



NEW ZEALAND
FOREIGN AFFAIRS & TRADE
Manatū Aorere

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Protocol for the Accession of the United Kingdom to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership

National Interest Analysis



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Frequently Used Acronyms and Terms

APEC	Organisation for Asia Pacific Economic Cooperation
B2C	Business-to-consumer electronic commerce transactions
C2C	Consumer-to-consumer electronic commerce transactions
CPC	Central Product Classification system. A classification system based on the physical characteristics of goods or on the nature of the services rendered.
CPTPP	Comprehensive and Progressive Agreement for Trans-Pacific Partnership
Customs	The New Zealand Customs Service
CVA	Customs Valuation Agreement
DEPA	The Digital Economy Partnership Agreement
ECA	Environment Cooperation Agreement
EEE MRA	The Mutual Recognition Arrangement on Electrical and Electronic Equipment
FTA	Free Trade Agreement
GATS	Global Agreement on Trade in Services (The WTO Agreement covering trade in services)
GATT	Global Agreement on Tariffs and Trade 1994 (The WTO Agreement covering trade in goods)
GDP	Gross Domestic Product
GPA	WTO Agreement on Government Procurement
HS	The Harmonized Commodity Description and Coding System (Harmonised System, HS), a near-universal method for classifying international trade
ICT	Information and communication technology
INZ	Immigration New Zealand
JEVS	Joint Electronic Verification System
MBIE	The Ministry of Business, Innovation and Employment
MEA	Multilateral Environment Agreement
MFAT	The Ministry of Foreign Affairs and Trade
MPI	The Ministry for Primary Industries
MFN	Most-favoured-nation, a requirement that preferential treatment extended to one country (the “most favoured”) be extended to others.
NIA	National Interest Analysis
NTM	Non-tariff measure
NZTE	New Zealand Trade and Enterprise
OECD	Organisation for Economic Co-operation and Development
RCEP	Regional Comprehensive Economic Partnership Agreement
CEP	The New Zealand-Singapore Closer Economic Partnership
SMEs	Small and medium-sized enterprises
SPAM	Unsolicited commercial electronic messages
TBT	Technical Barriers to Trade
TBT Agreement	WTO Agreement on Technical Barriers to Trade
TFA	WTO Agreement on Trade Facilitation
TNF	Trade Negotiations Fund. A New Zealand government inter-agency fund for the negotiation of Free Trade Agreements and to maximize the scope for New Zealand to enter and to gain from these agreements.
TPP	The original Trans Pacific Partnership Agreement
WTO	World Trade Organization
WCO	World Customs Organization

1 Executive Summary

Background

The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) has been in force since 30 December 2018. On 1 February 2021 the UK formally requested to commence negotiations on acceding to the CPTPP. On 2 June 2021, CPTPP Parties agreed to commence accession negotiations with the UK. Substantive conclusion of negotiations was jointly announced by CPTPP Ministers and the United Kingdom on 31 March 2023.

The result of the negotiations is the *Protocol for the Accession of the United Kingdom of Great Britain and Northern Ireland to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership* (the Protocol). This is a treaty-level instrument that will amend the CPTPP to include the United Kingdom in the Agreement. The original CPTPP rules have not been subject to further negotiation as part of the UK's accession process, and will not change as a result of the UK's accession to the Agreement.

The Protocol sets out the obligations that will apply between the UK and the original CPTPP Parties, when the Protocol enters into force. The UK's accession to CPTPP will mean that the obligations and other commitments that the original CPTPP Parties made to each other under the CPTPP Agreement will be extended to the UK. None of New Zealand's CPTPP obligations and none of the exceptions or other flexibilities in CPTPP that New Zealand relies on will be changed as a result of the UK's accession to CPTPP.

Reasons for New Zealand to become a Party to the Protocol

New Zealand has all along supported growing the CPTPP through accession by those economies willing to meet the Agreement's high standards. Throughout the accession process, the UK had to demonstrate that it would comply with existing CPTPP rules and provide commercially meaningful market access offers of the highest standard on goods, services, investment, financial services, government procurement, state-owned enterprises and temporary entry for business persons.

As a G7 member, the world's sixth-largest economy, and as a country committed to high standards and rules-based trade, the UK's membership will significantly benefit the CPTPP, and the prosperity of our region.

The principal gains for New Zealand in signing the Accession Protocol are:

- **UK inclusion in regional architecture:** UK inclusion in CPTPP will advance New Zealand's wider goal of encouraging major powers to engage constructively in regional mechanisms in the Indo-Pacific. It is in New Zealand's interests to encourage and support greater economic and political engagement in our region by an influential global partner such as the UK.
- **Protecting New Zealand's interests:** Important provisions for New Zealand in the original CPTPP text remain untouched by the UK's accession, including The Treaty of Waitangi exception. The CPTPP Investor State Dispute Settlement (ISDS) provisions have also been carved out to prevent their application between New Zealand and the UK via a side letter.

- **Protecting New Zealand’s strategic interests:** The UK’s accession to CPTPP will help further boost our trade and economic ties, and embed our position as a close economic partner to the UK and CPTPP Parties. It also supports the international rules-based trading system on which New Zealand relies.
- **Increasing options for New Zealand business:** UK accession to CPTPP advances the government’s priority to pursue high quality and comprehensive trade agreements that diversify trade relationships. The inclusion of the UK into CPTPP provides another pathway for New Zealand exporters and business people to access the UK market, consistent with outcomes on tariff liberalisation agreed to in the NZ-UK FTA, providing useful additional flexibility and more options for diversification.

The reasons for New Zealand entering into the Protocol are further expanded on in Section 3 of this NIA. Detailed commentary on the advantages and disadvantages of specific commitments are outlined in Section 4.

The Protocol confers new legal obligations on New Zealand in some areas, detailed in Section 5 of this NIA. In order to implement New Zealand’s obligations under the Protocol, minor amendments are required to the Tariff (Specified CPTPP Parties) Order 2018 and the Overseas Investment Regulations 2005.

Economic, social, cultural and environmental effects

While the Protocol will introduce new treaty level commitments, these all sit within New Zealand’s existing domestic policy and legislative settings and established FTA practice. This means the Protocol is not expected to impact current policy space. The flexibilities and safeguards secured in CPTPP, which preserve the Government’s right to regulate for legitimate policy purposes, will also apply to the UK’s accession Protocol. The Protocol does not alter the original text of the CPTPP, therefore the broader effects of the Agreement as detailed in the National Interest Analysis¹ for the Comprehensive and Progressive Agreement for Trans-Pacific Partnership remain.

Economic effects

Trade makes a significant contribution to New Zealand’s economic performance: one in four jobs depend on exports². FTAs like CPTPP help New Zealand exporters to remain competitive by providing access into larger markets, enabling companies to benefit from economies of scale and specialise in the areas in which they have an advantage, and improving the domestic economy by allowing for access to more knowledge and resources, improved technology and foreign investment, which help boost productivity and income for New Zealand firms.

The economic impact of UK Accession to CPTPP taken alone will be minimal, as it does not introduce significant additional market access over and above the NZ-UK FTA. This is because, with the NZ-UK FTA and the UK’s accession to CPTPP concluded in quick succession, in 2022 and 2023 respectively, the outcomes of the two agreements form a package. New Zealand and the United Kingdom both understood that reaching a high-quality comprehensive bilateral free trade agreement was a necessary precursor to UK CPTPP membership. This is reflected in the text of NZ-UK FTA Agreement

¹ Comprehensive and Progressive Agreement for Trans-Pacific Partnership - National Interest Analysis (Page 205).

² Statistics New Zealand.

in Principle in October 2021 that New Zealand would not seek additional tariff liberalisation in the UK's accession to CPTPP than agreed under the NZ-UK FTA. The NZ-UK FTA delivers some of the best goods market access outcomes that New Zealand has ever secured; over time eliminating 100% of UK tariffs into the UK's \$3 trillion consumer market. Economic modelling assessed that once fully implemented, the NZ-UK FTA would boost New Zealand's annual real GDP by between NZ\$710 million and NZ\$811 million (0.10% - 0.12%) relative to the 2040 modelled baseline.

Social effects

The Protocol is not expected to have an impact on New Zealand's ability to develop social policy. No significant other health, immigration or human rights implications have been identified.

Effects on Māori

When drafting and negotiating the Protocol, care has been taken to ensure there are no commitments that would impair the Crown's ability to fulfil its obligations to Māori. None of New Zealand's CPTPP obligations and none of the exceptions or other flexibilities in CPTPP that New Zealand relies on will be changed as a result of the UK's accession to CPTPP. This includes the Treaty of Waitangi exception which provides clarity that the Crown will be able to continue to meet its obligations to Māori, including under the Treaty of Waitangi.

Environmental effects

The Protocol will not inhibit the New Zealand Government's ability to regulate for environmental protection. The CPTPP contains general exceptions that are consistent with those provided for in existing international agreements (GATT and GATS) which are designed to provide policy space for Governments to regulate for legitimate public policy purposes, such as the protection of natural resources and the protection of human, animal or plant life or health.

Costs

The implementation of the Protocol will have limited fiscal implications. The costs of implementing the Protocol are expected to be modest compared to the implementation of other FTA treaty actions. Because this is an accession to an existing FTA there are not expected to be significant changes to agencies' processes in implementing the UK's accession to CPTPP. Any additional resourcing implications from new obligations will be covered through departmental baselines and will not require additional resourcing.

Consultation

MFAT has undertaken a range of consultation activities with key stakeholders including business and Treaty partner representative groups throughout the negotiation process. Consultation has broadly shown support for UK accession to CPTPP, and has provided useful input into negotiation priorities.

Like all multilateral treaties, the Protocol will be subject to the Parliamentary Treaty Examination process prior to entry into force.

2 Nature and timing of the proposed treaty action

This NIA considers the *Protocol for the Accession of the United Kingdom of Great Britain and Northern Ireland to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership* (the Protocol). The Protocol sets out the conditions for the Accession of the United Kingdom of Great Britain and Northern Ireland (UK) to the CPTPP, which was signed on 8 March 2018 and entered into force on 30 December 2018.

The CPTPP is open to accession by any State or separate customs territory, subject to such terms and conditions as may be agreed between the Parties and that State or separate customs territory, as set out in Article 5 of the CPTPP. On 1 February 2021 the UK formally requested to commence negotiations on acceding to the CPTPP. On 2 June 2021, CPTPP Parties agreed to commence accession negotiations with the UK. Substantive conclusion of negotiations was jointly announced on 31 March 2023.

The Protocol is a treaty in its own right, which sets out the terms and conditions of the UK's accession to CPTPP. When the Protocol enters into force the UK will become a Party to CPTPP and the Protocol (including its schedules) will become an integral part of the CPTPP Agreement. The provisions of the Protocol will, in effect, become part of the CPTPP Agreement. The CPTPP to which the United Kingdom accedes shall be the version of CPTPP that is in force on the day on which the UK becomes a Party. In other words, the UK is accepting all of the CPTPP Commission's decisions and updates to CPTPP since the entry into force of CPTPP.

The Protocol sets out the obligations that will apply between the UK and the original CPTPP Parties, when the Protocol enters into force. The UK's accession to CPTPP will mean that the obligations and other commitments that the original CPTPP Parties have made to each other under the CPTPP Agreement will be extended to the UK. None of New Zealand's CPTPP obligations and none of the exceptions or other flexibilities in CPTPP that New Zealand relies on will be changed as a result of the UK's accession to CPTPP.

