as mutually agreed. The Environment and Climate Change Sub-Committee shall be chaired alternately and may take place physically or virtually as mutually agreed.
5. The purpose of the Environment and Climate Change Sub-Committee is to oversee the implementation of this Chapter and its functions include to:
  - (a) monitor and review the implementation of this Chapter;
  - (b) provide periodic reports to the Joint Committee regarding the implementation of this Chapter;
  - (c) establish priorities for cooperation and review cooperative activities undertaken pursuant to this Chapter;
  - (d) coordinate with other committees established under this Agreement as appropriate; and
  - (e) perform any other functions as the Parties may decide.
6. All Environment and Climate Change Sub-Committee decisions and reports shall be made publicly available, unless the Environment and Climate Change Sub-Committee decides otherwise.
7. The Environment and Climate Change Sub-Committee shall seek public input on matters relevant to the Environment and Climate Change Sub-Committee's work, as appropriate, and at each meeting shall hold a public session which may be virtual.
8. The Environment and Climate Change Sub-Committee shall agree on a joint summary report on its work at the end of each Environment and Climate Change Sub-Committee meeting.

#### **Article 22.21 Public Submissions**

1. Each Party shall provide for the receipt and consideration of written submissions from persons of that Party regarding its implementation of this Chapter in accordance with its domestic procedures. Each Party shall make readily accessible and publicly available its procedures for the receipt and consideration of written submissions.

2. A Party may provide in its procedures that a submission should:
  - (a) raise an issue directly relevant to this Chapter;
  - (b) clearly identify the person or organisation making the submission; and
  - (c) explain, to the degree possible, how and to what extent the issue raised affects trade or investment between the Parties.
3. Each Party shall consider matters raised by the submission and provide a timely response to the submitter, including in writing as appropriate.

#### **Article 22.22 Independent Advisory Groups**

1. Each Party shall make use of existing, or establish new, independent advisory groups of appropriate persons, seeking a balanced representation of relevant interests, including business organisations, environmental organisations, and academics, and shall engage those groups as appropriate in relation to the operation and implementation of this Chapter.
2. Each Party shall inform its independent advisory group as to the outcome of any dispute relating to this Chapter, together with any follow-up actions or measures.

#### **Article 22.23 Environment Consultations**

1. The Parties shall at all times endeavour to agree on the interpretation and application of this Chapter, and shall make every effort through cooperation, dialogue, consultations, and exchange of information to address any matter arising under this Chapter.
2. A Party (the Requesting Party) may request consultations with the other Party (the Responding Party) regarding any matter arising under this Chapter by delivering a written request to the Responding Party's contact point. The Requesting Party shall set out the reasons for the request, including identification of the measure or other matter at issue and an indication of the legal basis for the complaint.
3. Without prejudice to Article 31.18 (Choice of Forum – Dispute Settlement), where the matter arising under this Chapter regards compliance with obligations under a multilateral environmental agreement to which the Parties are party, the Requesting Party shall endeavour, where appropriate, to

address the matter through the consultative or other procedures under that multilateral environmental agreement.

4. The Responding Party shall, unless agreed otherwise with the complaining Party, respond to the request in writing no later than 10 days after the date of receipt of the request.
5. Unless the Parties agree otherwise, they shall enter into consultations promptly, and no later than 30 days after the date of receipt by the Responding Party of the request.
6. The Parties shall make every effort to arrive at a mutually agreed solution to the matter, which may include appropriate cooperative activities. The Parties may seek advice or assistance from any person or body they deem appropriate in order to examine the matter.
7. Consultations pursuant to this Article, Article 22.24 (Joint Committee Consultations), and Article 22.25 (Ministerial Consultations), and in particular, positions taken by the Parties during consultations, shall be confidential and without prejudice to the rights of a Party in any further proceedings.

#### **Article 22.24 Joint Committee Consultations**

1. If the Parties have failed to resolve the matter under Article 22.23 (Environment Consultations), a Party may request that the Joint Committee convene to consider the matter by delivering a written request to the contact point of the other Party.
2. The Joint Committee shall promptly convene following the delivery of the request, and shall seek to resolve the matter including, if appropriate, by gathering relevant scientific and technical information from governmental or non-governmental experts.

#### **Article 22.25 Ministerial Consultations**

If the Parties have failed to resolve the matter under Article 22.24 (Joint Committee Consultations), a Party may refer the matter to the relevant Ministers of the Parties by delivering a written request to the contact point of the other Party. The relevant Ministers shall seek to resolve the matter.



**Article 22.26**  
**Dispute Resolution**

1. Articles 22.23 (Environment Consultations) to Article 22.25 (Ministerial Consultations) apply by way of derogation from Article 31.5 (Consultations – Dispute Settlement).
2. If the matter at issue falls within the scope of Article 31.4 (Scope – Dispute Settlement), and if the Parties have failed to resolve the matter under Articles 22.23 (Environment Consultations) to Article 22.25 (Ministerial Consultations) within 120 days of the date of receipt of a request under Article 22.23 (Environment Consultations), or any other period as the Parties may agree, the Requesting Party may request the establishment of a panel under Article 31.6 (Establishment of a Panel – Dispute Settlement) and, as provided in Chapter 31 (Dispute Settlement), thereafter have recourse to the other provisions of that Chapter.
3. Before a Party initiates dispute settlement under this Agreement for a matter arising under paragraphs 2 or 4 of Article 22.4 (General Commitments), that Party shall consider whether it maintains environmental laws that are substantially equivalent in scope to the environmental laws that would be the subject of the dispute.
4. If a Party requests consultations with another Party for a matter arising under paragraphs 2 or 4 of Article 22.4 (General Commitments), and the Responding Party considers that the Requesting Party does not maintain environmental laws that are substantially equivalent in scope to the environmental laws that would be the subject of the dispute, the Parties shall discuss the issue during the consultations.
5. In addition to the requirements under Article 31.8 (Qualifications of Arbitrators – Dispute Settlement), the Parties shall ensure that the Panel appointed in accordance with Article 31.7 (Composition of Panel – Dispute Settlement) has sufficient expertise or experience in environmental law for the purposes of a dispute arising under this Chapter. In a dispute arising under this Chapter, the Panel shall seek information or technical advice from any expert that it deems appropriate, which may include experts in multilateral environmental agreements.

**ANNEX 22A**

**ENVIRONMENTAL GOODS LIST**

<b>HS 2017</b>	<b>HS Description</b>	<b>Additional Product Specification</b>	<b>Remarks/Environmental Benefit</b>
060290	Live plants, incl. their roots and mushroom spawn (excl. bulbs, tubers, tuberous roots, corms, crowns and rhizomes, incl. chicory plants and roots, unrooted cuttings and slips, fruit and nut trees, rhododendrons, azaleas and roses)		Promote regrowth and biodiversity of plant life for local agriculture.
261800	Granulated slag "slag sand" from the manufacture of iron or steel		Waste material that can be further utilised or recycled.
280461	Silicon; containing by weight not less than 99.99% of silicon		Polysilicon is a key raw material for the production of photovoltaic panels.
280469	Silicon; containing by weight less than 99.99% of silicon		Polysilicon is a key raw material for the production of photovoltaic panels.
380210	Carbon; activated		Activated carbon is used in gas purification, water purification, medicine, sewage treatment, air filters in gas masks and respirators, filters in compressed air and many other applications. Activated carbon is usually derived from charcoal, produced from carbonaceous source materials such as nutshells, coconut husk, peat, wood, coir, lignite, coal, and petroleum pitch.
381800	Chemical elements; doped for use in electronics, in the form of discs, wafers or similar forms; chemical	Silicon semiconductor wafers for photovoltaic cells	Silicon semiconductor wafers are an important component of solar photovoltaic cells.

	compounds doped for use in electronics		
391732	Flexible tubes, pipes and hoses of plastics, not reinforced or otherwise combined with other materials, without fittings		Of a kind used in agricultural drip irrigation. Delivers water through the holes or water dropper of plastic pipe with 16mm in diameter to the roots of crop for partial irrigation, to achieve even-spreading and conservation of water.
391733	Flexible tubes, pipes and hoses of plastics, not reinforced or otherwise combined with other materials, with fittings, seals or connectors		Of a kind used in agricultural drip irrigation. Delivers water through the holes or water dropper of plastic pipe with 16mm in diameter to the roots of crop for partial irrigation, to achieve even-spreading and conservation of water.
391739	Flexible tubes, pipes and hoses, of plastics, reinforced or otherwise combined with other materials (excl. those with a burst pressure of $\geq 27,6$ MPa)		Of a kind used in agricultural drip irrigation. Delivers water through the holes or water dropper of plastic pipe with 16mm in diameter to the roots of crop for partial irrigation, to achieve even-spreading and conservation of water.
391990	Self-adhesive plates, sheets, film, foil, tape, strip and other flat shapes, of plastics, whether or not in rolls > 20 cm wide (excl. floor, wall and ceiling coverings of heading 3918)		<p>Solar films which reduce solar heat gain through windows and improve a window's insulating performance, thus reducing GHG emissions by reducing heating and cooling demands of buildings.</p> <p>Solar mirror films provide a highly reflective, light and durable alternate to glass mirrors in concentrating solar power (CSP) systems.</p>
392030	Plates, sheets, foil, film and strip, of non-cellular polymers of styrene, not reinforced, laminated, supported or similarly combined with other materials, without		Of a kind used in heat and energy management.

	backing, unworked or merely surface-worked or merely cut into squares or rectangles (excl. self-adhesive products and floor, wall and ceiling coverings of heading 3918)		
392062	392062 (SC): Plates, sheets, film, foil and strip, of non-cellular poly"ethylene terephthalate", not reinforced, laminated, supported or similarly combined with other materials, without backing, unworked or merely surface-worked or merely cut into squares or rectangles (excl. those of poly"methyl methacrylate", self-adhesive products and floor, wall and ceiling coverings of heading 3918)		<p>Solar films which reduce solar heat gain through windows and improve a window's insulating performance, thus reducing GHG emissions by reducing heating and cooling demands of buildings.</p> <p>Solar mirror films provide a highly reflective, light and durable alternate to glass mirrors in concentrating solar power (CSP) systems.</p>
392091	Plastics; plates, sheets, film, foil and strip (not self-adhesive), of poly(vinyl butyral), non-cellular and not reinforced, laminated, supported or similarly combined with other materials	Solar control window film	Advanced interlayer window films containing either dispersed nanoparticles or an integral film layer that reject solar energy. These films reduce air conditioning usage in buildings, thus increasing energy efficiency.
		Films and encapsulant sheets for photovoltaic cells, modules and panels	Photovoltaic cell and module encapsulants have a number of functions that support solar energy systems, such as protecting solar cells from UV, moisture and heat.
392190	Plates, sheets, film, foil and strip, of plastics, reinforced, laminated, supported or similarly combined with other materials, unworked or		Solar films which reduce solar heat gain through windows and improve a window's insulating performance, thus reducing GHG emissions by reducing heating and cooling demands

	merely surface-worked or merely cut into squares or rectangles (excl. of cellular plastic; self-adhesive products, floor, wall and ceiling coverings of heading 3918)		of buildings.  Solar mirror films provide a highly reflective, light and durable alternate to glass mirrors in concentrating solar power (CSP) systems.
392290	Plastics; bidets, lavatory pans, flushing cisterns and similar sanitary ware n.e.c. in heading no. 3922	Composting toilets	Composting toilets minimise water use and provide self-contained sewage treatment on site, with no need for sewers and treatment plants. They also do not pollute ground or surface water or soil (unlike septic tanks or pit latrines) and produce safe, useful compost.
		Dual flushing cisterns	Waterless urinals and dual flushing cisterns increase water efficiency and therefore reduces water use.
		Waterless urinals	Waterless urinals minimise water and energy use, resulting in significantly less carbon emissions compared to other urinal systems.
392330	Plastics; carboys, bottles, flasks and similar articles, for the conveyance or packing of goods	Plastic, removable and recyclable cartridges, of a kind used in waterless urinals	Waterless urinals minimise water and energy use, resulting in significantly less carbon emissions compared to other urinal systems.
400300	Reclaimed rubber in primary forms or in plates, sheets or strip		Waste material that can be further utilised or recycled.
400400	Waste, parings and scrap of soft rubber and powders and granules obtained therefrom		Waste material that can be further utilised or recycled.
401150	Rubber; new pneumatic tyres, of a kind used on bicycles		Bicycles and their parts provide a environmentally friendly, low-carbon mode of transportation, which can contribute to lowering GHG emissions in the transport sector as well as reducing air pollution.

