

# **Malaysia – New Zealand Free Trade Agreement**

## **General Review**

**2010-2015**

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## Executive Summary

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The Parties signed the Malaysia-New Zealand Free Trade Agreement (MNZFTA) on 26 October 2009 in Kuala Lumpur, which entered into force on 1 August 2010.

MNZFTA delivers preferential treatment for Malaysian and New Zealand goods and services exporters and investors – a key competitive advantage in each other's markets.

MNZFTA usefully complements the ASEAN-Australia-New Zealand Free Trade Agreement (AANZFTA), which was signed on 27 February 2009 in Cha-am, Phetchaburi, Thailand and entered into force in Malaysia on 1 January 2010. As of 1 January 2016, MNZFTA has eliminated tariffs on 99.5 percent of New Zealand's exports to Malaysia and 100 percent of Malaysia's exports to New Zealand, four years earlier than provided for under AANZFTA.

Malaysia and New Zealand are also signatories to the Trans-Pacific Partnership and involved in the ongoing Regional Comprehensive Economic Partnership negotiations.

To ensure that MNZFTA maximises the benefits to exporters and remains relevant and responsive to changing business needs, the Agreement includes a commitment that Parties conduct a general review of MNZFTA within five years of entry-into-force, and every three years thereafter, unless the parties agree otherwise.

The General Review report covers the impact, operation and implementation of MNZFTA between the years of 2010-2015, as well as making recommendations for further work and cooperation over the next three years.

The General Review found that MNZFTA has resulted in significant trade growth for both Malaysia and New Zealand. New Zealand's goods exports to Malaysia increased by 34% from NZ\$705 million (US\$444 million) in 2009 to NZ\$943 million (US\$665 million) in 2015. Malaysia's goods exports to New Zealand increased by 70% from NZ\$0.9 billion (US\$0.55 billion) in 2009 to NZ\$1.46 billion (US\$1.02 billion) in 2015. Services exports, investment flows and visitor numbers have also all increased since MNZFTA's entry into force.

The Parties are satisfied that the operation and implementation of MNZFTA to date has been consistent with, and has promoted MNZFTA's objectives. Both Parties have delivered on their MNZFTA commitments, including in relation to tariff elimination, services liberalisation, treatment of investments, and creation of institutional frameworks and mechanisms for the management of MNZFTA.

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## Introduction

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Article 15.4 of the Malaysia-New Zealand Free Trade Agreement (MNZFTA) commits the Parties to undertake a General Review of MNZFTA, with a view to furthering its objectives, at ministerial level, within five years of its entry into force and at least every three years thereafter, unless the Parties agree otherwise.

The General Review will focus on assessing whether MNZFTA is bringing benefits to Malaysia and New Zealand, having regard to the objectives of MNZFTA set out in Chapter 1 and elsewhere in MNZFTA and associated annexes and documents. The Chapter 1 objectives are:

- to strengthen trade and economic partnerships between the Parties;
- to liberalise trade in goods and services and establish a framework conducive for investment;
- to establish a framework to enhance socio-economic cooperation, by way of exchange of information, skills and technology in fields as agreed in this Agreement;
- to improve the efficiency and competitiveness of their goods and services sectors by promoting conditions for competition cooperation, for innovation and for mutually beneficial business collaboration; and
- to facilitate trade and investment by establishing transparent rules and seeking to minimise transaction costs.

In light of these objectives, the Parties agreed that the General Review would consider the implementation, operation and impact of MNZFTA since its entry-into-force in August 2010. This included exploring ways to remove any existing impediments to increased trade, maximise benefits, and ensure that MNZFTA is a modern, living document that responds to changing business needs.

### Preparation and Contents of the Joint Report

This Report on the General Review of MNZFTA was prepared jointly by New Zealand and Malaysia and is based on extensive trade data analysis, as well as consultation with interested parties including business, government, New Zealand Maori and other interested parties. New Zealand and Malaysia met twice as an Informal General Review Working Group to discuss and agree the contents and outcome of the General Review.

## Impact of MNZFTA on Trade and Investment

This section examines the impact of MNZFTA on trade in goods and services, investment and people-to-people links from January 2009 to December 2015.<sup>1</sup> The analysis in this section is based on bilateral trade data.<sup>2</sup>

Malaysia and New Zealand have been Parties to MNZFTA and AANZFTA since August 2010 and January 2010 respectively.<sup>3</sup>

### Trade in Goods

For the year ended December 2015, Malaysia was New Zealand's 9<sup>th</sup> largest goods trading partner down from 8<sup>th</sup> in 2009. While New Zealand was Malaysia's 23<sup>rd</sup> largest goods trading partner up from 28<sup>th</sup> in 2009.<sup>4</sup>

Table 1: Trade Partner Rankings

	Malaysia Trade Partner Ranking for New Zealand		New Zealand Trade Partner Ranking for Malaysia	
	2009	2015	2009	2015
<b>Total Trade</b>	8 <sup>th</sup>	9 <sup>th5</sup>	28 <sup>th</sup>	23 <sup>rd</sup>
<b>Exports</b>	11 <sup>th</sup>	9 <sup>th</sup>	31 <sup>st</sup>	21 <sup>th</sup>
<b>Imports</b>	8 <sup>th</sup>	9 <sup>th</sup>	29 <sup>th</sup>	26 <sup>nd</sup>
Source:	Statistics New Zealand		Department of Statistics Malaysia	

New Zealand's goods exports to Malaysia increased by 34% (CAGR of 5%) from NZ\$705 million (US\$444 million) in 2009 to NZ\$943 million (US\$665 million) in 2015.

Malaysia's goods exports to New Zealand increased by 70% (CAGR of 9%) from NZ\$0.9 billion (US\$0.55 billion) in 2009 to NZ\$1.46 billion (US\$1.02 billion) in 2015.

New Zealand's imports of crude oil from Malaysia tend to be volatile and dependent on a number of commercial factors unrelated to MNZFTA or AANZFTA. Excluding crude oil – Malaysia's largest goods export to New Zealand – goods exports from Malaysia to New Zealand increased by 25% (CAGR of 3.8%) from NZ\$712 million (US\$452 million) in 2009 to NZ\$889 million (US\$622 million) in 2015. Malaysia and New Zealand's goods

<sup>1</sup> The year ended December 2009 was selected as a start point for this analysis to provide a point of comparison before AANZFTA and MNZFTA entered into force in August 2010 and January 2010 respectively.

<sup>2</sup> Trade data is sourced from Statistics New Zealand and Statistics Malaysia (accessed via Global Trade Atlas for trade in goods data).

