



NEW ZEALAND  
FOREIGN AFFAIRS & TRADE  
Manatū Aorere



National Interest Analysis

# New Zealand – India Free Trade Agreement



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## Frequently Used Acronyms and Terms

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<b>Term</b>	<b>Explanation</b>
AYUSH	Ayurveda, Yoga, & Naturopathy, Unani, Siddha, Sowa-Rigpa and Homeopathy
ECTA	Economic Cooperation and Trade Agreement between Australia and India
GATS	General Agreement on Trade in Services (the WTO agreement covering trade in services)
GATT	General Agreement on Tariffs and Trade (the WTO agreement covering trade in goods)
GDP	Gross Domestic Product
Harmonised System (HS)	the Harmonized Commodity Description and Coding System, a near-universal method for classifying international trade in goods
ICT	Information and Communication Technology
ILO	International Labour Organization
IP	Intellectual Property – sometimes referred to as Intellectual Property Rights (IPR)
ISDS	Investor-State Dispute Settlement
MBIE	Ministry of Business, Innovation and Employment
MFAT	Ministry of Foreign Affairs and Trade
MPI	Ministry for Primary Industries
MFN	Most-Favoured-Nation treatment – where preferential treatment extended to one nation (the 'most favoured') is extended to another
MNP	Movement of Natural Persons
National Treatment	Where the same level of treatment extended to domestic entities is extended to the entities of the other Party to the Agreement
NGO	Non-Governmental Organisation
NIA	National Interest Analysis
NTB	Non-Tariff Barrier
NTM	Non-Tariff Measure
PSR	Product Specific Rules of Origin (the rule of origin applied to a specific good)
Safeguards Agreement	The Agreement on Safeguards, a WTO agreement

SCM Agreement	The Agreement on Subsidies and Countervailing Measures, a WTO agreement
SMEs	Small and Medium-Sized Enterprises – sometimes referred to as micro, small and medium-sized enterprises (MSMEs)
TBT	Technical Barriers to Trade (non-tariff barriers to trade in goods)
TBT Agreement	The Agreement on Technical Barriers to Trade, a WTO agreement
TEE	Temporary Employment Entry
UN	United Nations
WTO	World Trade Organization

## 1. Executive Summary

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The New Zealand-India Free Trade Agreement (NZ-India FTA) will establish a strong new foundation for New Zealand's trade and economic relations with one of the largest and fastest-growing economies in the world, creating promising new opportunities into the future.

New Zealand and India formally launched negotiations towards a free trade agreement on 17 March 2025. This important step in developing New Zealand's future trading relationship with India followed 12 months of ministerial-level discussions and a concerted NZ Inc effort to build a deeper and broader relationship with India across multiple fronts, including trade and economic, foreign policy, defence and people-to-people links.

The conclusion of negotiations was announced on 22 December 2025, just nine months after their launch, following intensive negotiations over multiple formal and in-formal negotiation rounds in person and online.

The FTA will provide New Zealanders preferential access to an economy forecast to grow to US \$7 trillion (NZ\$12 trillion), and a middle class expected to number more than 700 million, by 2030. The FTA will eliminate and reduce tariffs on 95 percent of current New Zealand exports to India. 57 percent will enter duty-free from day one and this will increase to 82 percent when fully implemented, with the remaining 13 percent being subject to sharp tariff cuts. The FTA will provide advantages and create new opportunities for New Zealand goods and services exporters to grow exports, including through significantly increased access, a more level playing field with key competitors from economies which already have FTAs or other advantages in India, and by providing New Zealand exporters a significant opportunity for diversification.

The Agreement provides trade-facilitative outcomes and addresses non-tariff-barriers (NTBs) to trade, including by setting timeframes for New Zealand goods to clear customs upon arrival in India, and provides mechanisms to address NTBs in the future. The Agreement contains a Te Tiriti o Waitangi/Treaty of Waitangi clause, allowing New Zealand to meet its Treaty obligations; as well as a Cultural, Trade and Traditional Knowledge and Economic Cooperation chapter, and a Trade and Sustainable Development chapter.

As part of the Agreement, New Zealand has agreed to remove all tariffs on Indian imports from day one (in line with our recent FTAs). We have also provided temporary entry commitments for Indian services providers and business visitors working in New Zealand as well as 5,000 Temporary Employment Entry (TEE) visas, 4,400 of which are for Indians working in areas of recognised skill shortage (taken from Immigration New Zealand's 'Green List'). The other 600 TEE visas are for Indians working in iconic Indian occupations, such as Indian chefs and yoga teachers. These TEE visas are for three years.

All TEE visas are subject to a range of safeguards including qualification and job offer requirements. It is intended that the TEE visas will be implemented to not include work rights for partners or domestic student status for any dependent children. New Zealand has also confirmed the ability of Indian tertiary level students to work during study and for

graduates with at least a bachelor's degree to work for a limited period after study. In addition, New Zealand will allow up to 1,000 young Indian graduates per year (aged 18 to 30) access to a Working Holiday Scheme visa to work while holidaying in New Zealand, subject to certain safeguards.

In addition, the Agreement includes a number of cooperation and technical assistance commitments, including through the establishment and operation of an 'Agriculture Productivity Partnership' focused on increasing the productivity of Indian farmers, orchardists and other producers. New Zealand will also promote investment from New Zealand into India with the aim to increase investment by US\$20 billion in 15 years from the entry into force of the Agreement. Finally, New Zealand and India will enter negotiations to extend the protection of geographical indications under the Agreement.

## 1.1 Broader context for the FTA

India matters to New Zealand's prosperity, security, and society. India is on track to have the world's third largest economy in the near future, and its large population of over 1.4 billion and growing middle class hold considerable potential for New Zealand exporters and investors.

India is also emerging as an increasingly significant global security actor, with the potential to contribute to New Zealand's goal of a stable, secure, and prosperous Indo-Pacific. Its defence forces are increasingly present across the region.

India also matters to New Zealand's society. In the 2023 New Zealand Census, approximately 300,000 people (six percent of the population) claimed Indian descent. The Government of India is proud of and interested in the Indian diaspora in New Zealand. This helps to form what Prime Minister Modi has described as a "living bridge" that strengthens cultural, educational, and social connections between New Zealand and India, providing a strong foundation for deeper bilateral engagement.

The New Zealand government has a multi-pronged strategy towards strengthening and deepening New Zealand's relationship with India. This strategy spans political and diplomatic engagement; trade and economics; defence and security; social, cultural and people-to-people ties; and collaboration in the multilateral realm.

In recent years, there has been a significant uptick in engagement between New Zealand and India's leaders and ministers. Prime Minister Luxon visited India in March 2025 accompanied by a large delegation. This included three Cabinet Ministers, a number of current and former Members of Parliament, a business delegation, a kapa haka group, and a community delegation led by former Governor-General Sir Anand Satyanand.

The centrepiece of Prime Minister Luxon's visit was a meeting with Prime Minister Modi, following which the two Prime Ministers issued a Joint Statement celebrating the launch of FTA negotiations and outlining the significant progress in the bilateral relationship.

That prime ministerial mission also resulted in six government-to-government arrangements which reflected the growing breadth of the relationship and covered defence, sport, education, customs, horticulture and forestry. More than 30 commercial arrangements were finalised, including a memorandum of understanding between Air New Zealand and Air India committing to explore direct, non-stop flights between New Zealand and India.

Other recent ministerial engagement has included two visits to India by Rt Hon Winston Peters, the then-Deputy Prime Minister and Minister of Foreign Affairs, in 2024 and 2025, and eight visits by Hon Todd McClay, Minister for Trade and Investment, between 2023 and 2026. New Zealand hosted the Indian President, Her Excellency Smt. Droupadi Murmu in 2024, and the Minister of Commerce and Industry Shri Piyush Goyal and the Minister of State for External Affairs Shri Pabitra Margherita in 2025.

The emphasis on building a deeper and broader-based relationship with India, with progress on issues beyond trade, was crucial to building key relationships and securing the launch and successful conclusion of FTA negotiations. Having the NZ-India FTA enter into force will be a key milestone in advancing the strategy and New Zealand's relationship with India, not only on the trade and economic front, but also in increasing people-to-people ties, strengthening diplomatic and political links, and advancing opportunities for increased innovation between the countries.

In recent years, India has undertaken trade negotiations with renewed vigour, concluding nine agreements covering 38 countries since 2021. Of these, four are already in force (with Mauritius, the United Arab Emirates, Australia and the European Free Trade Association (EFTA), which comprises Iceland, Liechtenstein, Norway, and Switzerland. In addition, three FTAs have been signed and are awaiting ratification (with the United Kingdom, Oman and most recently New Zealand) and a further two agreements have been concluded (an FTA with the 27-member European Union (EU), and an interim agreement with the United States).

In addition, India has around a dozen additional active negotiations under way, with partners in the Americas, Middle East and Eurasia: both new agreements and upgrades of existing agreements.

This renewed focus on trade marks a significant shift from India, after a decade in which India did not conclude any trade agreements. It is situated within a concerted Indian government goal to transform into a developed, prosperous nation by 2047, with Indian Minister of Commerce and Industry Piyush Goyal recently presenting India's new trade policy as founded on the recognition that: "No country has become a developed nation living in isolation; it is through working with other countries, expanding markets, working on quality standards that investments flow"<sup>1</sup>. India has characterised its FTA agenda as

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<sup>1</sup> The Times of India "We will negotiate, finalise FTAs based on what is good for India" (interview with Minister of Commerce and Industry Piyush Goyal), 31 January 2026: <https://timesofindia.indiatimes.com/business/india-business/we-will-negotiate-finalise-ftas-based-on-what-is-good-for-india/articleshow/127810139.cms>.

constituting a fundamental change “in India’s international economic engagement”, and a “decisive shift toward deeper global economic integration”<sup>2</sup>.

Within this context – and with India’s latest trade agreements meaning it has concluded free or preferential trade agreements with 23 partners, encompassing over 60 countries – it is clear that the NZ-India FTA is critical to New Zealand being able to compete and grow our trade in the large and fast-growing Indian market. Through the FTA, New Zealand is presented with significant new opportunities in one of the world’s largest and fastest-growing markets. Without it, with each passing year, New Zealand businesses would find it progressively more difficult to compete, as competitors from an expanding array of countries trade under preferential conditions.

## 1.2 Estimated Economic Impact

Independent economic modelling from external consultancy Motu<sup>3</sup> shows that the FTA is expected to increase New Zealand’s trade, GDP, and real wages relative to a baseline where the NZ-India FTA is not in place. By 2037, approximately 10 years after entry into force when all tariff phasing is complete, annual GDP (in 2024 dollars) is expected to be 0.07% or \$401 million higher than non-FTA baseline GDP. Relative to the non-FTA baseline, these FTA-related gains are modelled to grow each year, reaching \$657.7 million (0.1%) by 2050, in part driven by expected growth of the Indian economy.

The FTA is expected to add to New Zealand’s total global export growth when it comes into force. The modelling estimates that total annual global exports will be \$225 million, \$273 million and \$379 million higher than the baseline projection (that excludes the effects of the FTA) after 10, 15 and 23 years from entry into force. Bilateral trade flows between New Zealand India are projected to see larger gains, with total annual exports to India projected to be \$842 million higher than baseline projections by 2036, and \$1.27 billion by 2050. This includes an estimated \$616 million of annual exports in 2036, and \$892 million in 2050, expected to be diverted from other, lower returning, markets to meet the new demand from India.

Given the current income and consumption profiles of India, and that increases in trade are off a very low base, the initial gains from the FTA are modest. However, beyond 2036 the gains in New Zealand’s total exports from the Agreement are expected to grow by an average of 3.8% per annum, which compares to an expected 1.3% per annum rate of growth in the baseline. Having an FTA in place allows New Zealand to benefit from India’s emergence as an economic power, with India expected to be the third-largest economy behind the US and China by the end of the decade.

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<sup>2</sup> Government of India Press Release, ‘India’s Trade Partnerships Powering Global Integration and Growth’, 27 February 2026:

<https://www.pib.gov.in/PressNoteDetails.aspx?id=157574&NoteId=157574&ModuleId=3&req=3&lang=2>

<sup>3</sup> Motu Economic and Public Policy Research Trust: Economic Impact Assessment of the New Zealand-India Free Trade Agreement, March 2026.

Modelling measures the incremental gains that are directly attributable to provisions of the FTA, and as a result can be conservative and may underestimate the potential for growth in the trade of products with limited existing trade. Experience with New Zealand's FTA with China, which came into force in 2008, suggests that FTAs with big emerging markets may encourage New Zealand businesses to pivot towards new opportunities in a way that generates higher-than-modelled returns.

#### *Estimated impact by sector*

Improved access for many of New Zealand's primary sector exports is a major driver of the economic gains from the FTA. Improved and preferential quota access for certain goods such as kiwifruit and apples, and lower tariffs on a variety of products such as forestry products, sheepmeat, and other horticulture products, will help to lift New Zealand's competitiveness in the Indian market and lift New Zealand domestic production. The anticipated output gains are reflected in the projections of New Zealand's exports. For instance, the modelling estimates the total annual value of New Zealand's global forestry exports to be \$163 million higher in absolute terms by 2036 than if the NZ-India FTA was not in place, and \$264 million higher in 2050. In the same manner, the total annual value of New Zealand's global horticulture and meat exports is modelled to be \$27 million and \$24 million higher respectively by 2036, and \$15 million and \$61 million higher respectively in 2050.

Manufacturing production and exports are also projected to benefit from the FTA according to the modelling. The phased elimination of tariffs on iron and steel, and preferential access on other industrial products is estimated to lift exports on manufacturing products in relation to the FTA not being in place. In absolute terms, the annual value of New Zealand's global annual industrial exports is projected to be \$128 million above non-FTA baseline estimates by 2036, and \$192 million by 2050.

In relation to imports, the largest absolute projected increases in New Zealand's annual imports by 2036 are found among industrial/manufacturing sectors, including in clothing and footwear (\$44 million), and textiles (\$30 million). Increased imports from India are likely to add increased competition for domestic producers and other suppliers in these sectors, while at the same time lowering prices for households and businesses that consume these products.

Increased demand from India, due to the FTA, for New Zealand's exports is expected to see real wages exceed baseline trends, representing further gains for households. The modelling estimates that the FTA will improve aggregate real wages 0.07% above the baseline by 2036. Wage growth over baseline rates is expected to be concentrated in sectors that experience proportionally larger increases in export growth.

### 1.3 Benefits for Goods Exporters

The NZ-India FTA will deliver preferential access for New Zealand exporters to the large and fast-growing Indian market for 95% of our current exports over time – with 57% benefitting from duty-free access immediately upon entry into force, rising to 82% over

10 years. Tariffs on another 13% of exports will be sharply reduced. Key goods benefits include:

- forestry – a major export to India – will benefit from immediate tariff elimination on over 95% of exports from entry into force of the FTA, with tariffs on almost all other forestry trade interests phased out over five or seven years;
- tariffs removed immediately on day 1 on sheepmeat, wool, coal and many other products;
- tariffs on New Zealand’s key fish and seafood exports phased out over seven years;
- valuable new quota access for kiwifruit and apples, with volumes starting well above average recent trade and growing beyond that. New Zealand was the first country to secure preferential access for apples in any Indian FTA, and secured the best access of any kiwifruit exporter, with tariff-free access for kiwifruit within quota plus a 50% tariff reduction outside quota;
- phased tariff elimination on other horticultural products including cherries, avocados, blueberries and persimmons;
- tariffs on New Zealand wine reduced significantly on entry into force, and reduced further over 10 years thereafter, plus a guarantee to extend improved concessions extended to subsequent FTA partners to New Zealand (for example the EU-India FTA outcomes);
- tariffs on mānuka honey cut by 75% over five years, making New Zealand the first country to secure preferential access for honey in any Indian FTA;
- tariffs on bulk infant formula and other dairy-based preparations, and peptones (a dairy-based product) phased out over seven years; and
- tariffs for albumins (a milk protein product) halved within a quota equivalent to average recent trade.

**New Zealand-India FTA**  
**KEY TARIFF OUTCOMES**

Product	Current tariff	Entry into Force	5 Years	6 Years	7 Years	10 Years	
Forestry products	5.5% - 11%	Tariff eliminated on almost all goods on day 1					
Wool	2.75%	Tariff eliminated on day 1					
Sheepmeat	33%	Tariff eliminated on day 1					
Fish & Seafood	33%	Tariff eliminated on most goods over 7 years					
Coal	2.75%	Tariff eliminated on day 1					
Iron & Steel	0% - 22%	Tariff eliminated on almost all goods over 10 years					
Industrial products	0% - 35%	Tariff eliminated on most goods immediately at entry into force, or over 3-10 years					
Apples	50%	50% tariff reduction (to 25% tariff) for 32,500 tonnes from day 1, growing to 45,000 tonnes over 6 years					
Kiwifruit	33%	Tariff eliminated for 6,250 tonnes from day 1, growing to 15,000 tonnes over 6 years. 50% tariff reduction outside quota (to 16.5% tariff) from day 1					
Mānuka Honey	66%	75% tariff reduction over 5 years (to 16.5% final tariff) at ≥US\$30/kg; and for 200 tonnes at US\$20-30/kg					
Bulk Infant Formula & other dairy-based food preparations	33%	Tariff eliminated over 7 years					
Albumins	22%	50% tariff reduction (to 11% tariff) for 1,000 tonnes from day 1, growing to 3,000 tonnes over 5 years					
Cherries	33%	Tariff eliminated over 10 years					
Avocados	33%	Tariff eliminated over 10 years					
Wine	150%	66-83% tariff reduction over 10 years from entry into force (to 25% or 50% final tariff), with any better outcome offered to others in the future automatically extended to New Zealand					

This new preferential access will provide valuable new opportunities to grow exports to India, an option for our exporters to diversify their export markets, and a more level playing field with competitors from India’s other FTA partners who already enjoy zero or low tariffs on many of their exports. These benefits are expected to grow over time as India’s economy continues to grow and its middle class continues to expand.

On dairy, the FTA includes a commitment to implement a dedicated fast-track mechanism to facilitate the supply of New Zealand products duty-free to India for further manufacturing and export. This includes dairy ingredients and opens the door for new opportunities for New Zealand exporters in India’s supply chains, including into its growing number of FTA partners. In addition, India has committed that should it offer dairy access to comparable countries in the future, it will consult with New Zealand on the prospect of extending similar treatment to us. This is alongside a commitment to review the FTA one year after entering into force.

### 1.4 Benefits for Services Exporters

In the FTA, India has made commitments to New Zealand on almost 100 additional services sectors over and above its WTO General Agreement on Trade in Services (GATS) commitments. Sectors of particular interest to New Zealand services exporters include engineering services, environmental services, tertiary and adult education, and audio-visual services.

The Agreement also incorporates mechanisms for future bilateral trade liberalisation. The most favoured nation (MFN) commitment ensures that New Zealand will automatically benefit from any future improvements to services access extended to other Indian FTA partners in sectors listed in the Agreement.

Further, domestic regulation provisions make the registration and qualification processes more navigable for New Zealand services providers looking to provide services within India. For services providers requiring registration or qualification, the provisions set standards for any procedures used for any examination or assessment requirement, the cost of submitting such applications, and requirements for providing feedback to applicants.

Additional benefits have been secured through the following annexes:

- **Financial Services (Annex 8A):** Provides New Zealand financial services suppliers with enhanced transparency and certainty regarding access to the Indian market. This annex includes obligations to make information publicly available, respond to enquiries and deal with applications expeditiously, and to not restrict the transfer of information or prevent the processing of information by a financial services provider in its territory. These provisions are consistent with New Zealand's existing regulations and practice.
- **Telecommunications (Annex 8B):** Provides regulatory disciplines to underpin effective market access and competitive markets in telecommunications services. The telecommunications sector is both an important infrastructure enabler for trade in goods and services, as well as a distinct services sector. This annex builds on the disciplines included in the WTO GATS (Telecommunications Annex and Basic Telecommunications Reference Paper). It expands and updates these regulatory disciplines to reflect the developments in approaches to the regulation of markets since the conclusion of the GATS. This annex provides New Zealand exporters of telecommunications services with greater certainty that telecommunications regulation in the Indian market will be transparent, objective and non-discriminatory.
- **Professional Services (Annex 8D):** Encourages professional bodies to establish dialogues on recognition of qualifications, licensing and registration procedures, with a view to concluding mutual recognition arrangements within 12 months of entry into force of the Agreement. These arrangements would facilitate the delivery of professional services between New Zealand and India and provide New Zealand suppliers with access to a larger range of consumers.

## 1.5 Innovations in the Agreement

The FTA includes innovative chapters and provisions focused on increased cooperation and collaboration and in advancing areas of shared interest between New Zealand and India. This includes:

- **Economic Cooperation and Technical Assistance chapter:** This chapter provides opportunities to grow durable, long term, and mutually beneficial relationships between India and New Zealand across a range of sectors including forestry,

horticulture, apiculture and honey, livestock, fisheries and aquaculture, wine, traditional knowledge and traditional medicine, tourism, audio visual production and sports. A feature of the chapter is the establishment of the Agriculture Productivity Partnership which focuses on fostering greater cooperation and the provision of technical assistance in agriculture and aligned sectors. It will establish a dedicated Joint Agriculture Productivity Council (JAPC) consisting of, for New Zealand, the Director-General of Ministry for Primary Industries and, for India, the Secretary, Agriculture and Farmers Welfare. The JAPC will provide oversight of working groups and action plans in specific agricultural and horticultural sectors as well as the wider cooperation relationship. Through this and other mechanisms (including within sector-specific working groups), the chapter allows New Zealand to build long term and strategic relationships with India across the board, including with both industry and government.

- **Cultural, Trade, Traditional Knowledge and Economic Cooperation chapter:** This chapter provides a framework to facilitate trade and economic opportunities between the Parties, including Māori in the case of New Zealand, to support business-to-business exchanges and to collaborate in areas including traditional knowledge, traditional medicines, Rongoā Māori, traditional cultural expressions, science, research and innovation, tourism, cultural exchanges, and trade missions. This provides an opportunity to strengthen collaboration and information sharing between the parties, grow business to business connections, and increase opportunities for trade diversification.
- **Cooperation elements in other chapters:** Mechanisms for cooperation and collaboration have been incorporated across other chapters to allow the Parties to address trade barriers and advance shared trade interests. This includes cooperation or joint consultation provisions within the Technical Barriers to Trade, Sanitary and Phytosanitary, Services, and Intellectual Property chapters.

The Agreement addresses the Parties' shared interest in open, fair and inclusive trade through:

- **The Trade and Sustainable Development chapter:** This chapter includes a range of environment and labour commitments to promote trade that contributes to sustained and inclusive economic growth, social development, environmental protection, and progress towards long-term strategies for transition. These include commitments that neither Party will use their labour or environmental standards to restrict trade or lower their labour or environmental standards for a trade advantage.
- **Small and Medium Sized Enterprises chapter:** This chapter provides for cooperation between the Parties to enhance the ability of small and medium sized enterprises (SMEs) to benefit from opportunities arising under the Agreement. The chapter requires each Party to make freely available online any information that would be useful for SMEs interested in taking advantage of the opportunities provided by the Agreement.

