

**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

### PUBLIC PROCUREMENT

#### ARTICLE X.1

##### Incorporation and Application of Certain Provisions of the GPA

1. The Parties affirm their rights and obligations under the Agreement on Government Procurement as amended by the Protocol Amending the Agreement on Government Procurement, done at Geneva on 30 March 2012 (hereinafter referred to as the “GPA”).
2. The following provisions of the GPA are incorporated into and made part of this Agreement, and shall apply, mutatis mutandis, to procurement covered by Annex XX:
  - (a) Articles I-IV, VI-XV, XVI.1-XVI.3, XVII and XVIII. If any of these GPA articles are amended, the Parties shall amend this Chapter, as appropriate, after consultations.
  - (b) Appendices II, III and IV of the GPA as they relate to each Party, including their subsequent binding amendments.
3. For greater certainty, references to “covered procurement” in the provisions incorporated in Article X.1.2 shall be interpreted as references to procurement covered by Annex XX of this Agreement.

ARTICLE X.2

Additional disciplines

In addition to the provisions referred to under Article 1, the Parties shall apply the following provisions:

*Use of electronic means in conducting procurement and publication of notices*

1. All notices relating to covered procurement (including notice of intended procurement, summary notice, notice of planned procurement and contract award notices):

- (i) shall be directly accessible by electronic means, free of charge, through a single point of access on the internet; and
- (ii) may also be published in an appropriate paper medium.

Tender documentation shall be made available through electronic means and the Parties shall use electronic means in the submission of tenders to the widest extent practicable.

*Registration Systems and Qualification Procedures*

2. Pursuant to Article IX.1 of the GPA, where a Party, including its procuring entities, or any other competent authority maintains a supplier registration system, it shall ensure that information on the registration system is accessible through electronic means and that interested suppliers may request registration at any time. Where a supplier meets the conditions for registration, it shall be registered within a reasonable time period. Where a supplier does not meet the conditions for registration, it shall be informed and provided with written reasons within a reasonable time period.

*Selective tendering*

3. Pursuant to Article IX.5 of the GPA, where a procuring entity uses a selective tendering procedure it shall not limit the number of suppliers invited to submit a tender with the intention of avoiding effective competition.

*Environmental, social and labour considerations*

4. A Party may:
- (a) allow procuring entities to take into account environmental, labour and social considerations related to the object of the procurement, provided they are:
    - (i) non-discriminatory; and
    - (ii) indicated in the notice of intended procurement or tender documentation.
  - (b) take appropriate measures to ensure compliance with its national and international environmental, labour and social laws, regulations, obligations and standards provided that they are not discriminatory.

*Conditions for participation*

5. While a procuring entity of a Party may, in establishing the conditions for participation, require relevant prior experience where essential to meet the requirements of the procurement in accordance with subparagraph 2(b) of Article VIII of the GPA, that procuring entity shall not require prior experience in the territory of the Party to be a condition of the procurement.

ARTICLE X.3

Exchange of statistics

Each Party shall make available to the other party bilateral statistics on public procurement, subject to their availability in official online procurement systems of each party, on a two yearly basis.

ARTICLE X.4

Modifications and rectifications to coverage

1. A Party may modify or rectify its market access commitments under Section B of its Annex [X] to this Chapter pursuant to paragraphs 2 to 9 of this Article.
2. If a modification or a rectification of a Party's Annexes to Appendix I to the GPA becomes effective pursuant to Article XIX of the GPA, it shall automatically become effective and applicable *mutatis mutandis* for the purposes of this Agreement.

*Modifications*

3. When a Party intends to modify an Annex under Section B of Annex [X], the Party shall:
  - (a) notify the other Party in writing; and
  - (b) include in the notification a proposal for appropriate compensatory adjustments to the other Party to maintain a level of coverage comparable to that existing prior to the modification.
4. Notwithstanding subparagraph 3(b), a Party does not need to provide compensatory adjustments if the modification covers an entity over which the Party has effectively eliminated its control or influence.
5. If the other Party disputes that:
  - (a) an adjustment proposed under sub-paragraph 3(b) is adequate to maintain a comparable level of mutually agreed coverage; or
  - (b) the modification covers an entity over which the Party has effectively eliminated its control or influence as provided for in sub-paragraph 4,

it shall object in writing within 45 days of receipt of the notification referred to in sub-paragraph 3(a) or be deemed to have accepted the adjustment or modification, including for the purposes of Chapter [XYZ] (Dispute Settlement).