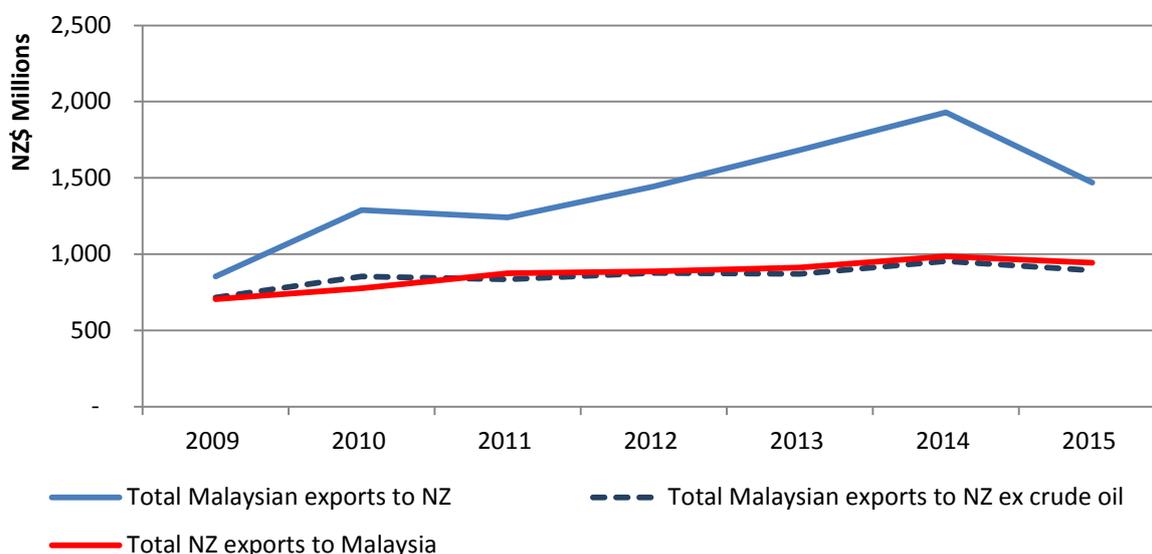
<sup>3</sup> We are unable separate out the impact of MNZFTA on trade and investment from that of AANZFTA, which as noted in footnote 2 entered into force 8 months prior to MNZFTA.

<sup>4</sup> New Zealand's trade partner rankings consider the EU as one economy and therefore exclude individual rankings for EU member states; whilst Malaysia's trading partner rankings for New Zealand include individual EU member states.

<sup>5</sup> The change in the rankings is due to a significant increase in New Zealand's total goods trade with Thailand over 2009-15 (up by over NZ\$1.4 billion). This increase caused Thailand to move up in New Zealand's trading partner rankings and pushed Malaysia's ranking down.

exports followed a similar growth trajectory from 2009 to 2015 (see Figure 1) if crude oil is excluded.

Figure 1: New Zealand-Malaysia Goods Exports 2009 - 2015



Note: Malaysian data is sourced from the Department of Statistics Malaysia and New Zealand data is sourced from Statistics NZ – both accessed via Global Trade Atlas. Data in this chart differs very slightly from the data used to calculate the rate of growth in Malaysia’s exports to New Zealand.

China was NZ’s largest goods export destination in 2015 with total imports valued at NZ\$8.6 billion (US\$6.0 billion), growth of NZ\$5 billion (CAGR of 15%) since 2009.

Since 2009, the value of New Zealand’s exports to Malaysia has increased by a greater amount (in NZ dollar terms) than the change in New Zealand’s exports to the following comparator markets<sup>6</sup>: Viet Nam, Japan, the Philippines, Myanmar, India, Cambodia, Brunei Darussalam, Laos, Singapore, Hong Kong, Indonesia, EU-28, and Australia.<sup>7</sup>

Over the 2009-15 period, the value of NZ’s goods exports increased by a greater value (in NZ dollar terms) than NZ’s goods exports to Malaysia (i.e. greater than NZ\$238 million) to five comparator markets (China, the US, Chinese Taipei, Korea, and Thailand).

Singapore was Malaysia’s largest goods export destination in 2015 with total Malaysian exports to Singapore valued at NZ\$40 billion (US\$28 billion), growth of NZ\$5.4 billion (CAGR of 2%) since 2009.<sup>8</sup>

Since 2009, the value of Malaysia’s exports to New Zealand increased by a greater amount (in NZ dollar terms) than the change in Malaysia’s exports to the following

<sup>6</sup> In this analysis, trade between New Zealand and Malaysia was compared to trade with the following comparator markets: Australia, China, the EU28, the US, the individual members of ASEAN, Japan, Chinese Taipei, Hong Kong and Korea.

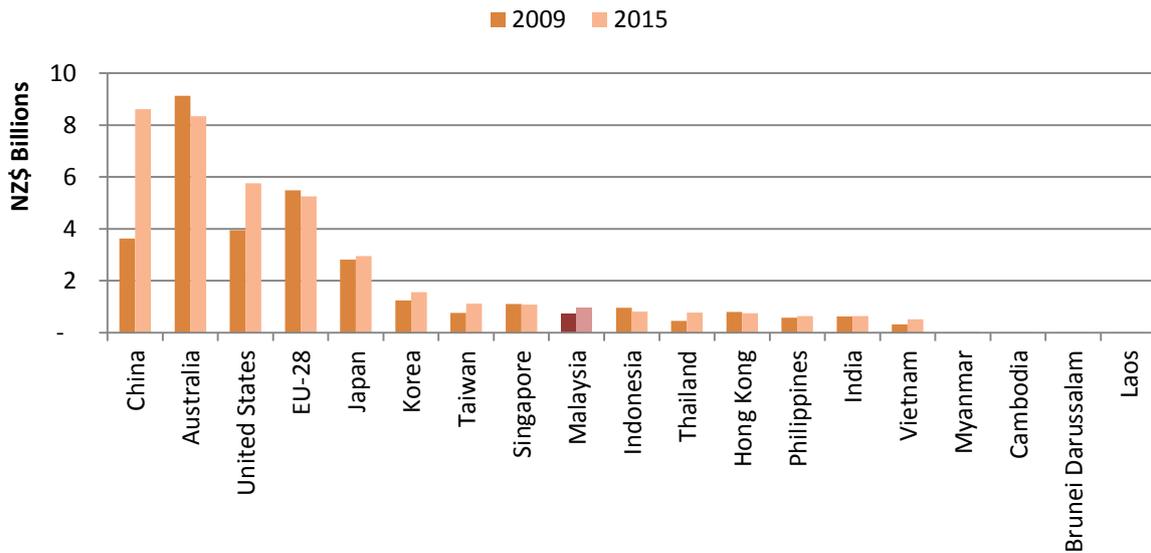
<sup>7</sup> The value of New Zealand’s goods exports declined over 2009-15 to Laos, Singapore, Hong Kong, Indonesia, the EU28, and Australia.