## 1.6 Exceptions and Protections

The Agreement provides certain exceptions that allow the Parties to justify actions that would otherwise violate the obligations under the FTA. These include:

- **General Exceptions:** The General Exceptions from Article XX of the WTO General Agreement on Tariffs and Trade and Article XIV of the General Agreement on Trade in Services apply to the FTA where relevant. This means that, so long as measures are not used for trade protectionist purposes, the FTA will not prevent a party from taking measures, including environmental ones, necessary to protect human, animal or plant life or health, or public morals.
- **Security Exceptions:** A party cannot be required to provide or allow access to information where it determines that it would be contrary to its essential security interests. A party may also apply any action which it considers necessary for such interests in relation to supply of arms to a military establishment, fissionable and fusionable materials and their derivatives, protection of critical public infrastructure, or in time of domestic emergency, war or other international relations emergency.
- **Taxation Exception:** The Agreement does not apply to direct taxation measures (e.g. taxes on income). This taxation exception also outlines that tax conventions between or including New Zealand and India (e.g. the New Zealand-India Double Taxation Agreement) will prevail in the event of any inconsistency between the FTA and that tax convention.
- **Prudential Measures:** This exception ensures financial regulators (for New Zealand this includes the Reserve Bank of New Zealand) can put in place measures that support the stability of the financial system and protect financial services users.
- **Measures to Safeguard the Balance of Payments:** Either Party can adopt or maintain restrictive safeguard measures for both trade in goods and in services, where they experience serious difficulties or the threat of such difficulties, with balance of payments or external financial difficulties.

In addition, the FTA provides that it will not prevent New Zealand from taking measures it deems necessary to accord more favourable treatment to Māori in respect of matters covered by the FTA, including in fulfilment of its obligations under Te Tiriti o Waitangi/the Treaty of Waitangi, provided that a measure is not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade. The text also specifies that interpretation of Te Tiriti o Waitangi/the Treaty of Waitangi, including as to the nature of the rights and obligations arising under it, shall not be subject to the dispute settlement provisions of the FTA.

## 1.7 Legislative Amendments

Most of the obligations in the Agreement are consistent with New Zealand law or policy settings. However, some changes to New Zealand legislation are required to implement certain obligations and to enable the Agreement to enter into force.

The following is required to enable New Zealand to manage the administration of new access for our exporters under tariff rate quotas (TRQs):

- amendments to the **Dairy Industry Restructuring Act 2001** (DIRA) to enable TRQs for albumins under the Agreement to be brought within the existing quota administration system for dairy export quotas, by adding albumins to Schedule 5(a) of the DIRA, and creating a new regulation making power enabling 10% of the albumins quota to be reserved for otherwise ineligible participants; and
- the creation of a **new piece of primary legislation** to enable separate quota administration systems for apples, kiwifruit and mānuka honey to be established via regulations.

Amendments are also required to the following legislation:

- the **Customs and Excise Act 2018** to allow the chief executive of the New Zealand Customs Service to designate an authorised certification body to certify that goods originate in New Zealand for the purposes of the NZ-India FTA;
- the **Customs and Excise Regulations 1996** to implement the agreed rules of origin and product specific rules of origin for goods imported from India;
- the **New Zealand Tariff** to enable the application of the preferential tariff rates agreed in the NZ-India FTA and to implement obligations relating to the tariff treatment of goods returned after repair or alteration;
- the **Tariff Act 1988** to provide a provisional transitional safeguard mechanism for imports from India; and
- the **Overseas Investment Act 2005** and the **Overseas Investment Regulations 2005** to increase from \$100 million to \$200 million the monetary threshold above which consent is required for investments by non-government investors from India in "significant business assets" in New Zealand in relation to the provision of services.

The legislation is intended to be included in a single omnibus bill.

## 1.8 Consultation

Throughout the negotiations on the NZ-India FTA, the Ministry of Foreign Affairs and Trade (MFAT) together with other government agencies, has actively engaged with Māori and a wide spectrum of New Zealand stakeholders.

A formal consultation process was held from 24 March to 15 April 2025 providing the public an opportunity to make submissions on the then newly launched negotiation. There were 97 written submissions received from businesses, industry, non-governmental organisations (NGOs), civil society groups and the public, with the majority supportive of efforts to secure an FTA.

Negotiators also undertook further consultations where appropriate, including with relevant industry bodies and NGOs particularly those with an interest in, or impacted by, the negotiation of market access or other commitments (including regarding cooperation and technical assistance), for example Apiculture New Zealand, Beef + Lamb NZ, Dairy Companies Association of New Zealand (DCANZ), Fonterra, the Meat Industry Association, Onions NZ, Horticulture Export Authority, New Zealand Apple and Pears, New Zealand Forest Owners Association, New Zealand Timber Industry Federation, New Zealand Winegrowers, Seafood New Zealand, Unique Mānuka Factor Honey Association, Wood Processors & Manufacturers Association, Wool Impact, and Zespri, amongst many others.

Officials engaged closely with Māori trade representative groups Ngā Toki Whakarururanga, Te Taumata, Federation of Māori Authorities, National Iwi Chairs Forum, and the Mānuka Charitable Trust throughout the negotiations to ensure that Māori interests were discussed and considered in the negotiations. Some interests that Māori identified as opportunities in the FTA included collaboration and exchanges in food systems, traditional knowledge, traditional and generic medicines including rongoā, culture, science, digital technologies, and services.

New Zealand hosted a Māori business roundtable with the Indian negotiation team during the Queenstown round in September 2025, which included delegates from Ngāi Tahu, New Zealand Māori Tourism Council, and representatives with interests in mānuka honey and traditional medicines. This provided an opportunity for Māori to convey directly to Indian negotiators their interests in the Trade Agreement.

The Ministry has also monitored the [India-FTA@mfat.govt.nz](mailto:India-FTA@mfat.govt.nz) email address listed on MFAT's website to receive additional insights and feedback from the public throughout the negotiation process. In addition, the website was kept updated with a timeline of the negotiations.

As is standard practice for FTAs, the NZ-India FTA will be scrutinised by a parliamentary select committee through the parliamentary treaty examination process and Parliament will consider the necessary legislative changes required to give effect to the Agreement's outcomes.

## 2. Nature and Timing of Proposed Treaty Action

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The proposed treaty action is to bring into force the New Zealand-India Free Trade Agreement (“NZ-India FTA”, “the Agreement”, “the FTA”), including six treaty-level side letters that are part of the FTA.

The NZ-India FTA is a bilateral agreement signed on 27 April 2026 in New Delhi by New Zealand Minister for Trade and Investment Todd McClay and India’s Minister of Commerce and Industry Piyush Goyal.

The commencement of negotiations was announced on 17 March 2025. The conclusion of negotiations was announced on 22 December 2025, and the text of the Agreement subsequently went through a legal verification process conducted by the New Zealand and Indian legal teams.

Entry into force of the FTA is subject to the completion of the necessary domestic procedures by each of the Parties. The FTA will enter into force 30 days after the date on which the Parties exchange written notifications confirming that they have completed their internal legal procedures necessary for the entry into force of the Agreement, or on such other date agreed by the Parties.

It is proposed that New Zealand provide such notification as soon as practicable following completion of New Zealand domestic legal procedures.

The NZ-India FTA will not apply to Tokelau.

### 3. Reasons for New Zealand Becoming a Party to the Treaty

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Trade remains a vital aspect of New Zealand's economic and social wellbeing and acts as an important driver of productivity, employment, innovation, and incomes. Free trade agreements help to unlock these gains, while safeguarding the Government's right to regulate in the interests of New Zealand and our people.

The absence of a Free Trade Agreement with India has been a significant gap in New Zealand's network of FTAs, particularly given the geopolitical significance of India, the importance New Zealand places on its close relationship with India and, importantly, the strong people to people links between New Zealand and India, including through the diaspora of approximately 300,000 people (six percent of the population) who claim Indian descent.<sup>4</sup> An FTA is a significant step in advancing policy interests to build stronger relationships with India.

In addition, the FTA will provide commercially meaningful market access opportunities for New Zealand exports, allow New Zealand exporters a more level playing field with competitors in countries that have their own FTAs with India, and provide an important opportunity to diversify their trade destinations.

The concluded FTA with the India helps advance these priorities, the Government's efforts to support the Going for Growth strategy and the goal of doubling the value of exports in ten years.<sup>5</sup>

#### 3.1 India as a Trade and Economic Partner

India, with a population exceeding 1.4 billion, is a large and growing potential market for New Zealand exporters. It is currently the fastest-growing G20 economy and is forecast to be the world's third-largest national economy (with GDP of over US\$7 trillion) by 2030. It has a large and growing middle class, currently estimated at 435 million and projected to grow to 700 million by 2030 and to more than one billion over the next 20 years.<sup>6</sup> Its citizens are expected to enjoy strong per capita income growth of 5.2% per annum and it is projected to account for about 20% of additional global consumption of agricultural commodities between now and 2033.<sup>7</sup>

India is not only growing rapidly, but it is also a significant contributor in innovative sectors. With its rapidly growing digital economy, vast talent pool, and world-class expertise in software development, fintech, and digital services, India has firmly established itself as a global technology power.

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<sup>4</sup> New Zealand's 2023 Census.

<sup>5</sup> <https://www.mbie.govt.nz/business-and-employment/economic-growth/going-for-growth>

<sup>6</sup> See <https://www.price360.in/expertview/the-rise-of-indias-middle-class-a-force-to-reckon-with/>

<sup>7</sup> India's economy is largely domestically focused - for example, while it is the world's largest milk producer, almost all that milk goes to satisfy domestic demand.

India's internet user base – 900 million and growing – provides an unparalleled market for digital products and services. This scale, combined with government initiatives such as Digital India and the Unified Payments Interface, has created a fertile ecosystem for innovation. For New Zealand, partnering with India offers access to talent, scale, and cost-effective solutions that can help accelerate digital transformation and drive innovation across sectors.

Yet India remains largely an untapped opportunity for New Zealand. Despite India's growth and scale, it only accounted for just under 1.8 percent of New Zealand's goods and services exports in 2025. It was just our 21<sup>st</sup> largest goods export market in 2025<sup>8</sup>, and New Zealand provided just 0.08% of India's total goods imports over the same period – well below par for our top goods export markets.<sup>9</sup> India's historically high tariffs have contributed to this, making the FTA a new foundation for a thriving, rejuvenated trade and economic relationship for the future.

Total two-way trade between New Zealand and India was NZ\$3.95 billion in 2025, with New Zealand exporting just \$820 million of goods<sup>10</sup> and \$1.21 billion of services<sup>11</sup>, and importing NZ\$1.91 billion of goods and services from India.

New Zealand previously sought to secure a bilateral FTA with India through negotiations launched in 2009, which ended in 2015 without agreement being reached. These negotiations were, to some degree, superseded by India's participation in the Regional Comprehensive Economic Partnership (RCEP) negotiations from 2013 until it withdrew in 2019.

### 3.2 Advancement of the New Zealand-India Relationship

The New Zealand government has a multi-pronged strategy towards strengthening and deepening New Zealand's relationship with India. This strategy spans political and diplomatic engagement; trade and economics; defence and security; social, cultural and people-to-people ties; and collaboration in the multilateral realm. As noted above, in recent years, there has been a significant uptick in engagement between India and New Zealand's leaders and ministers.

The NZ-India FTA will be a key feature in advancing the strategy and New Zealand's relationship with India, not only on the trade and economic front, but also in increasing people-to-people ties, strengthening diplomatic and political links, and advancing opportunities for increased innovation between the countries.

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<sup>8</sup> In 2025, New Zealand exported just \$820 million of goods to India (1.0% of our total goods exports globally) and \$1.21 billion of services (3.6% of our total services exports globally) – a total of \$2.03 billion of goods and services exports to India (1.8% of our total goods and services exports globally).

<sup>9</sup> By comparison, in 2025 New Zealand provided 0.52% of China's goods imports, an average of 0.28% of the goods imports our top 10 trading partners in Asia, and 0.16% of the US's and the UK's goods imports.

<sup>10</sup> Top goods exports published by Statistics New Zealand were forestry (NZ\$139 million), horticulture (NZ\$115 million – apples NZ\$81 million and kiwifruit NZ\$33 million), aluminium (\$86 million), iron and steel (NZ\$81 million), and wool (NZ\$77 million).

<sup>11</sup> Services exports were dominated by travel (NZ\$1.14 billion).

Through the FTA, New Zealand is presented with significant new opportunities in one of the world's largest and fastest-growing markets. Without it, with each passing year, New Zealand businesses would find it progressively more difficult to compete, as competitors from an expanding array of countries trade under preferential conditions.

### 3.3 Enhance Trade and Economic Linkages

#### *Improved goods access*

The FTA will deliver preferential access for New Zealand exporters to the large and fast-growing Indian market for 95% of our current exports over time – with 57% benefitting from duty-free access immediately on day one, rising to 82% over 10 years. This includes:

- immediate tariff elimination on sheepmeat, wool, coal and more than 95% of forestry and wood exports;
- duty-free access on most seafood exports, including mussels and salmon, over seven years;
- duty-free access for most industrial products at entry into force or over 3-10 years;
- on key horticultural exports, it will provide a 50% tariff cut for apples, for almost two times recent average exports, as well as duty-free access for kiwifruit, for almost four times New Zealand's recent average exports – plus a 50% tariff cut for exports outside quota, as well as tariff elimination over ten years for cherries, avocados, blueberries and persimmons;
- tariffs on wine will be reduced from 150% today to either 25 or 50% (depending on the value of the wine) over 10 years, with a guarantee to further reduce tariffs to match those granted to future FTA partners like the EU which has recently announced an FTA outcome for wine tariffs reducing to 20% (premium range) or 30% (medium range) over seven years;
- in a first, India will reduce tariffs on mānuka honey from New Zealand from 66% to 16.5% over five years; and
- tariff elimination for bulk infant formula and other high-value dairy preparations, and peptones, over seven years – as well as a 50% cut in the tariffs for albumins (a high-value dairy protein product) for a volume above recent current trade. There is also a commitment to implement a dedicated fast-track arrangement to facilitate the supply of New Zealand products (including dairy products) duty-free to India for further manufacturing and export.

This new preferential access will provide valuable new opportunities to grow exports to India, an option for our exporters to diversify their export markets, and a more level playing field with competitors from India's FTA partners who already enjoy zero or low tariffs on many of their exports. These benefits are expected to grow over time as India's economy continues to grow and its middle class continues to expand.

*Improved services access*

New Zealand's services trade interests have been secured, with nearly 100 commitments beyond what is required under the WTO GATS agreement across a significant portion of India's services market, including areas of interest for New Zealand such as FinTech sectors, tertiary and private education, professional services, and environmental services. New Zealand also future-proofed its services access by securing a most favoured nation (MFN) commitment which ensures that we will automatically benefit from any future improvements to services access extended to other Indian FTA partners. Most immediately this means we will secure the additional services commitments India has extended to the EU. The outcome also provides domestic regulation provisions to make the registration and qualification processes more navigable for New Zealand services providers looking to provide services within India.

*Other outcomes*

There are provisions to address non-tariff barriers (NTBs) such as a legally binding commitment for India's customs service to release all goods within 48 hours of arrival and a commitment to endeavour to release all perishable goods and express consignments within 24 hours of arrival. The Agreement also creates an additional and innovative cross-cutting committee to enhance New Zealand's ability to address NTBs in the Indian market across Sanitary and Phyto-sanitary (SPS), Technical Barriers to Trade (TBT) and goods.

The FTA includes a commitment to undertake a general review of the Agreement within one year of entry into force, and every two years thereafter. This will provide a mechanism to continue to seek to keep the Agreement up to date and aim to address any gaps in the agreement.

The Agreement includes trade and environment and trade and labour commitments, including that neither Party will use its respective labour or environmental standards to restrict trade, or to lower these for trade advantage.

The Agreement includes important exceptions and protections to preserve policy space for future New Zealand governments, including a Te Tiriti o Waitangi/Treaty of Waitangi exception.

### 3.4 Progressing New Zealand's Going for Growth/Double Export Strategy

The NZ-India FTA will contribute to the Government's target of doubling export value by 2034, which is a cornerstone of the *Going For Growth* economic strategy, by:

- expanding market access through tariff preferences and thus competitive advantages for New Zealand exporters over those that do not have agreements in place – a consequence of India's high tariff wall. This will provide enhanced access for the first time to the rapidly expanding Indian middle class (estimated to be 435 million at present and projected to grow to over 700 million by 2030);

- securing the opportunity for exporters to diversify export markets both immediately and over time, including in response to uncertainty and turbulence in key export markets;
- providing a more level playing field for New Zealand exporters with competitors from India's 22 other partners with trade agreements (comprising over 60 countries in total);<sup>12</sup>
- providing trade-facilitative measures including on customs clearance which will remove friction from trade; and
- providing new mechanisms to address non-tariff barriers impacting New Zealand exports into India.

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<sup>12</sup> This includes India's longstanding free trade agreements with the ASEAN member states and a number of other Asian economies; preferential trade agreements with Afghanistan, Chile, and Mercosur; FTAs which entered into force since 2021 – with Mauritius, the UAE, Australia, the four European Free Trade Association (EFTA) member countries of Iceland, Liechtenstein, Norway and Switzerland; and finally recent trade agreements concluded with the UK, Oman, and the EU, and the interim agreement with the United States.

## 4. Advantages and Disadvantages to New Zealand of the Treaty Entering Into Force and Not Entering Into Force

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### 4.1 Chapter 2: Trade in Goods

#### 4.1.1 Advantages

New Zealand's goods exports to India accounted for only 1% of New Zealand's global goods exports in 2025 (NZ\$820 million), placing it just outside New Zealand's top 20 goods export markets. The NZ-India FTA provides the opportunity to significantly increase exports to one of the world's largest and fastest-growing economies.

The FTA will help in opening the door for New Zealand exporters to India's growing economy and middle class, given existing high tariffs and non-tariff barriers have contributed to holding back much of New Zealand's potential trade.

India's average MFN tariff rate is 16.2%, but agricultural imports face a higher average tariff of 36.7%.<sup>13</sup> Some of New Zealand's exporters' main competitors already face reduced tariffs in the Indian market under existing FTAs.

The NZ-India FTA will eliminate or sharply reduce tariffs on over 95% of New Zealand's current goods trade into India. 57% of New Zealand's existing trade will be able to enter India duty-free immediately upon entry into force of the Agreement, increasing to 82% once the FTA is fully phased in. New Zealand exports will benefit from tariff reductions on a further 13% of current trade.<sup>14</sup>

Under the FTA, the average applied tariff rate faced by New Zealand exporters will drop significantly from 10% to just 3%,<sup>15</sup> saving New Zealand exporters an estimated \$43 million annually immediately upon entry into force, rising to \$62 million per year once the FTA is fully implemented. However, these savings are calculated based on static 2024 trade levels, and it is expected that the liberalisation of tariffs under the FTA will lead to an increase in trade, resulting in much higher tariff savings over time.

Independent economic modelling of the FTA outcomes<sup>16</sup> suggests that the gains from the NZ-India FTA will be important, albeit modest at first, but will increase over time as India's economy experiences rapid economic growth – with exports to India projected to grow by \$340 million in 2027; \$842 million per year by 2036; and \$1.27 billion per year by 2050, compared with a non-FTA scenario (for details, see further below, and separately in section 7.2). This modelling is conservative and largely based on incremental increases from historical trade patterns. For products that have had historically low trade, there is

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<sup>13</sup> On a trade-weighted average basis, India's MFN tariffs were 12.0%, but agricultural tariffs were 64.3%. Source: WTO Tariff Profile, India 2024: [https://www.wto.org/english/res\\_e/statis\\_e/tariff\\_profiles\\_list\\_e.htm](https://www.wto.org/english/res_e/statis_e/tariff_profiles_list_e.htm).

<sup>14</sup> Calculated based on Indian goods imports from New Zealand in 2024, the most recent calendar year prior to conclusion of the FTA negotiations (Indian Ministry of Commerce statistics).

<sup>15</sup> Calculated based on the difference between India's MFN tariffs and the FTA outcomes, using Indian import data from New Zealand for the 2024 calendar year.

<sup>16</sup> Motu Economic and Public Policy Research Trust: Economic Impact Assessment of the New Zealand-India Free Trade Agreement, March 2026.

significant potential that long-term trade growth will significantly exceed forecasted volumes, as has been the case for New Zealand's FTAs with China and the EU, for example. This is acknowledged in the modelling report, which notes that "the emergence of new trade networks for products where little trade previously existed could lead to larger economic impacts than those captured in the modelling"<sup>17</sup>.

Key advantages for major goods exports to India are set out below:

- **Forestry and wood products:** India represents an important export market with significant potential for growth. Tariffs range from 5.5% to 11% and New Zealand exported \$139 million of forestry and wood products to India in 2025. Over 95% of New Zealand's exports to India will enter duty free immediately once the FTA enters into force. This includes logs, wood pulp, most fibreboard, and sawn wood. Almost all of New Zealand's remaining forestry trade interests will have tariffs removed over seven years. This liberalisation of tariffs under the FTA will create significant new opportunities for New Zealand wood, pulp and paper exporters in the Indian market.
- **Sheepmeat and meat products:** The FTA will immediately eliminate the 33% tariff on New Zealand sheepmeat upon entry into force, meaning New Zealand sheepmeat exporters will regain competitiveness in the Indian market relative to other exporters with preferential access under existing FTAs, and can explore opportunities to grow the market, and increase optionality in export markets.
- **Wool:** The 2.75% tariff on wool will be immediately eliminated on entry into force of the FTA – an important outcome given India is New Zealand's second-largest wool export market – accounting for 20% of New Zealand's total wool exports. This will provide improved conditions for one of New Zealand's key exports to India.
- **Coal:** India is one of New Zealand's largest export destinations for coking coal, used in the production of iron and steel. The 2.75% tariff will be eliminated immediately upon entry into force of the FTA.
- **Iron and Steel:** In 2025, New Zealand exported \$81 million of iron and steel to India. Tariffs are as high as 22% and for almost all of New Zealand's trade interests these will be eliminated over up to ten years.
- **Other industrial products:** Most of New Zealand's other industrial goods exports to India, which currently face tariffs up to 35%, will have preferential access under the FTA over 10 years or less.
- **Fish and seafood:** Tariffs of 33% will be eliminated over seven years for almost all of New Zealand's fish and seafood export interests, opening up a new market opportunity.
- **Apples:** New Zealand is the first country to secure preferential access to India for apples in any of India's FTAs. Apples are New Zealand's largest horticulture export to

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<sup>17</sup> Motu Economic and Public Policy Research Trust: Economic Impact Assessment of the New Zealand-India Free Trade Agreement, March 2026 (Executive Summary).