*Rectifications*

6. The following changes to a Party's Annexes under Section B of Annex [X] shall be considered a rectification of a purely formal nature, provided that they do not affect the mutually agreed coverage provided for in the Chapter:

- (a) a change in the name of an entity;
- (b) a merger of two or more entities listed within an Annex; and
- (c) the separation of an entity listed in an Annex into two or more entities that are added to the entities listed in the same Annex.

7. In the case of proposed rectifications to a Party's Annexes under Annex [X], the Party shall notify the other Party every two years, in line with the cycle of notifications provided for under the GPA, following the entry into force of this Chapter.

8. A Party may notify the other Party of an objection to a proposed rectification within 45 days from having received the notification. Where a Party submits an objection, it shall set out the reasons why it believes the proposed rectification is not a change provided for in paragraph 5 of this Article, and describe the effect of the proposed rectification on the mutually agreed coverage provided for in the Agreement. If no such objection is submitted in writing within 45 days after having received the notification, the Party shall be deemed to have agreed to the proposed rectification.

*Consultations and Dispute resolution*

9. If the other Party objects to the proposed modification or rectification, the Parties will seek to resolve the issue through consultations. If no agreement is found within 60 days of receipt of the objection, the Party seeking to modify or rectify its Annex may refer the matter to dispute

settlement. The intended modification or rectification of the Annex will take effect only when both Parties have agreed or on the basis of a final decision of the [Dispute Settlement body].

## ARTICLE X.5

### Further Negotiations

The Parties shall enter into negotiations on market access with a view to making improvements to coverage of sub central and other entities as soon as possible following New Zealand local authorities, State Services and/or State Sector entities being either:

- (a) covered by New Zealand in another international trade agreement, or
- (b) required to follow the New Zealand Government Procurement Rules<sup>1</sup> in future,

unless as at the date this Agreement enters into force, that entity was required to follow the New Zealand Government Procurement Rules.

---

<sup>1</sup> The New Zealand Government Procurement Rules are New Zealand's primary instrument for regulating government procurement. A Whole of Government Direction granted on 22 April 2014 under Section 107 of the Crown Entities Act 2004 required certain classes of entities to follow the Government Procurement Rules.

**ANNEX [X]**

**Government Procurement - Market access commitments**

**A. European Union**

The market access granted to suppliers and service providers from New Zealand in addition to the market access already covered under the GPA comprises the following:

1. Procurement by central government contracting authorities of EU Member States listed in Annex 1 to the EU's Appendix 1 of the GPA that have been marked with an asterisk and double asterisk;
2. Procurement by regional contracting authorities<sup>2</sup> of EU Member States.
3. Procurement by procuring entities operating in the field of airport facilities covered under the European Union's Annex 3 of Appendix 1 of the GPA; and
4. Procurement by procuring entities operating in the field of the provision of maritime or inland port or other terminal facilities covered under the European Union's Annex 3 of Appendix 1 of the GPA.

With regard to items 1, 3 and 4, these commitments cover the procurements of goods, services and construction services as set out in Annexes 4, 5 and 6 to the EU's Appendix I of the GPA.

The commitment under item 2 is restricted to the procurement of health-related goods as defined in the EU by CPV Codes<sup>3</sup> beginning with 244 and 331.

The applicable thresholds are:

With regard to item 1:	Goods and services: 130.000 SDR
	Construction services: 5 million SDR

---

<sup>2</sup> For the purposes of the Agreement, "Regional contracting authorities" shall be understood as contracting authorities of the administrative units falling under NUTS 1 and 2, as referred to by Regulation (EC) No 1059/2003 of the European Parliament and of the Council of 26 May 2003 on the establishment of a common classification of territorial units for statistics (NUTS) OJ L154 21.06.2003 as last amended by Regulation (EC) N° 1137/2008.

