

Chair,
Cabinet Economic Development Committee

New Zealand-China Free Trade Agreement Upgrade: Approval of Final Outcome and Next Steps

Proposal

1 That Cabinet:

- approve the outcome of negotiations to upgrade New Zealand's Free Trade Agreement (FTA) with China;
- authorise the signature of:
 - i. the treaty status *Protocol to Amend the Free Trade Agreement between New Zealand and the People's Republic of China*;
 - ii. a treaty status Side Letter on tariff elimination for certain wood and paper products (Wood and Paper Products Side Letter);
 - iii. a treaty status Side Letter on adjustments to the temporary employment entry in 'iconic Chinese occupations' (Temporary Entry Side Letter);
 - iv. a non-treaty status Side Letter on screening thresholds for Chinese investments in New Zealand significant business assets (Screening Thresholds Side Letter); and
 - v. a non-treaty status Side Letter on cosmetics regulatory cooperation (Cosmetics Cooperation Side Letter); and
- authorise New Zealand to bring the Protocol, the Temporary Entry Side Letter and the Wood and Paper Products Side Letter into force, subject to successful completion of the Parliamentary Treaty Examination process.

Executive summary

2 New Zealand's decade-old Free Trade Agreement (FTA) with China has been very successful. The outcomes achieved in the negotiations to upgrade the FTA will modernise the Agreement to ensure that it remains the benchmark for China's trade relationships and delivers ongoing and increasing benefits for New Zealand and our exporters.

3 Conclusion of the FTA Upgrade comes at a time of considerable disruption to international trade and supply chains due to COVID-19. According to the World Trade Organisation (WTO), global trade is expected to fall between 13% and 32% in 2020 as the COVID-19 pandemic disrupts economic activity on a scale not seen since the Great Depression. New Zealand's immediate goal has been to bring the pandemic under control and to mitigate as far as possible its negative impacts on our people, health systems and the economy. Work is also under way on New Zealand's economic recovery strategy, which seeks to ensure that we are in the best possible position to emerge from the COVID-19 pandemic as quickly as possible.

4 New Zealand's export profile with China (as with other markets) will be impacted in the short term by COVID-19, and possibly longer. The hardest hit sectors are expected to be tourism and education. New Zealand-China goods trade, including for medical supplies, has continued largely to flow but with some disruptions due to COVID-19. For example, export restrictions implemented by China have impacted on some New Zealand face mask manufactures' ability to source inputs through regular supply chains from China, resulting in the need to source raw inputs from other markets. Primary products exports have fared better, but some exporters of highly perishable goods, such as live seafood have experienced disruptions due to air freight capacity constraints. Despite these disruptions and New Zealand's continued interest in diversifying its markets, China will continue to be a significant source of trade and economic opportunity for our exporters.

5 Signature and entry into force of the FTA Upgrade Protocol will form an important component of New Zealand's COVID-19 economic recovery strategy, by contributing to the revitalisation of our trade architecture. Our trade networks provide predictable rules and other mechanisms to facilitate New Zealand exports of goods and services into markets around the world, including China. In that regard, our China FTA and the outcomes agreed through the FTA Upgrade Protocol will help to support and send an important signal to New Zealand businesses through the recovery phase, particularly with China coming out of its epidemiological curve earlier than other parts of the global economy.

6 Strategically, entry into force of the Protocol will also send a strong statement of New Zealand and China's continued commitment to work together to strengthen the bilateral trade architecture that underpins the international rules-based system. In the context of the current COVID-19 pandemic, this takes on even greater significance as we seek to use these rules to assist with the global economic recovery.

7 I propose that New Zealand signs the Protocol and associated side letters, which collectively form the package of agreed outcomes to upgrade the FTA. Some of the highlights include:

- Delivery of new market access opportunities for both goods and services.
- Enhanced trade facilitation measures and other provisions that respond directly to concerns raised by exporters regarding non-tariff barriers impacting trade. These outcomes will reduce red tape, save time and decrease the costs of doing business in China.

- Modernising the FTA by adding new rules in areas like e-commerce and the environment to reflect modern business practices and provide additional guarantees for New Zealand business in China.
- “Future proofing” the FTA and deepening opportunities for trade policy dialogue, by putting in place improved processes to help tackle problems and discuss issues. This will ensure our FTA helps to secure Chinese political and agency engagement, to continue developing and protecting our economic relationship in an increasingly crowded space.