<sup>8</sup> Data on Malaysia’s exports to New Zealand and other comparator countries is sourced from Global Trade Atlas.

comparator markets: Hong Kong, Brunei Darussalam, Korea, Cambodia, Laos and the US.<sup>9</sup>

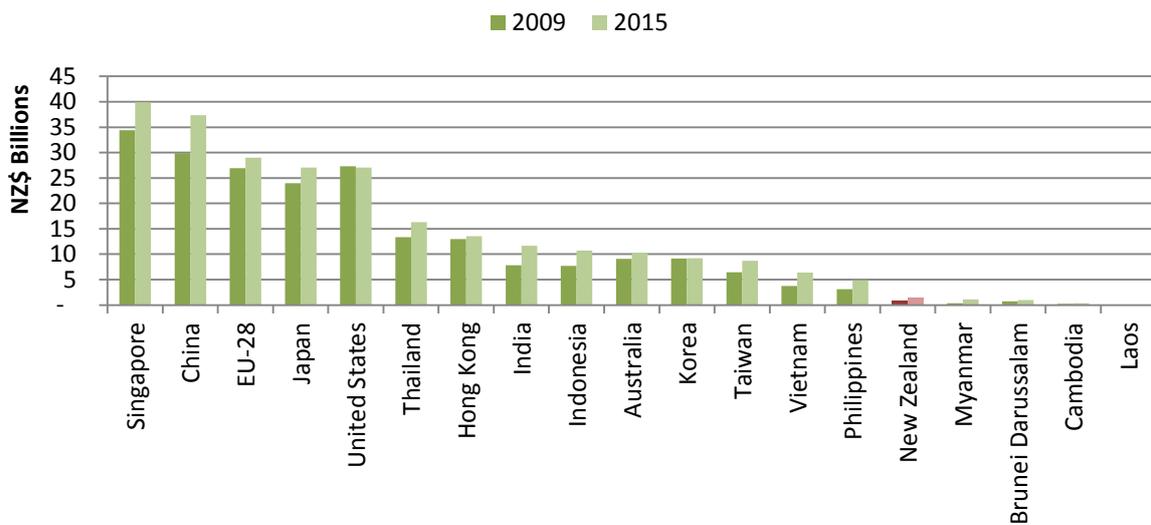
Over 2009-15, the value of Malaysia’s goods exports increased by a greater value (in NZ dollar terms) than Malaysia’s goods exports to New Zealand (i.e. greater than NZ\$616 million) to 12 comparator markets (China, Singapore, India, Japan, Thailand, Indonesia, Viet Nam, Chinese Taipei, EU28, the Philippines, Australia and Myanmar).

Figure 2: New Zealand's Exports to Malaysia and Other Comparator Markets 2009 & 2015



Source: Statistics NZ (accessed via Global Trade Atlas)

Figure 3: Malaysia’s Exports to New Zealand and Other Comparator Markets 2009 & 2015



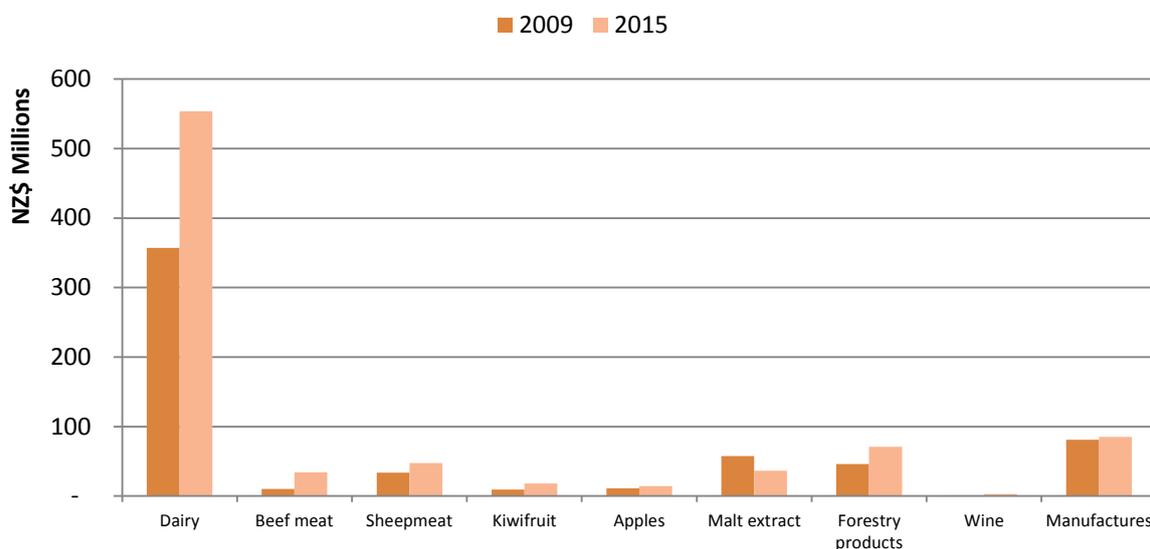
Source: Department of Statistics Malaysia (accessed via Global Trade Atlas)

<sup>9</sup> The value of Malaysia’s goods exports declined over 2009-15 to the US.

## New Zealand's Key Goods Exports to Malaysia

New Zealand's key goods exports to Malaysia include dairy, beef meat, sheep meat, kiwifruit, apples, malt extract, forestry products and manufactured goods.<sup>10</sup>

Figure 4: New Zealand's Key Goods Exports to Malaysia 2009 & 2015



Source: Statistics NZ (accessed via Global Trade Atlas)

**Dairy** is New Zealand's largest export category to Malaysia, comprising nearly 60% of the total value of New Zealand goods exports to Malaysia. Since 2009, NZ's dairy exports to Malaysia have grown by 55% in value terms from NZ\$357 million (US\$222 million) in 2009 to NZ\$554 million (US\$391 million) in 2015.

Milk powder comprised over 70% of New Zealand's total dairy exports to Malaysia and has grown by 38% in value terms from NZ\$287 million (US\$178 million) in 2009 to NZ\$397 million (US\$281 million) in 2015. Malaysia was New Zealand's 4<sup>th</sup> single largest export destination for milk powder in 2015 (behind China, the UAE and Algeria).

New Zealand's exports of butter to Malaysia has increased by more than two and a half times from NZ\$26 million (US\$16 million) in 2009 to NZ\$67 million (US\$46 million) in 2015.

The value of New Zealand's cheese exports to Malaysia also increase significantly over this period, growing by more than 2.7 fold from NZ\$18 million (US\$11 million) in 2009 to NZ\$50 million (US\$35 million) in 2015.

<sup>10</sup> Manufactures comprises of the following HS codes: 25, 26, 30, 31, 32, 33, 34, 3503, 3504, 3505, 3506, 3507, 36, 37, 38, 39, 40, 42, 43, 45, 46, 49, 50, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98. Note: this definition excludes mineral fuels, chemicals and fertilisers.

New Zealand's exports of casein and caseinates to Malaysia grew by two fold from NZ\$9.8 million (US\$ 5.8 million) in 2009 to NZ\$21 million (US\$14 million) in 2015.

For the year ended December 2015, New Zealand **beef and sheep meat** exports accounted for 9% of New Zealand's total goods exports to Malaysia.

Exports of beef to Malaysia were valued at NZ\$34 million – an increase of more than three fold since 2009 when New Zealand's beef exports to Malaysia totalled NZ\$10 million. In 2015, Malaysia was New Zealand's 9<sup>th</sup> single largest market for exports of frozen beef.

Sheep meat exports to Malaysia increased by 41% from NZ\$34 million (US\$21 million) in 2009 to NZ\$47 million (US\$33.6 million) in 2015. For this year, Malaysia was New Zealand's 14<sup>th</sup> single largest market for sheep meat exports.

Exports of **kiwifruit** to Malaysia totalled NZ\$18 million (US\$ 12.6 million) in the 2015 calendar year, up 89% from NZ\$9.5 million (US\$6 million) in 2009. New Zealand kiwifruit enters Malaysia duty free rather than under the MFN rate of 15%.

