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*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

### GOOD REGULATORY PRACTICE AND REGULATORY COOPERATION

#### ARTICLE X.1

##### General principles

1. Each Party shall be free to determine its approach to good regulatory practices and regulatory cooperation under this Agreement in a manner consistent with its own legal framework, practice and fundamental principles<sup>1</sup> underlying its regulatory management system.
  
2. The provisions in this Chapter shall not be construed so as to require a Party to:
  - (a) deviate from domestic procedures for preparing and adopting regulatory measures;
  
  - (b) take actions that would risk compromising or undermining the public policy objective of particular regulatory measures;
  
  - (c) take actions that would undermine or impede the timely adoption of regulatory measures to achieve its public policy objectives; or

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<sup>1</sup> For the EU, such principles include those included in and derived from the Treaty on the Functioning of the European Union.

(d) achieve any particular regulatory outcome.

3. Each Party shall be free to identify its regulatory priorities and to prepare and adopt regulatory measures to address those priorities ensuring the levels of protection that the Party considers appropriate.

## ARTICLE X.2

### Definitions

For the purposes of this Chapter:

(a) "regulatory authority" means:

(i) for the European Union: the European Commission;

(ii) for New Zealand: the Executive Government of New Zealand.

(b) "regulatory measures" means, unless otherwise provided in this Chapter:

(i) For the European Union it means:

(A) regulations and directives, as provided in Article 288 of the Treaty on the Functioning of the European Union (TFEU);

(B) implementing and delegated acts, as provided in Article 290 and Article 291 TFEU, respectively.

(ii) For New Zealand it means:

- (A) Government bills that may become Public Acts of the Parliament of New Zealand and, for the purpose of Article X.9 (Periodic review regulatory measures in effect) and Article X.10 (Access to regulatory measures), this means Public Acts of the Parliament of New Zealand;
- (B) Regulations made by Order in Council.

### ARTICLE X.3

#### Scope

1. This Chapter applies to regulatory measures issued or initiated by the regulatory authority of a Party in respect to any matter covered by this Agreement.
2. For greater certainty, this Chapter does not apply to regulatory authorities and regulatory measures, practices or approaches of the Member States of the European Union.

### ARTICLE X.4

#### Transparency of processes and mechanisms

1. The regulatory authority of each Party shall make publicly available and for free, descriptions of the general processes and mechanisms under which that authority prepares, develops, evaluates or reviews its regulatory measures. This shall be done through a digital medium.
2. These descriptions shall refer to any relevant guidelines, rules or procedures, including those regarding opportunities for the public to provide comments.

ARTICLE X.5

Internal coordination of Regulatory Development<sup>2</sup>

Further to Article 4, for the preparation or development of regulatory measures, the regulatory authority of each Party shall maintain internal processes or mechanisms for internal coordination, consultation and review. These processes or mechanisms shall, inter alia, seek to:

- (a) foster good regulatory practices, such as those set forth in this Chapter;
- (b) identify and avoid unnecessary duplication and inconsistent requirements in the Party's regulatory measures;
- (c) ensure compliance with international trade and investment obligations; and
- (d) promote the consideration of effects of the regulatory measures being prepared or developed, which may include those on small and medium-sized enterprises.

ARTICLE X.6

Early information on planned regulatory measures

1. Each Party shall, at least on an annual basis, list those planned major<sup>3</sup> regulatory measures<sup>4</sup> that it reasonably expects to adopt within a year and make the list(s) publicly available.

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<sup>2</sup> For greater certainty, a Party may comply with its obligations in Articles X.5 (Internal coordination of regulatory development) and X.9.1 (Periodic review of regulatory measures in effect) through any combination of separate or combined processes or mechanisms.

<sup>3</sup> The regulatory authority of each Party may determine what constitutes "major" regulatory measures for the purposes of its obligations under this Chapter.

<sup>4</sup> In the case of New Zealand, 'regulatory measures' for the purpose of this Article shall be understood as Regulations made by Order in Council, as specified in point (b)(ii)(B) of Article 2 of this Chapter.