401320	Rubber; inner tubes, of a kind used on bicycles		Bicycles and their parts provide a environmentally friendly, low-carbon mode of transportation, which can contribute to lowering GHG emissions in the transport sector as well as reducing air pollution.
440711	Wood; coniferous species, of pine ( <i>Pinus</i> spp.), sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or finger-jointed, of a thickness exceeding 6mm		Sustainably sourced wood-based construction materials provide an environmentally preferable alternative to more carbon-intensive construction materials due to the natural, renewable and biodegradable nature of wood. Wood is a natural store of carbon dioxide gas and can play an important role in reducing GHG emissions in the construction sector.
440712	Wood; coniferous species, of fir ( <i>Abies</i> spp.) and spruce ( <i>Picea</i> spp.), sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or finger-jointed, of a thickness exceeding 6mm		Sustainably sourced wood-based construction materials provide an environmentally preferable alternative to more carbon-intensive construction materials due to the natural, renewable and biodegradable nature of wood. Wood is a natural store of carbon dioxide gas and can play an important role in reducing GHG emissions in the construction sector.
440719	Wood; coniferous species, other than of pine ( <i>Pinus</i> spp.) or fir ( <i>Abies</i> spp.) or spruce ( <i>Picea</i> spp.), sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or finger-jointed, of a thickness exceeding 6mm		Sustainably sourced wood-based construction materials provide an environmentally preferable alternative to more carbon-intensive construction materials due to the natural, renewable and biodegradable nature of wood. Wood is a natural store of carbon dioxide gas and can play an important role in reducing GHG emissions in the construction sector.

440810	Wood; coniferous, sheets for veneering (including those obtained by slicing laminated wood), for plywood or similar laminated wood and other wood, sawn lengthwise, sliced or peeled, planed or not, sanded, spliced or end-jointed, not over 6 mm thick		Sustainably sourced wood-based construction materials provide an environmentally preferable alternative to more carbon-intensive construction materials due to the natural, renewable and biodegradable nature of wood. Wood is a natural store of carbon dioxide gas and can play an important role in reducing GHG emissions in the construction sector.
440910	Wood; coniferous (including unassembled strips and friezes for parquet flooring), continuously shaped along any edges, ends or faces, whether or not planed, sanded or end-jointed		Sustainably sourced wood is a natural, renewable and biodegradable material in contrast to manufactured or elaborately transformed materials. Wood is a natural store of carbon dioxide gas and has a wide range of uses and applications.
440921	Wood; bamboo (including unassembled strips and friezes for parquet flooring), continuously shaped along any edges, ends or faces, whether or not planed, sanded or end-jointed		Sustainably sourced wood is a natural, renewable and biodegradable material in contrast to manufactured or elaborately transformed materials. Wood is a natural store of carbon dioxide gas and has a wide range of uses and applications.
441860	Wood; posts and beams		Sustainably sourced wood-based construction materials provide an environmentally preferable alternative to more carbon-intensive construction materials due to the natural, renewable and biodegradable nature of wood. Wood is a natural store of carbon dioxide gas and can play an important role in reducing GHG emissions in the construction sector.
441873	Wood; assembled flooring panels, of bamboo or with at least		Sustainably sourced bamboo products provide an environmentally preferable

	the top layer (wear layer) of bamboo		alternative due to the natural, renewable and biodegradable nature of bamboo compared to other materials.
441875	Flooring panels, multilayer, assembled, of wood other than bamboo (excl. for mosaic floors)		Environmentally preferable products based on end use or disposal characteristics.
441879	Wood; assembled flooring panels, n.e.c in headings 4418.73, 4418.74 or 4418.75		Sustainably sourced wood-based construction materials provide an environmentally preferable alternative to more carbon-intensive construction materials due to the natural, renewable and biodegradable nature of wood. Wood is a natural store of carbon dioxide gas and can play an important role in reducing GHG emissions in the construction sector.
441891	Builders' joinery and carpentry, of bamboo (excl. windows, French windows and their frames, doors and their frames and thresholds, posts and beams, assembled flooring panels, wooden shuttering for concrete constructional work, shingles, shakes and prefabricated buildings)		These wood products are typically used structurally in wood building construction. For buildings and building products, life-cycle assessments (LCA) show that wood is generally better for the environment than other commonly used building materials in terms of embodied energy, air and water pollution and greenhouse gas emissions. Wood grows naturally using energy from the sun, is renewable, sustainable and recyclable. It is also an effective insulator.
441899	Wood; builders' joinery and carpentry of wood n.e.c. in heading no. 4418, other than of bamboo		Sustainably sourced wood-based construction materials provide an environmentally preferable alternative to more carbon-intensive construction materials due to the natural, renewable and biodegradable nature of wood. Wood is a natural store of carbon dioxide



			gas and can play an important role in reducing GHG emissions in the construction sector.
450410	Cork; blocks, plates, sheets and strip, tiles of any shape, solid cylinders (including discs), of agglomerated cork (with or without a binding substance)		Cork can be used as an absorbent in the treatment of hydrocarbon, oil, solvent and organic compound spills. Cork can also be used for thermal insulation to improve the energy efficiency of buildings.
450490	Cork; articles of agglomerated cork (with or without a binding substance), n.e.c. in heading no. 4504		Cork can be used for thermal insulation to improve the energy efficiency of buildings.
460121	Plaiting materials, plaits and similar products of plaiting materials; mats, matting and screens, of bamboo	Biodegradable, open weave, erosion control mesh, in rolls	Erosion control matting can reduce erosion, assist the establishment of vegetation, and can be used for a more environmentally friendly form of weed control. Erosion control matting and ground covers made of bamboo are biodegradable.
460122	Plaiting materials, plaits and similar products of plaiting materials; mats, matting and screens, of rattan	Biodegradable, open weave, erosion control mesh, in rolls	Erosion control matting can reduce erosion, assist the establishment of vegetation, and can be used for a more environmentally friendly form of weed control. Erosion control matting and ground covers made of rattan are biodegradable.
460129	Plaiting materials, plaits and similar products of plaiting materials; mats, matting and screens, of vegetable materials other than bamboo or rattan	Biodegradable, open weave, erosion control mesh, in rolls, excluding products of <i>Igusa</i> ( <i>Juncus effusus</i> ) or of <i>Shichitoi</i> ( <i>Cyperus tegetiformis</i> )	Erosion control matting can reduce erosion, assist the establishment of vegetation, and can be used for a more environmentally friendly form of weed control. Erosion control matting and ground covers made of vegetable material are biodegradable.

470620	Pulp; of fibres derived from recovered (waste and scrap) paper or paperboard		Products under this subheading are derived from recovered materials. Recycled goods are key to moving towards a circular economy (i.e. retaining resources within the economy when a product has reached its end of life, so resources can be reused and create further value), as opposed to a linear economy model where resources are extracted, turned into a product, and disposed after use. Recycling extends the life of natural resources, reduces the generation of mining waste, reduces greenhouse gas emissions, diminishes pressures on disposal facilities, and preserves landfill capacity.
470710	Paper or paperboard; waste and scrap, of unbleached kraft paper or paperboard or corrugated paper or paperboard		Products under this subheading are derived from recovered materials. Recycled goods are key to moving towards a circular economy (i.e. retaining resources within the economy when a product has reached its end of life, so resources can be reused and create further value), as opposed to a linear economy model where resources are extracted, turned into a product, and disposed after use. Recycling extends the life of natural resources, reduces the generation of mining waste, reduces greenhouse gas emissions, diminishes pressures on disposal facilities, and preserves landfill capacity.

470720	Paper or paperboard; waste and scrap, paper or paperboard made mainly of bleached chemical pulp, not coloured in the mass		Products under this subheading are derived from recovered materials. Recycled goods are key to moving towards a circular economy (i.e. retaining resources within the economy when a product has reached its end of life, so resources can be reused and create further value), as opposed to a linear economy model where resources are extracted, turned into a product, and disposed after use. Recycling extends the life of natural resources, reduces the generation of mining waste, reduces greenhouse gas emissions, diminishes pressures on disposal facilities, and preserves landfill capacity.
470730	Paper or paperboard; waste and scrap, paper or paperboard made mainly of mechanical pulp (e.g. newspapers, journals and similar printed matter)		Products under this subheading are derived from recovered materials. Recycled goods are key to moving towards a circular economy (i.e. retaining resources within the economy when a product has reached its end of life, so resources can be reused and create further value), as opposed to a linear economy model where resources are extracted, turned into a product, and disposed after use. Recycling extends the life of natural resources, reduces the generation of mining waste, reduces greenhouse gas emissions, diminishes pressures on disposal facilities, and preserves landfill capacity.

470790	Paper or paperboard; waste and scrap, of paper or paperboard n.e.c. in heading no. 4707 and of unsorted waste and scrap		Products under this subheading are derived from recovered materials. Recycled goods are key to moving towards a circular economy (i.e. retaining resources within the economy when a product has reached its end of life, so resources can be reused and create further value), as opposed to a linear economy model where resources are extracted, turned into a product, and disposed after use. Recycling extends the life of natural resources, reduces the generation of mining waste, reduces greenhouse gas emissions, diminishes pressures on disposal facilities, and preserves landfill capacity.
480519	Paper and paperboard; uncoated, fluting paper other than semi-chemical or straw, rolls or sheets	Made wholly or mainly of pulp of recovered (waste or scrap) paper or paperboard	Recycled paper production allows for recovery of fibre from existing paper and has a lower environmental impact than the production of virgin paper.
480524	Paper & paperboard; uncoated, testliner (recycled linerboard), weight 150g/m <sup>2</sup> , or less, in rolls or sheets		Recycled paper production allows for recovery of fibre from existing paper and has a lower environmental impact than the production of virgin paper.
480525	Paper and paperboard; uncoated, testliner (recycled linerboard), weight over 150g/m <sup>2</sup> , in rolls or sheets		Recycled paper production allows for recovery of fibre from existing paper and has a lower environmental impact than the production of virgin paper.
480592	Paper and paperboard; uncoated, weight more than 150g/m <sup>2</sup> but less than 225 g/m <sup>2</sup> , in rolls or sheets, n.e.c. in heading no. 4805	Made wholly or mainly of pulp of recovered (waste or scrap) paper or paperboard	Recycled paper production allows for recovery of fibre from existing paper and has a lower environmental impact than the production of virgin paper.
480593	Paper and paperboard; uncoated, weight 225/m <sup>2</sup>	Made wholly or mainly of pulp of	Recycled paper production allows for recovery of fibre

	or more, in rolls or sheets, n.e.c. in heading no. 4805	recovered (waste or scrap) paper or paperboard	from existing paper and has a lower environmental impact than the production of virgin paper.
481092	Paper and paperboard; multi-ply, coated with kaolin or other inorganic substances only, for non-graphic purposes, n.e.c. in heading no. 4810, in rolls or sheets	Made wholly or mainly of pulp of recovered (waste or scrap) paper or paperboard	Recycled paper production allows for recovery of fibre from existing paper and has a lower environmental impact than the production of virgin paper.
500500	Yarn spun from silk waste (excl. that put up for retail sale)		Waste material that can be further utilised or recycled.
500600	Silk yarn and yarn spun from silk waste, put up for retail sale; silkworm gut		Waste material that can be further utilised or recycled.
510111	Wool; (not carded or combed), greasy (including fleece-washed wool), shorn		Wool is a natural, sustainable and biodegradable fibre, and a more preferable option to more carbon-intensive synthetic fibres. Wool has a variety of uses as a woven fabric and as a natural form of insulation.
510121	Wool; (not carded or combed), degreased, (not carbonised), shorn		Wool is a natural, sustainable and biodegradable fibre, and a more preferable option to more carbon-intensive synthetic fibres. Wool has a variety of uses as a woven fabric and as a natural form of insulation.
530110	Flax; raw or retted, but not spun		Flax is a natural, sustainable and biodegradable vegetable fibre, and a preferable option to more carbon-intensive synthetic fibres. Flax is a traditional material used for weaving and can be used as a woven fibre and a composite material reinforcement.
530129	Flax; hackled or otherwise processed, but not spun		Flax is a natural, sustainable and biodegradable vegetable fibre, and a preferable option to more carbon-intensive synthetic fibres. Flax is a traditional material used for