8 In the early days of the COVID-19 outbreak in China’s Wuhan province, New Zealand dispatched ventilator components and other medical supplies with assistance from the New Zealand and Chinese governments. This experience has shown that the market access and trade facilitation outcomes and additional consultation mechanisms will be useful in managing aspects of our longer term COVID-19 response, ranging from facilitating access to inputs for New Zealand manufacturers of essential goods (for example Fisher & Paykel Healthcare’s medical equipment or Douglas Pharmaceuticals’ medicines) through to facilitating new opportunities for exports to China of goods such as food and medical supplies.

9 The COVID-19 pandemic also illustrates the importance of general exceptions in trade agreements. In that regard the FTA Upgrade Protocol incorporates the WTO public health exceptions that ensure that countries may take measures necessary to protect public health. The FTA Upgrade Protocol will therefore not prevent New Zealand, or China, from implementing measures necessary to protect their citizens from the pandemic.

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10 The outcomes from negotiations are all within the mandate provided by Cabinet and will not require changes to New Zealand law or regulations. The upgraded FTA will preserve the Government’s right to regulate for legitimate public policy purposes, and the existing exception for the Treaty of Waitangi remains untouched.

11 New Zealand and China have a shared goal of signing the Protocol and the four Side Letters in the first half of 2020. New Zealand and Chinese officials have been discussing options for signature of the Protocol and Side Letters in light of current COVID-19 travel-related restrictions. New Zealand’s preference is for the signing to occur through a virtual signing ceremony involving Trade Ministers from both sides. Under this approach, a date would be set where I would connect electronically via videoconference with China’s Minister for Commerce, Hon Zhong Shan. Each Minister would be located in our respective capitals and would sign a physical copy of the Protocol over videoconference.

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an alternative option would be for the Protocol and Side Letters to be signed by New Zealand’s Ambassador to China at the Ministry of Commerce in Beijing (MOFCOM), with MOFCOM Vice-Minister Wang Shouwen.

12 Immediately following signature, the Protocol and the two treaty status Side Letters will be presented to the House of Representatives together with the National Interest Analysis (NIA) for Parliamentary Treaty Examination. Copies of the two non-treaty status

Side Letters will also be provided to Parliament for consideration as part of the overall package of the FTA Upgrade outcomes.

13 In the interests of transparency, I propose that this Cabinet paper, the associated Cabinet minute, the texts of the final outcomes, and the National Interest Analysis (NIA) be publically released at the time of signature.

14 The Protocol will enter into force 60 days after New Zealand and China exchange written notification that their respective domestic legal procedures have been completed. The earliest this is likely to take place is late 2020. The Wood and Paper Products Side Letter and the Cosmetics Cooperation Side Letter will take effect on the date the Protocol enters into force. The Temporary Entry Side letter will enter into force 90 days after China's reply indicating acceptance to New Zealand. The Investment Screening Side Letter will take effect from the date of signature.

Background

15 The New Zealand-China Free Trade Agreement has provided a framework for significant growth in trade and has been a catalyst for closer trade and economic relations between New Zealand and China. Since the FTA came into force in 2008, New Zealand-China two-way trade has quadrupled from \$8 billion to over \$33 billion in 2019. At the end of 2019, China was New Zealand's largest goods market, largest source of international students, second largest source of tourists, and a significant foreign investor.

16 But the scope and nature of the New Zealand-China trading relationship has changed since the original FTA was agreed over ten years ago. While most tariffs on New Zealand exports to China have been eliminated under the existing FTA, a number of non-tariff barriers have continued to impact trade. Trade policy has also evolved to encompass new issues; and new technologies and business practices have created new opportunities, but also new challenges for our exporters. In addition, China's more recent trade deals with other FTA partners have meant that, in quality terms, our FTA was falling behind in a number of other areas, like services.

17 An upgrade to the FTA was seen as an opportunity to ensure that our FTA reflects the current circumstances of trade and business between New Zealand and China; provides the best possible access for New Zealand exporters; as well as to ensure that New Zealand continues to be one of China's leading FTA partners.

18 Against this backdrop, negotiations to upgrade the existing FTA were launched in November 2016. After three years and nine rounds of talks, the negotiations were concluded on 15 October 2019. New Zealand and China jointly announced the substantive conclusion of negotiations on 4 November 2019, following a meeting between Prime Minister Ardern and China's Premier Li Keqiang.