Exports of **apples** to Malaysia totalled NZ\$14.6 million (US\$10.4 million) in 2015, up 29% from NZ\$11 million (US\$6.6 million) in 2009.

New Zealand's exports of **malt extract** to Malaysia were valued at NZ\$36 million (US\$25 million) in 2015 and comprised 4% of New Zealand's total goods exports to Malaysia. Exports of malt extract have declined by 37% from NZ\$58 million (US\$36 million) in 2009.

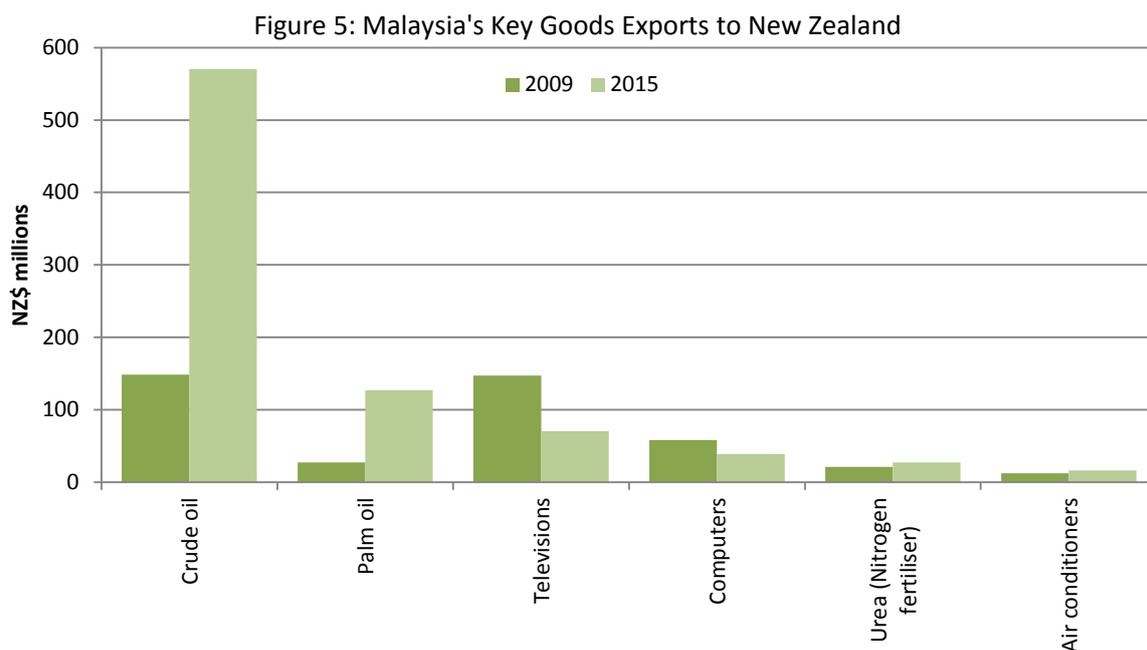
New Zealand's exports of **forestry products** to Malaysia have increased by 53% from NZ\$46 million (US\$30 million) in 2009 to NZ\$71 million (US\$50 million) in 2015 driven by an increase in exports of veneer sheets.

New Zealand's exports of **manufactured goods** to Malaysia increased by 5% from NZ\$81 million (US\$53 million) in 2009 to NZ\$85 million (US\$60 million) in 2015, and comprised 9% of New Zealand's total goods exports to Malaysia in the most recent year.

**Wine**, although not currently a key New Zealand export for the Malaysian market is a product of interest to New Zealand. Exports of New Zealand wine to Malaysia grew by 2.5 times (albeit, off a low base) to NZ\$2.8 million (US\$1.9 million) in 2015.

#### **Malaysia's Key Goods Exports to New Zealand**

Malaysia's key goods exports to New Zealand include crude oil, palm oil, fertilisers, and electronic goods.



Source: Department of Statistics Malaysia

New Zealand was Malaysia's fifth largest export destination for **crude oil** in 2015. Malaysian exports of crude oil to New Zealand have increased by nearly 4 fold from NZ\$148 million (US\$94 million) in 2009 to NZ\$570 million (US\$400 million) in 2015. In 2015, crude oil exports comprised around 40% of total Malaysian goods exports to New Zealand by value.

Malaysian exports of **palm oil** to New Zealand have increased by 4.7 times in value terms from NZ\$27 million (US\$17 million) in 2009 to NZ\$127 (US\$89 million) in 2015.

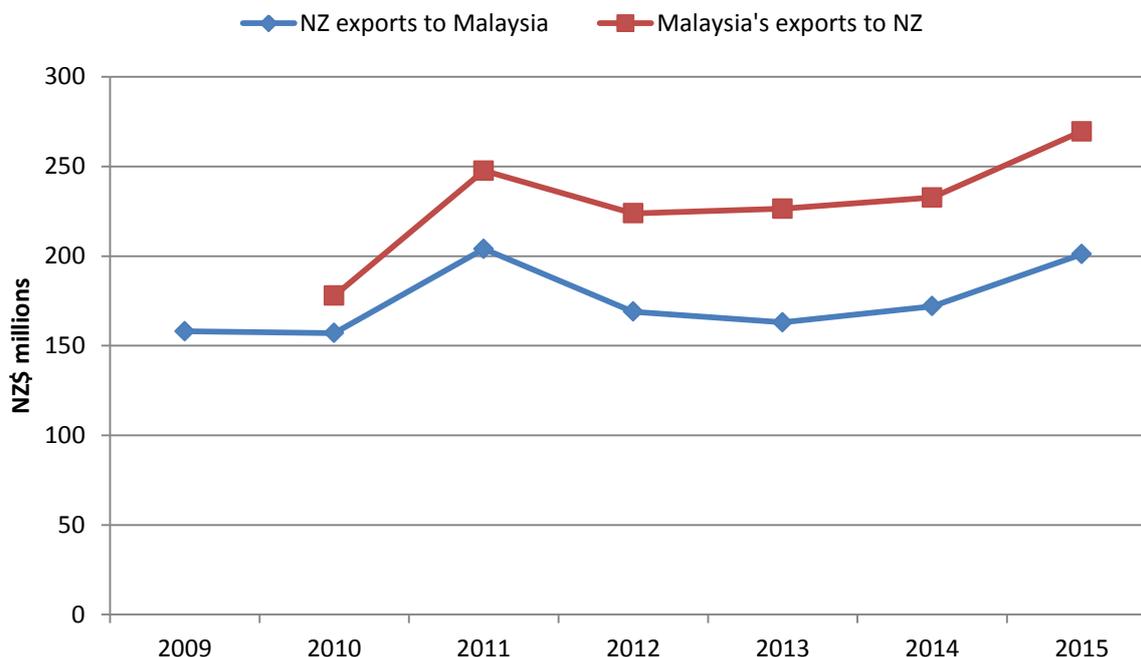
Exports of **urea** (a nitrogen fertiliser) from Malaysia to New Zealand has increased by 31% in value terms from NZ\$21 million (US\$13 million) in 2009 to NZ\$27 million (US\$19 million) in 2015.