			weaving and can be used as a woven fibre and a composite material reinforcement.
530310	Jute and other textile bast fibres; raw or retted, but not spun, (excluding flax, hemp ( <i>cannabis sativa</i> L.), and ramie)		Jute is a natural, sustainable and biodegradable vegetable fibre, and a more preferable option compared to more carbon-intensive synthetic fibres. Jute has a variety of uses, including as a yarn for burlap, hessian and gunny cloth.
530500	Coconut, abaca (Manila hemp or <i>Musa textilis</i> Nee), ramie and other vegetable textile fibres n.e.c., raw or processed but not spun; tow, noils and waste of these fibres (including yarn waste and garnetted stock)		Vegetable fibres are a natural, sustainable and biodegradable alternative to more carbon-intensive synthetic fibres.
531010	Woven fabrics of jute or of other textile bast fibres of heading 5303, unbleached		Jute is a natural, sustainable and biodegradable vegetable fibre and a more preferable option compared to more carbon-intensive synthetic fibres. Jute has a variety of uses, including as a yarn for burlap, hessian and gunny cloth.
560394	Nonwovens; whether or not impregnated, coated, covered or laminated, not of man-made filaments, (weighing more than 150g/m <sup>2</sup> )	Non-woven, wholly wool or wool predominate mix matting, of a kind used for erosion control, establishment of plants, soil protection, sound-insulation, vibration-insulation, heat-insulation, ceiling/underfloor /wall insulation, or for lagging	Wool matting provides a protective layer over soil, thereby preventing soil erosion, suppressing weeds, preserving soil moisture and insulating plants from temperature extremes. It is a natural, sustainable and biodegradable alternative to similar products, and can act as a fertiliser. Wool blend insulation for ceilings, underfloor, pipes, walls and hot water cylinders also provides a natural, sustainable and biodegradable

		pipes, hot-water cylinders	alternative to similar insulation products.
560790	Twine, cordage, ropes and cables, whether or not plaited or braided and whether or not impregnated, coated, covered or sheathed with rubber or plastics (excl. that of synthetic fibres and of sisal or other textile fibres of the genus Agave)		More biodegradable than synthetic fibre alternatives and made from a renewable resource.
591190	Textile products and articles, for technical purposes, specified in Note 7 to chapter 59, n.e.s.		Of a kind used as air filters.
630510	Sacks and bags, for the packing of goods, of jute or other textile bast fibres of heading 5303		More biodegradable than synthetic fibre alternatives and made from a renewable resource.
631010	Rags; used or new, scrap twine, cordage, rope and cables and worn out articles of twine, cordage, rope or cables, of textile materials; sorted		Conservation of resources by reuse and recycling existing material in line with a circular economy.
631090	Rags; used or new, scrap twine, cordage, rope and cables and worn out articles of twine, cordage, rope or cables, of textile materials; other than sorted		Conservation of resources by reuse and recycling existing material in line with a circular economy.
680610	Slag-wool, rock-wool and similar mineral wools, incl. intermixtures thereof, in bulk, sheets or rolls		Of a kind used for sound insulation and sound absorption as well as for thermal insulation. Insulation materials help in improving the energy efficiency of buildings.

680690	Mixtures and articles of heat-insulating, sound-insulating or sound absorbing mineral materials (excl. slag-wool, rock-wool and similar mineral wools, exfoliated vermiculite, expanded clays, foamed slag and similar expanded mineral materials, articles of light concrete, asbestos-cement, cellulose fibre-cement or the like, mixtures and other articles of or based on asbestos and ceramic products)		Of a kind used for sound insulation and sound absorption as well as for thermal insulation. Insulation materials help in improving the energy efficiency of buildings.
680800	Panels, boards, tiles, blocks and the like; of vegetable fibre, of straw, shavings, chips, particles, sawdust or other waste, of wood, agglomerated with cement, plaster or other mineral binders	Insulation products	Waste material under this subheading includes wood waste, coir, and reed, which can be recycled into insulation products. Insulation materials help in reducing energy consumption in buildings thermal insulation to improve the energy efficiency of buildings.
681510	Articles of graphite or other carbon, incl. carbon fibres, for non-electrical purposes		Carbon fibre materials, of a kind are used in renewables and in wider manufactured goods where they enhance power efficiency and reduce weight.
691010	Ceramic sinks, wash basins, wash basin pedestals, baths, bidets, water closet pans, flushing cisterns, urinals and similar sanitary fixtures; of porcelain or china	Composting toilets	Composting toilets minimise water use and provide self-contained sewage treatment on site, with no need for sewers and treatment plants. They also do not pollute ground or surface water or soil (unlike septic tanks or pit latrines) and produce safe, useful compost.
		Dual flushing cisterns	Dual flush toilets minimise water use and, thus, contribute to the reduction of water stress.



		Waterless urinals	Waterless urinals and dual flush toilets minimise water use and, thus, contribute to the reduction of water stress.
700510	Glass; float glass and surface ground or polished glass, in sheets, non-wired, having an absorbent reflecting or non-reflecting layer	Glass substrate with transparent conductive oxide and with sheet resistance <60 Ohms per square and haze ratio >7 %	Coated glass is a key component of a Dye Solar Cell assembly for generating renewable solar electricity.
700719	Glass; safety glass, toughened (tempered), (not of a size and shape suitable for incorporation in vehicles, aircraft, spacecraft or vessels)	Solar glass consisting of tempered soda-lime-flat-glass, whose surface is figured, with a transmittance of more than 88 % and an iron content of less than 300 ppm.	Solar glass is a key component of solar photovoltaic modules for generating renewable solar energy
700800	Glass; multiple-walled insulating units of glass		Insulated glass units contribute to energy savings in residential and commercial buildings.
700991	Glass mirrors, unframed (excl. rear-view mirrors for vehicles, optical mirrors, optically worked, mirrors > 100 years old)		Mirrors of a type suitable for use reflecting and concentrating sunlight on to collectors whether of a thermal/steam boiler or Photovoltaic Solar Cell type, for the production of renewable electricity.
701931	Mats of irregularly laminated glass fibres		Of a kind used for sound insulation and sound absorption as well as for thermal insulation.
701939	Webs, mattresses, boards and similar nonwoven products, of glass fibres (excl. mats and thin sheets "voiles")		Of a kind used for sound insulation and sound absorption as well as for thermal insulation and in the production of air filters.
701990	Glass fibres; n.e.c. in heading no. 7019	Glass fibre filters	Fibreglass products are used as filters in industrial air pollution control equipment (separators,

			precipitators, tanks, pipe systems, scrubbers).
720410	Ferrous waste and scrap; of cast iron		Recycling precious metals and compounds results in major energy savings, reduces greenhouse gas emissions, diminishes pressures on disposal facilities, and preserves landfill capacity. Recycled goods are key to moving towards a circular economy (i.e. retaining resources within the economy when a product has reached its end of life, so resources can be reused and create further value), as opposed to a linear economy model where resources are extracted, turned into a product, and disposed after use. Recycling extends the life of natural resources, reduces the generation of mining waste, reduces greenhouse gas emissions, diminishes pressures on disposal facilities, and preserves landfill capacity.
720421	Ferrous waste and scrap; of stainless steel		Recycling precious metals and compounds results in major energy savings, reduces greenhouse gas emissions, diminishes pressures on disposal facilities, and preserves landfill capacity. Recycled goods are key to moving towards a circular economy (i.e. retaining resources within the economy when a product has reached its end of life, so resources can be reused and create further value), as opposed to a linear economy model where resources are extracted, turned into a product, and disposed after use. Recycling extends

			the life of natural resources, reduces the generation of mining waste, reduces greenhouse gas emissions, diminishes pressures on disposal facilities, and preserves landfill capacity.
720429	Ferrous waste and scrap; of alloy steel (excluding stainless)		Recycling precious metals and compounds results in major energy savings, reduces greenhouse gas emissions, diminishes pressures on disposal facilities, and preserves landfill capacity. Recycled goods are key to moving towards a circular economy (i.e. retaining resources within the economy when a product has reached its end of life, so resources can be reused and create further value), as opposed to a linear economy model where resources are extracted, turned into a product, and disposed after use. Recycling extends the life of natural resources, reduces the generation of mining waste, reduces greenhouse gas emissions, diminishes pressures on disposal facilities, and preserves landfill capacity.

720430	Ferrous waste and scrap; of tinned iron or steel		<p>Recycling precious metals and compounds results in major energy savings, reduces greenhouse gas emissions, diminishes pressures on disposal facilities, and preserves landfill capacity. Recycled goods are key to moving towards a circular economy (i.e. retaining resources within the economy when a product has reached its end of life, so resources can be reused and create further value), as opposed to a linear economy model where resources are extracted, turned into a product, and disposed after use. Recycling extends the life of natural resources, reduces the generation of mining waste, reduces greenhouse gas emissions, diminishes pressures on disposal facilities, and preserves landfill capacity.</p>
720441	Ferrous waste and scrap; turnings, shavings, chips, milling waste, sawdust, fillings, trimmings and stampings, whether or not in bundles		<p>Recycling precious metals and compounds results in major energy savings, reduces greenhouse gas emissions, diminishes pressures on disposal facilities, and preserves landfill capacity. Recycled goods are key to moving towards a circular economy (i.e. retaining resources within the economy when a product has reached its end of life, so resources can be reused and create further value), as opposed to a linear economy model where resources are extracted, turned into a product, and disposed after use. Recycling extends the life of natural resources, reduces the generation of mining waste, reduces</p>

			greenhouse gas emissions, diminishes pressures on disposal facilities, and preserves landfill capacity.
720449	Ferrous waste and scrap; n.e.c. in heading no. 7204		Recycling precious metals and compounds results in major energy savings, reduces greenhouse gas emissions, diminishes pressures on disposal facilities, and preserves landfill capacity. Recycled goods are key to moving towards a circular economy (i.e. retaining resources within the economy when a product has reached its end of life, so resources can be reused and create further value), as opposed to a linear economy model where resources are extracted, turned into a product, and disposed after use. Recycling extends the life of natural resources, reduces the generation of mining waste, reduces greenhouse gas emissions, diminishes pressures on disposal facilities, and preserves landfill capacity.

720450	Ferrous products; remelting scrap ingots		Recycling precious metals and compounds results in major energy savings, reduces greenhouse gas emissions, diminishes pressures on disposal facilities, and preserves landfill capacity. Recycled goods are key to moving towards a circular economy (i.e. retaining resources within the economy when a product has reached its end of life, so resources can be reused and create further value), as opposed to a linear economy model where resources are extracted, turned into a product, and disposed after use. Recycling extends the life of natural resources, reduces the generation of mining waste, reduces greenhouse gas emissions, diminishes pressures on disposal facilities, and preserves landfill capacity.
722511	Flat-rolled products of silicon-electrical steel, of a width of $\geq 600$ mm, grain-oriented		Grain Oriented Electrical Steel (GOES) of a kind used in power and distribution transformers. This product achieves efficient energy-saving and contributes to minimising transmission loss by reducing core loss compared to that of conventional steel.
722611	Flat-rolled products of silicon-electrical steel, of a width of $< 600$ mm, hot-rolled or cold-rolled "cold-reduced", grain-oriented		Grain Oriented Electrical Steel (GOES) of a kind used in power and distribution transformers. This product achieves efficient energy-saving and contributes to minimising transmission loss by reducing core loss compared to that of conventional steel.