Comment

19 The New Zealand-China FTA Upgrade Protocol will build upon the existing FTA by amending and improving a number of provisions; and will introduce a number of new trade commitments. The negotiated package consists of several treaty status and non-treaty status instruments between New Zealand and China:

- a treaty status *Protocol to Amend the Free Trade Agreement between New Zealand and the People's Republic of China* (the Protocol);
- a treaty status Side Letter on tariff elimination by China for twelve New Zealand wood and paper products, and the establishment of a process through the FTA Joint Commission to provide better transparency of China's implementation of its obligation to extend to New Zealand any future tariff cuts agreed with other countries (Wood and Paper Products Side Letter);
- a treaty status Side Letter on New Zealand's readjustment of certain allocations and criteria for the temporary employment entry of natural persons in 'iconic Chinese occupations' (Temporary Entry Side Letter);
- a non-treaty status Side Letter on screening thresholds for Chinese investments in New Zealand significant business assets (Screening Thresholds Side Letter); and
- a non-treaty status Side Letter on cosmetics regulatory cooperation (Cosmetics Cooperation Side Letter).

20 Since the conclusion of negotiations, the COVID-19 pandemic has significantly altered the international economic and trade landscape. COVID-19 related border and travel restrictions and supply chain disruptions have had an impact on the export profile of New Zealand goods and services around the world, including with China. The hardest hit sectors have been tourism and education, with the longer term outlook for these sectors still uncertain. On the other hand, New Zealand-China goods trade, including for medical supplies, has continued largely to flow but with some disruptions. For example, export restrictions implemented by China have impacted on some New Zealand face mask manufacturers' ability to source inputs through regular supply chains from China, resulting in the need to source raw inputs from other markets. Primary products exports have fared better, but some exporters of highly perishable goods, such as live seafood, have experienced disruptions due to air freight capacity constraints.

21 These disruptions and the contracting of China's economy may delay some of the immediate economic benefits for New Zealand that would have been expected from implementation of the Protocol. Although New Zealand's interest in diversifying its markets will continue, China will continue to be a significant source of trade and economic opportunity for our exporters. Amidst the disruption and uncertainty to the world economy caused by COVID-19, the case for the FTA and its Upgrade is therefore even stronger.

22 Signature and entry into force of the FTA Upgrade Protocol will form an important component of New Zealand's COVID-19 economic recovery strategy, by contributing to the revitalisation of our trade architecture. Our trade networks provide predictable rules and other mechanisms to facilitate New Zealand exports of goods and services. Our China FTA and the outcomes agreed through the FTA Upgrade Protocol will help to support New Zealand businesses through the recovery phase, particularly with China coming out of its epidemiological curve earlier than other parts of the global economy.

23 Economically, the outcomes achieved will ensure the FTA continues to deliver ongoing and increasing benefit for New Zealand and our exporters. Strategically, the outcomes are significant at a time when the rules-based trading system is facing

unprecedented threats. It contributes to New Zealand's objective of expanding and refreshing our FTA network, and sends a strong statement of New Zealand and China's shared commitment to the international rules-based trading system. In the context of the current COVID-19 pandemic, this takes on even greater significance as we seek to use these rules to assist with the global economic recovery.

24 The Protocol will not alter the existing FTA's exceptions. The Government's right to regulate for legitimate public policy purposes will be preserved, as will our exception for the Treaty of Waitangi. These exceptions are relevant in the context of the current COVID-19 pandemic. The FTA Upgrade Protocol incorporates the WTO public health exceptions that ensure that countries may take measures necessary to protect public health. This also means the Protocol will not prevent New Zealand or China from adopting such necessary measures.

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25 There will be no change to New Zealand's domestic policy or regulatory settings as a result of the Protocol.

26 The final outcomes from the negotiations (further detailed below) are all within the Cabinet mandate.¹

Trade in Goods

27 China has agreed to eliminate customs duties on 12 additional tariff lines of wood and paper products previously excluded from tariff elimination commitments under the existing FTA. These commitments will be phased in through a process of linear tariff cuts, over a ten year implementation period. Collectively, these 12 tariff lines represent NZ\$213 million in New Zealand's exports to the world and NZ\$35 million in New Zealand's exports to China.² The new commitments will result in duty savings of approximately NZ\$1.7 million per year³ for New Zealand exporters, based on current levels of trade. Once fully implemented, it will mean that 99% of New Zealand's \$3 billion wood and paper exports to China will receive tariff free access.