<sup>3</sup> Cf. Regulation (EC) No 2195/2002 of the European Parliament and of the Council of 5 November 2002 on the Common Procurement Vocabulary (CPV), OJ L 340/1 of 16 December 2002.

*EU-New Zealand Free Trade Agreement*  
*Without prejudice*

With regard to item 2: 200.000 SDR

With regard to item 3 and 4: Goods and services: 400.000 SDR

Construction services: 5 million SDR



**B. New Zealand**

Annex 1: Central Government Entities

Unless otherwise specified, Chapter XX (Public Procurement) covers procurement by entities listed in this Annex, subject to the following thresholds:

*Thresholds*

Goods: SDR 130,000

Services: SDR 130,000

Construction Services: SDR 5,000,000

*List of entities:*

1. Ministry for Primary Industries;
2. Department of Conservation;
3. Department of Corrections;
4. Crown Law Office;
5. Ministry of Business, Innovation and Employment;
6. Ministry for Culture and Heritage;
7. Ministry of Defence;
8. Ministry of Education;
9. Education Review Office;
10. Ministry for the Environment;
11. Ministry of Foreign Affairs and Trade;
12. Government Communications Security Bureau;
13. Ministry of Health;
14. Inland Revenue Department;
15. Department of Internal Affairs;
16. Ministry of Justice;
17. Land Information New Zealand;
18. Te Puni Kōkiri Ministry of Māori Development;
19. New Zealand Customs Service;
20. Ministry for Pacific Peoples;
21. Department of the Prime Minister and Cabinet;
22. Serious Fraud Office;
23. Ministry of Social Development;

*EU-New Zealand Free Trade Agreement  
Without prejudice*

24. Public Service Commission;
25. Statistics New Zealand;
26. Ministry of Transport;
27. The Treasury;
28. Oranga Tamariki – Ministry for Children;
29. Ministry for Women;
30. New Zealand Defence Force;
31. New Zealand Police;
32. Ministry of Housing and Urban Development
33. Pike River Recovery Agency

*Note to Annex 1*

All agencies subordinate to the above listed central government entities are covered.

Annex 2: Sub-Central Government Entities

Unless otherwise specified, Chapter XX (Public Procurement) covers procurement by entities listed in this Annex, subject to the following thresholds:

*Thresholds*

Goods: SDR 200,000

Services: SDR 200,000

Construction Services: SDR 5,000,000

*List of entities:*

1. Auckland District Health Board (Note 1);
2. Canterbury District Health Board (Note 1);
3. Capital and Coast District Health Board (Note 1);
4. Counties Manukau District Health Board (Note 1);
5. Hutt District Health Board (Note 1);
6. MidCentral District Health Board (Note 1);
7. South Canterbury District Health Board (Note 1);
8. Waikato District Health Board (Note 1);
9. Waitemata District Health Board (Note 1);
10. Bay of Plenty District Health Board (Note 1);
11. Southern District Health Board (Note 1);
12. Auckland Council (Note 2);
13. Wellington City Council (Note 2);
14. Christchurch City Council (Note 2);
15. Waikato Regional Council (Note 2);
16. Bay of Plenty Regional Council (Note 2);
17. Greater Wellington Regional Council (Note 2);
18. Canterbury Regional Council (Note 2);
19. Nelson Marlborough District Health Board (Note 1);
20. Northland District Health Board (Note 1);
21. Hawkes Bay District Health Board (Note 1);
22. Lakes District Health Board (Note 1);
23. Tairāwhiti District Health Board (Note 1);
24. Taranaki District Health Board (Note 1);

