



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*



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**CHAPTER 23**  
**TRADE AND LABOUR**

**Article 23.1**  
**Definitions**

For the purposes of this Chapter:

**“2014 Protocol to the ILO Forced Labour Convention”** means the *Protocol of 2014 to the Forced Labour Convention 1930 (No. 29)* done at Geneva on 11 June 2014;

**“Call to Action to End Forced Labour, Modern Slavery and Human Trafficking”** means the *Call to Action to End Forced Labour, Modern Slavery and Human Trafficking* done at New York City on 19 September 2017;

**“ILO”** means the International Labour Organization;

**“ILO Centenary Declaration for the Future of Work”** means the *Centenary Declaration for the Future of Work* done at Geneva on 21 June 2019;

**“ILO Declaration on Fundamental Principles and Rights at Work”** means the *Declaration on Fundamental Principles and Rights at Work and its Follow-up 1998* done at Geneva on 18 June 1998;

**“ILO Declaration on Social Justice for a Fair Globalization”** means the *Declaration on Social Justice for a Fair Globalization of 2008* done at Geneva on 10 June 2008;

**“labour laws”** means laws and regulations, or provisions of laws and regulations, of a Party that are required in order to implement the internationally recognised labour rights of:

- (a) freedom of association and the effective recognition of the right to collective bargaining;
- (b) the elimination of all forms of forced or compulsory labour;
- (c) the effective abolition of child labour, and prohibition of the worst forms of child labour;
- (d) the elimination of discrimination in respect of employment and occupation; and
- (e) labour protections relating to minimum wages, hours of work, and healthy and safe working conditions;

**“Modern Slavery”** means forced or compulsory labour, human trafficking, debt bondage, or other slavery and slavery like practices as defined in the laws and regulations of each Party; and

**“Principles to Guide Government Action to Combat Human Trafficking in Global Supply Chains”** means the *Principles to Combat Human Trafficking in Global Supply Chains* between the Governments of Australia, Canada, New Zealand, the United Kingdom, and the United States done at New York City in September 2018.

### **Article 23.2 Objective**

1. The objective of this Chapter is for the Parties to promote the development of international trade and investment between them in a way that is conducive to full and productive employment and decent work for all.
2. The Parties affirm their commitment to mutually supportive trade and labour policies and practices, including the promotion of adherence to internationally recognised labour rights and decent work, and cooperation and dialogue between the Parties.

### **Article 23.3 Statement of Shared Commitment**

1. The Parties affirm their obligations as members of the ILO, and the commitments stated in the ILO Declaration on Fundamental Principles and Rights at Work, the ILO Declaration on Social Justice for a Fair Globalization, and the ILO Centenary Declaration for the Future of Work, regarding labour rights within their territories.
2. The Parties recall the ILO Declaration on Social Justice for a Fair Globalization, and note that the violation of fundamental principles and rights at work cannot be invoked or otherwise used as a legitimate comparative advantage and that labour standards should not be used for protectionist trade purposes.
3. The Parties recognise the important role of workers’ and employers’ organisations in participating in the international development and supervision of internationally recognised labour rights.
4. The Parties also recognise the importance of tackling modern slavery in global supply chains to promote inclusive and sustainable economic growth, full and productive employment, and decent work for all.

**Article 23.4**  
**Right to Regulate and Levels of Protection**

1. The Parties recognise the sovereign right of each Party to:
  - (a) determine its own labour policies and priorities;
  - (b) establish its own levels of labour and social protection; and
  - (c) establish, adopt, or modify its labour laws and policies, in a manner consistent with its international labour commitments and those in this Chapter.
2. Each Party shall strive to ensure that its labour laws and policies provide for and encourage high levels of labour protection and strive to continue to improve those laws and policies with the goal of providing high levels of labour protection.

**Article 23.5**  
**Labour Rights<sup>1</sup>**

1. In accordance with the ILO Constitution and the ILO Declaration on Fundamental Principles and Rights at Work, each Party shall respect, promote, and realise in its laws the principles concerning the fundamental rights at work namely:
  - (a) freedom of association and the effective recognition of the right to collective bargaining;
  - (b) the elimination of all forms of forced or compulsory labour;
  - (c) the effective abolition of child labour and, for the purposes of this Agreement, a prohibition on the worst forms of child labour; and
  - (d) the elimination of discrimination in respect of employment and occupation.
2. Each Party shall adopt or maintain laws and regulations, and practices thereunder governing decent working conditions,<sup>2</sup> with respect to minimum wages, hours of work, and healthy and safe working conditions.

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<sup>1</sup> To establish a violation of an obligation under paragraphs 1 or 2, a Party must demonstrate that the other Party has failed to adopt or maintain a statute, regulation, or practice to encourage trade or investment.

<sup>2</sup> As determined by each Party.

3. Each Party reaffirms its commitment to implement in its laws and regulations, and practices thereunder, in its territory, the ILO Conventions that each Party has ratified respectively.
4. Recalling the ILO Centenary Declaration for the Future of Work, each Party recognises the importance of working towards the ratification and implementation of the ILO fundamental conventions in accordance with its national conditions, circumstances, and priorities.
5. The Parties shall exchange information, as appropriate, on their respective situations and progress regarding the ratification of ILO Conventions and Protocols that are classified as up to date by the ILO.

### **Article 23.6** **Trade and Labour**

1. The Parties recognise that it is inappropriate to use labour laws for protectionist trade purposes.
2. The Parties recognise that it is inappropriate to encourage trade or investment by weakening or reducing the protections afforded in each Party's labour laws.
3. Accordingly, the Parties shall not waive or otherwise derogate from, or offer to waive or otherwise derogate from, their respective labour laws in order to encourage trade or investment if the waiver or derogation weakens or reduces adherence to the internationally recognised labour rights in paragraph 1 of Article 23.5 (Labour Rights) and the labour protections referred to in paragraph 2 of Article 23.5 (Labour Rights).
4. Neither Party shall, through a sustained or recurring course of action or inaction, fail to effectively enforce its labour laws to encourage trade or investment.
5. Each Party retains the right to exercise reasonable enforcement discretion and to make *bona fide* decisions with regard to the allocation of enforcement resources between labour enforcement activities relating to paragraphs 1 and 2 of Article 23.5 (Labour Rights), provided that the exercise of that discretion, and those decisions, are not inconsistent with its obligations under this Chapter.

### **Article 23.7** **Decent Work**

The Parties recognise the importance of decent work, and each Party shall, with due regard to national conditions, circumstances, and priorities, promote

through its laws and regulations, policies, and practices the objectives of the Decent Work Agenda, as expressed in the ILO Declaration on Social Justice for a Fair Globalization, with respect to labour protection.

**Article 23.8**  
**Non-Discrimination and Gender Equality in the Workplace**

1. The Parties support the goals of eliminating discrimination in employment and occupation, and of promoting the equality of women in relation to their engagement in trade and the workplace. Accordingly, each Party shall implement policies and measures that it considers appropriate to:
  - (a) ensure equal opportunities and an inclusive labour market;
  - (b) protect workers against employment discrimination on the basis of sex or gender (including with regard to sexual harassment or gender-based violence), pregnancy, and sexual orientation;
  - (c) provide job-protected leave for birth or adoption of a child; and
  - (d) protect against wage discrimination including working towards the elimination of gender wage gaps with the aim of achieving equal pay.
  
2. To assist in the implementation of paragraph 1, the Parties shall develop cooperation activities to improve the capacity and conditions for women in trade and the workplace. These activities shall be carried out with the inclusive participation of women. Areas of cooperation may include:
  - (a) the promotion of labour practices that facilitate the integration, retention, and progression of women in the job market, and seek to build the capacity and skills of women workers;
  - (b) the advancement of policies and programmes encouraging, valuing, and recognising women's unpaid care work including parenting and other family co-responsibilities, such as access to flexible working arrangements or access to leave and affordable childcare; and
  - (c) the development of sex or gender-disaggregated data, the use of indicators, monitoring, and evaluation methodologies, and the analysis of sex or gender-focused statistics related to trade and the workplace including pay transparency data and labour force participation.

**Article 23.9**  
**Modern Slavery**

1. The Parties reaffirm the importance of the ILO's *Forced Labour Convention 1930 (No. 29)* done at Geneva on 28 June 1930, the ILO's *Abolition of Forced Labour Convention 1957 (No.105)* done at Geneva on 25 June 1957, and the 2014 Protocol to the ILO Forced Labour Convention, as key international instruments in helping combat Modern Slavery. The Parties also recall their endorsement of the Call to Action to End Forced Labour, Modern Slavery and Human Trafficking, their commitment to implement the Principles to Guide Government Action to Combat Human Trafficking in Global Supply Chains, and the United Nations' *Guiding Principles on Business and Human Rights* done at Geneva on 16 June 2011 ("Guiding Principles").
2. Each Party shall encourage private and public sector entities operating in its territory to take appropriate steps to prevent Modern Slavery in their supply chains. To this end, each Party shall adopt or maintain measures, in a manner it considers appropriate to:
  - (a) facilitate private and public sector entities to identify and address Modern Slavery in their global and domestic supply chains, including to publish relevant guidance to raise awareness, to promote responsible business conduct, and to foster collaboration across sectors and with civil society;
  - (b) encourage private and public sector entities to identify and address Modern Slavery in their global and domestic supply chains, which may include proposing laws and regulations;
  - (c) facilitate the capability of staff in public sector entities working on government procurement to identify and address Modern Slavery in their global and domestic supply chains, including through training; and
  - (d) encourage responsible recruitment policies and practices, which may include the regulation of work-finding fees or premiums to secure employment sought from or charged to workers by employers or their agents.
3. The Parties shall endeavour to:
  - (a) cooperate, share information and best practice, including with regard to the implementation of paragraph 2 in their jurisdictions, as appropriate, and identify areas of alignment to tackle Modern Slavery; and
  - (b) cooperate bilaterally and in international fora as appropriate, on initiatives to tackle Modern Slavery.



**Article 23.10**  
**Corporate Social Responsibility and Responsible Business Conduct**

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. In light of paragraph 1, each Party shall:
  - (a) encourage enterprises to adopt corporate social responsibility initiatives on labour issues that have been endorsed or are supported by that Party; and
  - (b) commit to promote the relevant international instruments such as the OECD's *Guidelines for Multinational Enterprises* (2011 Edition) done at Paris on 25 May 2011 and *Due Diligence Guidance for Responsible Business Conduct* done at Paris on 31 May 2018, the *United Nations Global Compact* done at New York on 26 July 2000, and the Guiding Principles, including by supporting their dissemination and use.
3. The Parties shall endeavour to strengthen their cooperation on corporate social responsibility and responsible business conduct bilaterally and in international fora as appropriate, on issues of mutual interest.

**Article 23.11**  
**Labour Cooperation**

1. The Parties recognise the importance of cooperation in the implementation of this Chapter and commit to cooperate on labour issues of mutual interest to further advance the Chapter's commitments through actions which may include:
  - (a) the exchange of information on best practices on issues of common interest and on relevant events, activities, and initiatives;
  - (b) cooperation in international fora that deal with issues relevant for trade and labour, including in particular the WTO and the ILO;
  - (c) the international promotion of the effective application of fundamental principles and rights at work referred to in paragraph 1 of Article 23.5 (Labour Rights), and the Decent Work Agenda as expressed in the ILO Declaration on Social Justice for a Fair Globalization;

- (d) the exploration of collaboration in initiatives regarding non-parties; and
  - (e) any other form of cooperation deemed appropriate.
2. The Parties will consider any views provided by their stakeholders, including worker and employer organisations, when identifying potential areas for cooperation and carrying out cooperative activities.

**Article 23.12**  
**Public Awareness**

Each Party shall promote public awareness of its labour laws, including by ensuring that information related to its labour laws and enforcement and compliance procedures is publicly available.

**Article 23.13**  
**Procedural Guarantees**

1. Each Party shall adopt and implement laws and policies for facilitating the resolution of individual and collective labour disputes, and maintain an effective labour enforcement system, including labour inspections in accordance with its international obligations.
2. Each Party shall ensure that its administrative, judicial, and labour tribunal proceedings for the enforcement of its labour laws are fair, accessible, and transparent, and permit effective action against infringements of labour rights referred to in this Chapter, including appropriate remedies.

**Article 23.14**  
**Advisory Groups**

1. Each Party shall establish or maintain and consult an independent advisory group with a balanced representation of its worker and employer organisations, and other relevant experts as appropriate, on matters relating to the operation and implementation of this Chapter.
2. Each Party shall inform its independent advisory group of the outcome of any dispute relating to this Chapter, together with any follow-up actions or measures.

**Article 23.15**  
**Public Submissions**

1. Each Party shall provide for the receipt and consideration of written submissions from persons of a Party regarding its implementation of this Chapter in accordance with its domestic procedures. Each Party shall make its procedures, including timelines, for the receipt and consideration of written submissions readily accessible and publicly available.
2. A Party may provide in its procedures that, to be eligible for consideration, a submission should, at a minimum:
  - (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 respond in a timely manner to those submissions in accordance with domestic procedures. A Party may request from the person or organisation that made the submission additional information that is necessary to consider the substance of the submission.

**Article 23.16**  
**Contact Points**

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 of the contact details of its contact point and shall promptly notify the other Party of any change to its contact point or those contact details.
2. The contact points shall facilitate regular communication between the Parties on any matter relating to this Chapter. The contact point may also:
  - (a) act as a channel for communication with the public in their respective territories;
  - (b) work together, including with appropriate departments of their central level of government, to coordinate cooperative activities in line with the priorities of the Committee; and
  - (c) receive and respond to requests for consultations in accordance with this Chapter.

**Article 23.17**  
**Labour Sub-Committee**

1. The Labour Sub-Committee (“Sub-Committee”) established under Article 30.9 (Sub-Committees – Institutional Provisions) shall be composed of official level representatives with relevant trade or labour responsibilities as designated by each Party.
2. The purpose of the Sub-Committee is to oversee the implementation of this Chapter and its functions shall be to:
  - (a) provide a forum to discuss and review the implementation of this Chapter;
  - (b) provide periodic reports to the Joint Committee regarding the implementation of this Chapter;
  - (c) provide a forum to establish and review cooperative priorities and activities under this Chapter;
  - (d) provide a forum to resolve differences between the Parties as to the interpretation or application of this Chapter; and
  - (e) perform any other functions as the Parties may decide.
3. The Sub-Committee shall meet within one year of the date of entry into force of this Agreement. Thereafter, the Sub-Committee shall meet at least every two years, unless the Parties agree otherwise. The Sub-Committee meetings shall be chaired by each Party in turn and may meet physically or virtually as mutually agreed.
4. All decisions and reports of the Sub-Committee shall be made by consensus.
5. As part of its proceedings, the Sub-Committee shall convene Dialogues on issues relevant to the implementation of this Chapter with the members of their advisory groups referred to in Article 23.14 (Advisory Groups), including representatives of its worker and employer organisations, unless the Parties agree otherwise. Participation in the Joint Dialogues may take place by any appropriate means of communication as the Parties agree.
6. The Sub-Committee shall monitor and periodically review the implementation and operation of this Chapter and make appropriate recommendations to the Joint Committee for its consideration.
7. To facilitate public awareness of the implementation of this Chapter, the Sub-Committee shall agree on a joint summary report on its work at the end of each Sub-Committee meeting, which shall be made publicly available.

8. The Parties shall, as appropriate, liaise with relevant international organisations, such as the ILO, on matters related to this Chapter. The Committee may seek to develop joint proposals or collaborate with those organisations or with non-parties.

**Article 23.18**  
**Labour 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 request. The responding Party shall, unless agreed otherwise with the requesting Party, respond to the request in writing no later than 10 days after the date of receipt of the request.
3. 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.
4. 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.

**Article 23.19**  
**Joint Committee Consultations**

1. If the Parties have failed to resolve the matter under Article 23.18 (Labour 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 information from governmental or non-governmental experts.

**Article 23.20**  
**Ministerial Consultations**

If the Parties have failed to resolve the matter under Article 23.19 (Joint Committee Consultations), a Party may refer the matter to the relevant Ministers of the Parties who shall seek to resolve the matter.

**Article 23.21**  
**Consultation Procedure**

Consultations pursuant to Articles 23.18 (Labour Consultations) to Article 23.20 (Ministerial Consultations) may be held in person or by any technological means available as agreed by the Parties. Consultations and, in particular, positions taken by the Parties during their consultations, shall be confidential and without prejudice to the rights of a Party in any further proceedings.

**Article 23.22**  
**Dispute Settlement**

1. Articles 23.18 (Labour Consultations) to Article 23.20 (Ministerial Consultations) apply by way of derogation from Article 31.5 (Consultations – Dispute Settlement).
2. If the matter at issue falls within Article 31.4 (Scope – Dispute Settlement) and the Parties have failed to resolve the matter under Articles 23.18 (Labour Consultations) to Article 23.20 (Ministerial Consultations) within 120 days of the date of receipt of a request under Article 23.18 (Labour 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. 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 a Panel – Dispute Settlement) has sufficient expertise or experience in labour 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 labour law.

## **CHAPTER 24**

### **SMALL AND MEDIUM-SIZED ENTERPRISES**

#### **Article 24.1 General Principles**

1. The Parties, recognising the fundamental role SMEs play in contributing to economic growth, sustainable development, employment, and innovation, shall seek to cooperate in promoting SME participation in international trade and global value chains to support their growth and the creation of jobs.
2. The Parties recognise the importance of SMEs in trade and investment between the Parties and affirm their commitment to enhance the ability of SMEs to benefit from this Agreement.
3. The Parties recognise the importance of providing assistance to SMEs, including under this Chapter, to encourage their participation in global markets and supply chains.
4. The Parties recognise the importance of current initiatives, efforts, and work on SMEs developed under various international fora, and taking into account their findings and recommendations, where appropriate.

#### **Article 24.2 Information Sharing**

1. Each Party shall establish or maintain a digital medium that allows the public to access information regarding this Agreement free of charge, including:
  - (a) the text of this Agreement;
  - (b) a summary of this Agreement; and
  - (c) information designed for SMEs that includes:
    - (i) a description of the provisions in this Agreement that the Party considers to be relevant to SMEs; and
    - (ii) any additional information that the Party considers to be useful for SMEs interested in benefitting from the opportunities provided by this Agreement.
2. Each Party shall provide access through the digital medium to:
  - (a) the equivalent information of the other Party; and

- (b) the information of its own government agencies or authorities and other appropriate entities that provide information the Party considers useful to persons interested in trading, investing, or doing business in that Party's territory.
3. The information described in subparagraph 2(b) may include:
- (a) customs regulations, procedures, or enquiry points;
  - (b) regulations and procedures concerning intellectual property rights;
  - (c) technical regulations, standards, or conformity assessment procedures;
  - (d) relevant sanitary or phytosanitary measures relating to importation or exportation;
  - (e) foreign investment regulations;
  - (f) business registration procedures;
  - (g) trade promotion programmes;
  - (h) employment regulations;
  - (i) taxation information;
  - (j) information related to the temporary entry of business persons (as provided for in Chapter 13 (Temporary Entry of Business Persons)); and
  - (k) government procurement opportunities within the scope of Chapter 16 (Government Procurement).
4. Each Party shall regularly, or on request of the other Party, review the information made available under paragraphs 1 and 2 to ensure that they are up-to-date and accurate.

### **Article 24.3**

#### **Cooperation to Increase Trade and Investment Opportunities for SMEs**

1. The Parties acknowledge the importance of cooperating to reduce barriers to SMEs' access to international markets and global supply chains. Accordingly, the Parties may, among other forms of cooperation:



- (a) exchange and discuss each Party's experience and best practice in supporting and assisting SMEs with respect to, among other things:
    - (i) training programmes;
    - (ii) trade education;
    - (iii) trade finance;
    - (iv) identifying commercial partners in the other Party;
    - (v) establishing good business credentials;
    - (vi) insurance, tax, and payment practices in the other Party's market; and
    - (vii) helping SMEs adapt to changing market conditions;
  - (b) facilitate the development of programmes to assist SMEs to participate in and integrate effectively into global markets and supply chains;
  - (c) promote the participation in international trade of SMEs owned by under-represented groups, such as women, youth, Māori, and minority groups; and
  - (d) support SMEs to participate in digital trade and e-commerce to take advantage of opportunities resulting from this Agreement.
2. The Parties may seek to collaborate with appropriate experts and international organisations in carrying out any programme or activity. The Parties also recognise that the involvement of the private sector is important in these activities.

#### **Article 24.4**

#### **Cooperation on Implementation of this Agreement**

Each Party shall cooperate, as part of the implementation of this Agreement, on promotional activities targeted at SMEs. These activities may include:

- (a) undertaking joint roadshows to promote the Agreement to SMEs and the opportunities it creates for them; and
- (b) providing guidance on where SMEs can find information on doing business in each Party's market, such as the information referred to in Article 24.2 (Information Sharing).

**Article 24.5**  
**SME Contact Points**

1. Each Party shall designate and notify a contact point on SMEs to facilitate communications between the Parties on any matter the Party considers relevant to SMEs.
2. Each Party shall promptly notify the other Party of any change to its contact point.
3. The contact points shall meet as necessary and shall carry out their work through communication channels decided by the Parties.
4. Where appropriate, the contact points shall:
  - (a) exchange information to assist in monitoring the implementation of this Agreement as it relates to SMEs;
  - (b) consider any other matter pertaining to SMEs, including any issues raised by SMEs regarding their ability to benefit from this Agreement; and
  - (c) facilitate provision of recommendations to the Inclusive Trade Sub-Committee, as necessary.

**Article 24.6**  
**Obligations in the Agreement that Benefit SMEs**

The Parties recognise that in addition to the provisions in this Chapter, there are provisions in other Chapters of this Agreement that seek to enhance cooperation among the Parties on SME issues or that otherwise may be of particular benefit to SMEs. These include:

- (a) Chapter 2 (National Treatment and Market Access for Goods);
- (b) Chapter 3 (Rules of Origin and Origin Procedures).
- (c) Chapter 4 (Customs Procedures and Trade Facilitation);
- (d) Chapter 9 (Cross-Border Trade in Services);
- (e) Chapter 15 (Digital Trade);
- (f) Chapter 16 (Government Procurement); and

(g) Chapter 17 (Intellectual Property).

**Article 24.7**  
**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 25**  
**TRADE AND GENDER EQUALITY**

**Article 25.1**  
**Māori Terminology**

For the purposes of this Chapter:

**“wāhine Māori”** refers to indigenous women of New Zealand.

**Article 25.2**  
**Objectives**

1. The Parties affirm their intention to implement the provisions of this Agreement in a manner that advances women’s economic empowerment and promotes gender equality. In addition to this Chapter, other Chapters of this Agreement contain Articles which seek explicitly to advance this objective, including:
  - (a) Article 10.4 (Development of Measures – Domestic Regulation);
  - (b) Article 11.11 (Transparency – Financial Services) and Article 11.13 (Diversity in Finance – Financial Services);
  - (c) Article 15.21 (Digital Inclusion – Digital Trade);
  - (d) Article 16.22 (Working Group on Government Procurement – Government Procurement);
  - (e) Article 23.8 (Non-Discrimination and Gender Equality in the Workplace – Trade and Labour);
  - (f) Article 24.3 (Cooperation to Increase Trade and Investment Opportunities for SMEs – Small and Medium-Sized Enterprises); and
  - (g) Article 27.1 (General Provisions – Trade and Development).
2. The Parties acknowledge the key role that gender-responsive policies can play in achieving inclusive economic growth and sustainable development. Gender-responsive polices aim to ensure that the benefits of economic growth are more broadly shared by:
  - (a) recognising the systemic barriers that affect women in trade and investment and in accessing finance; and

- (b) providing equal rights and access to opportunities for the participation of women in business, industry, and the labour market.
- 3. The Parties affirm the importance of promoting gender equality policies and practices and building the capacity of the Parties in this area, including in non-government sectors, to eliminate all forms of gender-based discrimination in trade.
- 4. The Parties acknowledge the benefit of sharing their respective experiences in designing, implementing, monitoring, evaluating, and strengthening policies and programmes to address the systemic barriers which exist for women in international trade, and prevent them from participating equitably in global, regional, or domestic economies.

**Article 25.3**  
**General Commitments**

- 1. The Parties agree to advance women's economic empowerment across this Agreement and promote the importance of a gender perspective in the Parties' trade and investment relationship.
- 2. The Parties shall implement and enforce their respective laws, policies, practices, and regulations that promote gender equality and improve women's access to trade and economic opportunities.
- 3. The Parties shall take steps towards increasing women's participation in trade and investment, including by identifying the range of barriers that limit opportunities for women in the economy, to enable the delivery of evidence-based interventions in response.
- 4. Each Party shall promote public awareness of its gender equality laws, regulations, policies, and practices relating to trade, including by making them publicly available.
- 5. The Parties acknowledge that it is inappropriate to waive, or otherwise derogate from, their gender equality laws to encourage trade or investment.

**Article 25.4**  
**International Instruments**

- 1. The Parties affirm their commitment to implement the obligations under the *Convention on the Elimination of All Forms of Discrimination against Women* done at New York City on 18 December 1979, and acknowledge the general recommendations made under its Committee.

2. The Parties affirm the objectives of the *Joint Declaration on Trade and Women's Economic Empowerment* done at Buenos Aires on 12 December 2017, including acknowledgment of the need to develop evidence-based interventions to address the barriers that limit opportunities for women in the economy.
3. The Parties recognise that inclusive trade policies can contribute to advancing women's economic empowerment and gender equality in line with Sustainable Development Goal 5 of the *UN 2030 Agenda on Sustainable Development* adopted by the UN General Assembly Resolution 70/1 on 25 September 2015. The Parties acknowledge the important contribution by women to economic growth through their participation in economic activity, including international trade, the labour market, business leadership, and entrepreneurship.
4. The Parties also affirm their commitment to implement the obligations under any other international agreement or instrument addressing women's rights or gender equality to which they are party.

#### **Article 25.5 Cooperation**

1. The Parties recognise the importance of strengthening their trade relations and cooperation in the implementation of this Agreement, and shall carry out cooperation activities with the aim of enhancing the ability of women including workers, entrepreneurs, businesswomen and business owners, and wāhine Māori in the case of New Zealand, to fully access and benefit from the opportunities created under this Agreement. These activities shall be carried out in a transparent manner, as appropriate with the inclusive participation of women.
2. Cooperation activities shall be carried out on issues determined by the Parties, through the interaction and coordination, as appropriate, with their respective government agencies, private companies, labour unions, civil society, academic institutions, and non-governmental organisations, among others, and with the participation of Māori in the case of New Zealand.
3. Areas of cooperation may include:
  - (a) developing programmes to promote women's full and equal participation, empowerment, and advancement in society by encouraging, valuing, and recognising women's unpaid care work, capacity building, and skills enhancement including at work, in business, and at senior levels in all sectors of society (such as on public and private boards), insofar as doing so is related to trade;

- (b) improving women’s access, participation, leadership, and education, in particular in fields in which they are underrepresented such as science, technology, engineering, mathematics (STEM), as well as innovation, e-commerce, and any other field as it relates to trade;
- (c) advancing the development of women’s leadership and business networks;
- (d) promoting business development services for women to improve women’s digital skills and access to online business tools;
- (e) promoting financial inclusion and literacy, access to relevant financing, and financial assistance;
- (f) developing trade missions for businesswomen and women entrepreneurs;
- (g) enhancing women entrepreneurs’ participation in government procurement markets;
- (h) fostering women’s entrepreneurship, including activities to promote the internationalisation of SMEs led by women;
- (i) promoting equal opportunities for women in the workplace, including workplace flexibility;
- (j) advancing care policies and programmes with a gender and shared social responsibility perspective including parenting and other family co-responsibilities;
- (k) supporting economic opportunities for diverse groups of women in trade and investment;
- (l) in the case of New Zealand, providing opportunities for wāhine Māori to engage in trade activities including with a Te Ao Māori framework;<sup>1</sup>
- (m) collaborating in international and multilateral fora, including at the OECD, WTO, and with developing countries as appropriate to advance trade and gender equality issues and understanding;
- (n) enhancing the competitiveness of women-owned enterprises to allow them to participate and compete in local, regional, and global value chains; and
- (o) any other areas as the Parties may decide.

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<sup>1</sup> For the purposes of this Chapter, the term “Te Ao Māori” will have the meaning ascribed to it under Article 26.1 (Māori Terminology – Māori Trade and Economic Cooperation).

4. The Parties shall develop a framework for analysing sex or gender-disaggregated data and gender-focused analysis of trade policies, including where appropriate through cooperation activities, joint research, and the sharing of data insights, concepts, and best practices. Areas of cooperation may include:
  - (a) conducting gender-based analysis and monitoring the gender-based effects of trade, including by both qualitative and quantitative methods;
  - (b) sharing methods and procedures for the collection of gender statistics and sex-disaggregated data, the use of indicators, monitoring and evaluation methodologies, and the analysis of gender-focused statistics related to trade;
  - (c) improving analysis and monitoring of access to trade for women-led or owned businesses and, in the case of New Zealand, wāhine Māori, including in relation to specific barriers to trade;
  - (d) sharing data insights, lessons, and best practices for analysing gender segregation in the labour market, and on the working conditions of women in export-oriented industries and sectors impacted by trade; and
  - (e) encouraging the integration of gender-related monitoring, consideration, and activities across the implementation of this Agreement, including through cooperation with specialised committees or subsidiary bodies where appropriate.
5. The priorities for cooperation activities shall be decided by the Parties based on their interests and available resources with the aim of achieving mutual benefits and measurable advances in women's economic empowerment and gender equality outcomes.
6. The Parties may undertake cooperation activities through modes such as:
  - (a) dialogues, workshops, seminars, conferences, cooperation programmes, and projects, including internships, visits, and research;
  - (b) technical assistance to promote and facilitate capacity building and training;
  - (c) exchange of experts and information; and
  - (d) sharing of experiences and best practices in designing, implementing, monitoring, evaluating, and strengthening policies and programmes



to enhance women's participation in domestic, regional, and global economies.

**Article 25.6**  
**Inclusive Trade Sub-Committee**

The Inclusive Trade Sub-Committee established under Article 30.9 (Inclusive Trade Sub-Committee – Institutional Provisions) shall support the effective implementation and operation of this Chapter and monitor and review its implementation and that of relevant provisions in other Chapters. With respect to this Chapter, the Inclusive Trade Sub-Committee shall have the functions set out in Article 30.8 (Inclusive Trade Sub-Committee – Institutional Provisions).

**Article 25.7**  
**Contact Points**

1. Each Party shall designate one or more contact points to facilitate communication between the Parties on any matter covered by this Chapter, and shall provide details of such contact points to the other Party. The Parties shall notify each other promptly of any amendments to the details of their contact points.
2. The contact points may consider any matter that they consider appropriate to advance women's economic empowerment across the Agreement and make recommendations to the Inclusive Trade Sub-Committee.
3. The contact points may communicate or facilitate communication with relevant stakeholders and groups, including women workers, business owners, and entrepreneurs and, in the case of the contact point for New Zealand, wāhine Māori.