India, and India is New Zealand's fourth-largest apple export market globally, with exports of NZ\$81 million in 2025. New Zealand apple exporters currently face a 50% tariff. Under the FTA, the existing 50% tariff on apples will be cut to 25% immediately on entry into force for 32,500 tonnes of apples per year under a tariff rate quota, increasing each year to 45,000 tonnes per annum by year six – almost twice current average export volumes.<sup>18</sup>

- **Kiwifruit:** New Zealand's second-largest horticulture export to India currently faces a 33% tariff. In 2025, New Zealand exported NZ\$33 million of kiwifruit to India. Immediately upon entry into force of the FTA, New Zealand kiwifruit exporters will have duty-free access for 6,250 tonnes of kiwifruit per year under a tariff rate quota, increasing each year to 15,000 tonnes per annum by year six.<sup>19</sup> In addition, New Zealand kiwifruit will enjoy an immediate 50% tariff cut (from 33.5% to 16.5%) for out-of-quota trade.<sup>20</sup> This is the best access India has ever provided for kiwifruit to any kiwifruit exporter.
- **Other horticulture:** Other horticulture products with tariff elimination outcomes include cherries, avocados, blueberries and persimmons, which all have their current 33% tariff removed over 10 years. Other horticulture-related products that will obtain tariff elimination include most seeds for sowing, for which tariffs will be eliminated over 7-10 years; flower bulbs and hops, eliminated over seven years; and fresh-cut orchids, eliminated over 10 years. New Zealand apricot and pear exporters under the FTA will have the existing 33% tariff cut in half over five and 10 years respectively (to 16.5%). These FTA outcomes will create new opportunities for export growth for New Zealand's high-quality exports of these products.
- **Bulk infant formula and other dairy-based food preparations:** Under the FTA, the existing 33% tariff will be eliminated over seven years for New Zealand exporters, creating new opportunities for export into the large and fast-growing Indian market.
- **Dairy peptones:** Similarly, the existing 22% tariff on peptones be eliminated over seven years for New Zealand exporters, creating new export opportunities.
- **Albumins (whey protein concentrates):** New Zealand's largest current dairy export to India faces a 22% tariff. In 2025, New Zealand exported NZ\$67 million of albumins to India. Under the FTA, New Zealand albumin exporters will benefit from an immediate 50% reduction in tariffs (to 11%) for a quota starting at 1,000 tonnes per annum and growing to 3,000 tonnes by year five, slightly above recent average trade levels.
- **Wine:** New Zealand exporters of wine currently face a 150% tariff. The FTA cuts the tariff to 25% or 50% over 10 years from entry into force for all products of export

<sup>18</sup> This access is available for New Zealand apples entering India during the seasonal window of 1 April to 31 August, with a customs value of US\$1.25 or more per kg. New Zealand apples exports to India averaged 23,600 tonnes per year from 2022-2024.

<sup>19</sup> This access is available for New Zealand kiwifruit entering India during the seasonal window of 1 April to 15 October, with a customs value of US\$2.50 or more per kg.

<sup>20</sup> This access is available for New Zealand kiwifruit entering India all year round, with a customs value of US\$2.50 or more per kg.

interest to New Zealand, aligned with India's other recent FTA partners.<sup>21</sup> In addition, India has committed to extend to New Zealand any improved access granted to any other trading partner in future. This important provision will ensure New Zealand wine exporters will always enjoy the best-available access into India – including, for example, the improved access granted to the EU in the India-EU FTA.<sup>22</sup>

- **Mānuka honey:** India applies a 66% tariff on honey imports, which has kept New Zealand's honey exports at very low levels, averaging just seven tonnes per year from 2022-2024. Under the FTA, New Zealand exporters of mānuka honey will benefit from a 75% reduction in tariffs, reduced from 66% to 16.5% over five years.<sup>23</sup> New Zealand is the first country to secure preferential access for honey into the Indian market.
- The **administration of quotas** established under the FTA will be minimally burdensome and as conducive to trade as possible. As provided for under Annex 2A, New Zealand will allocate TRQs by allocating export certificates to exporters or producers, and India will issue TRQ authorisations on demand, without delay and conditional only on presentation by the importer of a valid export certificate. No additional requirements, conditions or restrictions shall apply, unless mutually agreed. These trade-facilitative rules will ensure New Zealand exporters have every opportunity to fully utilise the quota access provided for under the FTA.
- In addition, the FTA also contains a commitment to establish, by entry into force of the Agreement, a **dedicated fast-track arrangement** through which New Zealand exporters will be able to supply Indian businesses inputs from New Zealand, including dairy ingredients, **duty-free for use in the manufacture of products for export** from India. This is the first time India has made such a commitment in any FTA and offers the prospect of bolstering mutually beneficial value chains by leveraging New Zealand's inputs to promote both sides' export capacity and global competitiveness into third countries. With New Zealand renowned for our high-quality ingredients, and India seeking to significantly expand its food processing sector and become a 'Global Food Hub' by 2030, this arrangement delivers significant new opportunities for New Zealand exporters into other markets, working with Indian partners.
- The FTA also delivers a **future-focused commitment from India** that, should it offer **dairy access** to any comparable country in the future, it will consult with New Zealand on the prospect of extending similar treatment to New Zealand. This is the first time India has made such a commitment in any FTA and is alongside a

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<sup>21</sup> The 150% tariff on wine will be reduced to 50% over 10 years from entry into force for wine valued US\$5 to \$15 per 750mL, and to 25% over 10 years from entry into force for wine valued US\$15 or more per 750mL. The tariff remains at 150% for wine valued less than US\$5 per 750mL.

<sup>22</sup> Based on information made public to date, the India-EU FTA reduces India's wine tariffs to: 20% for EU wine with a CIF value of €2.50 or more, but below €10.00 per 750mL; and to 30% for EU wine with a CIF value of €10.00 or per 750 mL, within 7 years of entry into force. The tariff remains at 150% for wine valued less than €2.50 per 750mL. The same tariffs will apply to New Zealand wine from the moment both FTAs are in force.

<sup>23</sup> This access is quota-free for product valued US\$30 or more per kg. The same tariff preference applies for a quota of 200 tonnes for product valued at US\$20 or above, but below US\$30 per kg. Quotas under the FTA will be administered through the issuance of export certificates by New Zealand, and TRQ authorisations will be issued by India on demand, conditional only on presentation by the importer of a valid export certificate, with no additional requirements, conditions or restrictions.

commitment to review the FTA one year after entry into force. This provides a mechanism to engage with India to keep the FTA up-to-date and seek to ensure New Zealand's access under the FTA remains current and aligned with other FTA partners.

**Table 1 India's tariff commitments for New Zealand goods: by tariff lines and trade value**

2024 calendar year

Tariff commitment	Tariff lines: percentage	Trade value: percentage
<b>Duty-free access</b>		
Existing duty-free access locked in on entry into force	1.9%	14.0%
Elimination on entry into force	30.0%	54.1%
Duty-free access under quota	30.0%	57.3%
<b>Subtotal: duty-free access from entry into force</b>	<b>30.0%</b>	<b>57.3%</b>
Elimination over 3 years	35.7%	57.4%
Elimination over 5 years	43.5%	57.8%
Elimination over 7 years	60.4%	77.5%
Elimination over 10 years	65.6%	82.2%
<b>Subtotal: duty-free access after 10 years</b>	<b>65.6%</b>	<b>82.2%</b>
<b>Tariff reduction</b>		
50-75% tariff reduction under quota	65.7%	93.6%
50-83% tariff reduction	70.0%	95.4%
<b>Subtotal: tariffs eliminated or reduced</b>	<b>70.0%</b>	<b>95.4%</b>
<b>Excluded</b>		
Excluded	30.0%	4.6%

Source: MFAT. Calculated using official Indian Ministry of Commerce data: Indian goods imports from New Zealand in 2024.

**Table 2 Summary of outcomes for New Zealand exporters**

Tariff commitment	Key export products include	Percentage of 2024 trade
Existing duty-free access locked in from entry into force	Scrap iron and steel, hides and skins	14.0%
Tariff elimination upon entry into force	Sheepmeat, logs, timber, wood pulp, most fibreboard, wool, coal, some aircraft parts, some electrical transformers, milking machines	54.1%

Duty-free quota access from entry into force	Kiwifruit (50% tariff reduction outside quota)	57.3%
<b>Subtotal: Duty-free access on entry into force of the FTA</b>		<b>57.3%</b>
Elimination over 3 years (3 equal annual cuts)	Some carpets, weighing machines, taps and valves	57.4%
Elimination over 5 years (5 equal annual cuts)	Rock lobster	57.8%
Elimination over 7 years (7 equal annual cuts)	Most fish and seafood (mussels, fish fillets, etc), bulk infant formula and other dairy-based preparations, peptones, aluminium waste and scrap	77.5%
Elimination over 10 years (10 equal annual cuts)	Cherries, avocados, persimmons, blueberries, iron and steel	82.2%
<b>Subtotal: Duty-free access over 10 years or less</b>		<b>82.2%</b>
Quota access with 50-75% tariff reduction	Apples, albumins, mānuka honey (mānuka honey at ≥US\$30/kg: 75% tariff reduction outside quota)	93.6%
50-83% tariff reduction	Wine, apricots, pears, breathing therapy equipment	95.4%
<b>Subtotal: Tariff preference under the FTA</b>		<b>95.4%</b>
Excluded	Exported to India: Casein and lactose, certain industrial products, wool grease, sugars, other miscellaneous products.  Key global exports: Dairy products (milk powders, butter, cheese, etc), beef, retail infant formula, unwrought aluminium, gold, animal guts and tallow, venison, onions, certain food preparations, live horses, jewellery, other horticultural products, other miscellaneous products.	4.6%

Source: MFAT

**Independent economic modelling** based on the final outcomes of the FTA suggests that the gains from the NZ-India FTA will be important, albeit modest at first but increasing over time as India's economy experiences rapid economic growth. As the modelling is based on historical trade flows, it is likely to underestimate the potential for growth for products that have had limited existing trade. The modelling projects that (relative to expected baseline growth without an FTA):

- **New Zealand's GDP** is projected to increase by \$135 million annually in 2027, \$401 million annually in 2037, and approximately \$658 million annually in 2050 (the latter an increase of 0.10% per annum).

- **Exports to India** are projected to increase as a result of the FTA by approximately \$340 million annually in 2027, rising to \$817 million per year by 2036, and \$1.27 billion annually by 2050.
  - **Agri-food and forestry** is expected to be the largest contributor to increased exports to India, increasing to approximately \$260 million annually by 2027, \$504 million annually by 2036, and \$799 million annually by 2050. Within this, wood and meat are projected to experience the largest absolute increases, up \$487 million and \$230 million annually by 2050 respectively.
  - **Industrial goods** exports are projected to increase by approximately \$72 million annually in 2027, \$245 million annually in 2036, and \$361 million annually in 2050.
- **Imports from India** are projected to increase as a result of the FTA by approximately \$249 million annually in 2027, rising to \$496 million annually in 2036, and \$900 million annually in 2050.
  - **Industrial goods** are expected to be the largest contributor of increased imports from India, up approximately \$227 million annually in 2027, \$432 million annually in 2036, and \$801 million annually in 2050.
  - **Agri-food** imports are projected to increase by approximately \$16 million annually in 2027, \$27 million annually in 2036, and \$35 million annually in 2050.
- The modelling shows that while there will likely be some goods **trade diversion** (meaning that some of the additional trade revenue earned by New Zealand in India due to the FTA will be the result of trade diverted from other lower-returning markets, due to higher returns in India), New Zealand's total goods exports and imports increase, as does New Zealand's GDP. Having further market options also helps deliver increased value from exported products to all markets.

In addition to the modelling, the Australia-India Economic Cooperation and Trade Agreement (ECTA), which entered into force in December 2022, provides a **snapshot of the trade growth and opportunities** delivered by tariff liberalisation to New Zealand's near neighbour through its free trade agreement with India. In an analysis of the first year of trade following the ECTA published by the Australian Government, it was highlighted that "Australian exports to India grew by 35 per cent (excluding the price-volatile coal)"<sup>24</sup> from 2022 to 2023, and that the Agreement "energised bilateral trade across a range of sectors", with a number of products "exported to India for the first time, or reintroduced after a long absence"<sup>25</sup>. The report stated that exports of seafood increased by 55%, sheepmeat by 163%, wood and paper by 199%, and agriculture by

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<sup>24</sup> A New Road Map For Australia's Economic Engagement with India (2025):

<https://www.dfat.gov.au/sites/default/files/new-roadmap-australias-economic-engagement-india.pdf>, page 29

<sup>25</sup> A New Road Map For Australia's Economic Engagement with India (2025):

<https://www.dfat.gov.au/sites/default/files/new-roadmap-australias-economic-engagement-india.pdf>, page 30.

59%.<sup>26</sup> Updating the data to reflect more recent statistics, Australian goods exports to India (excluding price-volatile coal) increased by approximately 120% in the first two years following the entry into force of ECTA, and services exports by approximately 90% in the same period.<sup>27</sup> As of September 2025, Australian sheepmeat trade to India had increased by 275%, and fish and seafood by 388%. Supported by ECTA tariff preferences, Australian exports outperformed the rest of the market and grew Australia's share of India's imports.

### **The cost of not entering into an FTA with India**

Without an FTA with India, New Zealand goods exporters would continue to face high tariffs into the Indian market and would be at a significant disadvantage relative to India's existing and future FTA partners given India's suite of trade agreements concluded recently – including with large economies such as the European Union and the United States – and active FTA negotiation agenda with over a dozen negotiating partners. Without an FTA, New Zealand would struggle to maintain existing trade, let alone grow trade and market share in India's fast-growing market, which is among the largest in the world. Already, New Zealand exporters are facing significant competitive threats from exporters in countries with FTAs already in force, and this will grow as further agreements are brought into force in the near future. Not having an FTA with India would also deprive many sectors of the New Zealand economy of the additional optionality and export diversification opportunities presented by this FTA.

### **Other advantages: Trade in Goods chapter text**

In addition to the increased market access opportunities through the liberalisation of tariffs as described above, the Trade in Goods chapter text includes a range of provisions to help facilitate trade in goods. For example, the chapter:

- provides a mechanism for a Party to request consultations on the possibility of accelerating or broadening the scope of the elimination or reduction of customs duties under the FTA;
- reiterates a number of WTO obligations, including in relation to national treatment; fees and charges levied on traded goods; the determination of customs values; import and export restrictions; import licencing; non-tariff measures; transparency and administration of trade regulations; etc; and reiterates the obligation not to maintain agricultural export subsidies, as per the WTO Ministerial Conference Decision on Export Competition;
- commits to data sharing on preference utilisation, including regular exchange of comprehensive import statistics, in order to calculate the extent to which its tariff preferences are utilised, providing the means to identify gaps in utilisation and progressively maximising the benefits of the FTA;
- establishes a mechanism for raising any tariff or non-tariff measure of concern and seeking their resolution. Through contact points established through the chapter,

<sup>26</sup> A New Road Map For Australia's Economic Engagement with India (2025): <https://www.dfat.gov.au/sites/default/files/new-roadmap-australias-economic-engagement-india.pdf>, pages 9 & 33.

<sup>27</sup> These and subsequent statistics in this paragraph are New Zealand analysis, based on official Indian goods import data.

each Party may request detailed information on any proposed or actual measure of the other Party that may materially affect the Party's interests and, if necessary, request consultations with a view to promptly resolving any concerns; and

- establishes a Committee on Trade in Goods to: review and monitor the implementation of the chapter; promote trade, including through promptly addressing non-tariff barriers to trade; address issues relating to the administration and operation of tariff rate quotas; and examine and seek solutions to any issues that may arise in relation to tariff classification and transposition, to ensure that the obligations of the Parties are not altered.

### **Imports from India**

India is New Zealand's 14<sup>th</sup>-largest source of goods imports, totalling \$1.45 billion in 2025. An estimated \$15 million in New Zealand customs duties on imports originating in India will be immediately removed once the FTA enters into force (2022-2024 average).

This will provide imports from India with the same duty-free access as imports from other New Zealand FTA partners including Australia, ASEAN, China, Hong Kong-China, Korea, CPTPP Parties, the United Kingdom, the European Union, and the UAE.

New Zealand businesses and consumers import a range of goods, and the removal of these duties has some advantages for New Zealand. Consumers may benefit from cheaper imported products from India, in particular manufactured products (textiles and apparel, jewellery, and sporting goods).

The removal of these duties may reduce prices and make a contribution to easing cost of living pressures in New Zealand. In addition, businesses in New Zealand may benefit from cheaper inputs for incorporation into final products sold domestically and/or re-exported, and greater flexibility in sourcing and resilience of supply chains.

#### *4.1.2 Disadvantages*

No disadvantages have been identified for New Zealand from entering into an FTA with India in respect of the tariff liberalisation commitments made by India to New Zealand. Where these tariff commitments have an effect, they would be beneficial: i.e. leading to improved competitiveness for New Zealand exporters into India and opening up new opportunities for growth.

While the NZ-India FTA will liberalise just over 95% of current goods trade from New Zealand, delivering substantial advantages for New Zealand exporters, in some areas, the goods market access outcomes fell short of New Zealand's ambition, with certain New Zealand trade interests excluded from liberalisation – consistent with India's approach across its FTAs.

Most notably – but consistent with all of India's recent FTAs including with Australia, the United Kingdom, the European Union and the United States – the Agreement does not liberalise India's tariffs on core dairy products (liquid milk and cream, milk powders, milk protein concentrates, butter, and cheese etc), which range between 30-

60%. While these products constituted just 0.1% of New Zealand's current goods trade from New Zealand to India in 2024, they comprised 28% of New Zealand's goods exports globally in 2024. Their exclusion in all of India's recent FTAs, including with New Zealand, reflects India's sharp sensitivity on dairy as a developing country with 80 million dairy farmers, most with just 2-3 cows, reliant on the domestic market.

New Zealand was, however, able to secure a commitment from India in the FTA that, should it provide tariff concessions on core dairy products in an FTA with a comparable country in future, it will consult New Zealand on the prospect of offering similar treatment to New Zealand. This was the first time India had made such a commitment to any country and provides an opportunity for re-engaging on dairy in future should circumstances change. The FTA's review mechanism – with the first review to take place just one year after entry into force, and subsequent reviews every two years – also enables New Zealand to raise our dairy interests in the future, with the aim of pursuing additional market access over time. India has also committed to implement a new dedicated fast-track arrangement that will enable New Zealand to supply inputs – including dairy – duty-free to Indian businesses for the manufacture of products for export, by entry into force of the Agreement.

Other key products of New Zealand export interest not liberalised under the FTA include beef, which is also consistent with India's other recent FTAs, for cultural/religious reasons; retail infant formula, casein and lactose, reflecting India's dairy-related sensitivities; venison and deer velvet, not imported by India; onions, an important and sensitive domestic crop; unwrought aluminium and gold, and a range of other industrial products with limited existing bilateral trade.

Overall, 30% of India's tariff lines were excluded from tariff liberalisation. While this is higher than in New Zealand's other FTAs, it is the same percentage as under the Australia-India ECTA. New Zealand negotiators sought wherever possible to avoid products of export interest being excluded, and in many cases, excluded tariff lines are of limited trade interest to New Zealand. Nevertheless, certain New Zealand products will not benefit from tariff liberalisation under the FTA, as summarised above. In some cases, these are excluded across India's other FTAs; in others, the exclusions differ by FTA partner. For certain products, while tariffs are not liberalised under the FTA, it may still be possible for New Zealand to export at India's prevailing Most-Favoured-Nation (MFN) tariff rate. For a number of industrial products, for example, India's tariffs are comparatively low, potentially making this a viable proposition should there be export interest.

In most cases, tariff liberalisation under the FTA will deliver the elimination of tariffs, whether immediately or over up to 10 years. In a small number of cases (4.4% of tariff lines) tariffs are reduced or subject to tariff rate quotas under the FTA. This means that residual tariffs will continue to apply to those New Zealand exports, which constitute 13.2% of New Zealand's existing trade. Key among these are apples, wine, and mānuka honey – which will benefit from a sharp reduction of tariffs (50%, 66-83%, and 75% respectively) – and kiwifruit, for which a 50% tariff reduction will apply outside (and in addition to) the FTA's duty-free quota. While these outcomes are short of complete tariff elimination, they create substantial new trade opportunities for New Zealand exporters into India and were the best access provided for these goods of any Indian FTA partner at

the time of conclusion. New Zealand also secured tariff reductions for a range of other products of priority trade interest, including albumins and breathing therapy apparatus, improving trading conditions for exporters in the Indian market.

*Requirement to deliver cooperation activities*

The goods market outcomes for apples, kiwifruit and honey are linked to economic cooperation action plans agreed by New Zealand and India under the FTA, under which New Zealand has made commitments to contribute towards activities that will support the development of the Indian apples, kiwifruit, and honey sectors. Should New Zealand not fulfil the relevant obligations or commitments in the Agreement, under Annex 2B, India may request consultations and, if no mutually agreed solution is reached, India may rebalance its concessions to New Zealand and may suspend market access for the relevant product. This must be reinstated if New Zealand meets the relevant obligation or commitment or a mutually agreed solution is reached. Ultimately, New Zealand is confident it will carry out its commitments under the relevant action plans, in conjunction with industry as appropriate, meaning any risk of suspension of benefits should be negligible. The expected market access benefits for these sectors significantly outweighs the expected New Zealand costs for undertaking these cooperation activities, with additional spillover benefits from the cooperation programme likely.

*Tariff revenue foregone*

New Zealand's commitment to eliminate all customs duties on Indian goods at entry into force of the Agreement is estimated to result in immediate foregone tariff revenue of approximately NZ\$15 million per annum. It may also expose some New Zealand industries and sectors to marginally more competition and potentially create adjustment effects for domestic producers as a result of increased exposure to goods imported from India. Such effects are mitigated by the fact that New Zealand's economy is already largely open. Most goods imported into New Zealand already face no import tariff, with the few remaining in place set relatively low (mostly 5%, and none more than 10%). In addition, these remaining tariffs have already been eliminated for imports from other New Zealand FTA partners including Australia, ASEAN, China, Hong Kong-China, Korea, CPTPP, the United Kingdom, the EU, and the UAE. Finally, the FTA also provides the ability for either Party to apply a bilateral safeguard measure in the case of any serious injury arising from the liberalisation of customs duties under the Agreement (see Section 4.4 Trade Remedies).

## 4.2 Chapter 3: Rules of Origin and Origin Procedures

The Rules of Origin Chapter sets out the rules for determining whether goods traded between the Parties can be considered to "originate" from a Party, and therefore qualify for preferential tariff rates, and other benefits, provided in the NZ-India FTA. All FTAs include such rules.

#### 4.2.1 Advantages

While rules of origin, in themselves, do not confer an advantage or disadvantage on the Parties to the FTA, they can, however, be a key determinant in how easily producers, exporters and importers are able to utilise the preferential market access provided in the FTA. The rules of origin in the NZ-India FTA meet New Zealand's objective of trade-facilitating rules that will enhance trade.

The commitments in this chapter aim to be trade facilitating, and to minimise compliance burdens where possible for New Zealand exporters while maintaining the integrity of the FTA.

#### *Originating goods*

Under the Rules of Origin Chapter, goods are originating (Article 3.2) if they are:

- a) wholly obtained or produced in the territory of either New Zealand or India (such as fruit, plants or animals); or
- b) satisfy all the criteria set out in Annex 3A Product Specific Rules of Origin (PSRs), wherever applicable.

Under the second option (i.e. satisfying the PSR criteria), the PSRs identify the level of transformation or regional content required for a non-originating good to gain originating status. The Agreement includes rules that have either a single requirement, alternative requirements, or a combination of requirements.