**Electrical equipment** and electronics are also important exports from Malaysia to New Zealand. In 2015, Malaysia exported NZ\$70 million (US\$49 million) worth of televisions, NZ\$39 million (US\$27 million) worth of computers, and NZ\$16 million (US\$11 million) worth of air conditioners to New Zealand. Exports of air conditioners to New Zealand have increased by 34% since 2009 (off a low base).

## Trade in Services

The total value of New Zealand's services exports to Malaysia increased by NZ\$43 million over 2009 to 2015, from NZ\$158 million (US\$100 million) to NZ\$201 million (US\$141 million).

Figure 6: New Zealand-Malaysia Services Exports 2009-2015



Source: Malaysian data was provided by MITI and is for 2010-15. This data was converted from Malaysian Ringgit into NZ\$ using exchange rate averages sourced from the Reserve Bank of New Zealand. New Zealand data was sourced from Statistics NZ.

The largest increase in New Zealand's services exports to Malaysia was in tourism services,<sup>11</sup> which increased from NZ\$68 million (US\$43 million) in 2009 to NZ\$113 million (US\$79 million) in 2015.

Since 2009, the value of New Zealand's services exports to Malaysia has increased by a greater amount (in NZ dollar terms) than the change in New Zealand's services exports to the following comparator markets: Indonesia, Viet Nam, Chinese Taipei, Brunei Darussalam, Japan and Korea.<sup>12</sup> Over the same period, New Zealand's exports of services increased by a greater amount than New Zealand's services exports to Malaysia to nine comparator markets (China, Australia, India, the EU28, the US, Singapore, Hong Kong, the Philippines and Thailand).

Over 2010 to 2015,<sup>13</sup> the total value of Malaysia's exports of services to New Zealand increased by 31% from NZ\$177 million (US\$128 million) in 2010 to NZ\$233 million (US\$163 million) in 2015, driven by an increase in exports of transport services from NZ\$54 million (US\$39 million) in 2010 to NZ\$116 million (US\$81 million) in 2015.

<sup>11</sup> Tourism services are defined as total travel services less education travel services. It therefore includes: business travel, health-related travel, and other personal travel.

<sup>12</sup> The value of New Zealand's services exports declined over 2009-15 to Brunei Darussalam, Japan and Korea.

<sup>13</sup> Data on Malaysian services exports is only available from 2010 onward.

Table 2: New Zealand Services Exports to Malaysia 2009-2015

	2009		2015		% change 2009-15 (based on NZD)	Value change 2009-15 (based on NZ\$ millions)
	NZ\$ millions	US\$ million	NZ\$ millions	US\$ million		
Transportation services	11.0	7.0	20.0	14.0	81.8%	9
Tourism	68.0	43.1	113.0	79.1	66.2%	45
Education travel services	56.0	35.5	44.0	30.8	-21.4%	-12
Government and insurance services	3.0	1.9	3.0	2.1	0.0%	0
Commercial services	20.0	12.7	21.0	14.7	5.0%	1
Total services	158.0	100.2	201.0	140.8	27.2%	43

Table 3: Malaysian Services Exports to New Zealand 2010-2015<sup>14</sup>

	2010		2015		% change 2010-15 (based on NZD)	Value change 2010-15 (based on NZ\$ millions)
	NZ\$ millions	US\$ million	NZ\$ millions	US\$ million		
Transport services	54	39	116	81	114%	62
Travel services	89	64	86	60	-3%	-3
ICT services	3	2	7	5	158%	4
Other business services	29	21	11	8	-61%	-18
Other	3	2	13	9	364%	10
Total services	177	128	233	163	31%	55

## Investment<sup>15</sup>

According to Malaysian data, total Malaysian investment in New Zealand was valued at NZ\$1.2 billion (US\$814 million) in 2015 which is a more than one fold (1.1) increase from NZ\$530 million (US\$385 million) in 2009. Malaysia's investment in New Zealand accounted for 0.6% of Malaysia's total direct investment abroad in 2015.<sup>16</sup>

The value of New Zealand's total investment in Malaysia was valued at NZ\$705 million (US\$483 million) – a steep increase from NZ\$6 million (US\$5 million) in 2009. Total New

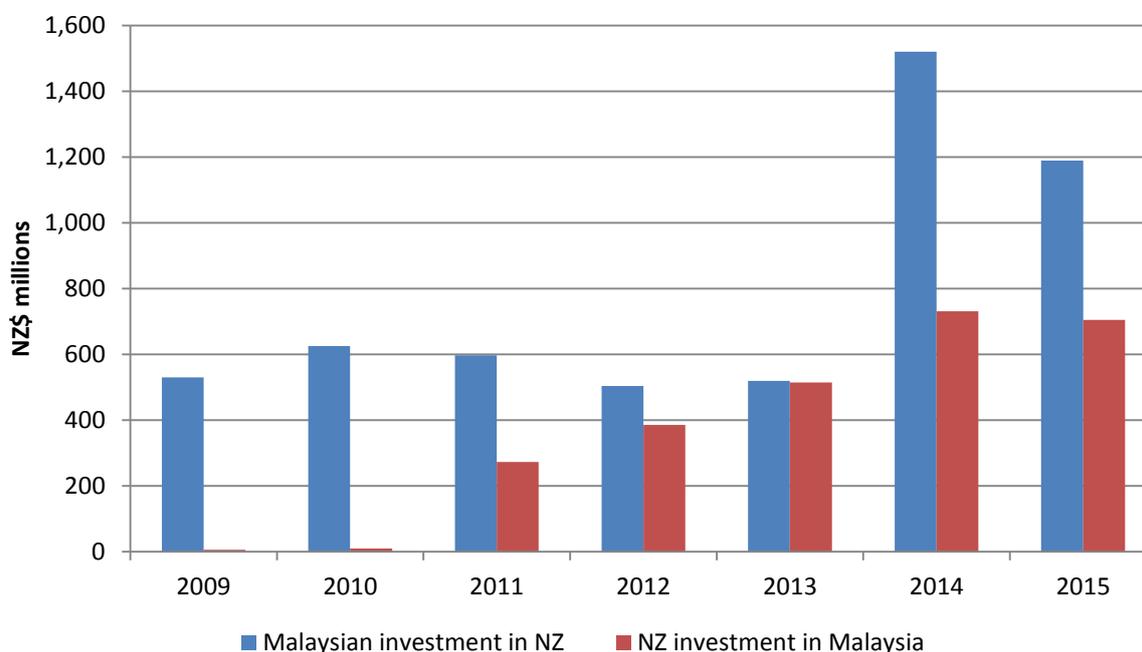
<sup>14</sup> Data on Malaysian services exports is only available from 2010 onward.

<sup>15</sup> Data in this section is sourced from Department of Statistics Malaysia.

<sup>16</sup> According to Statistics NZ's data, total Malaysian investment in New Zealand was valued at NZ\$634 million (US\$444 million) in 2015 – an increase of 4% from NZ\$609 million (US\$386 million) in 2009. Total investment from Malaysia accounted for 0.2% of total investment in New Zealand from all countries in 2015.