730210	Rails of iron or steel, for railway or tramway track (excl. check-rails)		Transport infrastructure for rail supports a cleaner transport mode than alternatives, particularly with the electrification of rail.
730230	Switch blades, crossing frogs, point rods and other crossing pieces, for railway or tramway track, of iron or steel		Transport infrastructure for rail supports a cleaner transport mode than alternatives, particularly with the electrification of rail.
730240	Fish-plates and sole plates of iron or steel, for railways or tramways		Transport infrastructure for rail supports a cleaner transport mode than alternatives, particularly with the electrification of rail.
730290	Sleepers "cross-ties", check-rails, rack rails, chairs, chair wedges, rail clips, bedplates and ties and other specialised material for the jointing or fixing of railway or tramway track, of iron or steel (excl. rails, switch blades, crossing frogs, point rods and other crossing pieces and fish-plates and sole plates)		Transport infrastructure for rail supports a cleaner transport mode than alternatives, particularly with the electrification of rail.
730820	Iron or steel; structures and parts thereof, towers and lattice masts	Wind turbine towers	Products used to elevate and support a wind turbine for the generation of renewable energy.
730890	Structures and parts of structures, of iron or steel, n.e.s. (excl. bridges and bridge-sections, towers and lattice masts, doors and windows and their frames, thresholds for doors, props and similar equipment for scaffolding, shuttering, propping or pit-propping)		Components of wind turbines, which generate low or no carbon emissions and no soil and water pollution.

730900	Reservoirs, tanks, vats and similar containers, of iron or steel, for any material "other than compressed or liquefied gas", of a capacity of > 300 l, not fitted with mechanical or thermal equipment, whether or not lined or heat-insulated (excl. containers specifically constructed or equipped for one or more types of transport)		Containers of any material, of any form, for liquid or solid waste, including for municipal or dangerous waste. Of a kind used in the delivery of environmental services and renewable energy generation.
731511	Chain; articulated link, roller, of iron or steel	Bicycle roller chain	Bicycles and their parts provide a environmentally friendly, low-carbon mode of transportation, which can contribute to lowering GHG emissions in the transport sector as well as reducing air pollution.
732020	Helical springs, of iron or steel (excl. flat spiral springs, clock and watch springs, springs for sticks and handles of umbrellas or parasols and shock absorbers of Section 17)		Bicycles and their spare parts exert positive effect on reducing exhaust emissions from automobiles, air pollution and greenhouse effect, etc.
732490	Iron or steel; sanitary ware and parts thereof, excluding sinks, wash basins and baths	Composting toilets	Composting toilets minimise water use and provide self-contained sewage treatment on site, with no need for sewers and treatment plants. They also do not pollute ground or surface water or soil (unlike septic tanks or pit latrines) and produce safe, useful compost.
		Water closet pans and flushing cisterns/urinals including dry closets	Dry closets (operating on the basis of composting) are designed to conserve water.
		Water conserving showers (provided with a	Water conserving showers are designed to conserve water and reduce energy consumption.



		specific water-efficiency shower head)	
		Waterless urinals	Waterless urinals minimise water and energy use, resulting in significantly less carbon emissions compared to other urinal systems.
750890	Nickel; articles thereof n.e.c. in item no. 7508.1	High temperature superconducting cables	High temperature superconducting (HTS) cables are electrical transmission cables capable of carrying electrical currents with effectively zero resistance at low temperatures. HTS technology is vastly more energy efficient, resulting in significantly less electricity loss and lower maintenance requirements than traditional copper or aluminium transmission cables.
761520	Aluminium; sanitary ware and parts thereof	Composting toilets	Composting toilets are useful where local sewage or water supply systems are unavailable.
761520	Aluminium; sanitary ware and parts thereof	Waterless urinals	Waterless urinals minimise water and energy use, resulting in significantly less carbon emissions compared to other urinal systems.
840211	Boilers; watertube boilers with a steam production exceeding 45t per hour	Heat recovery steam generators	A heat recovery steam generator, or HRSG, is an energy recovery heat exchanger that recovers heat from a hot gas stream. It produces steam that can be used in a process (cogeneration) or used to drive a steam turbine (combined cycle).
		Chemical recovery boilers	Chemical recovery boilers use black liquor, a by-product of the pulping process, to generate electricity, as well as retrieve chemicals used in the pulping process for reuse.

		Combined heat and power boilers	Combined heat and power boilers contribute significantly to energy efficiency by utilising the waste heat in power generation activities. A heat recovery steam generator, or HRSG, is an energy recovery heat exchanger that recovers heat from a hot gas stream. It produces steam that can be used in a process (cogeneration) or used to drive a steam turbine (combined cycle).
840212	Boilers; watertube boilers with a steam production not exceeding 45t per hour	Heat recovery steam generators	A heat recovery steam generator is an energy recovery heat exchanger that recovers heat from a hot gas stream. It produces steam that can be used in a process (cogeneration) or used to drive a steam turbine (combined cycle).
		Combined heat and power boilers	Combined heat and power contributes significantly to energy efficiency by utilising the waste heat in power generation activities.
840219	Boilers; vapour generating boilers, including hybrid boilers n.e.c. in heading no. 8402	Heat recovery steam generators	A heat recovery steam generator is an energy recovery heat exchanger that recovers heat from a hot gas stream. It produces steam that can be used in a process (cogeneration) or used to drive a steam turbine (combined cycle).
		Combined heat and power boilers	Waste heat recovery boilers are used to support waste heat recovery processes without any fuels. Combined heat and power contributes significantly to energy efficiency by utilising the waste heat in power generation activities.

840410	Boilers; auxiliary plant, for use with boilers of heading no. 8402 or 8403 (e.g. economisers, superheaters, soot removers, gas recoverers)		Components of industrial air pollution control plants used to minimise the release of pollutants into the atmosphere. This equipment is also used to support waste heat recovery processes in waste treatment, or renewable energy resource recovery applications.
840420	Boilers; condensers, for steam or other vapour power units		Condensers can be used to cool gas streams to temperatures which allow for the removal of contaminants, such as Volatile Organic Compounds like benzene.
840490	Boilers; parts of auxiliary plant, for use with boilers of heading no. 8402 and 8403 and parts of condensers for steam or other vapour power units		Parts and accessories for equipment classified under 8404.10. This secondary equipment is also used to support waste heat recovery processes, such as boilers mentioned above, in waste treatment, or renewable energy resource recovery applications.
840510	Generators; producer gas, water gas, acetylene gas and similar water process gas generators, with or without their purifiers	Include only those with purifiers	Purifiers remove contaminants (such as cyanide or sulphur compounds) produced in the manufacture of gases.
840681	Turbines; steam and other vapour turbines, (for other than marine propulsion), of an output exceeding 40MW		Steam and vapour turbines are key components for the production of geothermal energy and co-generation.
840682	Turbines; steam and other vapour turbines, (for other than marine propulsion), of an output not exceeding 40MW		Steam and vapour turbines are key components for the production of geothermal energy and co-generation.
840690	Turbines; parts of steam and other vapour turbines		Parts and accessories of steam and vapour turbines, with the associated environmental benefits.

841011	Turbines; hydraulic turbines and water wheels, of a power not exceeding 1000kW		Hydraulic turbines and water wheels are key components used in the production of hydro and tidal power. As a clean and renewable resource, hydro and tidal power are both clean, renewable sources of electricity that can play a pivotal role in reducing GHG emissions and providing a reliable, constant source of electricity.
841012	Turbines; hydraulic turbines and water wheels, of a power exceeding 1000kW but not exceeding 10000kW		Hydraulic turbines and water wheels are key components used in the production of hydro and tidal power. As a clean and renewable resource, hydro and tidal power are both clean, renewable sources of electricity that can play a pivotal role in reducing GHG emissions and providing a reliable, constant source of electricity.
841013	Turbines; hydraulic turbines and water wheels, of a power exceeding 10000kW		Hydraulic turbines and water wheels are key components used in the production of hydro and tidal power. As a clean and renewable resource, hydro and tidal power are both clean, renewable sources of electricity that can play a pivotal role in reducing GHG emissions and providing a reliable, constant source of electricity.
841090	Turbines; parts of hydraulic turbines and water wheels, including regulators		Parts and accessories of hydraulic turbines and water wheels, with the associated environmental benefits.
841181	Turbines; gas-turbines (excluding turbo-jets and turbo-propellers), of a power not exceeding 5000kW		Gas Turbines can be used for clean power generation, including recovered landfill gas or biogas. These turbines are also an essential component of relatively efficient combined-cycle power plants

			running on natural gas or biogas, which emit less greenhouse emissions than coal-based power.
841182	Turbines; gas-turbines (excluding turbo-jets and turbo-propellers), of a power exceeding 5000kW		Gas Turbines can be used for clean power generation, including recovered landfill gas or biogas. These turbines are also an essential component of relatively efficient combined-cycle power plants running on natural gas or biogas, which emit less greenhouse emissions than coal-based power.
841290	Engines; parts, for engines and motors of heading no. 8412	Wind turbine blades and hubs	Components of wind turbines for renewable electricity generation.
841480	Air or vacuum pumps, air or other gas compressors and fans; ventilating or recycling hoods incorporating a fan, whether or not fitted with filters: - Other	Refrigerant recovery units	Refrigerant recovery units can be used to recover refrigerants (including CFCs, HCFCs and HFCs) from refrigeration and air conditioning equipment, thus preventing emissions of these refrigerants to the atmosphere. CFCs, HCFCs and HFCs are ozone-depleting substances and some are potent greenhouse gases.
841861	Heat pumps other than air conditioning machines of heading 8415	Air-source heat pumps	Aerothermal heat pump utilises moderate temperatures in the ambient air to reduce the operational costs of heating and cooling systems to boost energy efficiency.
		Ground-source heat pumps	Ground-source heat pumps utilise the moderate temperatures in the ground to reduce the operational costs of heating and cooling systems and boost efficiency.
		Heat pumps of compression-type	Such systems transfer the heat available in land, air and water masses to either heat or cool buildings.

		Hydrothermal heat pumps	Waste-to-energy systems use solid waste to produce usable heat and energy
841899	Parts of refrigerating or freezing equipment and heat pumps, n.e.s.		Parts of heat pump systems of a kind specified, with associated environmental benefits.
841919	Heaters; instantaneous or storage water heaters, non-electric, other than instantaneous gas water heaters	Solar water heaters	Solar water heaters use solar thermal energy to heat water, producing no pollution or carbon emissions. Use of solar water heating displaces the burning of other, pollution-creating fuels.
841939	Dryers: other than for agricultural products; for wood, paper pulp, paper or paperboard	Sewage sludge dryers	Sludge dryers can be cover sludge into useful green products, such as fertilisers, compost or a fuel source. Sludge drying significantly reduces the volume and weight of the sludge so that it is easier to recover.
841940	Distilling or rectifying plant; not used for domestic purposes	Biogas refinement equipment	Biogas refinement equipment is used to alter biogas resulting from organic matter to give it the same properties as natural gas.
		Solvent recycling plants	Solvent recycling plants allows for the recovery and reuse of solvents, such as the solvents used in the printing, painting or dry cleaning industries.
841960	Machinery; for liquefying air or gas, not used for domestic purposes		Machinery under this subheading (of a kind not including HFC/HCFCs) can be used to separate and remove pollutants through condensation.
841989	Machinery, plant or laboratory equipment, whether or not electrically heated (excluding furnaces, ovens and other equipment of heading 85.14), for the treatment	Anaerobic digestors	Anaerobic digesters break down biodegradable material to create biogas, which can be combusted to generate electricity and heat, or can be processed into renewable natural gas and transportation fuels.