**Article 25.8**  
**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 26

### MĀORI TRADE AND ECONOMIC COOPERATION

#### Article 26.1 Māori Terminology

The Parties include the following Māori terminology for the purposes of this Chapter:

“**Haka Ka Mate**” refers to the Haka (war expression) Ka Mate written by Ngāti Toa Rangatira chief Te Rauparaha;

“**Kaupapa Māori**” refers to an approach entrenched in a Māori world view;

“**Māori relational approaches**” refers to ‘Whakapapa’ or family connections, and building strong relationships, which are core values at the heart of the Māori worldview and central to how Māori engage;

“**Mātauranga Māori**” refers to Māori traditional knowledge which relates to the Māori world view;

“**Ngāti Toa Rangatira**” refers to the iwi (tribe) defined as the collective group composed of individuals who are descended from both:

- (a) Toa Rangatira;
- (b) any other recognised ancestor of Ngati Toa Rangatira who migrated permanently to the area of interest of Ngati Toa Rangatira in the nineteenth century and who exercised customary rights predominantly within that area;
- (c) includes those individuals; and
- (d) includes any whanau (extended family group), hapū (kinship group), or group to the extent that it is composed of those individuals;

“**Te Ao Māori**” refers to the Māori world view based on a holistic approach to life;

“**Tikanga Māori**” refers to Māori protocols, customs, and normal practice; and

“**wellbeing**” refers to the Māori view of the culmination, balancing, and interconnection of numerous factors required for individuals and groups to be truly well and thrive. This includes balance between taha tinana (body), taha hinengaro (mind), and taha wairua (spirit) and can include environmental, economic, and cultural aspects.

**Article 26.2**  
**Context and Purpose**

1. The Parties recognise the unique relationship that exists between Māori and the United Kingdom, noting that representatives of the British Crown and Māori were the original signatories to Te Tiriti o Waitangi/The Treaty of Waitangi whilst acknowledging that the New Zealand Crown has now succeeded the British Crown and assumed all rights and obligations under that Treaty.
2. The Parties acknowledge that Te Tiriti o Waitangi/The Treaty of Waitangi is a foundational document of constitutional importance to New Zealand.
3. The Parties recognise the importance of cooperation under this Chapter being implemented, in the case of New Zealand, in a manner consistent with Te Tiriti o Waitangi/The Treaty of Waitangi and where appropriate informed by Te Ao Māori, Mātauranga Māori, and tikanga Māori.
4. The Parties recognise the value of Māori leadership, Te Ao Māori approaches, and Mātauranga Māori that contribute to the design and implementation of policies and programmes in New Zealand, that protect and promote Māori economic aspirations.
5. The Parties recognise the value of increased Māori participation in international trade and investment, including digital trade. This includes through the promotion of Māori relational approaches, Mātauranga Māori, technologies, and Kaupapa Māori methodologies, in the case of New Zealand.
6. Subject to its international obligations, New Zealand may adopt or maintain measures to respect, preserve, and promote traditional knowledge and traditional cultural expressions.
7. The Parties recognise the value of enhancing cultural and people-to-people links that may result from the opportunities created by this Chapter for both Parties.
8. The Parties recognise the challenges that exist for Māori in accessing the trade and economic opportunities derived from international trade, and the importance of international trade in enabling and advancing Māori *wellbeing*.
9. The Parties agree that the purpose of this Chapter is to pursue cooperation between them that contributes towards New Zealand's efforts to enable and advance Māori economic aspirations and *wellbeing*.
10. For greater certainty, nothing in this Chapter:

- (a) gives rise to obligations that relate to intellectual property, except for paragraph 6 in the case of New Zealand;
- (b) creates any requirement on the United Kingdom to change its law relating to intellectual property or intellectual property policy;
- (c) constitutes recognition by the United Kingdom that Genetic Resources, Traditional Knowledge, or Traditional Cultural Expressions are forms of intellectual property in their own right; or
- (d) constitutes recognition by the United Kingdom that any examples of Genetic Resources, Traditional Knowledge, or Traditional Cultural Expressions are protectable as intellectual property other than to the extent such protection is consistent with United Kingdom intellectual property law.

### **Article 26.3 International Instruments**

The Parties note:

- (a) their commitments as Parties to the *UNESCO Convention on the Protection and Promotion of Diversity of Cultural Expressions* done at Paris on 20 October 2005;
- (b) the objectives of 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;
- (c) their rights and responsibilities under the *Convention on Biological Diversity* done at Rio de Janeiro on 5 June 1992; and
- (d) the *UN Declaration on the Rights of Indigenous Peoples* adopted by the UN General Assembly in New York on 13 September 2007, and further note the national positions of the United Kingdom and New Zealand made on that Declaration.

### **Article 26.4 Provisions Across the Agreement Benefitting Māori**

In addition to this Chapter, there are provisions in other Chapters of this Agreement that enhance the participation of Māori in trade and investment opportunities derived from this Agreement which, in the case of New Zealand, further contribute to the ability of Māori to exercise their rights and interests under Te Tiriti o Waitangi/The Treaty of Waitangi. These include:

- (a) Chapter 15 (Digital Trade);
- (b) Chapter 16 (Government Procurement);
- (c) Chapter 17 (Intellectual Property);
- (d) Chapter 22 (Environment);
- (e) Chapter 24 (Small and Medium-Sized Enterprises);
- (f) Chapter 25 (Trade and Gender Equality); and
- (g) Chapter 32 (General Exceptions and General Provisions).

**Article 26.5**  
**Cooperation Activities**

1. The Parties may facilitate, where appropriate and practicable, with Māori in the case of New Zealand and in coordination with other relevant stakeholders as appropriate, the following activities:<sup>1</sup>
  - (a) collaborating on enhancing the ability of Māori-owned enterprises to access and benefit from the trade and investment opportunities created by this Agreement;
  - (b) collaborating on developing links between United Kingdom enterprises and Māori-owned enterprises and entrepreneurship, which may include facilitating access to new and existing supply chains, enabling and strengthening e-commerce opportunities, and facilitating cooperation between enterprises on trade in products of Māori origin. This may additionally include undertaking joint roadshows and activities promoting links between United Kingdom SMEs and Māori-owned SMEs, consistent with cooperation activities set out in Article 24.3 (Cooperation to Increase Trade and Investment Opportunities for SMEs – Small and Medium-Sized Enterprises) and Article 24.4 (Cooperation on Implementation of this Agreement – Small and Medium-Sized Enterprises); and
  - (c) continuing to support science, research, and innovation links as appropriate between the United Kingdom and Māori communities.

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<sup>1</sup> The details and resourcing of any cooperation activities shall be agreed between the Parties as set out in paragraph 3, through the existing cooperation framework between the Parties, and subject to the resources available to each Party. For greater certainty, the provisions in this Chapter do not impose any legal or financial obligations requiring the Parties to explore, commence, or conclude any individual cooperation activities.

2. Each Party may invite the views and participation in the cooperation activities of this Chapter of relevant stakeholders, and in the case of New Zealand of Māori in accordance with Te Tiriti o Waitangi/The Treaty of Waitangi principles.
3. All cooperation shall be at the request of a Party, on mutually agreed terms in respect of each cooperation activity.

**Article 26.6**  
**Recognition of Haka Ka Mate**

1. The Parties acknowledge the significance of the Haka Ka Mate to Ngāti Toa Rangatira, and as an integral part of its history, culture, and identity.
2. The Parties shall jointly endeavour to identify appropriate means to advance recognition and protection of Haka Ka Mate. New Zealand will invite the participation of Ngāti Toa Rangatira in these cooperation activities.

**Article 26.7**  
**Inclusive Trade Sub-Committee**

The Inclusive Trade Sub-Committee established under Article 30.9 (Sub-Committees – Institutional Provisions) shall support the effective implementation and operation of this Chapter and monitor and review its implementation. The Inclusive Trade Sub-Committee shall have the functions set out in Article 30.8 (Inclusive Trade Sub-Committee – Institutional Provisions).

**Article 26.8**  
**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 27

### TRADE AND DEVELOPMENT

#### Article 27.1 General Provisions

1. The Parties acknowledge the importance of development in promoting inclusive economic growth, as well as the instrumental role that sustainable trade and investment can play in contributing to economic development, prosperity, and a resilient global economy. Inclusive economic growth includes a more broad-based distribution of the benefits of economic growth through the expansion of business and industry, including for SMEs and women-led businesses, the creation of jobs, and the alleviation of poverty.
2. The Parties acknowledge that inclusive economic growth should be sustainable, and that sustainable growth encompasses economic development, social development, climate resilience, and environmental protection. Effective coordination of trade, investment, climate change, and development policies can contribute to sustainable economic growth for developing countries, including least developed countries and small island developing states.
3. The Parties recognise the fundamental importance of a stable, open, and rules-based multilateral trading system, including for developing countries, and recognise the vital contribution of the WTO to trade and development.
4. The Parties affirm their commitment to promote and strengthen an open trade and investment environment that seeks to improve livelihoods, reduce poverty, raise living standards, and create new employment opportunities for all persons in support of development.
5. The Parties recognise that transparency, good governance, and accountability contribute to the effectiveness of trade and development policies and sustainability of development outcomes.
6. The Parties further recognise that in addition to this Chapter, there are provisions in other Chapters of this Agreement that seek to enhance cooperation between the Parties on trade and development issues or that otherwise may be of particular benefit to developing countries. Relevant Articles include:
  - (d) paragraphs 5 and 6 of Article 3.8 (Cumulation – Rules of Origin and Origin Procedures);
  - (b) paragraph 4 of Article 7.5 (Cooperation – Technical Barriers to Trade);

- (c) Article 9.13 (Development Cooperation – Cross-Border Trade in Services);
- (a) paragraph 4 of Article 15.20 (Digital Inclusion – Digital Trade); and
- (e) paragraph 3 of Article 25.5 (Cooperation – Trade and Gender Equality).

## **Article 27.2 Cooperation**

1. The Parties recognise that undertaking and strengthening cooperation between the Parties under this Agreement can promote developing country participation in trade, support inclusive and sustainable growth, reinforce international development strategies, and build competitive and diverse supply chains. Cooperative activities may include:
  - (a) dialogue and an exchange of information between the Parties;
  - (b) sharing of best practice on trade and development policies and programmes;
  - (c) promoting developing country participation in multilateral and regional fora and joint advocacy in areas relating to trade and development; or
  - (d) any other form of cooperation as may be agreed between the Parties including in support of least developed countries and small island developing states.
2. The Parties may invite, as appropriate, multilateral, regional, private sector, non-governmental, or other relevant organisations to assist with these cooperative activities.
3. The Parties may share best practice for monitoring and conducting analysis of trade agreements and their effects on developing countries, including the use of both qualitative and quantitative methods.
4. The Parties may monitor, jointly or individually, the impact of this Agreement on developing countries and shall endeavour to share any outcomes with each other.



**Article 27.3**  
**Inclusive Trade Sub-Committee**

The Inclusive Trade Sub-Committee established under Article 30.9 (Sub-Committees – Institutional Provisions) shall support the effective implementation and operation of this Chapter. The functions of the Inclusive Trade Sub-Committee with respect to this Chapter shall be those set out in Article 30.8 (Inclusive Trade Sub-Committee – Institutional Provisions).

**Article 27.4**  
**Contact Points**

Each Party shall designate a contact point from its relevant authorities 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 notify the other Party of the contact details of its contact point and shall promptly notify any change to its contact point or those contact details.

**Article 27.5**  
**Dispute Settlement**

Neither Party shall have recourse to dispute settlement under Chapter 31 (Dispute Settlement) for a matter arising under this Chapter.

## CHAPTER 28

### ANTI-CORRUPTION

#### Article 28.1 Definitions

For the purposes of this Chapter:

**“act or refrain from acting in relation to the performance of official duties”** includes any use of the public official’s or foreign public official’s position, whether or not within the official’s authorised competence;

**“Anti-Bribery Convention”** means the *Convention on Combating Bribery of Foreign Public Officials in International Business Transactions* done at Paris on 17 December 1997;

**“confiscation”** means the permanent deprivation of property by order of a court or other competent authority, and includes forfeiture, where applicable;

**“foreign public official”** means any natural person holding a legislative, executive, administrative, or judicial office of a foreign country, at any level of government, whether appointed or elected, permanent or temporary, paid or unpaid, irrespective of that individual’s seniority; and any natural person exercising a public function for a foreign country, at any level of government, including for a public agency or public enterprise;

**“freezing”** or **“seizure”** means temporarily prohibiting the transfer, conversion, disposition, or movement of property, or temporarily assuming custody or control of property, on the basis of an order issued by a court or other competent authority;

**“official of a public international organisation”** means a civil servant of a public international organisation or any natural person authorised by a public international organisation to act on its behalf;

**“property”** means assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to or interest in those assets;

**“public enterprise”** means an enterprise over which a government or governments may, directly or indirectly, exercise a dominant influence;<sup>1</sup>

**“public official”** means:

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<sup>1</sup> “Dominant influence” for the purposes of this definition shall be deemed to exist, inter alia, if the government or governments hold the majority of the enterprise’s subscribed capital, control the majority of votes attaching to shares issued by the enterprise, or can appoint a majority of the members of the enterprise’s administrative or managerial body or supervisory board.

- (a) any natural person holding a legislative, executive, administrative, or judicial office of a Party, whether appointed or elected, permanent or temporary, paid or unpaid, and irrespective of that natural person's seniority;
- (b) any other natural person who performs a public function for a Party, including for a public agency or public enterprise, or provides a public service as defined under that Party's law and as applied in the pertinent area of law in that Party; or
- (c) any other person defined as a "public official" under a Party's law; and

"UNCAC" means the *United Nations Convention against Corruption* done at New York on 31 October 2003.

#### **Article 28.2** **Scope**

1. This Chapter shall apply to measures to prevent and combat bribery and corruption relating to any matter covered by this Agreement.
2. Each Party affirms its resolve to prevent and combat bribery and corruption in matters affecting international trade or investment.
3. Each Party recognises the need to build integrity within both the public and private sectors and that each sector has complementary responsibilities in this regard.
4. Each Party recognises the importance of regional and multilateral initiatives to prevent and combat bribery and corruption in matters affecting international trade or investment, including the United Nations, the OECD, the WTO, and the Financial Action Task Force, and commits to work jointly with the other Party to encourage and support appropriate initiatives to prevent and combat that bribery and corruption.
5. The Parties recognise that their respective competent anti-corruption authorities have established working relationships in many bilateral and multilateral forums, and that cooperation under this Agreement can enhance the Parties' joint efforts in those forums and help produce outcomes that prevent and combat bribery and corruption in matters affecting international trade or investment.
6. Each Party affirms its commitments in the Anti-Bribery Convention and the UNCAC.

7. The Parties recognise that the description of offences adopted or maintained in accordance with this Chapter, and of the applicable legal defences or legal principles controlling the lawfulness of conduct, is reserved to each Party's law, and that those offences shall be prosecuted and punished in accordance with each Party's law.

### **Article 28.3**

#### **Measures to Prevent and Combat Bribery and Corruption**

1. Each Party shall adopt or maintain legislative and other measures as may be necessary to establish as criminal offences under its law, in matters affecting international trade or investment, when committed intentionally, by any person subject to its jurisdiction:
  - (a) the promise, offering, or giving to a public official, directly or indirectly, of an undue advantage for the official or another person or entity, in order that the official act or refrain from acting in relation to the performance of or the exercise of official duties;
  - (b) the solicitation or acceptance by a public official, directly or indirectly, of an undue advantage for the official or another person or entity, in order that the official act or refrain from acting in relation to the performance of or the exercise of official duties;
  - (c) the promise, offering, or giving to a foreign public official or an official of a public international organisation, directly or indirectly, of an undue advantage for the official or another person or entity, in order that the official act or refrain from acting in relation to the performance of or the exercise of official duties, in order to obtain or retain business or other undue advantage in relation to the conduct of international business; and
  - (d) the aiding or abetting, or conspiracy in, the commission of any of the offences described in subparagraphs (a) to (c).
2. Each Party shall adopt or maintain measures as may be necessary, in accordance with its laws and regulations regarding the maintenance of books and records, financial statement disclosures, and accounting and auditing standards, to prohibit the following acts carried out for the purpose of committing any of the offences described in this Article:
  - (a) the establishment of off-the-books accounts;
  - (b) the making of off-the-books or inadequately identified transactions;
  - (c) the recording of non-existent expenditure;

- (d) the entry of liabilities with incorrect identification of their objects;
  - (e) the use of false documents; and
  - (f) the intentional destruction of bookkeeping documents earlier than foreseen by the law.
3. Each Party shall adopt or maintain legislative and other measures as may be necessary to establish as a criminal offence under its law, in matters affecting international trade or investment, when committed intentionally:
- (a) the embezzlement, misappropriation, or another diversion<sup>2</sup> by a public official for the benefit of the public official or for the benefit of another person, of any property, public or private funds or securities, or any other thing of value that the public official has been able to access by virtue of the public official's position; and
  - (b) by any person subject to its jurisdiction, the participation in, association with or conspiracy to commit, attempts to commit, and aiding, abetting, facilitating, and counselling the commission of an offence established in accordance with subparagraph (a).
4. Each Party shall adopt or maintain measures as may be necessary in accordance with its laws and regulations to establish as criminal offences, in matters affecting international trade or investment, when committed intentionally, by any person subject to its jurisdiction:
- (a) the conversion or transfer of property, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illegal origin of the property or of helping any person who is involved in the commission of the predicate offence to evade the legal consequences of that person's action;
  - (b) the concealment or disguise of the true nature, source, location, disposition, movement, or ownership of, or rights with respect to, property, knowing that such property is the proceeds of crime;
  - (c) the acquisition, possession, or use of property, knowing, at the time of receipt, that such property is the proceeds of crime; and
  - (d) participation in, association with or conspiracy to commit, attempts to commit, and aiding, abetting, facilitating, and counselling the commission of any of the offences established in accordance with subparagraphs (a) to (c).

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<sup>2</sup> For greater certainty, "diversion" means embezzlement or misappropriation that constitutes the criminal offences of theft or fraud under a Party's domestic law.

5. Each Party shall make the commission of an offence described in paragraphs 1 to 4 liable to sanctions that take into account the gravity of that offence.
6. Each Party shall adopt or maintain measures as may be necessary, consistent with its legal principles, to establish the liability of legal persons for offences described in paragraphs 1 to 4. In particular, each Party shall ensure that legal persons held liable for offences described in paragraphs 1 to 4 are subject to effective, proportionate, and dissuasive criminal or non-criminal sanctions, which include monetary sanctions.
7. Neither Party shall allow a person subject to its jurisdiction to deduct from taxes expenses incurred in connection with the commission of an offence described in paragraph 1.
8. Each Party shall adopt or maintain measures enabling the identification, tracing, freezing, seizure, and confiscation in both criminal and non-conviction-based proceedings of:
  - (a) proceeds, including any property, derived from the offences described in paragraphs 1, 3, and 4; and
  - (b) property, equipment, or other instrumentalities used in or destined for use in those offences.
9. The Parties recognise the harmful effects of facilitation payments. Each Party shall, in accordance with its laws and regulations:
  - (a) encourage enterprises to prohibit or discourage the use of facilitation payments;
  - (b) to the extent facilitation payments may be permitted, ensure the solicitation, payment, or acceptance of those payments are not used to secure a material advantage in matters affecting international trade or investment; and
  - (c) take steps to raise global awareness of the harmful effects of facilitation payments, including through regional and multilateral initiatives, with a view to stopping the solicitation, payment, and acceptance of those payments.
10. Each Party shall ensure that any statute of limitations applicable to any criminal offences described in this Chapter allows an adequate period of time for the investigation and prosecution of the offence.

**Article 28.4**  
**Persons that Report Bribery or Corruption Offences**

1. Each Party shall, as it considers appropriate, adopt or maintain measures to ensure that its competent authorities which are responsible for the measures under Article 28.3 (Measures to Prevent and Combat Bribery and Corruption), or the enforcement of those measures, are known to the public.
2. Each Party shall adopt or maintain publicly available procedures for a person to report to its competent authorities, including anonymously, any incident that may be considered to constitute an offence described in paragraphs 1, 3, or 4 of Article 28.3 (Measures to Prevent and Combat Bribery and Corruption) or an act described in paragraph 2 of Article 28.3 (Measures to Prevent and Combat Bribery and Corruption).
3. Each Party shall adopt or maintain appropriate measures, in accordance with its laws and regulations, to protect against or provide remedy for discriminatory or disciplinary treatment of any person considered appropriate by the Party who, on reasonable belief, reports to the competent authorities any suspected incident that may be considered to constitute an offence described in paragraphs 1, 3, or 4 of Article 28.3 (Measures to Prevent and Combat Bribery and Corruption) or an act described in paragraph 2 of Article 28.3 (Measures to Prevent and Combat Bribery and Corruption).<sup>3</sup>

**Article 28.5**  
**Promoting Integrity among Public Officials**

1. To prevent and combat bribery and corruption in matters affecting international trade or investment, each Party should promote, among other things, integrity, honesty, and responsibility among its public officials. To this end, each Party shall endeavour, in accordance with the fundamental principles of its legal system, to adopt or maintain:
  - (a) measures to provide adequate procedures for the selection and training of individuals for public positions considered by the Party to be especially vulnerable to corruption, and the rotation, if appropriate, of those individuals to other positions;
  - (b) measures to promote transparency in the behaviour of public officials in the exercise of public functions;
  - (c) appropriate policies and procedures to identify and manage actual or potential conflicts of interest of public officials;

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<sup>3</sup> For greater certainty, this paragraph is without prejudice to each Party's right to adopt or maintain additional requirements for the making of such a report provided these requirements do not have the effect of unjustifiably limiting a person's access to protection or remedy.

- (d) measures that require senior and other appropriate public officials to make declarations to appropriate authorities regarding, among other things, their outside activities, employment, investments, assets, and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials; and
  - (e) measures to facilitate reporting by public officials of acts of bribery and corruption to competent authorities, if those acts come to their notice in the performance of their functions.
2. Each Party shall endeavour to adopt or maintain codes or standards of conduct for the correct, honourable, and proper performance of public functions, and measures providing for disciplinary or other procedures, if warranted, against a public official who violates the codes or standards established in accordance with this paragraph.
  3. Each Party, to the extent consistent with the fundamental principles of its legal system, shall consider establishing procedures through which a public official accused or convicted of an offence described in this Chapter may, if appropriate, be removed, suspended, or reassigned by the appropriate authority, bearing in mind respect for the principle of the presumption of innocence.
  4. Each Party shall, in accordance with the fundamental principles of its legal system and without prejudice to judicial independence, adopt or maintain measures to strengthen integrity, and to prevent opportunities for corruption, among members of the judiciary in matters affecting international trade or investment. These measures may include rules with respect to the conduct of members of the judiciary.

**Article 28.6**  
**Participation of Private Sector and Civil Society**

1. Each Party shall take appropriate measures to promote the active participation of individuals and groups outside the public sector, such as enterprises, civil society, non-governmental organisations, and community-based organisations, in preventing and combatting bribery and corruption in matters affecting international trade or investment and to raise public awareness regarding the existence, causes, and gravity of and the threat posed by that bribery and corruption. To this end, a Party may:
  - (a) undertake public information activities and public education programmes that contribute to non-tolerance of bribery and corruption;
  - (b) adopt or maintain measures to encourage professional associations and other non-governmental organisations, if appropriate, to



encourage and assist enterprises, in particular SMEs, in developing internal controls, ethics and compliance programmes, and codes and standards of conduct for preventing and detecting bribery and corruption;

- (c) adopt or maintain measures to encourage company management to make statements in their annual reports or otherwise publicly disclose their internal controls, ethics and compliance programmes, including those that contribute to preventing and detecting bribery and corruption; and
- (d) adopt or maintain measures to respect, promote, and protect the freedom to seek, receive, publish, and disseminate information concerning bribery and corruption,

in matters affecting international trade or investment.

2. Each Party shall endeavour to encourage private enterprises, taking into account their size and structure, to:
  - (a) adopt or maintain sufficient internal auditing controls and compliance programmes to assist in preventing and detecting acts of bribery and corruption in matters affecting international trade or investment; and
  - (b) ensure that their accounts and required financial statements are subject to appropriate auditing and certification procedures.

#### **Article 28.7**

#### **Application and Enforcement of Measures to Prevent and Combat Bribery and Corruption**

1. In accordance with the fundamental principles of its legal system, neither Party shall fail to effectively enforce the measures adopted or maintained to comply with Articles 28.3 (Measures to Prevent and Combat Bribery and Corruption) to Article 28.5 (Promoting Integrity among Public Officials), through a sustained or recurring course of action or inaction after the date of entry into force of this Agreement as an encouragement for trade and investment.<sup>4</sup>
2. Each Party retains the right for its law enforcement, prosecutorial, and judicial authorities to exercise discretion with respect to the enforcement of its measures to prevent and combat bribery and corruption. Each Party retains the right to take *bona fide* decisions with regard to the allocation of its resources with respect to that enforcement.

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<sup>4</sup> For greater certainty, the Parties recognise that individual cases or specific discretionary decisions related to the enforcement of anti-corruption law are subject to each Party's own domestic law and legal procedures.

3. The Parties affirm their commitments under applicable international agreements or arrangements to cooperate with each other, consistent with their respective legal and administrative systems, to enhance the effectiveness of law enforcement actions to combat the offences described in paragraphs 1, 3, and 4 of Article 28.3 (Measures to Prevent and Combat Bribery and Corruption) and the acts described in paragraph 2 of Article 28.3 (Measures to Prevent and Combat Bribery and Corruption).

**Article 28.8**  
**Relation to Other Agreements**

Nothing in this Agreement affects the rights and obligations of the Parties under the Anti-Bribery Convention, the UNCAC, or the *United Nations Convention against Transnational Organized Crime* done at New York on 15 November 2000.

**Article 28.9**  
**Cooperation, Consultation, and Dispute Settlement**

1. The Parties shall make every effort through dialogue, exchange of information, and cooperation to address any matter that might affect the operation or application of this Chapter.
2. Chapter 31 (Dispute Settlement), as modified by this Article, shall apply to disputes relating to a matter arising under this Chapter.
3. A Party may only have recourse to the procedures set out in this Article and Chapter 31 (Dispute Settlement) if it considers that a measure of the other Party is inconsistent with its obligations under this Chapter, or that the other Party has otherwise failed to carry out its obligations under this Chapter, in a manner affecting international trade or investment between the Parties.
4. Neither Party shall have recourse to dispute settlement under this Article or Chapter 31 (Dispute Settlement) for a matter arising under Article 28.7 (Application and Enforcement of Measures to Prevent and Combat Bribery and Corruption).

**CHAPTER 29**  
**TRANSPARENCY**

**Article 29.1**  
**Definitions**

For the purposes of this Chapter:

**“administrative ruling of general application”** means an administrative ruling or interpretation that applies to all persons and factual situations that fall generally within the ambit of that administrative ruling or interpretation and that establishes a norm of conduct, but does not include:

- (a) a determination or ruling made in an administrative or quasi-judicial proceeding that applies to a particular person, good, or service of a Party in a specific case; or
- (b) a ruling that adjudicates with respect to a particular act or practice; and

**“consultation documentation”** means any documentation created by a Party for the purpose of seeking interested persons’ comment on a proposal to adopt or amend a:

- (a) law; or
- (b) regulation,

of general application with respect to any matter covered by this Agreement.

**Article 29.2**  
**Publication**

1. Each Party shall ensure that its laws, regulations, procedures, and administrative rulings of general application with respect to any matter covered by this Agreement are promptly published, or otherwise made available, in a manner that enables interested persons and the other Party to become acquainted with them.
2. To the extent possible and appropriate, each Party shall:
  - (a) publish at an appropriate early stage its consultation documentation; and
  - (b) provide interested persons and the other Party with a reasonable opportunity to comment or input on that consultation documentation.

3. To the extent possible, when introducing or changing the laws, regulations, or procedures referred to in paragraph 1, each Party shall endeavour to provide a reasonable period between the date when those laws, regulations, or procedures, proposed or final in accordance with its legal system, are made publicly available and the date when they enter into force.
4. Each Party shall, with respect to a regulation of general application adopted by its central level of government respecting any matter covered by this Agreement that is published in accordance with paragraph 1:
  - (a) promptly publish the regulation on an official website or other appropriate digital medium, or in an official journal of national circulation; and
  - (b) if appropriate, include with the publication an explanation of the purpose of and rationale for the regulation.

### **Article 29.3 Administrative Proceedings**

1. With a view to administering in a consistent, impartial, and reasonable manner its laws, regulations, procedures, and administrative rulings of general application with respect to any matter covered by this Agreement, each Party shall ensure in its administrative proceedings applying those laws, regulations, procedures, or administrative rulings of general application to a particular person, good, or service of the other Party in specific cases that:
  - (a) whenever possible, a person of the other Party that is directly affected by a proceeding is provided with reasonable notice, in accordance with domestic procedures, of when a proceeding is initiated, including a description of the nature of the proceeding, a statement of the legal authority under which the proceeding is initiated, and a general description of any issue in question;
  - (b) a person of the other Party that is directly affected by a proceeding is afforded a reasonable opportunity to present facts and arguments in support of that person's position prior to any final administrative action, when time, the nature of the proceeding, and the public interest permit; and
  - (c) its procedures are in accordance with its law.

**Article 29.4**  
**Review and Appeal<sup>1</sup>**

1. Each Party shall establish or maintain judicial, quasi-judicial, or administrative tribunals or procedures for the purpose of the prompt review and, if warranted, correction of a final administrative action with respect to any matter covered by this Agreement. Those tribunals shall be impartial and independent of the office or authority entrusted with administrative enforcement and shall not have any substantial interest in the outcome of the matter.
2. Each Party shall ensure that, with respect to the tribunals or procedures referred to in paragraph 1, the parties to a proceeding are provided with the right to:
  - (a) a reasonable opportunity to support or defend their respective positions; and
  - (b) a decision based on the evidence and submissions of record or, where required by its law, the record compiled by the relevant authority.
3. Each Party shall ensure, subject to appeal or further review as provided for in its law, that the decision referred to in subparagraph 2(b) shall be implemented by, and shall govern the practice of, the office or authority with respect to the administrative action at issue.

**Article 29.5**  
**Provision of Information**

1. If a Party considers that any proposed or actual measure may materially affect the operation of this Agreement, or otherwise substantially affect the other Party's interests under this Agreement, it shall, to the extent possible, inform the other Party of the proposed or actual measure.
2. At the request of a Party, the requested Party shall endeavour to provide information and respond to questions pertaining to any proposed or actual measure that the requesting Party considers may affect the operation of this Agreement.
3. A Party shall convey any request or provide information referred to in paragraphs 1 and 2 to the other Party through its contact point.
4. The notification referred to in paragraph 1 shall be regarded as having been conveyed in accordance with paragraph 3 when the actual or proposed

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<sup>1</sup> For greater certainty, review need not include merits (*de novo*) review, and may take the form of common law judicial review. The correction of final administrative actions may include a referral back to the body that took that action.

measure has been notified to the WTO in accordance with Article 2.12 (Import Licensing Procedures – National Treatment and Market Access for Goods), Article 5.15 (Transparency, Notification, and Information Exchange – Sanitary and Phytosanitary Measures), Article 7.9 (Transparency – Technical Barriers to Trade), Article 8.8 (Transparency – Trade Remedies), or Article 22.13 (Resource Efficient and Circular Economy – Environment).

5. Any information provided under this Article shall be without prejudice as to whether the measure in question is consistent with this Agreement.

#### **Article 29.6** **Accessible and Open Government**

To the extent possible, each Party shall endeavour to ensure that information published by its central level of government with respect to any matter covered by this Agreement is accessible in open, machine-readable format.

## **CHAPTER 30**

### **INSTITUTIONAL PROVISIONS**

#### **Article 30.1**

##### **Establishment of the Joint Committee**

The Parties hereby establish a Joint Committee which may meet at the level of senior officials or Ministers, as mutually determined by the Parties.