Zealand investment in Malaysia accounted for 0.4% of total foreign direct investment in Malaysia.<sup>17</sup>

Figure 7: Malaysia-New Zealand Investment



Source: Department of Statistics Malaysia, as at 31 June.

## Movement of Natural Persons

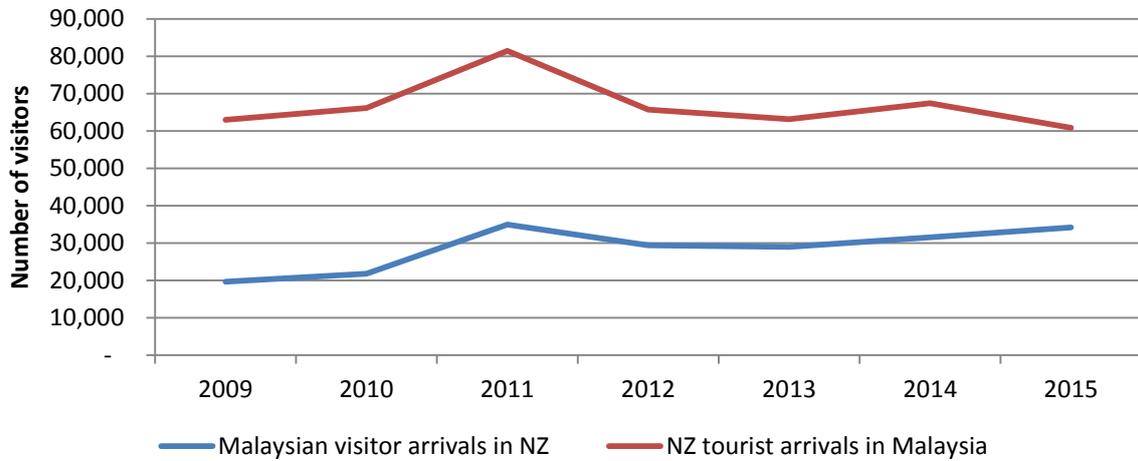
Total visitor flows have increased in both directions. In 2015, 34,240 Malaysians travelled to New Zealand – 1.1% of total visitor arrivals in New Zealand and 14,538 more visitors from Malaysia than in 2009<sup>18</sup>; whilst 60,846 New Zealanders visited Malaysia – 0.2% of total visitor arrivals in Malaysia and has declined by 2,158 tourists compared to 2009.<sup>19</sup>

<sup>17</sup> According to Statistics NZ's data, the value of New Zealand's total investment in Malaysia was valued at NZ\$1.1 billion (US\$755 million) – an increase of 2.5 fold from NZ\$434 million (US\$275 million) in 2009. Total New Zealand investment in Malaysia accounted for 0.5% of total New Zealand investment abroad.

<sup>18</sup> Source: Statistics NZ. Statistics NZ derives this data from information contained in electronic records supplied by the New Zealand Customs Service, as well as from arrival and departure cards completed by passengers.

<sup>19</sup> Source: Ministry of Tourism Malaysia. To note, these numbers are higher than the recorded number of New Zealanders departing to Malaysia as compiled by Statistics NZ due methodological differences. Malaysian visitor arrivals data is based on 'country of nationality' and is sourced from passports, whilst New Zealand departure numbers are based on 'country of residence' and the country in which NZ-resident travellers spend the most time whilst overseas.

Figure 8: Total Number of Visitors

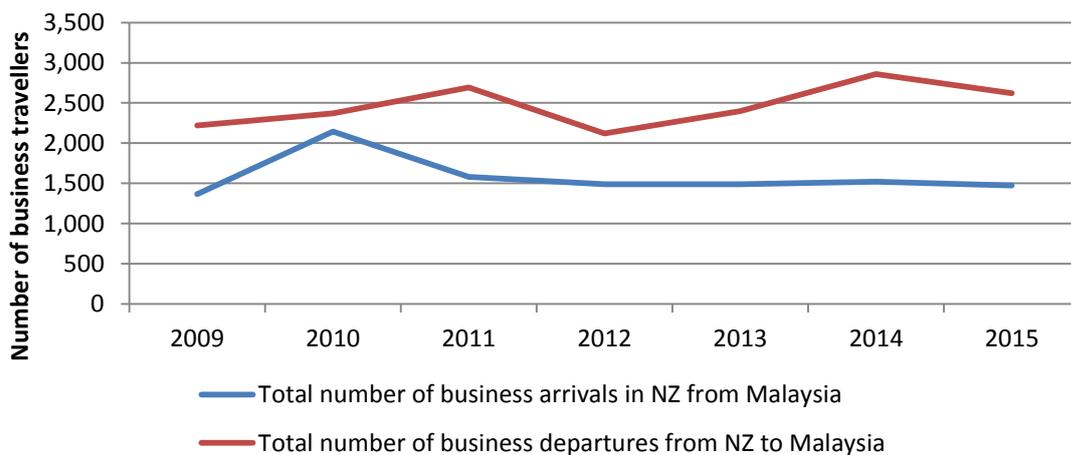


Source: Statistics NZ and Ministry of Tourism Malaysia

The total number of business visitors has increased in both directions. There were 1,472 Malaysian business visitors in New Zealand in 2015 – 0.5% of total business travellers to New Zealand and 106 more business visitors from Malaysia to New Zealand than in 2009. In the same year, around 2,620 New Zealand residents travelled to Malaysia for business – 0.9% of total New Zealand-resident business departures and 402 more business visitors from New Zealand to Malaysia than in 2009.<sup>20</sup>

Australia was New Zealand’s largest source and destination for business visitors in 2015 with 175,488 Australian’s travelling to New Zealand for business and 168,860 New Zealanders travelling across the Tasman for the purpose of business.

Figure 9: Total Number of Business Visitors



Source: Statistics NZ

<sup>20</sup> Note: data on business visitors in both directions is sourced from Statistics NZ and is therefore, not comparable with Malaysia’s data on the total number of NZ visitors to Malaysia.

## Implementation of MNZFTA

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### Trade in Goods

Chapter Two outlines the commitments made by the Parties to eliminate customs duties as per their respective Tariff Schedules. Under MNZFTA there has been a progressive elimination of tariffs between New Zealand and Malaysia, implemented as per Annex 1 of MNZFTA.

Article 2.10 mandates the establishment of the Committee on Trade in Goods. This Committee was convened in December 2013 in Wellington to progress HS 2012 tariff transposition and Product Specific Rules of Origin transposition.

The Parties note that preferential tariff rates have been fully phased in under MNZFTA as of 1 January 2016, which sees 99.5% of New Zealand's exports to Malaysia and 100% of Malaysia's exports to New Zealand enter tariff free.

Malaysian and New Zealand businesses are pleased with the goods tariff reduction outcomes provided for under MNZFTA, but New Zealand businesses have indicated that there is an interest in addressing remaining tariff barriers.

Malaysia has maintained its Tariff Rate Quota (TRQ) system on a range of domestically sensitive products including, liquid milk, live swine and poultry, hens' and duck eggs as well as some pork. Of these items, New Zealand has a substantive export interest in liquid milk. MNZFTA provides for a permanent TRQ for liquid milk with growth rates of 3-5% depending on the specific tariff line.

