CHAPTER [XX]

NATIONAL TREATMENT AND MARKET ACCESS FOR GOODS

ARTICLE X.1

Objective

The Parties shall progressively and reciprocally liberalise trade in goods in accordance with the provisions of this Agreement.

ARTICLE X.2

Scope

Except as otherwise provided in this Agreement, this Chapter applies to trade in goods of a Party.

ARTICLE X.3

Definitions

For the purposes of this Chapter, the following definitions shall apply:

(a) "consular transactions" means the procedure of obtaining from a consul of the importing Party in the territory of the exporting Party, or in the territory of a third party, a consular invoice or a consular visa for a commercial invoice, certificate of origin, manifest, shipper's export declaration or any other customs documentation in connection with the importation of the good;

(b) "Import Licensing Procedure" means an administrative procedure requiring the submission of an application or other documentation (other than that generally required for customs clearance purposes) to the relevant administrative body or bodies as a prior condition for importation into the territory of the importing Party.

(c) "Export Licensing Procedures" means an administrative procedure requiring the submission of an application or other documentation (other than that generally required for customs clearance purposes) to the relevant administrative body or bodies as a prior condition for exportation from the territory of the exporting Party.

(d) "Repair" or "alteration" means any processing operation undertaken on a good, regardless of any increase in the value of the good, to remedy operating defects or material damage and entailing the re-establishment of the good to its original function or to ensure compliance with technical requirements for its use, without which the good could no longer be used in the normal way for the purposes for which they were intended. Repair or alteration of goods includes restoration and maintenance but does not include an operation or process that:

(i) destroys the essential characteristics of a good, or creates a new or commercially different good;

(ii) transforms an unfinished good into a finished good; or

(iii) is used to substantially change the function of a good.

(e) "Remanufactured good" means a good classified in HS Chapters 84 to 90 or 9402 that:

(a) is entirely or partially comprised of parts obtained from goods that have previously been used;

(b) has similar performance and working conditions compared to the equivalent good in new condition; and

(c) is given the same warranty as the equivalent good in new condition.

(f) "Staging category" means the timeframe for the elimination of customs duties ranging from 0 to 7 years, after which a good is free of customs duty (unless otherwise specified in the Schedules).

ARTICLE X.4

National Treatment on Internal Taxation and Regulation

1. Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of the GATT 1994[, including its Notes and Supplementary Provisions][**1**]. To this end, Article III of the GATT 1994 [and its Notes and Supplementary Provisions are] [is] incorporated into and made part of this Agreement, mutatis mutandis.

ARTICLE X.5

Elimination of Customs Duties

1. Except as otherwise provided for in this Agreement, each Party shall reduce or eliminate customs duties on goods originating in the other Party in accordance with its Schedule in Annex [X-x] (Tariff Elimination Schedules).

2. For the purpose of paragraph 1, the base rate of customs duties shall be the one specified for each good in the Schedules in Annex [X-x] (Tariff Elimination Schedules).

[1] note: Reference to notes and supplementary provisions to be included, unless the matter is dealt with more generally in other parts of the text (ex. final provisions).

3. If a Party reduces its applied most favoured nation customs duty rate, that duty rate shall apply to originating goods of the other Party for as long as it is lower than the customs duty rate determined pursuant to its Schedule in Annex [X-x] (Tariff Elimination Schedules).

4. 2 years after the entry into force of this Agreement, on the request of a Party, the Parties shall consult to consider accelerating the reduction or elimination of customs duties set out in the Schedules in Annex [X-x] (Tariff Elimination Schedules). The [Trade Committee] may take a decision to amend Annex [X-x] (Tariff Elimination Schedules) to accelerate the tariff reduction or elimination.

5. Either Party may at any time unilaterally accelerate the elimination of customs duties set out in its schedule to Annex [X-x] (Tariff Elimination Schedules) on originating goods of the other Party. That Party shall inform the other Party as early as practicable before the new rate of customs duty takes effect.

6. For greater certainty, a Party may raise a customs duty to the level set out in Annex [X-x] (Tariff Elimination Schedule) for the respective year following a unilateral reduction.

ARTICLE X.6

Standstill

Except as otherwise provided in this Agreement, no Party shall increase any customs duty set as base rate in Annex [X-x] (Tariff Elimination Schedule) or adopt any new customs duty on a good originating in the other Party.