<p>of materials by a process involving a change of temperature such as heating, cooking, roasting, distilling, rectifying, sterilising, pasteurising, steaming, drying, evaporating, vaporising, condensing or cooling, other than machinery or plant of a kind used for domestic purposes; instantaneous or storage water heaters, non- electric: - Other machinery, plant and equipment: other</p>	Autoclaves	Autoclaves are used in the pre-disposal treatment and sterilisation of waste material, such as pathogenic hospital waste. These machines are able to neutralize potentially infectious agents by utilising pressurised steam and superheated water.
	Biogas refinement equipment	Biogas refinement equipment removes contaminants from raw biogas so that it may be used effectively. Biogas reactors degrade organic matter to produce biogas, which can be combusted to generate electricity and heat, or can be processed into renewable natural gas and transportation fuels.
	Refrigerant recycling and reclaiming units	Refrigerant recycling and reclaiming units can be used to recover, recycle and purify refrigerants (including CFCs, HCFCs and HFCs) from refrigeration and air conditioning equipment, thus preventing emissions of these refrigerants to the atmosphere.
	Thermal desorbers	Thermal desorbers are an environmental remediation technology that utilises heat to increase the volatility of contaminants such that they can be removed from the solid matrix (typically soil, sludge or filter cake).
	Drum, thermal and mechanical vapor compression evaporators	Through the transformation of vapour into liquid, vapour compression evaporators can make reasonably clean water from any water source. Fluidised bed systems are commonly used to combust wastewater sludge in waste-to-energy applications.

		Condensers and cooling towers	Wet cooling towers act as highly efficient air scrubbers by collecting particles from the surrounding environment into the cooling water.
841990	Machinery, plant or laboratory equipment, whether or not electrically heated (excluding furnaces, ovens and other equipment of heading 85.14), for the treatment of materials by a process involving a change of temperature such as heating, cooking, roasting, distilling, rectifying, sterilising, pasteurising, steaming, drying, evaporating, vaporising, condensing or cooling, other than machinery or plant of a kind used for domestic purposes; instantaneous or storage water heaters, non- electric: - Parts	Parts of 8419.19x, 8419.39x, 8419.40x, 8419.60, 8419.89x	Parts and accessories of 8419.19x, 8419.39x, 8419.40x, 8419.60, and 8419.89x, with the associated environmental benefits
842119	Centrifuges; n.e.c. in heading no. 8421, including centrifugal dryers (but not clothes-dryers)	Oil skimmers	Equipment used to remove oil floating on water, such as for oil spill remediation.
		Sludge dewatering centrifuges	Sludge dewatering centrifuges are designed for solid-liquid separation.
842121	Centrifuges, including centrifugal dryers; filtering or purifying machinery and apparatus for liquids or gases: - Filtering or purifying machinery and apparatus for liquids: for filtering or purifying water		This subheading includes a wide range of essential water and wastewater treatment technologies, including UV water purifiers, ozone generators, reverse osmosis systems and filters, as well as desalination systems.
842139	Centrifuges, including centrifugal dryers; filtering or purifying		Filtering and purifying machinery used for the removal of toxic or otherwise



	machinery and apparatus for liquids or gases: - Filtering or purifying machinery and apparatus for gases: other (excl. isotope separators and intake air filters for internal combustion engines)		harmful pollutants, such as Volatile Organic Compounds, solid or liquid particles in gases.
842191	Centrifuges; parts thereof, including parts for centrifugal dryers	Parts of 8421.19x	Parts and accessories of 8421.19, with the associated environmental benefits.
842199	Machinery; parts for filtering or purifying liquids or gases	Parts of 8421.21x	Parts and accessories of 8421.21, with the associated environmental benefits.
842220	Machinery; for cleaning or drying bottles or other containers		Machinery used to clean and dry bottles so that they can be recycled and reused. Recycling is key to moving towards a circular economy (i.e. retaining resources within the economy when a product has reached its end of life, so resources can be reused and create further value).
842290	Machinery; parts of machinery of heading no. 8422	Parts of 8422.20	Parts and accessories of 8422.20, with the associated environmental benefits.
846239	Machine-tools; shearing machines (including presses), (other than combined punching and shearing machines, other than numerically controlled), for working metal	Hydraulic alligator or guillotine shearing machines	Hydraulic shears can be used for cutting long lengths of recyclable metals to be further processed and are often used when the size or shape of material makes torch-cutting difficult.
846291	Machine-tools; presses for working metal or metal carbides, n.e.c. in heading no. 8462, hydraulic presses	Compactors for metals	Metal compactors are essentially in the management of waste and the recycling process by compressing and compacting scrap metal.
847410	Machines; for sorting, screening, separating or washing earth, stone, ores or other mineral substances		Sorting machines used to wash and sort mineral substances, so that they can be recycled and reused. Recycling is key to moving towards a circular economy (i.e. retaining

			resources within the economy when a product has reached its end of life, so resources can be reused and create further value).
847420	Machines; for crushing or grinding earth, stone, ores or other mineral substances		Crushing/grinding machines are used for solid and hazardous waste management for recycling. Recycling is key to moving towards a circular economy (i.e. retaining resources within the economy when a product has reached its end of life, so resources can be reused and create further value).
847439	Machines; for mixing or kneading mineral substances, excluding concrete mixers and machines for mixing mineral substances with bitumen		Mixing/kneading machine used to prepare waste for treatment/recycling or during treatment/recycling. Recycling is key to moving towards a circular economy (i.e. retaining resources within the economy when a product has reached its end of life, so resources can be reused and create further value).
847490	Machinery for sorting, screening, separating, washing, crushing, grinding, mixing or kneading earth, stone, ores or other mineral substances, in solid (including powder or paste) form; machinery for agglomerating, shaping or moulding solid mineral fuels, ceramic paste, unhardened cements, plastering materials or other mineral products in powder or paste form; machines for forming foundry moulds of sand: - Parts	Parts of 8474.10 and 8474.20	Parts and accessories of 8474.10 and 8474.20, with the associated environmental benefits.

847751	Machinery; for moulding or retreading pneumatic tyres or for moulding or otherwise forming inner tubes	For retreading pneumatic tyres	This equipment is used for recycling waste tyres. Recycled goods are key to moving towards a circular economy (i.e. retaining resources within the economy when a product has reached its end of life, so resources can be reused and create further value), as opposed to a linear economy model where resources are extracted, turned into a product, and disposed after use. Recycling extends the life of natural resources, reduces the generation of mining waste, reduces greenhouse gas emissions, diminishes pressures on disposal facilities, and preserves landfill capacity.
847989	Machines and mechanical appliances; having individual functions, n.e.c. or included in this chapter	Possum, stoat, and rat traps	Possums, stoats, and rats are known predators to indigenous bird species and are a major cause for the decline of many indigenous bird populations. These predators can also have a significant impact on ecosystems. Possum, stoat, and rat traps therefore play an important role in curbing the impact these pests have in many ecosystems and supporting the revival of indigenous bird species and ecosystems.
847990	Machines and mechanical appliances; parts, of those having individual functions	Parts of 8479.89	Parts and accessories of 8479.89, with the associated environmental benefits.
848110	Taps, cocks, valves and similar appliances for pipes, boiler shells, tanks, vats or the like, including pressure-reducing valves and thermostatically controlled valves:	Thermostatic radiator valves	Thermostatic radiator valves are self-regulating valves fitted to hot water heating system radiators, to control the temperature of a room by changing the flow of hot water to the radiator. Because these valves only use heat when

	- Pressure-reducing valves		needed, they can reduce heating bills by up to 17% a year. Also used in heat pump systems.
848210	Ball bearings	Ball bearings, of a kind used in wind turbines, of a diameter not less than 2150mm but not exceeding 4000mm	Parts and accessories of wind turbines. Special thread inserts connect the blades to the blade bearing. The blade bearing is a ball bearing which is bolted to the rotor hub.
848230	Bearings; spherical roller bearings	Spherical roller bearings, of a kind used in wind turbines, of a diameter not less than 1150mm but not exceeding 4000mm	Parts and accessories of wind turbines. Special thread inserts connect the blades to the blade bearing. The blade bearing is a ball bearing which is bolted to the rotor hub.
848330	Bearing housings for machinery, not incorporating ball or roller bearings; plain shaft bearings for machinery		Water lubricated bearings, which represent an environmentally preferable alternative to oil lubricated bearings.
848340	Gears and gearing for machinery (excl. toothed wheels, chain sprockets and other transmission elements presented separately); ball or roller screws; gear boxes and other speed changers, incl. torque converters		Of a kind used in renewable energy plant & machinery.
848360	Clutches and shaft couplings, incl. universal joints, for machinery		Of a kind used in renewable energy plant & machinery.
848610	Machines and apparatus of a kind used solely or principally for the manufacture of semiconductor boules or wafers	For the manufacture of photovoltaic wafers	Supports the manufacture and production of photovoltaic wafers, which helps produce renewable energy through the photovoltaic effect.
848620	Machines and apparatus of a kind used solely or principally for the	For the manufacture of photovoltaic cells,	Supports the manufacture and production of solar cells and modules, which convert the

	manufacture of semiconductor devices or of electronic integrated circuits	modules and panels	energy of light directly into electricity through the photovoltaic effect.
848690	Machines and apparatus of heading 8486; parts and accessories	Parts of 8486.10 and 8486.20	Parts of 8486.10 and 8486.20, with the associated environmental benefits.
850131	DC motors of an output > 37,5 W but <= 750 W and DC generators of an output <= 750 W		Energy saving motors and fans, designed using less raw materials than traditional inefficient motors and other electronically commutated motors.
850132	DC motors and DC generators of an output > 750 W but <= 75 kW		Solar trackers, motors and generators, of a kind used in solar power plants.
850133	DC motors and DC generators of an output > 75 kW but <= 375 kW		Solar trackers, motors and generators, of a kind used in solar power plants.
850151	Electric motors; AC motors, multi-phase, of an output not exceeding 750W	Motors that meet or exceed the requirements of efficiency class IE4 of the Norm IEC 60034-30-1 (2014)	Three phase motors, when compared to single phase motors, have higher efficiency and power factors and are more reliable since they do not have starting switches or capacitors. The rotor current and rotor losses are insignificant at no load in a three-phase motor. Single-phase motors have appreciable rotor current and rotor losses at no load. For a given breakdown torque, the single-phase motor requires considerably more flux and more active material than the equivalent three-phase motor.
850152	Electric motors; AC motors, multi-phase, of an output exceeding 750W but not exceeding 75kW	Motors that meet or exceed the requirements of efficiency class IE4 of the Norm IEC 60034-30-1 (2014)	Three phase motors, when compared to single phase motors, have higher efficiency and power factors and are more reliable since they do not have starting switches or capacitors. The rotor current and rotor losses are insignificant at no load in a three-phase motor. Single-phase motors have appreciable rotor current and

			rotor losses at no load. For a given breakdown torque, the single-phase motor requires considerably more flux and more active material than the equivalent three-phase motor.
850161	Generators; AC generators, (alternators), of an output not exceeding 75kVA		AC generators are used for the conversion of clean and renewable energy to usable electricity, including for hydro-power generation.
850162	Electric generators; AC generators, (alternators), of an output exceeding 75kVA but not exceeding 375kVA		AC generators are used for the conversion of clean and renewable energy to usable electricity, including for hydro-power generation.
850163	Electric generators; AC generators, (alternators), of an output exceeding 375kVA but not exceeding 750kVA		AC generators are used for the conversion of clean and renewable energy to usable electricity, including for hydro-power generation.
850164	Electric generators; AC generators, (alternators), of an output exceeding 750kVA		AC generators are used for the conversion of clean and renewable energy to usable electricity, including for hydro-power generation.
850231	Electric generating sets; wind-powered, (excluding those with spark-ignition or compression-ignition internal combustion piston engines)		Components of wind turbines for renewable electricity generation.
850239	Electric generating sets; (excluding those with spark-ignition or compression-ignition internal combustion piston engines), other than wind powered		This subheading covers a wide range of generating sets used in clean and renewable energy applications.
850300	Parts suitable for use solely or principally with the machines of heading 85.01 or 85.02.	Parts of 8501.51x, 8501.52x, 8501.61, 8501.62,	Parts and accessories of 850151, 850152, 850161, 850162, 850163, 850164, 850231, 850239 with the