Since MNZFTA entered into force, New Zealand notes that there have been a number of developments regarding liquid milk: Malaysia has agreed to the elimination of the tariff for liquid milk for New Zealand in 16 years as part of the Trans-Pacific Partnership; there is an inequality between access for Australia and New Zealand with a 1,486,000 litres difference in 2016 (factoring in access under the Malaysia-Australia Free Trade Agreement and AANZFTA); and there is a significant investment over 40 years in the Malaysian dairy industry by New Zealand companies, with an ongoing focus on social responsibility activities.

New Zealand requested Malaysia to consider: an elimination period of 10 years (or less) with the phasing of over-quota tariffs; increasing tariff quota volumes; and improving tariff quota administration by setting up a contact point and providing for regular consultations on tariff quota administration issues. The Parties agreed to set up a contact point to facilitate regular consultations on liquid milk tariff quota administration issues and noted New Zealand's suggestion that the market access elements of New Zealand's requests around improving the TRQ for liquid milk be considered at the 4<sup>th</sup> MNZFTA Joint Commission.

Under MNZFTA, Malaysia did not make tariff reduction or elimination commitments on 88 products. Of these products, alcoholic beverages are an item of significant export interest to New Zealand. Malaysia and New Zealand agreed to provide the opportunity for a review of MNZFTA's treatment of alcoholic beverages two years after MNZFTA's entry into force as reflected in the Alcoholic Beverages Side Letter. Malaysia and New Zealand subsequently agreed to another side letter to extend Most Favoured Nation (MFN) treatment to New Zealand exports of wine (HS 2204) and to review the specific treatment of other alcoholic beverages (covered by HS Headings 2203, 2205, 2206, 2207 and 2208) two years after the signing of this side letter. New Zealand and Malaysia are in the process of carrying out their domestic processes to bring the amended Alcoholic Beverages Side Letter into force.

## Rules of Origin

Chapter 3 covers Rules of Origin (ROO) and operating procedures for the documentation and granting of preferences under MNZFTA. There has been useful cooperation and consultation between the Parties on Chapter 3 matters.

MNZFTA does not explicitly provide for third party invoicing, a practice whereby invoices are issued by a trader in a country other than Malaysia or New Zealand for goods that are being imported into Malaysia or New Zealand. New Zealand and Malaysia agreed subsequently to amend Article 1 of Annex 3 to allow for third party invoicing. Malaysia and New Zealand are in the process of carrying out their domestic processes to bring the amendment into force, via an exchange of letters.

Since the signing of MNZFTA different supply chain models have become common practice, specifically the of logistics 'hubs' for storage and distribution purposes. New Zealand exporters are increasingly using countries such as Singapore as regional transit and distribution centres for goods being shipped across ASEAN member states. The Parties identified that the verification of origin for goods transported and stored in a customs controlled area in a third country can present additional compliance challenges for customs agencies and agreed to work together to scope the implications of hubbing and warehousing in third countries in the context of meeting ROO requirements under MNZFTA. Malaysia and New Zealand also agreed to explore how MNZFTA could support Malaysia becoming a transit hub for onward trade from New Zealand. Specifically, experts from the two countries will explore the framework required to enable New Zealand goods to be warehoused in a customs controlled area in Malaysia while still being eligible for preference when exported to a third country.

MNZFTA provides options for the trader (exporter and importer) to use self-declaration. Notwithstanding this, Malaysia has the option of requiring its exporters to obtain a Certificate of Origin. In the context of the General Review, Malaysia has requested technical assistance from New Zealand including to support its intention to implement self-declaration, which the New Zealand Customs Service is ready and willing to provide.

## Customs Procedures and Cooperation

Chapter 4 addresses customs procedures for the efficient, expeditious and transparent clearance of goods traded between the parties, as well as providing a framework for cooperation between respective Customs administrations.

New Zealand and Malaysia have agreed to reactivate the 2010 initiative to conclude a Customs Cooperation Arrangement (CCA). A CCA will provide a framework for both countries to share information to identify, prevent and investigate customs offences, and improve customs procedures. It will also enable New Zealand and Malaysia to work together to exchange ideas, provide technical assistance on new procedures or techniques, to resolve any problems with bilateral trade, and to better facilitate the operation of the FTA. Both countries agree that a CCA needs to be in place before a Mutual Recognition Arrangement on Authorised Economic Operator and trusted trader programme<sup>21</sup> can be negotiated.

## Sanitary and Phytosanitary Measures

Chapter 6 establishes mechanisms to address Sanitary and Phytosanitary (SPS) measures, including through the establishment of an SPS Committee and the ability to adopt Implementing Arrangements setting out understandings which are applied to trade between the Parties.

The Parties note that the SPS Chapter has one of the most active implementation agendas under MNZFTA, which is important given the significance of this chapter to facilitating trade between Malaysia and New Zealand. Article 6.6 of MNZFTA mandates the establishment of the Sanitary and Phytosanitary Committee. This Committee was convened in November 2015 in Putrajaya and subsequently met in August 2016 in Wellington.

The Parties note that the competent authority contact points have been established in an agreed Implementing Arrangement under MNZFTA. The New Zealand Ministry for Primary Industries (MPI) and the Malaysian Ministry of Agriculture and Agro-based Industry, Department of Agriculture, Department of Malaysian Quarantine and Inspection Services, Department of Veterinary Services, Ministry of Health are the designated SPS competent authorities and are developing strong relationships.

The Parties noted that the regulation of SPS and halal matters, while ultimately being the accountability of separate Government departments, were often closely linked in Malaysia. New Zealand noted that any halal related requirements that had a SPS objective were already subject to the SPS Chapter and suggested that there should be

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<sup>21</sup> Trusted trader (also known as Authorized Economic Operator) programmes are being pursued by Customs administrations as a means to both secure and facilitate global trade, while at the same time providing incentives that benefit both customs and traders that have decided to work in partnership. They are underpinned by Mutual Recognition Arrangements (MRAs). MRAs have two primary features – cooperation between customs administrations of the of the two countries and collaboration in providing benefits to trusted traders accredited under one country's programme when their goods are cleared at the border of the other.

clear demarcations. New Zealand identified that the ability to discuss wider food standards, such as halal measures, that are not specifically SPS, but which are regulated in a seamless way with SPS measures under the auspices of MNZFTA would be helpful. The Parties noted that there is also an existing forum under the "*Mutual Arrangement for the Approval of New Zealand Establishments (Abattoirs and Meat Processors) and Export of Halal Meat and Meat Products from New Zealand to Malaysia*", signed on 13 December 2010, and agreed that such a further enhanced engagement on SPS related halal issues would be desirable.

## Technical Barriers to Trade

Chapter 7 establishes mechanisms to reduce the impact of technical barriers to trade (TBT) in goods, and provides for increased cooperation between regulatory authorities to improve understanding and great alignment of each other's regulatory regimes.