ARTICLE X.7

Export Duties, Taxes or Other Charges

1. No Party shall introduce or maintain any duty, tax or other charge of any kind imposed on, or in connection with, the exportation of a good to the other Party; or any internal tax or other charge on

a good exported to the other Party that is in excess of the tax or charge that would be imposed on like goods when destined for domestic consumption.

2. Nothing in this Article shall prevent a Party from imposing on the exportation of a good a fee or charge that is permitted under Article X.8 (Fees and Formalities).

ARTICLE X.8

Fees and Formalities

1. Each Party shall ensure, in accordance with Article VIII:1 of GATT 1994 and its interpretative notes, that all fees and other charges of whatever character (other than export taxes, customs duties, charges equivalent to an internal tax or other internal charge applied consistently with Article III:2 of GATT 1994, and antidumping and countervailing duties) imposed by a Party on or in connection with importation or exportation are limited in amount to the approximate cost of services rendered, and do not represent an indirect protection to domestic goods or a taxation of imports or exports for fiscal purposes.

2. No Party shall levy such fees or other charges on an ad valorem basis.

3. Each Party shall promptly publish all fees and charges it imposes in connection with importation or exportation in such a manner as to enable governments, traders and other interested parties, to become acquainted with them.

4. No Party shall require consular transactions, including related fees and charges, in connection with the importation of any good of the other Party.

ARTICLE X.9

Repaired Goods

1. No Party shall apply a customs duty to a good, regardless of its origin, that re-enters the Party's customs territory after that good has been temporarily exported from its customs territory to the customs territory of the other Party for repair or alteration, regardless of whether that repair or alteration could have been performed in the territory of the party from which the good was exported for repair or alteration.

2. Paragraph 1 does not apply to a good imported in bond, into free trade zones, or in similar status, that is then exported for repair and is not re-imported in bond, into free trade zones, or in similar status.

3. No Party shall apply a customs duty to a good, regardless of its origin, imported temporarily from the customs territory of the other Party for repair or alteration.

ARTICLE X.10

Remanufactured Goods

1. No Party shall accord to remanufactured goods of the other Party a treatment that is less favourable than that it accords to equivalent goods in new condition.

2. For greater certainty, Article 11 (Import and Export Restrictions) applies to import and export prohibitions or restrictions on remanufactured goods. If a Party adopts or maintains import and export prohibitions or restrictions to used goods, it shall not apply those measures to remanufactured goods.

3. A Party may require that remanufactured goods be identified as such for distribution or sale in its territory and that they meet all applicable technical requirements that apply to equivalent goods in new condition.

ARTICLE X.11

Import and Export Restrictions

1. No Party shall adopt or maintain any prohibition or restriction on the importation of any good of the other Party or on the exportation or sale for export of any good destined for the territory of the other Party, except in accordance with Article XI of GATT 1994 [, including its Notes and Supplementary Provisions]. To this end, Article XI of the GATT 1994 [and its Notes and Supplementary Provisions] are incorporated into and made part of this Agreement, mutatis mutandis.

2. No Party shall adopt or maintain:

(a) export and import price requirements[2], except as permitted in enforcement of countervailing and antidumping duty orders and undertakings;

(b) import licensing conditioned on the fulfilment of a performance requirement;

ARTICLE X.12

Origin Marking

1. Where New Zealand requires a mark of origin on the importation of goods from the EU, New Zealand shall accept the origin mark "Made in the EU" under conditions that are no less favourable than those applied to marks of origin of Member States of the Union.

2. For the purposes of the origin mark "Made in the EU", New Zealand shall treat the Union as a single territory.

ARTICLE X.13

Import Licensing Procedures

[2] For greater certainty, this provision is not meant to prevent a Party from relying on the price of imports in order to determine the applicable rate of a customs duty in accordance with this Agreement.

1. Each Party shall adopt and administer any import licensing procedures in accordance with Articles 1 to 3 of the Agreement on Import Licensing Procedures. To this end, Articles 1 to 3 of the Agreement on Import Licensing Procedures are incorporated into and made part of this Agreement, mutatis mutandis.