This NIA deals with the rights and obligations in the Protocol and it does not discuss in detail the rights and obligations that continue to apply to the Parties under the existing CPTPP Agreement. For detailed information about the rights and obligations in the CPTPP Agreement, please see the NIA for that Agreement³.

The Protocol includes detailed entry into force provisions (Article 20). In summary, the Protocol will enter into force 60 days after the UK and all Parties have notified the Depositary of the completion of their respective applicable legal procedures for entry into force of the Protocol. If that process takes longer than 15 months after signature, from that point in time, the Protocol may enter into force 60 days after the UK and at least six Parties to the CPTPP have notified the Depositary of the completion of their respective applicable legal procedures.

For any Party to the CPTPP that has signed this Protocol that requires a longer period of time to complete its applicable legal procedures, the Protocol will enter into force for that Party 60 days after

³ Comprehensive and Progressive Agreement for Trans-Pacific Partnership - National Interest Analysis.

the date on which that Party has notified the Depositary of the completion of its applicable legal procedures for entry into force of the Protocol.

The Protocol does not apply to Tokelau, the Cook Islands or Niue. Therefore, consultation regarding the Protocol with Tokelau, the Cook Islands or Niue is not required.

3 Reasons for New Zealand becoming a Party to the Treaty

The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) is an important trade policy and geo-strategic instrument for New Zealand. New Zealand always envisaged that CPTPP would expand to include economies willing to meet its high ambition levels – exemplifying New Zealand’s policy of ‘open plurilateralism’. The UK’s accession will mean CPTPP Parties would constitute 30% of New Zealand’s two-way goods trade, entrenching it as New Zealand’s largest trading bloc. A broader membership sharing the CPTPP’s goals would ensure more secure, freer-flowing trade and investment access to a more diverse range of markets. This would open additional economic pathways and allow businesses of all sizes to seek new opportunities and reduce risk.

3.1 Strategic benefits of UK inclusion in regional architecture

The UK’s accession to CPTPP will advance New Zealand’s wider goal of encouraging major powers, willing and able to uphold the Agreement’s high standards, to engage constructively in regional mechanisms in the Indo-Pacific. CPTPP accession has geopolitical significance for the UK, embedding it in the Indo-Pacific regional architecture. It is in New Zealand’s interest to encourage and support greater economic and political engagement in our region by an influential global partner such as the UK.

CPTPP is the world’s premier open plurilateral free trade agreement, with high standards and broad membership. There are currently 11 members, including New Zealand, Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, Peru, Singapore, and Viet Nam. Together these economies represent around 13 percent of global gross domestic product – a total of over NZ\$18 trillion.

CPTPP is also a cornerstone in the Government’s current effort to create strategic depth in our trade relationships. Recent experiences have highlighted the need to have a well-diversified range of trading partners to build resilience while responding to shocks such as COVID-19 shutdowns, supply chain disruptions, and geopolitical tensions. New Zealand’s two-way goods trade with CPTPP makes it our largest goods trading partner when taken as a bloc (28 percent of total two-way trade) exceeding that of China and Hong Kong (26 percent). The UK’s accession to CPTPP will increase CPTPP’s share to 30% (\$46 billion) – with New Zealand enjoying tariff elimination for all New Zealand goods exports to the UK through both the NZ-UK FTA and the UK’s CPTPP accession.

Given CPTPP’s importance, New Zealand has always supported its expansion through accession by those economies willing to meet the Agreement’s high standards. Accessions increase the value of the Agreement to New Zealand business, advance New Zealand’s goal of strengthening rules-based trade in the Indo-Pacific, and demonstrate the ongoing importance of the Agreement as a critical piece of regional trade architecture.

New Zealand has specific trade policy and geostrategic interests in the UK’s accession to CPTPP. As a G7 member, the world’s sixth-largest economy, and as a country committed to high standards and rules-based trade, the UK’s membership will significantly benefit CPTPP and the prosperity of our region.

3.2 Increasing options for New Zealand business

UK accession to CPTPP advances the government's priority to pursue high quality and comprehensive trade agreements that diversify trade relationships. The UK is the world's 6th-largest economy and New Zealand's 7th largest trading partner, with two-way goods and services trade worth NZ\$5.3 billion⁴.

The inclusion of the UK into CPTPP also supplements the bilateral NZ-UK FTA, in force since 31 May 2023, providing another pathway for New Zealand exporters and business people to access the UK market, giving traders useful additional flexibility – including through the ability to incorporate inputs from across the CPTPP membership while remaining eligible for preferential tariffs under the Agreement, as well as faster tariff elimination for some products. The UK's commitments provide greater certainty and predictability, making it easier for New Zealand exporters to identify and take up new opportunities in the UK's valuable NZ\$3 trillion consumer market. Taken together, the UK's commitments under both FTAs give New Zealand companies more options to diversify, and hedge against over-reliance on a small number of markets. The UK has undertaken enhanced commitments in certain areas of interest for New Zealand including in audio-visual services and with respect to most-favoured nation treatment, limiting the circumstances in which future agreements made by the UK may be exempt from most-favoured nation commitments. Additionally, in the Temporary Entry for Business Persons chapter, the UK's additional commitments pave the way for New Zealand to receive more favourable treatment if we were to confer similar treatment to the UK during any prospective upgrade process in the future.

3.3 New Zealand's interests preserved

The original CPTPP text was not open for negotiation during the accession process. Rather, the onus was on the UK to demonstrate to CPTPP Parties that it could comply with all the existing CPTPP obligations and that the commitments it would make on access for goods, services, investment, government procurement and temporary entry for business persons would meet CPTPP's existing high standards.

On 31 March 2023, CPTPP Parties acknowledged that the UK had met the necessary standards for accession to the CPTPP by jointly announcing substantive conclusion of accession negotiations. Other CPTPP Parties are currently undertaking the domestic processes necessary to allow for Signature of the Accession Protocol.

The original CPTPP text remains untouched by the UK's accession. This includes important provisions for New Zealand, including The Treaty of Waitangi exception, which protects the Government's ability to adopt policies that fulfil its obligations to Māori, including under the Treaty of Waitangi.

The CPTPP Investment Chapter includes recourse to an Investor State Dispute Settlement. Since 2017 New Zealand has had a policy of seeking to exclude ISDS from future trade agreements. Consistent with this policy, New Zealand has secured a treaty-status side letter with the UK to carve out the application of ISDS between us by excluding the right for UK investors to take a claim directly against

⁴ 2022 calendar year.

New Zealand, and New Zealand investors from taking a claim directly against the UK. New Zealand has previously concluded similar letters with CPTPP Parties Australia, Chile, Brunei Darussalam, Malaysia, Peru and Viet Nam.

3.4 Setting a high quality precedent for accession

In February 2021, the UK became the first economy since the CPTPP entered into force on 31 December 2018 to formally request accession. With other economies having subsequently indicated interest in accession, the UK accession process provides an important opportunity for the CPTPP Parties to set a high quality accession precedent that furthers the vision of promoting economic integration and cooperation in the Indo-Pacific.

4 Advantages and disadvantages to New Zealand of the treaty entering into force and not entering into force for New Zealand

This section of the NIA outlines the advantages and disadvantages for New Zealand becoming a party to the Protocol. It does not repeat the advantages and disadvantages to New Zealand of the CPTPP Agreement or the NZ-UK FTA. The section sets out the issues where the UK's accession to CPTPP makes a material difference to the advantages and disadvantages to New Zealand of the CPTPP Agreement and the NZ-UK FTA. That is because none of New Zealand's CPTPP obligations and none of the exceptions or other flexibilities in CPTPP that New Zealand relies on will be changed as a result of the UK's accession to CPTPP (as noted above). The Protocol sets out the obligations that will apply between the UK and the original CPTPP Parties, when the Protocol enters into force. The UK's accession to CPTPP will mean that the obligations and other commitments that the original CPTPP Parties have made to each other under the CPTPP Agreement will be extended to the UK.

For detailed information about the advantages and disadvantages to New Zealand of the CPTPP Agreement and the advantages and disadvantages to New Zealand of the NZ-UK FTA, please see the relevant NIA for each of those agreements.

4.1 Trade in Goods

The goods market access outcomes of the UK's accession to CPTPP, eliminating all tariffs on New Zealand export interests, complement those of the NZ-UK FTA. Under the NZ-UK FTA, 100% of UK tariffs will be eliminated (97% immediately on entry into force of the Agreement) into the UK's \$3 trillion consumer market. 99.5% of New Zealand trade enters duty-free from day one through tariff elimination or duty-free quotas, and all remaining tariffs and quotas are removed over transition periods of 3-15 years.

With the NZ-UK FTA and the UK's accession to CPTPP concluded in quick succession, in 2022 and 2023 respectively, the outcomes of the two agreements form a package. New Zealand and the United Kingdom both understood that reaching a high-quality comprehensive bilateral free trade agreement was a necessary precursor to UK CPTPP membership. Accordingly, in reaching Agreement in Principle on the NZ-UK FTA, New Zealand agreed it would not seek additional tariff liberalisation through the UK's accession to CPTPP over and above what was arrived at in the NZ-UK FTA. Accordingly, the benefits to New Zealand of the UK's accession to CPTPP need to take both agreements into consideration.

Independent economic modelling undertaken to assess the impact of the NZ-UK FTA estimated that once fully implemented, it would boost New Zealand's annual real GDP by between NZ\$710 million and NZ\$811 million (0.10% - 0.12%) relative to the 2040 modelled baseline.

4.1.1 Advantages

Existing rules and Parties' schedules

The National Treatment and Market Access for Goods chapter sets out the rules each CPTPP Party applies for qualifying imports from other CPTPP Parties, including the elimination of tariffs (“customs duties”). From the moment of the UK’s accession to CPTPP, these rules would also apply to and by existing Parties in relation to the UK.

Each CPTPP Party agreed a “schedule” of tariff commitments that is included as an Annex to this chapter. This is standard practice in FTAs. Each schedule sets out the full list of national tariff lines of that Party, specifying the preferential rate that will apply to qualifying imports from other CPTPP Parties. Most CPTPP Parties apply the same treatment to all other CPTPP members on each tariff line, but in those cases where a Party applies differentiated treatment(s) on the same tariff line dependent on which CPTPP member is exporting the product (called “tariff differentials”), this is set out clearly in that Party’s schedule. In nearly all cases, CPTPP Parties have extended their existing schedules to the United Kingdom. Any UK-specific treatments by existing Parties (i.e. tariff differentials applying to the UK) are annexed to the UK’s Protocol of Accession to CPTPP.

The UK’s CPTPP tariff schedule

The United Kingdom’s CPTPP tariff schedule is also annexed to the UK’s Protocol of Accession to CPTPP. The UK’s tariff schedule in CPTPP eliminates tariffs on 100% of New Zealand’s goods export interests, meaning New Zealand has the best treatment of any CPTPP Party.⁵

The United Kingdom’s CPTPP tariff schedule provides common tariff treatment for all CPTPP Parties on 98.1% of tariff lines (93.9% at entry into force). These tariff lines cover approximately 99% of the UK’s existing imports from CPTPP Parties (94% from entry into force). The UK’s schedule provides differentiated treatment by Party for the remaining tariff lines. On 0.45% of tariff lines, tariffs are eliminated for all Parties, albeit over differentiated timeframes. On all but one⁶ of the remaining tariff lines (1.44%), the UK eliminates tariffs for a subset of Parties, including New Zealand, that already had secured such outcomes through a pre-existing FTA (in New Zealand’s case, the NZ-UK FTA), and provides other Parties shared quota access (or for a small number of Parties on some tariff lines of no trade interest, no additional access). This underlines the mutually reinforcing nature of both the NZ-UK FTA and the UK’s accession to CPTPP – where the high-quality outcomes secured in the NZ-UK FTA were in part because the UK was focused on securing support from New Zealand for its accession to CPTPP.