#### **Article 30.2**

##### **Functions of the Joint Committee**

1. The Joint Committee shall:
  - (a) consider any matters relating to the implementation of this Agreement;
  - (b) review the general operation of this Agreement;
  - (c) consider any proposal to amend this Agreement that is referred to it;
  - (d) supervise the work of all subsidiary bodies established under this Agreement and oversee other activities conducted under this Agreement;
  - (e) consider ways to further enhance sustainable and inclusive trade and investment between the Parties; and
  - (f) consider any other matter that may affect the operation of this Agreement.
  
2. The Joint Committee may:
  - (a) establish additional subsidiary bodies, refer matters to any subsidiary bodies, and consider matters raised by any subsidiary bodies established under this Agreement;
  - (b) merge or dissolve any subsidiary bodies established under this Agreement in order to improve the functioning of this Agreement;
  - (c) develop arrangements for the implementation of the Agreement;
  - (d) seek to resolve differences or disputes that may arise regarding the interpretation or application of this Agreement;

- (e) adopt interpretations of this Agreement, which are binding on the Parties and subsidiary bodies established under this Agreement, including any panels established under Chapter 31 (Dispute Settlement);
- (f) seek the advice of business, civil society groups, union groups, and Māori in the case of New Zealand, other interested parties, and members of the public on any matter falling within the Joint Committee's functions;
- (g) consider and adopt, subject to completion of any necessary legal procedures by each Party, a modification to this Agreement of:
  - (i) Annex 2A (Schedule of Tariff Commitments);
  - (ii) Annex 3A (Product Specific Rules of Origin);
  - (iii) a Party's Schedule in Annex 16A (Government Procurement Schedules);
  - (iv) Annex 31A (Rules of Procedure) or Annex 31B (Code of Conduct);
  - (v) Appendix 7A-a (Oenological Practices Authorised Under the Laws and Regulations of New Zealand as Referred to in Subparagraph 18(b) of Section A of Annex 7A (Wine and Distilled Spirits)); or
  - (vi) Annex 22A (Environmental Goods List); and
- (h) take such other action in the exercise of its functions as the Parties may agree.

### **Article 30.3 General Review**

1. The Parties shall undertake a general review of the Agreement with a view to furthering its objectives, every seven years following the date of its entry into force, unless the Parties agree otherwise.
2. The conduct of general reviews shall normally coincide with regular meetings of the Joint Committee.
3. In conducting a review pursuant to paragraph 1, the Joint Committee shall take into account:
  - (a) the work of all subsidiary bodies established under this Agreement;



- (b) relevant developments in international fora;
- (c) input sought from business, civil society groups, union groups, and Māori in the case of New Zealand, other interested parties, and members of the public.

#### **Article 30.4**

##### **Decision-Making and Rules of Procedure of the Joint Committee**

1. The Joint Committee shall take decisions on any matter within its functions by mutual agreement.
2. The Joint Committee shall meet within one year of the date of entry into force of this Agreement and then annually, or as otherwise mutually agreed by the Parties.
3. Meetings of the Joint Committee shall be co-chaired by representatives of the Parties and hosted alternately. Any necessary administrative support for the meetings of the Joint Committee shall be provided alternately.
4. Each Party shall be responsible for the composition of its delegation.
5. The Joint Committee and any subsidiary body established under this Agreement shall carry out its work through whatever means are appropriate, which may include electronic mail or videoconferencing.
6. The Joint Committee and any subsidiary body established under this Agreement may establish rules of procedures for the conduct of its work.

#### **Article 30.5**

##### **Contact Points**

1. Each Party shall, within 30 days of the date of entry into force of this Agreement, designate an overall contact point to facilitate communications between the Parties on any matter relating to this Agreement and notify the other Party of the contact details of that contact point. Each Party shall promptly notify the other Party of any change to those contact details.
2. Each Party shall promptly notify the other Party, in writing, of any changes to its overall contact point or any other contact point.
3. On the request of a Party, the overall contact point of the other Party shall identify the office or official responsible for a matter and assist, as necessary, in facilitating communication with the requesting Party.

**Article 30.6**  
**Exchange of Information**

Further to Article 2.16 (Data Sharing on Preference Utilisation – National Treatment and Market Access for Goods), the Parties shall endeavour to cooperate to facilitate the identification and exchange of other information relevant to the effective monitoring of the functioning of this Agreement. Such cooperation may include:

- (a) ad hoc discussions between expert-level representatives of the Parties;
- (b) entering into arrangements to exchange information identified pursuant to this paragraph; and
- (c) determining methods for interpreting and analysing that information.

**Article 30.7**  
**Domestic Engagement**

1. Both Parties recognise the importance of promoting greater engagement and participation from a range of domestic stakeholders in the development and implementation of its trade policy.
2. In addition to this Chapter, there are provisions in other Chapters of this Agreement that seek to engage a range of domestic stakeholders in the operation and implementation of this Agreement, including where appropriate by consulting them and seeking their views. These include:
  - (a) Chapter 22 (Environment);
  - (b) Chapter 23 (Trade and Labour);
  - (c) Chapter 24 (Small and Medium-Sized Enterprises);
  - (d) Chapter 25 (Trade and Gender Equality);
  - (e) Chapter 26 (Māori Trade and Economic Cooperation); and
  - (f) Chapter 27 (Trade and Development).

**Article 30.8**  
**Inclusive Trade Sub-Committee**

1. For the purposes of the effective implementation and operation of Chapter 24 (Small and Medium-Sized Enterprises), Chapter 25 (Trade and Gender

Equality), Chapter 26 (Māori Trade and Economic Cooperation), and Chapter 27 (Trade and Development), an Inclusive Trade Sub-Committee established under Article 30.9 (Sub-Committees) shall be composed of representatives of each Party or their designees, and with Māori in the case of New Zealand.

2. The functions of the Sub-Committee shall include:
  - (a) monitoring and reviewing the implementation and operation of Chapter 26 (Māori Trade and Economic Cooperation), Chapter 27 (Trade and Development), and provisions in other Chapters of this Agreement, where appropriate, relating to trade and development, Chapter 24 (Small and Medium-Sized Enterprises), and Chapter 25 (Trade and Gender Equality), and provisions in other Chapters relating to the objectives of and commitments in Chapter 25 (Trade and Gender Equality);
  - (b) making a recommendation or referring matters to the Joint Committee that the Sub-Committee considers appropriate, including for future cooperation set out in this Article;
  - (c) with respect to Chapter 26 (Māori Trade and Economic Cooperation):
    - (i) providing a forum to facilitate discussions on cooperation activities in Chapter 26 (Māori Trade and Economic Cooperation), and the exchange of information on the lessons learned through such activities;
    - (ii) cooperating with other subsidiary bodies established under this Agreement, as appropriate, on issues that may be relevant to Chapter 26 (Māori Trade and Economic Cooperation Chapter);
    - (iii) considering input from relevant experts or representatives of relevant organisations to Sub-Committee meetings on issues relevant to Chapter 26 (Māori Trade and Economic Cooperation);
    - (iv) committee functions are to be carried out in a manner consistent with Te Tiriti o Waitangi/The Treaty of Waitangi in the case of New Zealand, and in a manner sensitive to tikanga Māori;<sup>1</sup>
  - (d) with respect to Chapter 27 (Trade and Development):

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<sup>1</sup> “Tikanga Māori” refers to Māori protocols, customs, and normal practice.

- (i) mutually determining, facilitating and monitoring cooperative activities under Article 27.2 (Cooperation – Trade and Development), and discussing any relevant follow up actions;
  - (ii) sharing the outcomes of any monitoring conducted under Chapter 27 (Trade and Development);
  - (iii) cooperating with other subsidiary bodies established under this Agreement, as appropriate, to contribute to the advancement of trade and development outcomes under this Agreement; and
  - (iv) considering any recommendations received from the contact points established under Article 27.4 (Contact Points – Trade and Development);
- (e) with respect to Chapter 25 (Trade and Gender Equality),
- (i) determining, facilitating, and monitoring the cooperative activities described in Article 25.5 (Cooperation – Trade and Gender Equality) including those which build the evidence base for interventions that address the barriers that may exist for women in international trade. The activities shall be carried out with the inclusive participation of women;
  - (ii) sharing the outcomes of any analysis, research, or monitoring conducted under Chapter 25 (Trade and Gender Equality);
  - (iii) cooperating with other subsidiary bodies established under this Agreement, including through joint meetings or by inviting any member of a body to a meeting of the Sub-Committee as the Sub-Committee considers appropriate, on issues relating to gender equality or women’s economic empowerment, while avoiding duplication of other bodies;
  - (iv) facilitating communication with and the participation of civil society, workers, women business owners, and entrepreneurs, and, in the case of New Zealand, wāhine Māori,<sup>2</sup> in the activities of the Inclusive Trade Sub-Committee, and seeking advice from appropriately qualified experts and stakeholders; and
  - (v) encouraging a gender perspective through the integration of gender-related monitoring, considerations, and activities across the implementation of this Agreement, including

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<sup>2</sup> For greater certainty, “wāhine Māori” has the meaning given in Article 25.1 (Māori Terminology – Trade and Gender Equality).

through cooperation with other subsidiary bodies established under this Agreement, where appropriate;

- (f) with respect to Chapter 24 (Small and Medium-Sized Enterprises), consider any recommendations received from the contact points established under Article 24.5 (SME Contact Points – Small and Medium-Sized Enterprises); and
  - (g) performing any other functions as the Parties may decide.
3. The Sub-Committee shall meet within one year of the date of entry into force of this Agreement, and thereafter as mutually agreed by the Parties. The Sub-Committee shall be co-chaired by representatives of each Party and may meet physically or virtually as mutually agreed.
  4. The Sub-Committee may, on agreement of the Parties, hold a meeting to consider issues arising out of, exclusively, Chapter 25 (Trade and Gender Equality) or Chapter 27 (Trade and Development). In this case, only the representatives of the Parties responsible for the implementation and operation of the relevant Chapter may attend the meeting.
  5. Any decisions or reports of the Sub-Committee shall be adopted by mutual agreement of the representative of the Parties.
  6. The Sub Committee shall report to the Joint Committee with respect to its activities under this Article.

### **Article 30.9 Sub-Committees**

1. The following sub-committees are hereby established under the auspices of the Joint Committee:
  - (a) the Trade in Goods Sub-Committee, the functions of which are set out in Article 2.17 (Trade in Goods Sub-Committee – National Treatment and Market Access for Goods);
  - (b) the Environment and Climate Change Sub-Committee, the functions of which are set out in Article 22.20 (Institutional Arrangements – Environment);
  - (c) the Inclusive Trade Sub-Committee, the functions of which are set out in Article 30.8 (Inclusive Trade Sub-Committee);
  - (d) the Labour Sub-Committee, the functions of which are set out in Article 23.17 (Labour Sub-Committee – Trade and Labour);

- (e) the Sanitary and Phytosanitary Measures Sub-Committee, the functions of which are set out in Article 5.18 (Sanitary and Phytosanitary Measures Sub-Committee – Sanitary and Phytosanitary Measures); and
- (f) the Services and Investment Sub-Committee, the functions of which are set out in Article 9.14 (Services and Investment Sub-Committee – Cross-Border Trade in Services).

**Article 30.10**  
**Working Groups**

1. The following working groups are hereby established under the auspices of the Joint Committee:
  - (a) the Intellectual Property Working Group, the functions of which are set out in Article 17.14 (Intellectual Property Working Group – Intellectual Property); and
  - (b) the Government Procurement Working Group, the functions of which are set out in Article 16.22 (Government Procurement Working Group – Government Procurement).
2. The following working group is hereby established under the auspices of the Sanitary and Phytosanitary Measures Sub-Committee:
  - (a) the Animal Welfare Working Group, the functions of which are set out in Article 6.5 (Animal Welfare Working Group – Animal Welfare).
3. The following working groups are hereby established under the auspices of the Services and Investment Sub-Committee:
  - (a) the Financial Services Working Group, the functions of which are set out in Article 11.16 (Institutional – Financial Services); and
  - (b) the Professional Services Working Group, the functions of which are set out in Article 9A.9 (Professional Services Working Group – Professional Services and Recognition of Professional Qualifications).
4. The following working groups are hereby established under the auspices of the Trade in Goods Sub-Committee:
  - (a) the Rules of Origin and Customs and Trade Facilitation Working Group, the functions of which are set out in Article 3.17 (Rules of

Origin and Customs and Trade Facilitation Working Group – Rules of Origin and Origin Procedures); and

- (b) the Wine and Distilled Spirits Working Group, the functions of which are set out in Section C (General Provisions – Wine and Distilled Spirits).

**CHAPTER 31**  
**DISPUTE SETTLEMENT**

**Article 31.1**  
**Definitions**

For the purposes of this Chapter, including Annex 31A (Rules of Procedure) and Annex 31B (Code of Conduct):

**“ADR provider”** means a provider of alternative dispute resolution (ADR) services, namely a provider of good offices, a conciliator, or a mediator who provides their services pursuant to Article 31.20 (Good Offices, Conciliation, and Mediation);

**“approved person”** means an individual who is:

- (a) an authorised representative of a Party designated in accordance with Rule 18 of the Rules of Procedure;
- (b) an arbitrator;
- (c) an assistant; or
- (d) an expert;

**“arbitrator”** means a member of a panel appointed in accordance with Article 31.7 (Composition of a Panel);

**“assistant”** means a person who, under the terms of appointment and under the direction of an arbitrator or ADR provider, conducts research or provides assistance to that arbitrator or ADR provider;

**“candidate”** means an individual who is requested to serve as an arbitrator under Article 31.7 (Composition of a Panel);

**“Code of Conduct”** means the code of conduct referred to in Article 31.23 (Rules of Procedure and Code of Conduct) and set out in Annex 31B (Code of Conduct);

**“complaining Party”** means the Party that requests consultations under Article 31.5 (Consultations);

**“confidential information”** means information designated as such by a Party;

**“designated office”** means the office designated in accordance with Article 31.17 (Administration of the Dispute Settlement Procedure);



**“document”** includes any written matter submitted, delivered, or issued in the course of the panel proceeding, whether in paper or electronic form;

**“expert”** means an individual or body providing technical information or advice in accordance with Rule 37 of the Rules of Procedure;

**“family member”** means the partner of an arbitrator or candidate; or a parent, child, grandparent, grandchild, sister, brother, aunt, uncle, niece, or nephew of the arbitrator or candidate or partner of the arbitrator or candidate including whole and half blood relatives and step relatives; or the partner of such an individual. A family member also includes any resident of an arbitrator’s or candidate’s household whom the arbitrator or candidate treats as a member of their family;

**“information”** means information, however recorded or stored, including information contained in a paper document, electronic file, or oral information;

**“non-business day”** means, with regard to a Party, Saturday, Sunday, and any other day officially designated by that Party as a public holiday and notified to the other Party’s designated office;

**“panel”** means a panel established under Article 31.6 (Establishment of a Panel);

**“proceeding”** means the proceeding of the panel, unless otherwise specified;

**“responding Party”** means the Party to which the request for consultations is made under Article 31.5 (Consultations);

**“Rules of Procedure”** means the rules of procedure referred to in Article 31.23 (Rules of Procedure and Code of Conduct) and set out in Annex 31A (Rules of Procedure); and

**“staff”** means, in respect of an arbitrator or ADR provider, natural persons under the direction and control of the arbitrator or ADR provider, other than assistants.

## **Article 31.2 Objective**

The objective of this Chapter is to provide an effective, efficient, and transparent process for the settlement of disputes between the Parties concerning their rights and obligations under this Agreement.

## **Article 31.3 Cooperation**

The Parties shall endeavour to agree on the interpretation and application of this Agreement, and shall make every attempt through cooperation, consultations, or

other means to arrive at a mutually satisfactory resolution of any matter that might affect its operation or application.

#### **Article 31.4**

##### **Scope**

1. Unless otherwise provided in this Agreement, this Chapter shall apply with respect to the avoidance or settlement of all disputes between the Parties regarding the interpretation or application of this Agreement wherever a Party considers that:
  - (a) an actual or proposed measure of the other Party is inconsistent with its obligations under this Agreement;
  - (b) the other Party has otherwise failed to carry out its obligations under this Agreement; or
  - (c) any benefit it could reasonably have expected to accrue to it under Chapter 2 (National Treatment and Market Access for Goods), Chapter 3 (Rules of Origin and Origin Procedures), Chapter 4 (Customs Procedures and Trade Facilitation), Chapter 9 (Cross-Border Trade in Services), or Chapter 16 (Government Procurement) is being nullified or impaired as a result of the application of any actual or proposed measure, whether or not that measure is consistent with this Agreement.
2. This Chapter shall apply subject to those special and additional provisions on dispute settlement contained in other Chapters of this Agreement.

#### **Article 31.5**

##### **Consultations**

1. Each Party shall accord adequate opportunity for consultations with respect to any matter referred to in Article 31.4 (Scope). Any differences shall, as far as possible, be settled by consultation between the Parties in good faith, with a view to reaching a mutually agreed solution.
2. A Party may request consultations pursuant to paragraph 1 by delivering a written request to the other Party, setting out the reasons for the request, including identification of the actual or proposed measure or other matter at issue and the legal basis for the complaint.
3. The responding Party shall reply to the request in writing within seven days after the date of its receipt and shall enter into consultations within a period of no more than:

- (a) 15 days after the date of receipt of the request for urgent matters; or
  - (b) 30 days after the date of receipt of the request for all other matters.
- 4. Unless the Parties agree otherwise, consultations shall be deemed concluded within:
  - (a) 30 days of the date of receipt of the request for consultations regarding urgent matters; or
  - (b) 60 days of the date of receipt of the request for consultations regarding all other matters.
- 5. The Parties shall make every effort to reach a mutually agreed solution of any matter through consultations. To this end, each Party shall:
  - (a) provide sufficient factual information to enable a full examination of how the actual or proposed measure or other matter subject to consultations might affect the operation or application of this Agreement;
  - (b) treat any information exchanged in the course of consultations which is designated by a Party as confidential or proprietary in nature, on the same basis as the Party providing the information; and
  - (c) endeavour to ensure the participation of personnel of their competent governmental authorities or other regulatory bodies who have responsibility for or expertise in the matter subject to the consultations.
- 6. Consultations may be held in person or by any technological means available to the Parties. If the consultations are held in person, they shall be held in the capital of the responding Party, unless the Parties agree otherwise.
- 7. 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.
- 8. A Party may request the other Party to make available for the consultations personnel of its government agencies or other regulatory bodies who have expertise in the matter subject to consultations.

**Article 31.6**  
**Establishment of a Panel**

1. The complaining Party may request the establishment of a panel to consider a dispute arising under this Agreement if:
  - (a) the responding Party does not reply to a request for, or enter into, consultations within the time period specified under paragraph 3 of Article 31.5 (Consultations);
  - (b) the Parties agree not to enter into consultations; or
  - (c) the Parties fail to resolve the dispute through consultations within the time period specified in paragraph 4 of Article 31.5 (Consultations).
2. The request for establishment of a panel shall be made in writing to the responding Party. In the request, the complaining Party shall set out the reasons for the request sufficient to present the problem clearly, including by identifying:
  - (a) the specific measure at issue;
  - (b) the legal basis for the complaint, including the provisions of this Agreement alleged to have been breached;
  - (c) any other relevant provisions;
  - (d) whether there is a claim for nullification and impairment; and
  - (e) the factual basis for the complaint.
3. Notwithstanding paragraphs 1 and 2, a panel cannot be established to review a proposed measure.

**Article 31.7**  
**Composition of a Panel**

1. The panel shall be composed of three arbitrators.
2. Each Party shall appoint an arbitrator within 15 days of the receipt of the request to establish a panel, and shall at the same time nominate up to three candidates to serve as the third arbitrator who shall be the chair of the panel.
3. The Parties shall appoint by common agreement the chair within 30 days of the receipt of the request to establish a panel, taking into account the candidates nominated pursuant to paragraph 2.

4. The chair shall not be a national of, nor have his or her usual place of residence in, nor be employed by, a Party.
5. If all three members of the panel have not been appointed in accordance with paragraphs 2 and 3 within 30 days of receipt of the request to establish a panel, a Party may request the Secretary-General of the Permanent Court of Arbitration to make the remaining appointments within a further period of 15 days. Any lists of nominees which were provided under paragraph 2 shall also be provided to the Secretary-General of the Permanent Court of Arbitration, and may be used in making the required appointments.
6. The date of establishment of the panel shall be the date on which the last arbitrator is appointed.
7. Where the original panel is reconvened for the purposes of Article 31.13 (Compliance with the Final Report), Article 31.14 (Compliance Review), Article 31.15 (Temporary Remedies in Case of Non-Compliance), or Article 31.16 (Compliance Review After the Adoption of Temporary Remedies), the panel may comprise only the chair of the original panel if the Parties so agree.

#### **Article 31.8 Qualifications of Arbitrators**

All arbitrators shall:

- (a) have demonstrated expertise or experience in law, international trade, other matters covered by this Agreement, or the resolution of disputes arising under international trade agreements;
- (b) be independent of, and not be affiliated with or take instructions from, a Party;
- (c) serve in their individual capacities and not take instructions from any organisation or government with regards to matters related to the dispute; and
- (d) comply with the Code of Conduct.

#### **Article 31.9 Functions of a Panel**

1. The function of a panel established pursuant to Article 31.6 (Establishment of a Panel) and Article 31.7 (Composition of a Panel) is to make an objective assessment of the matter before it, including an examination of the facts of the case and the applicability of and conformity with this Agreement, and to

make the findings and determinations as are called for in its terms of reference and necessary for the resolution of the dispute.

2. A panel shall be established, perform its functions, and conduct its proceedings in a manner consistent with this Agreement and the Rules of Procedure.
3. A panel shall take its decisions by consensus. If a panel is unable to reach consensus it may take its decisions by majority vote. A panel shall not disclose which arbitrators are associated with majority or minority opinions.

#### **Article 31.10 Terms of Reference of a Panel**

1. Unless the Parties agree otherwise within 20 days of the date of establishment of a panel, the terms of reference of the panel shall be to:
  - (a) examine, in light of the relevant provisions of this Agreement, the matter referred to in the request for the establishment of a panel under Article 31.6 (Establishment of a Panel);
  - (b) make findings and determinations, together with the reasons therefor; and
  - (c) issue a written report in accordance with Article 31.12 (Reports of a Panel).
2. If the Parties agree on other terms of reference, they shall notify the agreed terms of reference to the panel within the time period specified in paragraph 1.

#### **Article 31.11 Rules of Interpretation of a Panel**

1. The panel shall interpret this Agreement in accordance with the customary rules of treaty interpretation of public international law, including those codified in the *Vienna Convention on the Law of Treaties* done at Vienna on 23 May 1969. The panel shall also consider relevant interpretations in panel and Appellate Body reports adopted by the Dispute Settlement Body of the WTO.
2. The findings and determinations of the panel cannot add to or diminish the rights and obligations provided in this Agreement.

**Article 31.12**  
**Reports of a Panel**

1. The reports of the panel shall be drafted without the presence of the Parties.
2. The panel shall base its reports on the relevant provisions of this Agreement, the submissions and arguments of the Parties, and on any information or advice it has obtained in accordance with Rule 37 of the Rules of Procedure.
3. The panel shall present to the Parties its initial report within 130 days of the date of establishment of the panel, or in cases of urgency, within 70 days of the date of establishment of the panel.
4. The initial report shall contain:
  - (a) findings of fact;
  - (b) the determination of the panel as to whether:
    - (i) the measure at issue is inconsistent with obligations under this Agreement;
    - (ii) a Party has otherwise failed to carry out its obligations under this Agreement; or
    - (iii) a Party's measure is causing nullification or impairment;
  - (c) any other determination requested in the terms of reference; and
  - (d) the reasons for the findings and determinations.
5. In exceptional cases, if the panel considers that it cannot present its initial report within the time period specified in paragraph 3, it shall inform the Parties in writing of the reasons for the delay together with an estimate of the period within which it will issue its report. The panel shall not exceed an additional period of 30 days.
6. A Party may submit written comments on the initial report to the panel within 16 days of receiving the initial report.
7. After considering any written comments from the Parties, the panel may modify its report and make any further examination it considers appropriate.
8. The panel shall present its final report to the Parties, which shall include any dissenting opinion, within 30 days of the date of presentation of the interim report.

9. If in its final report the panel finds that a Party's measure is inconsistent with this Agreement, or is causing nullification or impairment without being inconsistent with this Agreement, it shall include in its findings and determinations a requirement to remove the inconsistency or, in the latter case, to make a mutually satisfactory adjustment in respect of the nullification or impairment.<sup>1</sup>
10. The final report of the panel shall be final and binding on the Parties.

### **Article 31.13 Compliance with the Final Report**

1. The responding Party shall take any measure necessary to comply promptly and in good faith with the final report pursuant to Article 31.12 (Reports of a Panel).
2. Where it is not practicable to comply immediately, the responding Party shall, within 30 days of the date of issuance of the final report, notify the complaining Party of the length of the reasonable period of time it requires to comply with the final report. The Parties shall endeavour to agree on the length of the reasonable period of time.
3. If the Parties are unable to agree on the reasonable period of time within 30 days of the date of issuance of the final report, the complaining Party may request the original panel<sup>2</sup> to determine the length of the reasonable period of time.
4. The panel shall notify its decision, together with the reasons therefor, to the Parties within 40 days of the date of the request.
5. The reasonable period of time, where determined by the panel, shall not exceed 15 months from the date of issuance of the final report to the Parties. However, that time may be shorter, depending upon the particular circumstances of the dispute. The length of the reasonable period of time may be extended by mutual agreement of the Parties.

### **Article 31.14 Compliance Review**

1. The responding Party shall, no later than the date of expiry of the reasonable period of time determined pursuant to Article 31.13 (Compliance with the

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<sup>1</sup> A Party shall not be obliged to withdraw the measure that the panel finds is causing the nullification or impairment.

<sup>2</sup> For greater certainty, references in this Chapter to the original panel shall include any replacement arbitrators that have been designated pursuant to Part XIV of the Rules of Procedure.



Final Report), notify the complaining Party of any measures taken to comply with the final report.

2. Where there is disagreement as to the existence or consistency with this Agreement of measures taken to comply with the final report, the complaining Party may request, no later than 20 days after the responding Party's notification under paragraph 1, the original panel to examine the matter.
3. The request referred to in paragraph 2 shall identify the issues with any measures taken to comply and the legal basis for the complaint, including, where relevant, the provisions of this Agreement alleged to have been breached and to be addressed by the panel, sufficient to present the problem clearly.
4. The panel shall provide its compliance report to the Parties no later than 90 days after the date of referral of the matter.
5. In exceptional cases, if the panel considers that it cannot provide its compliance report within the time period specified in paragraph 4, it shall inform the Parties in writing of the reasons for the delay together with an estimate of when it will issue its report. The panel shall not exceed an additional period of 30 days.

#### **Article 31.15**

##### **Temporary Remedies in Case of Non-Compliance**

1. If:
  - (a) the responding Party fails to notify any measure taken to comply with the final report no later than the date of expiry of the reasonable period of time determined pursuant to Article 31.13 (Compliance with the Final Report);
  - (b) the responding Party notifies the complaining Party in writing that it does not intend to comply with the final report, or that it is impracticable to do so within the reasonable period of time determined pursuant to Article 31.13 (Compliance with the Final Report); or
  - (c) the panel finds, pursuant to Article 31.14 (Compliance Review), that compliance with the final report has not been achieved or that the measure taken to comply is inconsistent with this Agreement,

the responding Party shall, if requested by the complaining Party, enter into consultations with the complaining Party with a view to agreeing on mutually acceptable compensation.

2. If, in any of the circumstances set out in subparagraphs 1(a) to 1(c), the complaining Party chooses not to request consultations or the Parties do not agree on compensation within 20 days of entering into consultations on compensation, the complaining Party may notify the responding Party in writing that it intends to suspend the application of concessions or other obligations under this Agreement.
3. A notification made pursuant to paragraph 2 shall specify the level of intended suspension of concessions or other obligations, which shall be equivalent to the level of nullification or impairment that is caused by the failure of the responding Party to comply with the final report.
4. In considering what concessions or other obligations to suspend under paragraph 2, the complaining Party shall apply the following principles and procedures:
  - (a) the general principle is that the complaining Party should first seek to suspend concessions or other obligations in the same sector or sectors as that in which the panel has found an inconsistency with this Agreement or to have caused nullification or impairment;
  - (b) if it considers that it is not practicable or effective to suspend concessions or other obligations in the same sector or sectors, it may seek to suspend concessions or other obligations in other sectors. In the written notice referred to in paragraph 2, the complaining Party shall indicate the reasons on which its decision to suspend concessions or other obligations in a different sector is based; and
  - (c) it shall only suspend concessions or other obligations that are subject to dispute settlement in accordance with Article 31.4 (Scope).
5. The complaining Party shall have the right to implement the suspension of concessions or other obligations 20 days after the date on which it provides notice under paragraph 2, unless the responding Party has requested the original panel to examine the matter pursuant to paragraphs 6 and 7.
6. If the responding Party considers that the intended level of suspension of concessions or other obligations is not equivalent to the nullification or impairment or that the complaining Party has failed to follow the principles and procedures set out in paragraph 4, it may request in writing, no later than 10 days after the date of receipt of the notification referred to in paragraph 2, the original panel to examine the matter. The panel shall notify its decision to the Parties no later than 90 days after the date of the request. In exceptional cases, if the panel considers that it cannot notify its decision within 90 days, it shall inform the Parties in writing of the reasons for the delay together with an estimate of when it will issue its decision. The panel shall not exceed an additional period of 30 days. Concessions or other obligations shall not be

suspended until the panel has notified its decision. Any suspension of concessions or other obligations shall be consistent with the panel's decision.

7. The panel, acting pursuant to paragraph 6, shall not examine the nature of the concessions or other obligations to be suspended, but shall determine whether the level of that suspension is equivalent to the level of nullification or impairment. The panel may also determine if the proposed suspension of concessions or other obligations is allowed under this Agreement. However, if the matter referred pursuant to paragraph 6 includes a claim that the principles and procedures set forth in paragraph 4 have not been followed, the panel shall examine that claim.
8. Any compensation or suspension of concessions or other obligations shall be temporary and shall only be applied until such time as the responding Party is found, pursuant to Article 31.16 (Compliance Review After the Adoption of Temporary Remedies), to have complied with the final report, or until the Parties have reached a mutually agreed solution. None of these measures is preferred to full compliance with the final report.

#### **Article 31.16**

##### **Compliance Review After the Adoption of Temporary Remedies**

1. On notification by the responding Party to the complaining Party of the measures taken to comply with the final report and the complaining Party confirming, within 30 days of the notification, that the measures taken achieve compliance:
  - (a) in a situation where the right to suspend concessions or other obligations has been exercised by the complaining Party in accordance with Article 31.15 (Temporary Remedies in Case of Non-Compliance), the complaining Party shall terminate the suspension of concessions or other obligations no later than 30 days after the date the complaining Party confirms it agrees that the final report has been complied with; or
  - (b) in a situation where mutually acceptable compensation has been agreed, the responding Party shall terminate the application of that compensation no later than 30 days after the date the complaining Party confirms it agrees that the final report has been complied with.
2. If the Parties do not reach an agreement on whether the measures notified in accordance with paragraph 1 achieve compliance with the final report or are consistent with this Agreement within 30 days of the date of notification by the responding Party of the measures taken to comply with the report, a Party may request in writing the original panel to examine the matter.