2. A Party that institutes licensing procedures, or changes to existing licensing procedures, shall notify the other Party of such without delay, no later than within 60 days of publication. The notification shall include the information specified in Article 5(2) of the Agreement on Import Licensing Procedures. A Party shall be deemed to be in compliance with this provision if it has notified the relevant import licensing procedure, or any modifications thereof, to the Committee on Import Licensing provided for in Article 4 of the Import Licensing Agreement, including the information specified in Article 5(2) of that Agreement.

3. Upon request of a Party, the other Party shall promptly provide any relevant information, including the information specified in Article 5(2) of the Agreement on Import Licensing Procedures, regarding any import licensing procedure that it intends to adopt, has adopted or maintains, or changes to existing licensing procedures.

4. If a party denies an import license application with respect to a good of the other Party, it shall, on request, and within a reasonable period after receiving the request, provide the applicant with a written explanation of the reason for the denial.

ARTICLE X.14

Export Licensing Procedures

1. Each Party shall publish any new export licensing procedure, or any modification to an existing export licensing procedure, in such a manner as to enable governments, traders and other interested parties to become acquainted with them. Such publication shall take place, whenever practicable, 45 days before the procedure or modification takes effect, and in all events no later than the date such procedure or modification takes effect.

2. The publication of export licensing procedures shall include the following information:

(a) the texts of its export licensing procedures, or of any modifications it makes to those procedures;

(b) the goods subject to each licensing procedure;

(c) for each procedure, a description of the process for applying for a license and any criteria an applicant must meet to be eligible to apply for a license, such as possessing an activity license, establishing or maintaining an investment, or operating through a particular form of establishment in a Party's territory;

(d) a contact point or points from which interested persons can obtain further information on the conditions for obtaining an export license;

(e) the administrative body or bodies to which an application or other relevant documentation should be submitted;

(f) a description of any measure or measures that the export licensing procedure is designed to implement;

(g) the period during which each export licensing procedure will be in effect, unless the procedure will remain in effect until withdrawn or revised in a new publication;

(h) if the Party intends to use a licensing procedure to administer an export quota, the overall quantity and, if applicable, the value of the quota and the opening and closing dates of the quota; and

(i) any exemptions or exceptions that replace the requirement to obtain an export license, how to request or use those exemptions or exceptions, and the criteria for granting them.

3. Within 30 days after the date of entry into force of this Agreement, each Party shall notify the other Party of its existing export licensing procedures. A Party that institutes new export licensing procedures, or changes to existing licensing procedures, shall notify the other Party of such within 60 days of publication. The notification shall include the reference to the source(s) where the information

required in paragraph 2 is published and include, where appropriate, the address of the relevant government Internet website(s).

4. For greater certainty, nothing in this Article requires a Party to grant an export license, or prevents a Party from implementing its obligations or commitments under United Nations Security Council Resolutions, as well as under multilateral non-proliferation regimes and export control arrangements, including the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, the Australia Group, the Nuclear Suppliers Group, and the Missile Technology Control Regime, Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction; Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction; Treat on the Non-Proliferation of Nuclear Weapons.

ARTICLE X.15

Institutional Provisions

1. The Committee on Trade in Goods established under [Article X.4 (Specialised Committees – Institutional Provisions)] (hereinafter referred to in this Article as "the Committee") shall be responsible for the effective implementation and operation of this Chapter.

2. The Committee on Trade in Goods shall be composed of representatives of the European Union and New Zealand, including the contact point of each Party as set out in paragraph 3.

3. Each Party shall designate a contact point responsible for facilitating communication between the Parties on matters covered by this chapter within 90 days of the date of entry into force of this Agreement. Each Party shall notify the other Party promptly in the event of any change to its contact point.

4. The Committee shall meet in accordance with paragraph 3 of Article X.4 (Specialised Committees – Institutional Provisions).

5. The Committee's functions shall include:

(a) promoting trade in goods between the Parties, including through consultation on accelerating tariff elimination under this Agreement and other issues as appropriate;

(b) reviewing and monitoring the implementation or operation of this Chapter and Chapter X (Trade Remedies);

(c) considering matters related to Chapter X (Technical Barriers to Trade) that are referred by the chapter coordinators established under Article X.11.1 of that Chapter;

(d) promptly addressing barriers to trade in goods between the Parties;

(e) consulting on and endeavouring to resolve any issues relating to this Chapter, including differences that may arise between the Parties on matters related to the classification of goods under the Harmonized System and Annex XX (Schedule of Tariff Commitments for Goods), or amendment to the Harmonized System Code Structure or each Party's respective nomenclatures, to ensure that obligations in Annex XX (Schedule of Tariff Commitments for Goods) of the parties are not altered;