*EU-New Zealand Free Trade Agreement  
Without prejudice*

25. Wairarapa District Health Board (Note 1);
26. West Coast District Health Board (Note 1);
27. Whanganui District Health Board (Note 1).
28. Carterton District Council (Note 2)
29. Central Hawke's Bay District Council (Note 2)
30. Far North District Council (Note 2)
31. Gisborne District Council (Note 2)
32. Hamilton City Council (Note 2)
33. Hastings District Council (Note 2)
34. Hauraki District Council (Note 2)
35. Hawke's Bay Regional Council (Note 2)
36. Horizons Regional Council (Note 2)
37. Horowhenua District Council (Note 2)
38. Hutt City Council (Note 2)
39. Kaipara District Council (Note 2)
40. Kapiti Coast District Council (Note 2)
41. Manawatu District Council (Note 2)
42. Masterton District Council (Note 2)
43. Matamata-Piako District Council (Note 2)
44. Napier City Council (Note 2)
45. New Plymouth District Council (Note 2)
46. Northland Regional Council (Note 2)
47. Ōpōtiki District Council (Note 2)
48. Ōtorohanga District Council (Note 2)
49. Palmerston North City Council (Note 2)
50. Porirua City Council (Note 2)
51. Rangitikei District Council (Note 2)
52. Rotorua Lakes Council (Note 2)
53. Ruapehu District Council (Note 2)
54. South Taranaki District Council (Note 2)
55. South Waikato District Council (Note 2)
56. South Wairarapa District Council (Note 2)
57. Stratford District Council (Note 2)

*EU-New Zealand Free Trade Agreement  
Without prejudice*

58. Taranaki Regional Council (Note 2)
59. Tararua District Council (Note 2)
60. Taupō District Council (Note 2)
61. Tauranga City Council (Note 2)
62. Thames-Coromandel District Council (Note 2)
63. Upper Hutt City Council (Note 2)
64. Waikato District Council (Note 2)
65. Waipa District Council (Note 2)
66. Whanganui District Council (Note 2)
67. Western Bay of Plenty District Council (Note 2)
68. Whangarei District Council (Note 2)
69. Ashburton District Council (Note 2)
70. Central Otago District Council (Note 2)
71. Clutha District Council (Note 2)
72. Dunedin City Council (Note 2)
73. Environment Southland (Note 2)
74. Gore District Council (Note 2)
75. Grey District Council (Note 2)
76. Hurunui District Council (Note 2)
77. Invercargill City Council (Note 2)
78. Marlborough District Council (Note 2)
79. Nelson City Council (Note 2)
80. Otago District Council (Note 2)
81. Queenstown Lakes District Council (Note 2)
82. Selwyn District Council (Note 2)
83. Southland District Council (Note 2)
84. Tasman District Council (Note 2)
85. Waimakariri District Council (Note 2)
86. Waitaki District Council (Note 2)
87. West Coast Regional Council (Note 2)
88. Auckland Transport (Note 2)

*Notes to Annex 2*

1. For greater certainty, procurement undertaken by the listed District Health Boards through their agent healthAlliance Limited is covered. Upon the disestablishment of the District Health Boards (anticipated to be 1 July 2022), this annex will be modified to remove all District Health Boards and replace them with Health New Zealand. This modification will not change the coverage provided under this Annex.

2. Coverage of these entities is limited to the procurement of goods, services and construction services relating to transport projects funded, in whole or in part, by the New Zealand Transport Agency for which the value of the procurement equals or exceeds the applicable threshold specified above. For greater certainty, this Chapter does not apply to any other procurement by these entities.

Annex 3: Other Entities

Unless otherwise specified, Chapter XX (Public Procurement) covers procurement by entities listed in this Annex, subject to the following thresholds:

*Thresholds*

Goods: SDR 400,000

Services: SDR 400,000

Construction Services: SDR 5,000,000

*List of entities:*

1. Accident Compensation Corporation (Note 1);
2. Civil Aviation Authority of New Zealand;
3. Energy Efficiency and Conservation Authority;
4. Kāinga Ora – Homes and Communities;
5. Maritime New Zealand;
6. New Zealand Antarctic Institute;
7. Fire and Emergency New Zealand (Note 5);
8. New Zealand Qualifications Authority;
9. New Zealand Tourism Board;
10. New Zealand Trade and Enterprise;
11. New Zealand Transport Agency;
12. Ōtākaro Limited (Note 4);
13. Sport and Recreation New Zealand (Note 2);
14. Tertiary Education Commission;
15. Education New Zealand;
16. Callaghan Innovation;
17. Earthquake Commission (Note 6);
18. Environmental Protection Authority; (Note 6)
19. Health Promotion Agency;
20. Health Quality and Safety Commission;
21. Health Research Council of New Zealand;
22. New Zealand Blood Service (Note 7);
23. New Zealand Walking Access Commission;
24. Real Estate Agents Authority (Note 8);