3. The panel shall notify its decision to the Parties within 90 days of the date of the request. In exceptional cases, if the panel considers that it cannot notify its decision within this timeframe, it shall inform the Parties in writing of the reasons for the delay together with an estimate of when it will issue its decision. The panel shall not exceed a further period of 30 days.
4. If the panel decides that the measures notified in accordance with paragraph 1 achieve compliance with the final report or are consistent with this Agreement, the suspension of concessions or other obligations, or the application of the compensation, shall be terminated no later than 30 days after the date of the decision. If the panel decides that the measures notified in accordance with paragraph 1 do not achieve compliance with the final report or are inconsistent with this Agreement, the suspension of concessions or other obligations, or the application of the compensation, may continue. Where relevant, the level of suspension of concessions or other obligations, or of the compensation, shall be adapted in light of the decision of the panel.

**Article 31.17**  
**Administration of the Dispute Settlement Procedure**

1. Each Party shall:
  - (a) designate an office that shall be the Party's point of contact, and which shall be responsible for providing administrative assistance to panels established under Article 31.6 (Establishment of a Panel); and
  - (b) notify the other Party of the location of its designated office by the date of entry into force of this Agreement.
2. Notwithstanding paragraph 1, the Parties may agree to jointly entrust an external body with providing support for certain administrative tasks for the dispute settlement procedure under this Chapter.

**Article 31.18**  
**Choice of Forum**

1. Subject to paragraph 3, this Chapter is without prejudice to the rights of the Parties to have recourse to dispute settlement procedures available under any other international agreement to which both Parties are party, including the WTO Agreement.
2. If a dispute regarding the same matter arises under this Agreement and under another international agreement to which both Parties are party, the complaining Party may select the forum in which to settle the dispute.

3. Once a Party has selected the forum and initiated dispute settlement proceedings under this Chapter or under the other international agreement with respect to the particular matter referred to in paragraph 2, that Party shall not initiate dispute settlement proceedings in another forum with respect to that matter unless the forum selected first fails to make findings on the issues in dispute for jurisdictional or procedural reasons.
4. For the purposes of paragraph 3, the complaining Party shall be deemed to have selected the forum when it has requested the establishment of a panel under this Agreement, or the other international agreement or, where panel procedures are not provided for, when a Party commences a dispute under the dispute settlement procedures in the relevant international agreement.

### **Article 31.19 Cases of Urgency**

1. Cases of urgency means those cases which concern goods that rapidly lose their quality or commercial value in a short period of time.
2. If the Parties disagree on whether a dispute concerns a case of urgency, on the request of a Party, the panel shall decide, within 15 days of the request, whether a dispute concerns a case of urgency.

### **Article 31.20 Good Offices, Conciliation, and Mediation**

1. The Parties may at any time agree to voluntarily undertake good offices, conciliation, or mediation. These procedures may begin at any time<sup>3</sup> and may be terminated at any time by a Party.
2. If the Parties agree, procedures for good offices, conciliation, or mediation may continue while the dispute proceeds for resolution before a panel.
3. Procedures that involve good offices, conciliation, or mediation and in particular positions taken by the Parties during these procedures shall be confidential and without prejudice to the rights of a Party in any further or other proceedings.

### **Article 31.21 Mutually Agreed Solution**

1. The Parties may reach a mutually agreed solution at any time with respect to any dispute referred to in Article 31.4 (Scope).

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<sup>3</sup> For greater certainty, this includes both before, during, and after a request for consultations is made pursuant to Article 31.5 (Consultations).

2. No later than the date of expiry of the agreed time period, the implementing Party shall inform the other Party in writing of any measures taken to implement the mutually agreed solution.

**Article 31.22**  
**Suspension and Termination of Proceedings**

1. On the joint request of the Parties, the panel shall suspend the proceedings at any time for a period agreed by the Parties not exceeding 18 consecutive months from the date of that agreement. In the event of that suspension, the relevant time periods shall be extended by the time period for which the panel proceedings were suspended.
2. The panel shall resume the proceedings at any time on the joint request of the Parties or at the end of the agreed suspension period on the written request of a Party. The request shall be notified to the panel, as well as to the other Party, where applicable.
3. If the panel proceedings have been suspended for more than 18 consecutive months, the authority of the panel shall lapse and the panel proceedings shall be terminated, unless the Parties agree otherwise.
4. The Parties may agree at any time to terminate the panel proceedings. The Parties shall jointly notify that agreement to the panel.

**Article 31.23**  
**Rules of Procedure and Code of Conduct**

The proceedings provided for in this Chapter shall be conducted in accordance with the Rules of Procedure and the Code of Conduct, unless the Parties agree otherwise.

**Article 31.24**  
**Time Periods**

Any time period referred to in this Chapter, the Rules of Procedure, or the Code of Conduct may be modified for a dispute by agreement of the Parties. The panel may at any time propose to the Parties to modify any time period, stating the reasons for the proposal.

**Article 31.25**  
**Expenses**

Each Party shall bear the cost of its own participation in the proceeding. Remuneration and payment of expenses will be in accordance with the Rules of Procedure.

## ANNEX 31A

### RULES OF PROCEDURE

#### I. General Provision

1. In the event of an inconsistency between these Rules of Procedure and any provisions in Chapter 31 (Dispute Settlement), the provisions of Chapter 31 (Dispute Settlement) shall prevail to the extent of the inconsistency.

#### II. Notifications

2. Any written submission, request, notice, or other document in a proceeding transmitted by:
  - (a) the panel shall be sent to both Parties at the same time;
  - (b) a Party to the panel shall be copied to the other Party at the same time; and
  - (c) a Party to the other Party shall be copied to the panel at the same time.
3. The notification to a Party of any document under Chapter 31 (Dispute Settlement), these Rules of Procedure or the Code of Conduct shall be addressed to that Party's designated office.
4. Any notification referred to under Rules 2 and 3 shall be made by e-mail or, where appropriate, any other means of telecommunication that provides a record of its sending. Unless proven otherwise, an e-mail message shall be deemed to be received on the same date of its sending. The date of sending shall be determined according to the time zone in the capital city of the sending Party.
5. If the last day for delivery of a document falls on a non-business day of a Party, or on any other day on which the offices of the Government of a Party are officially or by force majeure closed, the document may be delivered on the next business day.
6. Minor errors of a clerical nature in any written submission, request, notice, or other document related to the proceeding may be corrected by delivering a new document clearly indicating the changes. Any such correction shall not affect the timetable for the proceeding. Any disagreement regarding whether or not the correction is of a clerical nature shall be resolved by the panel after consulting the Parties.



### **III. Organisational Meeting**

7. Unless the Parties agree otherwise, they shall meet with the panel within seven days of the establishment of the panel in order to determine such matters that the Parties or the panel deem appropriate, including:
  - (a) the remuneration and expenses that shall be paid to the arbitrators and their assistants, in accordance with Part XV (Remuneration and Payment of Expenses) below; and
  - (b) the timetable for the proceeding, setting forth inter alia precise dates for the filing of submissions and the date of the oral hearing.
8. Unless the Parties agree otherwise, this meeting shall not be required to be in person and can be conducted by any means, including video-conference, tele-conference, or computer links.

### **IV. Timetable**

9. Unless otherwise agreed by the Parties, the panel may, in consultation with the Parties, modify any time period established pursuant to these Rules of Procedure and make such other procedural or administrative adjustments as may be required in the proceeding.

### **V. Written Submissions**

10. Subject to Rule 7(b), the complaining Party shall deliver its initial written submission to the panel no later than 20 days after the establishment of the panel. The responding Party shall deliver its written counter-submission no later than 28 days after the date of receipt of the initial written submission.
11. With the agreement of the panel, within 10 days of the conclusion of a hearing, each Party may deliver to the panel and the other Party a supplementary written submission responding to any matter that arose during the hearing.

### **VI. Operation of the Panel**

12. The chair of the panel shall preside at all of its meetings. The panel may delegate to the chair authority to make administrative and procedural decisions.
13. Except as otherwise provided in these Rules of Procedure, the panel may conduct its activities by any means, including e-mail, telephone, video-conference, facsimile transmissions, or computer links.

14. The panel's deliberations shall be confidential. Only arbitrators may take part in the deliberations of the panel, but the panel may permit assistants or designated note-takers to be present during such deliberations.
15. The drafting of any report or decision shall remain the exclusive responsibility of the panel and must not be delegated.

## **VII. Hearings**

16. In accordance with Rule 7, the chair shall fix the time of the hearing in consultation with the Parties and other members of the Panel. The chair shall notify the Parties in writing of the details of the hearing including the date, time, and location.<sup>1</sup> Unless a Party disagrees, the Panel may decide not to convene a hearing.
17. Unless the Parties agree otherwise, the hearing shall be hosted by the responding Party. The responding Party shall be responsible for the logistical administration of the hearing, in particular the organisation of the venue, unless otherwise agreed.
18. No later than five days before the date of a hearing, each Party shall deliver to the panel and the other Party a list of the names of their representatives, advisers, or other delegates who will be attending the hearing.
19. The panel shall conduct the hearing in the following manner, setting time limits to ensure that it affords comparable time to the complaining Party and responding Party:

Argument:

- (a) Opening oral statement and argument of the complaining Party; and
- (b) Opening oral statement and argument of the responding Party;

Rebuttal Argument:

- (a) Reply of the complaining Party; and
- (b) Counter-reply of the responding Party;

Closing statement:

- (a) Closing oral statement of the complaining Party; and

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<sup>1</sup> For greater certainty, hearings may be held in person or by virtual means.

- (b) Closing oral statement of the responding Party.
20. Each Party shall make available to the panel and to the other Party written versions of their oral statements within 10 days of the conclusion of the hearing.
  21. The panel may direct questions to a Party at any time during the hearing. The panel may request, on its own initiative or at the request of a Party, that a Party make available documents or other information relevant to the dispute that are within its control or it is able to obtain by reasonable means, and may draw adverse inferences from a failure to comply with such request.
  22. The panel shall arrange for a transcript of the hearing to be prepared and delivered to the Parties as soon as possible after the hearing. A Party may comment on the transcript and the panel may consider those comments.
  23. The panel may convene additional hearings if the Parties so agree.
  24. All arbitrators shall be present at all hearings.<sup>2</sup> If a replacement arbitrator has been selected after a hearing has occurred but before the panel's report is published, the panel may hold a new hearing if a Party requests, or if the panel considers a new hearing to be appropriate.
  25. Unless the Parties agree otherwise, all hearings of the panel shall be open for the public to observe,<sup>3</sup> except that the panel shall close the hearing for the duration of any discussion of confidential information. Attendance in the hearing room shall be limited to approved persons.

### **VIII. Questions of the Panel**

26. The panel may at any time during the proceeding address questions in writing to a Party or both Parties. In the event that the panel addresses questions to one Party only, the panel shall provide a copy of the written questions to the other Party.
27. A Party to whom the panel addresses questions shall deliver a copy of any reply to the other Party and to the panel in accordance with the timetable established by the panel. The other Party shall be given the opportunity to provide comments on the reply.

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<sup>2</sup> Except where, in accordance with paragraph 7 of Article 31.7 (Composition of a Panel), a panel comprises only of the chair of the original panel.

<sup>3</sup> The expression "open for the public to observe" does not mean physical presence at the hearing. To facilitate public observation of a hearing, that hearing may be transmitted electronically to the public at the time of the hearing or at a later date.

### **IX. No *Ex Parte* Communications**

28. The panel shall not meet or contact a Party in the absence of the other Party.
29. Neither Party shall meet or contact any arbitrator in relation to the dispute in the absence of the other Party.
30. No arbitrator shall discuss any aspect of the subject matter of the proceeding with a Party in the absence of the other Party or the other arbitrators.

### **X. Amicus Curiae Submissions**

31. The panel shall have the authority to accept and consider amicus curiae submissions from interested persons and non-governmental entities, unless the Parties agree otherwise.
32. Any such submissions shall:
  - (a) be made within 14 days of the provision of public notice pursuant to Rule 36;
  - (b) be concise and in no case longer than 15 typed pages, including any annexes; and
  - (c) be directly relevant to the factual or legal issues under consideration by the panel.
33. The submission shall contain a description of the person, whether natural or legal, making the submission, including their nationality or place of establishment, the nature of their activities and the source of their financing, and specify the nature of their interest in the panel proceeding.
34. The panel shall promptly provide to the Parties for comment copies of any amicus curiae submissions it receives. Comments of a Party must be submitted to the panel within 10 days of receiving a copy of an amicus curiae submission from the panel.
35. The panel shall list in its report all the amicus curiae submissions that it has received but shall not be obliged to address the factual or legal arguments made in such submissions. The panel shall take into account any comments made by a Party pursuant to Rule 34.
36. To facilitate the submission of amicus curiae submissions, each Party shall, within five days of the date of the organisational meeting, provide public notice of:
  - (a) the establishment of the panel;

- (b) the opportunity for interested persons and non-governmental entities to submit amicus curiae submissions; and
- (c) the procedures and requirements for making such submissions, consistent with Rule 32.

### **XI. Technical Advice**

- 37. On the request of a Party, or on its own initiative, the panel may seek information or technical advice from any expert that it deems appropriate. Any information or technical advice so obtained shall be submitted to the Parties for comment. Where the panel takes the information or technical advice into account in the preparation of its report, it shall also take into account any comments by the Parties on the information or technical advice.
- 38. The panel shall consult the Parties to determine whether the information or technical advice should be sought, and from which expert it should be sought.
- 39. A Party may, after consulting with the other Party, designate a report obtained under Rule 37, or any part of it, as confidential information.
- 40. Any expert selected under Rule 37 shall be subject to the provisions of Section H (Responsibilities of Experts, Assistants, Staff, and ADR Providers) of the Code of Conduct.

### **XII. Treatment of Confidential Information**

- 41. Rules 42 to 45 and Appendix 31A-a (Confidential Information) shall apply to confidential information that a Party submits during consultations, proceedings, or procedures that involve good offices, conciliation, or mediation.
- 42. Each Party and its approved persons shall treat as confidential the information submitted by the other Party that the submitting Party has designated as confidential information. Each Party shall maintain the confidentiality of the panel's hearings to the extent that the panel holds the hearing in closed session under Rule 25.
- 43. After consulting the Parties, the panel may modify or waive any part of the procedures set out in Appendix 31A-a (Confidential Information) or establish additional procedures that it considers necessary to protect confidential information.
- 44. Where a Party submits a confidential version of its written submissions to the panel, it shall also, on the request of the other Party, provide a non-

confidential summary of the information contained in its submissions that could be disclosed to the public within 15 days of the conclusion of the hearing.

45. Nothing in these rules shall preclude a Party from disclosing statements of its own positions to the public.

### **XIII. Public Release of Documents**

46. Subject to the protection of confidential information:
- (a) a Party making a request pursuant to Article 31.5 (Consultations) or Article 31.6 (Establishment of a Panel) shall release a copy of the request to the public within seven days of making that request;
  - (b) each Party shall make its best efforts to release to the public any written submissions, written versions of oral statements, and written responses to requests or questions from the panel, as soon as possible after such documents are submitted to the panel and, if not already released, shall do so by the time the final report is issued to the Parties; and
  - (c) each Party shall release a copy of the final report to the public within 15 days after it is issued to the Parties.
47. No Party shall publicly disclose the contents of an interim report presented to the Parties pursuant to Article 31.12 (Reports of a Panel) or the contents of any comments made on an interim report.

### **XIV. Replacement of Arbitrators**

48. If an arbitrator withdraws or becomes unable to act, they shall notify the Parties and a replacement shall be appointed in accordance with Article 31.7 (Composition of a Panel). The replacement arbitrator shall have all the powers and duties of the original arbitrator.
49. The notification in Rule 48 shall be sent to the Parties' designated offices.
50. If a Party considers that an arbitrator should be replaced because they do not comply with the requirements of the Code of Conduct, that Party shall notify the other Party within seven days of the day it obtained sufficient evidence of the arbitrator's alleged failure to comply with the requirements of the Code of Conduct.
51. The Parties shall inform the arbitrator of the alleged failure and may request the arbitrator to take steps to rectify the failure. If the Parties agree, they may

remove the arbitrator and select a new arbitrator in accordance with Article 31.7 (Composition of a Panel).

52. If the Parties fail to agree on the need to replace an arbitrator other than the chair of the panel, a Party may refer this matter to the chair of the panel, whose decision shall be final. If the chair finds that the arbitrator does not comply with the requirements of the Code of Conduct, the new arbitrator shall be appointed in accordance with Article 31.7 (Composition of a Panel).
53. If the Parties fail to agree on the need to replace the chair of the panel, a Party may refer the matter to the Secretary-General of the Permanent Court of Arbitration, whose decision shall be final. If the Secretary-General of the Permanent Court of Arbitration finds that the chair does not comply with the requirements of the Code of Conduct, the new chair shall be appointed in accordance with Article 31.7 (Composition of a Panel).
54. The proceeding shall be suspended for the period of time taken to carry out the procedures in Rules 48 to 53.

#### **XV. Remuneration and Payment of Expenses**

55. The remuneration and expenses of the arbitrators and their assistants shall be borne by the Parties in equal share.
56. Unless the Parties agree otherwise, remuneration for arbitrators shall be paid at the rate for non-governmental panellists used by the WTO on the date a Party makes a written request for the establishment of a panel under Article 31.6 (Establishment of a Panel).
57. Unless the Parties agree otherwise, the total remuneration for each arbitrator's assistant or assistants shall not exceed 50 per cent of the remuneration of that arbitrator.
58. Unless the Parties agree otherwise, expenses shall be paid at the Daily Subsistence Allowance rate for the location of the hearing established by the United Nations International Civil Service Commission on the date a Party makes a written request for the establishment of a panel under Article 31.6 (Establishment of a Panel).
59. Each arbitrator shall keep a record and render a final account to the Parties of all time devoted to and expenses incurred in connection with the proceeding, as well as the time and expenses of their assistants. The panel shall keep a record and render a final account to the Parties of its administrative expenses.
60. If the panel seeks information or technical advice pursuant to Part XI (Technical Advice), the amount and details of the remuneration and expenses an expert is to receive shall be determined by the Parties and shall be borne

by the Parties in equal share. Experts shall keep a record and render a final account to the Parties of all time devoted to and expenses incurred in connection with the proceeding.

61. If the Parties agree to undertake procedures listed under Article 31.20 (Good Offices, Conciliation, and Mediation), the amount and details of the remuneration and expenses an ADR provider is to receive shall be determined by the Parties and shall be borne by the Parties in equal share. ADR providers shall keep a record and render a final account to the Parties of all time devoted to and expenses incurred in connection with the procedures.
62. In case of resignation or removal of an arbitrator, assistant, expert, or ADR provider, or if the Parties reach a mutually agreed solution, the Parties will make payment of the remuneration and expenses owed, using resources provided equally by the Parties, on submission of a final account, following the procedures in Rule 59, 60, or 61, as applicable.

#### **XVI. Time Periods**

63. Where, by reason of the operation of Rule 5, the Parties receive the same document on a different date, the calculation of any time period which is dependent on the date of receipt shall be from the date the last Party received the document.



## **APPENDIX 31A-a**

### **CONFIDENTIAL INFORMATION**

1. An approved person shall take all necessary precautions to safeguard confidential information when a document containing the confidential information is in use or being stored. Each approved person must sign and submit to the panel the Declaration of Non-Disclosure set out in Appendix 31A-b (Declaration of Non-Disclosure).
2. Only approved persons may view or hear confidential information. No approved person who views or hears confidential information may disclose it, or allow it to be disclosed, to any individual other than another approved person.
3. An approved person who views or hears confidential information shall only use that information for the purposes of the proceeding.
4. The panel shall not disclose confidential information in its report, but may state conclusions drawn from that information in a way that does not disclose the confidential information.

**APPENDIX 31A-b**

**DECLARATION OF NON-DISCLOSURE**

1. I acknowledge having received a copy of the Rules of Procedure, which include rules governing the treatment of confidential information.
2. I acknowledge having read and understood the Rules of Procedure.
3. I agree to be bound by, and to adhere to, the Rules of Procedure and, accordingly, without limitation, to treat as confidential all confidential information that I may view or hear in accordance with the Rules of Procedure and to use that information solely for the purposes of the panel proceeding.

Declared on this \_\_\_ day of \_\_\_\_, 20\_\_.

By:

Signature \_\_\_\_\_

Name \_\_\_\_\_

## **ANNEX 31B**

### **CODE OF CONDUCT**

#### **Section A Provision of Code of Conduct**

1. The Parties shall provide this Code of Conduct and the Initial Disclosure Statement set out in Appendix 31B-a (Initial Disclosure Statement) to a candidate when they are requested to serve as an arbitrator under Article 31.7 (Composition of a Panel), an expert when they are requested to provide information or technical advice under Rule 38 of the Rules of Procedure, and an ADR provider when they are requested to provide their services under Article 31.20 (Good Offices, Conciliation, and Mediation).

#### **Section B Governing Principles**

2. In order to preserve the integrity and impartiality of the dispute settlement process, each candidate and arbitrator shall:
  - (a) avoid impropriety or the appearance of impropriety;
  - (b) be independent and impartial;
  - (c) avoid direct or indirect conflicts of interest; and
  - (d) observe high standards of conduct.

#### **Section C Disclosure Obligations**

3. Prior to confirmation of their appointment as an arbitrator in a dispute under this Agreement, a candidate requested to serve as an arbitrator shall disclose any interest, relationship, or matter that is likely to affect their independence or impartiality or that might reasonably create an appearance of impropriety or bias in the proceeding. To this end, a candidate shall make all reasonable efforts to become aware of any such interests, relationships, and matters.
4. Without limiting paragraph 3, candidates shall disclose, at a minimum, the following interests, relationships, and matters:
  - (a) any financial interest of the candidate in:
    - (i) the proceeding or its outcome; and

- (ii) an administrative proceeding, domestic judicial proceeding, or international dispute settlement proceeding that involves issues that may be decided in the proceeding for which the candidate is under consideration;
  - (b) any financial interest of the candidate's employer, business partner, business associate, or family member in:
    - (i) the proceeding or in its outcome; and
    - (ii) an administrative proceeding, domestic judicial proceeding, or international dispute settlement proceeding that involves issues that may be decided in the proceeding for which the candidate is under consideration;
  - (c) any past or existing financial, business, professional, family, or social relationship with any interested parties in the proceeding, or their counsel, or any such relationship involving a candidate's employer, business partner, business associate, or family member; and
  - (d) public advocacy or legal or other representation concerning an issue in dispute in the proceeding or involving the same matters.
5. A candidate shall communicate matters concerning actual or potential violations of this Code of Conduct for consideration by the Parties by submitting the Initial Disclosure Statement to the Parties' designated offices no later than five days after they have been contacted to serve as an arbitrator.
6. Once appointed, an arbitrator shall continue to make all reasonable efforts to become aware of any interests, relationships, or matters referred to in paragraph 4 and shall disclose them promptly, in writing, to the Parties for their consideration. The obligation to disclose is a continuing obligation, which requires an arbitrator to disclose any such interests, relationships, and matters that may arise during any stages of the proceeding.
7. In the event of any uncertainty regarding whether an interest, relationship, or matter must be disclosed under paragraphs 3 to 6, a candidate or arbitrator should err in favour of disclosure.

#### **Section D** **Performance of Duties**

8. Once appointed, an arbitrator shall be available to perform and shall perform their duties thoroughly and expeditiously throughout the course of the proceeding, and with fairness and diligence.

9. An arbitrator shall consider only those issues raised in the proceeding and necessary to make a decision and shall not delegate the duty to decide to any other person.
10. An arbitrator shall take all appropriate steps to ensure that their assistants and staff are aware of this Code of Conduct and comply with paragraph 24 of Section H (Responsibilities of Experts, Assistants, Staff, and ADR Providers).
11. An arbitrator shall not engage in *ex parte* contact concerning the proceeding.
12. A candidate or arbitrator shall not communicate matters concerning actual or potential violations of this Code of Conduct, unless the communication is to the Parties or is necessary to ascertain whether that candidate or arbitrator has violated or may violate the Code of Conduct.

**Section E**  
**Independence and Impartiality of Arbitrators**

13. An arbitrator shall be independent and impartial. An arbitrator shall act in a fair manner and shall avoid creating an appearance of impropriety or an apprehension of bias.
14. An arbitrator shall not be influenced by self-interest, outside pressure, political considerations, public clamour, or loyalty to a Party.
15. An arbitrator shall not, directly or indirectly, incur any obligation or accept any benefit that would in any way interfere, or appear to interfere, with the proper performance of their duties.
16. An arbitrator shall not use their position on the panel to advance any personal or private interests. An arbitrator shall avoid actions that may create the impression that others are in a special position to influence them. An arbitrator shall endeavour to prevent or discourage others from representing themselves as being in such a position.
17. An arbitrator shall not allow past or existing financial, business, professional, family, or social relationships or responsibilities to influence their conduct or judgment.
18. An arbitrator shall avoid entering into any relationship, or acquiring any financial interest, that is likely to affect their impartiality or that might reasonably create an appearance of impropriety or an apprehension of bias.

**Section F**  
**Duties of Former Arbitrators**

19. All former arbitrators shall avoid actions that may create the appearance that they were biased in carrying out their duties or derived advantage from the decision of the panel.

**Section G**  
**Maintenance of Confidentiality**

20. An arbitrator or former arbitrator shall not at any time disclose or use any confidential or non-public information concerning the proceeding or acquired during the proceeding except for the purposes of the proceeding and shall not, in any case, disclose or use any such information to gain personal advantage or advantage for others or to affect adversely the interest of another.
21. An arbitrator shall not disclose a panel report or parts thereof issued under Chapter 31 (Dispute Settlement) prior to release of the final report by the Parties. An arbitrator or former arbitrator shall not at any time disclose which arbitrators are associated with majority or minority opinions in a proceeding.
22. An arbitrator or former arbitrator shall not at any time disclose the deliberations of a panel, or any arbitrator's view.
23. An arbitrator shall not make a public statement regarding the merits of a pending proceeding.

**Section H**  
**Responsibilities of Experts, Assistants, Staff, and ADR Providers**

24. Section B (Governing Principles), Section C (Disclosure Obligations), and Section G (Maintenance of Confidentiality) of this Code of Conduct shall also apply to experts, assistants, and staff, *mutatis mutandis*.
25. Section B (Governing Principles), Section C (Disclosure Obligations), paragraphs 9 to 12 of Section D (Performance of Duties), Section E (Independence and Impartiality of Arbitrators), Section F (Duties of Former Arbitrators), and Section G (Maintenance of Confidentiality) of this Code of Conduct shall also apply to ADR providers, *mutatis mutandis*.

## APPENDIX 31B-a

### INITIAL DISCLOSURE STATEMENT

1. I acknowledge having received a copy of the Code of Conduct for dispute settlement under Chapter 31 (Dispute Settlement) of the Free Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and New Zealand.
2. I acknowledge having read and understood the Code of Conduct.
3. I understand that I have a continuing obligation, while participating in the proceeding, to disclose interests, relationships, and matters that may bear on the integrity or impartiality of the dispute settlement process. As a part of this continuing obligation, I am making the following initial disclosures:
  - (a) My financial interest in the proceeding for which I am under consideration or in its outcome is as follows:
  - (b) My financial interest in any administrative proceeding, domestic judicial proceeding, or international dispute settlement proceeding that involves issues that may be decided in the proceeding is as follows:
  - (c) The financial interest that any employer, business partner, business associate, or family member of mine may have in the proceeding or in its outcome are as follows:
  - (d) The financial interest that any employer, business partner, business associate, or family member of mine may have in any administrative proceeding, domestic judicial proceeding, or international dispute settlement proceeding that involves issues that may be decided in the proceeding are as follows:
  - (e) My past or existing financial, business, professional, family, and social relationships with any interested parties in the proceeding, or their counsel, are as follows:
  - (f) The past or existing financial, business, professional, family, and social relationships with any interested parties in the proceeding, or their counsel, involving any employer, business partner, business associate, or family member of mine are as follows:
  - (g) My public advocacy or legal or other representation concerning an issue in dispute in the proceeding or involving the same matters is as follows:

- (h) My other interests, relationships, and matters that may bear on the integrity or impartiality of the dispute settlement process and that are not disclosed in subparagraphs (a) to (g) are as follows:

Signed on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

By:

Signature \_\_\_\_\_

Name \_\_\_\_\_



## CHAPTER 32

### GENERAL EXCEPTIONS AND GENERAL PROVISIONS

#### Article 32.1 General Exceptions

1. For the purposes of Chapter 2 (National Treatment and Market Access for Goods), Chapter 3 (Rules of Origin and Origin Procedures), Chapter 4 (Customs Procedures and Trade Facilitation), Chapter 5 (Sanitary and Phytosanitary Measures), Chapter 6 (Animal Welfare), Chapter 7 (Technical Barriers to Trade), Articles 14.5 (Market Access – Investment) to Article 14.9 (Senior Management and Boards of Directors – Investment), Chapter 15 (Digital Trade), and Chapter 19 (State-Owned Enterprises and Designated Monopolies), Article XX of GATT 1994 is incorporated into and made part of this Agreement, *mutatis mutandis*.
2. For the purposes of Chapter 9 (Cross-Border Trade in Services), Chapter 10 (Domestic Regulation), Chapter 11 (Financial Services), Chapter 12 (Telecommunications), Chapter 13 (Temporary Entry of Business Persons), Articles 14.5 (Market Access – Investment) to Article 14.9 (Senior Management and Boards of Directors – Investment), Chapter 15 (Digital Trade), and Chapter 19 (State-Owned Enterprises and Designated Monopolies), paragraphs (a), (b), and (c) of Article XIV of GATS including its footnotes are incorporated into and made part of this Agreement, *mutatis mutandis*.
3. The Parties understand 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.<sup>1</sup>
4. For the purposes of this Agreement, subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between the Parties where like conditions prevail, or a disguised restriction on trade in goods or services and investment, nothing in this Agreement shall be construed to prevent the adoption or enforcement by a Party of measures necessary to protect national works or specific sites of historical or archaeological value, or to support

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<sup>1</sup> “non-living exhaustible natural resources” includes clean air and a global atmosphere with safe levels of greenhouse gases.

creative arts<sup>2</sup> of national value. This paragraph shall not apply to Chapter 17 (Intellectual Property).

5. Nothing in this Agreement shall be construed to prevent a Party from taking action, including maintaining or increasing a customs duty, that is authorised by the Dispute Settlement Body of the WTO or is taken as a result of a decision by a dispute settlement panel under a free trade agreement to which the Party taking action and the Party against which the action is taken are party.

### **Article 32.2 Security Exceptions**

Nothing in this Agreement shall be construed to:

- (a) require a Party to furnish or allow access to any information the disclosure of which it considers contrary to its essential security interests; or
- (b) preclude a Party from applying measures that it considers necessary for the fulfilment of its obligations with respect to the maintenance or restoration of international peace or security, or the protection of its own essential security interests.

### **Article 32.3 Measures to Safeguard the Balance of Payments**

1. Where a Party is in serious balance of payments and external financial difficulties or under threat thereof, it may:
  - (a) in the case of trade in goods, in accordance with GATT 1994 including the *Understanding on the Balance-of-Payments Provisions of the General Agreement on Tariffs and Trade 1994*, adopt restrictive import measures;
  - (b) in the case of services, in accordance with GATS, adopt or maintain restrictions on trade in services on which it has undertaken commitments, including on payments or transfers for transactions related to those commitments; and

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<sup>2</sup> “creative arts” include ngā toi Māori (Māori arts), the performing arts – including theatre, dance, and music, haka (traditional Māori posture dance), waiata (song or chant) – visual arts and craft such as painting, sculpture, whakairo (carving), raranga (weaving), and tā moko (traditional Māori tattoo), literature, film and video, language arts, creative online content, indigenous traditional practice and contemporary-cultural expression, and digital interactive media and hybrid art work, including those that use new technologies to transcend discrete art form divisions. The term encompasses those activities involved in the presentation, execution, and interpretation of the arts; and the study and technical development of these art forms and activities.