#### *Proof of origin document*

Evidence of origin can be provided through either a certificate issued by a competent authority or a self-declaration by an approved exporter. To become an approved exporter, a trader will need to be approved by the respective Party's customs authority. Self-declaration is New Zealand's preferred approach to evidencing origin as this reduces transaction costs for businesses trading under the Agreement.

To enable self-declaration by approved exporters, the Agreement contains a self-declaration format in Annex 3C that can be completed as a self-declaration of origin.

An electronic data exchange system is also provided for which reduces the need for paper versions of documents. This modern approach reduces administrative burden and speeds up processing.

The Agreement also provides for the use of self-declaration to be expanded following a review provided for under Article 3.15, to be undertaken after the Agreement has been in force for five years.

#### *De minimis*

Article 3.8 De Minimis provides a tolerance for a good to still gain origin status, even if some non-originating materials do not meet the applicable requirement in the PSRs (provided the good meets all the other applicable requirements of the chapter), which provides additional flexibility if a small proportion of materials is sourced from a third country.

The NZ-India FTA applies a 10 percent value-based tolerance (de minimis) across all goods. For HS Chapters 50 through 63, this tolerance can apply to either total weight or value which gives traders two options for measuring the tolerance when applying it for these chapters.

There is also a 1 percent tolerance that applies to wholly obtained goods to provide some slight flexibility to include non-originating materials such as preservatives when producing wholly obtained goods.

#### *Cumulation of inputs*

The rules in the NZ-India FTA provide a means to allow materials that have originating status to be cumulated between the two Parties during a production process (Article 3.4 Bilateral Cumulation). This will allow traders to use originating goods from both Parties to produce goods and support supply chain-integration with India.

#### *Consignment*

Article 3.14 sets out the non-alteration provisions in the Agreement (also known as 'direct shipment' or 'direct consignment' in some New Zealand FTAs) and specifies the controls applied to goods transiting through a third country while being transported between New Zealand and India. The rules allow a good to retain origin status, and still qualify for preferential tariff rates, despite having been in transit in a third party, which is valuable for New Zealand exporters given our distance to the Indian market and the use of trans-shipment hubs.

Under this Agreement an originating good transiting through a third party must stay under customs control and only undergo certain processes set out in Article 3.14. Provided these controls are met, the length of time a good can spend in transit is not limited. This provides additional flexibility for New Zealand exporters. For example, a business may undertake a variety of minor processes in transit in a third party to ready their goods for the Indian market, including splitting up loads, repacking, or relabelling.

#### *Minor Errors and Discrepancies*

Article 3.30 Minor Discrepancies or Errors, ensures that minor errors or discrepancies in documentation cannot be the sole reason to render origin documents invalid, provided these errors or discrepancies do not bring the origin of the goods into doubt. This is important because if traders' documentation is deemed invalid by the importing customs authority, the necessary information to verify origin status under an FTA may be deemed 'not provided' and the imported good may be disqualified from accessing preferential tariff rates under the FTA.

#### *Verification of origin and procedures*

Article 3.25 Verification of Origin and Procedures, provides a clear set of escalatory steps for Parties to follow when the origin of a good is in doubt. This provides transparency to traders going through this process. The first step in the process is for the importing customs authority to seek information from the importer, with the final step being a visit to the site of the exporter or producer.

#### 4.2.2 Disadvantages

There are no substantive disadvantages for New Zealand resulting from the Rules of Origin chapter. The only minor disadvantage relates to the fact that compared to some of New Zealand's other FTAs, the NZ-India FTA has some restrictions around who can make a self-declaration, in that it is open only to authorised exporters (this is consistent with several of New Zealand's FTAs even if it is not New Zealand's preferred practice). Note that the FTA provides for the use of self-declaration to be expanded following a review provided for by Article 3.15.12, to be undertaken after the Agreement has been in force for five years.

### 4.3 Chapter 4: Customs Procedures and Trade Facilitation

The Customs Procedures and Trade Facilitation chapter establishes the framework the Parties' customs authorities will operate under the FTA to facilitate trade. The chapter builds on the commitments in the WTO Agreement on Trade Facilitation and extends these obligations in some areas.

Collectively, these commitments are aimed at facilitating the flow of goods across borders, including through ensuring Customs procedures and practices are consistent and transparent.

#### 4.3.1 Advantages

The commitments in this chapter will benefit exporters through increased efficiency at the border and expedited release of goods, including the introduction of definitive timeframes for clearance. The chapter aims to simplify and minimise the complexity of import, export and transit formalities and documentation requirements by ensuring that they are adopted and applied with a view to a rapid release of goods, and in a manner that aims to reduce the costs of compliance for traders.

##### *Publication of information*

The chapter requires the Parties to publish online relevant laws, regulations, guidelines, procedures, and administrative rulings on a wide range of trade-related areas (Article 4.5). This includes the following information:

- import, export and transit procedures (including required forms and documents);
- rates of duties and taxes imposed on or in connection with importation or exportation;
- any fees and charges imposed in connection with importation, exportation or transit;
- import and export restrictions and prohibitions; and
- appeal and review procedures.

Each Party must also, in a manner consistent with its domestic law, ensure that any new or amended relevant laws and regulations are published, or that information on them is

made publicly available, as early as possible before entry into force, to enable interested parties to be advised of them (Article 4.7(2)). Some exceptions apply, for example to allow parties to move quickly to provide relief in disaster situations (such as where New Zealand removed excise duties for breweries affected by COVID-19, for example).

#### *Advance Rulings*

The Agreement requires the Parties to provide advance rulings on the origin and classification of goods, and the valuation method that would be used under a particular set of facts (Article 4.8). These rulings provide greater certainty and predictability for New Zealand exporters and make compliance with Customs laws and requirements easier. New Zealand businesses often report that uncertainty about the treatment of their goods can result in significant costs or a barrier to trade. The chapter also clarifies when an advance ruling may be amended or revoked.

#### *Automation and Single Window*

Each Party has committed to provide Customs users with access to electronic systems wherever practicable (Article 4.10). The Parties also commit to allowing customs declarations to be submitted in electronic format and for the electronic payment of duties, taxes, fees and charges collected by customs authorities.

The chapter requires the Parties to establish or maintain a single window system that enables importers to electronically submit documentation or data requirements for the importation of goods to participating authorities, and check or be informed of the status of the release of their goods (Article 4.17(1)). In addition, if it does not already do so, each Party will endeavour to improve the functionality of its single window to enable exporters to submit relevant documentation and data (Article 4.17(2)).

New Zealand already meets this commitment for both imports and exports through the Trade Single Window system, meaning no system changes or investment are required. India will enable its importers of New Zealand goods to electronically submit documentation or data requirements through its single window from entry into force and will endeavour to expand its single window functionality to include the submission of export requirements (for Indian exporters) in the future.

Documentation and data already received through the single window will not be requested by authorities except in limited or urgent circumstances (Article 4.17(3)).

#### *Release of goods*

The chapter makes important new commitments on the swift release of goods, the best such commitments of any Indian FTA to date:

- it sets an expectation that goods will be released immediately upon receipt of the Customs declaration and fulfilment of all applicable requirements, but in any case, within 48 hours of arrival (Article 4.11). This is the strongest commitment India has made in an FTA to date in relation to a definitive time frame for the release of goods.
- Further, importantly for New Zealand, the Agreement recognises fast-tracked clearance for express shipments (Article 4.12), as well as perishable goods (Article

4.13), such as seafood or fresh fruit and vegetables. Parties agree in the FTA to endeavour to release express shipments and perishable goods within 24 hours of arrival, provided all requirements have been met and the goods are not selected for inspection or examination. Perishable goods will also be given appropriate priority when scheduling any required examinations (Article 4.13(3)). This is the first time India has made a time commitment in any of its FTAs in relation to the release of perishable goods or express shipments.

The improved predictability and transparency of importing and exporting processes are particularly significant for economies such as New Zealand with a large proportion of small and medium-sized businesses (SMEs). This is because higher trade administration and transaction costs are a bigger challenge for SMEs than for larger enterprises. Further, faster release times reduce spoilage risk for New Zealand's fresh produce and improves competitiveness in India's large consumer market.

#### 4.3.2 Disadvantages

No disadvantages have been identified for New Zealand resulting from the Customs Procedures and Trade Facilitation chapter. The obligations in this chapter fall within existing New Zealand practice and are WTO consistent.

## 4.4 Chapter 5: Trade Remedies

Trade remedy rules allow a Party to provide temporary relief for a domestic industry from injurious trade practices such as unfair competition from abroad or an unexpected surge in imports. WTO rules cover three types of trade remedy:

- **Anti-dumping duties:** these can be applied in certain circumstances where the "export price" paid by an importer is lower than its "normal value" (being the price the goods sell for in the country of export).
- **Subsidies and countervailing measures:** WTO rules seek to limit trade-distorting subsidies and allow governments to impose additional tariffs/duties (known as countervailing duties) to offset the use of certain subsidies by other countries.
- **Safeguard action:** temporary measures applied to allow domestic producers to adjust to sudden surges in imports.

The chapter confirms the Parties' rights and obligations under the relevant WTO agreements.

In addition, the chapter allows either Party to consider applying the "lesser duty rule" when imposing anti-dumping and countervailing duties.<sup>28</sup> This provision reflects New Zealand's

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<sup>28</sup> Under the WTO rules, when one Party applies an anti-dumping or countervailing duty, the amount of that duty cannot be more than the margin of dumping or subsidisation. However, where the domestic injury can be removed by a duty smaller than the margin of dumping or subsidisation, the Party may apply this amount (the 'lesser duty').

current practice in trade remedy investigations and would not require a change to policy settings.

The chapter also includes the ability to apply a bilateral safeguard measure (BSM), under which a temporary adjustment to the customs duty applying to an imported good can be made to address a serious injury to a Party's domestic industry. A Party can apply a BSM on imported goods from the other Party if, because of the reduction or elimination of a tariff under the FTA, a good is imported in such increased quantities and under such conditions as to cause or threaten to cause serious injury to the Party's domestic industry producing a like or directly competitive good. The chapter sets out the conditions and procedures for such measures. The BSM applies to both Parties. These provisions are similar to many of New Zealand's other FTAs.

#### *4.4.1 Advantages*

The chapter confirms that WTO rules will apply to the imposition of anti-dumping and countervailing duties and to the application of global safeguards on trade between the Parties. Therefore, it ensures that New Zealand industries remain protected from any unfairly priced imports and protects the interests of New Zealand exporters should they be faced with trade remedy actions in India.

It also provides the ability for New Zealand to apply a bilateral safeguard mechanism (BSM) to provide relief to a domestic industry in the event of serious injury or threat of serious injury from an increase in imports from India as a result of tariff elimination under the FTA.

#### *4.4.2 Disadvantages*

Under the chapter, either Party can apply a BSM for a transitional period of 14 years beyond the tariff reduction or elimination period for a particular good. It is not unusual for FTAs to include a BSM, however this transitional period is significantly longer than any previous New Zealand FTA (though identical to that under Australia and the UK's FTAs with India, and preferable to many of India's other FTAs, including with the EU, which is for a period of 22 years from entry into force, and with EFTA, the UAE and Oman, where the BSM is permanent, unless terminated by mutual agreement). If applied by India, a BSM could temporarily undermine the agreed market access outcomes for New Zealand exporters. The Trade Remedies chapter mitigates this to some extent by establishing clear and transparent processes and disciplines for applying a BSM, which helps prevent arbitrary actions and constrains the scope limits the ability to apply a BSM to specific circumstances.

## 4.5 Chapter 6: Sanitary and Phytosanitary Measures

The Sanitary and Phytosanitary (SPS) chapter is an extension of the disciplines within the WTO Sanitary and Phytosanitary Agreement. It is intended to:

- provide a common practical reference point for the Parties' SPS competent authorities to discuss and resolve SPS implementation matters along with a commitment and

enabling provisions to facilitate further preferential treatment of each other's traded goods; and

- support effective and efficient implementation of SPS measures through promoting increased technical cooperation and alignment between the relevant SPS competent authorities acting within their existing legal frameworks.

Key enabling tools within the chapter include the ability for the Parties to conclude more specific preferential implementing arrangements; an explicit obligation to respond to requests for technical consultations without undue delay; and a commitment to work towards finding solutions to trade differences.

#### *4.5.1 Advantages*

The chapter contains articles on the core WTO SPS Agreement concepts of risk assessment, harmonisation with international standards, regionalisation, equivalence, transparency and control, inspection and approval procedures. These enhance New Zealand's ability to negotiate less trade-restrictive measures to be applied to pre-export approvals, certification conditions, and border clearance processes for New Zealand's exports of primary products, where the other Party's relevant outcomes can be shown as already being achieved by New Zealand regulatory controls.

Importantly, the chapter contains commitments for the competent authorities to work more closely together and align processes to the extent feasible, as well as to harmonise as much as possible with relevant international standards. New Zealand law and policy already reflects this approach and there is no expectation that either country will have to apply processes outside of their existing legislation.

The chapter, for the first time in any of India's FTAs with an agricultural trading partner, a commitment to further align and link its SPS related requirements (measures) with risk assessment disciplines. In addition, where relevant international standards exist, India has committed to base its import measures for New Zealand exports on these, unless they have a risk assessment justifying otherwise.

Similarly, this is the first SPS chapter in any of India's FTAs in which India has committed to its competent authorities continuing to meet and conclude further trade-facilitating implementing arrangements. Such implementing arrangements offer the prospect of key parts of the New Zealand regulatory systems being recognised as equivalent and providing for improved trading conditions, simplified certification, and expedited border clearance processes. Both countries have also committed to facilitating a border rejection appeal process.

There is also specific language that for the first time commits India to further risk justification, non-discrimination and timeliness disciplines covering the use of import permits, as well as product and facility approval processes. Again, there is also an enabling provision and commitment for India to work with New Zealand with a view to reducing any duplication of activities in this regard.

On top of the regionalisation assessment commitments in India's FTAs with Australia and the UK, India has also committed to consider recognising New Zealand's foreign animal or plant disease response and treatment assurances systems ahead of any new serious disease or pest introductions.

Lastly, while dispute settlement procedures do not apply to the chapter, an enhanced timebound technical consultation provision obliges both Parties to look for solutions where disputes arise. There is also a requirement to review the non-application of dispute settlement procedures after four years, in light of the success or otherwise of this provision.

The chapter allows the Ministry for Primary Industries (MPI) to build long term and strategic relationships with Indian competent authorities across the full range of non-tariff measures that it is accountable for. This cooperation will provide an important opportunity to build and strengthen important relationships, establish MPI as an important, credible and trusted partner, and allow MPI to help facilitate further trade opportunities.

The ability to further conclude implementing arrangements under the chapter and across the TBT and Goods chapter disciplines means that that the negotiated outcomes are not static and can grow in effect as relationships and trade develop. Similarly, the interface with the Economic Cooperation and Technical Assistance chapter should support inter-relationships between regulators and industry to grow on multiple levels.

#### *4.5.2 Disadvantages*

Given the small volumes of current exports of primary products to India (relative to both New Zealand's other export markets and the size of India's economy) the short- to medium-term investment in building relationships and addressing SPS issues may be large relative to the size of the returns, notwithstanding promising future potential for New Zealand exports to India. This will also need to be balanced against the need to continue to service regulatory and relationship needs of other important markets.

Similarly, while the chapter is consistent with existing New Zealand food safety and biosecurity import laws and policies, it may also create resourcing demands with regards to Indian trade interests into the New Zealand market, which will need to be balanced with available resources and the demands of other markets, while at the same time upholding New Zealand's food safety and biosecurity requirements.

Dispute settlement does not apply to the chapter, notwithstanding that India has agreed to dispute settlement in relation to SPS chapters with other FTA partners such as the EU. Nevertheless, the NZ-India FTA contains an enhanced timebound technical consultation provision which obliges both Parties to look for solutions where disputes arise. In addition, there is a requirement to review the non-application of dispute settlement procedures after four years, in light of the success or otherwise of this provision, providing a mechanism through which to seek to agree dispute settlement in future.

## 4.6 Chapter 7: Technical Barriers to Trade

The Technical Barriers to Trade (TBT) chapter aims to facilitate trade in goods between New Zealand and India by removing unnecessary barriers to trade. The chapter includes various mechanisms to support this objective, such as cooperation on matters of mutual interest on standards, technical regulations, and conformity assessment procedures.

The chapter broadly aligns with New Zealand's current policy settings, existing regulatory arrangements, and the outcomes in the TBT chapters of previously agreed FTAs. The chapter preserves each Party's ability to adopt regulatory measures that fulfil legitimate objectives, including protection of health, safety, the environment, or national security. The Parties also commit to greater coordination and communication with regards to international standards and related issues.

### 4.6.1 Advantages

Differing regulatory requirements across countries can create barriers and increase costs for businesses trying to trade in multiple markets. The chapter aims to create pathways to address these and prevent unnecessary technical barriers to trade.

The chapter builds on the disciplines of the WTO TBT Agreement through enhanced commitments on cooperation, transparency, and marking and labelling rules, etc.

To address challenges related to TBTs, the chapter:

- Improves transparency, information sharing and engagement between the Parties on proposed technical regulations and conformity assessment procedures, enabling early input into technical regulations in the other Party;
- Delivers commitments on marking and labelling designed to provide certainty and flexibility for New Zealand businesses, in accordance with the relevant laws, regulations, and customs procedures; and
- Encourages cooperation between its standardising bodies from the territory of both parties in areas such as the exchange of information on standards, standard setting procedures, and international standardising activities in areas of mutual interest.

The chapter provides a forum for New Zealand to raise any issues that fall under the TBT chapter, and a time-bound obligation to enter into discussions on the issue within 60 days, with a view to reaching a mutually satisfactory solution.

### 4.6.2 Disadvantages

The TBT chapter is not expected to result in any significant disadvantage to New Zealand's ability to develop and implement technical regulations, standards and conformity assessment procedures.

Implementation of aspects of the transparency and cooperation provisions (e.g. exchange of information) with India will require additional time and resources. The Agreement seeks

to minimise the additional cost of fulfilling these requirements where possible (e.g. by agreeing to engage/exchange information by request rather than on a set timeframe).

#### *4.6.3 Medical Devices Annex*

The Medical Devices Annex to the TBT chapter is designed to reduce unnecessary regulatory barriers in the approval of medical devices and facilitate collaboration on international initiatives relating to medical devices.

The reduction in regulatory barriers to the approval of medical devices is achieved through a commitment by each Party's regulatory authority to utilise certain reports and certificates issued by authorities recognised as a 'comparable regulator' by that Party's regulatory authority. These reports and certificates relate to:

- the pre-market evaluation of medical devices;
- Quality Management Systems (QMS) or Good Clinical Practice (GCP) certificates or test results.

The Annex also sets out a requirement to review the Annex five years from entry into force of the agreement, with any subsequent reviews upon mutual agreement.

#### *Advantages*

The Annex provides commitments to improve cooperation and collaboration between New Zealand and India on international efforts to harmonise standards for medical devices. The Annex is consistent with New Zealand's aspirations to strengthen its regulation of medical devices (including adopting a system for the pre-market evaluation for some devices) under the proposed Medical Products Bill, while ensuring that regulations are internationally harmonised and enable reliance on trusted overseas regulators and approval bodies (including conformity assessment bodies).

#### *Disadvantages*

Updating New Zealand's list of comparable regulators will require ongoing (though limited) resourcing to ensure the list is made publicly available and any changes notified to India in a timely manner.

#### *4.6.4 Pharmaceuticals Annex*

The Pharmaceuticals Annex to the TBT chapter is designed to reduce unnecessary regulatory barriers in the approval of human prescription medicines, and to facilitate collaboration on international initiatives relating to pharmaceuticals.

The reduction in regulatory barriers to the approval of pharmaceuticals is achieved through the utilisation of reports, or similar documents, from overseas regulatory authorities recognised as a comparable regulator by each Party's regulatory authority. This is limited to the use of:

- Reports in relation to the pre-market evaluation of pharmaceutical products;

- Good Manufacturing Practice reports or certificates; and
- Good Clinical Practice inspection certification.

The Annex also sets out a requirement to review the Annex five years from entry into force of the Agreement, with any subsequent reviews upon mutual agreement.

#### *Advantages*

The Annex can be expected to improve cooperation and collaboration between New Zealand and India on international efforts to harmonise standards for pharmaceutical products. It is consistent with New Zealand's aspirations to modernise the regulation of medicine under the Medical Products Bill.

#### *Disadvantages*

Updating New Zealand's list of 'comparable regulators' will require ongoing (though limited) resourcing to ensure the list is made publicly available and any changes notified to India in a timely manner.

#### *4.6.5 Trade in Wine, Whisky and Other Distilled Spirits Annex*

The Trade in Wine, Whisky and Other Distilled Spirits Annex to the TBT chapter was the first time India had agreed to a stand-alone Annex on wine in any of its FTAs to date.

The Annex covers the full range of wines. It provides greater clarity on labelling and certification rules, secures transitional periods when a Party's regulation changes, and enables specific pathways towards resolution on issues of interest to the Parties.

#### *Advantages*

The Annex will benefit New Zealand as India's consumption of wine is growing, with its rapidly growing middle class with changing tastes.

The advantages of the Annex for New Zealand include:

- The Annex's coverage includes all wines from alcohol-free wines (0% alc/vol) all the way through to higher-percentage fortified wines (more than 20% alc/vol). Alongside this scope of disciplines, the Parties have agreed to permit the use of the term 'wine' as the product name. Additional descriptors may still be required for wines with an alcohol content of no more than 0.5% alc/vol. This provides certainty for New Zealand winemakers when marketing this innovative and growing product category.
- Improving certainty for winemakers in relation to label design by including general labelling principles and by including provisions on several labelling items including net content, alcohol content, lot identification, and certain date marking information.
- Ensuring common understanding of minimum requirements for wines labelled as of a single variety (at least 75%) and as labelled of multiple grape varieties (for example, comprising at least 85% the listed varieties).

- Providing greater certainty of certification requirements relating to vintage, varietal and regional claims.
- If India changes its wine-related regulatory requirements, it must provide a reasonable transitional period for wine that has entered India's territory but has yet to clear customs, and for wine in transit.
- A Working Group will be established, with a forward programme committing the Parties to analyse each other's regulatory regimes for oenological (winemaking) practices with the aim of reaching agreements that provide for each Party's acceptance of the other Party's mechanisms for regulating oenological practices. This commitment is timebound, with the analysis to start within one year of entry into force and endeavouring to complete the analysis within two years of entry into force.
- Working Group dialogue mechanisms to discuss various issues of interest with a view to find mutually satisfactory outcomes, including:
  - Tolerance levels for deviation of actual alcoholic content from that indicated on wine labels;
  - Differences in acidity level requirements and other limits;
  - Precise location requirements for wine labelling information; and
  - Supplementary labelling limitations aiming to reach a mutually satisfactory outcome within two years of entry into force of the Agreement.

The outcomes agreed in the Annex can be accommodated under New Zealand's current laws and are consistent with current policy settings.

Necessary policy space has been safeguarded. For example, Parties retain the right to implement measures necessary to protect human or plant life or health and it is confirmed that the importing Party's rules apply unless specified otherwise in the Annex.