(f) considering any proposal to amend or modify the technical appendices to relevant annexes;

(g) monitoring preference utilisation rates and statistics, the data of which may be presented for an exchange of views by the Committee to the [Trade Committee];

(h) working with any Committee or other subsidiary body established or granted authority to act under this Agreement on issues that may be relevant to that body, as appropriate;

(i) where appropriate, referring matters considered by the Committee to the [Trade Committee], including any recommendations or conclusions; and

(j) undertaking any other work that the [Trade Committee] may assign or delegate to it.

6. The Committee shall consult, as appropriate, with other bodies established under this Agreement when addressing issues of relevance to those committees.

ARTICLE X.16

Preference utilisation

1. For the purpose of monitoring the functioning of the Agreement and calculating preference utilisation rates, the Parties shall annually exchange comprehensive import statistics for a period starting one year after the entry into force of this Agreement until 10 years after the tariff elimination is completed for all goods according to the Schedules in Annex [X-x] (Tariff Elimination Schedules). Unless the [Trade Committee] decides otherwise, this period shall be automatically extended for five years, and thereafter this Committee may decide to subsequently extend it.

2. The exchange of import statistics shall cover data pertaining to the most recent year available, including value and, where applicable, volume, at the tariff line level for imports of goods of the other Party benefitting from preferential duty treatment under this Agreement and those that received non-preferential treatment including under the different regimes used by the parties upon importation. Such statistics as well as preference utilisation rates may be presented for an exchange of views to the Trade Committee.

ARTICLE X.17

Temporary Admission

1. For the purposes of this Article, the term "temporary admission" means the customs procedure under which certain goods (including means of transport) can be brought into a customs territory conditionally relieved from payment of import duties and taxes and without application of import prohibitions or restrictions of economic character. Such goods must be imported for a specific purpose and must be intended for re-exportation within a specified period and without having undergone any change except normal depreciation due to the use made of them.

2. Each Party shall grant duty-free temporary admission for the following goods in accordance with its laws, regulations or procedures, regardless of their origin:

(a) professional equipment, including equipment for the press or television, software, and broadcasting and cinematographic equipment, necessary for carrying out the business activity, trade, or profession of a person visiting the territory of the other Party to perform a specified task;

(b) goods intended for display or use (including their component parts, ancillary apparatus, and accessories) at exhibitions, fairs, meetings or similar events;

(c) commercial samples and advertising films and recordings (recorded visual media or audio materials, consisting essentially of images and/or sound showing the nature or operation of goods or services offered for sale or lease by a person established or resident in the territory of a Party provided that such materials are of a kind suitable for exhibition to prospective customers but not for broadcast to the general public).

(d) goods imported for sports purposes, including contests, demonstrations, training, racing or similar events.

3. Each Party shall, for the temporary admission of the goods referred to in paragraph 2 and regardless of their origin, accept A.T.A. carnets issued in the other Party, endorsed there and guaranteed by an association forming part of the international guarantee chain, certified by the competent authorities and valid in the customs territory of the importing Party.

4. Each Party shall determine the period during which goods may remain under the temporary admissions procedure. The initial period may be extended by the Party.

5. Each party may require that the goods benefiting from temporary admission in accordance with Paragraph 1:

(a) be used solely by or under the personal supervision of a national or resident of the other Party in the exercise of the business activity, trade, profession, or sport of that person;

(b) not be sold, leased, disposed of, or transferred while in its territory;

(c) be accompanied by a security which is consistent with the importing Party's obligations under the international customs conventions to which it has acceded;

(d) can be identified when imported and exported;

(e) be exported on or before the departure of the person referenced in subparagraph (a), or within such other period related to the purpose of the temporary admission as the Party may establish, or within one year, unless extended;

(f) be admitted in no greater quantity than is reasonable for its intended use; or

(g) be otherwise admissible into the Party's territory under its domestic laws.

6. If any condition that a Party may impose under paragraph 5 has not been fulfilled, the Party may apply the customs duty and any other charge that would normally be owed on the good plus any other charges or penalties provided for under its domestic laws.

7. Each Party shall permit a good temporarily admitted under this Article to be re-exported through a customs authorised point of departure other than that through which it was admitted.