- (c) in the case of investments, adopt or maintain restrictions with regard to the transfer of funds related to investment, including those on capital account and the financial account.
2. Restrictions adopted or maintained under subparagraphs 1(b) or 1(c) shall:
- (a) be consistent with the *Articles of Agreement of the International Monetary Fund* (“IMF”) done at New Hampshire on 22 July 1944;
  - (b) avoid unnecessary damage to the commercial, economic, and financial interests of the other Party;
  - (c) not be more restrictive than necessary to deal with the circumstances described in paragraph 1;
  - (d) be temporary and be phased out progressively as the situation specified in paragraph 1 improves;
  - (e) be applied on a national treatment basis and such that the other Party is treated no less favourably than any non-party; and
  - (f) not be used to avoid necessary macroeconomic adjustment.
3. Any restrictions adopted or maintained by a Party under paragraph 1, or any changes therein, shall be promptly notified to the other Party. Such notification shall be made within 30 days of the date any new or changed restrictions are adopted.
4. The Party adopting or maintaining any restrictions under paragraph 1 shall commence consultations with the other Party within 45 days of the date of notification referred to in paragraph 3, in order to review the measures adopted or maintained by it.
5. The consultations pursuant to paragraph 4 shall address the compliance of any restrictive measures with paragraphs 1 and 2. The Parties shall accept all findings of statistical and other facts presented by the IMF relating to foreign exchange, monetary reserves, balance of payments, and their conclusions shall take into account the assessment by the IMF of the balance of payments and the external financial situation of the Party concerned.

#### **Article 32.4** **Taxation Measures**

1. For the purposes of this Article:

**“competent authorities”** means:

(a) for New Zealand, the Commissioner of Inland Revenue or an authorised representative of the Commissioner;

(b) for the United Kingdom, the Commissioners for Revenue and Customs or their authorised representative; or

any successor of these competent authorities as notified in writing to the other Party;

**“tax convention”** means a convention for the avoidance of double taxation or other international taxation agreement or arrangement; and

**“taxes and taxation measures”** include excise duties, but do not include:

(a) a customs duty as defined in Article 1.3 (General Definitions – Initial Provisions and General Definitions); or

(b) the measures listed in subparagraphs (b) and (c) of that definition.

2. Except as provided in this Article, nothing in this Agreement shall apply to taxation measures.

3. Nothing in this Agreement shall affect the rights and obligations of a Party under any tax convention. In the event of any inconsistency between this Agreement and any such tax convention, that convention shall prevail to the extent of the inconsistency.

4. In the case of a tax convention between the Parties, if an issue arises as to whether any inconsistency exists between this Agreement and the tax convention, the issue shall be referred to the competent authorities of the Parties. The competent authorities of the Parties shall have six months after the date of referral of the issue to make a determination as to the existence and extent of any inconsistency. If the competent authorities agree, the period may be extended by no more than a further 12 months. No procedures concerning the measure giving rise to the issue may be initiated under Chapter 31 (Dispute Settlement) until the expiry of the six month period, or any other period as may have been agreed by the competent authorities. Any panel established to consider a dispute related to a taxation measure shall accept as binding a determination of the competent authorities of the Parties made under this paragraph.

5. Notwithstanding paragraph 3:

(a) Article 2.3 (National Treatment – National Treatment and Market Access for Goods) and such other provisions of this Agreement as are necessary to give effect to that Article shall apply to taxation measures to the same extent as does Article III of GATT 1994; and

- (b) Article 2.15 (Export Duties, Taxes, and Other Charges – National Treatment and Market Access for Goods) shall apply to taxation measures.
6. Subject to paragraph 3:
- (a) Article 9.5 (National Treatment – Cross-Border Trade in Services) and Article 11.5 (National Treatment – Financial Services) shall apply to taxation measures on income, capital gains, the taxable capital of corporations, or on the value of an investment or property<sup>3</sup> (but not on the transfer of that investment or property), that relate to the purchase or consumption of particular services, except that nothing in this subparagraph shall prevent a Party from conditioning the receipt or continued receipt of an advantage that relates to the purchase or consumption of particular services on requirements to provide the service in its territory; and
  - (b) Article 9.5 (National Treatment – Cross-Border Trade in Services), Article 9.6 (Most-Favoured-Nation Treatment – Cross-Border Trade in Services), Article 11.5 (National Treatment – Financial Services), Article 14.6 (National Treatment – Investment), and Article 14.7 (Most-Favoured-Nation Treatment – Investment) shall apply to all taxation measures, other than those on income, capital gains, the taxable capital of corporations, the value of an investment or property<sup>4</sup> (but not on the transfer of that investment or property), or taxes on estates, inheritances, gifts, and generation-skipping transfers.
7. But nothing in the Articles referred to in paragraph 6 shall apply to:
- (a) any most-favoured-nation obligation with respect to an advantage accorded by a Party pursuant to a tax convention;
  - (b) a non-conforming provision of any existing taxation measure;
  - (c) the continuation or prompt renewal of a non-conforming provision of any existing taxation measure;
  - (d) an amendment to a non-conforming provision of any existing taxation measure to the extent that the amendment does not decrease its conformity, at the time of the amendment, with any of those Articles;

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<sup>3</sup> This is without prejudice to the methodology used to determine the value of such investment or property under the respective law of each Party.

<sup>4</sup> This is without prejudice to the methodology used to determine the value of such investment or property under the respective law of each Party.

- (e) the adoption or enforcement of any new taxation measure aimed at ensuring the equitable or effective imposition or collection of taxes, including any taxation measure that differentiates between persons based on their place of residence for tax purposes, provided that the taxation measure does not arbitrarily discriminate between persons, goods, or services of the other Party;<sup>5</sup> or
  - (f) a provision that conditions the receipt or continued receipt of an advantage relating to the contributions to, or income of, a pension trust, pension plan, superannuation fund, or other arrangement to provide pension, superannuation, or similar benefits, on a requirement that the Party maintain continuous jurisdiction, regulation, or supervision over that trust, plan, fund, or other arrangement.
8. Subject to paragraph 3, and without prejudice to the rights and obligations of a Party under paragraph 5, Article 14.8 (Performance Requirements – Investment) shall apply to taxation measures.
9. Article 14.14 (Expropriation and Compensation – Investment) applies to taxation measures.

### **Article 32.5** **Treaty of Waitangi**

1. Provided that such measures are not used as a means of arbitrary or unjustified discrimination against persons of the other Party or as a disguised restriction on trade in goods, trade in services, and investment, nothing in this Agreement shall preclude the adoption by New Zealand of measures it deems necessary to accord more favourable treatment to Māori in respect of matters covered by this Agreement including in fulfilment of its obligations under the Treaty of Waitangi.
2. The Parties agree that the interpretation of the Treaty of Waitangi, including as to the nature of the rights and obligations arising under it, shall not be subject to the dispute settlement provisions of this Agreement. Chapter 31 (Dispute Settlement) shall otherwise apply to this Article. A panel established under Article 31.6 (Establishment of a Panel – Dispute Settlement) may be requested by the other Party to determine only whether any measure (referred to in paragraph 1) is inconsistent with its rights under this Agreement.

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<sup>5</sup> The Parties understand that this subparagraph must be interpreted by reference to the footnote to Article XIV(d) of GATS as if the Article was not restricted to services or direct taxes.

**Article 32.6**  
**The National Health Service of the United Kingdom and the New Zealand Health and Disability System**

The Parties recall the exclusions and exceptions in this Agreement that are applicable to the National Health Service of the United Kingdom,<sup>6</sup> and to the New Zealand health and disability system, including as set out in the relevant provisions of this Chapter, of Chapter 9 (Cross-Border Trade in Services), Chapter 10 (Domestic Regulation), Chapter 14 (Investment), Chapter 16 (Government Procurement), Chapter 17 (Intellectual Property), and of Annex I (Cross-Border Trade in Services and Investment Non-Conforming Measures) and Annex II (Cross-Border Trade in Services and Investment Non-Conforming Measures).

**Article 32.7**  
**Disclosure of Information**

Nothing in this Agreement shall be construed to require a Party to furnish or allow access to information, the disclosure of which would be contrary to its laws and regulations or impede law enforcement, or otherwise be contrary to the public interest, or which would prejudice legitimate commercial interests of particular enterprises, public or private.

**Article 32.8**  
**Confidentiality**

Where a Party provides information to the other Party in accordance with this Agreement and designates the information as confidential, the other Party shall maintain the confidentiality of the information. Such information shall be used only for the purposes specified, and shall not be otherwise disclosed without the specific written permission of the Party providing the information, except to the extent that the Party receiving the information is required under its law to provide the information, including for the purpose of judicial proceedings.

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<sup>6</sup> For greater certainty, the National Health Service of the United Kingdom includes the National Health Service in England, Scotland, and Wales, and Health and Social Care in Northern Ireland.

## **CHAPTER 33**

### **FINAL PROVISIONS**

#### **Article 33.1**

##### **Annexes, Appendices, and Footnotes**

The Annexes, Appendices, and footnotes to this Agreement shall constitute an integral part of this Agreement.

#### **Article 33.2**

##### **Amended or Successor International Agreements**

Where international agreements<sup>1</sup> are referred to or incorporated into this Agreement, in whole or in part, they shall be understood to include amendments thereto or their successor agreements entering into force for both Parties on or after the date of signature of this Agreement. If any matter arises regarding the implementation or application of this Agreement as a result of those amendments or successor agreements, the Parties may, on request of either Party, consult with each other with a view to finding a mutually satisfactory solution to this matter as necessary.

#### **Article 33.3**

##### **Amendments**

The Parties may agree, in writing, to amend this Agreement. Any amendment shall enter into force on a date agreed by the Parties, following delivery of the latter of the Parties' notifications confirming completion of their respective applicable internal requirements for entry into force, unless the Parties agree otherwise.

#### **Article 33.4**

##### **Termination**

This Agreement may be terminated by either Party on giving six months' written notice to the other Party, unless the Parties agree otherwise.

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<sup>1</sup> The international agreements referred to in or incorporated into this Agreement shall be understood to include their most recent amendments having entered into force for both Parties before the date of signature of this Agreement.



**Article 33.5**  
**Laws and Regulations and their Amendments**

Where reference is made in the Agreement to laws or regulations of a Party, those laws or regulations shall be understood to include amendments thereto and successor laws or regulations, unless otherwise provided in the Agreement.

**Article 33.6**  
**Territorial Extension**

1. At the time of entry into force of this Agreement, or any time thereafter, this Agreement, or specified provisions of it, may be extended to such territories for whose international relations the United Kingdom is responsible as the Parties may agree.
2. For greater certainty, an extension in accordance with paragraph 1 may include extension of further provisions of this Agreement to the Bailiwicks of Guernsey and Jersey and the Isle of Man, as well as any extension to any other territories for whose international relations the United Kingdom is responsible, including, but not limited to, Gibraltar.

**Article 33.7**  
**Territorial Disapplication**

1. At any time after entry into force of this Agreement, the United Kingdom may give written notice to New Zealand that this Agreement, or specified provisions of it, shall no longer apply to a territory for whose international relations the United Kingdom is responsible.
2. If the United Kingdom gives notice in writing pursuant to this Article, the Parties shall hold consultations promptly to agree a mutually satisfactory solution. Notwithstanding such consultations, if notice in writing is given that this Agreement as a whole is no longer to apply to a territory for whose international relations the United Kingdom is responsible, the notification shall take effect 12 months after the date on which the United Kingdom has provided written notice to New Zealand, or on such other date as the Parties may agree. Any amendment to this Agreement required as a result of the Agreement, or specified provisions of it, no longer applying to a territory for whose international relations the United Kingdom is responsible shall be made in accordance with Article 33.3 (Amendments).

**Article 33.8**  
**Entry into Force**

Entry into force of this Agreement shall be subject to the completion of the necessary domestic procedures of each of the Parties. This Agreement shall enter into force on such date as the Parties may agree in writing, following delivery of the latter of the Parties' written notifications confirming completion of their respective applicable legal requirements and procedures for entry into force.

IN WITNESS WHEREOF the undersigned, duly authorised thereto by their respective Governments, have signed this Agreement.

Done in duplicate at London on this 28th day of February 2022  
in the English language.

**For the Government of the United  
Kingdom of Great Britain and  
Northern Ireland:**

ANNE-MARIE TREVELYAN

**For the Government of  
New Zealand:**

DAMIEN O'CONNOR

## ANNEX I

### CROSS-BORDER TRADE IN SERVICES AND INVESTMENT NON-CONFORMING MEASURES

#### Explanatory Notes

1. The Schedule of a Party to this Annex sets out, pursuant to Article 9.8 (Non-Conforming Measures – Cross-Border Trade in Services) and Article 14.10 (Non-Conforming Measures – Investment), a Party’s existing non-conforming measures that are not subject to some or all of the obligations imposed by:
  - (a) Article 9.5 (National Treatment – Cross-Border Trade in Services) or Article 14.6 (National Treatment – Investment);
  - (b) Article 9.6 (Most-Favoured-Nation Treatment – Cross-Border Trade in Services) or Article 14.7 (Most-Favoured-Nation Treatment – Investment);
  - (c) Article 9.4 (Market Access – Cross-Border Trade in Services) or Article 14.5 (Market Access – Investment);
  - (d) Article 9.7 (Local Presence – Cross-Border Trade in Services);
  - (e) Article 14.8 (Performance Requirements – Investment); or
  - (f) Article 14.9 (Senior Management and Boards of Directors – Investment).
2. Each Schedule entry sets out the following elements:
  - (a) “**Sector**” refers to the sector for which the entry is made;
  - (b) “**Sub-Sector**”, where referenced, refers to the specific sub-sector for which the entry is made;
  - (c) “**Industry Classification**”, where referenced, refers to the activity covered by the entry, according to the CPC, ISIC Rev. 3.1, or as expressly otherwise described in that entry:
    - (i) “**ISIC Rev. 3.1**” means the *International Standard Industrial Classification of All Economic Activities* (Statistical Papers, Series M No. 4, ISIC Rev. 3.1, Statistical Office of the United Nations, New York, 2002); and

- (ii) **“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);
  - (d) **“Obligations Concerned”** specifies the obligations referred to in paragraph 1 that, pursuant to Article 9.8 (Non-Conforming Measures – Cross-Border Trade in Services) and Article 14.10 (Non-Conforming Measures – Investment), do not apply to the listed measure or measures as indicated in the introductory note for each Party’s Schedule;
  - (e) **“Level of Government”**, where referenced, indicates the level of government maintaining the listed measures;
  - (f) **“Measures”** identifies the laws, regulations, or other measures for which the entry is made. A measure cited in the “Measures” element:
    - (i) means the measure as amended, continued, or renewed as of the date of entry into force of this Agreement; and
    - (ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure; and
  - (g) **“Description”**, as indicated in the introductory note for each Party’s Schedule, either sets out the non-conforming measure or provides a general non-binding description of the measure for which the entry is made.
3. For greater certainty, if a Party adopts a new measure at a level of government different to the level of government originally specified in an entry, and this new measure effectively replaces (within the territory to which it applies) the non-conforming aspect of the original measure cited in the “Measures” element, the new measure shall be deemed to constitute “amendment” to the original measure within the meaning of subparagraph 1(c) of Article 9.8 (Non-Conforming Measures – Cross-Border Trade in Services) and subparagraph 1(c) of Article 14.10 (Non-Conforming Measures – Investment).
  4. The list of entries below does not include measures relating to qualification requirements and procedures, technical standards, authorisation requirements, and licensing requirements and procedures where they do not constitute a limitation within the meaning of Article 9.4 (Market Access – Cross-Border Trade in Services), Article 9.5 (National Treatment – Cross-Border Trade in Services), Article 9.7 (Local Presence – Cross-Border Trade in Services), Article 14.5 (Market Access – Investment), or Article 14.6 (National Treatment – Investment). These measures may include, in particular, the need to obtain a licence, to satisfy universal service

obligations, to have recognised qualifications in regulated sectors, to have completed a recognised period of training, to pass specific examinations, including language examinations, to fulfil a membership requirement of a particular profession, such as membership in a professional organisation, to have a local agent for service, or to maintain a local address, or any non-discriminatory requirements that certain activities may not be carried out in protected zones or areas. While not listed, such measures continue to apply.

5. For greater certainty, non-discriminatory measures do not constitute a market access limitation within the meaning of Article 9.4 (Market Access – Cross-Border Trade in Services) or Article 14.5 (Market Access – Investment) for any measure:
  - (a) requiring the separation of the ownership of infrastructure from the ownership of the goods or services provided through that infrastructure to ensure fair competition, for example in the fields of energy, transportation, and telecommunications;
  - (b) restricting the concentration of ownership to ensure fair competition;
  - (c) seeking to ensure the conservation and protection of natural resources and the environment (including with respect to climate change), including a limitation on the availability, number, and scope of concessions granted, and the imposition of a moratorium or ban;
  - (d) limiting the number of authorisations granted because of technical or physical constraints, for example telecommunications spectra and frequencies; or
  - (e) requiring that a certain percentage of the shareholders, owners, partners, or directors of an enterprise be qualified or practise a certain profession such as lawyers or accountants.
6. A Party's entry for a requirement to have a local presence in the territory of that Party is made against Article 9.7 (Local Presence – Cross-Border Trade in Services), and not against Article 9.4 (Market Access – Cross-Border Trade in Services) or Article 9.5 (National Treatment – Cross-Border Trade in Services).

## ANNEX I

### CROSS-BORDER TRADE IN SERVICES AND INVESTMENT NON-CONFORMING MEASURES

#### Schedule of New Zealand

##### Introductory Notes

1. **“Description”** sets out the non-conforming measure to which the entry applies.

In accordance with Article 9.8 (Non-Conforming Measures – Cross-Border Trade in Services) and Article 14.10 (Non-Conforming Measures – Investment), the Articles of this Agreement specified in the “Obligations Concerned” element of an entry do not apply to the laws, regulations, rules, procedures, decisions, administrative actions, practices, or other measures identified in the “Description” element of that entry.

**Entry No. I-1**

<b>Sector</b>	All Sectors
<b>Obligations Concerned</b>	National Treatment (Investment) Market Access (Investment)
<b>Measures</b>	<i>Companies Act 1993</i> <i>Financial Reporting Act 2013</i>
<b>Description</b>	<p><u>Investment</u></p> <p>1. Consistent with New Zealand’s financial reporting regime established under the <i>Companies Act 1993</i> and <i>Financial Reporting Act 2013</i>, the following types of entities are required to prepare financial statements that comply with generally accepted accounting practice, and have those statements audited and registered with the Registrar of Companies (unless exceptions to any of those requirements apply):</p> <p>(a) any body corporate that is incorporated outside New Zealand (“overseas company”) that carries on business in New Zealand within the meaning of the <i>Companies Act 1993</i> and which is “large”,<sup>1</sup></p> <p>(b) any “large” New Zealand company in which shares that in aggregate carry the right to exercise or control the exercise of 25 per cent or more of the voting power at a meeting of the company are held by:<sup>2</sup></p>

<sup>1</sup> An overseas company or subsidiary of an overseas company is “large” in respect of an accounting period if at least one of the following applies:

- (a) as at the balance date of each of the two preceding accounting periods, the total assets of the entity and its subsidiaries (if any) exceed NZ\$20 million; or
- (b) in each of the two preceding accounting periods, the total revenue of the entity and its subsidiaries (if any) exceeds NZ\$10 million.

An audit report is required unless the New Zealand business of that overseas company is not “large” and the law where the company is incorporated does not require an audit.

<sup>2</sup> A New Zealand company is “large” in respect of an accounting period if at least one of the following paragraphs applies:

- (a) as at the balance date of each of the two preceding accounting periods, the total assets of the entity and its subsidiaries (if any) exceed NZ\$60 million; or
- (b) in each of the two preceding accounting periods, the total revenue of the entity and its subsidiaries (if any) exceeds NZ\$30 million.



	<ul style="list-style-type: none"> <li>(i) a subsidiary of a body corporate incorporated outside New Zealand;</li> <li>(ii) a body corporate incorporated outside New Zealand; or</li> <li>(iii) a person not ordinarily resident in New Zealand; or</li> </ul> <p>(c) any “large” company incorporated in New Zealand which is a subsidiary of an overseas company.<sup>3</sup></p> <p>2. If a company is required to prepare financial statements and if they have one or more subsidiaries, they must, instead of preparing financial statements in respect of themselves, prepare group financial statements that comply with generally accepted accounting practice in relation to that group. This obligation does not apply if:</p> <ul style="list-style-type: none"> <li>(a) that Company (A) is itself a subsidiary of a body corporate (B), where body corporate (B) is: <ul style="list-style-type: none"> <li>(i) incorporated in New Zealand; or</li> <li>(ii) registered or deemed to be registered under Part 18 of the <i>Companies Act 1993</i>; and</li> </ul> </li> <li>(b) group financial statements in relation to a group comprising B, A, and all other subsidiaries of B that comply with generally accepted accounting practice are completed; and</li> <li>(c) a copy of the group financial statements referred to in subparagraph (b) and a copy of the auditor’s report on those statements are</li> </ul>
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<sup>3</sup> An overseas company or subsidiary of an overseas company is “large” in respect of an accounting period if at least one of the following applies:

- (a) as at the balance date of each of the two preceding accounting periods, the total assets of the entity and its subsidiaries (if any) exceed NZ\$20 million; or
- (b) in each of the two preceding accounting periods, the total revenue of the entity and its subsidiaries (if any) exceeds NZ\$10 million.

An audit report is required unless the New Zealand business of that overseas company is not “large” and the law where the company is incorporated does not require an audit.

	<p>delivered for registration under the <i>Companies Act 1993</i> or for lodgement under another Act.</p> <p>3. If an overseas company is required to prepare:</p> <ul style="list-style-type: none"><li>(a) financial statements under the <i>Companies Act 1993</i> it must also, if its New Zealand business meets the asset and revenue thresholds that apply in respect of “large” overseas companies, prepare, in addition to the financial statements of the large overseas company itself, financial statements for its New Zealand business prepared as if that business were conducted by a company formed and registered in New Zealand; and</li><li>(b) group financial statements under the <i>Companies Act 1993</i>, and if the group’s New Zealand business meets the asset and revenue thresholds that apply in respect of “large” overseas companies, the group financial statements that are prepared must include, in addition to the financial statements of the group, financial statements for the group’s New Zealand business prepared as if the members of the group were companies formed and registered in New Zealand.</li></ul>
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**Entry No. I-2**

<b>Sector</b>	Agriculture, including services incidental to agriculture
<b>Obligations Concerned</b>	National Treatment (Cross-Border Trade in Services and Investment) Market Access (Cross-Border Trade in Services and Investment) Performance Requirements (Investment) Senior Management and Boards of Directors (Investment)
<b>Measures</b>	<i>Dairy Industry Restructuring Act 2001</i>
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>The <i>Dairy Industry Restructuring Act 2001</i> (“DIRA”) and Regulations provide for the management of a national database for herd testing data. The DIRA:</p> <ul style="list-style-type: none"> <li>(a) provides for the New Zealand government to determine arrangements for the database to be managed by another dairy industry entity. In doing so the New Zealand government may: <ul style="list-style-type: none"> <li>(i) take into account the nationality and residency of the entity, persons that own or control the entity, and the senior management and board of directors of the entity; and</li> <li>(ii) restrict who may hold shares in the entity, including on the basis of nationality;</li> </ul> </li> <li>(b) requires the transfer of data by those engaged in herd testing of dairy cattle to the Livestock Improvement Corporation or successor entity;</li> <li>(c) establishes rules regarding access to the database and that access may be denied on the basis that the database’s intended use could be “harmful to the New Zealand dairy industry”, which may take into account the</li> </ul>

	nationality or residency of the person seeking access.
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**Entry No. I-3**

<b>Sector</b>	Communication Services Telecommunications
<b>Obligations Concerned</b>	National Treatment (Investment) Senior Management and Boards of Directors (Investment)
<b>Measures</b>	<i>Constitution of Chorus Limited</i>
<b>Description</b>	<u>Investment</u>  The Constitution of Chorus Limited requires New Zealand government approval for the shareholding of any single overseas entity to exceed 49.9 per cent.  At least half of the Board directors are required to be New Zealand citizens.

**Entry No. I-4**

<b>Sector</b>	Agriculture, including services incidental to agriculture
<b>Obligations Concerned</b>	Senior Management and Boards of Directors (Investment) Market Access (Investment)
<b>Measures</b>	<i>Primary Products Marketing Act 1953</i>
<b>Description</b>	<p><u>Investment</u></p> <p>Under the <i>Primary Products Marketing Act 1953</i>, the New Zealand Government may impose regulations to enable the establishment of statutory marketing authorities with monopoly marketing and acquisition powers (or lesser powers) for “primary products”, being products derived from beekeeping, fruit growing, hop growing, deer farming or game deer, or goats, being the fur bristles or fibres grown by the goat.</p> <p>Regulations may be issued under the <i>Primary Products Marketing Act 1953</i> concerning a broad range of the marketing authority’s functions, powers, and activities. In particular, regulations may require that board members or personnel be nationals of or resident in New Zealand.</p>

**Entry No. I-5**

<b>Sector</b>	Air Transportation
<b>Obligations Concerned</b>	National Treatment (Investment) Senior Management and Boards of Directors (Investment) Market Access (Investment) Performance Requirements (Investment)
<b>Measures</b>	<i>Civil Aviation Act 1990</i> Ministerial Guidelines
<b>Description</b>	<u>Investment</u>  Only a licensed air transport enterprise may provide international scheduled air services as a New Zealand international airline. Licences to provide international scheduled air services as a New Zealand international airline are subject to certain conditions to ensure compliance with New Zealand's air services agreements. Such conditions may include requirements that an airline is substantially owned and effectively controlled by New Zealand nationals, has its principal place of business in New Zealand, or is subject to the effective regulatory control of the New Zealand Civil Aviation Authority.

**Entry No. I-6**

<b>Sector</b>	Air Transportation
<b>Obligations Concerned</b>	National Treatment (Investment) Senior Management and Boards of Directors (Investment) Performance Requirements (Investment)
<b>Measures</b>	Constitution of Air New Zealand Limited
<b>Description</b>	<p><u>Investment</u></p> <p>No one foreign national may hold more than 10 per cent of shares that confer voting rights in Air New Zealand unless they have the permission of the Kiwi Shareholder.<sup>4</sup> In addition:</p> <ul style="list-style-type: none"><li>(a) at least three members of the Board of Directors must be ordinarily resident in New Zealand;</li><li>(b) more than half of the Board of Directors must be New Zealand citizens;</li><li>(c) the Chairperson of the Board of Directors must be a New Zealand citizen; and</li><li>(d) the location of the Head Office of Air New Zealand, and its principal place of business, shall be in New Zealand.</li></ul>

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<sup>4</sup> The Kiwi Share in Air New Zealand is a single NZ\$1 special rights convertible preference share issued to the Crown. The Kiwi Shareholder is Her Majesty the Queen in Right of New Zealand.



**Entry No. I-7**

<b>Sector</b>	All Sectors
<b>Obligations Concerned</b>	National Treatment (Investment) Market Access (Investment) Performance Requirements (Investment) Senior Management and Boards of Directors (Investment)
<b>Measures</b>	<i>Overseas Investment Act 2005</i> <i>Fisheries Act 1996</i> <i>Overseas Investment Regulations 2005</i>
<b>Description</b>	<p><u>Investment</u></p> <p>Consistent with New Zealand’s overseas investment regime as set out in the relevant provisions of the <i>Overseas Investment Act 2005</i>, the <i>Fisheries Act 1996</i>, and the <i>Overseas Investment Regulations 2005</i>, the following investment activities require prior approval from the New Zealand Government:</p> <ul style="list-style-type: none"> <li>(a) acquisition or control by non-government sources of 25 per cent or more of any class of shares<sup>5</sup> or voting power<sup>6</sup> in a New Zealand entity where either the consideration for the transfer or the value of the assets exceeds NZ\$200 million;</li> <li>(b) commencement of business operations or acquisition of an existing business by non-government sources, including business assets, in New Zealand, where the total expenditures to be incurred in setting up or acquiring that business or those assets exceed NZ\$200 million;</li> <li>(c) acquisition or control by government sources of 25 per cent or more of any class of shares<sup>7</sup></li> </ul>

<sup>5</sup> For greater certainty, the term “shares” includes shares and other types of securities.

<sup>6</sup> For greater certainty, “voting power” includes the power to control the composition of 25 per cent or more of the governing body of the New Zealand entity.

<sup>7</sup> For greater certainty, the term “shares” includes shares and other types of securities.

	<p>or voting power<sup>8</sup> in a New Zealand entity where either the consideration for the transfer or the value of the assets exceeds NZ\$100 million;</p> <p>(d) commencement of business operations or acquisition of an existing business by government sources, including business assets, in New Zealand, where the total expenditures to be incurred in setting up or acquiring that business or those assets exceed NZ\$100 million;</p> <p>(e) acquisition or control, regardless of dollar value, of certain categories of land that are regarded as sensitive or require specific approval according to New Zealand’s overseas investment legislation; and</p> <p>(f) any transaction, regardless of dollar value, that would result in an overseas investment in fishing quota.</p> <p>Overseas investors must comply with the criteria set out in the overseas investment regime and any conditions specified by the regulator and the relevant Minister or Ministers.</p> <p>This entry should be read in conjunction with Entry No II-6.</p>
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<sup>8</sup> For greater certainty, “voting power” includes the power to control the composition of 25 per cent or more of the governing body of the New Zealand entity.

**Entry No. I-8**

<b>Sector</b>	All Sectors
<b>Obligations Concerned</b>	Performance Requirements (Investment)
<b>Measures</b>	<i>Income Tax Act 2007</i> <i>Goods and Services Tax Act 1985</i> <i>Estate and Gift Duties Act 1968</i> <i>Stamp and Cheque Duties Act 1971</i> <i>Gaming Duties Act 1971</i> <i>Tax Administration Act 1994</i>
<b>Description</b>	<u>Investment</u>  Any existing non-conforming taxation measures.

## ANNEX I

### CROSS-BORDER TRADE IN SERVICES AND INVESTMENT NON-CONFORMING MEASURES

#### Schedule of the United Kingdom

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## Introductory Notes

1. **“Description”** provides a general non-binding description of the measure for which the entry is made.
2. **“Obligations Concerned”** specifies the obligations referred to in paragraph 1 of Article 9.8 (Non-Conforming Measures – Cross-Border Trade in Services) and paragraph 1 of Article 14.10 (Non-Conforming Measures – Investment) that do not apply to the measures listed in the “Measures” element.
3. In the interpretation of an entry, all elements of the entry shall be considered. An entry shall be interpreted in the light of the relevant obligations against which the entry is taken. The “Measures” element shall prevail over other elements.
4. For the avoidance of doubt, and recalling:
  - (a) subparagraph 3(b) of Article 9.3 (Scope – Cross-Border Trade in Services) and paragraph 5 of Article 14.10 (Non-Conforming Measures – Investment) relating to the exclusion of government procurement; and
  - (b) subparagraph 3(d) of Article 9.3 (Scope – Cross-Border Trade in Services) and paragraph 6 of Article 14.10 (Non-Conforming Measures – Investment) relating to the exclusion of subsidies or grants provided by a Party,

in relation to Research and Development (“R&D”) services, Chapter 9 (Cross-Border Trade in Services) and Chapter 14 (Investment) shall not interfere with the ability of the United Kingdom to grant exclusive rights or authorisations, for publicly funded R&D services, to nationals of the United Kingdom or enterprises of the United Kingdom having their registered office, central administration, or principal place of business in the United Kingdom.