Overall, the UK’s tariff schedule eliminates tariffs for all CPTPP Parties on 98.55% of tariff lines, covering approximately 99.85% of the UK’s existing imports from CPTPP Parties, and provides commercially meaningful new market access through quotas for those Parties not subject to tariff elimination.⁷ This sets a strong precedent for future accessions, demonstrating the highest standard of market access required to accede to CPTPP.

⁵ The UK’s CPTPP schedule eliminates tariffs for New Zealand on all but one tariff line – bananas, which are not of New Zealand export interest.

⁶ The sole tariff line not subject to tariff elimination is for bananas, for which the UK reduced but did not eliminate tariffs.

⁷ Products which are subject to tariff elimination for only a subset of Parties, including New Zealand, include certain animal products (beef, chicken, eggs, pork, sheep meat), rice, and sugar.

NZ-UK FTA vs. UK's CPTPP schedule: goods outcomes

Once the UK's accession to CPTPP enters into force between the UK and New Zealand, New Zealand traders will have the choice of using either the NZ-UK FTA or CPTPP, based on whatever factors they prioritise. This may provide useful additional flexibility for some traders, for example should they wish to cumulate inputs from multiple CPTPP Parties, a key benefit of the CPTPP.

For traders importing from the UK into New Zealand, the tariff outcomes will be identical from day one. For traders exporting from New Zealand to the UK, there will be no tariff differences once both agreements are fully implemented, as all UK tariffs on New Zealand exports will be eliminated over time. There will, however, be some tariff differences over the transition period until all tariffs are eliminated, as set out below.

The UK's CPTPP tariff schedule provides tariff elimination immediately at entry into force on 94% of tariff lines for products originating from New Zealand (slightly less than the NZ-UK FTA's 97%). For the remaining 6% of tariff lines, treatment is as follows:

- 1.5% of tariff lines: the UK's CPTPP tariff schedule provides New Zealand better outcomes than the NZ-UK FTA, through eliminating tariffs at entry into force or over a shorter period than under the NZ-UK FTA. This covers products such as: certain fruits and vegetables, some processed food, cat and dog food, and certain fish and agricultural products. Average New Zealand trade on these tariff lines into the United Kingdom is NZ\$800,000 per year. Exporters trading on these tariff lines will be able to access a lower tariff under CPTPP than under the NZ-UK FTA, until tariffs are also phased out under the NZ-UK FTA.
- 4.5% of tariff lines: the NZ-UK FTA provides better tariff treatment than the UK's CPTPP tariff schedule, until tariffs are phased out under the UK's CPTPP tariff schedule. This includes, most notably, products subject to transitional quotas in the NZ-UK FTA (apples, butter, cheese, beef and sheep meat). Exporters will want to trade under these transitional duty-free NZ-UK FTA quotas until tariffs are removed under CPTPP. From that point, New Zealand exporters will be able to trade these products under either agreement. In addition to these quota products, other tariff lines with more favourable outcomes in the NZ-UK FTA than the UK's CPTPP tariff schedule include liquid milk and cream, milk powder, whey and lactose, certain fish and seafood products, some clothing and apparel, some industrial products, and sugar. New Zealand's average trade of these products is NZ\$15 million per year.

4.1.2 Disadvantages

UK access to CPTPP Parties quotas

A disadvantage of the United Kingdom's CPTPP accession in relation to goods market access is the fact that it will have access to existing CPTPP Parties' quotas – most notably from New Zealand's perspective, dairy quotas into Canada, Japan and Mexico. This means that existing CPTPP dairy

exporters – chiefly New Zealand and Australia – will face additional competition from the United Kingdom when accessing these quotas. This may ultimately dilute existing exporters' access to these markets for quotas that are highly subscribed, and where the United Kingdom is a competitive exporter - most notably for cheese, and to a lesser extent butter and cream.

The actual commercial impact of the UK's access to these quotas on New Zealand's existing access will be dependent on a number of factors, including competitiveness, commercial relationships, prioritisation of export opportunities, etc, but could tentatively be assessed as between \$10 million and \$20 million per year across CPTPP quota markets.

New Zealand had argued that existing Parties' quotas should increase in volume proportional to the United Kingdom's export profile, but was unable to secure this outcome in the negotiations, with other Parties willing to accept the United Kingdom accessing quotas without any adjustment, including because of the importance accorded to the United Kingdom's accession and the fact that access to quotas was a red line for the UK, the sensitivity of the quota products to the quota Parties, and the limited commercial impact in the wider context of the UK's accession. In addition when the United States withdrew from the Trans Pacific Partnership (TPP) quota volumes were not revised downwards, meaning that Parties with quotas argued that their quotas should therefore not be revised upwards to accommodate the UK's inclusion in CPTPP.

While it is unfortunate that New Zealand and other CPTPP dairy exporters will have to share access to the existing dairy quotas with the United Kingdom after it becomes a Party to the Agreement, the likely commercial impact is small when assessed against the commercial market access gains secured into the United Kingdom through the package of outcomes in the NZ-UK FTA and the UK's CPTPP accession, including for the dairy sector, which will benefit from tariff elimination on all dairy products within a maximum of five years.

The United Kingdom also secured access to Japan under its transitional volume-based safeguards, for products such as beef and pork. This will not have any commercial impact upon existing Parties' beef exports, as the combined export volume of CPTPP Parties is only approximately half of the beef safeguard trigger level, and the UK's export volumes (especially beyond the EU) are negligible in comparison to the safeguard volume.

The issue of how existing quotas should be handled in the context of subsequent accessions to the Agreement remains a live issue which Parties have agreed to discuss in future.

Tariff Revenue

It is worth noting that, unlike most other FTAs, there will be no impact on New Zealand tariff revenue as a result of the UK's CPTPP Accession. This is because New Zealand has already eliminated all tariffs on imports originating in the UK under the NZ-UK FTA.

4.2 Cross Border Trade in Services and Investment

The Cross Border Trade in Services (CBTS) chapter facilitates cross-border trade in services between CPTPP Parties. The Chapter consists of overarching obligations between all Parties, such as National Treatment (non-discrimination between foreign and domestic service providers) and Most-Favoured-Nation (MFN – non-discrimination between different foreign providers).

The Investment chapter establishes a high quality and balanced framework of investment obligations to govern New Zealand’s investment relationship with CPTPP Parties, including the UK once it accedes. The chapter is designed to facilitate the flow of investment within a stable and transparent framework of rules to protect investors and investments from discriminatory treatment that could undermine the value of their investments.

Although Section B of the CPTPP Investment chapter provides an ISDS mechanism for the settlement of disputes between foreign investors and the government of the country in which the investment is made, New Zealand has secured a side letter with the UK to exclude the application of ISDS between us.

The manner in which market access commitments are made for services and investment in CPTPP is through a ‘negative list’ framework where Parties commit to meet the relevant chapter disciplines, except in areas where restrictions are listed in individual Parties’ services and investment schedules of ‘non-conforming measures’ or ‘reservations’. Each Party’s ‘negative list’ has two parts: Annex I (detailing existing measures that CPTPP Parties retain the right to maintain in their present form) and Annex II (detailing sectors and activities where CPTPP Parties reserve the right to maintain existing discriminatory measures and/or adopt new or more discriminatory measures in the future).

For both chapters, the obligations (and applicable New Zealand reservations in Annex I and Annex II) remain unchanged by the UK’s accession to the CPTPP; rather the UK has taken on commitments through the chapter obligations, and corresponding Annex I and II market access schedule.

4.2.1 Advantages

Services are vital to New Zealand’s international competitiveness, accounting for approximately 68% of New Zealand’s GDP of NZ\$271 billion in the year to March 2022. New Zealand global services exports were worth NZ\$27.6 billion in the year ending March 2020 (around 31 percent of total exports). The UK is New Zealand’s fifth-largest services export market, accounting for just over 6% of total services exports, including knowledge-intensive services such as IT, insurance and pension services, charges for the use of intellectual property, and other business services (collectively valued at NZ\$600 million).

Growth in services trade can increase productivity through greater specialisation and agglomeration and by growing the level of competition in the domestic market. Exporters gain from improved access to a larger market, such as the UK, while consumers benefit from access to a wider variety of internationally competitive services. The inclusion of the UK into CPTPP provides another pathway for New Zealand service suppliers and business people to access the UK market using rules many New Zealand business people are already familiar with. The UK’s commitments in CPTPP provide certainty and predictability, making it easier for service suppliers to identify and take up new opportunities in the UK, thereby providing more opportunities for companies to diversify, and hedge

against over-reliance on a small number of markets. New Zealand services suppliers already benefit from the access provided by the UK's commitments in the UK-NZ FTA. Its commitments under the CPTPP provide an additional layer of certainty and predictability. Combined, the NZ-UK FTA and the UK's accession to CPTPP will make it easier for New Zealand service exporters, such as providers of professional, business, education, environmental, transportation and distribution services, to identify and take up opportunities in the UK market and increase their competitiveness and profitability. In addition, the inclusion of audio-visual services within the Services chapter means that the UK has taken on additional commitments that go further than its commitments in the NZ-UK FTA.

Similarly having the UK joining the CPTPP will benefit New Zealand investors, complementing the existing NZ-UK FTA commitments on investment, by providing similar levels of certainty and transparency when making investments and doing business in the UK across a range of sectors, including our agricultural, manufacturing and natural resource industries. While the commitments in the CPTPP broadly align with those in the NZ-UK FTA, having the same commitments across all 11 CPTPP partners will support our investors and services providers, who increasingly look to undertake activities to support their international business (such as establishing an in-market presence, forming commercial partnerships and providing after-sales service).

New Zealand has already secured high quality commitments in our bilateral FTA with the UK. Through the UK's accession to CPTPP, New Zealand is able to benefit from further improved commitments for services and investment in certain areas, including audio-visual services, which, for the first time, the UK has included within its Services and Investment commitments. While the UK has carved its audio-visual sector from all reservable disciplines, the sector is still subject to a number of non-reservable disciplines including transparency, minimum standard of treatment, expropriation and denial of benefits obligations. This is an improvement from the NZ-UK FTA, which carved the audio-visual sector entirely out from the agreement.

Similarly CPTPP Parties were able to secure a narrower Most-Favoured Nation reservation from the UK than what we were able to achieve bilaterally in the UK FTA. The CPTPP reservation preserves the UK's ability to enter into economic integration arrangements without passing on preferential treatment to CPTPP parties, but limits the scope of the reservation to European countries only.

In addition, New Zealand has secured a treaty status, legally binding side letter with the UK that will mean that no investor of the UK will have recourse to ISDS against New Zealand under the CPTPP, and vice versa. Without the side letter, New Zealand will be exposed to claims from UK investors which can be made directly against New Zealand before international investment arbitral tribunals. This side letter is not just an advantage in terms of reducing New Zealand's legal risk, it also expands the existing precedent for New Zealand's policy to exclude ISDS from future trade agreements and accessions to the CPTPP in particular.