The Annex commits the Parties to a review of the Annex five years after entry into force, to ensure it is a living agreement and to revisit some of the more complex non-tariff measures, if necessary.

#### *Disadvantages*

Dispute Settlement does not apply to the Annex. This is, however, specifically subject to review five years from entry into force, giving a concrete basis for revisiting the application of dispute settlement under the Annex.

While some of the outcomes in the Annex are not as ambitious as those in Annexes of some of New Zealand's other FTAs, New Zealand will be able to revisit these during the review of the Annex after five years and as part of Working Group processes.

## 4.7 Chapter 8: Trade in Services

The services sector plays an increasingly essential role in the global economy through the generation of opportunities for greater income, productivity, and employment. Services are vital to New Zealand's international competitiveness. New Zealand services exports globally were NZ\$33.6 billion in 2025 (accounting for approximately 30% of New Zealand's total goods and services exports of \$114.2 billion).

The FTA's Trade in Services chapter facilitates the provision of cross-border trade in services and presents additional market access opportunities for New Zealand services suppliers in the Indian market. It provides greater transparency and certainty regarding the regulatory environment applying to their business in India. The chapter is complimented by annexes that address:

- Financial Services;
- Telecommunications;
- Temporary Movement of Natural Persons;
- Professional Services;
- Foreign Investment Framework;
- Students' Mobility and Post-Study Work Visas; and
- Health-related Services and Traditional Medicines.

The chapter is also supplemented by a side letter on Working Holiday visas (see section 4.17.7).

India's services market access commitments are set out in India's schedule of specific commitments, in a 'positive list' format. This provides an exhaustive list of the sectors where India has made commitments and where it will guarantee access and/or non-discriminatory treatment for New Zealand services and services suppliers. This 'positive list' format means that any conditions on the access provided for a particular sector, such as foreign equity limitations, must also be set out. However, pursuant to Article 8.10 (Transition), no later than six years following entry into force, India is required to transition its commitments to a 'negative list' format (under which India commits to providing market access to New Zealand in all sectors other than those included in its 'negative list' schedule of non-conforming measures). This transition to a negative list will simplify use of the Agreement for New Zealand services exporters. As is our practice in other FTAs, New Zealand's services market access commitments to India, are set out in a negative list from day one.

### 4.7.1 Advantages

#### *Trade in Services chapter*

India has made commitments on almost 100 services sectors above its WTO General Agreement on Trade in Services (GATS) commitments. Sectors of particular interest to

New Zealand include engineering services, environmental services, tertiary and adult education, and audio-visual services.

The chapter also incorporates mechanisms for future bilateral trade liberalisation. The inclusion of the Most-Favoured-Nation (MFN) treatment obligation (Article 8.6) ensures that in the sectors listed in India's Schedule of Specific Commitments (Annex 8H), New Zealand will automatically benefit from any future improvements to services access extended to other Indian FTA partners – for example in the India-EU FTA – concluded in January 2026 – provided that New Zealand's FTA enters into force before that agreement.

The chapter includes 'Domestic Regulation' rules to provide greater certainty for services suppliers that need a licence and/or registration to deliver services in India (Article 8.13). The rules set standards for the procedures used for the examination/assessment of applicants, the cost of submitting such applications, and for providing feedback received on these applications. As a result, the rules will make licensing and registration processes easier to use for New Zealand services providers.

The chapter does not apply to services provided in the exercise of governmental authority, some air transport services, or to government procurement. New Zealand has also secured reservations against a range of public and social services such as healthcare and public education to exclude these from the scope of New Zealand's market access commitments. This preserves New Zealand's ability to take future decisions in favour of local health and education providers or to impose quotas in these more sensitive sectors.

#### *Financial Services Annex*

The Financial Services Annex provides New Zealand financial service suppliers with enhanced transparency, clarity and predictability regarding operating in the Indian market (Article 8A.7). The Annex includes obligations to make information publicly available, respond to enquiries and deal with applications expeditiously, and to not restrict the transfer of information or prevent the processing of information by a financial services provider in its territory. These provisions are consistent with New Zealand's existing regulations and practice.

The Annex includes a strong prudential exception to ensure financial regulators (for New Zealand this includes the Reserve Bank of New Zealand) have the ability to put in place measures that support the stability of the financial system and protect financial services users (Article 8A.3). The Annex also contains a commitment (subject to exceptions) on the supply of new financial services (Article 8A.4). Article 8 of Annex 8A prevents Parties from limiting transfers of cross-border data where it is necessary for the ordinary conduct of business, while also preventing Parties from requiring the location or use of data in the territory of the Party making it easier for New Zealand financial service suppliers to provide services in India. These rules provide certainty for digital services providers who rely on the free flow of data between countries in providing their services. New Zealand has secured a specific exception from these rules if necessary to protect or promote Māori rights, interests, duties and responsibilities (Article 8A.8.3(d)).

#### *Telecommunications Annex*

The Telecommunications Annex (Annex 8B) sets out regulatory disciplines to underpin effective market access and competitive markets in telecommunications services. The telecommunications sector is both a distinct services sector and an important infrastructure enabler for trade in goods and services generally. Better connectivity helps facilitate services delivery and electronic commerce and enables broader participation in global trade.

The Annex builds on the disciplines included in the WTO GATS Annex on Telecommunications and the WTO Basic Telecommunications Reference Paper.<sup>29</sup> It expands and updates these regulatory disciplines to reflect the developments in approaches to the regulation of markets since the conclusion of the GATS. The Annex provides New Zealand exporters of telecommunications services with greater certainty that telecommunications regulation in the Indian market will be transparent, objective and non-discriminatory.

#### *Temporary Movement of Natural Persons Annex*

The Temporary Movement of Natural Persons Annex (Annex 8C) will enhance New Zealand access into India for businesspersons engaged in trade in goods, the supply of services, and the conduct of investment activities. It is designed to assist individuals and businesses taking up the commercial opportunities offered through the Agreement. Importantly, the Annex only applies to those seeking temporary entry to provide a specific service and does not apply to people seeking to enter the employment market in New Zealand or to immigration matters, such as citizenship or permanent residence applications.

The Temporary Movement of Natural Persons Annex operates based on country-specific commitments set out in each Party's Schedules in Annex 8J (India) and Annex 8K (New Zealand). These specify the conditions and limitations for entry and temporary stay provided to specified categories of businesspeople from the other Party under the FTA.

The Annex requires both Parties to administer streamlined and transparent procedures for temporary entry applications. India has agreed that when it receives applications from New Zealanders seeking temporary entry to trade in goods, supply services or conduct investment it will:

- process applications for entry as expeditiously as possible (Article 8C.4.1);
- on request, endeavour to promptly provide the applicant with information concerning the status of the application (Article 8C.4.2);
- promptly inform the applicant of the decision, and if the application has been approved, of the period of stay and other conditions (Article 8C.4.3)
- make publicly available the requirements for temporary entry including relevant forms and documentation (Article 8C.5.1);
- ensure that fees for processing applications do not represent an unjustifiable impediment to movement (Article 8C.4.6);

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<sup>29</sup> See [https://www.wto.org/english/tratop\\_e/serv\\_e/12-tel\\_e.htm](https://www.wto.org/english/tratop_e/serv_e/12-tel_e.htm) and [https://www.wto.org/english/tratop\\_e/serv\\_e/telecom\\_e/tel23\\_e.htm](https://www.wto.org/english/tratop_e/serv_e/telecom_e/tel23_e.htm).

- maintain mechanisms to respond to enquiries on regulation affecting temporary entry (Article 8C.5.3(b));
- to the extent practicable, endeavour to accept applications in electronic format (Article 8C.4.4); and
- where appropriate, accept copies of documents authenticated in accordance with its laws in place of original documents where domestic law allows (Article 8C.4.5).

These commitments ensure improved transparency, certainty and reasonableness of costs for those undertaking business travel to India. Facilitating this movement of people will ensure that New Zealanders are able to make the most of the trade commitments contained in the Agreement.

New Zealand has retained its right to apply an 'economic needs test', including a labour market test, to the temporary entry of Indian contractual services suppliers and Independent Professionals – businesspeople that are entering New Zealand to complete a short-term contract (Article 8C.3.4). In addition, nothing in the FTA prevents either government from applying measures to protect the integrity of their respective borders or to ensure the orderly movement of people across their borders.

Temporary entry commitments provided for in the FTA remain subject to the applicant meeting any applicable licensing requirements, including any mandatory codes of conduct, to practise a profession (Article 8C.3.3).

#### *Temporary Employment Entry Commitments*

New Zealand has committed to provide the equivalent of up to, on average, 1,667 temporary employment entry visas per year (5,000 at any one time), subject to specific conditions such as education and experience requirements. New Zealand has made commitments on 'skilled' workers (of, on average, 1,467 visas per year and up to a maximum of 4,400 places at any one time), which are taken from occupations on Immigration New Zealand's 'Green List', and 'iconic' Indian occupations (of, on average, 200 visa per year and up to a maximum of 600 places at any one time). These iconic occupations include yoga instructors, Ayush (traditional Indian medicine) practitioners, music teachers and Indian chefs. These visas for iconic occupations are also subject to specific conditions related to education and experience. It is intended that the TEE visas will be implemented to not include work rights for partners or domestic student status for dependent children. Occupations included from the 'Green List' are highly skilled and address an identified skill shortage. Indian applicants with a genuine job offer in those occupations can already be granted a visa under existing immigration policies. The TEE visas will further facilitate the entry of these skilled workers potentially supporting New Zealand employers to fill hard-to-fill roles. It also mitigates the risk of labour market displacement and exploitation in New Zealand.

The provision of these visas does not allow the visa holder to seek permanent residency while in New Zealand and are limited to three-year stays. For each category, visa numbers are capped based on existing demand from the 'Green List'. The Committee on Trade in Services will review the categories every five years.

*Professional Services Annex*

New Zealand businesses are increasingly seeking export opportunities in the professional services sectors. The Professional Services Annex (Annex 8D) builds on the commitments made in the Trade in Services chapter by encouraging professional bodies to establish dialogues on recognition of qualifications, and licensing and registration procedures with a view to concluding mutual recognition arrangements within 12 months of entry into force of the Agreement. These arrangements would facilitate the delivery of professional services between New Zealand and India and provide New Zealand suppliers with access to a larger range of Indian consumers.

*Foreign Investment Framework Annex*

Under the Foreign Investment Framework Annex (Annex 8E), the Parties agree that a decision made under the Overseas Investment Act 2005 to grant consent or to decline consent will not be subject to dispute settlement under Chapter 19 (Dispute Settlement), ensuring such decisions are not subject to challenge under the FTA. The same applies to India's Foreign Investment Framework.

*Students' Mobility and Post-Study Work Visa Annex*

The Annex (Annex 8F) provides New Zealand students studying in India certainty with regards to their ability to gain a visa for study in India, provided they fulfil standard immigration requirements, while also providing certainty on their ability to work part time while studying.

While most of the commitments for Indian students studying in New Zealand are at or below current policy settings, Indian PhD students will get an additional year of post-study work which could provide a further incentive for Indian PhD students to choose New Zealand as a place of study.

*Health-related Services and Traditional Medicine Services Annex*

This Annex (Annex 8G) ensures transparency, certainty and reasonable fees for New Zealand health professionals seeking to work in India. This Annex will enable these health professionals to have a better understanding of the processes and applications required in order to work in India, meaning they are better able to make the most of commitments in the Agreement.

It also requires both Parties to cooperate on matters relating to traditional medicine including on research and development. This includes Rongoā Māori as well as Ayurveda, Siddha, Unani, and Sowa-Rigpa fields of medicine. Where a Party requires registration or licencing of practitioners and therapists of traditional medicine services of the other Party based on specific qualification criteria, including experience or certification requirements, the Parties are to encourage relevant bodies to recognise qualifications, including education or experience, licences or certifications, obtained in the other Party and where possible publish information related to regarding necessary requirements for practice.

*Side Letter: Working Holiday Visas*

The agreement for New Zealand to implement a new working holiday scheme with a cap of 1,000 places per year will allow young Indian graduates (aged 18-30) to travel to New Zealand and work here for up to 12 months. The increased number of working holiday makers could also help to alleviate labour shortages, particularly seasonal work shortages in the tourism, hospitality, and horticultural sectors. In addition, the side letter commits India to extend the opportunity to participate in any similar youth mobility program it may establish in the future to New Zealand's citizens, if it implements such a program in the future with any country.

#### *4.7.2 Disadvantages*

##### *Trade in Services chapter*

For New Zealand, the obligations in the Trade in Services chapter impose minimal costs to implement, as our domestic regulatory regime already operates in an open and non-trade restrictive way. The obligations in this Agreement are less restrictive than in some of New Zealand's existing FTAs. As a result, no regulatory change is required to meet the obligations contained in the Trade in Services chapter.

The services outcome did not meet all of New Zealand's original negotiating objectives. New Zealand would have preferred all services market access commitments to be made on a 'negative list' basis immediately. However, India's commitment to transition to a 'negative list' within six years means that New Zealand's services exporters will benefit from even greater transparency and clarity in future. While the commitments made by India to New Zealand were not as comprehensive as those it made to the European Union, India's services MFN commitments to New Zealand will automatically ensure that New Zealand services exporters in those sectors will benefit from those improvements, provided New Zealand's FTA enters into force first.

As part of the negotiated outcome, New Zealand agreed a preferential screening threshold under the Overseas Investment Act 2005 for India. Under the FTA, the threshold above which a non-government investor must get approval to invest in significant business assets in New Zealand will increase from NZ\$100 million to NZ\$200 million. This brings India into line with preferential screening commitments made under other FTAs, including the NZ-EU FTA and CPTPP. Raising the threshold means a lower level of oversight for certain Indian investments in New Zealand. However, unlike those FTAs, because the change in threshold is contained within the Trade in Services chapter and the Agreement has no chapter on investment protections, the new preferential screening threshold will only apply to Indian investors seeking to invest in New Zealand for the purpose of supplying a service, which reduces the scope of potential investments covered by the increased threshold. For all other investment in significant business assets, the standard NZ\$100 million screening threshold will apply. This has the potential to increase the number of investments that are not subject to screening, however, previous experience where the screening threshold has been increased through FTAs has not provided any evidence this has created an adverse impact. It is unclear what effects the change will have given the very low rate of Indian investment in New Zealand currently. New Zealand retains all other policy space of the Overseas Investment Act, and screening will continue to apply in relation to other investments including those in fishing quotas and sensitive land.

*Financial Services Annex*

New Zealand already has an open and transparent financial services policy environment. As a result, there is little policy risk or disadvantage for New Zealand with respect to the financial services provisions. As with the WTO and all of New Zealand's existing FTAs, the Agreement maintains policy space to apply any form of prudential regulation, such as laws or regulations to protect investors and depositors, or to ensure the integrity and stability of the financial system more broadly.

*Telecommunications Annex*

There are no significant disadvantages that could arise from this Annex for New Zealand. All the disciplines in the Annex are consistent with current New Zealand regulatory settings.

*Temporary Movement of Natural Persons Annex*

New Zealand's country-specific temporary movement of natural persons commitments in Annex 8K are based on commitments in New Zealand's existing FTAs. They are consistent with current policy settings related to business visitors, intra-corporate transferees, installers of services, independent professionals, and contractual services suppliers. These commitments do not affect the regulation of New Zealand's licensing regimes or other professional requirements (i.e. professional codes of conduct). The chapter specifically provides limited recourse to dispute settlement procedures for refusal to grant temporary entry (Annex 8C.9) – only in the event that a refusal to grant temporary entry reflects a pattern of practice by the relevant authority, and when the applicant has exhausted all administrative remedies, would there be grounds for dispute settlement.

The NZ-India FTA is the third FTA in which New Zealand has made commitments regarding contractual services suppliers (following FTAs with the UK and the EU). To manage any impact of such commitments on New Zealand's employment market, specific safeguards have been put in place. These include a maximum 12-month visit period and an economic needs text. Contractual services suppliers seeking temporary entry to New Zealand must also have been employed by an enterprise in India for at least one year prior to their application, and must be employed by that enterprise on conditions that at least meet New Zealand employment standards, must be paid while in New Zealand an amount that would be expected by a New Zealand service supplier for completing the same work, and must meet other conditions as well. However, there are practical challenges in ensuring compliance with such obligations as these workers will be paid by their home employer in India.

*Professional Services Annex*

The Annex does not bring about immediate recognition of each country's professions or registration procedures. Instead, it provides a mechanism for the relevant bodies to enter into dialogue (Annex 8D.4).

*Students' Mobility and Post-Study Work Visa Annex*

The FTA includes in-study work commitments for Indian students that guarantee the ability to work up to 20 hours per week while they are studying in New Zealand. This is within current policy settings (which allow students to work up to 25 hours per week) but will

apply regardless of any future policy changes. The Annex also requires each Party to grant visas to students (Paragraph 1), provided all immigration requirements have been met, and the student has been accepted into a recognised education institution.

Paragraph 2 prevents both Parties from imposing numerical limits on the admission of students to recognised education institutes. New Zealand's current and longstanding policy settings do not impose numerical caps on international students. However, nothing in the NZ-India FTA would prevent New Zealand from reducing overall student numbers in the future by imposing tighter requirements on existing conditions, or introducing new conditions, so long as Indian students are not discriminated against relative to other countries.

#### *Temporary Employment Entry Commitments*

Temporary Employment Entry (TEE) commitments by New Zealand were an important Indian priority in the FTA negotiations. However, under the outcome, the number of TEE visas committed by New Zealand are limited to a maximum of 5,000 at any one time (i.e. an average of 1,667 three-year visas per year). In addition, 4,400 of these visas are drawn exclusively from occupations on the 'Green list' for skills shortage (i.e. those where there has been demonstrated unmet demand in the New Zealand labour market), with capped allocations for each listed profession; as well as a limited number of allocations for iconic Indian professions.<sup>30</sup> All applicants for TEE visas must satisfy the conditions and criteria in the FTA to be able to qualify for a visa under these categories. This includes being able to demonstrate acceptable standard of English, having a New Zealand employment offer with an accredited employer, being suitably qualified for the skilled occupation and having a period of relevant work experience, if specified. Implementing new visa categories will have a fiscal cost and resourcing impact for Immigration New Zealand.

Most of the temporary movement of natural persons commitments are in line with or below existing settings. In some areas the FTA could increase the number of Indian nationals in New Zealand, particularly with the working holiday scheme, contractual services suppliers and the TEE iconic occupations. As with all new visa categories, Immigration New Zealand expects this could lead to some increase in immigration fraud and/or non-compliance, as well as a potential increase in asylum claims.

## 4.8 Chapter 9: Investment Promotion and Cooperation

### *4.8.1 Advantages*

The Investment Promotion and Cooperation chapter aims to deepen the New Zealand-India economic relationship by enhancing two-way foreign direct investment, fostering economic growth, supporting capacity building and innovation, and generating employment opportunities.

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<sup>30</sup> This will comprise capped numbers for the following occupations: Ayush (Indian traditional medicine) practitioners (a maximum of 200 visas at any point in time), music teachers (max. 50), Indian chefs (max. 250) and yoga instructors (max. 100) – i.e. a cumulative total of up to 600 three-year visas at any point in time across these iconic Indian professions (i.e. on average, 200 visas per year).

The cooperation provisions within the chapter could provide New Zealand businesses with greater opportunities to make connections within the Indian market, supporting research and innovation and the flow of technology and knowledge. The provisions are aimed at promoting investment between the two countries and involve roadshows, trade delegations and other events which could allow New Zealand exporters to showcase their businesses to a wider audience within India.

The chapter requires that India establish a dedicated 'New Zealand Desk' which will provide New Zealand businesses with a key contact point to raise issues within the Indian system related to their investment. The Desk will provide assistance and seek to help resolve issues that may arise across the lifecycle of their investment. New Zealand will be one of a few countries for which India will maintain a dedicated investment desk.

#### *4.8.2 Disadvantages*

Under the chapter, New Zealand has undertaken to promote foreign direct investment from investors of New Zealand into India with the aim of increasing such investment by US\$20 billion over a period of 15 years after the date of entry into force of the Agreement. The commitment to promote investment will require New Zealand to increase its efforts to promote India as an investment destination for New Zealand businesses. We could expect that the FTA outcomes may generate significant new interest in greater economic ties with India, given the preferential goods market access and the nearly 100 WTO-plus service commitments.

The chapter is not subject to dispute settlement procedures in the Dispute Settlement chapter. There is instead a detailed and in-depth review and consultation process between the Parties, including at Ministerial level, to resolve differences between the Parties (if any) regarding their commitments. The final review would take place 15 years after the date of entry into force of the Agreement. New Zealand may also request a grace period of an additional three years to comply with its commitments.

If there is a difference of views between the Parties and if consultations do not resolve the matter, the Agreement allows India to impose proportionate remedial measures (rebalancing tariff concessions) if it determines New Zealand has not fulfilled its commitment under Article 9.2. If remedial measures are imposed, they are intended to be temporary and terminated once the investment objective has been achieved. New Zealand may request consultations with India if the remedial measures continue for more than five years. If remedial measures are imposed, they would have the potential to undermine the benefits of the FTA to New Zealand – demonstrating the importance of New Zealand undertaking its investment promotion commitments as agreed.

## 4.9 Chapter 10: Competition

The objective of the Competition chapter is to promote fair competition and consumer welfare in order to facilitate trade and investment flows between New Zealand and India

and support the efficient functioning of each Party's market. The chapter requires both Parties to maintain and enforce competition laws that address anti-competitive practices in relation to all commercial activities, including public enterprises. It also enables cooperation between competition authorities on enforcement and policy matters and provides procedural safeguards to ensure transparency and fairness.

#### *4.9.1 Advantages*

This chapter seeks to ensure a level playing field for New Zealand exporters operating in India. It requires India to apply its competition laws to help to promote competitive neutrality and reduce the potential for state-owned enterprises or other public entities to receive preferential treatment. This will help support fairer conditions for New Zealand businesses competing in the Indian market, including in sectors where state-linked enterprises are active.

The chapter also strengthens confidence in the transparency and predictability of India's competition regime by requiring that any exemptions from the application of national competition laws are transparent, established in law, and based on public policy or public interest grounds. This requirement reduces the likelihood of ad hoc or informal exemptions that could disadvantage foreign competitors. It also ensures New Zealand retains the ability to manage its own competition regime in a manner consistent with domestic priorities.

The chapter contains procedural fairness provisions, including the right to be heard and the right to judicial review (appeal rights). These disciplines enhance confidence that enforcement actions in India will be conducted transparently and with due process. The chapter also requires that confidentiality be maintained for commercially sensitive information obtained by its national competition authority during investigations.

Cooperation provisions between the New Zealand and Indian competition authorities will facilitate information exchange and policy coordination where it is in both Parties' interests to do so. This cooperation will support effective enforcement and help ensure that both New Zealand and Indian competition agencies, and competition regimes, remain fit for purpose in an evolving economic environment, including the digital economy.

Although the chapter is not subject to dispute settlement, it provides a mechanism for government-to-government consultations where concerns arise.