28 New transparency mechanisms will also be established under the FTA Joint Commission relating to implementation of a commitment China made in the existing FTA that, should China grant any third party more favourable tariff treatment in the future on wood and paper tariff lines, this treatment would be extended to New Zealand.⁴ This will ensure that New Zealand wood and paper processors have up-to-date information on tariff treatment for their exports to China. Taken together, the goods market access outcomes will provide further tariff savings and help to increase the competitiveness of our forestry and wood processing sectors, which make an important contribution to New Zealand's economy and regional economic development objectives.

¹ ERD-17-MIN-0225 (9 August 2017), DEV-18-MIN-0142 and CAB-18-MIN-0320 (4 July and 9 July 2018), and Submission to the Minister for Trade and Export Growth (26 September 2019).

² Based on average annual exports by New Zealand for last five calendar years 2015-19.

³ Based on average annual imports by China for last five calendar years 2015-19.

⁴ Since 2008, China has reduced or eliminated tariffs on 75 wood and paper tariff lines for New Zealand products as a result of this provision, with a further 14 lines pending.

29 The New Zealand dairy industry had expectations that the FTA Upgrade would improve market access through changes to the dairy special safeguards provisions in the existing FTA.⁵ New Zealand made significant efforts to negotiate improvements to the dairy safeguards during the FTA Upgrade negotiations. Due to China's wish to expand the safeguards, there was a risk that re-opening the safeguards could result in a worse outcome for New Zealand, including the possibility of a permanent safeguard being imposed on key exports like whole milk powder, as in the case of the Australia-China FTA. To guard against that risk,

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I judged that preserving the current FTA commitment to remove all safeguards by 2024 was the best means of ensuring New Zealand's tariff advantage into the China market over the longer term. This means that New Zealand dairy exporters will continue to face tariff barriers for some products in the short term, but by January 2024, those barriers will be eliminated and New Zealand will continue to have the best access to China for dairy products of any country.

Trade in Services

30 Under the Protocol, China will introduce new market access commitments in 22 sectors not included in the existing FTA, including in environmental services, airport operation services, selling and marketing of air transport services, audio-visual services (sound recording distribution), and China's best-ever commitments in specialty air services and ground handling services. A total of 17 sectors already committed in the existing FTA will also see improvements in market access coverage. This includes real estate services, translation and interpretation services, other education services, advertising services, and sport and recreation services. New Zealand has made new market access commitments in 23 new sectors, including container station and depot services, maritime agency services, ground handling services and specialty air services.

31 Mechanisms for future services trade liberalisation have also been agreed, including a commitment to commence negotiation of a 'negative list'⁶ within two years of entry into force of the Protocol, and expanded 'Most Favoured Nation'⁷ (MFN) coverage for an additional 20 services sectors for China, including sectors of importance to New Zealand such as education. This will help to protect the future competitive position of New Zealand services exporters in the China market. New Zealand has also expanded its MFN coverage to an additional 14 sectors. This will mean that Chinese service suppliers in these sectors will automatically receive the benefit of any future commitments made by New Zealand in subsequent FTAs.

Enhanced trade facilitation measures

32 The Protocol contains enhanced trade facilitation measures and other provisions that respond to concerns raised by New Zealand exporters regarding non-tariff barriers

⁵ The dairy safeguards restrict the volume of New Zealand dairy exports that can benefit from tariff-free access. These are due to expire for liquid milk and cream, butter and cheese at the end of 2021, and the end of 2023 for milk powders.

⁶ Under a 'negative list' approach, Parties commit to provide market access and national treatment except in areas where restrictions are listed in services schedules. This format provides exporters with a simple way to determine whether the services chapter applies to their area of business in China's market.