4.2.2 Disadvantages

New Zealand's obligations in the CBTS and Investment Chapters do not change with the UK's entry into CPTPP, as no changes were made to the chapter text or New Zealand's market access schedules.

The side letter with the UK carving out the application of ISDS addresses a key disadvantage that was identified in the original CPTPP NIA. Investment screening – the other disadvantage identified – is unchanged for the UK, as it was already given an equivalent threshold in the NZ-UK FTA.

Therefore, no disadvantages to New Zealand have been identified in services and investment arising from the UK's entry into the CPTPP.

4.3 Financial Services

The Financial Services chapter establishes a framework of rules governing the cross-border trade in financial services between CPTPP Parties, underpinned by market access commitments. Under CPTPP, the list of non-conforming measures under the Cross-Border Trade in Services and Investment Chapters (above) applies to the Financial Services chapter where relevant, reflecting the close relationship between financial services and general trade in services and investment. In addition, there are separate financial services non-conforming measures.

4.3.1 Advantages

Financial services are an important underlying service essential to all international trade and investment. The CPTPP Financial Services chapter contains many of the core obligations contained in the CBTS chapter, including market access commitments that ensure access for each Parties' financial service suppliers by, among other things, not imposing quantitative restrictions on the number of established financial services suppliers. Similarly, National Treatment obligations ensure overseas financial services suppliers are treated in a manner no less favourable than domestic service providers.

Although the UK's CPTPP Financial Services commitments broadly replicate the high quality commitments New Zealand was able to secure in the bilateral FTA, the precedent set by the UK's high quality, high ambition commitments create a strong benchmark for future economies seeking to join CPTPP. In addition, New Zealand financial service providers will also benefit from meaningful improvements in CPTPP in regards to treatment the UK may provide its future free trade agreement partners. If the UK agrees in a future FTA to provide preferable treatment to financial service providers from a third country beyond that which it offers in CPTPP, New Zealand will be entitled to receive that preferential treatment so long as we reciprocate. The quality of the UK Financial Services commitments has also set a high bar for others looking to join the CPTPP.

As noted in the Services and Investment section above, New Zealand has secured a treaty-status, legally binding side letter with the UK to exclude ISDS between New Zealand and the UK under the CPTPP. This includes investments into the New Zealand financial services sector by UK companies, reducing any legal risks New Zealand may face.

4.3.2 Disadvantages

No disadvantages to New Zealand have been identified in financial services arising from the UK's entry into the CPTPP. New Zealand already has an open and transparent financial services policy regime, and its obligations in the Financial Services chapter do not change with the UK's entry into CPTPP.

4.4 Temporary Entry for Business Persons

The Temporary Entry for Business Persons chapter facilitates people-to-people movements for business purposes engaged in trade in goods, the supply of services, and the conduct of investment activities across the CPTPP Parties. It is designed to assist individuals and businesses taking up the commercial opportunities offered by various aspects of CPTPP.

4.4.1 Advantages

The UK's accession to the CPTPP will provide another pathway for New Zealand service suppliers and independent professionals seeking opportunities to access the UK market, complementing the access provided in the NZ-UK FTA. Conversely, it will allow New Zealand companies to access speciality services and skilled professionals from the UK who can contribute to upskilling our domestic labour force, using rules many New Zealand business people are already familiar with.

With the UK's accession to the CPTPP, New Zealand has the opportunity to improve the high quality temporary entry access to the UK already secured under our bilateral FTA. This is because many of the UK's commitments – for example in the categories of Independent Professionals, Investors and Contractual Service Suppliers – are made on a reciprocal basis, and in some instances the UK's commitments go beyond what is offered in the NZ-UK FTA – for example employment opportunities for dependent children of Inter-Corporate Transfers. This means that were New Zealand to offer commitments in such a new category under the CPTPP in the future, we would benefit from the UK's commitments in the same or similar category. However, it is important to note that New Zealand currently does not benefit from those commitments because our own temporary entry commitments in CPTPP do not include commitments in those categories.

The UK's commitments have set a good precedent for future accessions, ensuring that the standards of the temporary entry chapter and its commitments are maintained.

4.4.2 Disadvantages

As noted above, the reciprocal nature of the UK's offer does mean that New Zealand is unable to fully access all of the UK's commitments as the UK's commitments are reciprocal and New Zealand has not made commitments in all categories committed by the UK.

While the UK's accession to CPTPP does potentially increase the number of people entering New Zealand using CPTPP Temporary Entry commitments, it is more likely that UK nationals will enter New Zealand through the NZ-UK FTA pathway, due to the higher commitments in that agreement. Nevertheless, the movement of natural persons is a sensitive area for New Zealand, and our commitments contain a number of safeguards to protect the local employment market and ensure the impact of these commitments is manageable. These safeguards include limitations on entry of not more than three months per year for business visitors and installers and servicers, and six months per year, plus the use of economic needs tests for the Independent Professionals category.

4.5 Government Procurement

The Government Procurement chapter of CPTPP consists of two elements, namely (i) chapter text which sets out obligations on all parties to non-discrimination, national treatment and a range of procedural and transparency commitments; and (ii) market access commitments⁸ which set out the procurements that each party agrees to cover.

The Government Procurement chapter text provisions have not been changed through the UK accession process. However, CPTPP Parties (including New Zealand) have agreed to extend to the UK, minor adjustments in three areas of the chapter text⁹. These were assessed as providing greater clarity on the UK approach in these areas and as such would have limited or no impact on the access offered by the UK to CPTPP Parties. These adjustments appear in the UK's Annex 15 (Notes to Section B, paragraph 4; Notes to Section C, paragraphs 9 and 10; and Section F, paragraph 2).

The UK's market access is set out in Annex 15. It includes comprehensive coverage of entities at all levels of its government, all goods (except for some defence related goods), many services and all construction services, including private public partnerships. It includes some reciprocity notes (i.e., where UK commitments apply only if the CPTPP Party has made comparable commitments), some of which apply to New Zealand (Section B, note 2(a), Section C, note 6). These occur in relation to coverage of sub-central and other entities and related to entities that New Zealand does not cover in its market access schedule, namely local authorities and state-owned enterprises. The UK's market access coverage also includes a provision allowing programmes, preferences and set asides for small and medium sized enterprises (Section G, note 4) that will apply to New Zealand. New Zealand maintains a similar provision in its market access annex. This provision does not appear in the UK's market access coverage under the WTO Agreement on Government Procurement (GPA) or in our bilateral free trade agreement (once it comes into force) and therefore, will have no impact on New Zealand suppliers.

4.5.1 Advantages

The United Kingdom's government procurement market is substantial, totalling approximately £300 billion or a third of all its public expenditure each year¹⁰. Access to this sizeable market on the terms set out in the Government Procurement chapter text represents a significant addition to the overall value of the Government Procurement chapter to both existing CPTPP Parties and other potential accession candidates.

New Zealand does not gain any additional Government Procurement market access above that already in place through our membership in the WTO GPA or under the NZ-UK Free Trade Agreement. The UK's market access commitments are comprehensive (as noted above) however. Coverage of entities, goods, services and constructive services is extensive and is extended to CPTPP Parties that

⁸ Government procurement market access consists of the combination of government entities covered, goods, services and construction services covered, the value threshold at which the commitments must be applied and any reservations or exceptions noted.

⁹ The three areas of the chapter text are: coverage of private public partnerships, time periods for responding to tenders where all tenderers agree to specific timing; and the nature of the notice when procuring from a multi-use list.

¹⁰ Transforming Public Procurement: Government response to consultation, December 2021, www.gov.uk/official-documents.

have made comparable commitments in their coverage. They reflect the commitments the UK has made in the WTO Agreement on Government Procurement (GPA), often referred to as a high standard international benchmark for government procurement. As such, the UK's accession provides a good government procurement precedent for future accession candidates by maintaining the expectation of comprehensive market access coverage and the high standards set out in the Government Procurement chapter text.

4.5.2 Disadvantages

As noted above, the reciprocal nature of the UK's market access coverage in some areas where New Zealand has not made market access commitments (e.g. local authorities and State-owned enterprises) means that New Zealand is unable to fully access all of the UK's commitments. This means that there will be some government procurement contracting opportunities for which New Zealand businesses will have no rights to compete.

4.6 State-Owned Enterprises

The objective of the State Owned Enterprises (SOEs) chapter is to ensure there is an equal footing between enterprises owned or controlled by the state, and private competitors, while recognising each Party's right to establish and maintain SOEs and monopolies. This level playing field is balanced with the right for New Zealand and CPTPP Parties to deliver policy objectives through enterprises owned by the state.

The UK was well placed to accept the SOE obligations of CPTPP following the negotiation of the NZ-UK FTA, which largely covers similar obligations. As per the existing SOE Chapter in CPTPP, the UK provided a list of State-Owned Enterprises that will be subject to the Chapter requirements. Annex 17 D of the SOE Chapter, which details the application to sub-central government state-owned enterprises and designated monopolies, was updated to reflect the UK governing structure.

4.6.1 Advantages

The UK's accession to the CPTPP will ensure New Zealand companies and investors can operate commercially within the UK and other CPTPP markets on an equal footing when buying or selling goods or services from an SOE or designated monopoly.

It will create further assurances that the UK's state-owned entities must operate in a manner to avoid adverse effects, regardless of whether the SOE or designated monopoly is operating in a Party's territory or in the market of a non-party. The Chapter obligations will apply to SOEs operating in the UK Crown Dependencies, the Isle of Mann, the Bailiwick of Guernsey, and the Bailiwick of Jersey, which is a broader application than in the NZ-UK FTA. New Zealand businesses or investors will have greater access to information on UK SOEs and designated monopolies through the CPTPP publically available SOEs list that will now feature UK SOEs, enabling New Zealand exporters to make more informed decisions about operating in the UK or competing with UK SOEs or designated monopolies in CPTPP markets.

4.6.2 Disadvantages

No disadvantages to New Zealand have been identified in SOEs as a result of the UK's accession into the CPTPP. New Zealand's state-owned enterprises and designated monopolies are covered by the State-Owned Enterprises Act 1986 and comply with existing CPTPP obligations. The UK's accession does not require any changes to New Zealand's current SOE practices.

4.7 Intellectual Property

The Intellectual Property (IP) chapter of CPTPP contains some obligations that impose different requirements on the UK compared to the obligations in the NZ-UK FTA. The relevant CPTPP obligations are included in this section and explained below, because the UK's compliance with those CPTPP obligations will provide advantages to New Zealand that we will not receive unless New Zealand becomes a party to the Protocol.

4.7.1 Advantages

Geographical indications

The CPTPP provides minimum due process and transparency requirements for the geographical indication¹¹ (GI) protection regimes of CPTPP parties. New Zealand supports these requirements, and it is beneficial for New Zealand exporters that the UK meets these same requirements. The following obligations are new obligations for the UK to comply with and the obligations go further than the rules in our bilateral FTA:

- the ability for entities to dispute the protection of a GI in the UK through its domestic legal or administrative processes if that protection could cause confusion with a prior trade mark right they have in that market; and
- transparency requirements, including that the UK must tell other CPTPP Parties when any GIs are proposed for protection in an international agreement and provide an opportunity to comment on that proposed protection.