#### *4.9.2 Disadvantages*

No significant disadvantages are expected to arise from this chapter for New Zealand. New Zealand maintains a well-developed and well-functioning competition regime under the *Commerce Act 1986*, enforced by the Commerce Commission. The obligations in this chapter are consistent with New Zealand's current law and practice, and no legislative or policy changes are required.

## 4.10 Chapter 11: Intellectual Property

The Intellectual Property chapter affirms India and New Zealand's existing obligations under the WTO Agreement on Trade-Related Intellectual Property (TRIPS) and other international intellectual property agreements and includes provisions that are consistent with those agreements and New Zealand's existing intellectual property and consumer protection laws and policies<sup>31</sup>.

### 4.10.1 Advantages

The chapter provides greater certainty and clarity for exporters in relation to the protection, defence and enforcement of intellectual property associated with any goods or services trade into India. The obligations affirm New Zealand's existing obligations under TRIPS and other international intellectual property agreements and are consistent with New Zealand's existing intellectual property and consumer protection laws and policies.

The chapter allows for cooperation between India and New Zealand on intellectual property issues, on request, subject to availability of relevant resources. This includes a requirement to endeavour to exchange information and cooperate to enhance the understanding of intellectual property related aspects of genetic resources, traditional knowledge, and traditional cultural expressions.

### 4.10.2 Disadvantages

The chapter does not give rise to any significant disadvantage for New Zealand. The provisions of the chapter are consistent with New Zealand's existing international commitments (including under TRIPS) and domestic policy settings. New Zealand does not need to amend any existing laws to meet the requirements of the chapter. However, alongside existing international intellectual property commitments, the chapter will limit future policy flexibility for New Zealand to tailor its intellectual property regulatory system to respond to domestic issues as they arise.

## 4.11 Chapter 12: Trade and Sustainable Development

The chapter provides that New Zealand and India will promote international trade to contribute towards: broad-based, sustained and inclusive economic growth; social development; environmental protection; and progressing long-term strategies for transition. The Parties agree to work to integrate and reflect these objectives in their trade relationship.

The chapter includes a range of reciprocal trade and environment and trade and labour commitments, including that neither Party will use its respective labour or environmental

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<sup>31</sup> Note also the separate side letter under which the Parties agree to undertake a review of the geographical indication commitments (see 4.17.7 below).

standards to restrict trade, or to lower these for trade advantage. The Agreement establishes a Trade and Sustainable Development Committee which will review and monitor the implementation and operation of the chapter and its mutually beneficial cooperation activities. The chapter is not subject to dispute settlement.

#### *4.11.1 Advantages*

The chapter includes commitments not to use labour or environmental standards to restrict trade between Parties or lower these for trade advantage. The chapter also affirms both Parties' commitment to implement the multilateral environmental agreements to which they are a party. The ability of the multilateral trading system and the WTO to encourage sustainable resource use, ecosystems and long-term growth is recognised. The chapter commits each party to implement the International Labour Organization (ILO) conventions it has ratified and to respect, promote and realise the fundamental ILO principles and rights at work for workers in both India and New Zealand. Parties will enhance cooperation on areas of mutual interest, such as exchange of information on responsible business conduct and the ILO Decent Work Agenda.

Under the chapter, the Parties undertake to endeavour to strengthen their cooperation on environmental, climate and issues of mutual interest in relevant bilateral, regional, and multilateral fora in which they participate. The chapter highlights cooperation areas including: women's entrepreneurship and full, equal and meaningful participation in the economy; action to conserve biodiversity including in preventing the spread of invasive alien species; the conservation and sustainable management of forests and trade in sustainable forest products, and combatting illegal logging; addressing illegal, unreported and unregulated (IUU) fishing and promoting sustainable fishing practices; exploring opportunities for climate and energy solutions, climate-smart and climate-resilient agriculture; and exploring opportunities for possible future cooperation under Article 6 of the Paris Agreement, which includes a framework for cooperation on the bilateral trading of emissions reductions and removals.

Although the chapter is not subject to dispute settlement, it provides a mechanism for government-to-government consultation for either Party to raise implementation issues or concerns, in particular through the Trade and Sustainable Development Committee.

#### *4.11.2 Disadvantages*

No significant disadvantages are expected to arise from this chapter for New Zealand. However, the chapter is not subject to dispute settlement, in the way that similar chapters under our FTAs with the UK and EU have been. However, the chapter includes a specific consultation and dialogue provision to provides a mechanism for government-to-government consultation, including in relation to any implementation concerns.

All obligations in this chapter are consistent with New Zealand's current law and practice, and no legislative or policy changes are required.

## 4.12 Chapter 13: Cultural, Trade, Traditional Knowledge and Economic Cooperation

This chapter provides a cooperation framework for the Parties to enhance the ability for SMEs, Māori-owned enterprises, tribal enterprises, artisans, and community-led startups to access and benefit from the trade opportunities created by this Agreement. The chapter identifies the contributions that traditional knowledge, traditional medicine systems, and traditional cultural expressions can make to support innovation, sustainability, and economic empowerment.

### 4.12.1 Advantages

The chapter highlights the Parties' intentions to cooperate to enable and advance their peoples' economic and cultural aspirations. It also outlines the importance that New Zealand places on supporting Māori-owned enterprises and to implement the chapter in a manner consistent with Te Tiriti o Waitangi/the Treaty of Waitangi.

The chapter identifies the role that trade agreements play in facilitating and expanding trade, and economic opportunities, addressing disparities, and to preserve, protect, and promote traditional knowledge, including traditional systems of medicine, and traditional cultural expressions.

The chapter sets out several cooperation activities to achieve its objectives, including:

- exchanges on best practices, lessons learned, and technical matters;
- collaborating on traditional knowledge that may help to innovate or adapt to new challenges;
- traditional medicines and healing systems, including AYUSH (Ayurveda, Yoga & Naturopathy, Unani, Sowa-Rigpa, Siddha, Homeopathy), ethno-medicine, herbalist and ritual-based healing systems for India and Rongoā Māori (a multi-dimensional form of Māori care and healing) that offer a holistic approach to health and well-being, including physical, mental, emotional and spiritual health;
- collaborating to enhance the ability for SMEs, Māori-owned enterprises, tribal enterprises, artisans, and community-led startups to access and benefit from the trade opportunities created by this Agreement, including through promoting information exchanges on product certifications and standards, including AYUSH products, and professional qualifications with a view to improving mutual understanding and identifying potential areas for future harmonisation as well as entrepreneurship development, capacity building and other initiatives that empower SMEs, artisans, and community-led startups;
- supporting science, research and innovation links;
- identifying potential areas of cooperation between businesses for the mutual benefit of both Parties, and developing, supporting and strengthening business networks, cooperation and partnerships, including through trade missions;

- promoting trade in sectors relevant for SMEs, Māori-owned and tribal enterprises, including businesses that relate to or derive from traditional knowledge, biodiversity, and traditional cultural expressions such as arts and crafts, dance, music and tourism;
- facilitating study-abroad programs or other similar educational or research practices, cultural exchanges, research and development;
- undertaking joint research projects, publications, and extra-curricular academic events;
- collaboration and cooperation in training, research and teaching activities for AYUSH and Rongoā Māori practitioners;
- enhancing dialogue between the Parties to consolidate and expand the trade relationship, understanding, and cooperation in fields of common interest between the Parties; and
- any other area of mutual interest that the Parties may agree to.

The chapter does not impose legal or financial obligations on either Party, and it is not subject to dispute settlement mechanisms under the Agreement.

#### *4.12.2 Disadvantages*

There are no evident disadvantages to New Zealand from this chapter. An important consideration in implementing the chapter will be identifying key priorities and opportunities, as well as resourcing to support cooperation activities.

### 4.13 Chapter 14: Economic Cooperation and Technical Assistance

The Economic Cooperation and Technical Assistance chapter sets out how cooperation will be established and managed. It is intended to support the effectiveness and efficiency of the implementation and utilisation of the FTA through activities that relate to trade, investment and capacity building. Cooperation and the provision of technical assistance under the FTA is intended to promote and facilitate trade and investment between the Parties, provide opportunities to grow relationships between government agencies and businesses of the two Parties, and to foster economic growth.

#### *4.13.1 Advantages*

This chapter allows New Zealand to build long-term and strategic relationships with India across the board, including with both government and industry. This cooperation will not only allow New Zealand government and business to build and strengthen relationships that will be critical to maximising the opportunities of the Agreement, but also utilise them for opportunities which may present themselves – such as any change in trade conditions, new access, or commercial partnership deals etc. Establishing New Zealand as an important partner in helping India grow its primary industries, a key Indian government

goal, will be crucial in tapping into India's growing economy and the growing trade opportunities arising from the FTA more generally.

The chapter is clear that cooperation activities will be established by mutual decision and as resources allow, meaning that activities will take place only where both sides see benefit in doing so, and are able to resource.<sup>32</sup> The same applies in other sections of the chapter relating to cooperation, such as technology transfer and the establishment of action plans, which will take place subject to mutual agreement.

Where a decision is made by the Parties to undertake cooperation activities, the chapter provides clear process guidelines for establishing and running those activities which can be applied across all sectors, such as the option for inclusion of non-government experts. This common structure and procedure will ensure that cooperation activities can be more easily established and monitored for effectiveness.

The establishment of the Joint Agriculture Productivity Council (JAPC) to oversee primary industry cooperation under the Agriculture Productivity Partnership will ensure that New Zealand is able to socialise its cooperation activities, and strengthen ties, at a senior level in India (Director-General/Secretary equivalent). The chapter also allows for cooperation outside of the FTA and for other issues of interest beyond cooperation to be discussed within the Joint Agriculture Productivity Council. Equally, the establishment and operation of Committee on Economic Cooperation and Technical Assistance (CECTA) to oversee non-agriculture-based cooperation under the chapter will also provide a valuable forum for growing and strengthening relationships within key sectors in India.

#### *4.13.2 Disadvantages*

The chapter will involve costs in relation to its procedural requirements, and any cooperation or technical assistance activities New Zealand agrees to provide.

The JAPC and CECTA are required to meet annually to review and provide direction for cooperation activities between the Parties. In addition, the chapter contemplates separate working groups (run at officials' level) being established in relation to thematic areas of cooperation. While the establishment of these working groups will need to be agreed (and no obligations or costs will arise in relation to a working group until it is established), it is expected New Zealand may need to participate in multiple working groups and to agree and oversee work programs in individual thematic areas.

Any cooperation or technical assistance New Zealand agrees to provide under the chapter will involve costs for the New Zealand government and private sector parties involved in those activities. However, any such activities must first be agreed before any commitments arise. The chapter is clear that the cooperation and technical assistance activities listed against each thematic area in the Annex are indicative only and must be formally discussed and agreed before any commitment arises. However, while New Zealand retains flexibility, to maintain and build the relationship with India it will be

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<sup>32</sup> Noting that, as part of the chapter, New Zealand has agreed to undertake agreed cooperation activities for a Kiwifruit Action Plan, Apples Action Plan and Honey Action Plan – for further details, see below.

important to ensure that meaningful cooperation activities are established and maintained across the thematic areas listed in the Annex, resourced appropriately.

The Agriculture Cooperation and Technical Assistance Thematic Areas Annex sets out specific areas for potential cooperation. This Annex also requires New Zealand to perform its commitments in relation to the Kiwifruit, Apples and Honey Action Plans outlined in the Annex (noting that the final details of the Action Plans will be agreed separately to the FTA). Delivery of New Zealand's performance obligations in relation to each these action plans is directly linked to each of the kiwifruit, honey and apples market access outcomes secured by New Zealand. India has made clear its expectation that cooperation activities under these plans start prior to entry into force of the FTA. The Action Plans will require both industry and Government to deliver them and commit the necessary resourcing. Officials are working closely with relevant industry groups to finalise the details of these action plans given the majority of the performance obligations will sit with industry, including through the sharing of expertise and the establishment of Centres of Excellence within India. A key to the success of these plans will be the full commitment by Indian agencies/sectors to the Action Plans which is outside of the direct control of the New Zealand Government. However, the proposed cooperation has been designed with significant input from relevant New Zealand sectors and significant engagement with relevant agencies in India which should help to mitigate risks.

#### 4.14 Chapter 15: Small and Medium-Sized Enterprises

This chapter provides for cooperation between the Parties to enhance the ability of SMEs to benefit from opportunities arising under the Agreement. It requires each Party to make key information about the Agreement freely available online. This includes information that would be useful for SMEs interested in taking advantage of the opportunities provided by the Agreement.

The chapter establishes contact points for each Party. Contact points are responsible for exchanging information, including sharing best practice in supporting SMEs, facilitating communication between the Parties and coordinating cooperation initiatives. The chapter is not subject to dispute settlement.

##### *4.14.1 Advantages*

This dedicated SMEs chapter has the potential to benefit New Zealand SMEs interested in exporting to India. Benefits include access to key information and the potential for cooperation activities directed at SMEs.

##### *4.14.2 Disadvantages*

There are no disadvantages to New Zealand under this chapter. The commitments in respect of information provision align with the practice in New Zealand of ensuring businesses have good access to information. They also align with existing commitments in other FTAs.

## 4.15 Chapter 16: Transparency

The Transparency chapter includes transparency provisions intended to assist businesses operating in India. It imposes procedural requirements with a view to ensuring that Parties administer measures covered by the Agreement in a consistent, impartial, and reasonable manner.

### *4.15.1 Advantages*

The chapter requires the Parties to promptly publish on an official website its laws, regulations, procedures and administrative rulings of general application with respect to any matter covered by the Agreement.

The Parties must maintain judicial, arbitral or administrative tribunals or procedures for the prompt review and, if warranted, correction of administrative decisions with respect to any matter covered by the FTA.

To the extent possible, each Party shall notify the other Party of any measure that might materially affect the operation of the FTA or substantially affect the other Party's interests under it. Upon request of a Party, the other Party shall provide information and respond to questions.

### *4.15.2 Disadvantages*

The Transparency chapter contains provisions that are consistent with existing policy and practice. As a result, there would be no disadvantage to New Zealand committing to these provisions.

## 4.16 Legal and Institutional Chapters

FTAs include legal and institutional provisions that cover matters such as how and when the Agreement will enter into force, how it will relate to other international agreements already in place, how Parties should resolve issues in the event of a dispute, and what exceptions are allowed. In the NZ-India FTA, the legal and institutional provisions are covered by chapters on Initial Provisions, Administrative and Institutional Provisions, Exceptions and General Provisions, Dispute Settlement, and Final Provisions.

### *4.16.1 Advantages*

#### *Exceptions and General Provisions*

The Exceptions chapter sets out a number of exceptions which provide additional safeguards that ensure as far as possible that the FTA does not impair a government's ability to make policy and undertake measures to further that policy. These exceptions are in addition to the specific flexibilities and safeguards negotiated in different areas of the

Agreement. The obligations in the FTA have been drafted so as not to impair the ability of countries to regulate and take other measures in the public interest, but should there be a situation where such government action (or inaction) would breach an obligation, then the Exceptions and General Provisions chapter provides a safety net. If a situation arises in which a country is shown to have violated an obligation, it is then up to that country to prove that a relevant exception applies.

Taken together and as a whole, the exceptions will allow New Zealand to benefit from the negotiated outcomes of the FTA, while being assured the Government can continue to implement policies through certain measures that would otherwise constitute violations of the FTA's obligations. This is broad ranging in its application as the exceptions cover a wide variety of policy areas that are critical for government, including Te Tiriti o Waitangi/the Treaty of Waitangi, security, and taxation. Key aspects of the chapter text are as follows:

- The chapter adopts in part the WTO approach to preserving public policy space. It does so by incorporating the General Agreement on Tariffs and Trade (GATT) general exceptions (Article XX), which allow the Parties to, for example, adopt measures necessary to protect public morals; or measures (including environmental measures) necessary to protect human, animal or plant life or health; or measures related to the conservation of exhaustible natural resources, provided that they are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade.
- Importantly for New Zealand, and consistent with past practice, the FTA includes a Tiriti o Waitangi/Treaty of Waitangi exception. This allows New Zealand to take measures it deems necessary to accord more favourable treatment to Māori in respect of matters covered by the Agreement, including in fulfilment of its obligations under Te Tiriti o Waitangi/the Treaty of Waitangi. It also states that the interpretation of Te Tiriti o Waitangi/the Treaty of Waitangi is not subject to dispute settlement.
- The security exception is a separate and different exception to the general exception referred to above. This allows Parties to adopt non-discriminatory measures necessary to protect public security. The exception would allow a Party to take any action which it considered necessary for the protection of its essential security interests in certain circumstances. Those circumstances include the protection of information, measures taken in a time of domestic emergency, war or other emergency in international relations, or any action taken in accordance with the United Nations Charter for the maintenance of international peace and security.
- The taxation exception sets out the scope of application of the Agreement's obligations to taxation measures and provides various exceptions and policy space for governments in this area. The taxation exception outlines that the FTA does not apply to direct taxes. Direct taxes are broadly defined as taxes on income including individual and corporate income taxes where taxes are paid directly to the government. As such, the FTA only applies to indirect taxes, these are taxes such as GST where the tax is collected by an intermediary and passed on to the government. As such New Zealand preserves its existing rights to regulate in respect of direct taxes.

- The balance of payments exception provides policy flexibility in the case of serious balance of payments or external financial difficulties. It provides for limited circumstances where the Parties could put in place restrictive measures on payments or transfers relating to the movements of capital, and on payments or transfers for current account transactions.

#### *Dispute Settlement*

The Dispute Settlement chapter (which applies to the majority of chapters) includes some mechanisms that vary from New Zealand's previous FTA practice and WTO procedures, but it achieves the same overall outcome of providing effective, efficient, fair and transparent processes for the resolution of a dispute. The chapter requires the Parties to make every attempt to resolve disputes through cooperation and consultations before resorting to the procedures provided for in the chapter.

Under the Dispute Settlement chapter, the New Zealand Government will be able to pursue a matter to formal dispute resolution should the India fail to act consistently with its obligations under the Agreement. This would help ensure the advantages gained across the Agreement remain accessible to New Zealand goods and services exporters. For example, if New Zealand brought a successful claim against India, and India did not bring the relevant measure into compliance with the FTA, New Zealand could impose increased tariffs on products from India in order to induce it to bring the measure into compliance. This form of robust, transparent dispute settlement procedure is considered to be to New Zealand's advantage, particularly as a strong rules-based system has historically proved to the advantage of smaller trading nations like New Zealand.

#### *4.16.2 Disadvantages*

The legal and institutional provisions in the Agreement do not present any disadvantages to New Zealand. Legal and institutional procedures are by their nature reciprocal, and measures taken by the New Zealand Government would be subject to the same dispute settlement procedures as are available for New Zealand. Historically, New Zealand has been subject to only one complaint by a trading partner. This was under the GATT dispute settlement system. To date New Zealand has not been subject to any complaints under our FTAs, reflecting our transparent and rules-abiding approach.

### 4.17 Side Letters

As described above, the following seven side letters have been agreed as part of the negotiation to be signed and exchanged alongside the signature of the FTA:

#### *4.17.1 Wine Trade – Most Favoured Nation*

India affirms that wine imports from New Zealand will be automatically subject to treatment as favourable as that provided to imports of wine from any non-party with respect to customs duties or other charges connected to that importation. This is a significant advantage to New Zealand, as it means New Zealand wine exporters will benefit

from any future liberalisation granted by India to another trading partner. An example of this is the improved tariff concessions for wine provided for in the India-EU FTA, concluded after the NZ-India FTA (with tariffs reducing to 20% or 30%, based on the price point, over seven years). This side letter will ensure New Zealand wine exporters will always be subject to the lowest tariffs in the Indian market, on an ongoing basis. There are no disadvantages for New Zealand in relation to this side letter.

#### *4.17.2 Dairy Consultations*

This side letter confirms that if India offers tariff concessions on core dairy products classified in HS headings 0401-0406 (such as liquid milk or cream, milk powders, cheese, or butter, etc) as part of a trade agreement in force with a comparable non-Party, upon New Zealand's request, India agrees to consult on whether to offer similar treatment to New Zealand in the Agreement as part of and during the review of the Agreement. Unless the Parties agree otherwise, such consultations may commence no later than 60 days after the date of the request and will be undertaken with the view to conclude consultation within 180 days.

#### *4.17.3 Organics*

This side letter confirms that India and NZ have negotiated an Interim Mutual Recognition Arrangement (MRA) that facilitates reciprocal trade in organic products based on the acceptance of a mutually accepted third country's standard (Australia). Parties also agree to endeavour to conclude negotiations of an MRA of organics equivalence of their own technical regulations and conformity assessment procedures within 12 months of the Agreement entering into force.

#### *4.17.4 Comparable Regulators – Medical Devices*

To support the outcome in the Annex on Medical Devices, this side letter lists regulatory authorities that are recognised as a 'comparable regulator' by each Party and allows the Parties to amend the list by written notice.

#### *4.17.5 Comparable Regulators – Pharmaceuticals*

To support the outcome in the Annex on Pharmaceuticals, this side letter lists regulatory authorities that are recognised as a 'comparable regulator' by each Party and allows the Parties to amend the list by written notice.

#### *4.17.6 Geographical Indications*

Under the Geographical Indications side letter, India and New Zealand commit to undertake a review of the Geographical Indications (GI) section of the Intellectual Property chapter.

The review obligation in the side letter will provide an opportunity for India to seek amendments to the FTA to provide a mechanism to secure protection, as well as a standard of protection, for Indian GIs, such as 'basmati', in New Zealand. The review is to be

undertaken with a view to providing Indian GIs<sup>33</sup> no less favourable treatment under the FTA than is provided for under the NZ-EU FTA (including that protection should not be limited to GIs for wine and spirits). The side letter contemplates changes to GI obligations under the FTA that will apply to both Parties and that each Party will have the opportunity to nominate its own GIs for protection in the other country.

The Parties have agreed to commence the review on the signing of the FTA and to complete the review with six months of the FTA's entry into force.

No agreement to change the GIs section would be entered into unless it can be established that the changes would result in a net benefit to New Zealand. Any agreement to amend the GIs section would include consideration and more detailed analysis of advantages and disadvantages, and quantification of costs and benefits, to New Zealand. Although these are all speculative and unquantifiable until there is an agreement, we discuss below potential advantages and disadvantages, costs and benefits arising from the review process and agreement to make changes.

#### *Advantages*

Subject to agreement being reached, the review provides a potential alternative avenue to secure protection of New Zealand GIs in India without New Zealand producers needing to seek protection under, and incur costs associated with, India's domestic procedures.

#### *Disadvantages*

The review of the GIs section, and potential agreement and subsequent obligation to protect an unspecified number of India GIs could create a range of costs for the Government, its agencies and New Zealand businesses, including importers, domestic producers, wholesalers and retailers. These costs cannot yet be quantified and the incurring of these costs (and any benefits arising) would depend on what is agreed to with India arising from the review. The nature and scope of some of these costs are discussed below.

#### *During the review*

While aspects of the review would need to be agreed with India, the process is expected include elements that were similar to the negotiation of the protection of GIs under the NZ-EU FTA. This would include the negotiation of specific obligations on the standard of, and mechanisms for, protection of GIs under the FTA, as well as discussions on the protection of individual GIs nominated by each Party.