**Entry No. I-1– Health, Social, and Education Services**

Sector	Health, social, and education services
Obligations Concerned	Market Access National Treatment Senior Management and Boards of Directors
Level of Government	Central and Regional
Description	<p><u>Investment</u></p> <p>The United Kingdom, when selling or disposing of its equity interests in, or the assets of, an existing state enterprise or an existing governmental entity providing health, social, or education services (CPC 93, 92), may prohibit or impose limitations on the ownership of such interests or assets, and on the ability of owners of such interests and assets to control any resulting enterprise, by investors of New Zealand or their enterprises. With respect to such a sale or other disposition, the United Kingdom may adopt or maintain any measure relating to the nationality or residency of senior management or members of the boards of directors, as well as any measure limiting the number of suppliers.</p> <p>For the purposes of this entry:</p> <p>(a) any measure maintained or adopted after the date of entry into force of this Agreement that, at the time of the sale or other disposition, prohibits or imposes limitations on the ownership of equity interests or assets or imposes nationality or residency requirements, or imposes limitations on the numbers of suppliers as described in this entry, shall be deemed to be an existing measure; and</p> <p>(b) “state enterprise” means an enterprise owned or controlled through ownership interests by the United Kingdom and includes an enterprise established after the date of entry into force of this Agreement solely for the purposes of selling or disposing of equity interests in, or the assets of, an existing state enterprise or governmental entity.</p>
Measures	As set out in the Description element as indicated above.

**Entry No. I-2– Professional services (legal services)**

Sector - Sub-Sector	Professional services - legal services
Industry Classification	Part of CPC 861
Obligations Concerned	Market Access National Treatment Local Presence
Level of Government	Central and Regional
Description	<p><u>Investment and Cross-Border Trade in Services</u></p> <p>Residency (commercial presence) may be required by the relevant professional or regulatory body for the provision of some United Kingdom domestic legal services. Non-discriminatory legal form requirements apply.</p> <p>Residency may be required by the relevant professional or regulatory body for the provision of certain United Kingdom domestic legal services in relation to immigration.</p>
Measures	<p>For England and Wales, the <i>Solicitors Act 1974</i>, the <i>Administration of Justice Act 1985</i> and the <i>Legal Services Act 2007</i>.</p> <p>For Scotland, the <i>Solicitors (Scotland) Act 1980</i> and the <i>Legal Services (Scotland) Act 2010</i>.</p> <p>For Northern Ireland, the <i>Solicitors (Northern Ireland) Order 1976</i>.</p> <p>For the United Kingdom, the <i>Immigration and Asylum Act 1999</i>.</p> <p>In addition, the measures applicable in England and Wales, Scotland, or Northern Ireland include any requirements set by professional and regulatory bodies.</p>

**Entry No. I-3– Professional services (intellectual property agents)**

Sector - Sub-Sector	Professional services - intellectual property agents
Obligations Concerned	Local Presence Most-Favoured-Nation Treatment
Level of Government	Central
Description	<u>Cross-Border Trade in Services</u>  Local presence is required for the provision of intellectual property agency services.
Measures	<i>Copyright, Designs and Patents Act 1988.</i>



**Entry No. I-4– Professional services (veterinary services)**

Sector - Sub-Sector	Professional services - veterinary services
Industry Classification	CPC 932
Obligations Concerned	Market Access Local Presence
Level of Government	Central
Description	<u>Cross-Border Trade in Services</u>  Only members of the Royal College of Veterinary Surgeons (“RCVS”) may provide veterinary services in the United Kingdom. RCVS guidelines may require physical presence for the provision of veterinary services.
Measures	<i>Veterinary Surgeons Act 1966.</i>

**Entry No. I-5– Business services**

Sector - Sub-Sector	Business services - rental or leasing services without operators and other business services
Industry Classification	Part of CPC 831
Obligations Concerned	Market Access National Treatment Local Presence Most-Favoured-Nation Treatment
Level of Government	Central
Description	<p><u>Investment and Cross-Border Trade in Services</u></p> <p>For rental or leasing of aircraft without crew (dry lease) aircraft used by an air carrier of the United Kingdom are subject to applicable aircraft registration requirements. A dry lease agreement to which a United Kingdom carrier is a party shall be subject to requirements in the national law on aviation safety, such as prior approval and other conditions applicable to the use of third countries' registered aircraft. To be registered, aircraft may be required to be owned either by natural persons meeting specific nationality criteria or by enterprises meeting specific criteria regarding ownership of capital and control (CPC 83104).</p> <p>With respect to computer reservation system (“CRS”) services, where the United Kingdom air carriers are not accorded, by CRS services suppliers operating outside the United Kingdom, equivalent (meaning non-discriminatory) treatment to that provided in the United Kingdom, or where United Kingdom CRS services suppliers are not accorded, by non-United Kingdom air carriers, equivalent treatment to that provided in the United Kingdom, measures may be taken to accord equivalent discriminatory treatment, respectively, to the non-United Kingdom air carriers by the CRS services suppliers operating in the United Kingdom, or to the non-United Kingdom CRS services suppliers by United Kingdom air carriers.</p>
Measures	<i>Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (Recast) as retained in United Kingdom law by the European Union (Withdrawal) Act 2018 and as amended by the Operation of Air Services (Amendment etc.) (EU Exit) Regulations (S.I. 2018/1392).</i>

*Regulation (EC) No 80/2009 of the European Parliament and of the Council of 14 January 2009 on a Code of Conduct for computerised reservation systems and repealing Council Regulation (EEC) No 2299/89 as retained in United Kingdom law by the European Union (Withdrawal) Act 2018 and as amended by the Computer Reservation Systems (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1080).*

**Entry No. I-6– Communication services**

Sector - Sub-Sector	Communication services - postal and courier services
Industry Classification	Part of CPC 71235, part of 73210, part of 751
Obligations Concerned	Market Access
Level of Government	Central
Description	<u>Investment and Cross-Border Trade in Services</u>  The organisation of the siting of letter boxes on the public highway, the issuing of postage stamps, and the provision of the registered mail service used in the course of judicial or administrative procedures may be restricted. For greater certainty, postal operators may be subject to particular universal service obligations or a financial contribution to a compensation fund.
Measures	<i>Postal Services Act 2011</i> <i>Postal Services Act 2000</i>

**Entry No. I-7– Transport services and services auxiliary to transport services**

Sector - Sub-Sector	Transport services - auxiliary services for water transport, auxiliary services to rail transport, road transport and services auxiliary to road transport, services auxiliary to air transport services
Obligations Concerned	Market Access Local Presence Senior Management and Boards of Directors
Level of Government	Central and Regional
Description	<p><b>(a) Services auxiliary to air transport services</b></p> <p><u>With respect to Investment – Market Access and Cross-Border Trade in Services – Market Access:</u></p> <p>The level of openness of groundhandling services depends on the size of airport. The number of suppliers in each airport may be limited. For big airports, this limit may not be less than two suppliers.</p> <p>Measures: <i>The Airports (Groundhandling) Regulations 1997 (S.I. 1997/2389).</i></p> <p><b>(b) Supporting services for all modes of transport</b></p> <p><u>With respect to Cross-Border Trade in Services – Local Presence:</u></p> <p>Customs services, including customs clearance services and services relating to use of temporary storage facilities or customs warehouses, may only be provided by persons established in the United Kingdom. For the avoidance of doubt, this includes United Kingdom residents, persons with a permanent place of business in the United Kingdom or a registered office in the United Kingdom.</p> <p>Measures: <i>Taxation (Cross-Border Trade) Act 2018.</i> <i>Customs and Excise Management Act 1979.</i></p> <p><b>(c) Auxiliary services for water transport</b></p> <p><u>With respect to Investment – Market Access and Cross-Border Trade in Services – Market Access:</u></p>

For port services, the managing body of a port or the competent authority, may limit the number of providers of port services for a given port service.

Measures:

*Regulation (EU) 2017/352 of 15 February 2017 establishing a framework for the provision of port services and common rules on the financial transparency of ports, Article 6 as retained in United Kingdom law by the European Union (Withdrawal) Act 2018 and as amended by the Pilotage and Port Services (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/671).*

*Port Services Regulations 2019.*

**(d) Road transport and Services auxiliary to road transport**

With respect to Investment – Senior Management and Boards of Directors:

Transport Managers within the Road Haulage sector may be required to be resident in the United Kingdom.

Measures:

*Goods Vehicles (Licensing of Operators) Act 1995.*

*Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC as retained in United Kingdom law by the European Union (Withdrawal) Act 2018 and as amended by the Licensing of Operators and International Road Haulage (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/708).*

**Entry No. I-8– Energy related activities**

Sector - Sub-Sector	Energy related activities - mining and quarrying
Industry Classification	ISIC Rev 3.1 11
Obligations Concerned	Market Access
Level of Government	Central and Regional
Description	<p><u>Investment and Cross-Border Trade in Services</u></p> <p>A licence is necessary to undertake exploration and production activities, both onshore and offshore. But mining and quarrying services may be provided to that licence holder without restriction.</p> <p>This entry applies to production licences issued with respect to both onshore and offshore activities. To be a Licensee, a company must have a place of business within the United Kingdom. That means either:</p> <ul style="list-style-type: none"> <li>(a) a staffed presence in the United Kingdom;</li> <li>(b) registration of a United Kingdom company at Companies House; or</li> <li>(c) registration of a United Kingdom branch of a foreign company at Companies House.</li> </ul> <p>To be a party to a licence that covers a producing field, a company must either:</p> <ul style="list-style-type: none"> <li>(a) be registered at Companies House as a United Kingdom company; or</li> <li>(b) carry on its business through a fixed place of business in the United Kingdom as defined in section 148 of the <i>Finance Act 2003</i> (which normally requires a staffed presence).</li> </ul> <p>This entry does not cover the provision of mining and quarrying services to the licence holder. Those services may be provided without restriction, provided that the holder of the production licence meets the criteria above.</p>
Measures	<i>Petroleum Act 1998.</i>

## ANNEX II

### CROSS-BORDER TRADE IN SERVICES AND INVESTMENT NON-CONFORMING MEASURES

#### Explanatory Notes

1. The Schedule of a Party to this Annex sets out, pursuant to Article 9.8 (Non-Conforming Measures – Cross-Border Trade in Services) and Article 14.10 (Non-Conforming Measures – Investment), the specific sectors, sub-sectors, or activities for which that Party may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:
  - (a) Article 9.5 (National Treatment – Cross-Border Trade in Services) or Article 14.6 (National Treatment – Investment);
  - (b) Article 9.6 (Most-Favoured-Nation Treatment – Cross-Border Trade in Services) or Article 14.7 (Most-Favoured-Nation Treatment – Investment);
  - (c) Article 9.4 (Market Access – Cross-Border Trade in Services) or Article 14.5 (Market Access – Investment);
  - (d) Article 9.7 (Local Presence – Cross-Border Trade in Services);
  - (e) Article 14.8 (Performance Requirements – Investment); or
  - (f) Article 14.9 (Senior Management and Boards of Directors – Investment).
2. Each Schedule entry sets out the following elements:
  - (a) **“Sector”** refers to the sector for which the entry is made;
  - (b) **“Sub-Sector”**, where referenced, refers to the specific sub-sector for which the entry is made;
  - (c) **“Industry Classification”**, where referenced, refers to the activity covered by the entry, according to the CPC, ISIC Rev. 3.1, or as expressly otherwise described in that entry:
    - (i) **“ISIC Rev. 3.1”** means the *International Standard Industrial Classification of All Economic Activities* (Statistical Papers, Series M No. 4, ISIC Rev. 3.1, Statistical Office of the United Nations, New York, 2002); and



- (ii) **“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);
  - (d) **“Obligations Concerned”** specifies the obligations referred to in paragraph 1 that, pursuant to Article 9.8 (Non-Conforming Measures – Cross-Border Trade in Services) and Article 14.10 (Non-Conforming Measures – Investment), do not apply to the sectors, sub-sectors, or activities listed in the entry;
  - (e) **“Description”** sets out the scope or nature of the sectors, sub-sectors, or activities covered by the entry to which the reservation applies; and
  - (f) **“Existing Measures”**, where specified, identifies, for transparency purposes, a non-exhaustive list of existing measures that apply to the sectors, sub-sectors, or activities covered by the entry.
3. In accordance with Article 9.8 (Non-Conforming Measures – Cross-Border Trade in Services) and Article 14.10 (Non-Conforming Measures – Investment), the Articles specified in the “Obligations Concerned” element of an entry do not apply to the sectors, sub-sectors, and activities identified in the “Description” element of that entry.
  4. In the event of an inconsistency in relation to the interpretation of a Schedule entry, the “Description” element shall prevail to the extent of the inconsistency.
  5. The list of entries below does not include measures relating to qualification requirements and procedures, technical standards, authorisation requirements, and licensing requirements and procedures where they do not constitute a limitation within the meaning of Article 9.4 (Market Access – Cross-Border Trade in Services), Article 9.5 (National Treatment – Cross-Border Trade in Services), Article 9.7 (Local Presence – Cross-Border Trade in Services), Article 14.5 (Market Access – Investment), or Article 14.6 (National Treatment – Investment). These measures may include, in particular, the need to obtain a licence, to satisfy universal service obligations, to have recognised qualifications in regulated sectors, to have completed a recognised period of training, to pass specific examinations, including language examinations, to fulfil a membership requirement of a particular profession, such as membership in a professional organisation, to have a local agent for service, or to maintain a local address, or any non-discriminatory requirements that certain activities may not be carried out in protected zones or areas. While not listed, such measures continue to apply.
  6. For greater certainty, non-discriminatory measures do not constitute a market access limitation within the meaning of Article 9.4 (Market Access – Cross-

Border Trade in Services) or Article 14.5 (Market Access – Investment) for any measure:

- (a) requiring the separation of the ownership of infrastructure from the ownership of the goods or services provided through that infrastructure to ensure fair competition, for example in the fields of energy, transportation, and telecommunications;
  - (b) restricting the concentration of ownership to ensure fair competition;
  - (c) seeking to ensure the conservation and protection of natural resources and the environment (including with respect to climate change), including a limitation on the availability, number, and scope of concessions granted, and the imposition of a moratorium or ban;
  - (d) limiting the number of authorisations granted because of technical or physical constraints, for example telecommunications spectra and frequencies; or
  - (e) requiring that a certain percentage of the shareholders, owners, partners, or directors of an enterprise be qualified or practise a certain profession such as lawyers or accountants.
7. A Party's entry for a requirement to have a local presence in the territory of that Party is made against Article 9.7 (Local Presence – Cross-Border Trade in Services), and not against Article 9.4 (Market Access – Cross-Border Trade in Services) or Article 9.5 (National Treatment – Cross-Border Trade in Services).
8. With respect to computer services, any of the following services shall be considered as “computer and related services”, regardless of whether they are delivered via a network, including the Internet:
- (a) consulting, adaptation, strategy, analysis, planning, specification, design, development, installation, implementation, integration, testing, debugging, updating, support, technical assistance, or management of or for computers or computer systems;
  - (b) computer programmes defined as the sets of instructions required to make computers work and communicate (in and of themselves), as well as consulting, strategy, analysis, planning, specification, design, development, installation, implementation, integration, testing, debugging, updating, adaptation, maintenance, support, technical assistance, management, or use of or for computer programmes;
  - (c) data processing, data storage, data hosting, or database services;

- (d) maintenance and repair services for office machinery and equipment, including computers; and
- (e) training services for staff of clients, related to computer programmes, computers, or computer systems, and not elsewhere classified.

For greater certainty, services enabled by computer and related services, other than those listed in subparagraphs (a) to (e), shall not be regarded as “computer and related services” in themselves.

9. With respect to Annex II entries on Most-Favoured-Nation Treatment relating to bilateral or multilateral international agreements, the absence of language regarding the scope of the reservation for differential treatment resulting from an amendment of those bilateral or multilateral international agreements in force or signed prior to the date of entry into force of this Agreement is without prejudice to each Party’s respective interpretation of the scope of that reservation.

## ANNEX II

### CROSS-BORDER TRADE IN SERVICES AND INVESTMENT NON-CONFORMING MEASURES

#### Schedule of New Zealand

#### Entry No. II-1

<b>Sector</b>	All Sectors
<b>Obligations Concerned</b>	National Treatment (Cross-Border Trade in Services and Investment) Most-Favoured-Nation Treatment (Cross-Border Trade in Services) Local Presence (Cross-Border Trade in Services) Performance Requirements (Investment) Senior Management and Boards of Directors (Investment) Market Access (Cross-Border Trade in Services and Investment)
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to adopt or maintain any measure with respect to:</p> <p>(a) the provision of public law enforcement and correctional services; and</p> <p>(b) the following, to the extent that they are social services established for a public purpose:</p> <ul style="list-style-type: none"> <li>(i) childcare;</li> <li>(ii) health;</li> <li>(iii) income security and insurance;</li> <li>(iv) public education;</li> <li>(v) public housing;</li> <li>(vi) public training;</li> <li>(vii) public transport;</li> </ul>

	<ul style="list-style-type: none"><li>(viii) public utilities;</li><li>(ix) refuse disposal;</li><li>(x) sanitation;</li><li>(xi) waste water management;</li><li>(xii) sewage;</li><li>(xiii) waste management;</li><li>(xiv) social security and insurance; and</li><li>(xv) social welfare.</li></ul>
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**Entry No. II-2**

<b>Sector</b>	Financial Services
<b>Obligations Concerned</b>	National Treatment (Cross-Border Trade in Services and Investment) Most-Favoured-Nation Treatment (Cross-Border Trade in Services and Investment) Local Presence (Cross-Border Trade in Services) Performance Requirements (Investment) Senior Management and Boards of Directors (Investment)
<b>Description</b>	<u>Cross-Border Trade in Services and Investment</u>  New Zealand reserves the right to adopt or maintain any measure with respect to the supply of:  (a) compulsory social insurance for personal injury caused by accident, work related gradual process disease and infection, and treatment injury; and  (b) disaster insurance for residential property for replacement cover up to a defined statutory maximum.
<b>Existing Measures</b>	<i>Accident Compensation Act 2001</i> <i>Earthquake Commission Act 1993</i>

**Entry No. II-3**

<b>Sector</b>	All Sectors
<b>Obligations Concerned</b>	National Treatment (Cross-Border Trade in Services and Investment) Local Presence (Cross-Border Trade in Services) Senior Management and Boards of Directors (Investment) Market Access (Cross-Border Trade in Services and Investment)
<b>Description</b>	<u>Cross-Border Trade in Services and Investment</u>  New Zealand reserves the right to adopt or maintain any measure with respect to water, including the allocation, collection, treatment, and distribution of drinking water.

**Entry No. II-4**

<b>Sector</b>	All Sectors
<b>Obligations Concerned</b>	<p>National Treatment (Cross-Border Trade in Services and Investment)</p> <p>Most-Favoured-Nation Treatment (Cross-Border Trade in Services and Investment)</p> <p>Local Presence (Cross-Border Trade in Services)</p> <p>Performance Requirements (Investment)</p> <p>Senior Management and Boards of Directors (Investment)</p> <p>Market Access (Cross-Border Trade in Services and Investment)</p>
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to adopt and maintain any measure solely as part of the act of devolving a service that is provided in the exercise of governmental authority at the date of entry into force of this Agreement. Such measures may include:</p> <ul style="list-style-type: none"> <li>(a) restricting the number of service suppliers;</li> <li>(b) allowing an enterprise, wholly or majority owned by the Government of New Zealand, to be the sole service supplier or one amongst a limited number of service suppliers;</li> <li>(c) imposing restrictions on the composition of senior management and boards of directors;</li> <li>(d) requiring local presence; and</li> <li>(e) specifying the juridical form of the service supplier.</li> </ul>



**Entry No. II-5**

<b>Sector</b>	All Sectors
<b>Obligations Concerned</b>	National Treatment (Cross-Border Trade in Services and Investment) Most-Favoured-Nation Treatment (Cross-Border Trade in Services and Investment) Performance Requirements (Investment) Senior Management and Boards of Directors (Investment) Market Access (Cross-Border Trade in Services and Investment)
<b>Description</b>	<u>Cross-Border Trade in Services and Investment</u>  Where the New Zealand Government wholly owns or has effective control over an enterprise, then New Zealand reserves the right to adopt or maintain any measures regarding the sale of any shares in that enterprise or any assets of that enterprise to any person, including according more favourable treatment to New Zealand nationals.

**Entry No. II-6**

<b>Sector</b>	All Sectors
<b>Obligations Concerned</b>	National Treatment (Investment) Market Access (Investment) Performance Requirements (Investment) Senior Management and Boards of Directors (Investment)
<b>Description</b>	<p><u>Investment</u></p> <p>New Zealand reserves the right to adopt or maintain any measure that sets out the approval criteria to be applied to the categories of overseas investment that require approval under New Zealand’s overseas investment regime.</p> <p>For the purposes of transparency, those categories, as set out in Entry No. I-7 are:</p> <p>(a) acquisition or control by non-government sources of 25 per cent or more of any class of shares<sup>1</sup> or voting power<sup>2</sup> in a New Zealand entity where either the consideration for the transfer or the value of the assets exceeds NZ\$200 million;</p> <p>(b) commencement of business operations or acquisition of an existing business by non-government sources, including business assets, in New Zealand, where the total expenditures to be incurred in setting up or acquiring that business or those assets exceed NZ\$200 million;</p> <p>(c) acquisition or control by government sources of 25 per cent or more of any class of shares<sup>3</sup> or voting power<sup>4</sup> in a New Zealand entity where either the consideration for the transfer or the value of the assets exceeds NZ\$100 million;</p>

<sup>1</sup> For greater certainty, the term “shares” includes shares and other types of securities.

<sup>2</sup> For greater certainty, “voting power” includes the power to control the composition of 25 per cent or more of the governing body of the New Zealand entity.

<sup>3</sup> For greater certainty, the term “shares” includes shares and other types of securities.

<sup>4</sup> For greater certainty, “voting power” includes the power to control the composition of 25 per cent or more of the governing body of the New Zealand entity.

	<p>(d) commencement of business operations or acquisition of an existing business by government sources, including business assets, in New Zealand, where the total expenditures to be incurred in setting up or acquiring that business or those assets exceed NZ\$100 million;</p> <p>(e) acquisition or control, regardless of dollar value, of certain categories of land that are regarded as sensitive or require specific approval according to New Zealand's overseas investment legislation; and</p> <p>(f) any transaction, regardless of dollar value, that would result in an overseas investment in fishing quota.</p>
<b>Existing Measures</b>	<p><i>Overseas Investment Act 2005</i>  <i>Fisheries Act 1996</i>  <i>Overseas Investment Regulations 2005</i></p>

**Entry No. II-7**

<b>Sector</b>	All Sectors
<b>Obligations Concerned</b>	Most-Favoured-Nation Treatment (Cross-Border Trade in Services and Investment)
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to adopt or maintain any measure that accords differential treatment to a Party or a non-party under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.</p> <p>New Zealand reserves the right to adopt or maintain any measure that accords differential treatment to a Party or a non-party under any international agreement in force or signed after the date of entry into force of this Agreement involving:</p> <ul style="list-style-type: none"><li>(a) aviation;</li><li>(b) fisheries; and</li><li>(c) maritime matters.</li></ul>

**Entry No. II-8**

<b>Sector</b>	All Sectors
<b>Obligations Concerned</b>	Most-Favoured-Nation Treatment (Cross-Border Trade in Services and Investment)
<b>Description</b>	<u>Cross-Border Trade in Services and Investment</u>  New Zealand reserves the right to adopt or maintain any measure taken as part of a wider process of economic integration or trade liberalisation between the parties to the <i>Australia New Zealand Closer Economic Relations Trade Agreement</i> (ANZCERTA) or the <i>Pacific Agreement on Closer Economic Relations</i> (PACER) that accords differential treatment to a non-party. <sup>5</sup>

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<sup>5</sup> For the avoidance of doubt, this includes any measure adopted or maintained under any existing or future protocol to the agreements.

**Entry No. II-9**

<b>Sector</b>	All Sectors
<b>Obligations Concerned</b>	National Treatment (Cross-Border Trade in Services and Investment) Local Presence (Cross-Border Trade in Services )
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to adopt or maintain any measure regarding the control, management, or use of:</p> <p>(a) protected areas, being areas established under and subject to the control of legislation, including resources on land, interests in land or water, that are set up for heritage management purposes (both historic and natural heritage), public recreation, and scenery preservation; or</p> <p>(b) species owned under enactments by the Crown or that are protected by or under an enactment.</p>
<b>Existing Measures</b>	<p><i>Conservation Act 1987</i> and the enactments listed in: schedule 1 of the <i>Conservation Act 1987</i>; <i>Resource Management Act 1991</i>; <i>Local Government Act 1974</i>.</p>

**Entry No. II-10**

<b>Sector</b>	All Sectors
<b>Obligations Concerned</b>	National Treatment (Cross-Border Trade in Services and Investment) Senior Management and Boards of Directors (Investment) Market Access (Cross-Border Trade in Services and Investment)
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to adopt or maintain any measure including nationality or residency measures in relation to:</p> <ul style="list-style-type: none"> <li>(a) animal welfare; and</li> <li>(b) the preservation of plant, animal and human life and health; including in particular: <ul style="list-style-type: none"> <li>(i) food safety of domestic and exported foods;</li> <li>(ii) animal feeds;</li> <li>(iii) food standards;</li> <li>(iv) biosecurity;</li> <li>(v) biodiversity; and</li> <li>(vi) certification of the plant or animal health status of goods.</li> </ul> </li> </ul> <p>Nothing in this reservation shall be construed to derogate from the obligations of Chapter 5 (Sanitary and Phytosanitary Measures), or the obligations of the <i>Agreement on the Application of Sanitary and Phytosanitary Measures</i> in Annex 1A to the WTO Agreement or the Sanitary Agreement.</p> <p>Nothing in this reservation shall be construed to derogate from the obligations of Chapter 7 (Technical Barriers to Trade), or the obligations of the <i>Agreement</i></p>

	<p><i>on Technical Barriers to Trade</i> in Annex 1A to the WTO Agreement.</p> <p>The reservation with respect to Market Access (Investment) only relates to the supply of a service via commercial presence.</p>
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**Entry No. II-11**

<b>Sector</b>	All Sectors
<b>Obligations Concerned</b>	National Treatment (Cross-Border Trade in Services and Investment) Performance Requirements (Investment) Senior Management and Boards of Directors (Investment) Market Access (Cross-Border Trade in Services and Investment)
<b>Description</b>	<u>Cross-Border Trade in Services and Investment</u>  New Zealand reserves the right to maintain or adopt any measure made by or under an enactment in respect of the foreshore and seabed, internal waters as defined in international law (including the beds, subsoil, and margins of such internal waters), territorial sea, the Exclusive Economic Zone, and the continental shelf, including for the issuance of maritime concessions in the continental shelf.
<b>Existing Measures</b>	<i>Resource Management Act 1991</i> <i>Marine and Coastal Area (Takutai Moana) Act 2011</i> <i>Continental Shelf Act 1964</i> <i>Crown Minerals Act 1991</i> <i>EEZ and Continental Shelf (Environmental Effects) Act 2012</i>

**Entry No. II-12**

<b>Sector</b>	Business Services Fire Services
<b>Obligations Concerned</b>	National Treatment (Cross-Border Trade in Services and Investment) Market Access (Cross-Border Trade in Services and Investment)
<b>Description</b>	<u>Cross-Border Trade in Services and Investment</u>  New Zealand reserves the right to adopt or maintain any measure with respect to the provision of fire prevention and firefighting services, excluding aerial firefighting services.  The reservation with respect to Market Access (Investment) only relates to the supply of a service via commercial presence.
<b>Existing Measures</b>	<i>Fire and Emergency New Zealand Act 2017</i>

**Entry No. II-13**

<b>Sector</b>	Business Services Research and Development
<b>Obligations Concerned</b>	National Treatment (Cross-Border Trade in Services and Investment) Performance Requirements (Investment) Market Access (Cross-Border Trade in Services and Investment)
<b>Description</b>	<u>Cross-Border Trade in Services and Investment</u>  New Zealand reserves the right to adopt or maintain any measure with respect to:  (a) research and development services carried out by state funded tertiary institutions or by Crown Research Institutes when such research is conducted for a public purpose; or  (b) research and experimental development services on physical sciences, chemistry, biology, engineering and technology, agricultural sciences, medical, pharmaceutical, and other natural sciences, i.e. CPC 8510.

**Entry No. II-14**

<b>Sector</b>	Business Services Technical Testing and Analysis Services
<b>Obligations Concerned</b>	National Treatment (Cross-Border Trade in Services and Investment) Market Access (Cross-Border Trade in Services and Investment)
<b>Description</b>	<u>Cross-Border Trade in Services and Investment</u>  New Zealand reserves the right to adopt or maintain any measures in respect of:  (a) composition and purity testing and analysis services (CPC 86761);  (b) inspection services (CPC 86764);  (c) other technical testing and analysis services (CPC 86769);  (d) geological, geophysical, and other scientific prospecting services (CPC 86751); and  (e) drug testing services.

**Entry No. II-15**

<b>Sector</b>	Business Services Fisheries and aquaculture Services related to fisheries and aquaculture
<b>Obligations Concerned</b>	National Treatment (Cross-Border Trade in Services and Investment) Most-Favoured-Nation Treatment (Cross-Border Trade in Services and Investment) Local Presence (Cross-Border Trade in Services) Performance Requirements (Investment) Senior Management and Boards of Directors (Investment) Market Access (Cross-Border Trade in Services and Investment)
<b>Description</b>	<u>Cross-Border Trade in Services and Investment</u>  New Zealand reserves the right to control the activities of foreign fishing, including fishing landing, first landing of fish processed at sea, and access to New Zealand ports (port privileges) consistent with the provisions of the United Nations Convention on the Law of the Sea.
<b>Existing Measures</b>	<i>Fisheries Act 1996</i> <i>Aquaculture Reform Act 2004</i>

**Entry No. II-16**

<b>Sector</b>	Business Services Energy Manufacturing Wholesale trade Retail
<b>Obligations Concerned</b>	National Treatment (Cross-Border Trade in Services and Investment) Most-Favoured-Nation Treatment (Cross-Border Trade in Services and Investment) Local Presence (Cross-Border Trade in Services) Performance Requirements (Investment) Senior Management and Boards of Directors (Investment) Market Access (Cross-Border Trade in Services and Investment)
<b>Description</b>	<u>Cross-Border Trade in Services and Investment</u>  New Zealand reserves the right to adopt any measure in order to prohibit, regulate, manage, or control the production, use, distribution, or retail of nuclear energy, including setting conditions for natural persons or juridical persons to do so.

**Entry No. II-17**

<b>Sector</b>	Communication Services Audio-visual and other Services
<b>Obligations concerned</b>	Most-Favoured-Nation Treatment (Cross-Border Trade in Services and Investment) Market Access (Cross-Border Trade in Services and Investment)
<b>Description</b>	<u>Cross-Border Trade in Services and Investment</u>  New Zealand reserves the right to adopt or maintain preferential co-production arrangements for film and television productions. Official co-production status, which may be granted to a co-production produced under preferential co-production arrangements, confers national treatment on works covered by such arrangements.
<b>Existing Measures</b>	For greater transparency, section 18 of the <i>New Zealand Film Commission Act 1978</i> limits Commission funding to films with a “significant New Zealand content”. This criterion is deemed to be satisfied if made pursuant to a co-production agreement or arrangement with the partner country in question.