Well-known Trademarks

The CPTPP obligations in relation to well-known trademarks are more comprehensive than the obligations in our bilateral FTA. CPTPP requires that parties recognise trademarks as having the status of being "well-known" whether they are registered in the jurisdiction or not. The UK aligning its trademark legislation with this requirement will benefit New Zealand trademark holders as it clarifies when the status of a "well known" trade mark can be used to assist in challenging an identical or similar trademark that indicate a connection to their trademark.

Grace period for patent filing

¹¹ A GI is a sign or name used in relation to goods that have a specific geographical origin and qualities essentially attributable to that origin, for example "Marlborough" for wine.

Most of the CPTPP IP obligations are consistent with the UK's existing law and policy settings, however, to ensure the UK can continue its membership of the European Patent Office (EPO), CPTPP Parties have agreed to provide the UK an open ended transition period before it must meet a specific patent obligation that is inconsistent with current EPO practice (the patent grace period rule).

Normally, a person cannot secure patent protection for an invention that is already in the public domain, and therefore is not novel or inventive. CPTPP parties are required to provide that the public disclosure of an invention by or with the consent of the inventor, in the twelve months before a patent application was filed, will be disregarded when determining whether the invention is novel or inventive (known as a grace period). The UK is a member of the European Patent Office (EPO), which does not apply CPTPP consistent grace period rules. The UK considers that it could not implement the CPTPP grace period rule and remain a member of the EPO. As a result, the parties have agreed to provide the UK an open-ended transition period during which it will be excused from the CPTPP grace period obligation while it also pursues harmonisation of the European Patent Office grace period rules with CPTPP

The twelve month grace period is beneficial for New Zealand inventors as it provides flexibility for inventors to disclose their inventions to help determine commercial viability or include research in an academic publication without prejudicing their ability to secure patent protection (at least in countries where the grace period rule applies). On the other hand, the grace period rule can limit grounds for challenging a competitor's patent application.

We have heard from New Zealand patent holders and their representatives who are supportive of the UK receiving a transition period for this obligation. They benefit from the UK being a member of the EPO, in that it allows them to file centrally to protect their patents in Europe, saving them time and simplifying the application process. As the advantages of having a 12 month grace period are hard to quantify, it may be that for some New Zealand inventors, the cost savings of the UK being a member of the European Patent Office are far greater than any benefit that a grace period might provide.

4.7.2 Disadvantages

No disadvantages to New Zealand have been identified in Intellectual Property as a result of the UK's accession into the CPTPP.

4.8 Technical Barriers to Trade (TBT)

Annex 8-A Wine and Spirits Annex of the CPTPP will apply to the United Kingdom in its entirety with the exception of paragraph 17, which obligates Parties to not prevent imports of wine on the basis that their labels carry terms such as "chateau", "classic", "noble", "ruby" and "reserve".

Under the Agreement on the Withdrawal of the United Kingdom and Northern Ireland from the EU and the European Atomic Energy Community (the Withdrawal Agreement), the UK agreed to protect these terms for exclusive use by EU producers. The UK's Accession Protocol includes a provision that clarifies the UK will not be required to apply paragraph 17 inconsistently with its existing obligations

under the Withdrawal Agreement. In practice, this allows the United Kingdom to continue to protect these terms for exclusive use for EU producers in the UK market.

4.8.1 Advantages

The provision allows the UK to continue to protect these terms for exclusive use for EU producers in the UK market, consistent with its Withdrawal Agreement obligations to the EU, provides no advantages to New Zealand.

4.8.2 Disadvantages

Under current UK regulatory settings, New Zealand exporters are unable to export wine to the UK with terms such as “reserve” on the wine label. The provision in the UK’s Accession Protocol allows the UK to continue to protect these terms for exclusive use for EU producers in the UK market and does not change the status quo. The provision is drafted in a narrow manner, in relation existing obligations under the Withdrawal Agreement. It also mirrors Canada’s footnote to paragraph 17 in the CPTPP in relation to its obligations to the EU in the EU-Canada Wine Agreement (so it is not unprecedented).

4.9 Legal and Institutional Issues

FTAs include legal and institutional provisions that cover such things as how and when the agreement will enter into force, how it will relate to other international agreements already in place, how Parties should resolve issues in the case of a dispute, and what exceptions are allowed. In the Protocol, these provisions are included in Part I (General Provisions), Part II (Specific Provisions) and Part IV (Final Provisions) of the Protocol. The provisions in the Initial Provisions, Administrative and Institutional, Dispute Settlement, Exceptions, and Final Provisions chapters in TPP that are incorporated into the CPTPP Agreement will also apply to the Protocol.¹²

4.9.1 Advantages

The definitions and scope provisions in the Protocol will govern how CPTPP will apply to the devolved administrations in Northern Ireland, Scotland and Wales as well as the UK’s Crown Dependencies (the Balliwick of Guernsey, the Balliwick of Jersey and the Isle of Man, which are all part of the UK’s customs territory). The effect of the provisions is that more rules will apply to the UK’s devolved administrations and Crown Dependencies than in the NZ-UK FTA.

Parties agreed to a cross-cutting exception that will allow the UK to adopt or maintain measures relating to the Northern Ireland Protocol (part of the UK’s Withdrawal Agreement with the EU) that would be inconsistent with CPTPP, provided that such measures do not discriminate against a Party or constitute a disguised restriction on trade. The scope of the exception is narrower (i.e. provides less policy space) than the NZ-UK FTA. The details of the exception are explained in more detail in Section 5 of this NIA.

¹² Article 30.4 (Accession), Article 30.5 (Entry into Force), Article 30.6 (Withdrawal) and Article 30.8 (Authentic Texts) of TPP were not incorporated into CPTPP.

4.9.2 Disadvantages

No disadvantages to New Zealand have been identified as a result of the UK's accession to CPTPP in the legal and institutional provisions of the Protocol .

5 Legal obligations that would be imposed on New Zealand by the treaty action, the position in respect of reservations to the treaty, and an outline of any dispute settlement mechanisms

This section sets out the legal obligations that would be imposed on New Zealand under the Protocol. This section does not cover the existing obligations in the CPTPP Agreement. For detailed information about the obligations in the CPTPP Agreement, please see the NIA for that Agreement.

As noted above, the Protocol sets out the obligations that will apply between the UK and the original CPTPP Parties, when the Protocol enters into force. The UK's accession to CPTPP will mean that the obligations and other commitments that the original CPTPP Parties have made to each other under the CPTPP Agreement will be extended to the UK. None of New Zealand's CPTPP obligations and none of the exceptions or other flexibilities in CPTPP that New Zealand relies on will be changed as a result of the UK's accession to CPTPP.

5.1 Trade in Goods

New Zealand's CPTPP obligations now extend to the UK as a new CPTPP Party

As a CPTPP Party, New Zealand is already bound by the provisions of the National Treatment and Market Access for Goods chapter in relation to the existing Parties. The UK acceding to CPTPP will not create any new obligations on New Zealand beyond extending those existing obligations to the UK. That includes both the obligations of the chapter text, and New Zealand's CPTPP tariff schedule annexed to that chapter.

New Zealand is also already bound by similar provisions in the NZ-UK FTA's National Treatment and Market Access for Goods chapter, which are set out in detail in the NZ-UK FTA National Interest Analysis of February 2022.

The legal obligations of Chapter 2 (National Treatment and Market Access for Goods) of CPTPP, which will apply to the UK once it becomes a Party, and which Parties including New Zealand will be obliged to extend to the UK, are outlined in the CPTPP National Interest Analysis of March 2018. To summarise, these include:

- Article 2.3: to afford national treatment to goods of the Parties (including the UK);
- Article 2.4: to progressively eliminate customs duties on originating goods from the Parties in accordance with each Party's schedule (New Zealand will eliminate all remaining tariffs for all Parties on 1 January 2024);

- Articles 2.6 - 2.7: a prohibition on customs duties for goods which enter temporarily; re-enter after being exported for the purposes of repair or alteration; or for goods which are commercial samples of negligible value or printed advertising material;
- Articles 2.10, 2.17, and 2.27: to participate in Ad hoc discussions requested by another Party to address matters arising under the chapter, and the work of the Committee on Trade in Goods and Agricultural Trade Committee;
- Articles 2.11 - 2.14 and 2.16: commitments not to prohibit or restrict the import or export of goods except as permitted under the Agreement, and obligations relating to import licensing and transparency of export licensing procedures;
- Article 2.15: obligations in relation to any fees and charges imposed in connection with imports and exports; and
- Article 2.19: obligations to promptly publish trade-related information in an easily accessible manner.

5.2 Legal and Institutional Issues

5.2.1 Article 2 - Provisions Relevant to Chapter 1: Initial Provisions and General Definitions

This Article incorporates definitions into the CPTPP which are specific to the United Kingdom (such as the meaning of 'territory' and 'central level of government' for the United Kingdom).

5.2.2 Article 2.2 - Geographical Scope of Application

The United Kingdom has responsibility for the international relations of a number of territories, including the Isle of Man, and the Bailiwicks of Guernsey and Jersey. Article 2.3 sets out when, and under what conditions, the CPTPP applies to these territories.

The following chapters do not apply to the Isle of Man, or the Bailiwicks of Guernsey and Jersey:

- Chapter 9 (Investment)
- Chapter 10 (Cross-Border Trade in Services)
- Chapter 11 (Financial Services)
- Chapter 12 (Temporary Entry of Business Persons)
- Chapter 13 (Telecommunications)
- Chapter 14 (Electronic Commerce)
- Chapter 15 (Government Procurement)
- Chapter 18 (Intellectual Property)

While the other chapters do apply to the Isle of Man, and the Bailiwicks of Guernsey and Jersey, some of them will only start applying two years after the date of entry into force of the Accession Protocol. During this two-year transitional period, the UK must nevertheless endeavour to ensure that these territories comply with the chapters. The Chapters in question are:

- Chapter 16 (Competition)
- Chapter 17 (SOEs)
- Chapter 19 (Labour)
- Chapter 20 (Environment)
- Chapter 21 (Cooperation and Capacity Building)
- Chapter 22 (Competitiveness and Business Facilitation)
- Chapter 23 (Development)
- Chapter 24 (Small and Medium-Sized Enterprises)
- Chapter 25 (Regulatory Coherence)

For Alderney and Sark (part of the Bailiwick of Guernsey), Chapters 16, 17 and 19 through to 25 will only apply as and when the Parties agree.

Article 2.7 also allows the Parties to agree that additional Chapters will apply to the Isle of Man, and the Bailiwicks of Guernsey and Jersey; and also to the application of CPTPP to other territories (including Gibraltar) for which the UK has responsibility for their international relations.

5.2.3 Article 13 – Provisions Relevant to Chapter 26: Transparency and Anti-Corruption

Annex 26-A (Transparency and Procedural Fairness for Pharmaceutical Products and Medical Devices) of Chapter 26 (Transparency and Anti-Corruption) sets out obligations relevant to the Parties' national health care authorities. In that Annex, there is a definition for each Party's national health care authorities to which the obligations will apply. Article 13.2 incorporates a definition for the United Kingdom's national health care authorities.

Article 13.1 also clarifies the meaning for the United Kingdom of the term 'regulation of general application' as used in the general transparency provisions of Chapter 26. Any 'regulation of general application' proposed or adopted by His Majesty's Government of the United Kingdom of Great Britain and Northern Ireland are covered by the term, and this includes when the Government is acting in respect of England, Northern Ireland, Scotland or Wales.