As was the case with the NZ-EU FTA, any GIs nominated by India would need to be subject to a public opposition process, under which nominated GI names are publicly notified for interested parties to oppose their protection.<sup>34</sup>

The review, negotiation and public opposition process will be run by MFAT, working closely with MBIE and MPI, with most costs needing to be met within baselines.<sup>35</sup>

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<sup>33</sup> Note that this provision only references the standard of protection of Indian GI and not New Zealand GIs.

<sup>34</sup> New Zealand is required to run a public opposition process under the Article 18.36 of the CPTPP.

<sup>35</sup> Some costs incurred during the review may be able to be recovered from the Trade Negotiation Fund administered by MFAT.

The public opposition process will also involve costs for any interested party. These are likely to be importers, producers, wholesalers and retailers already using a name nominated by India to be protected as a GI to describe their own goods to oppose the protection of any India GI names nominated for protection in New Zealand. The side letter identifies BASMATI as an India GI to be nominated during the review. Given the term 'basmati' is in common use to describe a rice variety in New Zealand and is being used by various businesses importing and/or selling basmati rice produced outside of India, the review will cause costs to be incurred by them to oppose the protection of the term as an India GI.<sup>36</sup>

Based on the opposition process that was run in relation to EU FTA negotiations, the relevant costs to oppose an India-nominated GI would likely be similar to costs faced by a business opposing applications for the registration of a GI under the Geographical Indications Act 2006 and registration of trademarks under the Trade Marks Act 2002. Cost would be incurred from, for example: seeking legal advice, undertaking sector engagement and gathering appropriate information and relevant evidence to support an opposition.

*Implementing of an agreement to amend the GIs section*

Costs would be incurred by the Government, and in particular by MFAT, and Parliament to examine any agreed changes to the GIs section.

Costs would also be incurred during the legislative process to implement any agreement by Parliament, the Government, and in particular for government agencies (including MFAT, MBIE and PCO) to prepare and support passage of legislative changes to the *Geographical Indications Registration Act 2006*. These costs would depend on the number of provisions needing to be amended and complexities of the amendments required.

There would also be costs to any interest person to participate in the Parliamentary process to, for example, make a submission to a relevant Select Committee inquiry into the amendments and/or implementation Bill.

*Post-implementation*

While it is speculative at this early stage to discuss any costs arising from a potential agreement, if the review results in the protection of any Indian GIs that are already used in New Zealand to describe a locally produced or imported product, that protection would impose costs on the existing importers, producers, wholesalers and retailers to review and amend their labelling, packaging and advertising material to stop any misleading commercial use of that India GI term. The impact of some of these costs and the timing of when they would need to be incurred may be able to be minimised should India agreed to either the grandparenting or transitional phasing out of use those names it nominates for protection that are currently in use by New Zealand businesses.

Minor costs would be incurred by:

- MBIE to administer an amended Geographical Indications Registration Act that includes expanded GIs register with agreed India GIs protected in New Zealand;

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<sup>36</sup> Noting the opposition to the protection of 'basmati' as a certification trade mark in the High Court of New Zealand judgment *APEDA v Commissioner of Trade Marks* [2025] NZHC 3264.

- MPI to enforce a larger number of registered GIs (once agreed India GIs become registered); and
- MFAT/MBIE/MPI to communicate information to businesses about India GIs that become protected in New Zealand.

These costs would be expected to be met within existing baselines.

#### *4.17.7 Working Holiday Visas*

A new Working Holiday Scheme (WHS) will be introduced that provides young Indian graduates (aged 18 to 30) the ability to holiday in New Zealand, while working to support their stay. Visa conditions will align with similar WHS arrangements with other countries, including China, Türkiye, Philippines, and Viet Nam.

In addition to supporting greater tourism numbers, this could also help to alleviate work shortages, particularly seasonal work shortages in the tourism, hospitality, and horticultural sectors.

If India implements a similar youth mobility program in the future with any country, it will extend the opportunity to participate in such a program to New Zealand's citizens.

This letter is a non-binding side letter that does not impose binding legal obligations on the Parties.

## 5. Legal Obligations which would be Imposed on New Zealand by the Treaty Action, Reservations to the Treaty, and Dispute Settlement Mechanisms

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### 5.1 Chapter 1: Initial Provisions and General Definitions

The Initial Provisions chapter does not impose any legal obligations on the Parties. The chapter establishes a “free trade area” in accordance with WTO (GATT and GATS) rules, and it sets out general definitions that apply to the entire Agreement.

### 5.2 Chapter 2: Trade in Goods

#### *Elimination or Reduction of Customs Duties*

Each Party is required to eliminate or reduce customs duties on originating goods in accordance with their tariff schedules in Annex 2A (Article 2.3).

#### *National Treatment on Internal Taxation and Regulation*

Each Party is required to afford national treatment to the goods of the other Party in accordance with Article III of GATT 1994 (Article 2.4).

#### *Administrative Fees and Formalities*

Each Party is obliged to ensure that all fees and charges of whatever character (other than customs duties, charges equivalent to an internal tax or other internal charges applied consistently with Article III:2 of GATT 1994, and anti-dumping and countervailing duties and safeguard measures) imposed on or in connection with importation or exportation are limited in amount to the approximate cost of services rendered and that they do not represent an indirect protection to domestic goods or a taxation of imports or exports for fiscal purposes (Article 2.5(1)). Each Party shall not require consular transactions, including any related fees and charges, in connection with the importation of any good of the other Party (Article 2.5(2)). Each Party is obliged to promptly publish and update as appropriate details of the fees that it imposes in connection with importation or exportation and shall make such information available on the Internet (Article 2.5(3)).

#### *Customs Valuation*

Each Party is obliged to determine the customs value of goods traded between them in accordance with Article VII of the GATT 1994 and Articles 1-17 of the Customs Valuation Agreement (Article 2.6).

#### *Classification of Goods and Transposition of Schedules*

The classification of goods in trade between the Parties shall be governed by each Party’s respective tariff nomenclature in conformity with the Harmonized System (HS) and its amendments (Article 2.7(1)). Each Party must ensure that transposition of tariff elimination schedules is carried out without impairing or diminishing the tariff commitments set out in its tariff schedule (Article 2.7(2)).

*Import and Export Restrictions*

Except as otherwise provided in this Agreement, each Party is not permitted to prohibit or restrict the importation of any good of the other Party, or the export of any good to the other Party, except in accordance with Article XI of GATT 1994 (Article 2.8).

*Import Licensing*

Article 2.9 contains the following obligations relating to import licensing: a prohibition on measures that are inconsistent with the WTO Import Licensing Agreement (Article 2.9.1); an obligation to publish any new or modified import licensing procedures on an official government website, to the extent practicable at least 21 days before the new procedure or modification takes effect (Article 2.9.2), and to provide such information to the other Party upon request (Article 2.9.4).

*Application of Non-Tariff Measures*

Each Party is required not to adopt or maintain any non-tariff measure on the importation of any good of the other Party or on the exportation of any good destined for the territory of the other Party, except in accordance with the WTO Agreement or this Agreement (Article 2.10.1) and ensure the transparency of any permitted non-tariff measures and that they are not prepared, adopted or applied with the view to, or with the effect of, creating unnecessary obstacles to trade between the Parties (Article 2.10.2).

*Temporary Admission*

Each Party is required to allow, in accordance with its laws and regulations, specified goods to be brought into its territory relieved from payment of customs duties if they are intended for re-exportation within a specific period and satisfy the stated conditions (Article 2.11).

*Duty-Free Entry of Commercial Samples and Printed Advertising Materials*

Each Party is required, in accordance with its laws and regulations, to grant duty-free entry to commercial samples of negligible value, and to printed advertising materials, imported from the territory of the other Party of any origin (Article 2.12).

*Goods Returned or Re-Entered After Repair or Alteration*

Each Party is required to grant duty-free entry to goods that re-enter its territory after that good has been exported from its territory to the territory of the other Party for repair or alteration, except that a customs duty may be applied to the value addition resulting from the repair or alteration that was performed in the territory of the other Party, in accordance with a Party's laws and regulations (Article 2.13).

*Export Subsidies*

As per the WTO Ministerial Conference Decision on Export Competition, adopted in Nairobi on 19 December 2015, each Party agrees not to maintain any export subsidies that are inconsistent with their obligations under the WTO Agreement on Agriculture for any agricultural product listed in Annex 1 of that agreement (Article 2.14).

*Publication and Administration of Trade Regulations*

Each Party is required to administer all its laws, regulations, decisions and rulings in relation to trade in goods in a uniform, impartial and reasonable manner, and to the extent possible, make these publicly available on the internet. (Article 2.15).

*Data Sharing on Preference Utilisation*

Each Party is required to exchange comprehensive import statistics annually or as otherwise agreed, including value and volume at the tariff line level, in order to monitor functioning of the Agreement and calculating preference utilisation rates (Article 2.16).

*Committee on Trade in Goods*

Each Party is required to participate in meetings of the Committee on Trade in Goods, which shall take place within one year of the date of entry into force of this Agreement and annually thereafter or as otherwise agreed (Article 2.17.3). The Goods Committee's functions include: reviewing and monitoring the implementation and operation of the chapter; promoting trade in both agricultural and non-agricultural goods between the Parties, including through consultations on accelerating tariff elimination under this Agreement, and promptly addressing non-tariff barriers to trade in goods between the Parties; adopting decisions or making recommendations; addressing issues relating to the administration and operation of tariff rate quotas; examining any issues related to future amendments to the Harmonized System including transposition of Parties' schedules and classification of goods, and endeavouring to seek appropriate solutions through consultation and dialogue and to ensure that the obligations of the Parties are not altered; and other matters that relate to trade in goods (Article 2.17.2). Technical working groups may be established by the Committee on Trade in Goods to consider any matter relating to the chapter that creates disruption or may affect trade in goods between the Parties; such working groups are required to report back to the Goods Committee (Article 2.17.4).

*Contact Points and Consultations*

Each Party is required to designate a Contact Point to facilitate communication between the Parties on any matter relating to the chapter, within 60 days of the date of entry into force of the Agreement, and to promptly notify the other Party, in writing, of any change to its contact point (Article 2.18.1). Each Party is required to respond promptly to any request for information or consultations made via the contact point, should the other Party consider that any proposed or actual measure of the other Party may materially affect trade in goods between the Parties (Article 2.18.2).

*Annexes to the Trade in Goods Chapter*

The Trade in Goods chapter has three annexes: Annex 2A (Schedules of Tariff Commitments, including each Party's Tariff Commitments, (Appendix 2A-1 (India) and Appendix 2A-2 (New Zealand)), Annex 2B (Implementation and Review of Economic Cooperation Action Plans and Related Tariff Rate Quotas), and Annex 2C (Arrangement for Fast-Tracking the Import of Inputs for Use in Manufacturing of Goods Meant for Export).

*Annex 2A (Schedules of Tariff Commitments)*

This Annex includes four sections: Section A sets out general provisions in relation to the Parties' tariff schedules; Section B relates to the Tariff Schedule of India appended as Appendix 2A-1, and provides details on staging categories and the tariff rate quotas (TRQs), including applicable out-of-quota commitments; Section C relates to the Administration and Implementation of TRQs; and Section D relates to New Zealand's tariff schedule.

The provisions in Annex 2A Section C (Administration and Implementation of TRQs) state that:

- TRQs established under the FTA are to be administered in a transparent, objective, non-discriminatory and minimally burdensome manner in accordance with each Party's laws and regulations, and are to be as conducive to trade as possible;
- if the FTA enters into force part-way through a calendar year, TRQ quantities for that year are to be pro-rated;
- imports under TRQs established under the FTA will require:
  - a valid export certificate, allocated by New Zealand to exporters or producers; with clear details of the item, permitted quantity and the details of importer; and
  - a TRQ Authorisation issued by India on demand, without delay, conditional only on presentation by the importer of a valid export certificate; valid until the end of the quota year;
- imports under TRQs established under this Agreement shall not be subject to any additional requirements, conditions or restrictions than those set out above, unless mutually agreed.
- the competent authority for export certificates in New Zealand shall provide the competent authority of India, through electronic means to enable a streamlined process, information on allocations to exporters and designated importers in an agreed format, on a quarterly basis or as otherwise agreed; and
- either Party may make a written request for discussions on matters relating to the operation of a TRQ, and the other Party must respond within 30 days. The Annex notes that India may raise concerns if it is of the view that its importers, MSMEs in particular, have not been able to access quota in a manner consistent with the transparency, non-discrimination, and minimal burden provisions noted above. If discussions are requested, these are to commence within 60 days, unless otherwise mutually determined, with a view to reaching a mutually satisfactory solution.

*Annex 2B (Implementation and Review of Economic Cooperation Action Plans and Related Tariff Rate Quotas)*

This Annex:

- acknowledges and appreciates the collaborative efforts made by each side to enhance economic cooperation and foster strong partnership;

- notes Chapter 14 (Economic Cooperation and Technical Assistance) and the Action Plans therein for apples, honey, and kiwifruit, valid for five years from their commencement, with any extension subject to agreement on duration and terms as mutually decided by the Parties in writing;
- specifies that the TRQs and market access provided is subject to New Zealand fulfilling its commitments under the respective Action Plans, and ensuring that the necessary resources and support are made available to do so;
- commits the Parties to meet at least every six months, through the Joint Agriculture Productivity Council (JAPC) established under Article 14.5, to review the progress of the Action Plans and address any issues;
- states that India may request consultations with New Zealand and seek to agree a mutually satisfactory solution where New Zealand is unable to fulfil its commitments; and
- states that if no mutually agreed solution is reached within 30 days, either Party may refer the matter to the JAPC; if the JAPC does not reach a mutually agreed solution within 60 days of that referral, either Party may refer the matter to the Joint Commission; if no mutually agreed decision is reached within 60 days of that referral; either Party may refer the matter for a Ministerial-level discussion for resolution. If no resolution is reached at Ministerial level, India may notify New Zealand of its intention to rebalance its concessions and may suspend the market access provided for the relevant product, as appropriate, in whole or in part; this access will be reinstated if New Zealand meets its commitments under the Action Plan or the Parties otherwise reach a mutually agreed solution.

*Annex 2C (Arrangement for Fast-Tracking the Import of Inputs for Use in Manufacturing of Goods Meant for Export)*

This Annex:

- agrees to implement, by entry into force of the Agreement, a dedicated fast-track arrangement through which New Zealand exporters will be able to supply Indian businesses inputs from New Zealand, including dairy ingredients, duty-free for use in the manufacture of products for export from India.
- agrees that the Parties may decide the operation and modalities of the fast-track arrangement, and to review the administration, implementation and functioning of the arrangement, and address any associated issues.

### 5.3 Chapter 3: Rules of Origin

The Rules of Origin chapter sets out the rules for determining whether goods traded between the Parties can be considered to “originate” from a Party, and therefore qualify for preferential tariff rates, and other benefits, provided in the NZ-India FTA. All FTAs include such rules.

*Origin Determination*

Each Party is required to provide two avenues for goods to qualify as 'originating' and thereby qualify for preferential tariff treatment (Article 3.2). These are that the good:

- is wholly obtained or produced in the territory of one or both of the Parties, as provided for in Article 3.3 (Wholly Obtained or Produced Goods); or
- satisfies all applicable requirements of the relevant Product Specific Rules of Origin (PSRs) set out in Annex 3A.

The methods set out in the PSR Annex for determining whether goods qualify as originating under the second option are:

- change in tariff classification (CTC): under this approach, a good will qualify as originating if all materials not originating in NZ or India that are used in the production of that good, have undergone a specified change of tariff classification at either the chapter ("CC"), heading ("CTH") or subheading ("CTSH") level of the Harmonised System (HS);
- value added, identified as qualifying value content (QVC): this approach is based on the value added by New Zealand or Indian producers satisfying the percentage specified in the Annex for that product (e.g. "QVC 40%" or "QVC 45%", etc); or
- process rule: under this approach, a good will qualify as originating if it has completed a specific production process specified in the Annex for that product (e.g. Melt & Pour, etc).

Article 3.3 (Wholly Obtained or Produced Goods) sets out which goods shall be deemed to be wholly obtained or produced in the territory of a Party. This includes goods such as plants, animals and fungus or goods produced exclusively from wholly originating goods. Of note, unlike other New Zealand FTAs, this Agreement allows for a 1% de minimis tolerance for the use of non-originating materials in the production of a wholly obtained good.

Article 3.4 (Bilateral Cumulation) requires each Party to provide for the cumulation of materials, which enables Parties to produce goods that count as originating in the respective Party when using originating goods from the other Party.

Article 3.5 (Calculation of Qualifying Value Content) sets out the two methods to be used to determine the QVC of a good.

There is a list of insufficient working or processing operations (Article 3.7) that will not confer origin, even if the QVC value is met. This includes processes such as the slaughter of animals or repacking operations.

Under Article 3.8 De Minimis, in general, each Party will allow a small tolerance for a good (10 percent of the value of the good) so that a small amount of non-originating materials may be used in production even if they do not meet the required change contained in tariff

classification in the PSR Annex, provided the good meets all the other applicable requirements of the chapter.

Articles 3.9 to 3.13 set out in more detail specific conditions in relation to determining the origin status of a good. This includes the treatment of indirect materials and packaging materials.

Under Article 3.14 (Consignment), a good must either be transported directly from the exporting Party to the importing Party, or if the good is transported through the territory of a non-Party, it must not undergo further alterations and remain under customs control in that non-Party. This allows some simple processes to be undertaken on originating goods.

#### *Origin Certification*

Each Party must allow an importer to make a claim for preferential tariff treatment based on a certificate of origin from a competent authority or through a declaration completed by an approved exporter at entry into force of the Agreement (with a view to extending to all exporters and producers subject to a mandated review five years after entry into force) (Article 3.15, Proof of Origin). Each Party will establish a mechanism for approving exporters. This is further clarified in Article 3.20 (Approved Exporter), while Article 3.23 (Waiver of Proof of Origin) sets out that the requirement for a proof of origin may be waived.

Article 3.16 (Application for a Certificate of Origin) establishes the process for applying for a Certificate of Origin, and the requirements on issuing bodies are established in Article 3.18 (Authorities).

Article 3.17 (Non-Party Invoicing) allows for the invoice for an imported good to be issued in a non-Party, recognising business practices such as sale of a good 'on the water'.

Each Party is required to ensure that a producer, exporter or importer who holds records relating to a proof of origin retains them for five years or longer in accordance with a Party's relevant laws and regulations. These records can be held in any form as long as they can be promptly retrieved and must be provided on request to a customs authority (Article 3.22 Record Keeping Requirements).

Recognising that a claim under the Agreement for a preferential tariff rate may not always be made at the time of importation, Article 3.21 (Claims for Preferential Tariff Treatment), requires Parties to allow an importer to apply for preferential tariff rates for a previously imported good and seek a refund of any excess duties paid, provided the good would have qualified for preferential tariff treatment when it was imported and adequate supporting documentation is provided.

Article 3.25 (Verification of Origin and Procedures) details the means a Party may use to verify whether a good qualifies for origin status under the chapter. The article establishes a staged verification process, details the information that can be sought, the timelines for actions to be undertaken in, and requires a written notification of the result of the verification activity.

Article 3.26 (Denial of Preferential Tariff Treatment) and Article 3.27 (Temporary Suspension of Preferential Treatment) set out the thresholds and requirements for a Party to withhold and/or suspend preferential treatment. For each there is a set of escalatory steps that must be followed.

Article 3.28 (Penalties) outlines that Parties shall adopt appropriate sanctions for violation of customs laws and regulations. However, Article 3.24 notes that Parties are encouraged to consider voluntary notifications of errors as mitigating factors.

Article 3.29 (Goods in Transport or Storage) specifically provides for goods in transit at the date of entry into force of the Agreement to be able to apply for preferential tariff treatment provided a valid claim for preferential treatment is submitted within 180 days of entry into force.

Article 3.30 (Minor Discrepancies or Errors) confirms that minor errors in, or discrepancies between, documents should not result in them being declined as proof of origin, provided the errors or discrepancies do not create doubt as to the origin of the goods.

Article 3.31 (Confidentiality) provides for the confidentiality of information communicated between the Parties, recognising that information may be disclosed for law enforcement and judicial purposes.

Article 3.32 establishes a Technical Committee on Rules of Origin to address issues such as updates to the Harmonized System and to maintain effective administration of the chapter.

Article 3.33 (Exchange of Electronic Data on Origin) contains a commitment to establish an electronic system for exchanging information on Certificates of Origin by entry into force of the Agreement, and a further commitment to extend this to other forms of Proof of Origin (i.e. Origin Declarations), including a mechanism for establishing the authenticity of self-declarations.

## 5.4 Chapter 4: Customs Procedures and Trade Facilitation

This chapter includes a range of obligations in respect of customs administration and trade facilitation, including customs cooperation. These commitments fall within current New Zealand policy settings and include:

- ensuring Customs procedures and laws are applied in a manner that is consistent, transparent, and non-discriminatory (Article 4.3.1) and that customs laws and procedures conform with international standards and recommended practices (Article 4.3.2). This includes ensuring comprehensive information on customs laws and requirements is easily accessible and published online (Article 4.5), and ensuring the issuance of advance rulings on origin, classification and valuation (Article 4.8). There is also a commitment to establish enquiry points to answer enquiries from traders pertaining to customs matters (Article 4.6.1)

- ensuring the ability to seek review and appeal of any decision made by customs authorities, and for the outcome of the review or appeal to be provided in writing, including the reasoning behind the outcome of the review and appeal (Article 4.9)
- enabling the use of electronic systems and automation (Article 4.10)
- establishing or operating a single window so traders can submit documentation or data requirements to relevant participating authorities through a single portal (Articles 4.17)
- ensuring the expeditious clearance and release of goods as follows:
  - each Party is required to adopt or maintain procedures providing for advance electronic submission and processing of information before the physical arrival of imported goods to enable release of the goods as soon as possible after arrival (Article 4.11.2(b));
  - imported goods must be released within 48 hours of arrival upon receipt of the Customs Declaration and fulfilment of applicable requirements and procedures (Article 4.11.2(a));
  - endeavouring to release perishable goods (Article 4.13) within 24 hours of arrival, provided all necessary requirements have been met and the goods are not subject to inspection or examination. Perishable goods will also be given appropriate priority when scheduling any required examinations (Article 4.13.3); and
  - endeavouring to release express shipments (Article 4.12) within 24 hours of arrival, provided all necessary requirements have been met and the goods are not subject to inspection or examination.
- adopting or maintaining a risk management system for assessment and targeting that enables respective Customs administrations to focus inspection activities on high-risk consignments and expedite release of low-risk consignments (Article 4.14)
- limiting controls, formalities and documentation related to importation, exportation, and transit to only those that are necessary and appropriate (Article 4.16). Parties are required to minimise the incidence and complexity of import, export, and transit formalities and documentation with a view to simplifying compliance requirements for traders
- ensuring pre-shipment inspections will not be required in relation to tariff classification and customs valuation (Article 4.15)
- adopting or maintaining penalties for violations of customs laws, regulations and procedural requirements and ensuring that those penalties are proportionate and non-discriminatory (Article 4.19)
- encouraging cooperation between the Parties' customs agencies on customs-related matters, with a view to further developing trade facilitation while ensuring compliance

with respective customs laws and procedures, and improving supply chain security (Article 4.21).

