

*EU-New Zealand Free Trade Agreement
Without prejudice*

Disclaimer: *In view of the Commission and New Zealand's respective transparency policies, the Commission and New Zealand are publishing the texts of the Agreement following the announcement of conclusion of the negotiations on 30 June 2022 (Brussels time).*

The texts are published in view of the public interest in the negotiations for information purposes only and they may undergo further modifications, including as a result of the process of legal revision. These texts are without prejudice to the final outcome of the Agreement between the EU and New Zealand.

The texts will be final upon signature. The Agreement will become binding on the Parties under international law only after completion by each Party of its internal legal procedures necessary for the entry into force of the Agreement.

CHAPTER XX

CAPITAL MOVEMENTS, PAYMENTS AND TRANSFERS AND TEMPORARY SAFEGUARD
MEASURES

ARTICLE X.1

Payments and transfers¹

Each Party shall allow, in freely convertible currency and in accordance with the provisions of the Articles of the Agreement of the International Monetary Fund, as applicable, any payments and transfers with respect to transactions on the current account of the balance of payments that fall within the scope of this Agreement.

ARTICLE X.2

Capital Movements

Each Party shall allow, with regard to transactions on the capital and financial account of the balance of payments, the free movement of capital for the purpose of liberalisation of investment and other transactions as provided for in Title XX [Trade in Services, Investment Liberalisation and E-Commerce].

ARTICLE X.3

¹ For greater certainty, Article X.1. and X.2. are subject to Article X [general exceptions].

Application of laws and regulations relating to capital movements, payments or transfers

1. The provisions of Articles X.1 and X.2 of this Chapter shall not be construed as preventing a Party from applying its laws and regulations relating to:

- (a) bankruptcy, insolvency, or the protection of the rights of creditors;
- (b) issuing, trading or dealing in securities, derivatives such as futures or options, or in other financial instruments;
- (c) financial reporting or record keeping of capital movements, payments or transfers where necessary to assist law enforcement or financial regulatory authorities;
- (d) criminal or penal offenses, deceptive or fraudulent practices;
- (e) ensuring compliance with orders or judgments in judicial or administrative proceedings; or
- (f) social security, public retirement or compulsory savings schemes.

2. The laws and regulations referred to in paragraph 1 shall not be applied in an arbitrary or discriminatory manner, or otherwise constitute a disguised restriction on capital movements, payments or transfers.

ARTICLE X.4

Temporary safeguard measures

1. In exceptional circumstances of serious difficulties for the operation of the Union's economic and monetary union, or threat thereof, the Union may adopt or maintain safeguard measures with regard to capital movements, payments or transfers for a period not exceeding six months.

2. The measures referred to in paragraph 1 shall be limited to the extent that is strictly necessary and shall not constitute a means of arbitrary or unjustified discrimination between New Zealand and a third country in like situations.

ARTICLE X.5

Restrictions in case of balance of payments and external financing difficulties

1. Where a Party experiences serious balance-of-payments or external financial difficulties, or threat thereof, it may adopt or maintain restrictive measures with regard to capital movements, payments or transfers².
2. The measures referred to in paragraph 1 shall:
 - (a) be consistent with the Articles of the Agreement of the International Monetary Fund, as applicable;
 - (b) not exceed those necessary to deal with the circumstances described in paragraph 1;
 - (c) be temporary and phased out progressively as the situation specified in paragraph 1 improves;
 - (d) avoid unnecessary damage to the commercial, economic and financial interests of the other Party;
 - (e) be non-discriminatory such that the other Party is treated no less favourably than any non-Party in like situations.
3. In the case of trade in goods, each Party may adopt restrictive measures in order to safeguard its external financial position or balance-of-payments. Those measures shall be in accordance with the General Agreement on Trade and Tariffs (GATT) and the Understanding on the Balance of Payments provisions of the GATT 1994.

² In the case of the EU, such measures may be taken by a Member State of the EU in situations other than those referred to in Article x.4, which affect the economy of that Member State. For greater certainty, serious balance of payments or external financial difficulties, or threat thereof, may be caused among other factors by serious difficulties related to monetary or exchange rate policies, or threat thereof.

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4. In the case of trade in services, each Party may adopt restrictive measures in order to safeguard its external financial position or balance of payments. Those measures shall be in accordance with Article XII of the General Agreement on Trade in Services (GATS).

5. A Party maintaining or having adopted measures referred to in paragraphs 1 and 2 shall promptly notify them to the other Party.

6. If restrictions are adopted or maintained under this Article, the Parties shall promptly hold consultations in the [Committee on Trade in Services and Investment – to be adapted] unless consultations are held in other fora. The consultations shall assess the balance-of-payments or external financial difficulty that led to the respective measures, taking into account, inter alia, such factors as:

- (a) the nature and extent of the difficulties;
- (b) the external economic and trading environment; and
- (c) alternative corrective measures which may be available.

7. The consultations pursuant to paragraph 6 shall review the compliance of any restrictive measures with paragraphs 1 and 2. All relevant findings of statistical or factual nature presented by the IMF, where available, shall be accepted and conclusions shall take into account the assessment by the IMF of the balance-of-payments and the external financial situation of the Party concerned.