*EU-New Zealand Free Trade Agreement  
Without prejudice*

25. Social Workers Registration Board;
26. WorkSafe New Zealand;
27. Guardians of New Zealand Superannuation (Note 9);
28. Museum of New Zealand Te Papa (Note 10);
29. New Zealand Infrastructure Commission;
30. New Zealand Lotteries Commission;
31. Climate Change Commission;
32. Electoral Commission (Note 11);
33. Financial Markets Authority;
34. Education Payroll Limited (Note 12);
35. Research and Education Advanced Network New Zealand Limited;
36. Tāmaki Redevelopment Company Limited (Note 12);
37. Airways Corporation of New Zealand Limited;
38. Meteorological Service of New Zealand Limited;
39. KiwiRail Holdings Limited;
40. Transpower New Zealand Limited (Note 3);
41. Government Superannuation Fund Authority;
42. New Zealand Artificial Limb Service;
43. Health and Disability Commissioner;
44. Human Rights Commission;
45. New Zealand Productivity Commission;
46. Crown Irrigation Investments Limited;
47. New Zealand Growth Capital Partners Limited;
48. City Rail Link Limited;
49. Crown Infrastructure Partners Limited;
50. New Zealand Green Investment Finance Limited.
51. Accreditation Council
52. Arts Council of New Zealand
53. Broadcasting Commission
54. Heritage fi New Zealand
55. New Zealand Film Commission (Note 14)
56. New Zealand Symphony Orchestra (Note 14)
57. Public Trust



*EU-New Zealand Free Trade Agreement  
Without prejudice*

58. Retirement Commissioner
59. Māori Broadcasting Funding Agency (Note 16)
60. Māori Language Commission (Note 16)
61. Pharmaceutical Management Agency (Note 17)
62. Broadcasting Standards Authority
63. Children's Commissioner
64. Commerce Commission
65. Criminal Cases Review Commission (Note 8)
66. Drug Free Sport New Zealand
67. Law Commission
68. Electricity Authority
69. External Reporting Board
70. Independent Police Conduct Authority (Note 8)
71. Mental Health and Wellbeing Commission
72. Office of Film and Literature Classification (Note 8)
73. Privacy Commissioner
74. Takeovers Panel
75. Transport Accident Investigation Commission (Note 8)
76. Radio New Zealand Limited (Note 14)
77. Television New Zealand Limited
78. Crown Asset Management Limited
79. The Network for Learning Limited
80. Predator Free 2050 Limited
81. Southern Response Earthquake Services Limited
82. Māori Health Authority (subject to its establishment coming into effect): (Note 16)

*Notes to Annex 3*

1. Accident Compensation Corporation: This Chapter does not cover procurement of pension fund management, public insurance and fund placements, investments and financial services related to securities or trading on an exchange.

2. Sport and Recreation New Zealand: The Chapter does not apply to the procurement of goods and services containing confidential information related to enhancing competitive sport performance.
3. Transpower New Zealand Limited: The following procurements are excluded from cover:
  - a. Electrical stringing services (part of the total range of activities covered by CPC Prov. 5134);
  - b. Tower painting services (part of the total range of activities covered by CPC Prov. 5173);
  - c. For greater certainty, projects funded directly by private sector customers where those projects would not be undertaken except for the funding provided by those customers.
4. Ōtākaro Limited: All procurement is covered (including procurement that was undertaken by the Christchurch Earthquake Recovery Authority and transferred to Ōtākaro Limited upon its disestablishment) and all obligations in the Chapter specifically relating to Annex 1 entities shall apply. For greater certainty, the thresholds are SDR 130,000 for Goods and Services and SDR 5,000,000 for Construction Services, and any agencies subordinate to Ōtākaro Limited are covered.
5. Fire and Emergency New Zealand: Chapter XX (Public Procurement) shall only cover procurement that was undertaken by the New Zealand Fire Service Commission. For the avoidance of doubt, the following procurements are excluded from cover: any procurement by Fire and Emergency New Zealand that was previously conducted by Rural Fire Authorities, Rural Fire Committees and/or Territorial Authorities (for the purposes of their functions under the Forest and Rural Fires Act 1977).
6. Earthquake Commission: This Agreement does not cover procurement of pension fund management, public insurance and fund placements, and investments and financial services.
7. Except for the procurement of plasma fractionation services.