⁷ Most favoured nation (MFN) commitments require Parties to an FTA to extend any better treatment relating to market access agreed by either Party with third countries automatically to the other Party.

impacting trade. These outcomes will lower compliance costs, reduce the time exporters spend waiting for goods to clear customs, and enhance transparency and predictability around China's processes. This includes improvements to the:

- **Rules of Origin and Operational Procedures** Chapter, including the introduction of the ability for 'approved exporters' to self-declare the origin of their goods for the purposes of claiming tariff preference under the FTA – saving time and money.⁸
- **Customs Procedures and Cooperation** Chapter, including the introduction of a commitment for 'perishable goods' such as seafood to be released to the extent possible within six hours; and the establishment of contact points at key ports in China.
- **Technical Barriers to Trade** Chapter, including new provisions on marking and labelling and border measures that will provide New Zealand exporters with cost effective ways to meet China's regulatory requirements; and a cosmetics regulatory cooperation Side Letter that will help our industry to understand planned changes to China's regulations and prepare for these.

New areas

33 The Protocol will introduce a number of new chapters to the FTA that respond to the evolution of trade policy over the past ten years and will ensure the FTA is modern and reflective of current business practices. This includes:

- An **Electronic Commerce** Chapter, which will allow businesses and consumers to transact online with confidence; protect the privacy and rights of consumers; and establish a framework for discussing fast-changing and emerging issues.
- An **Environment and Trade** Chapter, which will build upon and complement the existing Environment Cooperation Agreement negotiated alongside the existing FTA. The new chapter will represent the most ambitious trade and environment commitments that China has agreed with any FTA partner.
- A **Competition Policy** Chapter which includes commitments to have consumer protection laws, and to provide a right of redress for goods or services that are not of acceptable quality, not fit for purpose, or do not match their description.
- A **Government Procurement** Chapter which promotes more transparent procurement processes; and commitments to conduct procurement with integrity and to prevent corruption. The chapter includes a commitment for China to enter into market access negotiations with New Zealand once it completes its accession to the WTO Agreement on Government Procurement, or if it were to negotiate market access on government procurement with another country.

Temporary Employment Entry

34 Adjustments will be made to the visa allocations for iconic Chinese occupations under the existing FTA, to increase the allocations in categories where New Zealand

⁸ The option of obtaining a Certificate of Origin through the Chambers of Commerce will continue to exist, so exporters will be able to choose the method that best suits their particular circumstances.

stakeholders want suitably qualified staff. In particular, there will be an increase to the visa allocations for Chinese Tour Guides (from 100 to 200 places) and Mandarin Teaching Aides (from 150 to 300 places) and a corresponding decrease in other, less utilised categories⁹ so the total cap of 800 remains unchanged. **S6(a)**

35 The existing Chinese Tour Guide category will also be broadened to “Chinese Tourism Specialist”. New eligibility criteria will be introduced that are designed to provide more flexibility and the ability to better match the skills and experience of applicants with the needs of the New Zealand tourism industry.

Investment

36 The Protocol will not change the Investment Chapter in the existing FTA; nor will it require any changes to New Zealand’s domestic investment policy settings. A Side Letter has been agreed which confirms that Chinese investors in New Zealand significant business assets benefit from the screening threshold agreed in CPTPP (as a result of the MFN commitment in the existing FTA), specifically \$100m for Chinese government investments, and \$200m for non-government investments in New Zealand significant business assets.¹¹ This treatment will also be reflected through a corresponding technical adjustment to the services schedule.

Treaty of Waitangi

37 The Treaty of Waitangi exception remains unchanged from the existing FTA and provides clarity that the Crown will be able to continue to meet its obligations to Māori, 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 Māori without being obliged to offer equivalent treatment to overseas entities. The exception applies in respect of matters covered by the entire FTA (as modified by the Protocol).

Next Steps

38 The next steps for the New Zealand-China FTA Upgrade are:

- the signing of the Protocol and four associated Side Letters, which is expected to take place in the first half of 2020;
- public release of the legally verified text of the negotiations and the NIA, at the time of signature; **S6(a)**
- tabling of the Protocol and the two treaty status Side Letters, along with the accompanying NIA in the House of Representatives for Parliamentary Treaty

⁹ The allocations will be reduced for Traditional Chinese Medicine Practitioners (from 200 to 75 places) and Wushu Martial Arts Coaches (from 150 to 25 places). There will be no changes made to the visa allocations for Chinese Chefs (200 places). **S6(a)**

¹¹ The MFN provision in the existing FTA applies to non-government investments in all non-services sectors and the following seven services sectors: environmental services, services incidental to agriculture and forestry, engineering services, integrated engineering services, computer and related services and tourism services.