8. Each Party shall relieve the importer or other person responsible for a good admitted under this Article of liability for failure to export a temporarily admitted good on presentation of satisfactory proof to the importing Party that the good has been destroyed or irretrievably lost, in accordance with each Party's customs legislation.

ARTICLE X.18

Duty-Free Entry of Commercial Samples of Negligible Value and Printed Advertising Material

1. Each Party shall, in accordance with its laws, regulations and procedures, grant duty-free entry to commercial samples of negligible value and printed advertising material imported from the other Party, regardless of origin.

2. Parties may define commercial samples of negligible value as:

a) having a value, individually or in the aggregate as shipped, of not more than the amount specified in a Party's laws or regulations; or
b) being so marked, torn, perforated, or otherwise treated that they are unsuitable for sale or use except as commercial samples.

3. Printed advertising materials are defined as those goods classified in Chapter 49 of the HS Code, including brochures, pamphlets, leaflets, trade catalogues, yearbooks published by trade associations, tourist promotional materials, and posters, that are used to promote, publicise, or advertise a good or service, are essentially intended to advertise a good or service, and are supplied free of charge.

ARTICLE X.19

Specific Measures Concerning the Management of Preferential Treatment

1. The Parties agree to co-operate in preventing, detecting and combating breaches in customs legislation related to the preferential treatment granted under this Chapter, in accordance with their obligations under the Chapter [XX] on Rules of Origin and the provisions on Mutual Administrative Assistance in Customs Matters of the Agreement between the European Union and New Zealand on cooperation and mutual administrative assistance in customs matters, done at Brussels on 3 July 2017 (hereafter referred to as the "CCMAA").

2. A Party may, in accordance with the procedure laid down in paragraphs 3 to 5, temporarily suspend the relevant preferential treatment of the product(s) concerned when:

(a) a Party has made a finding, on the basis of objective, compelling and verifiable information, that systematic and sectoral breaches in customs legislation related to the preferential treatment granted under this Chapter, which results in a significant loss of revenue to a Party, have been committed, and;

(b) the other Party repeatedly and unjustifiably refuses or otherwise fails to co-operate with respect to the breaches referred to in paragraph 2(a) above.

3. The Party which has made a finding referred to in paragraph 2 shall, without undue delay, notify the [Trade Committee] thereof and enter into consultations with the other Party within the [Trade Committee] with a view to reaching a solution acceptable to both Parties.

4. Where the Parties have failed to agree on an acceptable solution within three months following the notification referred to in paragraph 3, the Party which has made the finding may decide to suspend temporarily the relevant preferential treatment of the product(s) concerned. The suspension shall apply only to those traders, which during consultations referred to in paragraph 3 were identified and agreed by both Parties as involved in the breaches of customs legislation. This temporary suspension shall be notified to the Committee without undue delay.

5. If a Party has made a finding, and within three months following the notification referred to in paragraph 4, has established that the temporary suspension referred to in paragraph 4 has been ineffective in combatting breaches in customs legislation related to the preferential treatment granted under this Chapter, the Party may decide to suspend temporarily the relevant preferential treatment of the product(s) concerned.

The Party may also decide to suspend temporarily the relevant preferential treatment of the product(s) concerned if during consultations referred to in paragraph 3 the Parties were unable to identify and agree on traders involved in the breaches of customs legislation.

This temporary suspension shall be notified to the Committee without undue delay.

6. The temporary suspension referred to in paragraphs 4 and 5 shall apply only for a period necessary to protect the financial interests of the Party concerned, and not longer than six months. Where the conditions that gave rise to the initial suspension persist at the expiry of the six month period, the Party concerned may decide to renew the suspension after notifying the other Party. The pending suspensions shall be subject to periodic consultations within the [Trade Committee].

7. Each Party shall publish, in accordance with its internal procedures, notices to importers about any notification and decision concerning temporary suspensions referred to in paragraphs 4 or 5.

8. Notwithstanding paragraph 5 of this Article, if an importer is able to satisfy the importing Customs authority that such products are fully compliant with the importing Party's customs legislation, the requirements of the Agreement, and any other conditions related to the temporary suspension established by the importing Party in accordance with its laws and regulations, the importing Party shall allow the importer to apply for preferential treatment and recover any duties paid in excess of the applicable preferential tariff rates when the products were imported.