		8501.63, 8501.64, 8502.31, 8502.39	associated environmental benefits.
850421	Liquid dielectric transformers, having a power handling capacity $\leq 650$ kVA		Of a kind used in renewable energy plant & machinery
850422	Electrical transformers; liquid dielectric, having a power handling capacity exceeding 650kVA but not exceeding 10,000kVA	Amorphous-core transformers	Amorphous material has great advantage in reducing no load loss which is generated during operation. By using Amorphous metal for core part, loss can be reduced significantly. It is possible to achieve high efficiency and save a huge amount of energy in many years.
850423	Liquid dielectric transformers, having a power handling capacity $> 10.000$ kVA		Of a kind used in renewable energy plant & machinery
850431	Transformers having a power handling capacity $\leq 1$ kVA (excl. liquid dielectric transformers)		Of a kind used in renewable energy plant & machinery
850432	Transformers, having a power handling capacity $> 1$ kVA but $\leq 16$ kVA (excl. liquid dielectric transformers)		Of a kind used in renewable energy plant & machinery
850433	Transformers; n.e.c. in item no. 8504.2, having a power handling capacity exceeding 16kVA but not exceeding 500kVA	Amorphous-core transformers	Amorphous material has great advantage in reducing no load loss which is generated during operation. By using Amorphous metal for core part, loss can be reduced significantly. It is possible to achieve high efficiency and save a huge amount of energy in many years.
		Superconducting transformers	Superconductors are materials that conduct electricity with 100 per cent efficiency, losing nothing to resistance at temperatures above the boiling point of liquid nitrogen. Extraordinary superconducting and magnetic properties for

			wide-ranging technological applications including power transmission.
850434	Transformers; n.e.c. in item no. 8504.2, having a power handling capacity exceeding 500kVA	Amorphous-core transformers	Amorphous material has great advantage in reducing no load loss which is generated during operation. By using Amorphous metal for core part, loss can be reduced significantly. It is possible to achieve high efficiency and save a huge amount of energy in many years.
		Superconducting transformers	High Temperature superconducting transformers not only eliminate the electrical resistance in the wires but also allow the construction of useful transformers without a core. The core will generate heat as the magnetic domains are constantly flipped in the alternating field of the windings of the transformer, and this is the biggest energy loss in most practical transformers. In a superconducting transformer the primary dissipates no power except for a small electromagnetic radiation term, so near 100% efficiency can be obtained with no core at all.
850440	Electrical static converters		Static converters convert solar energy into electricity and can be used to convert DC current from the photovoltaic/solar cells into conventional AC electricity which can run many household and office products. They are also used in other renewable energy generation.
850490	Electrical transformers, static converters and inductors; parts thereof	Parts of 8504.40	Parts and accessories of 8504.40, with the associated environmental benefits.



850590	Magnets; electro-magnets, holding devices and parts n.e.c. in heading no. 8505		Electro magnets can be used to remove metal content from waste for recycling.
850680	Primary cells and primary batteries, electric (excl. spent and those of silver oxide, mercuric oxide, manganese dioxide, lithium and air-zinc)		Compared with dry cell batteries, they can be recharged or reused, thereby reducing waste.
850720	Lead acid accumulators (excl. spent and starter batteries)		Provides for energy storage in off-grid PV systems. Are designed to be discharged down to 50 per cent or more without damage so that they can supply power over a long period of time.
850730	Nickel-cadmium accumulators (excl. spent)		Rechargeable batteries, used as alternative to lead-acid batteries in emergency systems and similar due to low discharge rate when not in use.
850740	Nickel-iron accumulators (excl. spent)		Compared with dry cell batteries, they can be recharged or reused, thereby reducing waste. In case of automotive use, superior energy saving can be realised due to high efficiency.
850750	Nickel-metal hydride accumulators (excl. spent)		Compared with dry cell batteries, they can be recharged or reused, thereby reducing waste. In case of automotive use, superior energy saving can be realised due to high efficiency.
850760	Lithium-ion accumulators (excl. spent)		Acting as a stabiliser for renewable and other energy, lithium-ion batteries serve as an energy storage source. Energy storage system will play a critical role in the low-carbon society, with the function of stable power output, peak demand shift and

			backup power source during outages.
850780	Electric accumulators; other than lead-acid, nickel-cadmium, nickel-iron, nickel-metal hydride and lithium-ion, including separators, whether or not rectangular (including square)	Of a capacity no less than 100 kw	Advanced storage batteries allow utilities to easily shift loads between peak and off-peak periods, thus significantly reducing network losses and enhancing energy efficiency.
850790	Plates, separators and other parts of electric accumulators, n.e.s.		Batteries essential to wind and solar power production. They allow plant and machinery to accumulate electricity during periods of strong winds/sunshine. They facilitate utility-level integration of renewable energy and support the smart grid.
851210	Lighting or visual signalling equipment; electrical, of a kind used on bicycles, excluding articles of heading no. 8539		Bicycles and their parts provide an environmentally friendly, low-carbon mode of transportation, which can contribute to lowering GHG emissions in the transport sector as well as reducing air pollution.
851220	Electrical lighting or signalling equipment (excluding articles of heading 85.39), windscreen wipers, defrosters and demisters, of a kind used for cycles or motor vehicles: - Other lighting or visual signalling equipment	Where the light fixture solely has integrated LEDs, and the fixture emits light solely from these sources	LED lighting is more energy-efficient than incandescent and fluorescent lighting with consequent impact on energy use and GHG emissions as well.
851310	Lamps; portable, electric, designed to function by their own source of energy (excluding lighting equipment of heading no. 8512)	Portable electric lamps, other than torches and flashlights, primarily	LED lighting is more energy-efficient than incandescent and fluorescent lighting with consequent impact on energy use and GHG emissions as well.

		powered by solar photovoltaic cells.	
851629	Electric space-heating and soil-heating apparatus (excl. storage heating radiators)		Of a kind used to heat in order to disinfect or remove organic compounds (e.g., pesticides, hydrocarbons) from soil and to dry contaminated soil prior to treatment processes.
851762	Communication apparatus (excluding telephone sets or base stations); machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus	Energy usage data transmitters	These transmitters send energy usage data from appliances to a central monitoring unit that enables households/businesses to better track their energy consumption, while facilitating better communication between energy consumers and utilities.
852691	Radio navigational aid apparatus	Global Navigation Satellite System (GNSS) apparatus	Instruments and appliances necessary for measuring the ozone layer, landslide, ground subsidence and to monitor, measure and assist planning for natural risks such as earthquakes, cyclones, tsunamis etc.
852852	Monitors; other than cathode-ray tube; capable of directly connecting to and designed for use with an automatic data processing machine of heading 84.71	LED screen computer monitors	LED monitors are significantly more energy-efficient compared to LCD and other types of monitors, with consequent impact on energy use and GHG emissions as well.
852859	Monitors other than cathode-ray tube; n.e.c. in subheading 8528.52, whether or not colour	LED screen computer monitors	LED monitors are significantly more energy-efficient compared to LCD and other types of monitors, with consequent impact on energy use and GHG emissions as well.
852910	Reception and transmission apparatus; aerials and aerial reflectors of all kinds and parts suitable for use therewith	For use solely or principally with global navigation satellite systems (GNSS) apparatus	Instruments and appliances necessary for measuring the ozone layer, landslide, ground subsidence and to monitor, measure and assist planning for natural risks such as

			earthquakes, cyclones, tsunamis etc.
852990	Parts suitable for use solely or principally with transmission and reception apparatus for radio-broadcasting or television, television cameras, digital cameras, video camera recorders, radar apparatus, radio navigational aid apparatus or radio remote control apparatus, monitors and projectors, n.e.s. (excl. for aerials and aerial reflectors of all kinds)		GNSS apparatus, which can receive more than dual-frequency signals from the same GNSS satellite or which can receive only single-frequency signals with ground plane structure.
853010	Electrical signalling, safety or traffic control equipment for railways or tramways (excl. mechanical or electromechanical equipment of heading 8608)		Transport infrastructure for rail supports a cleaner transport mode than alternatives, particularly with the electrification of rail.
853080	Electrical signalling, safety or traffic control equipment (excl. that for railways or tramways and mechanical or electromechanical equipment of heading 8608)		Transport infrastructure for rail supports a cleaner transport mode than alternatives, particularly with the electrification of rail.
853090	Parts of electrical signalling, safety or traffic control equipment, n.e.s.		Transport infrastructure for rail supports a cleaner transport mode than alternatives, particularly with the electrification of rail.
853120	Signalling apparatus; electric, sound or visual, indicator panels incorporating liquid crystal devices (LCD) or light-emitting diodes (LED), excluding those	Energy monitoring unit	Energy monitoring units (EMUs) display real-time energy use, pricing and billing data, and other utility-mandated information, which is communicated to the EMU from a linked smart meter.

	of heading no. 8512 or 8530	Incorporating light emitting diodes (LED)	LED lighting is more energy-efficient than incandescent and fluorescent lighting with consequent impact on energy use and GHG emissions as well.
		Fume hood monitors	These monitors are used in conjunction with fume hoods to monitor air flow out of toxic environments.
853190	Signalling apparatus; parts of the electric, sound or visual apparatus of heading no. 8531	Parts of 8531.20x	Parts and accessories of 8531.20x, with the associated environmental benefits.
853650	Electrical apparatus; switches n.e.c. in heading no. 8536, for a voltage not exceeding 1000 volts	Differential pressure switches; motion sensor switches	Differential pressure switches are key elements for smart-grids and the management of intermittent energy from renewables. Motion sensor switches contribute to energy efficiency in homes and buildings through automatic shut-off in the absence of room or hallway occupants. Similar to variable frequency drives, intelligent motor controllers monitor the activity of electric motors and match the output of the motor with the demand for that output. This application of intelligent electronics enhances opportunities for energy savings in motor-driven systems.
853931	Lamps; discharge, (excluding ultra-violet), fluorescent, hot cathode		Fluorescent lamps use less energy and produce less heat per lumen than incandescent bulbs, reducing energy consumption.
853949	Lamps; ultra-violet or infra-red lamps, (excluding arc-lamps)	UV lamps	UV disinfection lamps are an essential component of UV disinfection systems. UV light is extremely effective in killing and eliminating bacteria, yeasts, viruses, moulds and

			other harmful organisms. UV systems can be used in conjunction with sediment and carbon filters to create pure drinking water.
853950	Electric filament or discharge lamps, including sealed beam lamp units and ultra-violet or infra-red lamps; arc-lamps; light emitting diode lamps: - Light emitting diode lamps	Light-emitting diode (LED) lamps (bulbs)	LED lighting is more energy-efficient than incandescent and fluorescent lighting with consequent impact on energy use and GHG emissions as well.
854110	Electrical apparatus; diodes, other than photosensitive or light-emitting diodes (LED)		These products are designed to reduce energy consumption.
854121	Electrical apparatus; transistors, (other than photosensitive), with a dissipation rate of less than 1W		These products are designed to reduce energy consumption.
854129	Electrical apparatus; transistors, (other than photosensitive), with a dissipation rate of 1W or more		Converters are used in wind energy generation. Frequency converters decouple the rotational speed of the rotor from the grid frequency allowing variable speed operation.
854130	Electrical apparatus; thyristors, diacs and triacs, other than photosensitive devices		These products are designed to reduce energy consumption.
854140	Electrical apparatus; photosensitive, including photovoltaic cells, whether or not assembled in modules or made up into panels, light-emitting diodes (LED)	Photovoltaic cells whether or not assembled in modules or made up into panels / NZL ex-out: Photovoltaic cells, modules and panels.	Solar cells, modules and panels use light energy from the sun to generate renewable electricity through the photovoltaic effect.
854190	Electrical apparatus; parts for diodes, transistors and similar semiconductor devices	Parts of 8541.10, 8541.21, 8541.29, 8541.30, 8541.40	Parts and accessories of 8541.10, 8541.21, 8541.29, 8541.30, 8541.40, with the