Examination (the two non-treaty status Side Letters, as part of the overall package of outcomes, will also be provided to Parliament); and

- entry into force of the Protocol and Side Letters following an exchange of diplomatic notes between New Zealand and China confirming completion of respective domestic processes.

Translation of the Protocol into Chinese and Signature

39 Approval is sought to sign the Protocol and the four Side Letters once the Chinese translation is completed and the Department of Internal Affairs (DIA) has verified the translations. The exact timing of signature must be agreed with China and will be determined closer to the time with officials coordinating closely with my office, and the offices of the Prime Minister and Minister of Foreign Affairs. New Zealand and Chinese officials have been discussing options for signature of the Protocol and associated Side Letters in light of current COVID-19 travel-related restrictions. New Zealand's preference is for the signing to occur through a virtual signing ceremony involving Trade Ministers from both sides. Under this approach, a date would be set where I would connect electronically via videoconference with China's Minister for Commerce, Hon Zhong Shan. Each Minister would be located in our respective capitals and would sign a physical copy of the Protocol over videoconference. an alternative option would be for the Protocol and associated Side Letters to be signed by New Zealand's Ambassador to China at the Ministry of Commerce in Beijing (MOFCOM), with MOFCOM Vice-Minister Wang Shouwen.

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Parliamentary Treaty Examination Process

40 Immediately following signature, the Protocol and the two treaty status Side Letters will be presented together with the NIA to the House of Representatives for Parliamentary Treaty Examination in accordance with the procedure set out in Standing Orders 397 to 400. Copies of the two non-treaty status Side Letters will also be provided to Parliament for the consideration of the House as part of the overall package of the FTA Upgrade outcomes. The text of the final outcomes from the New Zealand-China FTA Upgrade (including the Protocol and four Side Letters) are attached as Annex One. The draft NIA is attached to this paper as Annex Two.

41 During the Parliamentary Treaty Examination process, the Foreign Affairs, Defence and Trade Committee may choose to call for public hearings and submissions. This process will allow for further engagement with stakeholders.

Entry-into-force

42 The Protocol will enter into force 60 days after New Zealand and China exchange written notification that their respective domestic legal procedures have been completed. For New Zealand, the required domestic legal procedures include the Parliamentary Treaty Examination process. The Wood and Paper Products Side Letter and the Cosmetics Cooperation Side Letter will enter into force on the date on which the Protocol enters into force. The earliest this is likely to take place is late 2020.

43 The Temporary Entry Side letter will enter into force 90 days after China's reply indicating acceptance to New Zealand. The Investment Screening Side Letter will take effect from the date of signature.

Consultation

44 The following departments and agencies have been consulted: the Ministry of Business, Innovation and Employment, Ministry for Primary Industries, The Treasury, Customs, Te Puni Kōkiri, New Zealand Qualifications Authority, Ministry of Education and the Department of Prime Minister and Cabinet. New Zealand First and the Greens have also been notified of the preparation of this paper.

45 The NIA outlines the wider consultation and engagement with Māori and civil society during the negotiating process.

Financial implications

46 The implementation of the Protocol will have some fiscal implications that are expected to be met from within departmental baselines. Any promotion and outreach activities to explain the key outcomes of the Protocol are expected to be undertaken as part of the Ministry and Foreign Affairs and Trade's wider trade policy outreach activities, which includes both consultations and engagement (for both on-going and completed negotiations) as well as promotional activities.

47 Costs of implementing the Protocol includes one-off costs of \$250,000 secured through the inter-agency Trade Negotiations Fund (TNF) for software development to implement changes to the Joint Electronic Verification System (JEVS) to implement the commitments related to self-declaration of origin.¹²

48 The costs of servicing any FTA committees are expected to build on and combine with activities that were already a part of the relationship under the existing FTA and its established structures. A number of commitments in the Protocol establish mechanisms that allow for future cooperation between New Zealand and China in areas of mutual interest. Cooperation proposals are expected to be developed over time through these mechanisms and are expected to fall within the scope of existing departmental activity and be funded where possible from baselines. Where not possible, Cabinet approval for additional funding would be sought.

Human rights

49 There are no inconsistencies with the Human Rights Act 1993 and New Zealand Bill of Rights Act 1990.

Legislative implications

50 No amendment to primary legislation is required in order to implement the outcomes of the Protocol.

¹² Further funding may be required once the initial system is in place and additional operational requirements become known, which could be sought from the inter-agency TNF or through separate Cabinet approval. Following this, ongoing costs associated with maintenance of the enhanced JEVS system would be met from agency baselines.