2. With respect to each major regulatory measure, referred to in paragraph 1, the regulatory authority of each Party should make publicly available, as early as possible:
  - (a) a brief description of its scope and objectives;
  - (b) the estimated timing for its adoption, including opportunities for public consultations.

## ARTICLE X.7

### Public consultations

1. When preparing or developing major regulatory measures, the regulatory authority of each Party shall, to the extent possible and appropriate:
  - (a) make publically available sufficient details about those regulatory measures to allow any person to assess whether and how the person's interests might be significantly affected, such as by publishing draft regulatory measures or consultation documents;
  - (b) offer reasonable opportunities for any person, on a non-discriminatory basis, to provide comments; and
  - (c) consider the comments received.
2. For the purposes of providing information and receiving comments related to public consultations, the regulatory authority of each Party shall make information accessible to the public by digital means, preferably through a dedicated electronic portal.
3. The regulatory authority of each Party shall endeavour to make publicly available a summary of the results of the consultations and comments received, except to the extent necessary to protect confidential information or withhold personal data or inappropriate content.

ARTICLE X.8

Impact assessment

1. The regulatory authority of each Party affirms its intention to carry out, in accordance with its respective rules and procedures, an impact assessment of major regulatory measures it is preparing.
2. For carrying out an impact assessment, the regulatory authority of each Party shall promote the identification and consideration of:
  - (a) the need for a regulatory measure, including the nature and the significance of the problem a regulatory measure intends to address;
  - (b) feasible and appropriate regulatory and non-regulatory options (including the option of not regulating), if any, that would achieve the Party's public policy objectives;
  - (c) to the extent possible and relevant, the potential social, economic and environmental impacts of the options, such as any impacts on international trade and investment, or the impacts on small and medium-sized enterprises; and
  - (d) how the options under consideration relate to relevant international standards; if any, including the reason for any divergence, where appropriate.
3. With respect to any impact assessment that a regulatory authority has undertaken for a regulatory measure, the regulatory authority of each Party shall report on the factors it considered in its assessment and summarise the relevant findings. The information shall be made publicly available no later than when the regulatory measure to which it relates is made publicly available.

ARTICLE X.9

Periodic review of regulatory measures in effect

1. Further to Article 4, the regulatory authority of each Party shall maintain processes or mechanisms to promote periodic review of regulatory measures in effect.
2. The regulatory authority of each Party shall endeavour to ensure that periodic reviews consider, where appropriate:
  - (a) whether there are opportunities to achieve its public policy objectives more effectively and efficiently<sup>5</sup>; and
  - (b) whether those regulatory measures are likely to remain fit for purpose.
3. The regulatory authority of each Party shall, to the extent possible and appropriate, make publicly available any plans for, and the results of, such periodic reviews.

ARTICLE X.10

Access to regulatory measures

Each Party shall ensure that regulatory measures that are in effect are published in a designated register or via a single digital medium that is publicly available, searchable, free of charge and updated regularly.

ARTICLE X.11

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<sup>5</sup> For greater certainty, this may include whether unnecessary regulatory burdens, including on SMEs, can be reduced.

Regulatory cooperation

1. The Parties recognise the value in creating a simple mechanism to identify potential opportunities for undertaking regulatory cooperation between the Parties.
2. A Party may propose a regulatory cooperation activity to the other Party. A Party shall transmit any proposal to the other Party's contact point for this chapter.
3. The proposals may consist of:
  - (a) bilateral information exchanges on regulatory cooperation approaches; or
  - (b) informal cooperation between the regulatory authorities.
4. The other Party shall reply to the proposal within a reasonable period of time.
5. Where appropriate, the regulatory authorities may, by mutual consent, entrust the implementation of a regulatory cooperation activity to the relevant bodies in the Parties.

ARTICLE X.12

Contact point on regulatory cooperation

1. Promptly upon the entry into force of this [Agreement], each Party shall designate a contact point which shall be responsible for coordinating regulatory cooperation activities under Article X.11 (Regulatory Cooperation).
2. Each Party shall promptly notify the other Party of any change to its contact point.

ARTICLE X.13

Non-Application of Dispute Settlement

Neither Party shall have recourse to dispute settlement under Chapter [X] (Dispute Settlement) for any matter arising under this Chapter.