	and photosensitive semiconductor devices		associated environmental benefits.
854231	Electronic integrated circuits; processors and controllers, whether or not combined with memories, converters, logic circuits, amplifiers, clock and timing circuits, or other circuits	With antenna, designed solely or principally for Heliostat Control Units	These products are used in Concentrated Solar Photovoltaic Systems (CSPV), which convert sunlight into electricity for on-site use or for distribution through the electric grid. The Heliostat Control Unit provides management and monitoring of the CSPV power station.
854330	Electrical machines and apparatus; for electroplating, electrolysis or electrophoresis	Electrolysers	Electrolysers are used to produce hydrogen through electrolysis. Electrolysis is a method of separating elements by pushing an electric current through a compound to obtain hydrogen. Hydrogen is a key enabler for the development of widespread renewable energy technologies that are cleaner and more efficient.
854390	Electrical machines and apparatus; parts of the electrical goods of heading no. 8543	Parts of 8543.30x	Parts and accessories of 8543.30x, with the associated environmental benefits.
854460	Electric conductors, for a voltage > 1.000 V, insulated, n.e.s.		High temperature superconducting (HTS) cables which carry electrical currents with effectively zero resistance at low temperatures.
860110	Rail locomotives; powered from an external source of electricity		Trains and trams as mass transport system are a mode of sustainable mobility and have lower CO <sub>2</sub> emissions than other transport modes such as cars.
860120	Rail locomotives powered by electric accumulators		Transport infrastructure for rail supports a cleaner transport mode than alternatives, particularly with the electrification of rail.
860310	Railway or tramway coaches, vans and trucks; self-propelled, powered from an external source		Trains and trams as mass transport system are a mode of sustainable mobility and have lower CO <sub>2</sub> emissions than

	of electricity (excluding those of heading no. 8604)		other transport modes such as cars, particularly with the electrification of rail.
860500	Railway or tramway coaches; passenger coaches, luggage vans, post office coaches and other special purpose railway or tramway coaches, not self-propelled (excluding those of heading no. 8604)		Trains and trams as mass transport system are a mode of sustainable mobility and have lower CO <sub>2</sub> emissions than other transport modes such as cars, particularly with the electrification of rail.
860630	Railway or tramway self-discharging goods vans and wagons (excl. tank wagons and the like and insulated or refrigerated goods vans and wagons)		Transport infrastructure for rail supports a cleaner transport mode than alternatives, particularly with the electrification of rail.
860691	Railway or tramway goods vans and wagons, covered and closed (excl. self-discharging goods vans and wagons and tank wagons and the like)		Transport infrastructure for rail supports a cleaner transport mode than alternatives, particularly with the electrification of rail.
860692	Railway or tramway goods vans and wagons, open, with non-removable sides of a height > 60 cm (excl. self-discharging wagons)		Transport infrastructure for rail supports a cleaner transport mode than alternatives, particularly with the electrification of rail.
860699	Railway or tramway goods vans and wagons (excl. those specially designed for the transport of highly radioactive materials, tank wagons and the like, insulated, refrigerated or self-discharging goods vans and wagons and open goods vans and wagons with non-removable sides of a height > 60 cm)		Transport infrastructure for rail supports a cleaner transport mode than alternatives, particularly with the electrification of rail.
860711	Driving bogies and bissel-bogies for railway		Transport infrastructure for rail supports a cleaner transport mode than alternatives,



	or tramway locomotives or rolling stock		particularly with the electrification of rail.
860712	Bogies and driving bissel-bogies for railway or tramway locomotives or rolling stock (excl. driving bogies)		Transport infrastructure for rail supports a cleaner transport mode than alternatives, particularly with the electrification of rail.
860719	Axles, for electrical purposes and wheels and parts thereof for railway or tramway locomotives or rolling stock; parts of bogies and bissel-bogies, n.e.s.		Transport infrastructure for rail supports a cleaner transport mode than alternatives, particularly with the electrification of rail.
860721	Air brakes and parts thereof for railway or tramway locomotives or rolling stock, n.e.s.		Transport infrastructure for rail supports a cleaner transport mode than alternatives, particularly with the electrification of rail.
860729	Brakes (other than air brakes) and parts thereof, for railway or tramway locomotives or rolling stock, n.e.s.		Transport infrastructure for rail supports a cleaner transport mode than alternatives, particularly with the electrification of rail.
860730	Hooks and other coupling devices, buffers and parts thereof, for railway or tramway locomotives or rolling stock, n.e.s.		Transport infrastructure for rail supports a cleaner transport mode than alternatives, particularly with the electrification of rail.
860791	Parts of railway or tramway locomotives, n.e.s.		Transport infrastructure for rail supports a cleaner transport mode than alternatives, particularly with the electrification of rail.
860799	Parts of rolling stock of heading 8603, 8604, 8605 or 8606, n.e.s.		Transport infrastructure for rail supports a cleaner transport mode than alternatives, particularly with the electrification of rail.
860800	Railway or tramway track fixtures and fittings (excl. sleepers of wood, concrete or steel, sections of track and other track fixtures not yet assembled and railway or tramway track		Transport infrastructure for rail supports a cleaner transport mode than alternatives, particularly with the electrification of rail.

	construction material); mechanical, incl. electromechanical, signalling, safety or traffic control equipment for railways, tramways, roads, inland waterways, parking facilities, port installations or airfields; parts of the foregoing		
870230	Motor vehicles for the transport of >= 10 persons, incl. driver, with both spark-ignition internal combustion reciprocating piston engine and electric motor as motors for propulsion		Electric vehicles do not produce greenhouse gas emissions (CO <sub>2</sub> etc). Hybrid vehicles are powered by both a battery and an internal combustion engine and emit significantly less pollutants and greenhouse gases than conventional motor vehicles.
870240	Vehicles; public transport type (carries 10 or more persons, including driver), with only electric motor for propulsion, new or used		Electric-powered vehicles provide an environmentally friendly, low-carbon mode of transportation, which can contribute to lowering GHG emissions in the transport sector as well as reducing air pollution.
870340	Motor cars and other motor vehicles principally designed for the transport of <10 persons, incl. station wagons and racing cars, with both spark-ignition internal combustion reciprocating piston engine and electric motor as motors for propulsion (excl. vehicles for travelling on snow, other specially designed vehicles of subheading 8703.10 and plug-in hybrids)		Electric vehicles do not produce greenhouse gas emissions (CO <sub>2</sub> etc).

870350	Motor cars and other motor vehicles principally designed for the transport of <10 persons, incl. station wagons and racing cars, with both diesel engine and electric motor as motors for propulsion (excl. vehicles for travelling on snow, other specially designed vehicles of subheading 8703.10 and plug-in hybrids)		Electric vehicles do not produce greenhouse gas emissions (CO <sub>2</sub> etc).
870360	Motor cars and other motor vehicles principally designed for the transport of <10 persons, incl. station wagons and racing cars, with both spark-ignition internal combustion reciprocating piston engine and electric motor as motors for propulsion, capable of being charged by plugging to external source of electric power (excl. vehicles for travelling on snow and other specially designed vehicles of subheading 8703.10)		Electric vehicles do not produce greenhouse gas emissions (CO <sub>2</sub> etc).
870370	Motor cars and other motor vehicles principally designed for the transport of <10 persons, incl. station wagons and racing cars, with both diesel engine and electric motor as motors for propulsion, capable of being charged by plugging to external source of electric power (excl. vehicles for travelling on snow and		Electric vehicles do not produce greenhouse gas emissions (CO <sub>2</sub> etc).

	other specially designed vehicles of subheading 8703.10)		
870380	Vehicles; with only electric motor for propulsion		Electric-powered vehicles provide an environmentally friendly, low-carbon mode of transportation, which can contribute to lowering GHG emissions in the transport sector as well as reducing air pollution.
871160	Motorcycles (including mopeds) and cycles; fitted with auxiliary motor, with electric motor for propulsion, with or without side-cars; side-cars		Electric-powered motorcycles provide an environmentally friendly, low-carbon mode of transportation, which can contribute to lowering GHG emissions in the transport sector as well as reducing air pollution.
871200	Bicycles and other cycles, incl. delivery tricycles, not motorised		Bicycles and their parts provide an environmentally friendly, low-carbon mode of transportation, which can contribute to lowering GHG emissions in the transport sector as well as reducing air pollution.
871491	Cycles; frames and forks, and parts thereof		Bicycles and their parts provide an environmentally friendly, low-carbon mode of transportation, which can contribute to lowering GHG emissions in the transport sector as well as reducing air pollution.
871492	Cycles; parts thereof, wheel rims and spokes		Bicycles and their parts provide an environmentally friendly, low-carbon mode of transportation, which can contribute to lowering GHG emissions in the transport sector as well as reducing air pollution.

871493	Cycles; parts thereof, hubs (other than coaster braking hubs and hub brakes) and free-wheel sprocket-wheels		Bicycles and their parts provide an environmentally friendly, low-carbon mode of transportation, which can contribute to lowering GHG emissions in the transport sector as well as reducing air pollution.
871494	Cycles; parts thereof, brakes, including coaster braking hubs and hub-brakes, and parts thereof		Bicycles and their parts provide an environmentally friendly, low-carbon mode of transportation, which can contribute to lowering GHG emissions in the transport sector as well as reducing air pollution.
871495	Cycles; parts thereof, saddles		Bicycles and their parts provide an environmentally friendly, low-carbon mode of transportation, which can contribute to lowering GHG emissions in the transport sector as well as reducing air pollution.
871496	Cycles; parts, pedals and crank-gear, and parts thereof		Bicycles and their parts provide an environmentally friendly, low-carbon mode of transportation, which can contribute to lowering GHG emissions in the transport sector as well as reducing air pollution.
871499	Cycles; parts thereof, n.e.c. in item no. 8714.9		Bicycles and their parts provide an environmentally friendly, low-carbon mode of transportation, which can contribute to lowering GHG emissions in the transport sector as well as reducing air pollution.
890710	890710 (SC): Inflatable rafts		Floating barriers to oil, which can prevent an oil slick from reaching sensitive locations or spreading out further.
890790	Other floating structures (for example, rafts, tanks,	Oil recovery, absorbent or	Floating barriers can be used to contain oil spills or prevent oil

	coffer-dams, landing-stages, buoys and beacons): - Other	containment booms	spills from reaching sensitive locations.
		Inflatable oil spill recovery barges and tanks	
		Litter collecting booms	Litter booms are designed to stretch over the surface of the water to catch floating plastic and other debris as the debris moves downstream.
900190	Optical elements; lenses n.e.c. in heading no. 9001, prisms, mirrors and other optical elements, unmounted, of any material (excluding elements of glass not optically worked)	Solar concentrating or reflecting optical elements	Solar concentrator systems are used to concentrate and intensify solar power in a solar energy system, helping to generate renewable energy.
900290	Optical elements; n.e.c. in heading no. 9002 (e.g. prisms and mirrors), mounted, being parts or fittings for instruments or apparatus, of any material (excluding elements of glass not optically worked)	Solar concentrating or reflecting optical elements	Solar concentrator systems are used to concentrate and intensify solar power in a solar energy system, helping to generate renewable energy.
901210	Microscopes (excluding optical microscopes); diffraction apparatus	Electron microscopes	Electron microscopes are used to investigate the ultrastructure of a wide range of biological and inorganic specimens. They are an essential tool in evaluating the impacts of a range of pollutants and bacteria on the physical environment.
901290	Microscopes (excluding optical microscopes); diffraction apparatus; parts and accessories	Parts of 9012.10	Parts and accessories of 9012.10, with the associated environmental benefits.
901320	Lasers; other than laser diodes	Carbon dioxide lasers	Carbon dioxide lasers can be used for high-temperature incineration of hazardous waste as well as for decoating and decontamination of surfaces.