Regulatory impact analysis

51 Not required. The obligations in the Protocol and Side Letters are already met by New Zealand's existing domestic legal and policy regime, and will not require regulatory amendment.

Publicity

52 I propose to release this Cabinet paper, the associated Cabinet minute along with the text of the Protocol, the four Side Letters, and the NIA following the public announcement of the signature of the Protocol.

53 A summary of key outcomes across the negotiation and other explanatory materials was published on the Ministry of Foreign Affairs and Trade website at the time of announcement of substantive conclusion in November 2019. Further detailed information about the upgraded FTA and FAQs will be added to the MFAT website, along with the Protocol text and Side Letters, at the time of signature and release of the updated texts.

Recommendations

54 The Minister for Trade and Export Growth recommends that Cabinet:

1. **Note** that negotiations to upgrade New Zealand's Free Trade Agreement with China were formally concluded in October 2019;
2. **Note** the outcome of negotiations achieves New Zealand's negotiating objectives and is within the mandate approved by Cabinet;
3. **Approve** the text of the following five instruments, which collectively form the package of agreed outcomes to upgrade the New Zealand-China Free Trade Agreement:
 - 3.1 Treaty status *Protocol to Amend the Free Trade Agreement between New Zealand and the People's Republic of China* (the Protocol);
 - 3.2 Treaty status Side Letter on New Zealand's readjustment of certain allocations and conditions for the temporary employment entry of natural persons in 'iconic Chinese occupations' (Temporary Entry Side Letter);
 - 3.3 Treaty status Side Letter on tariff elimination for twelve New Zealand wood and paper products exports to China (Wood and Paper Products Side Letter);
 - 3.4 Non-treaty status Side Letter on screening thresholds for Chinese investments in New Zealand significant business assets (Screening Thresholds Side Letter); and
 - 3.5 Non-treaty status Side Letter on cosmetics regulatory cooperation (Cosmetics Cooperation Side Letter);

subject to any minor or technical changes arising from the final legal verification process;

4. **Approve** the National Interest Analysis, subject to any minor or technical changes required between now and public release which could include additional context-setting relating to COVID-19;
5. **Authorise** the Minister for Trade and Export Growth, in consultation with relevant Ministers, to approve any necessary minor or technical amendments to the Protocol and the four Side Letters which do not materially alter their content;
6. **Authorise** exchange of the four Side Letters, following their translation into Chinese and verification of the Chinese translations by the Department of Internal Affairs prior to signature;
7. **Authorise** signature of the Protocol and the four Side Letters, subject to their translation into Chinese and verification of the Chinese translations by the Department of Internal Affairs prior to signature, and the final approval of the Minister for Trade and Export Growth;
8. **Agree** that the text of the Protocol and all four Side Letters, along with the National Interest Analysis, this Cabinet paper and the Cabinet minute be made public at the time of signature with redactions where necessary;
9. **Agree** that following signature, the texts of the Protocol, the Temporary Entry Side Letter, the Wood and Paper Products Side Letter and the National Interest Analysis be presented to the House of Representatives for Parliamentary Treaty Examination, in accordance with Standing Orders 397-400;
10. **Agree** that the two non-treaty status Side Letters also be provided to Parliament for consideration as part of the overall package of outcomes;
11. **Note** that no amendment to primary legislation or regulations will be required in order to implement the Protocol and four Side Letters;
12. **Authorise** officials to bring the Protocol and two treaty status Side Letters into force, by notifying China in accordance with Article 15(1) of the Protocol, following signature and satisfactory completion of the Parliamentary Treaty Examination process;
13. **Note** the earliest that the Protocol is expected to enter into force is the last quarter of 2020, and is contingent upon China also completing its respective domestic procedures;

14. **Note** that:

- 14.1 the Wood and Paper Products Side Letter and the Cosmetics Cooperation Side Letter will take effect on the date the Protocol enters into force;
- 14.2 the Temporary Entry Side letter will enter into force 90 days after China's reply indicating acceptance to New Zealand; and
- 14.3 the Investment Screening Side Letter will take effect from the date of signature.

15. **Note** that the ongoing costs associated with implementing the upgraded FTA are low and will be met from within departmental baselines.

Hon David Parker
Minister for Trade and Export Growth