**Entry No. II-18**

<b>Sector</b>	Communication Services Audio-visual and other Services
<b>Obligations Concerned</b>	National Treatment (Cross-Border Trade in Services and Investment) Market Access (Cross-Border Trade in Services and Investment) Performance Requirements (Investment) Senior Management and Boards of Directors (Investment)
<b>Description</b>	<u>Cross-Border Trade in Services and Investment</u>  New Zealand reserves the right to adopt or maintain any measure with respect to the promotion of film and television production in New Zealand and the promotion of local content on public radio and television, and in films.



**Entry No. II-19**

<b>Sector</b>	Agriculture, including services incidental to agriculture
<b>Obligations Concerned</b>	National Treatment (Cross-Border Trade in Services and Investment) Performance Requirements (Investment) Senior Management and Boards of Directors (Investment) Market Access (Cross-Border Trade in Services and Investment)
<b>Description</b>	<u>Cross-Border Trade in Services and Investment</u>  New Zealand reserves the right to adopt or maintain any measures with respect to:  (a) the holding of shares in the co-operative dairy company arising from the amalgamation authorised under the <i>Dairy Industry Restructuring Act 2001</i> (or any successor body); and  (b) the disposition of assets of that company or its successor bodies.
<b>Existing Measures</b>	<i>Dairy Industry Restructuring Act 2001</i>

**Entry No. II-20**

<b>Sector</b>	Agriculture, including services incidental to agriculture
<b>Obligations Concerned</b>	National Treatment (Cross-Border Trade in Services and Investment) Performance Requirements (Investment) Senior Management and Boards of Directors (Investment) Market Access (Cross-Border Trade in Services and Investment)
<b>Description</b>	<u>Cross-Border Trade in Services and Investment</u>  New Zealand reserves the right to adopt or maintain any measures with respect to the export marketing of fresh kiwifruit to all markets other than Australia.
<b>Existing Measures</b>	<i>Kiwifruit Industry Restructuring Act 1999</i> and Regulations

**Entry No. II-21**

<b>Sector</b>	Agriculture, including services incidental to agriculture
<b>Obligations Concerned</b>	National Treatment (Cross-Border Trade in Services and Investment) Performance Requirements (Investment) Senior Management and Boards of Directors (Investment) Market Access (Cross-Border Trade in Services and Investment)
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to adopt or maintain any measure with respect to:</p> <ul style="list-style-type: none"> <li>(a) specifying the terms and conditions for the establishment and operation of any government endorsed allocation scheme for the rights to the distribution of export products falling within the HS categories covered by the <i>WTO Agreement on Agriculture</i> in Annex 1A to the WTO Agreement (“Agriculture Agreement”) to markets where tariff quotas, country-specific preferences or other measures of similar effect are in force; and</li> <li>(b) the allocation of distribution rights to wholesale trade service suppliers pursuant to the establishment or operation of such an allocation scheme.</li> </ul> <p>This entry is not intended to have the effect of prohibiting all investment in the provision of wholesale trade and distribution services relating to goods in the HS chapters covered by the Agriculture Agreement. The entry applies in respect of investment to the extent that the services sectors specified in this reservation are a subset of agricultural products subject to tariff quotas, country-specific preferences, or other measures of similar effect.</p>

**Entry No. II-22**

<b>Sector</b>	Agriculture, including services incidental to agriculture
<b>Obligations Concerned</b>	Senior Management and Boards of Directors (Investment) Market Access (Investment)
<b>Description</b>	<p><u>Investment</u></p> <p>New Zealand reserves the right to maintain or adopt any measure necessary to give effect to the establishment or the implementation of mandatory marketing plans (also referred to as “export marketing strategies”) for the export marketing of products derived from:</p> <ul style="list-style-type: none"> <li>(a) agriculture;</li> <li>(b) beekeeping;</li> <li>(c) horticulture;</li> <li>(d) arboriculture;</li> <li>(e) arable farming; and</li> <li>(f) the farming of animals,</li> </ul> <p>where there is support within the relevant industry that a mandatory collective marketing plan should be adopted or activated.</p> <p>For greater certainty, mandatory marketing plans, in the context of this reservation exclude measures limiting the number of market participants or limiting the volume of exports.</p> <p>The reservation with respect to Market Access (Investment) only relates to the supply of a service via commercial presence.</p>
<b>Existing Measures</b>	<i>New Zealand Horticulture Export Authority Act 1987</i>

**Entry No. II-23**

<b>Sector</b>	Health and Social services
<b>Obligations Concerned</b>	Most-Favoured-Nation Treatment (Cross-Border Trade in Services and Investment) Market Access (Cross-Border Trade in Services and Investment)
<b>Description</b>	<u>Cross-Border Trade in Services and Investment</u>  New Zealand reserves the right to adopt or maintain any measure with respect to all services suppliers and investors for the supply of adoption services.  The reservation with respect to Market Access (Investment) only relates to the supply of a service via commercial presence.
<b>Existing Measures:</b>	<i>Adoption Act 1955</i> <i>Adoption (Inter-country) Act 1997</i>

**Entry No. II-24**

<b>Sector</b>	Recreation, cultural, and sporting
<b>Obligations Concerned</b>	National Treatment (Cross-Border Trade in Services and Investment) Performance Requirements (Investment) Senior Management and Boards of Directors (Investment) Market Access (Cross-Border Trade in Services and Investment)
<b>Description</b>	<u>Cross-Border Trade in Services and Investment</u>  New Zealand reserves the right to adopt or maintain any measure with respect to gambling, betting, and prostitution services.
<b>Existing Measures</b>	<i>Gambling Act 2003 and Regulations</i> <i>Prostitution Reform Act 2003</i> <i>Racing Act 2003</i> <i>Racing (Harm Prevention and Minimisation) Regulations 2004</i> <i>Racing (New Zealand Greyhound Racing Association Incorporated) Order 2009</i>

**Entry No. II-25**

<b>Sector</b>	Recreation, cultural, and sporting Library, archive, museum, and other cultural services
<b>Obligations Concerned</b>	National Treatment (Cross-Border Trade in Services and Investment) Most-Favoured-Nation Treatment (Cross-Border Trade in Services and Investment) Local Presence (Cross-Border Trade in Services) Performance Requirements (Investment) Market Access (Cross-Border Trade in Services and Investment)
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to adopt or maintain any measures in respect of:</p> <ul style="list-style-type: none"> <li>(a) cultural heritage of national value; including ethnological, archaeological, historical, literary, artistic, scientific, or technological heritage, as well as collections that are documented, preserved, and exhibited by museums, galleries, libraries, archives, and other heritage collecting institutions;</li> <li>(b) public archives;</li> <li>(c) library and museum services; and</li> <li>(d) services for the preservation of historical or sacred sites or historical buildings.</li> </ul>

**Entry No. II-26**

<b>Sector</b>	Transport Maritime Services
<b>Obligations Concerned</b>	National Treatment (Cross-Border Trade in Services and Investment) Most-Favoured-Nation Treatment (Cross-Border Trade in Services and Investment) Performance Requirements (Investment) Senior Management and Boards of Directors (Investment) Market Access (Cross-Border Trade in Services and Investment)
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to adopt or maintain any measure with respect to:</p> <ul style="list-style-type: none"> <li>(a) the carriage by sea of passengers or cargo between a port located in New Zealand and another port located in New Zealand and traffic originating and terminating in the same port in New Zealand (maritime cabotage), with the exception of the movement of empty containers. For greater certainty, maritime cabotage includes feeder services;</li> <li>(b) the establishment of registered companies for the purpose of operating a fleet under the New Zealand flag; and</li> <li>(c) the registration of vessels in New Zealand.</li> </ul>



**Entry No. II-27**

<b>Sector</b>	Distribution Services
<b>Obligations Concerned</b>	Market Access (Cross-Border Trade in Services and Investment)
<b>Description</b>	<u>Cross-Border Trade in Services and Investment</u>  New Zealand reserves the right to adopt or maintain any measure for public health or social policy purposes with respect to wholesale and retail trade services of tobacco products and alcoholic beverages.

**Entry No. II-28**

<b>Sector</b>	All Sectors
<b>Obligations Concerned</b>	National Treatment (Investment) Performance Requirements (Investment)
<b>Description</b>	<u>Investment</u>  New Zealand reserves the right to adopt or maintain any taxation measure with respect to the sale, purchase, or transfer of residential property (including interests that arise via leases, financing, and profit sharing arrangements, and acquisition of interests in enterprises that own residential property).  For greater certainty, residential property does not include non-residential commercial real estate.

**Entry No. II-29**

<b>Sector</b>	All Sectors
<b>Obligations Concerned</b>	Senior Management and Board of Directors (Investment)
<b>Description</b>	<p><u>Investment</u></p> <p>New Zealand reserves the right to adopt or maintain any measure that requires a member of the senior management to be resident in New Zealand.</p> <p>New Zealand reserves the right to adopt or maintain any measure to require:</p> <p>(a) one member of the Board of Directors to be a New Zealand national or resident in New Zealand; or</p> <p>(b) a minority of the Board of Directors to be a New Zealand national or resident in New Zealand, where that requirement would not materially impair the ability of the investor to exercise control over its enterprise, provided that the requirement is for the purpose of securing compliance with laws or regulations that are not inconsistent with this Agreement.</p>
<b>Existing Measures</b>	<p><i>Companies Act 1993</i></p> <p><i>Limited Partnerships Act 2008</i></p>

**Entry No. II-30**

<b>Sector</b>	Communication Services Postal and Courier Services
<b>Obligations Concerned</b>	Market Access (Cross-Border Trade in Services and Investment)
<b>Description</b>	<u>Cross-Border Trade in Services and Investment</u>
	<p>New Zealand reserves the right to adopt or maintain any measure that would impose on postal operators additional conditions for operation in the market or de-registration where operators engage in anti-competitive behaviour.</p> <p>New Zealand reserves the right to adopt or maintain any measure that would allow it to restrict the issue of postage stamps bearing the words “New Zealand”.<sup>6</sup></p> <p>The reservation with respect to Market Access (Investment) only relates to the supply of a service via commercial presence.</p>

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<sup>6</sup> The issue of stamps bearing the words “New Zealand” to Universal Postal Union designated operators except where the words “New Zealand” form part of the name of the operator issuing the stamps.

**Entry No. II-31**

<b>Sector</b>	Distribution Services Commission agents' services
<b>Obligations Concerned</b>	Market Access (Cross-Border Trade in Services and Investment)
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to adopt or maintain any measure in respect of sectors not falling within the following CPC Codes:</p> <ul style="list-style-type: none"> <li>(a) CPC 62113-62115;</li> <li>(b) CPC 62117-62118;</li> <li>(c) CPC 62111 except for 02961-02693 (ovine wool);</li> <li>(d) CPC 62112 except for CPC 21111, 21112, 21115, 21116 and 21119 (edible offals of bovine and ovine origin) and 02961-02963 (ovine wool); and</li> <li>(e) CPC 62116 except for 2613-2615 (ovine wool).</li> </ul> <p>In respect of sectors falling within the following CPC codes:</p> <ul style="list-style-type: none"> <li>(a) CPC 62111 only in respect of 02961-02693 (ovine wool);</li> <li>(b) CPC 62112 only in respect of CPC 21111, 21112, 21115, 21116 and 21119 (edible offals of bovine and ovine origin) and 02961-02963 (ovine wool); and</li> <li>(c) CPC 62116 only in respect of 2613-2615 (ovine wool).</li> </ul> <p>New Zealand reserves the right to adopt or maintain any measure regarding export distribution that relates to:</p>

	<p>(a) the allocation of distribution rights related to exports of products to export markets where tariff quotas, country specific preferences, and other measures of similar effect are found which places limitations on the numbers of services suppliers, total value of services transactions, or numbers of services operations; and</p> <p>(b) mandatory export marketing strategies where there is support within the relevant industry. These export marketing strategies do not include measures limiting the number of market participants or limiting the volume of exports.</p> <p>The reservation with respect to Market Access (Investment) only relates to the supply of a service via commercial presence.</p>
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**Entry No. II-32**

<b>Sector</b>	Distribution Services Wholesale trade services
<b>Obligations Concerned</b>	Market Access (Cross-Border Trade in Services and Investment)
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to adopt or maintain any measure in respect of sectors not falling within the following CPC codes:</p> <ul style="list-style-type: none"> <li>(a) CPC 6223-6226, and 6228;</li> <li>(b) CPC 6221 except for 02961-02963 (ovine wool);</li> <li>(c) CPC 6222 except for CPC 21111, 21112, 21115, 21116 and 21119 (edible offals of ovine and bovine origin); and</li> <li>(d) CPC 62277 except for 2613-2615 (ovine wool).</li> </ul> <p>In respect of sectors falling within the following CPC codes:</p> <ul style="list-style-type: none"> <li>(a) CPC 6221 only in respect of 02961-02963 (ovine wool);</li> <li>(b) CPC 6222 only in respect of CPC 21111, 21112, 21115, 21116 and 21119 (edible offals of ovine and bovine origin); and</li> <li>(c) CPC 62277 only in respect of 2613-2615 (ovine wool).</li> </ul> <p>New Zealand reserves the right to adopt or maintain any measure regarding export distribution that relates to:</p> <ul style="list-style-type: none"> <li>(a) the allocation of distribution rights related to exports of products to export markets where tariff quotas, country specific preferences, and other measures of similar effect are found which places limitations on the numbers of services suppliers, total value of services</li> </ul>

	<p>transactions, or numbers of services operations; and</p> <p>(b) mandatory export marketing strategies where there is support within the relevant industry. These export marketing strategies do not include measures limiting the number of market participants or limiting the volume of exports.</p> <p>The reservation with respect to Market Access (Investment) is only relates to the supply of a service via commercial presence.</p>
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**Entry No. II-33**

<b>Sector</b>	Air and Maritime Transport Selling and marketing of air and maritime transport services
<b>Obligations Concerned</b>	Market Access (Cross Border Trade in Services and Investment)
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to adopt or maintain any measure with respect to products covered under CPC 01, 02, 211, 213-216, 22, 2399 and 261 (except for marketing and sales relating to CPC 21111, 21112, 21115, 21116 and 21119 (edible offals of bovine and ovine origin), CPC 2613 and 2615 (ovine wool), and CPC 02961 – 02963 (ovine wool)).</p> <p>The reservation with respect to Market Access (Investment) only relates to the supply of a service via commercial presence.</p>

**Entry No. II-34**

<b>Sector</b>	Maritime Transport International Transport
<b>Obligations Concerned</b>	Market Access (Investment)
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to adopt or maintain any measure with respect to the establishment of a registered company for the purpose of operating a fleet under the New Zealand flag. This reservation relates to services covered under CPC Code 7211 (passenger transportation, except cabotage) and 7212 (freight transportation, except cabotage).</p> <p>The reservation with respect to Market Access (Investment) only relates to the supply of a service via commercial presence.</p>

**Entry No. II-35**

<b>Sector</b>	Environmental Services
<b>Obligations Concerned</b>	Market Access (Cross-Border Trade in Services and Investment)
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to adopt or maintain any measure with respect to:</p> <ul style="list-style-type: none"><li>(a) noise and vibration abatement services;</li><li>(b) remediation and clean-up of soil and water;</li><li>(c) protection of ambient air and climate;</li><li>(d) protection of biodiversity and landscape; and</li><li>(e) other environmental and ancillary services.</li></ul> <p>Except for consultancy services and services contracted by private industry.</p> <p>The reservation with respect to Market Access (Investment) only relates to the supply of a service via commercial presence.</p>

**Entry No. II-36**

<b>Sector</b>	Professional Services
<b>Obligations Concerned</b>	Market Access (Cross-border Trade in Services and Investment)
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to adopt or maintain any measure in relation to the following sub-sectors:</p> <ul style="list-style-type: none"> <li>(a) auctioneering services;</li> <li>(b) insolvency and receivership services;</li> <li>(c) map-making services;</li> <li>(d) franchising services;</li> <li>(e) patent agent services;</li> <li>(f) trademark agent services;</li> <li>(g) quantity surveying and services;</li> <li>(h) scientific and technical consulting services;</li> <li>(i) printing and publishing services; and</li> <li>(j) research and development on social sciences and humanities.</li> </ul> <p>The reservation with respect to Market Access (Investment) only relates to the supply of a service via commercial presence.</p>

**Entry No. II-37**

<b>Sector</b>	Business Services
<b>Obligations Concerned</b>	Market Access (Cross-Border Trade in Services and Investment)
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to adopt or maintain any measure in relation to the following sub-sectors:</p> <ul style="list-style-type: none"> <li>(a) leasing or rental services concerning containers;</li> <li>(b) licensing of intellectual property, including trade marks;</li> <li>(c) licensing of research and development products;</li> <li>(d) licensing of entertainment, literary, or artistic originals;</li> <li>(e) mineral exploration and evaluation;</li> <li>(f) security system services;</li> <li>(g) guard services;</li> <li>(h) investigation service;</li> <li>(i) security consulting services;</li> <li>(j) armoured car services; and</li> <li>(k) other security services.</li> </ul> <p>The reservation with respect to Market Access (Investment) only relates to the supply of a service via commercial presence.</p>

**Entry No. II-38**

<b>Sector</b>	Maintenance and Repair Services
<b>Obligations Concerned</b>	Market Access (Cross-Border Trade in Services and Investment)
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to adopt or maintain any measure in relation to maintenance and repair services for:</p> <ul style="list-style-type: none"> <li>(a) fabricated metal products, machinery, and equipment;</li> <li>(b) other machinery and equipment;</li> <li>(c) electrical household appliances;</li> <li>(d) telecommunication equipment and apparatus;</li> <li>(e) medical, precision, and optical instruments;</li> <li>(f) consumer electronics;</li> <li>(g) commercial and industrial machinery;</li> <li>(h) elevators and escalators; and</li> <li>(i) other equipment.</li> </ul> <p>The reservation with respect to Market Access (Investment) only relates to the supply of a service via commercial presence.</p>

**Entry No. II-39**

<b>Sector</b>	Health Services
<b>Obligations Concerned</b>	Market Access (Cross-Border Trade in Services and Investment)
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to adopt or maintain any measure in relation to the following sub-sectors:</p> <ul style="list-style-type: none"><li>(a) private health and social services; and</li><li>(b) services provided by midwives, nurses, physiotherapists, and para-medical personnel.</li></ul> <p>The reservation with respect to Market Access (Investment) only relates to the supply of a service via commercial presence.</p>

**Entry No. II-40**

<b>Sector</b>	Recreational, Cultural, and Sporting Services
<b>Obligations Concerned</b>	Market Access (Cross-Border Trade in Services and Investment)
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to adopt or maintain any measure in relation to recreational, cultural, and sporting services.</p> <p>The reservation with respect to Market Access (Investment) only relates to the supply of a service via commercial presence.</p>



**Entry No. II-41**

<b>Sector</b>	Transport Services
<b>Obligations Concerned</b>	Market Access (Cross-Border Trade in Services and Investment)
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to adopt or maintain any measure in relation to the following sub-sectors:</p> <ul style="list-style-type: none"> <li>(a) pilotage and berthing services;</li> <li>(b) rental of vessels with crew for maritime transport services;</li> <li>(c) pushing and towing services (maritime);</li> <li>(d) local water transport services of passengers;</li> <li>(e) rental services of water vessels with operator;</li> <li>(f) cross-border supply of maritime container handling services<sup>7</sup> from the territory of the United Kingdom into the territory of New Zealand. This reservation does not apply to <ul style="list-style-type: none"> <li>(i) transshipment (board to board or via the quay); and</li> <li>(ii) the use of on board cargo handling equipment;</li> </ul> </li> <li>(g) maintenance and repair of vessels;</li> <li>(h) vessel salvage and refloating services;</li> <li>(i) internal waterways transport;</li> </ul>

<sup>7</sup> Maritime Container Handling Services means: activities exercised by stevedoring companies, including terminal operators, but not including the direct activities of dockers when this workforce is organised independently of the stevedoring or terminal operator companies. The activities include the organisation and supervision of:

- (a) the loading/discharging of containers to/from a ship;
- (b) the lashing/unlashing of containers; and
- (c) the reception/delivery and safekeeping of containers before shipment or after discharge.

	<ul style="list-style-type: none"> <li>(j) supporting services for internal waterway transport;</li> <li>(k) control, inspection, and surveillance of airport and heliports;</li> <li>(l) space transport services of passengers;</li> <li>(m) space transport services of freight;</li> <li>(n) supporting services for space transport;</li> <li>(o) supporting services for rail transport services;</li> <li>(p) road transport services for mail;</li> <li>(q) maintenance and repair of road transport equipment;</li> <li>(r) parking lot services;</li> <li>(s) supporting services for road transport services;</li> <li>(t) supply of desalinated water to ships berthed at ports or in territorial waters; and</li> <li>(u) shipbuilding and repairing, and marine engine services.</li> </ul> <p>The reservation with respect to Market Access (Investment) only relates to the supply of a service via commercial presence.</p>
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**Entry No. II-42**

<b>Sector</b>	Utilities Services
<b>Obligations Concerned</b>	Market Access (Cross-Border Trade in Services and Investment)
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to adopt or maintain any measure in relation to the following sub-sectors:</p> <ul style="list-style-type: none"><li>(a) energy services;</li><li>(b) oil and other hydrocarbon services;</li><li>(c) services supporting the petroleum industry;</li><li>(d) services related to oil and gas resources;</li><li>(e) services incidental to energy distribution; and</li><li>(f) electricity, gas, and water distribution (on own account).</li></ul> <p>The reservation with respect to Market Access (Investment) only relates to the supply of a service via commercial presence.</p>

**Entry No. II-43**

<b>Sector</b>	Other Services
<b>Obligations Concerned</b>	Market Access (Cross-Border Trade in Services and Investment)
<b>Description</b>	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>New Zealand reserves the right to adopt or maintain any measure in relation to the following sub-sectors:</p> <ul style="list-style-type: none"> <li>(a) handicraft industries;</li> <li>(b) market research and public opinion polling services;</li> <li>(c) packaging services;</li> <li>(d) cemeteries and cremation services;</li> <li>(e) jewellery design;</li> <li>(f) support services to aquaculture;</li> <li>(g) services provided to extraterritorial organisations and bodies;</li> <li>(h) domestic services;</li> <li>(i) cosmetic treatment, manicuring and pedicuring services;</li> <li>(j) hairdressing and barbers services;</li> <li>(k) beauty and physical well-being services;</li> <li>(l) grant giving services;</li> <li>(m) services provided by youth organisations;</li> <li>(n) other civic betterment and community facility support services;</li> <li>(o) weather forecasting and meteorological services;</li> <li>(p) services furnished by political organisations;</li> </ul>

	<ul style="list-style-type: none"> <li>(q) services furnished by other membership organisations;</li> <li>(r) services furnished by trade unions;</li> <li>(s) services furnished by professional organisations;</li> <li>(t) services furnished by environmental advocacy groups;</li> <li>(u) other special group advocacy services;</li> <li>(v) services furnished by human rights organisations;</li> <li>(w) services furnished by business, employers and professional organisations;</li> <li>(x) specialty design services (except interior design services);</li> <li>(y) design originals; and</li> <li>(z) combined office administration services.</li> </ul> <p>The reservation with respect to Market Access (Investment) only relates to the supply of a service via commercial presence.</p>
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**Entry No. II-44**

<b>Sector</b>	Other services not included elsewhere
<b>Obligations Concerned</b>	National Treatment (Cross-Border Trade in Services and Investment) Local Presence (Cross-Border Trade in Services and Investment) Market Access (Cross-Border Trade in Services and Investment) Performance Requirements (Investment) Senior Management and Boards of Directors (Investment)
<b>Description</b>	<u>Cross-Border Trade in Services and Investment</u>  New Zealand reserves the right to adopt or maintain any measure with respect to the provision of new services other than those classified in the CPC.

**Entry No. II-45**

<b>Sector</b>	All sectors – Presence of Natural Persons
<b>Obligations Concerned</b>	Market Access (Cross-Border Trade in Services)
<b>Description</b>	<u>Cross-Border Trade in Services</u>  New Zealand reserves the right to adopt or maintain any measure with respect to the supply of a service by the presence of natural persons, subject to the provisions of Chapter 13 (Temporary Entry of Business Persons), that is not inconsistent with New Zealand's obligations under the GATS.

## ANNEX II

### CROSS-BORDER TRADE IN SERVICES AND INVESTMENT NON-CONFORMING MEASURES

#### Schedule of the United Kingdom

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## **Introductory Notes**

For the avoidance of doubt, and recalling:

- (a) subparagraph 3(b) of Article 9.3 (Scope – Cross-Border Trade in Services) and paragraph 5 of Article 14.10 (Non-Conforming Measures – Investment) relating to the exclusion of government procurement; and
- (b) subparagraph 3(d) of Article 9.3 (Scope – Cross-Border Trade in Services) and paragraph 6 of Article 14.10 (Non-Conforming Measures – Investment) relating to the exclusion of subsidies or grants provided by a Party,

in relation to Research and Development (“R&D”) services, Chapter 9 (Cross-Border Trade in Services) and Chapter 14 (Investment) shall not interfere with the ability of the United Kingdom to grant exclusive rights or authorisations, for publicly funded R&D services, to nationals of the United Kingdom or enterprises of the United Kingdom having their registered office, central administration, or principal place of business in the United Kingdom.

**Entry No. II-1– All sectors**

Sector	All sectors
Obligations Concerned	<p>Market Access  National Treatment  Local Presence  Most-Favoured-Nation Treatment  Senior Management and Boards of Directors  Performance Requirements</p>
Description	<p>The United Kingdom reserves the right to adopt or maintain any measure with respect to the following:</p> <p><b>(a) Public utilities</b></p> <p><u>With respect to Investment – Market Access:</u></p> <p>Services considered as public utilities at a national or local level may be subject to public monopolies or to exclusive rights granted to private operators.</p> <p>Public utilities exist in sectors such as related scientific and technical consulting services, R&amp;D services on social sciences and humanities, technical testing and analysis services, environmental services, health services, transport services and services auxiliary to all modes of transport. Exclusive rights on those services are often granted to private operators, for instance operators with concessions from public authorities, subject to specific service obligations. Given that public utilities often also exist at the sub-central level, detailed and exhaustive sector-specific scheduling is not practical. This sub-entry (a) does not apply to telecommunications and to computer and related services.</p> <p><b>(b) Most-Favoured-Nation Treatment</b></p> <p><u>With respect to Investment – Most-Favoured-Nation Treatment and Cross-Border Trade in Services – Most-Favoured-Nation Treatment:</u></p> <p>According differential treatment pursuant to any international investment treaty or other trade agreement in force or signed prior to the date of entry into force of this Agreement.</p>

According differential treatment to a country pursuant to any existing or future bilateral or multilateral agreement which:

- (i) creates an internal market in services and investment;
- (ii) grants the right of establishment; or
- (iii) requires the approximation of legislation in one or more economic sectors.

An internal market on services and investment means an area without internal frontiers in which the free movement of services, capital and persons is ensured.

The right of establishment means an obligation to abolish in substance all barriers to establishment among the parties to the regional economic integration agreement by the date of entry into force of that agreement. The right of establishment shall include the right of nationals of the parties to the regional economic integration agreement to set up and operate enterprises under the same conditions provided for nationals under the law of the country where that establishment takes place.

The approximation of legislation means:

- (i) the alignment of the legislation of one or more of the parties to the regional economic integration agreement with the legislation of the other party or parties to that agreement; or
- (ii) the incorporation of common legislation into the law of the parties to the regional economic integration agreement.

Such alignment or incorporation shall take place, and shall be deemed to have taken place, only at the time that it has been enacted in the law of the party or parties to the regional economic integration agreement.

According differential treatment relating to the right of establishment to nationals or enterprises through existing or future bilateral agreements between the United Kingdom and any of the following countries or

principalities: Andorra, Monaco, San Marino, and the Vatican City State.

According differential treatment to a third country pursuant to existing or future agreements relating to air services or to related services in support of air services.

**(c) Arms, ammunitions, and war material**

With respect to Investment – Market Access, National Treatment, Most-Favoured-Nation Treatment, Senior Management and Boards of Directors, Performance Requirements and Cross-Border Trade in Services – Market Access, National Treatment, Local Presence, Most-Favoured-Nation Treatment:

Production or distribution of, or trade in, arms, munitions, and war material. War material is limited to any product which is solely intended and made for military use in connection with the conduct of war or defence activities.

**(d) Presence of natural persons**

With respect to Cross-Border Trade in Services – Market Access:

The supply of a service by the presence of natural persons, subject to the provisions of Chapter 13 (Temporary Entry of Business Persons), that is not inconsistent with the United Kingdom's obligations under the GATS.

**(e) Residential property**

With respect to Investment – National Treatment, Performance Requirements and Cross-Border Trade in Services – National Treatment:

Taxation related to the sale, purchase, or transfer of residential property (including interests that arise via leases, financing and profit-sharing arrangements, and acquisition of interests in enterprises that own residential property).

**Entry No. II-2– Professional services (legal services and auditing services)**

Sector - Sub-Sector	Professional services - legal services and auditing services
Industry Classification	Part of CPC 861, part of 862, part of 87902
Obligations Concerned	Market Access Local Presence National Treatment Senior Management and Boards of Directors
Description	<p><u>Investment and Cross-Border Trade in Services</u></p> <p><b>(a) Legal services (part of CPC 861, part of 87902).</b></p> <p>The United Kingdom reserves the right to adopt or maintain any measure with respect to the supply of legal advisory and legal authorisation, documentation, and certification services provided by legal professionals entrusted with public functions, such as notaries, and with respect to services provided by bailiffs.</p> <p><b>(b) Auditing services (CPC – 86211, 86212 other than accounting and bookkeeping services)</b></p> <p>The United Kingdom reserves the right to adopt or maintain any measure with respect to the cross-border supply of auditing services.</p> <p>Existing measures: <i>Companies Act 2006</i></p>

**Entry No. II-3– Professional services (health related and retail of pharmaceuticals)**

Sector	Health related professional services and retail sales of pharmaceutical, medical and orthopaedic goods, other services provided by pharmacists
Industry Classification	CPC 63211, 85201, 9312, 9319
Obligations Concerned	Market Access National Treatment Local Presence
Description	<p><b>(a) Medical and dental services; services provided by midwives, nurses, physiotherapists, psychologists, and paramedical personnel (CPC 63211, 85201, 9312, 9319)</b></p> <p><u>With respect to Investment – Market Access:</u></p> <p>Establishment for doctors under the National Health Service is subject to medical manpower planning (CPC 93121, 93122).</p> <p><u>With respect to Cross-Border Trade in Services – Market Access, National Treatment, Local Presence</u></p> <p>The United Kingdom reserves the right to adopt or maintain any measure with respect to the supply of all health-related professional services, including the services provided by professionals such as medical doctors, dentists, midwives, nurses, physiotherapists, paramedical personnel, and psychologists, (part of CPC 85201, CPC 9312, part of 93191).</p> <p><b>(b) Retail sales of pharmaceutical, medical, and orthopaedic goods, other services provided by pharmacists (CPC 63211)</b></p> <p><u>With respect to Investment – Market Access and Cross-Border Trade in Services – Market Access, National Treatment, Local Presence:</u></p> <p>The United Kingdom reserves the right to adopt or maintain any measure with respect to the supply of cross-border retail sales of pharmaceuticals and of medical and orthopaedic goods, and other services provided by pharmacists. Establishment in the United Kingdom is required for the retail of</p>

pharmaceuticals and specific medical goods to the general public in the United Kingdom.

**Entry No. II-4– Business services (collection agency services and credit reporting services)**

Sector - Sub-Sector	Business Services - collection agency services, credit reporting services
Industry Classification	CPC 87901, 87902
Obligations Concerned	Market Access National Treatment Local Presence
Description	<u>Cross-Border Trade in Services</u>  The United Kingdom reserves the right to adopt or maintain any measure with respect to the supply of collection agency services and credit reporting services.



