

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 X

ENERGY AND RAW MATERIALS

ARTICLE X.1

Objective

The Parties aim to facilitate trade and investment to promote, develop and increase energy generation from renewable sources and the sustainable production of raw materials, including through the use of green technologies.

ARTICLE X.2

Principles

1. Each Party retains the sovereign right to determine whether areas within its territory, as well as in its archipelagic and territorial waters, exclusive economic zone and continental shelf, are available for exploring for and producing energy goods and raw materials.
2. The Parties preserve their right to adopt, maintain and enforce measures necessary to securing the supply of energy goods and raw materials, consistent with the provisions of this Agreement.

ARTICLE X.3

Definitions

For the purposes of this Chapter:

- (a) "Authorisation" means the permission, license, concession or similar administrative or contractual instrument by which the competent authority of a Party entitles an entity to exercise a certain economic activity in its territory.
- (b) "balancing" means all actions and processes, in all timelines, through which network operators ensure, in a continuous way, maintenance of the system frequency within a predefined stability range and compliance with the amount of reserves needed with respect to the required quality
- (c) "Energy goods" means the goods from which energy is generated listed by the corresponding HS code in Annex X.¹;
- (d) "Hydrocarbons" refers to the goods listed by the corresponding HS code in Annex X;
- (e) "Raw Materials" means materials used in the manufacture of industrial goods listed by the corresponding HS code in Annex X.²;
- (f) "Renewable energy" means energy produced from solar, wind, hydro, geothermal, biological, and ocean sources and other ambient sources;³
- (g) "Standards" means standards as defined in Annex 1 of the WTO Agreement on Technical Barriers to Trade;

¹ For greater certainty, energy goods does not mean agricultural, forestry or fisheries goods other than biogas or biofuels

² For greater certainty, raw materials does not mean agricultural, forestry or fisheries goods

³ Where the original energy source is renewable.

- (h) "Technical regulations" means technical regulations as defined in Annex 1 of the WTO Agreement on Technical Barriers to Trade;
- (i) "renewable electricity" means electricity generated from renewable energy sources

ARTICLE X.4

Import and export monopolies

No Party shall designate or maintain a designated import or export monopoly. For the purposes of this Article, import or export monopoly means the exclusive right or grant of authority by a Party to an entity to import energy goods or raw materials from, or export energy goods or raw materials to, the other Party.⁴

ARTICLE X.5

Export pricing

A Party shall not impose a higher price for exports of energy goods or raw materials to the other Party than the price charged for such goods when destined for the domestic market, by means of any measure such as licenses or minimum price requirements.

ARTICLE X.6

⁴ For greater certainty, this Article is without prejudice to provisions in the Trade in Service and Investment Chapter and Schedules, and does not include a right that results from the grant of an intellectual property right.

Domestic pricing

Each Party shall seek to ensure that wholesale electricity and natural gas prices reflect actual supply and demand. If a Party decides to regulate the price of the domestic supply of energy goods and raw materials (hereinafter referred to as "regulated price"), they may do so only to achieve a legitimate public policy objective, and only by imposing a regulated price that is clearly defined, transparent, non-discriminatory and proportionate.

ARTICLE X.7

Authorisation for exploration and production of energy goods and raw materials

1. If a Party requires an authorisation to explore for or produce hydrocarbons, electricity or raw materials, that Party shall:
 - (a) grant such an authorisation in accordance with the conditions and procedures set out in Articles X. 33 and X.34 of Sub-Section 1 (Domestic Regulation) of Section E (Regulatory Framework) of Chapter [X] on Investment Liberalisation and Trade in Services.
 - (b) ensure a transparent process for granting applications and shall publish, inter alia, the type of authorisation and the relevant area or part thereof, in such a manner as to enable potentially interested applicants to submit applications.
2. A Party may grant authorisations without complying with the conditions and procedures set out in X.34 of Sub-Section 1 (Domestic Regulation) of Section E (Regulatory Framework) of Chapter [X] on Investment Liberalisation and Trade in Services and point (b) of paragraph 1 in any of the following cases related to hydrocarbons:
 - (a) the area has been subject to a previous procedure complying with X.34 of Sub-Section 1

(Domestic Regulation) of Section E (Regulatory Framework) of Chapter [X] on Investment Liberalisation and Trade in Services and point (b) of paragraph 1 which has not resulted in an authorisation being granted;

- (b) the area is available on a permanent basis for the exploration for or production; or
- (c) the authorisation granted has been relinquished before its date of extinction.