8. Except for legal services, arbitration and conciliation services.
9. Guardians of New Zealand Superannuation: This Chapter does not cover procurement of pension fund management, fund placements, and investments and financial services.
10. This Chapter does not cover any procurement for the purpose of transporting museum exhibits or works of art.
11. Electoral Commission: This Chapter does not cover procurement of services to administer the general election.
12. Education Payroll Limited: This Chapter does not cover procurement for maintenance of schools' payrolls.
13. Tāmaki Redevelopment Company Limited: This Agreement does not cover procurement relating to the production, transport or distribution of drinking water.
14. Except for procurement related to the acquisition, development, production or co-production of programmes and programme materials.
15. Except for legal services, including legal aid services, provided by trustees or appointed by guardians or administrators.
16. The right to accord a preference for Māori providers is specifically reserved.
17. For greater certainty, activities related to this agency's functions in respect of funding pharmaceuticals and medical devices is not covered.
18. For entities listed in this Annex, Chapter XX (Public Procurement) shall cover only those entities listed and does not extend to subordinate or subsidiary agencies, unless otherwise specified.

Annex 4: Goods

Unless otherwise specified, Chapter XX (Public Procurement) covers procurement of all goods by the entities listed in Annexes 1, 2 and 3.

Annex 5: Services

1. Unless otherwise specified, Chapter XX (Public Procurement) covers procurement of all services by the entities listed in Annexes 1, 2 and 3.
2. Chapter XX (Public Procurement) does not cover any of the following services as identified in accordance with the Provisional Central Product Classification (CPC Prov.) as set out in document MTN.GNS/W/120:
  - a. procurement of research and development services (CPC Prov. 851-853);
  - b. procurement of public health services (CPC Prov. 931, including 9311, 9312 and 9319);
  - c. procurement of education services (CPC Prov. 921, 922, 923, 924, and 929);
  - d. procurement of welfare services (CPC Prov. 933 and 913); and
  - e. procurements listed in Annex 7.

Annex 6: Construction Services

List of Construction Services (Division 51, CPC Prov.):

Unless otherwise specified, Chapter XX (Public Procurement) covers procurement of all construction services in Division 51 of the Provisional Central Product Classification (CPC Prov.) as set out in document MTN.GNS/W/120.

## Annex 7: General Notes

1. The following General Notes apply without exception to Chapter XX (Public Procurement), including to Annexes 1 through 6.
2. Chapter XX (Public Procurement) does not cover:
  - a.** for greater certainty, governmental provision of goods and services to persons or governmental authorities not specifically covered under the Annexes to this Chapter;
  - b.** procurement of goods or services in respect of contracts for construction, refurbishment or furnishing of chanceries abroad;
  - c.** procurement of goods or services outside the territory of New Zealand for consumption outside the territory of New Zealand;
  - d.** for greater certainty under GPA Article II:3(b), commercial sponsorship arrangements;
  - e.** any procurement made by an entity covered under the Annexes to this Chapter on behalf of an organisation that is not an entity covered under the Annexes to this Chapter;
  - f.** procurement by an entity covered under the Annexes to this Chapter from another entity covered under the Annexes to this Chapter, except where tenders are called, in which case, Chapter XX (Public Procurement) shall apply; and
  - g.** any procurement for the purposes of developing, protecting or preserving national treasures of artistic, historic, archaeological value of cultural heritage.
3. For greater certainty, a procuring entity may apply limited tendering procedures under GPA Article XIII:1(b) (ii) and (iii) in relation to unsolicited unique proposals<sup>4</sup>.

---

<sup>4</sup> As defined and handled according to the New Zealand Government guidance document, "Unsolicited Unique Proposals – How to deal with uninvited bids" (May 2013), updated from time to time.