901380	Optical devices, appliances and instruments; n.e.c. in heading no. 9013 (including liquid crystal devices)	Solar heliostats	Heliostats are an integral component in concentrated solar systems. By constantly adjusting to the sun's movement, heliostats are able to reflect sunlight onto receivers thereby helping to generate renewable solar energy.
901390	Optical appliances and instruments; parts and accessories for articles of heading no. 9013	Parts of 9013.20x and 9013.80x	Parts and accessories of 9013.20x and 9013.80x, with the associated environmental benefits.
901530	Levels		Of a kind used for environmental services and scientific services related to the environment or climate.
901540	Photogrammetrical surveying instruments and appliances		Photogrammetry is an aerial remote sensing technique which forms the baseline of many Geographic Information Systems (GIS) and Land Information Systems (LIS), which are important for monitoring and managing natural risks such as floods, earthquakes.
901580	Surveying equipment; articles n.e.c. in heading no. 9015, including hydrographic, oceanographic, hydrological, meteorological or geophysical instruments and appliances (excluding compasses)		Surveying equipment used for measuring natural elements and to monitor, measure and plan for natural risks such as earthquakes, cyclones, and tsunamis. Oceanographic monitoring instruments are also included under this subheading to measure water temperature or to detect dissolved gases in water, hydrocarbon contamination, and underwater noise.
901590	Surveying equipment; parts and accessories for articles of heading no. 9015	Parts of 9015.80	Parts and accessories of 9015.80, with the associated environmental benefits.
902519	Thermometers and pyrometers; (other than liquid filled, for direct	Industrial thermometers	Industrial thermometers are used to control temperature in important measurement points

	reading), not combined with other instruments		in power plants, water delivery systems, and other environmental applications.
902590	Hydrometers and similar floating instruments, barometers, hygrometers, psychrometers, thermometers, pyrometers; recording or not, any combination of these instruments, parts and accessories	Parts of 9025.19x	Parts and accessories of 9025.19x, with the associated environmental benefits.
902610	Instruments and apparatus; for measuring or checking the flow or level of liquids		Meters, which check and record the level and/or flow of liquids, are used during auditing and testing to ensure the efficient operation of environmental systems such as water and wastewater treatment plants and hydroelectric facilities.
902620	Instruments and apparatus; for measuring or checking pressure		Manometers, which measure pressure, can be in power plants, water delivery systems, and other applications such as monitoring indoor air.
902680	Instruments and apparatus; for measuring or checking variables of liquids or gases (excluding pressure or the flow and level of liquids and those of heading no. 9014, 9015, 9028 and 9032)		These instruments include heat meters that are used to monitor and measure the distribution of heat from geothermal or biomass district heating systems.
902690	Instruments and apparatus; parts and accessories for those measuring or checking the flow, level, pressure or other variables of liquids or gases (excluding those of heading no. 9014, 9015, 9028 or 9032)		Parts and accessories of measuring or checking the flow, level, pressure or other variables of liquids or gases, with the associated environmental benefits.



902710	Instruments and apparatus; gas or smoke analysis apparatus, for physical or chemical analysis		Gas analysers are designed to continuously monitor single or multiple gas components, and such an instrument is used to analyse air emissions from automobiles.
902720	Chromatographs and electrophoresis instruments		Gas and liquid chromatographs can be used to monitor and analyse air pollution emissions, ambient air quality, and water quality. Electrophoresis instruments can be used to monitor and analyse materials such as particulates emitted from incinerators or from diesel exhaust.
902730	Spectrometers, spectrophotometers and spectrographs; using optical radiations (UV, visible, IR)		Spectrometers are used in a wide range of environmental applications, including to identify and characterise unknown chemicals and in environmental applications to detect toxins and identify trace contaminants. They can also be used for qualitative and quantitative analysis in quality control departments, environmental control, water management, food processing, agriculture and weather monitoring.
902750	Instruments and apparatus; using optical radiations (UV, visible, IR), (other than spectrometers, spectrophotometers and spectrographs)		These instruments can be used for chemical, thermal, or optical analysis of samples, including water quality photometers, which are used to determine the concentration of a solution from its colour intensity.
902780	Instruments and apparatus; for physical or chemical analysis, for measuring or checking viscosity, porosity, expansion, surface tension or quantities of		Instruments under this subheading have a range of environmental uses. These include magnetic resonance instruments which are used in biologic and geologic analysis which have environmental applications; equipment to

	heat, sound or light, n.e.c. in heading no. 9027		measure the thermal conductivity of materials, primarily rocks, to assess their geothermal energy potential; and mass spectrometers which are used to identify elements and compounds which can be relevant to measuring contamination.
902790	Microtomes and parts and accessories thereof		Microtomes for preparing slices of samples for analysis for instruments in 9027.10x and 9027.80x, with the associated environmental benefits.
902810	Meters; gas, supply or production meters, including calibrating meters thereof	Capable of electronic transmission of consumption data	Smart gas meters constantly monitor and record the amount of gas flowing to (or from) gas consumers. Meters are necessary to measure and regulate use and hence enable more efficient use of the resource.
902820	"Gas, liquid or electricity supply or production meters, including calibrating meters therefor: - Liquid meters"		Liquid flow meters can used to monitor the hot and cold water consumption or to be used to determine the heat being generated by heating systems such as boilers or solar water heating systems. Also includes instruments to measure water current and assess hydroelectric resource potential.
902830	Meters; electricity supply or production meters, including calibrating meters thereof	Capable of electronic transmission of consumption data	Smart electricity meters constantly monitor and record the amount of electricity flowing to (or from) electricity consumers. This enables two-way communications of usage and pricing data between the consumer and the utility, enhancing the efficiency of the electric network and improving the integration of renewable and clean energy sources.

902890	Meters; parts and accessories of gas, liquid, electricity supply or production meters, including calibrating meters thereof	Parts of 9028.10x and 9028.30x	Parts and accessories of 9028.10x and 9028.30x, with associated environmental benefits.
903010	Instruments and apparatus; for measuring or detecting ionising radiations		Instruments under this subheading can be used for detecting the presence of ionising radiation and may, for instance, include Geiger counters that are useful in performing surveys for radioactivity contamination.
903020	Oscilloscopes and oscillographs		Liquid meters include those designed to measure potable water consumption to allocate costs, assist the financial management of water systems, and encourage conservation of a scarce resource. They are also part of electronic control equipment in wind turbines.
903031	Multimeters; for measuring or checking voltage, current, resistance or power, without a recording device		Multimeters can be used to measure electrical flow, including current, resistance, voltage, frequency, and temperature, which is important in identifying electronic and electrical problems in equipment. These instruments are also essential for the functioning of renewable energy systems and in smart grid systems, helping to improve energy efficiency.
903032	Multimeters; for measuring or checking voltage, current, resistance or power, with a recording device		Multimeters can be used to measure electrical flow, including current, resistance, voltage, frequency, and temperature, which is important in identifying electronic and electrical problems in equipment. These instruments are also essential for the functioning of renewable energy systems and

			in smart grid systems, helping to improve energy efficiency.
903033	Instruments and apparatus; for measuring or checking voltage, current, resistance or power, without a recording device (excluding multimeters)		Measuring devices used to measure electrical flow, including current, resistance, voltage, frequency, temperature and in this way are used to identify electronic and electrical problems in equipment.
903039	Instruments and apparatus; for measuring or checking voltage, current, resistance or power, with a recording device (excluding multimeters)		Instruments under this subheading include single function meters, such as an ammeter, which measures current; a voltmeter, which measures voltage; and an ohmmeter, which measures resistance. These instruments can be used to identify faults in industrial and household appliances, and test the energy efficiency of power supplies. They are also essential in smart grid systems and help improving energy efficiency.
903082	Instruments and apparatus; for measuring or checking semiconductor wafers or devices		Instruments under this subheading can be used for measuring or checking semiconductor wafers or devices, which are key components in solar power systems for generating renewable solar energy.
903084	Instruments and apparatus; n.e.c. in heading no. 9030, with a recording device		Instruments under this subheading includes technologies such as spectrum analysers, used to detect and measure electromagnetic radiation generated from wireless communications; as well as microwave leak detectors.

903089	Instruments and apparatus; n.e.c. in heading no. 9030, without a recording device		Recording componentry used to identify electrical problems and faults in equipment.
903090	Instruments, apparatus for measuring, checking electrical quantities, not meters of heading no. 9028; parts and accessories, for measuring or detecting alpha, beta, gamma, x-ray, cosmic and other radiations	Parts of 9030.10, 9030.20, 9030.31, 9030.32, 9030.33, 9030.39, 9030.82, 9030.84, 9030.89	Parts of 9030.10, 9030.20, 9030.31, 9030.32, 9030.33, 9030.39, 9030.82, 9030.84, 9030.89, with the associated environmental benefits.
903110	Machines; for balancing mechanical parts		Environmental applications of these machines include balancing of parts and equipment to minimise noise and vibration as well as equipment used in the measurement, recording, analysis and assessment of environmental samples or environmental impact.
903120	Test benches for motors, generators, pumps, etc.		Of a kind used to test plant and machinery in the renewable energy sector.
903149	Optical instruments and appliances; for measuring or checking, n.e.c. in chapter 90		Instruments under this subheading have a range of environmental uses. These include meters assess to level of vibration in working machinery, which helps to diagnose machinery health and control costs; and profile projectors that can be used for critical tasks in engineering such as measuring and inspecting high precision, complex parts in many applications and industries.

903180	Instruments, appliances and machines; for measuring or checking n.e.c. in chapter 90		This subheading includes a wide range of equipment used in the measuring, recording, analysis and assessment of environmental samples or environmental impact. This includes: gas detectors used to check for gas leaks (natural, propane, butane and methane); vibrometers that measure vibrations and assess structural and other effects of such vibrations; and refrigerant identifiers used to identify CFC, HCFC and/or HFC refrigerant in equipment.
903190	Instruments, appliances and machines; parts and accessories for those measuring or checking devices of heading no. 9031	Parts of 9031.10, 9031.49 and 9031.80	Parts and accessories of 9031.10, 9031.49 and 9031.80, with the associated environmental benefits.
903210	Regulating or controlling instruments and apparatus; automatic type, thermostats		Thermostats are used to control the efficiency of air conditioning, refrigeration or heating systems.
903220	Regulating or controlling instruments and apparatus; automatic, manostats		Manostats measure and monitor pressure and are used for controlling pumps and chemical feed equipment in applications such as wastewater treatment.
903281	Regulating or controlling instruments and apparatus; automatic, hydraulic or pneumatic		Control-related instruments and apparatuses under this subheading can be used for water treatment, wastewater treatment, air pollution control as well as efficient process controls for many industrial applications.
903289	Regulating or controlling instruments and apparatus; automatic, other than hydraulic or pneumatic	Optional ex-outs may include: heliostats, temperature sensor for solar boiler/water heater;	Control-related instruments and apparatuses under this subheading include automatic voltage and current regulators which have renewable energy applications as well as other process control instruments

		differential temperature controller for solar boiler/water heater.	and apparatus for temperature, pressure, flow and level, and humidity applications.
903290	Regulating or controlling instruments and apparatus; automatic, parts and accessories	Parts of 9032.89/9032.89x	Parts and accessories of 9032.89/9032.89x, with the associated environmental benefits.
940510	Chandeliers and other electric ceiling or wall light fittings; excluding those used for lighting public open spaces or thoroughfares	Fittings powered by the kinetic energy of a falling weight	Gravity-powered lamps use the kinetic energy of a weight falling to produce live electricity, which can be used for the production of light, often in off-grid settings.
		Lighting fittings using a LED light source	LED lighting is more energy-efficient than incandescent and fluorescent lighting with consequent impact on energy use and GHG emissions as well.
940520	Lamps, electric; floor-standing or for table, desk or bedside	Lighting fittings using a LED light source	LED lighting is more energy-efficient than incandescent and fluorescent lighting with consequent impact on energy use and GHG emissions as well.
940540	Lamps and lighting fittings including searchlights and spotlights and parts thereof, not elsewhere specified or included; illuminated signs, illuminated name-plates and the like, having a permanently fixed light source, and parts thereof not elsewhere specified or included: - Other electric lamps and lighting fittings		Compared with the conventional fluorescent or incandescent lamps, it is long life, low power consumption, energy saving and no toxic substance (mercury free).
940560	Illuminated signs, name plates and the like	Where the light fixture solely has integrated LEDs, and the fixture emits light solely	LED lighting is more energy-efficient than incandescent and fluorescent lighting with consequent impact on energy

		from these sources	use and GHG emissions as well.
961700	Vacuum flasks and other vacuum vessels, complete with cases; parts thereof other than glass inners	Cryostats integrated with a superconducting device or have a dismantlable flange that is 90% or more of the main bore area	Superconductors are materials that conduct electricity with 100 per cent efficiency, losing nothing to resistance at temperatures above the boiling point of liquid nitrogen. Extraordinary superconducting and magnetic properties for wide-ranging technological applications including power transmission.



E02809270

978-1-5286-3737-4