3. A Party may require an entity which has been granted an authorisation to pay a financial contribution or a contribution in kind.⁵ The contribution shall be fixed in such a manner so as not to interfere with the management and the decision-making process of the entity which has been granted an authorisation.

4. Each Party shall ensure that the applicant is provided with the reasons for the rejection of its application so as to enable such a person to have recourse to procedures for appeal or review where necessary. The procedures for appeal or review shall be made public in advance.

ARTICLE X.8

Assessment of environmental impact

1. Each Party shall ensure that its domestic laws and regulations require environmental impact assessment for activities related to production of energy goods or raw materials, where such activities may have a significant impact on the environment.

⁵ For greater certainty, the term ‘financial contribution or a contribution in kind’ in this provision does not include any security or payment required for the purpose of an entity meeting an obligation to fund and carry out decommissioning or any security or payment required for post decommissioning activities.

2. With respect to assessment of environmental impact pursuant to paragraph 1, each Party shall as required by its domestic laws and regulations:
- (a) ensure that an early and effective opportunity and an appropriate time period is given to all interested persons (including relevant non-governmental organisations) to participate in the environmental impact assessment and an appropriate time period to provide comments on the environmental impact assessment report;
 - (b) take into account the findings of an environmental impact assessment relating to the effects on the environment prior to granting of authorisation of the project;
 - (c) make publicly available the outcome findings of an environmental impact assessment.
 - (d) identify and assess as appropriate the significant effects of the project on a) population and human health; b) biodiversity; c) land, soil, water, air and climate; and, d) cultural heritage and landscape, including the expected effects deriving from the vulnerability of the project to risks of major accidents and/or disasters that are relevant to the project concerned.

ARTICLE X.9

Off-shore risk and safety

1. Each Party shall ensure that regulatory functions relating to safety and environmental protection of offshore oil and gas operations are conducted independently from regulatory functions relating to economic development and licensing of offshore oil and gas operations; such as by maintaining separate legal entities for such purposes.
2. Each Party shall when applicable, establish the conditions necessary for safe offshore, exploration and production of oil and gas in its territory, in order to protect the marine environment

and coastal communities against pollution. These conditions shall be based on high standards of safety and environmental protection for offshore oil and gas operations.

3. The Parties shall cooperate as appropriate, to promote internationally those high standards of safety and environmental protection for offshore oil and gas operations, by sharing information and increasing transparency on safety and environmental performance.

ARTICLE X.10

Access to energy infrastructure for producers of renewable electricity

1. Without prejudice to Article 7, each Party shall ensure that producers of renewable electricity in its territory are granted access to the electricity transmission and distribution infrastructure in its territory within a reasonable period of time after the request for access and on non-discriminatory, reasonable and cost-reflective terms and conditions that allow reliable use of the infrastructure.

2. Each Party shall ensure that owners or operators of electricity transmission infrastructure in its territory publish the terms and conditions referred to in paragraph 1 and take appropriate measures to minimise the curtailment of renewable electricity production.

3. Each Party shall ensure balancing markets are organised where producers of renewable energy are accorded reasonable and non-discriminatory terms when procuring products and services.

4. This Article is without prejudice to the right of each Party to introduce or maintain in its domestic laws and regulations derogations from the right to access to the electricity transmission infrastructure based on objective and non-discriminatory criteria provided that they are necessary to fulfil a legitimate policy objective, such as the need to maintain the stability of the electricity system.

ARTICLE X.11

Regulatory Authority

Each Party shall maintain or establish an independent regulatory body or any other independent body that is legally distinct and functionally separate from, and not accountable to other authorities as well as to operators providing or entities having access to the electricity transmission and distribution infrastructure, and which shall be entrusted to resolve disputes regarding appropriate terms, conditions and tariffs for access and use within a reasonable period of time.