5.2.4 Article 15 - Provisions Relevant to Chapter 29: Exceptions and General Provisions

Article 29.4 (Taxation Measures) stipulates when the CPTPP's obligations do and don't apply to a Party's taxation measures. Part of this provision gives responsibility for determining if there is an inconsistency between a tax convention and the CPTPP (in which case the tax convention takes priority) to the designated authorities of the relevant Parties. The provision includes a definition of each Party's designated authorities and Article 15.1 incorporates a definition of the designated authorities of the United Kingdom accordingly.

5.2.5 Article 17 - References to APEC

CPTPP contains a number of references to APEC in which the Parties recognise, affirm, or are obliged to take action in relation to, various APEC instruments related to professional services, temporary entry for business persons, competition law, and anti-corruption. These references are found in Annex

10-A (Professional Services), Article 12.5 (Temporary Entry for Business Persons – Business Travel), Article 16.7.2 (Competition – Transparency), and Article 26.6.1 (Transparency – Scope).

Given that the United Kingdom is not a member economy of APEC, it is exempt from the application of these provisions. However, Article 17 sets out various ways in which the United Kingdom is nevertheless required to support and promote the policy objectives of the exempted provisions. Specifically, the United Kingdom:

- acknowledges work carried out in bilateral and multilateral fora to promote mutual recognition of professional competence in engineering and architecture and the professional mobility of these professions;
- is required to endeavour to maintain and update public information on national competition measures;
- affirms its resolve to eliminate bribery and corruption in international trade and investment, and affirms its commitments under instruments of the United Nations and OECD; and
- recognises the importance of facilitating business travel.

5.2.6 Article 15.2 – Protocol on Ireland/Northern Ireland

Article 15.2 allows any Party to adopt or maintain a measure that is not consistent with CPTPP if there is an inconsistency between CPTPP and the Northern Ireland Protocol, so long as the measure relates to the inconsistency and is not applied in a manner that would constitute a means of arbitrary or unjustified discrimination against any other Party or a disguised restriction on trade.

A Party adopting a measure pursuant to paragraph 1 must, on request, consult with any other Party in relation to the measure's effects on CPTPP and seek a mutually acceptable solution.

The United Kingdom must notify the Parties if the Northern Ireland Protocol is changed to the point that it substantially affects the operation of CPTPP.

Finally, there is provision for regular review of the United Kingdom's implementation of CPTPP in the context of Article 15.2, as well as for review of whether Article 15.2 – 15.7 remains necessary.

5.2.7 Article 21 – Entry into Force

The Protocol includes detailed entry into force provisions. In summary, the Protocol will enter into force 60 days after the UK and all Parties have notified the Depositary of the completion of their respective applicable legal procedures for entry into force of the Protocol. If that process takes longer than 15 months after signature, from that point in time, the Protocol may enter into force 60 days after the UK and at least six Parties to the CPTPP have notified the Depositary of the completion of their respective applicable legal procedures.

For any Party to the CPTPP that has signed this Protocol that requires a longer period of time to complete its applicable legal procedures, the Protocol will enter into force for that Party 60 days after the date on which that Party has notified the Depositary of the completion of its applicable legal procedures for entry into force of the Protocol.

5.2.8 Article 22 – Depositary

Article 22 sets out requirements for the Depositary (New Zealand) to provide certified copies of the original texts of the Protocol (and any amendments), and certain other information and documents to each Party (or original signatory) and the United Kingdom.

5.3 Other chapters

Apart from the abovementioned chapters, the UK's accession to CPTPP does not create any new legal obligations for New Zealand over and above the existing obligations in the original CPTPP. However, with the UK joining the CPTPP we will owe those same obligations to a new partner, the UK (*SOEs, Services, Investment, Financial Services, Temporary Entry, TBT, Intellectual Property, Government Procurement*).

6 Measures that the Government could or should adopt to implement the treaty action, including specific reference to implementing legislation

In order to implement New Zealand's obligations under the Protocol and provide certainty to importers and UK investors, minor amendments are required to the Tariff (Specified CPTPP Parties) Order 2018 and the Overseas Investment Regulations 2005. Given that New Zealand's goods and investment market access commitments in CPTPP are effectively the same as the goods and investment market access commitments in the NZ-UK FTA, the UK will not receive new or greater market access than what it already receives under the NZ-UK FTA.

Tariff (Specified CPTPP Parties) Order

An amendment order would declare the UK to be a specified party to CPTPP for the purposes of the Tariff Act 1988. The effect of the amendment order would be to entitle the UK to preferential tariffs set under the Tariff Act 1988 in accordance with CPTPP.

The commencement of the amendment order would also mean that regulation 51ZZF of the Customs and Excise Regulations 1996 would apply to the UK. For the purpose of giving effect to the CPTPP, that regulation prescribes rules of origin, including product-specific rules and other applicable requirements, for goods imported to New Zealand from parties to CPTPP.

Overseas Investment Regulations

Amendments are required to Part 5 of the Overseas Investment Regulations 2005, which provides for alternative monetary thresholds for overseas investments in significant business assets for the purpose of implementing New Zealand's obligations under the CPTPP Agreement. The thresholds apply for the purpose of determining whether overseas investments in business assets require consent under the Overseas Investment Act 2005. There are increased monetary thresholds under section 13 of that Act from \$100 million to \$200 million for investors from those countries.

7 Economic, social, cultural and environmental costs and effects of the treaty action

This section of the NIA assesses the overall costs and effects of the UK's Accession to CPTPP for New Zealand. It draws on the advantages and disadvantages outlined in Section 4 above to consider the net effect of the changes. The fiscal costs to New Zealand of ratifying the Protocol are outlined in Section 8.

While the Protocol will introduce new treaty level commitments for New Zealand with respect to the UK, the commitments made by New Zealand in the Protocol all sit within New Zealand's existing domestic policy and legislative settings and established FTA practice. This means the Protocol is not expected to encroach further upon New Zealand's domestic policy space. Care has been taken to ensure that the flexibilities and safeguards secured in the existing CPTPP, which preserve the Government's right to regulate for legitimate public policy purposes, will also apply to any new CPTPP Parties, including the UK, as outlined in the Accession Protocol.

7.1 Economic effects

Trade makes a significant contribution to New Zealand's economic performance. Prior to COVID-19, exports accounted for 29% of New Zealand's GDP¹³. One in four jobs depend on exports¹⁴. FTAs help New Zealand exporters to remain competitive in international markets by providing access into larger markets. This access enables companies to benefit from economies of scale and specialise in the areas in which they have an advantage. New Zealand's connections into international markets also improves the domestic economy by allowing for access to more knowledge and resources, improved technology and foreign investment, which help boost productivity and income for New Zealand firms.

Economic research has demonstrated that trade and growth are positively related. The long-term evidence from a wide range of OECD countries suggests that a 10 percent increase in trade exposure is associated with a 4 percent increase in output per working-age person¹⁵.

Improvements in market access for goods, services and investment under an FTA, including those delivered through the removal of tariffs and non-tariff barriers, provide opportunities for existing New Zealand businesses to increase the value of their trade and investment activities. Lower costs and new opportunities can also result in new businesses entering overseas markets.

Moreover, the opportunity for local companies to expand market size through increased exports can boost productivity and efficiency through economies of scale. These effects are often described as 'static gains' or 'first-order effects'.

A second source of economic benefit from FTAs is 'dynamic productivity gains' or 'second-order effects'. These effects are harder to quantify as they accumulate over time and may be attributable to the downstream effects of trade agreements, rather than the immediate impacts driven by tariff

¹³ Statistics New Zealand. Due to border restrictions imposed as a response to COVID-19, this figure is 23% in 2022, but is expected to recover.

¹⁴ Statistics New Zealand.

¹⁵ OECD, *The Sources of Growth in OECD Countries*, Paris, 2003.

removal or other improvements in market access alone. Trade and investment may be stimulated through improvements in the regulatory framework brought about by FTAs, which increase transparency, fairness, and predictability for businesses.

In addition, the facilitation of increased trade and investment flows provides companies with more exposure to competition, innovation, international benchmarking and opens up opportunities to develop stronger links with international business partners. Spill-overs from this process into the domestic economy can include the generation of ongoing productivity improvements (dynamic productivity gains) across the wider economy.

7.1.1 Economic benefits from the existing CPTPP

The economies included in the original CPTPP account for approximately 13 percent of world GDP – worth a total of US\$13.2 trillion. These are economically significant for New Zealand. The 10 economies currently Party to the agreement:

- Are the destination for 26 percent of New Zealand’s goods exports (NZ\$18.7 billion) and 36 percent of New Zealand’s services exports (NZ\$6.5 billion) annually (year to the end of December 2022).
- Include three of New Zealand’s top 10 trading partners (Australia, Japan, and Singapore).
- Include four economies with which New Zealand has never had a free trade agreement (Japan, Canada, Mexico and Peru). We export over NZ\$6.2 billion of goods and services to these four economies.
- Are the source of around 65 percent of total foreign direct investment in New Zealand (as of March 2022).

Economic modelling estimated the overall impact of CPTPP on the New Zealand economy once fully implemented would equate to a rise in real GDP of at least 0.3 percent or NZ\$1.2 billion, and up to 1.0 percent or NZ\$4.0 billion.¹⁶

7.1.2 General economic effects of the UK’s accession to CPTPP

With the NZ-UK FTA and the UK’s accession to CPTPP concluded in quick succession, in 2022 and 2023 respectively, the outcomes of the two agreements form a package. New Zealand and the United Kingdom both understood that reaching a high-quality comprehensive bilateral free trade agreement was a necessary precursor to UK CPTPP membership. Accordingly, in reaching Agreement in Principle on the NZ-UK FTA, New Zealand agreed it would not seek additional tariff liberalisation through the UK’s accession to CPTPP over and above what was arrived at in the NZ-UK FTA.

This means that the UK’s accession to CPTPP does not introduce significant additional goods market access, which is one metric that can more easily be estimated in terms of direct cost savings to exporters. The specific economic effects of the UK’s accession to CPTPP (i.e. over and above the impacts of the NZ-UK FTA) are summarised as follows:

¹⁶ <https://www.mfat.govt.nz/assets/Trade-agreements/CPTPP/CPTPP-Final-National-Interest-Analysis-8-March.pdf>

- For traders importing from the UK into New Zealand, the tariff outcomes will be identical from day one of the UK's accession to CPTPP.
- For traders exporting from New Zealand to the UK, there will be no tariff differences once both agreements are fully implemented, as all UK tariffs on New Zealand exports will be eliminated over time. However for a limited period of time, the UK's CPTPP tariff schedule provides better outcomes for New Zealand than the NZ-UK FTA on 1.5% of tariff lines, through eliminating tariffs at entry into force or over a shorter period than under the NZ-UK FTA. This covers products such as: certain fruits and vegetables, some processed food, cat and dog food, and certain fish and agricultural products. Average New Zealand trade on these tariff lines into the United Kingdom is NZ\$800,000 per year. Exporters trading on these tariff lines will be able to access a lower tariff under CPTPP than under the NZ-UK FTA, until tariffs are also phased out under the NZ-UK FTA.
- In acceding to CPTPP, the UK obtain access to existing CPTPP Parties' quotas - most notably from New Zealand's perspective to dairy quotas into Canada, Japan and Mexico. This means that existing CPTPP dairy exporters - chiefly New Zealand and Australia - will face additional competition from the United Kingdom when accessing these quotas. This may ultimately dilute existing exporters' access to these markets for quotas that are highly subscribed, and where the United Kingdom is a competitive exporter - most notably for cheese, and to a lesser extent butter and cream. The actual commercial impact of the UK's access to these quotas on New Zealand's existing access will be dependent on a number of factors, including competitiveness, commercial relationships, and prioritisation of export opportunities, but could tentatively be assessed as between \$10 million and \$20 million per year across CPTPP quota markets.