The Parties note that the TBT Chapter is one of the core chapters of MNZFTA and will play an important role in the facilitation of trade in goods between Malaysia and New Zealand. Particularly important in this regard is the opportunity provided by the TBT Committee. Article 7.10.4 of MNZFTA mandates the establishment of the TBT Committee. Malaysia and New Zealand share membership of a number of other regional bodies and are Parties to regional FTAs and note the mutually beneficial collaboration that has taken place to date. Both Parties recognise the importance of convening the TBT Committee and view this as complementary to cooperation in existing fields.

## Trade in Services

Chapter 8 covers measures relating to the trade in services between Parties. It establishes specific principles and commitments aimed at facilitating the expansion of trade in services on a mutually advantageous basis. It also provides for scheduling of specific sectors, sub-sectors, activities or measures to which market access, national treatment, local presence and MFN obligations apply.

The 2013 MNZFTA Joint Commission formally agreed to defer the review of specific services commitments and services MFN commitments under Article 8.15 in light of ongoing TPP negotiations at the time. In the context of the General Review, both countries agree to continue to defer the review under Chapter 8: Trade in Services.

Article 8.19 mandates the establishment of the Committee on Trade in Services. This Committee has not been convened due to the ongoing deferment of the Article 8.15 review.

## Investment

Chapter 12 establishes a framework of rules which aim to: encourage and promote investment between the Parties; ensure the protection and security of investments; and provide for mutually beneficial cooperation between the Parties and their investors. The

Investment Chapter safeguards the interests of New Zealand investors in Malaysia and Malaysian investors in New Zealand. It establishes a set of transparent rules based on international best practice intended to facilitate investment flows and provide for the balanced protection of investment.

The 2013 MNZFTA Joint Commission formally agreed to defer the built-in agenda negotiations of Investment Non-Conforming Measures under Article 10.17 in light of ongoing TPP negotiations at the time. In the context of the General Review, both countries agree to continue to defer discussions on the built-in agenda negotiations of Investment Non-Conforming Measures under Chapter 10: Investment.

Article 10.18 mandates the establishment of the Committee on Investment. This Committee has not been convened due to the ongoing deferment of the built-in agenda negotiations under Article 10.17.

## Economic Cooperation

Chapter 13 establishes a framework for cooperation as a means to expand and enhance the benefits of MNZFTA and to promote capacity building activities in areas of mutual interest, including, but not limited to, education, agriculture, forestry, science and technology, health, manufacturing industry, small and medium scale industry.

Article 13.4 mandates the establishment of an Economic Cooperation Committee. This Committee was convened in December 2013 in Wellington and subsequently met in November 2014 in Kuala Lumpur and continues to be one of the most active committees under MNZFTA. The Committee has successfully implemented the following cooperation projects:

- the Malaysia Forum held in Auckland in December 2013, which involved a number of keynote addresses and workshops centred on the theme of doing business in Malaysia and leveraging MNZFTA;
- an Eco-Tourism Seminar held in Kuala Lumpur in March 2014, which focussed on indigenous community-based tourism and celebrated the links between the indigenous peoples of Malaysia and New Zealand;
- the MNZFTA Forum held in Kuala Lumpur in November 2014, which focussed on raising awareness of MNZFTA among the trading community and investors;
- a Health Technology Seminar held in Kuala Lumpur in April 2015, which involved a number of keynote addresses and workshops centred on health sector reform and has spurred mutually beneficial ongoing cooperation; and
- an Enhanced Food Safety in Malaysia's Milk in Schools Programme Workshop held in Sabah and Putrajaya in November 2015. This cooperation activity also falls under the remit of the SPS Committee.

The Parties agreed that future work on enhancing bilateral cooperation will be an important feature of MNZFTA going forward.

### Institutional Provisions

The MNZFTA Joint Commission has met three times since the MNZFTA's entry into force, in December 2013 in Wellington, November 2014 in Kuala Lumpur and August 2016 in Wellington.

The Rules and Procedures for the FTA Joint Commission were adopted at the inaugural Joint Commission meeting. Paragraph 18 of the Rules and Procedures includes the recommendation that they be reviewed when the general review of MNZFTA is undertaken. Both countries agreed that the Joint Commission Rules and Procedures continue to be fit for purpose.

### Other Chapters

The Parties are satisfied with the implementation of the other chapters under MNZFTA, with no reported issues.

## Conclusion and Recommendations

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The Parties agree that MNZFTA has had a positive impact on bilateral trade and investment in both directions, with significant growth since entry into force.

The Parties note there has been good progress on the delivery of commitments by both Malaysia and New Zealand under MNZFTA including in relation to tariff elimination, services liberalisation and the creation of institutional frameworks and mechanisms for dialogue on non-tariff barriers to trade.

The Parties are satisfied with the implementation of MNZFTA to date and welcome progress made across the various chapters.

The Parties make the below recommendations with a view to further exploring ways to remove existing impediments to trade, maximise benefits, and ensure that MNZFTA is a modern, living document that responds to changing business needs:

1. The Parties agree that a contact point will be established and regular consultations will be provided for on liquid milk tariff quota administration issues. The market access elements of New Zealand's requests around improving the TRQ for liquid milk will be given further consideration at the 4<sup>th</sup> MNZFTA Joint Commission.
2. The Parties agree that the MNZFTA Joint Commission establish an *Ad Hoc* Working Group on Trade Facilitation under Article 15.1(3)(b), with the objective of advancing a Customs Cooperation Arrangement; and exploring how MNZFTA can accommodate the increasing use of logistics hubs in third countries and Malaysia becoming a hub for onward trade from New Zealand. The Working Group would be chaired by experts from New Zealand and Malaysia and its meetings will be held in-person or via teleconference.
3. The Parties agree that the TBT Committee shall be convened in accordance with Article 7.10.4 of MNZFTA. Convening this Committee is a useful opportunity to share information on a range of topics and to agree on a future work programme. The future work programme of the TBT Committee may include discussions on: the rules of procedure of the committee; current cooperation between Malaysia and New Zealand on TBT issues; regional developments since the conclusion of MNZFTA; cooperation in regional/ international standards and conformance fora, for example, ISO, IEC, ILAC, IAF, PAC, APLAC, APMP and APLMF; and priority areas to address TBT issues.
4. The Parties agree to continue to defer the review of specific services commitments and services MFN commitments under Article 8.15.
5. The Parties agree to continue to defer discussions on the built-in agenda negotiations of Investment Non-Conforming Measures under Article 10.17.

6. The Parties agree that the MNZFTA Joint Commission establish an *Ad Hoc* Working Group on SPS Related Halal Matters under Article 15.1(3)(b) to develop further a regular platform to discuss and reach decisions on halal issues affecting bilateral trade. Malaysia and New Zealand agreed that this should refine and build upon the existing arrangement between the New Zealand Ministry of Agriculture<sup>22[1]</sup> and the Malaysian Department of Veterinary Services and Department of Islamic Development – “*Mutual Arrangement for the Approval of New Zealand Establishments (Abattoirs and Meat Processors) and Export of Halal Meat and Meat Products from New Zealand to Malaysia*” – signed on 13 December 2010. The *Ad Hoc* Working Group will, taking account of the above, further discuss the terms of reference, scope, membership and frequency of the meetings.

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<sup>22</sup> The New Zealand Ministry of Agriculture has now been amalgamated into the Ministry for Primary Industries, which has a broad mandate covering SPS matters.