**Entry No. II-5– Business services (placement services)**

Sector - Sub-Sector	Business services - placement services
Industry Classification	CPC 87202, 87204, 87205, 87206, 87209
Obligations Concerned	Market Access National Treatment Local Presence Senior Management and Boards of Directors
Description	<p><u>Investment and Cross-Border Trade in Services</u></p> <p>The United Kingdom reserves the right to adopt or maintain any measure with respect to the following:</p> <p>(a) The supply of placement services of domestic help personnel, other commercial or industrial workers, nursing and other personnel (CPC 87204, 87205, 87206, 87209).</p> <p>(b) Requiring establishment for, and the prohibition of cross-border supply of, placement services of office support personnel and other workers.</p>

**Entry No. II-6– Business services (investigation services)**

Sector - Sub-Sector	Business services - investigation services
Industry Classification	CPC 87301
Obligations Concerned	Market Access National Treatment Local Presence Performance Requirements Senior Management and Boards of Directors
Description	<u>Investment and Cross-Border Trade in Services</u>  The United Kingdom reserves the right to adopt or maintain any measure with respect to the supply of investigation services (CPC 87301).

**Entry No. II-7– Business services (other business services)**

Sector	Business services – other business services
Industry Classification	CPC 86764, 86769, 8868
Obligations Concerned	Market Access National Treatment Local Presence
Description	<p><u>Cross-Border Trade in Services</u></p> <p>The United Kingdom reserves the right to adopt or maintain any measure with respect to the cross-border supply of maintenance and repair services in relation to the following:</p> <ul style="list-style-type: none"> <li>(a) rail transport equipment;</li> <li>(b) internal waterways transport vessels;</li> <li>(c) maritime vessels;</li> <li>(d) aircraft and parts thereof (part of CPC 86764, CPC 86769, CPC 8868).</li> </ul> <p>Only recognised organisations authorised by the United Kingdom may carry out statutory surveys and certification of ships on behalf of the United Kingdom. Establishment may be required.</p>
Existing measures:	<p><i>Regulation (EC) No 391/2009 of the European Parliament and the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations as retained in United Kingdom law by the European Union (Withdrawal) Act 2018, and as amended by the Merchant Shipping (Recognised Organisations) (Amendment) (EU Exit) Regulations 2019</i></p>

**Entry No. II-8– Education services**

Sector	Education services
Industry Classification	CPC 92
Obligations Concerned	Market Access National Treatment Local Presence Senior Management and Boards of Directors Performance Requirements
Description	<p><u>Investment and Cross-Border Trade in Services</u></p> <p>The United Kingdom reserves the right to adopt or maintain any measure with respect to the following:</p> <p>(a) All educational services which receive public funding or State support in any form and are therefore not considered to be privately funded. Where the supply of privately funded education services by a foreign provider is permitted, participation of private operators in the education system may be subject to concession allocated on a non-discriminatory basis.</p> <p>(b) The supply of privately funded other education services, which means other than those classified as being primary, secondary, higher, and adult education services (CPC 929).</p>

**Entry No. II-9– Health and social services**

Sector	Health and social services
Industry Classification	CPC 931 (other than 9312, part of 93191), CPC 933
Obligations Concerned	Market Access National Treatment Local Presence Senior Management and Boards of Directors Performance Requirements
Description	<p>The United Kingdom reserves the right to adopt or maintain any measure with respect to the following:</p> <p><b>(a) Health services – including hospital, ambulance, residential health services (CPC 931 other than 9312, part of 93191)</b></p> <p><u>With respect to Investment – Market Access, National Treatment, Senior Management and Boards of Directors, Performance Requirements:</u></p> <ul style="list-style-type: none"> <li>(i) the supply of all health services which receive public funding or State support in any form, and are therefore not considered to be privately funded;</li> <li>(ii) all privately funded health services other than hospital services;</li> <li>(iii) the participation of private operators in the privately funded health network may be subject to concession on a non-discriminatory basis. An economic needs test may apply. Main criteria: number of and impact on existing establishments, transport infrastructure, population density, geographic spread, and creation of new employment.</li> </ul> <p><b>(b) Health and social services, including pension insurance (CPC 931 other than 9312, part of 93191)</b></p> <p><u>With respect to Cross-Border Trade in Services – Market Access, National Treatment, Local Presence:</u></p> <p>The cross-border supply of health services, the cross-border supply of social services, as well as activities or services forming part of a public retirement plan or statutory system of social security.</p>

Sub-entries (a) and (b) do not relate to the supply of any health-related professional services, including the services provided by professionals such as medical doctors, dentists, midwives, nurses, physiotherapists, paramedics, and psychologists, which are covered by other entries.

**(c) Social services, including pension insurance**

With respect to Investment – Market Access, National Treatment, Senior Management and Boards of Directors, Performance Requirements:

- (i) the supply of all social services which receive public funding or State support in any form, and are therefore not considered to be privately funded, and activities or services forming part of a public retirement plan or statutory system of social security;
- (ii) the supply of privately funded social services other than services relating to convalescent and rest houses and old people's homes;
- (iii) the participation of private operators in the privately funded social network may be subject to concession on a non-discriminatory basis. An economic needs test may apply. Main criteria: number of and impact on existing establishments, transport infrastructure, population density, geographic spread, and creation of new employment.

**Entry No. II-10– Recreational, cultural, and sporting services**

Sector	Recreational, cultural, and sporting services
Industry Classification	CPC 963, 9619, 964
Obligations Concerned	Market Access National Treatment Local Presence Senior Management and Boards of Directors Performance Requirements
Description	<p><u>Investment and Cross-Border Trade in Services</u></p> <p>The United Kingdom reserves the right to adopt or maintain any measure with respect to the following:</p> <p>(a) The supply of library, archive, museum, and other cultural services (CPC 963).</p> <p>(b) The cross-border supply of entertainment services, including theatre, live bands, circus, and discotheque services (CPC 9619, 964 other than 96492).</p> <p>(c) The supply of gambling activities, which involve wagering a stake with pecuniary value in games of chance, including, in particular, lotteries, scratch cards, gambling services offered in casinos, gambling arcades or licensed premises, betting services, bingo services and gambling services operated by and for the benefit of charities or non-profit-making organisations (CPC 96492).</p>

**Entry No. II-11– Transport services and auxiliary transport services**

Sector	Transport services
Obligations Concerned	<p>Market Access  National Treatment  Local Presence  Most-Favoured-Nation Treatment  Performance Requirements  Senior Management and Boards of Directors</p>
Description	<p>The United Kingdom reserves the right to adopt or maintain any measure with respect to the following:</p> <p><b>(a) Maritime transport and any other commercial activity undertaken from a ship</b></p> <p><u>With respect to Investment – Market Access, National Treatment, Senior Management and Boards of Directors, Performance Requirements and Cross-Border Trade in Services – Market Access, Local Presence, National Treatment:</u></p> <p>The nationality of the crew on a seagoing or non-seagoing vessel.</p> <p><u>With respect to Investment – Market Access, National Treatment, Most-favoured-nation treatment, Senior Management and Boards of Directors:</u></p> <p>For the purposes of registering a vessel and operating a fleet under the flag of the United Kingdom (all commercial marine activity undertaken from a seagoing ship, including fishing, aquaculture, and services incidental to fishing; international passenger and freight transportation (CPC 721), and services auxiliary to maritime transport).</p> <p><u>With respect to Investment – Market Access, National Treatment, Senior Management and Boards of Directors, Most-Favoured-Nation Treatment Performance Requirements and Cross-Border Trade in Services-Market Access, Local Presence, National Treatment, Most-Favoured-Nation Treatment</u></p> <p>The supply of maritime cabotage services</p> <p>Maritime cabotage services cover:</p>



- (i) transportation of passengers or goods between a port or point located in the United Kingdom and another port or point located in the United Kingdom, including on its continental shelf as provided in the UN Convention on the Law of the Sea, and
- (ii) traffic originating and terminating in the same port or point located in the United Kingdom.

For greater certainty, this entry applies to related traffic in support of offshore activities.

**(b) Auxiliary services to maritime transport**

With respect to Investment – Market Access, National Treatment, Senior Management and Boards of Directors and Cross-Border Trade in Services – Market Access, National Treatment, Local Presence:

The supply of pilotage and berthing services.

Only vessels flying the flag of the United Kingdom may provide pushing and towing services (CPC 7214).

**(c) Inland waterways transport and auxiliary services to inland waterways transport**

With respect to Investment – Market Access, National Treatment, Most-Favoured-Nation Treatment, Senior Management and Boards of Directors, Performance Requirements and Cross-Border Trade in Services – Market Access, National Treatment, Local Presence, Most-Favoured-Nation Treatment:

Inland waterways passenger and freight transportation (CPC 722), and services auxiliary to inland waterways transportation.

For greater certainty, this entry also covers the supply of cabotage transport on inland waterways (CPC 722).

**(d) Rail transport and auxiliary services to rail transport**

With respect to Investment – Market Access, National Treatment and Cross-Border Trade in Services – Market Access, National Treatment, Local Presence:

Railway passenger transportation (CPC 7111).

With respect to Investment – Market Access and Cross-Border Trade in Services – Market Access, Local Presence:

Railway freight transportation (CPC 7112).

**(e) Road transport (passenger transportation, freight transportation, international truck transport services) and services auxiliary to road transport**

With respect to Investment – Market Access, National Treatment, Senior Management and Boards of Directors and Cross-Border Trade in Services – Market Access, National Treatment, Local Presence:

- (i) to require establishment and to limit the cross-border supply of road transport services (CPC 712).
- (ii) an economic needs test may apply to taxi services in the United Kingdom setting a limit on the number of service suppliers. Main criterion: Local demand as provided in applicable laws (CPC 71221).

Existing measures:

*Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC as retained in United Kingdom law by the European Union (Withdrawal) Act 2018 and as amended by the Licensing of Operators and International Road Haulage (Amendment etc.) (EU Exit) Regulations 2019;*

*Regulation (EC) No 1072/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international road haulage market as retained in United Kingdom law by the European Union (Withdrawal) Act 2018 and as amended by the Licensing of Operators and*

*International Road Haulage (Amendment etc.) (EU Exit) Regulations 2019; and*

*Regulation (EC) No 1073/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international market for coach and bus services, and amending Regulation (EC) No 561/2006 as retained in United Kingdom law by the European Union (Withdrawal) Act 2018 and as amended by the Common Rules for Access to the International Market for Coach and Bus Services (Amendment etc.) (EU Exit) Regulations 2019.*

**(f) Space transport and rental of space craft**

With respect to Investment – Market Access, National Treatment, Performance Requirements, Senior Management and Boards of Directors and Cross-Border Trade in Services – Market Access, National Treatment, Local Presence:

Transportation services via space and the rental of space craft (CPC 733, part of 734).

**(g) Air Traffic Management and Air Traffic Control**

With respect to Investment – Market Access, National Treatment and Senior Management and Boards of Directors:

- (i) NATS Holdings Ltd and its successors.
- (ii) the exercise of statutory powers and the discharge of statutory functions and duties in relation to Air Traffic Management and Air Traffic Control.

Existing measures:

*Transport Act 2000*

**(h) Most-favoured-nation exemptions**

With respect to Investment – Most-Favoured-Nation Treatment, and Cross-Border Trade in Services – Most-Favoured-Nation Treatment:

## Road and rail transport

To accord differential treatment to a country pursuant to existing or future agreements relating to international road haulage (including combined transport – road or rail) and passenger transport, concluded between the United Kingdom and a third country (CPC 7111, 7112, 7121, 7122, 7123). That treatment may:

- (i) reserve or limit the supply of the relevant transport services between the contracting parties or across the territory of the contracting parties to vehicles registered in each contracting party; or
- (ii) provide for tax exemptions for those vehicles.

### **(i) Air services.**

With respect to Investment – Market Access, National Treatment, Senior Management and Boards of Directors, Most-Favoured-Nation Treatment, Performance Requirements:

Air carriers and airports.

**Entry No. II-12– Fishing and water**

Sector	Fishing, aquaculture, services incidental to fishing; collection, purification, and distribution of water
Industry Classification	ISIC Rev. 3.1 0501, 0502, 41, CPC 882
Obligations Concerned	Market Access National Treatment Local Presence Most-Favoured-Nation Treatment Performance Requirements Senior Management and Boards of Directors
Description	<p><u>Investment and Cross-Border Trade in Services</u></p> <p><b>(a) Fishing, aquaculture, and services incidental to fishing (ISIC Rev. 3.1 0501, 0502, CPC 882)</b></p> <p>The United Kingdom reserves the right to adopt or maintain any measure, in particular within the framework of United Kingdom’s fisheries policy, and of fishing agreements with a third country, with respect to access to and use of the biological resources and fishing grounds situated in the maritime waters coming under the sovereignty or jurisdiction of the United Kingdom.</p> <p>The United Kingdom reserves the right to adopt or maintain any measure:</p> <ul style="list-style-type: none"> <li>(i) to the effect that the fishing activity of fishing vessels flying its flag must have an economic link (to the extent and according to the terms specified in the measure) with the United Kingdom; and</li> <li>(ii) relating to fishing vessels’ eligibility to use United Kingdom’s fishing opportunities by reference to the nationality of the owner or owners of vessels or place of incorporation of a company.</li> </ul> <p>The United Kingdom reserves the right to adopt or maintain any measure:</p> <ul style="list-style-type: none"> <li>(i) regulating the landing of catches performed in the quotas allocated to vessels of New Zealand or of a designated third country in United Kingdom’s ports;</li> </ul>

- (ii) determining a minimum size for a company in order to preserve both artisanal and coastal fishing vessels;
- (iii) according differential treatment pursuant to existing or future international agreements relating to fisheries;
- (iv) with regard to the nationality of the crew of a fishing vessel flying the flag of the United Kingdom; or
- (v) with respect to the establishment of marine or inland aquaculture facilities.

Existing measures:

*Fisheries Act 2020*

**(b) Collection, purification, and distribution of water**

With respect to Investment – Market Access, National treatment and Cross-Border Trade in Services – Market Access, Local Presence, National Treatment:

The United Kingdom reserves the right to adopt or maintain any measure with respect to activities, including services relating to the collection, purification, and distribution of water to household, industrial, commercial, or other users, including the supply of drinking water, and water management.

**Entry No. II-13– Energy related activities**

Sector	Production of energy and related services
Industry Classification	ISIC Rev. 3.1 401, 402, CPC 7131, 887 (other than advisory and consultancy services)
Obligations Concerned	Market Access Local Presence National Treatment Performance Requirements Senior Management and Boards of Directors
Description	<p><u>Investment and Cross-Border Trade in Services</u></p> <p>The United Kingdom reserves the right to adopt or maintain any measure where the United Kingdom permits foreign ownership of a gas or electricity transmission system, or an oil and gas pipeline transport system, with respect to enterprises of New Zealand controlled by natural persons or enterprises of a third country which accounts for more than five per cent of the United Kingdom’s oil, natural gas, or electricity imports, in order to guarantee the security of the energy supply of the United Kingdom. This entry does not apply to advisory and consultancy services provided as services incidental to energy distribution.</p>

**Entry No. II-14– Other services not included elsewhere**

Sector	Other services not included elsewhere
Obligations Concerned	Market Access Local Presence National Treatment Performance Requirements Senior Management and Boards of Directors
Description	<u>Investment and Cross-Border Trade in Services</u>  The United Kingdom reserves the right to adopt or maintain any measure with respect to the provision of new services other than those classified in the CPC.



## ANNEX III

### FINANCIAL SERVICES NON-CONFORMING MEASURES

#### Schedule of New Zealand

##### Headnotes

1. The commitments of New Zealand under Chapter 11 (Financial Services) are undertaken subject to the limitations and conditions set out in these Headnotes and the Schedule below.
2. The Schedule below sets out:
  - (a) in Section A, under Article 11.19 (Non-Conforming Measures – Financial Services), the entries made by New Zealand with respect to existing measures that do not conform with obligations imposed by:
    - (i) Article 11.5 (National Treatment – Financial Services);
    - (ii) Article 11.6 (Market Access – Financial Services); or
    - (iii) Article 11.10 (Senior Management and Boards of Directors – Financial Services); and
  - (b) in Section B, under Article 11.19 (Non-Conforming Measures – Financial Services), the entries made by New Zealand with respect to existing or future measures that do not conform with obligations imposed by:
    - (i) Article 11.5 (National Treatment – Financial Services);
    - (ii) Article 11.6 (Market Access – Financial Services); or
    - (iii) Article 11.10 (Senior Management and Boards of Directors – Financial Services).
3. Each entry in Section A sets out the following elements:
  - (a) “Sector” refers to the sector for which the entry is made;
  - (b) “Sub-Sector”, where referenced, refers to the specific sub-sector for which the entry is made;
  - (c) “Obligations Concerned” specifies the obligations referred to in paragraph 2 that, pursuant to Article 11.19 (Non-Conforming

- Measures – Financial Services), do not apply to the listed measure or measures covered by the entry;
- (d) “Level of Government” indicates the level of government adopting or maintaining the listed measures;
  - (e) “Measures” identifies the laws or other measures for which the entry is made. A measure cited in the “Measures” element:
    - (i) means the measure as amended, continued, or renewed as of the date of entry into force of this Agreement; and
    - (ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure; and
  - (f) “Description” sets out the non-conforming aspects of the existing measure for which the entry is made.
4. Each entry in Section B sets out the following elements:
- (a) “Sector” refers to the sector for which the entry is made;
  - (b) “Sub-Sector”, where referenced, refers to the specific sub-sector for which the entry is made;
  - (c) “Obligations Concerned” specifies the obligations referred to in paragraph 2 that, pursuant to Article 11.19 (Non-Conforming Measures – Financial Services), do not apply to the sectors, sub-sectors, or activities listed in the entry;
  - (d) “Level of Government” indicates the level of government adopting or maintaining the listed measures;
  - (e) “Description” sets out the scope or nature of the sectors, sub-sectors, or activities covered by the entry; and
  - (f) “Existing Measures”, where provided, identifies for transparency purposes, a non-exhaustive list of existing measures that apply to the sector, sub-sector, or activities covered by the entry.
5. For entries in Section A, all elements of the entry shall be considered in their totality for the purposes of its interpretation.
6. For entries in Section B, where an inconsistency arises in relation to the interpretation of an entry, the “Description” element of the entry shall prevail to the extent of the inconsistency.

7. To clarify New Zealand's commitment with respect to Article 11.6 (Market Access – Financial Services), juridical persons supplying financial services and constituted under the laws of New Zealand are subject to non-discriminatory limitations on juridical form.<sup>1</sup>
8. Subparagraph 1(c) of Article 11.19 (Non-Conforming Measures – Financial Services) shall not apply to a non-conforming measure relating to subparagraph (1)(e) of Article 11.6 (Market Access – Financial Services).
9. For transparency purposes and in accordance with Article 11.19 (Non-Conforming Measures – Financial Services), non-conforming measures set out in New Zealand's Schedules to Annex I (Cross-Border Trade in Services and Investment Non-Conforming Measures) and Annex II (Cross-Border Trade in Services and Investment Non-Conforming Measures) as not subject to Article 9.5 (National Treatment – Cross-Border Trade in Services), Article 14.6 (National Treatment – Investment), or Article 14.9 (Senior Management and Boards of Directors – Investment), including those entries that apply to all sectors or financial services, shall be treated as non-conforming measures not subject to Article 11.5 (National Treatment – Financial Services) and Article 11.10 (Senior Management and Boards of Directors – Financial Services), to the extent that the measure, sector, subsector, or activity set out in the entry is covered by Chapter 11 (Financial Services).
10. For greater certainty, the measures that New Zealand may take in accordance with Article 11.4 (Prudential Exception – Financial Services), provided they meet the requirements of that Article, include those governing:
  - (a) licencing, registration, or authorisation as a financial institution or cross-border financial service supplier, and corresponding requirements;
  - (b) juridical form including legal incorporation requirements for systemically important financial institutions and limitations on deposit-taking activities of branches of overseas banks, and corresponding requirements;
  - (c) requirements pertaining to directors and senior management of a financial institution or cross-border financial service supplier;
  - (d) capital, related party exposures, liquidity, disclosure, and other risk management requirements;
  - (e) payment, clearance, and settlement systems (including securities systems);

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<sup>1</sup> For example, partnerships and sole proprietorships are generally not acceptable juridical forms for authorised depository institutions in New Zealand. These Headnotes are not in itself intended to affect, or otherwise limit, a choice by a financial institution of the other Party between branches or subsidiaries.

- (f) anti-money laundering and countering financing of terrorism; and
- (g) distress or failure of a financial institution or cross-border financial service supplier.

## Section A

### Entry No. III-A-1

<b>Sector</b>	Financial Services
<b>Sub-Sector</b>	Insurance and insurance-related services
<b>Obligations Concerned</b>	National Treatment Market Access
<b>Measures</b>	<i>Commodity Levies Act 1990</i> <i>Commodity Levies Amendment Act 1995</i> <i>Kiwifruit Industry Restructuring Act 1999</i> and regulations
<b>Description</b>	<p>The provision of crop insurance for wheat can be restricted in accordance with the <i>Commodity Levies Amendment Act 1995</i> (“CLA”). Section 4 of the CLA provides for the use of funds derived under a mandatory commodity levy on wheat growers to be used for the purpose of funding a scheme insuring wheat crops against damage or loss.</p> <p>The provision of insurance intermediation services related to the export of kiwifruit can be restricted in accordance with the <i>Kiwifruit Industry Restructuring Act 1999</i> and regulations relating to the export marketing of kiwifruit.</p>

**Entry No. III-A-2**

<b>Sector</b>	Financial services
<b>Sub-Sector</b>	Banking and other financial services (excluding insurance)
<b>Obligations Concerned</b>	Senior Management and Boards of Directors
<b>Measures</b>	<i>KiwiSaver Act 2006</i> <i>Financial Markets Conduct Act 2013</i>
<b>Description</b>	The fund manager of a registered KiwiSaver scheme and the corporate trustee of a registered KiwiSaver scheme that is a restricted scheme must both have at least one director that is a New Zealand resident for tax purposes.

## Section B

### Entry No. III-B-1

<b>Sector</b>	Financial Services
<b>Sub-Sector</b>	Insurance and insurance-related services
<b>Obligations Concerned</b>	National Treatment Senior Management and Boards of Directors Market Access
<b>Description</b>	<p>New Zealand reserves the right to adopt or maintain any measure with respect to the supply of:</p> <p>(a) compulsory social insurance for personal injury caused by accident, work related gradual process disease and infection, and treatment injury; and</p> <p>(b) disaster insurance for residential property for replacement cover up to a defined statutory maximum.</p>
<b>Existing Measures</b>	<i>Accident Compensation Act 2001</i> <i>Earthquake Commission Act 1993</i>

**Entry No. III-B-2**

<b>Sector</b>	Financial Services
<b>Sub-Sector</b>	Banking and other financial services (excluding insurance)
<b>Obligations Concerned</b>	National Treatment Market Access Senior Management and Boards of Directors
<b>Description</b>	New Zealand reserves the right to adopt or maintain any measures with respect to the establishment or operation of any unit trust, market, or other facility established for the trade in, or allotment or management of, securities in the co-operative dairy company arising from the amalgamation authorised under the <i>Dairy Industry Restructuring Act 2001</i> (or any successor body).



**Entry No. III-B-3**

<b>Sector</b>	Financial Services
<b>Sub-Sector</b>	Insurance and insurance-related services
<b>Obligations Concerned</b>	National Treatment Market Access
<b>Description</b>	<p>New Zealand reserves the right to adopt or maintain any measure with respect to insurance and insurance-related services for industry marketing boards established for products under the following CPC codes:</p> <ul style="list-style-type: none"> <li>(a) 01, except 01110 and 01340 (products of agriculture, horticulture, and market gardening, except wheat and kiwifruit);</li> <li>(b) 02 (live animals and animal products);</li> <li>(c) 211, except 21111, 21112, 21115, 21116 and 21119 (meat and meat products, except beef, sheep meat, poultry, and offal);</li> <li>(d) 213-216 (prepared and preserved vegetables, fruit juices and vegetable juices, prepared and preserved fruit and nuts, animal and vegetable oils and fats);</li> <li>(e) 22 (dairy);</li> <li>(f) 2399 ('other food products'); and</li> <li>(g) 261, except for 2613, 2614, 2615, 02961, 02962 and 02963 (natural textile fibres prepared for spinning, excluding wool).</li> </ul>
<b>Existing Measures</b>	<i>Commodity Levies Act 1990</i>

**Entry No. III-B-4**

<b>Sector</b>	Financial Services
<b>Sub-Sector</b>	All
<b>Obligations Concerned</b>	Senior Management and Boards of Directors
<b>Description</b>	<p>New Zealand reserves the right to adopt or maintain any measure that requires all companies to have one or more directors, of whom at least one must:</p> <ul style="list-style-type: none"><li>(a) live in New Zealand; or</li><li>(b) live in an “enforcement country”<sup>2</sup> and be a director of a company that is registered (except as the equivalent of an overseas company) in that enforcement country.</li></ul>

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<sup>2</sup> “enforcement country” means a country that has an agreement with New Zealand that allows for the recognition and enforcement in that country of New Zealand judgements imposing regulatory regime criminal fines.

**Entry No. III-B-5**

<b>Sector</b>	Financial Services
<b>Sub-Sector</b>	All
<b>Obligations Concerned</b>	Market Access National Treatment
<b>Description</b>	<p>New Zealand reserves the right to adopt or maintain any measure with respect to:</p> <ul style="list-style-type: none"> <li>(a) the provision of public law enforcement and correctional services; and</li> <li>(b) the following, to the extent that they are social services established for a public purpose: <ul style="list-style-type: none"> <li>(i) childcare;</li> <li>(ii) health;</li> <li>(iii) income security and insurance;</li> <li>(iv) public education;</li> <li>(v) public housing;</li> <li>(vi) public training;</li> <li>(vii) public transport;</li> <li>(viii) public utilities;</li> <li>(ix) social security and insurance; and</li> <li>(x) social welfare.</li> </ul> </li> </ul> <p>For Market Access (Cross-Border Trade in Services), the scope of this entry is limited to the sector of Financial Services.</p>

**Entry No. III-B-6**

<b>Sector</b>	Financial Services
<b>Sub-Sector</b>	All
<b>Obligations Concerned</b>	National Treatment
<b>Description</b>	New Zealand reserves the right to adopt or maintain any measure that provides a subsidy or grant to any entities that are controlled, or wholly or partially owned, by the government that may conduct financial operations, including measures taken in relation to the privatisation of such entities.

**Entry No. III-B-7**

<b>Sector</b>	Financial Services
<b>Sub-Sector</b>	All
<b>Obligations Concerned</b>	National Treatment
<b>Description</b>	<p>New Zealand reserves the right to adopt or maintain any measure that provides a subsidy or grant to an entity that is systemically important to the infrastructure of the financial market, including:</p> <ul style="list-style-type: none"><li>(a) exchanges;</li><li>(b) clearing and settlement facilities; and</li><li>(c) market operators.</li></ul>

**Entry No. III-B-8**

<b>Sector</b>	Financial Services
<b>Sub-Sector</b>	Banking and other financial services (excluding insurance)
<b>Obligations Concerned</b>	National Treatment Market Access
<b>Description</b>	<p>New Zealand reserves the right to adopt or maintain any measure with respect to the establishment or operation of exchanges, securities markets, or futures markets.</p> <p>For greater certainty, this entry does not apply to financial institutions participating in, or seeking to participate in, any such exchange, securities market, or futures market.</p>

## ANNEX III

### FINANCIAL SERVICES NON-CONFORMING MEASURES

#### Schedule of the United Kingdom

##### Headnotes

1. The commitments of the United Kingdom under Chapter 11 (Financial Services) are undertaken subject to these Headnotes and the Schedule below.
2. The Schedule below sets out:
  - (a) in Section A, under Article 11.19 (Non-Conforming Measures – Financial Services), the entries made by the United Kingdom with respect to existing measures that do not conform with obligations imposed by:
    - (i) Article 11.5 (National Treatment – Financial Services);
    - (ii) Article 11.6 (Market Access – Financial Services); or
    - (iii) Article 11.10 (Senior Management and Boards of Directors – Financial Services); and
  - (b) in Section B, under Article 11.19 (Non-Conforming Measures – Financial Services), the entries made by the United Kingdom with respect to existing or future measures that do not conform with obligations imposed by:
    - (i) Article 11.5 (National Treatment – Financial Services);
    - (ii) Article 11.6 (Market Access – Financial Services); or
    - (iii) Article 11.10 (Senior Management and Boards of Directors – Financial Services).
3. Each entry in Section A sets out the following elements:
  - (a) “Sector” refers to the sector for which the entry is made;
  - (b) “Sub-Sector”, where referenced, refers to the specific sub-sector for which the entry is made;
  - (c) “Obligations Concerned” specifies the obligations referred to in paragraph 2 that, pursuant to Article 11.19 (Non-Conforming Measures – Financial Services), do not apply to the listed measure or measures covered by the entry;

- (d) “Level of Government” indicates the level of government adopting or maintaining the listed measures;
  - (e) “Measures” identifies the laws or other measures for which the reservation is taken. A measure cited in the “Measures” element:
    - (i) means the measure as amended, continued, or renewed as of the date of entry into force of this Agreement; and
    - (ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure; and
  - (f) “Description” sets out the non-conforming aspects of the existing measure for which the reservation is taken.
4. Each entry in Section B sets out the following elements:
- (a) “Sector” refers to the sector for which the reservation is made;
  - (b) “Sub-Sector”, where referenced, refers to the specific sub-sector for which the entry is made;
  - (c) “Obligations Concerned” specifies the obligations referred to in paragraph 2 that, pursuant to Article 11.19 (Non-Conforming Measures – Financial Services), do not apply to the sectors, sub-sectors, or activities listed in the entry;
  - (d) “Level of Government” indicates the level of government adopting or maintaining the listed measure;
  - (e) “Description” sets out the scope or nature of the sectors, sub-sectors, or activities covered by the entry; and
  - (f) “Existing Measures”, where provided, identifies for transparency purposes, a non-exhaustive list of existing measures that apply to the sector, sub-sector, or activities covered by the entry.
5. For greater certainty, measures falling under exceptions applicable to this Chapter, such as those in Article 11.3 (Specific Exceptions – Financial Services) and Article 11.4 (Prudential Exception – Financial Services), need not be scheduled. The listing of a measure is without prejudice to whether that measure or any other measure is covered by exceptions such as those in Article 11.3 (Specific Exceptions – Financial Services) and Article 11.4 (Prudential Exception – Financial Services).
6. For greater certainty, for prudential reasons within the context of Article 11.4 (Prudential Exception – Financial Services), the United Kingdom shall not



be prevented from applying measures to branches established in the United Kingdom by enterprises incorporated in New Zealand.

7. In the interpretation of an entry in Section B, all elements of the entry shall be considered. The “Description” element shall prevail over all other elements.

**Section A**

NONE

## Section B

### Entry No. III-B-1

Sector – Sub-sector	Financial Services – Banking and other financial services (excluding insurance)
Obligations Concerned	Market Access
Level of Government	Central
Description	Only firms having their place of business in the United Kingdom can act as depositaries of the assets of investment funds. The establishment of a specialised management company, incorporated in the United Kingdom and having a place of business in the United Kingdom, is required to perform the activities of management of common funds, including unit trusts, and investment companies.

**Entry No. III-B-2**

Sector	All Financial Services
Obligations Concerned	Market Access
Level of Government	Central
Description	A financial service supplier, other than a branch, when establishing in the United Kingdom may be required to adopt a specific legal form, on a non-discriminatory basis.

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