As noted, the goods market access outcomes of the UK's accession to CPTPP must be considered alongside those of the New Zealand-UK FTA, under which 100% of UK tariffs (97% immediately on entry into force of the Agreement) will be eliminated. Independent economic modelling undertaken to assess the impact of the NZ-UK FTA estimated that once fully implemented, it would boost New Zealand's annual real GDP by between NZ\$710 million and NZ\$811 million (0.10% - 0.12%) relative to the 2040 modelled baseline.

Under the NZ-UK FTA, the bulk of UK tariffs on imports from New Zealand are to be eliminated on entry into force of the Agreement, with limited phasing to remove remaining tariffs and transitional quotas for a small number of products. All remaining New Zealand tariffs on imports from the UK are to be eliminated at entry into force. ImpactECON estimated that tariff elimination increases New Zealand's GDP by about 0.039 percent once the NZ-UK FTA is fully implemented¹⁷. This about one third of the overall GDP gain for New Zealand. The model captures gains from allocative efficiency as relative prices adjust following tariff reductions. The change in relative prices encourages New Zealand production to shift towards areas where we have the greatest competitive advantage.

¹⁷ ImpactECON Final Report: Impacts of the New Zealand-UK Free Trade Agreement on the New Zealand Economy, February 2022, <https://www.mfat.govt.nz/assets/Trade-agreements/UK-NZ-FTA/ImpactECON-UK-NZ-FTA-Final-Report-23-Feb-2022.pdf>.

Once the UK's accession to CPTPP enters into force between the UK and New Zealand, New Zealand traders will have the choice of using either the NZ-UK FTA or CPTPP, based on whatever factors they prioritise. This may provide useful additional flexibility for some traders, for example should they wish to cumulate inputs from multiple CPTPP Parties, which is a key benefit of the CPTPP. By harmonising rules across a large group of economies the CPTPP has the potential to reduce compliance costs over time for New Zealand businesses trading in these markets. The CPTPP contains a range of mechanisms which provide a platform for enhanced regulatory cooperation to facilitate trade and reduce associated transactions costs in both goods and services trade and for cooperating on a range of other trade-related issues such as customs procedures. Over time, the CPTPP will remove unnecessary duplication, reduce costs, and foster greater business opportunities. This will be particularly beneficial for small to medium sized businesses, which can least afford burdensome compliance costs.

7.2 Social effects

The UK's accession to CPTPP is not expected to impact on New Zealand's ability to develop social policy. The original CPTPP preamble resolves to "maintain each Party's right to regulate to meet domestic public policy objectives, including to safeguard public welfare." The following section examines potential effects on domestic employment, health, social regulation, immigration and human rights.

7.2.1 Employment

Trade liberalisation can be expected to change wage levels in the economy and affect relative levels of employment between sectors as sectoral activity experiences expansion or contraction in response. Around one in four jobs in New Zealand are in the export sector and just under half of all jobs are in the more broadly defined tradeables sector, which represents the part of the economy directly impacted by global conditions, the exchange rate, and trade policy.

The CGE modelling undertaken by ImpactECON for the NZ-UK FTA illustrates the areas in which some of the relative changes would be expected to occur. Real wages are expected to lift by 0.04 to 0.06 percent, relative to the baseline, once the NZ-UK FTA is fully implemented. The estimated increase in real wages is broad-based across different job groupings.

7.2.2 Health

There are no quantifiable direct impacts to the health portfolio arising from the Protocol. The UK's accession to CPTPP would not change the Government's existing ability to regulate for legitimate public policy purposes, including public health objectives.

7.2.3 Social regulation

New Zealand's social regulation frameworks would not be affected by the Protocol. The original CPTPP was negotiated so as not to impair New Zealand's right to regulate and make legitimate public policy.

7.2.4 Immigration

As noted in section 4.4.2, while the UK's accession to CPTPP does potentially increase the number of people entering New Zealand using CPTPP Temporary Entry commitments, it is more likely that UK nationals will enter New Zealand through the NZ-UK FTA pathway, due to the higher commitments in

that agreement. Nevertheless our commitments contain a number of safeguards to protect the local employment market and ensure the impact of these commitments is manageable. These safeguards include limitations on entry of not more than three months per year for business visitors and installers and servicers, and six months per year, plus the use of economic needs tests for the Independent Professionals category.

7.2.5 Human Rights

The Protocol does not include any provisions that are inconsistent with the Human Rights Act 1993 and New Zealand Bill of Rights Act 1990. Its implementation would have no effect on human rights in New Zealand.

7.3 Effects on Māori

7.3.1 Treaty of Waitangi

As the founding document of New Zealand, the Treaty of Waitangi is fundamental to the on-going relationship between the Crown and Maori. All of New Zealand's FTAs since 2001, including CPTPP (and the UK's Accession Protocol), have provided extra protection to ensure that the unique relationship between the Crown and Maori is preserved. The Treaty of Waitangi exception remains unchanged from the existing CPTPP and provides clarity that the Crown will be able to continue to meet its obligations to Maori, including under the Treaty of Waitangi. It is designed to work alongside other provisions to ensure that successive governments retain flexibility to implement domestic policies that favour Maori without being obliged to offer equivalent treatment to overseas entities. The exception applies in respect of matters covered by the CPTPP, which includes trade in goods and services, investment, environment, intellectual property and all other matters dealt with in the existing CPTPP and the UK's Accession Protocol.

7.3.2 Mātauranga Māori

CPTPP contains safeguards to prevent adverse effects on New Zealand cultural values, including Māori interests, and these safeguards will remain unchanged as a result UK Accession. In particular, the Protocol does not change the Intellectual Property Chapter of the existing FTA, including the provision in the Chapter that allow Parties to establish measures to protect genetic resources, traditional knowledge and folklore consistent with international obligations.

7.3.3 Benefits for Māori business

The trade facilitation benefits described in section 7.1.2 are expected to also accrue to Māori businesses. The growing Māori economy is increasingly engaging in international trade, in 2022 Māori authorities exported around \$761m of goods¹⁸.

Much of the engagement of Māori business in trade arises from the relatively high share of land and other primary sector assets owned by Māori and the high rate of Māori employment in primary industries. Altogether, Māori enterprises account for 40% of New Zealand's forestry, 50% of the

¹⁸ <https://www.stats.govt.nz/information-releases/tauranga-umanga-maori-statistics-on-maori-businesses-december-2022-quarter/>

country's fishing quota, 30% of sheep and beef production and 10% of dairy production¹⁹. Māori also make up nearly a quarter of the workforce in goods exporting firms in the agriculture, forestry, and fishing industries .

A high proportion of New Zealand's trade with the UK is in significant sectors for the Māori economy. The elimination of tariffs on New Zealand exports to the UK through both the NZ-UK FTA and the UK's accession to CPTPP will improve goods market access for many products of most relevance to Māori export businesses, including red meat, fish and seafood products, dairy, horticulture products and honey, creating new export and diversification opportunities.

7.4 Effects on Women

The trade facilitation benefits delivered through the UK's accession to CPTPP may accrue to women in businesses that export to CPTPP markets slightly more than men on average. Recent research from the OECD has shown that women-owned and women-led exporting businesses in New Zealand, as in many developed countries, tend to be smaller than those led by men²⁰. Administrative processes that are costly, time consuming, and non-transparent increase trade costs of small firms more than large ones that have more resources to better navigate challenging business environments. For this reason, the OECD highlighted the importance of improving trade facilitation as a mechanism to reducing barriers to trade for New Zealand women in exporting.

7.5 Cultural effects

The CPTPP incorporates relevant WTO general exceptions (from GATT and GATS), including the GATT Article XX(f) exception that Parties may take measures necessary to protect national treasures of artistic, historic or archaeological value, providing that such measures are not used for trade protectionist purposes. New Zealand maintains country-specific exceptions in the CPTPP for preferential co-production arrangements for film and television (Annex II-NZ-20); promotion of film and television production in New Zealand and local content on radio, television and film (Annex II-NZ-21); and for cultural heritage, public archives, library and museum services, and services for the preservation of historical or sacred sites or historical buildings (Annex II-NZ-28). The UK's accession to CPTPP will not impact any of these existing protections.

7.6 Environmental effects

The Protocol will not inhibit the New Zealand Government's ability to regulate for environmental protection. The CPTPP (as amended by the Protocol) contains general exceptions that are consistent with those provided for in existing international agreements (GATT and GATS) which are designed to provide policy space for Governments to regulate for legitimate public policy purposes, such as the protection of natural resources and the protection of human, animal or plant life or health. The Protocol will not restrict New Zealand from applying existing or future environmental laws, policies and regulations, provided they are applied to meet a legitimate objective and are not implemented in a manner which would constitute a disguised restriction on trade.

¹⁹ <https://www.mpi.govt.nz/dmsdocument/51766-Fit-for-a-Better-World-2022-progress-update>

²⁰ OECD, 'Trade and Gender Review of New Zealand', June 2022

In terms of the impacts of economic activity on the environment, the UK's accession to CPTPP is not expected to have any material effects. In general, trade can generate a mix of positive and negative effects on a country's environment and natural resources.²¹ Because the global market is much larger than the domestic one, incentives from trade can lead industries with a comparative advantage in production to expand in response to global demand, with associated environmental effects. It can also facilitate cross-border sharing of environmentally sustainable technologies and techniques. However, as the economic benefits of the UK's accession are expected to be incremental and indirect, any resulting environmental impacts are expected to be negligible.

New Zealand also has a suite of relevant existing legislation designed to address any potential adverse environmental outcomes of economic activity in a manner consistent with the Government's sustainable development and environmental objectives.²²

²¹ MFAT Working Paper, 'Understanding the linkages between trade and productivity, sustainability and inclusiveness', June 2020.

²² Relevant legislation includes the Resource Management Act 1991, the Hazardous Substances and New Organisms Act 1996, the Climate Change Response (Zero Carbon) Amendment Act 2019, the Ozone Layer Protection Act 1996, the Soil Conservation and Rivers Control Act 1941, the Energy Efficiency and Conservation Act 2000, the Climate Change Response Act 2002, the Aquaculture Reform (Repeals and transitional Provisions) Act 2004, the Biosecurity Act 1993, the Conservation Act 1987, the Crown Minerals Act 1991, the Fisheries Act 1949 (amended 1993), the Forests Act 1949 (amended 1993), and the Wildlife Act 1953.

8 The costs to New Zealand of compliance with the treaty

8.1 Tariff Revenue

Total duties paid on goods of declared UK origin in the three-year period prior to COVID (2017-2019) were NZ\$19.5m. However under the NZ-UK FTA, New Zealand fully liberalised 100% of tariff lines at entry into force, covering all UK-originating goods exported to New Zealand. Therefore the UK's CPTPP accession will not impact New Zealand tariff revenue as there will already be no remaining tariffs on UK-originating goods as a result of that FTA, before the UK accedes to CPTPP.