ARTICLE X.12

Cooperation on Standards, Technical Regulations and Conformity Assessments

1. In accordance with Articles X.5 and X.5 of Chapter [X] on Technical Barriers to Trade, the Parties shall promote cooperation between the regulators and/or standardisation bodies located within their respective territories on the area of energy efficiency and sustainable renewable energy, with a view to contributing to sustainable energy and climate policy.
2. For the purposes of paragraph 1, the Parties shall endeavour to identify relevant initiatives of mutual interest concerning standards, technical regulations, and conformity assessment procedures related to energy efficiency and sustainable renewable energy.

ARTICLE X.13

Research, development and innovation

The Parties shall promote research, development and innovation in the areas of energy efficiency and renewable energy and raw materials, and to this end the Parties shall cooperate as appropriate, *inter alia*, to:

- (a) promote the dissemination of information and best-practices on environmentally sound and economically efficient energy and raw materials policies, and cost-effective practices and technologies in the areas of energy efficiency, renewable energy and raw materials, in a manner that is consistent with the adequate and effective protection of intellectual property rights; and
- (b) promote research, development and application of energy-efficient and environmentally sound technologies, practices and processes in the areas of energy efficiency and renewable energy and raw materials, which would minimise harmful environmental impacts in the entire energy and raw materials chains.

ARTICLE X.14

Cooperation on Energy and Raw Materials

The Parties shall cooperate, as appropriate, in the area of energy and raw materials with a view to, *inter alia*:

- (a) reduce or eliminate trade and investment distorting measures in third countries affecting energy and raw materials;
- (b) coordinate their positions in international fora where trade and investment issues related to energy and raw materials are discussed and foster international programmes in the areas of energy efficiency, renewable energy and raw materials;
- (c) foster exchange of market data in the area of energy including information on the organisation of energy markets, promotion of new energy technologies and energy efficiency; and raw materials;
- (d) promote corporate social responsibility in accordance with international standards, such as the OECD Guidelines for Multinational Enterprises and the respective Due Diligence Guidance;

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- (e) promote the values of responsible sourcing and mining globally as well as to maximise the contribution of their raw materials sectors and associated industrial value chains to the fulfilment of the UN Sustainable Development Goals;
- (f) promote research, development, innovation and training in relevant fields of common interest in the area of energy goods and raw materials;
- (g) foster exchange of information and best practices on domestic policy developments;
- (h) promote the efficient use of resources (i.e. improving production processes as well as durability, reparability, design for disassembly, ease of reuse and recycling of goods); and
- (i) promote internationally high standards of safety and environmental protection for offshore oil, gas and mining operations, by sharing information and increasing transparency on safety and environmental performance.

LIST OF ENERGY GOODS BY HS CODE

Solid fuels (HS code 27.01, 27.02 and 27.04), crude oil (HS code 27.09), oil products (HS code 27.10, 27.13 – 27.15), natural gas whether liquefied or not (HS 27.11), and electrical energy (HS 27.16), biogas (HS 38.25).

LIST OF RAW MATERIALS BY HS CODE

[unprocessed and semi-processed products covered in the following chapters:]

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chapter	Heading
25	Salt; sulphur; earths and stone; plastering materials, lime and cement
26	Ores, slag and ash (excluding uranium and thorium (HS 26.12))
27	Mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral waxes
28	Inorganic chemicals; organic or inorganic compounds of precious metals, of rare-earth metals, of radioactive elements or of isotopes
29	Organic chemicals
31	Fertilisers
71	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal, and articles thereof (excluding green stone (HS 71.03))
72	Iron and steel
74	Copper and articles thereof
75	Nickel and articles thereof
76	Aluminium and articles thereof
78	Lead and articles thereof
79	Zinc and articles thereof
80	Tin and articles thereof
81	Other base metals; cermets; articles thereof

LIST OF HYDROCARBONS BY HS CODE

Crude oil (HS code 27.09), Natural gas (HS code 27.11)