8.2 Costs to government agencies of implementing and complying with the Protocol

The costs of implementing the Protocol are expected to be modest compared to the implementation of other FTA treaty actions. Because the Protocol relates to accession to an existing FTA there is not expected to be significant change to agencies' processes in implementing CPTPP. Additionally, the institutional structures such as the CPTPP Joint Commission are already in place.

There may be some limited resourcing implications from some of the new obligations imposed by the UK's accession to CPTPP, which we expect will be covered through existing FTEs and will not require additional resourcing. As far as possible resourcing implications will be minimised by looking for efficiencies through combining with existing activities or mechanisms.

9 Completed or proposed consultation with the community and Parties interested in the treaty action

The Government has engaged with the public, Māori and business on CPTPP expansion and the UK's accession specifically. The focus of the government's engagement has been to:

- Outline the process, scope and timeframes for the negotiation, and update on progress as the negotiations progressed.
- Outline and seek feedback on the reasons why New Zealand is engaging in negotiations on the UK's accession to CPTPP, including the potential benefits.

9.1 Summary of consultations and outreach

A range of consultations were undertaken with stakeholders, as outlined below:

- In line with the government's Treaty Partner obligations and 'Trade for All' policy, from 29 March – 2 May 2021, MFAT conducted a consultation process to seek the public's views on priority interests and potential concerns regarding accession of any new members to the CPTPP.²³ The public consultation process in 2021 resulted in fifty-four full submissions and over 170 social media comments were received, with submitters including individuals, academics and industry bodies. (See section 9.2 below for key themes arising from this process).
- In addition to this process, in 2021/22/23 MFAT leveraged established consultation opportunities with business / industry peak bodies, union organisations, and Treaty partners to provide regular updates on the status of UK accession negotiations.
- Updates on the negotiations process were published on the MFAT and Beehive website and shared through MFAT and other industry group newsletters and public communications.
- The UK's CPTPP accession was discussed during a range of MFAT's planned programme of public information sessions on New Zealand's FTAs, including at a public engagement / Q&A session hosted by MFAT in the immediate aftermath of the first CPTPP Senior Officials Meeting in February 2023. Over 50 stakeholders and Treaty partner representatives attended the session providing feedback reflected in section 9.2.
- The MFAT webpage provides detailed information and documents relating to the existing CPTPP agreement as well as the accession process. It also provides contact details for the public to share their views.
- Consultation with Treaty of Waitangi partners is discussed in section 9.3.

9.2 Public consultation key themes

²³ <https://www.mfat.govt.nz/assets/Trade-agreements/CPTPP/CPTPP-Consultation-Outcome-Summary-Final.pdf>.

Key themes emerging from the public consultations on the CPTPP's expansion by accession were:

- A strong emphasis on the importance of maintaining the high quality standards of the CPTPP in any accessions, including in regard to the rules of the Agreement, as well as on market access. This was regarded as 'paramount' for the majority of submitters;
- In this regard, consistent calls – both from the general public and from industry – for the UK to demonstrate its trade liberalisation credentials through conclusion of a high quality bilateral FTA with New Zealand and resolution of on-going WTO access issues, before New Zealand agreed to UK accession to CPTPP;
- Broader recognition of the economic and geo-strategic value of expansion of the CPTPP through accession; coupled with some concerns about the possibility of larger economies dominating the agenda should they join;
- Consistent with this, there was good support for accession by smaller economies, particularly those in the APEC region, provided they were able to meet the Agreement's high standards. Some, however, also supported the agreement being open to a wider range of economies, including in Latin America and South Asia – again, provided they could meet the CPTPP quality standards;
- Improved market access opportunities, mechanisms to address non-tariff barriers and broader adherence to common standards, including on trade and environment and trade and labour issues were cited as key benefits from expansion of the CPTPP through accession;
- Some industry stakeholders (in particular dairy exporters) were concerned that the UK's accession to CPTPP would increase competition for access to existing CPTPP Parties' quotas, with potential commercial impacts for New Zealand exporters of those goods.
- Among other concerns raised by individual submitters were issues regarding the access by foreign investors to land and businesses in New Zealand, the potential risk of ISDS, environment and labour protections and particular intellectual property disciplines;
- A small number of submissions raised particular issues of concern to Maori, including with respect to the extent of the protections afforded by the Treaty of Waitangi exception and the risk of ISDS (see s.9.3 below on Treaty Partner consultation).

9.3 Engagement with Treaty of Waitangi Partners

Engagement with Treaty Partners is guided by the 2001 Strategy for engagement with Māori on international treaties. The government's approach to engagement has also been influenced by commitments made during the Waitangi Tribunal proceedings relating to the original Trans Pacific Partnership (TPP), to improve the way Government consults and engages with its Treaty Partners. The result is an approach to engagement with Treaty Partners which aims to ensure that issues of relevance to Māori in international treaties are identified early, that engagement with Treaty Partners on a particular treaty is appropriately tailored to the nature, extent and relative strength of the Māori interest and that Treaty Partners have the ability to contribute to the design and implementation of policy.

The level of Treaty Partner Engagement throughout the negotiations has been informed by the interests and capacity of the Treaty Partner groups the Ministry of Foreign Affairs and Trade engages with, including Te Taumata, Ngā Toki Whakarururanga and the Federation of Māori Authorities (FoMA).

Key engagement activities with Treaty Partners in the course of the UK's CPTPP accession negotiations comprised:

- Updates on the CPTPP accession were provided as part of MFAT's regular briefings with Treaty Partners on New Zealand's FTA programme over 2022 and 2023. This has continued the proactive approach MFAT has taken with Treaty Partners with regards to FTA negotiations.
- Due to the sensitivities of the original TPP (now CPTPP) negotiations and the subsequent Wai 2522 claim, a dedicated discussion on the progress and direction of the UK's CPTPP accession were held with Ngā Toki Whakarururanga in July and August 2022, and Te Taumata in October 2022, ensuring both entities were updated.
- Ongoing discussion with Te Taumata and Ngā Toki Whakarururanga have been maintained on their respective areas of interest: goods, services, investment, and e-commerce. Regular feedback has been provided by Ngā Toki Whakarururanga in particular on New Zealand's approach to these areas.

9.3.1 Māori interests in UK accession to CPTPP

Primary sector exports account for one third of export receipts from the Māori economy so a UK CPTPP accession outcome that complemented the NZ-UK FTA negotiations to secure streamlined processes and full market access for New Zealand's agricultural exports was particularly important to Māori. When assessing UK compliance with CPTPP standards, New Zealand negotiators were informed by Māori interests, including those related to women, Small and Medium Enterprises, the environment and sustainable development.

In its third and final report in its Wai 2522 inquiry, the Waitangi Tribunal found that in negotiating the CPTPP e-commerce chapter, the Crown breached the Tiriti o Waitangi/Treaty of Waitangi ("Treaty") principles of partnership and active protection for the taonga that is mātauranga Māori. While the Crown is responding to this finding in other ways, the CPTPP accession process does not provide an opportunity to reopen the CPTPP text and, accordingly, the text of the e-commerce chapter was not part of the plurilateral accession negotiations with the United Kingdom.

Consultation in respect of CPTPP accession identified:

- Ongoing interest from Maori stakeholders in a debate about evolving the Treaty of Waitangi exception clause. This clause is outside the scope of the UK accession process, as the Agreement text was not re-opened.
- A focus on New Zealand's right to adopt any measures that it deems necessary to protect indigenous plant species, in fulfilment of its obligations under the Treaty of Waitangi, in implementing its CPTPP commitment to give effect to the international plant variety rights

agreement (UPOV 1991). This obligation is being met by way of changes to the Plant Variety Rights Act and is not impacted in any way by the accession.

- Unease from Maori stakeholders regarding ISDS. As we have already done with a number of other CPTPP Parties, New Zealand has secured a side-letter with the UK so that ISDS will not apply between us under CPTPP.
- Te Taumata strongly supports the UK accession to CPTPP noting in particular the benefits to Māori exporters of the market access to the UK market secured across the package of NZ-UK FTA and UK CPTPP accession outcomes.
- Ngā Toki Whakarururanga reiterated their concerns over the compliance of the CPTPP with the Crown's Tiriti obligations. Their engagement focused in particular on the CPTPP e-commerce chapter, in relation to the WAI 2522 finding. Ngā Toki Whakarururanga remains concerned that the UK's accession to CPTPP would expand the breaches found by the Tribunal by further applying the rules in the CPTPP E-commerce chapter between the UK and New Zealand even if the review in the Digital chapter of the NZ-UK FTA, which has two of the same rules, leads to increased protections for Māori data in that agreement.

9.4 Inter-departmental consultation

The negotiation of the Accession Protocol was conducted by an inter-agency team led by the Ministry of Foreign Affairs and Trade. The inter-agency team primarily comprised officials from the Ministry of Foreign Affairs and Trade, the Ministry for Primary Industries, the Ministry for Business, Innovation and Employment, the New Zealand Customs Service, the New Zealand Qualifications Authority, and the Treasury. Relevant ministries were consulted throughout the negotiations, including Te Puni Kokiri and the Treasury.

10 Subsequent protocols and/or amendments to the treaty and their likely effects

The CPTPP amendments article (Article 30.2 of TPP as incorporated into CPTPP) and the mechanisms in CPTPP that enable a review of CPTPP as a whole or regarding a specific issue, will apply to the Protocol. The Protocol does not amend those provisions.

As noted in Section 5 of the NIA, some of the CPTPP chapters will not apply to the Isle of Man, and the Bailiwicks of Guernsey and Jersey when the Protocol enters into force. The Protocol allows the Parties to agree in the future that one or more of those chapters will apply to the Isle of Man, and the Bailiwicks of Guernsey and Jersey. The Protocol also allows the Parties to agree to the application of CPTPP to other territories (including Gibraltar) for whose international relations the UK has responsibility.

New Zealand would consider any further amendments to the Protocol on a case by case basis, and any decision to accept an amendment would be subject to the usual domestic approvals and procedures, including Parliamentary Treaty Examination as applicable.

11 Withdrawal or denunciation provision in the treaty

The existing CPTPP provides (in Article 4 “Withdrawal”) that:

- Any Party may withdraw from this Agreement by providing written notice of withdrawal to the Depositary. A withdrawing Party shall simultaneously notify the other Parties of its withdrawal through the overall contact points designated under Article 27.5 (Contact Points).
- A withdrawal shall take effect six months after a Party provides written notice to the Depositary under paragraph 1, unless the Parties agree on a different period. If a Party withdraws, this Agreement shall remain in force for the remaining Parties.

Article 2.8 of the Protocol allows the UK to withdraw application of CPTPP to any territory for whose international relations it is responsible. To do so, it must provide written notice and consult with the other Parties with a view to reaching a mutually satisfactory solution. Regardless of the progress or otherwise of such consultations, the withdrawal will take effect two years after the written notice. In such a situation, CPTPP will remain in force for the United Kingdom and any other territories not the subject of the notice.

12 Agency Disclosure Statement

This extended NIA has been prepared by the Ministry of Foreign Affairs and Trade, in consultation with other relevant government agencies. The extended NIA identifies all the substantive legal obligations in the Protocol, some of which will require legislative implementation, and analyses the advantages and disadvantages to New Zealand in becoming a Party to the Protocol.

Implementation of the obligations arising under the Protocol would not be expected to impose additional costs on businesses; impair private property rights, market competition, or the incentives on businesses to innovate and invest; or override fundamental common law principles.