- establishing or maintaining an Authorised Economic Operator (AEO) programme for traders who meet specified criteria (Article 4.22), which includes specific benefits.

## 5.5 Chapter 5: Trade Remedies

Section A of the chapter provides that:

- the Parties maintain their rights and obligations under Article VI of GATT 1994 and the WTO Anti-Dumping Agreement with regard to the application of anti-dumping measures (Article 5.1);
- the Parties will maintain their rights and obligations under Article VI of GATT 1994 and the WTO SCM Agreement with regard to the application of countervailing duty measures (Article 5.2); and
- if either Party imposes an anti-dumping or countervailing duty, it may consider applying a duty less than the margin of dumping or the amount of the subsidy, as relevant, where such lesser duty would be adequate to remove the injury to the domestic industry (Article 5.3).

Section B confirms the Parties will maintain their rights and obligations under Article XIX of GATT 1994, and the WTO Safeguards Agreement (Article 5.4).

Neither Party shall have recourse to dispute settlement for any matter arising under Section A or B of the Trade Remedies chapter (Article 5.11).

Section C provides for the ability to apply a Bilateral Safeguard Measure under the Agreement, for a transitional period, under specified circumstances.

The definition provision contains key definitions including definitions of "bilateral safeguard measure", "domestic industry", "serious injury", "threat of serious injury" and "transition period" which are consistent with those of the WTO Safeguards Agreement (Article 5.5).

Under Article 5.6 (Application of a Bilateral Safeguard Measure), before either Party is able to impose a bilateral safeguard measure, its domestic industry must incur serious injury, or a threat of serious injury, as a result of the elimination or reduction of a customs duty under the FTA, and only during the transition period (until 14 years after the date on which the elimination or reduction of the customs duty on a particular good is completed). The provision also stipulates the form of the bilateral safeguard measure if the grounds for imposing the measure have been met and that a bilateral safeguard measure shall not be applied to any good imported under a tariff rate quota established under the FTA.

Any bilateral safeguard measure is subject to the following conditions and limitations:

- a bilateral safeguard measure shall only be imposed following an investigation by the Party's competent authorities (Article 5.7.1)
- upon initiating an investigation, a Party shall notify the other Party and shall provide adequate opportunity for prior consultations with the other Party in advance of applying a bilateral safeguard measure (Article 5.7.2)
- a Party shall complete an investigation within one year (Article 5.7.3)
- neither Party shall apply or maintain a bilateral safeguard measure for longer than two years (with a possible further extension of a year) and only as long as is necessary to prevent or remedy serious injury and to facilitate adjustment of the domestic industry (Article 5.7.4)
- a bilateral safeguard measure or provisional bilateral safeguard measure shall be terminated at the end of the transition period (Article 5.7.5)
- a bilateral safeguard measure shall only be applied again to a good which has been previously subject to such a measure after a certain period of time has elapsed and certain conditions have been met (Articles 5.7.6 and 5.7.7)
- a bilateral safeguard measure shall not be imposed on a good that is subject to a global safeguard measure (Article 5.7.8)
- a bilateral safeguard measure must be progressively liberalised at regular intervals during its period of application (Article 5.7.9).

Article 5.8 provides the conditions and limitations for imposing a provisional bilateral safeguard measure including that:

- there is clear evidence that a Party's domestic industry has incurred serious injury, or threat of serious injury, resulting from increased imports from the other Party as the result of the reduction or elimination of a customs duty under the FTA and that critical circumstances exist where a delay in imposing a provisional bilateral safeguard measure would cause damage that would be difficult to repair (Article 5.8.1).
- the Party imposing the provisional bilateral safeguard measures shall notify the other Party of the preliminary determination and shall immediately initiate consultations after applying the provisional bilateral safeguard measure (Article 5.8.2).
- a provisional measure cannot be maintained for longer than 200 days (Article 5.8.3).
- the provisional measures collected shall be promptly refunded if the investigation does not determine that definitive safeguard measures are warranted (Article 5.8.4).

Consultations should be conducted between the Party imposing the safeguard measures and the Party subject to the safeguard measures in order to agree on an appropriate form of compensation and provides for rules around when and under what conditions those consultations, and the resulting compensation, should take place including the time limits by which the consultations should take place (Article 5.9).

Agricultural goods shall not be subject to any duties applied by the other Party pursuant to a special safeguard taken under the WTO Agreement on Agriculture (Article 5.10).

## 5.6 Chapter 6: Sanitary and Phytosanitary Measures

The chapter applies to all sanitary and phytosanitary (SPS) measures that may, directly or indirectly, affect trade while protecting human, animal, and plant life and health. It is consistent with New Zealand's existing rights and obligations under the WTO Agreement on Sanitary and Phytosanitary Measures (SPS Agreement), and no changes to existing New Zealand legislative empowerments are anticipated.

In relation to *International Standards* and the application of risk assessment procedures to justify SPS measures, India and New Zealand have agreed:

- to base sanitary and phytosanitary measures on the relevant international standards, guidelines or recommendations, where they exist, except as otherwise provided in the SPS Agreement (Article 6.5 Risk Assessment).
- to strengthen cooperation on risk assessment in accordance with the SPS Agreement while taking into account the relevant decisions of the WTO SPS Committee and international standards, guidelines, and recommendations.
- to endeavour to progress without undue delay requested risk assessments for products, in accordance with agreed priorities, to keep each other informed of progress, consider least trade restrictive options, and allow for the other party to provide comments.
- not to stop the importation of a product of the other Party where the importing Party is undertaking a review of a sanitary or phytosanitary measure, except where it is justified on the basis of the emergency measures criteria.

In relation to *Adaptation to Regional Conditions* (Article 6.6), India and New Zealand have agreed to further:

- recognise the concepts of regional conditions, including pest- or disease-free areas and areas of low pest or disease prevalence, as set out in Article 6 of the SPS Agreement, taking into account the relevant decisions of the WTO SPS Committee and relevant international standards, guidelines and recommendations.
- cooperate on the recognition of regional conditions, and as appropriate the application of [World Organisation for Animal Health \(WOAH\)](#) or [International Plant Protection Convention \(IPPC\)](#)-recognised treatments, with the objective of acquiring confidence in the procedures followed by the other Party, and may also recognise each other's systems and capabilities in advance.
- respond to enquiries and complete assessments of requests for recognition of regional controls within a reasonable period of time where the exporting Party

establishes officially controlled regional conditions and submits sufficient supporting information.

- provide the rationale in writing where a decision is made not to recognise, or when existing recognitions are amended or revoked, and cooperate to assess whether changes can be made.

In relation to *Equivalence* (Article 6.7), India and New Zealand have further agreed to:

- to recognise the equivalence of sanitary or phytosanitary measures, even if the measures differ from those established by the importing Party, provided they achieve the importing Party's appropriate level of protection.
- upon request, enter into consultations based on the relevant WTO SPS Committee decisions and international standards with the aim of achieving bilateral recognition agreements or arrangements of equivalence of the specific measure, groups of measures or on a system-wide basis as it relates certain products or categories of products.

In relation to *Certification, Import Permits and Approval Procedures* (Article 6.8), India and New Zealand have further agreed to:

- Strengthen cooperation with a view to reducing duplication and ensure measures related to certification, import permit and approval procedures are in accordance with relevant provisions of Annex C of the SPS Agreement and take into account the relevant decisions of the WTO SPS Committee, and international standards, guidelines, or recommendations.
- ensure that certification requirements are applied only to the extent necessary to protect human, animal or plant life or health and to cooperative to promote the implementation of paperless trade through electronic SPS certification.
- endeavour to ensure that any required import permits just reflect those requirements that are necessary to meet the appropriate level of protection and are issued without undue delay and on a non-discriminatory basis.
- that they may develop simplified certificate models and attestations where equivalence, regionalisation or other recognitions have been agreed under this chapter.
- that they may also develop simplified establishment and product approval processes based the recognition of control, inspection and approval processes already applied in the territory of the other Party.

In relation to *Audits* (Article 6.9), India and New Zealand have further agreed to:

- undertake system-based audits in accordance with the relevant provisions of Annex C of the SPS Agreement, where audits are required, taking into account the relevant decisions of the WTO SPS Committee, and international standards, guidelines, or recommendations.

- fund their own costs, protect confidentiality and ensure that any measures taken in response to an audit are not more trade restrictive than necessary to achieve the importing Party's appropriate level of protection.

In relation to *Import Checks* (Article 6.10), India and New Zealand have further agreed to:

- undertake import checks in accordance with relevant provisions of Annex C of the SPS Agreement and take into account the relevant decisions of the WTO SPS Committee, and international standards, guidelines, or recommendations.
- ensure import checks are risk proportionate, are not more trade-restrictive than required to achieve its appropriate level of protection, are applied without undue delay using appropriate risk-based sampling methodologies and ensure incidents of non-compliance are reported to the importer and where appropriate the exporting competent authority.
- consider amending the frequency or intensity of import checks that would normally apply to a commodity class based on the performance of each other's national controls.
- provide the importer and, where appropriate, the exporting Party and certifying competent authority with an opportunity for a review of the decision and or mitigate the identified risk considering least trade restrictive options.

In relation to *Transparency and Exchange of Information* (Article 6.12), India and New Zealand have further agreed to:

- provide notifications covering any new or revised SPS measures that may affect trade between them, including emergency measures imposed to protect human, animal or plant life or health through the WTO central registry, relevant international organisation, or via the chapter contact point of the other Party.
- respond within a reasonable period of time to any request for relevant information or clarification from the other Party regarding its SPS measures, including with respect to model certificates or attestations.
- Unless urgent problems of human, animal or plant life or health protection arise, threaten to arise, or the measure is of trade facilitating nature, the Party proposing an SPS measure shall normally allow at least 60 days for the other Party to provide written comments on the proposed measure after it makes a notification to the WTO. The Party proposing the measure shall consider any reasonable request from the other Party to extend the comment period.

India and New Zealand have agreed to establish a *Committee on SPS Measures* ("*SPS Committee*") (Article 6.14) which:

- may discuss any implementational matter and shall review the progress made by the Parties in implementing their commitments under this chapter (including those relating to cooperation capacity building).

- may develop bilateral implementing arrangements to set out mutually determined understandings and details for applying this chapter, including for example those documenting the recognition of: Equivalence; Regionalisation; Product Treatments; Certification, Controls, Inspections and Approval Processes; Import Permits; Audits; Establishment Lists; Import Checks; changes to Contact Points and Competent Authorities; the use of CODEX or National Maximum Residue Limits for import; and any other matter as mutually decided.
- may hold joint meetings with the Biosecurity, Food and Primary Products Committee also established under the Agreement to consider additional matters within the regulatory authority of the competent authorities and shall provide any recommendations or report to the Joint Commission as necessary.

In relation to *Technical Consultations* (Article 6.15), India and New Zealand have further agreed to:

- provide for detailed explanations of the nature and scientific basis for an SPS measure, and or facilitate technical consultations within 30 days of a request, where both parties shall endeavour to reach a mutually satisfactory solution, where:
  - a Party has specific trade concerns regarding SPS measures proposed or implemented by the other Party, or
  - a Party considers that an SPS measure of the other Party is affecting its trade with the other Party.

In relation to *Emergency SPS Measures* (Article 6.16), India and New Zealand have further agreed to:

- notify the other as soon as possible, take into consideration any information provided by the other Party in response to the notification and where requested engage in technical consultations within 15 days.
- transparently review the scientific basis of any emergency measure every six months and discuss the findings with the aim of revoking or developing a revised measure that would permit trade to recommence.

In relation to *Non-Application of Dispute Settlement* (Article 6.17), India and New Zealand have further agreed that:

- neither Party shall have recourse to dispute settlement under Chapter 19 (Dispute Settlement) for any matter arising under this chapter.
- the SPS Committee shall undertake a review of the application of dispute settlement four years from entry into force and may submit recommendations to the Joint Commission for their consideration.

## 5.7 Chapter 7: Technical Barriers to Trade

The Technical Barriers to Trade (TBT) chapter builds on New Zealand's existing rights and obligations under the WTO Agreement on Technical Barriers to Trade (TBT Agreement).

In relation to *Standards*, New Zealand and India have agreed:

- to base decisions on the principles set out in relevant decisions and recommendations of the WTO TBT Committee when determining whether an international standard, guide, or recommendation exists (Article 7.5.2)
- to ensure that its standardising body or bodies that prepare, adopt, and apply national standards accept and comply with Annex 3 of the WTO TBT Agreement (Article 7.5.3)
- to strengthen coordination and communication on international standards and in related international fora (Article 7.5.4)
- where a Party is developing a national standard and modifies an existing relevant international standard to encourage its standardising bodies to provide information on the differences and the reason for those differences (Article 7.5.5)
- to ensure that standardising bodies do not prepare, adopt, or apply standards with the view or effect of, creating unnecessary obstacles to international trade (Article 7.5.6)
- to encourage cooperation between its standardising body or bodies, and the standardising body or bodies of the other party (Article 7.5.7).

In relation to *Technical Regulations*, New Zealand and India have agreed:

- to use relevant international standards or parts of them, as a basis for its technical regulations. Otherwise, the Party shall explain the reasons why such standards were considered inappropriate or ineffective for the aim pursued, on request (Article 7.6.1);
- to consider available alternative technical regulations in order to ensure that a proposed technical regulation is not more trade restrictive than necessary (Article 7.6.2);
- to give positive consideration to accepting the technical regulations of the other Party as equivalent, even if they differ, provided it is satisfied that those regulations adequately fulfil the objectives of its own technical regulation (Article 7.6.3);
- where a Party does not accept a technical regulation of the other Party as equivalent to its own, to explain its decision upon the other Party's request (Article 7.6.4);
- when a Party does not specify technical regulations based on product requirements in terms of performance rather than design or descriptive characteristics, to endeavour to provide its reasons for doing so upon the other Party's request (Article 7.6.5);

- except where urgent issues of safety, health, environmental protection, or national security arise or threaten to arise, to allow a reasonable interval (normally no less than six months) between the publication of technical regulations and their entry into force (Article 7.6.6);
- when the other Party is interested in developing a similar technical regulation, to endeavour to provide them with, to the extent practicable, relevant information, except for confidential information, used to develop the technical regulations (Article 7.6.7); and
- to apply its technical regulations, that are prepared and adopted by its central government bodies, to its whole territory (Article 7.6.8).

In relation to *conformity assessment procedures*, New Zealand and India have agreed:

- to use relevant international standards as a basis for their conformity assessment procedures, except where such standards are inappropriate for the Party concerned and duly explained upon request (Article 7.7.1);
- to ensure, whenever possible, that results of conformity assessment procedures in the other Party are accepted, even when they differ from its own, unless those procedures do not offer an assurance of conformity with applicable technical regulations or standards equivalent to its own procedures (Article 7.7.3);
- to explain, upon request of the other Party, its reasons for not accepting the results of a conformity assessment procedure conducted in the other Party (Article 7.7.4);
- to share, upon reasonable request, information or experiences with mechanisms that facilitate the acceptance of the results of conformity assessment procedures conducted in the other Party (Article 7.7.6);
- to take into consideration the status or membership in such organisations of relevant bodies in the Parties in facilitating cooperation in conformity assessment (Article 7.7.7);
- to encourage cooperation between their relevant conformity assessment bodies in working closer with a view to facilitating the acceptance of conformity assessment results between the Parties (Article 7.7.8); and
- to allow, whenever possible, participation of conformity assessment bodies of the other Party in its conformity assessment procedures under conditions no less favourable than those accorded to conformity assessment bodies in that Party. (Article 7.7.9). Where it does not allow participation, the Party shall explain the reasons upon request (Article 7.7.10).

New Zealand and India have agreed the following *cooperation commitments*:

- to strengthen cooperation between their respective organisations responsible for standards, technical regulations, conformity assessment procedures (Article 7.8.1);

- to positively consider proposals for cooperation on matters of mutual interest on standards, technical regulations and conformity assessment procedures, upon request of the other Party (Article 7.8.2);
- to ensure cooperation is on mutually agreed terms and conditions (Article 7.8.3) and to consider sector specific cooperation proposals, upon request (Article 7.8.4).

New Zealand and India have agreed the following commitments for *technical discussions*:

- when a Party considers the need to resolve an issue, it may make a written request for technical discussions, and the other party shall respond as early as possible (Article 7.9.1); and
- technical discussions will begin within 60 unless otherwise mutually determined (Article 7.9.2). Requests for technical discussions shall be made through the Parties respective Contact Points (Article 7.9.3).

New Zealand and India have agreed the following *transparency commitments*:

- to take into account relevant decisions and recommendations in the Decisions and Recommendations adopted by the WTO Committee on Technical Barriers to Trade since 1 January 1995, as may be revised, issued by the WTO TBT Committee (Article 7.10.1);
- to provide, upon written request, the text or summary of its notified technical regulations and conformity assessment procedures in English. If unavailable, the Party shall provide a summary of the notified technical regulations and conformity assessment procedures within, if possible, 30 days after receiving the request the contents of the summary shall be determined by the requested Party (Article 7.10.2);
- to endeavour to normally allow 60 days from the date of notification to the WTO, in accordance with the WTO TBT Agreement for the other Party to provide comments, except where urgent problems of safety, health, environmental protection, or national security arise or threaten to arise. The Party shall take the comments of the other Party into account and endeavour to respond to those comments on request (Article 7.10.3);
- to allow persons of the other Party to participate in consultation procedures that are available to the general public for technical regulations, national standards and conformity assessment procedures by the Party, on terms no less favourable than those accorded to its own persons. (Article 7.10.4);
- to shall ensure that all new final or amended technical regulations and conformity assessment procedures are publicly available (Article 7.10.5); and
- to provide, upon request and unless otherwise provided in this chapter, any information or explanation requested by a Party pursuant to this chapter, electronically and in English, within an agreed reasonable time and if possible within 60 days (Article 7.10.6).

New Zealand and India have agreed the following commitments in relation to *marking and labelling*:

- if a Party requires marking or labelling of products in the form of a technical regulation:
  - the Importing Party shall accept that labelling to take place in the territory of the importing party in accordance with its relevant laws, regulations, and customs procedures, as an alternative to labelling in the exporting Party, unless that labelling is necessary in view of the legitimate objectives referred to in the WTO TBT Agreement;
  - the Importing Party shall, unless it considers that legitimate objectives under the WTO TBT Agreement are compromised as a result, endeavour to accept supplementary, non-permanent, or detachable labels, or marking or labelling in the accompanying documentation rather than physically attached to the product;
  - provided that it is not misleading, contradictory, inconsistent, or confusing, or that the Importing Party's legitimate objectives are not compromised, the Importing Party shall permit the following:
    - information in other languages in addition to the language required in the Importing Party
    - internationally accepted nomenclatures, pictograms, symbols, or graphics in addition to those required in the Importing Party
    - additional information to that required in the Importing Party.

The Parties have agreed to establish a *Committee on Technical Barriers to Trade* (Article 7.13.1). The Committee shall meet as mutually agreed, in person or as mutually agreed (Article 7.13.2).

#### 5.7.1 Annex 7A: Medical Devices Annex

Under the Medical Devices Annex, New Zealand and India have agreed:

- to work together to reduce unnecessary regulatory barriers, as appropriate, in the approval of medical devices
- to seek to collaborate through, and actively participate in, relevant international initiatives, such as those aimed at harmonisation of international standards for medical devices
- where not already a member, to positively consider working towards membership of, international organisations, such as those which are leading the development and harmonisation of international standards for medical devices
- to establish a list of 'comparable regulators' and notify the other Party of this list, and notify any changes to the list in a timely manner

- to utilise, as appropriate, reports from regulatory authorities recognised as 'comparable regulator' in relation to that Party's the pre-market evaluation of medical devices manufactured in the territory of the other Party
- to accept, without prior inspection, the Quality Management Systems (QMS) or Good Clinical Practice (GCP) certificates, or test results, issued by a conformity assessment body approved or recognised by that Party's comparable regulator, for the purpose of approval or registration of medical devices - subject to the qualification that each Party has a right to conduct its own inspection of manufacturing facilities or additional testing of the relevant medical device, and that the Party's own inspection or additional testing shall be an exception from normal practice.
- to review the Medical Devices Annex after five years from entry into force of the Agreement and that any further reviews will take place as mutually agreed; and
- that neither Party shall have recourse to dispute settlement under Chapter 19 (Dispute Settlement) for any matter arising under this Annex.

#### *5.7.2 Annex 7B: Pharmaceuticals Annex*

Under the Pharmaceuticals Annex, New Zealand and India have agreed:

- to work together to reduce unnecessary regulatory barriers, as appropriate, in the approval of pharmaceuticals
- to seek to collaborate through, and actively participate in, relevant international initiatives, such as those aimed at harmonisation of international standards for pharmaceuticals
- where not already a member, to positively consider working towards membership of, international organisations, such as those which are leading the development and harmonisation of international standards for pharmaceuticals
- to establish a list of 'comparable regulators' and notify the other Party of this list, and notify any changes to the list in a timely manner
- where provided by the applicant, utilise, as appropriate, reports from regulatory authorities recognised by that Party as a 'comparable regulator' in relation to the pre-market evaluation of products manufactured in the territory of the other Party
- where provided by the applicant, to utilise, as appropriate, Good Manufacturing Practice (GMP) inspection reports or certificates from a 'comparable regulator' recognised by that Party in relation to the quality assessment of manufacturing facilities in the territory of the other Party
- that human prescription medicines approved in their respective territories shall meet the requirements as prescribed, from time to time, by their National Regulatory Authority; and
- where relevant, to give positive consideration to the other Party's recognised or adopted pharmacopeia, if the relevant quality standards are not included in those

requirements, or any pharmacopeia recognised by that Party's National Regulatory Authority

- to normally accept, without prior inspection, GMP certification of sites in the other Party's territory that manufacture human prescription medicines provided this certification is issued by that Party's comparable regulator.
- market authorisation applications shall be assessed in accordance with the applicable laws, regulations, and procedures of a Party. Parties shall determine market authorisations in a timely, reasonable, objective, transparent, and impartial manner;
- to consider establishing or maintaining "fast-track" procedures for human prescription medicines, having valid approvals from that Party's comparable regulators, subject to the recognition of quality standards and inspections described in Paragraphs 6 (Recognition of Quality Standards) and 7 (Good Manufacturing Practice (GMP) and Good Clinical Practice (GCP) inspections) of this Annex;
- to review the Pharmaceuticals Annex after five years from entry into force of the Agreement and that any further reviews will take place as mutually agreed; and
- that neither Party shall have recourse to dispute settlement under Chapter 19 (Dispute Settlement) for any matter arising under this Annex.

### *5.7.3 Annex 7C: Wine, Whisky and Other Distilled Spirits*

Under the Annex, New Zealand and India have agreed:

- to make information about their respective laws and regulations concerning wine publicly available (Paragraph 3);
- that unless otherwise provided, importation and sale of wine is conducted in compliance with the importing Party's law and regulations (Paragraph 4);
- to a definition of wine meaning a beverage that is produced by the complete or partial alcoholic fermentation exclusively of fresh grapes, grape must, or products derived from fresh grapes clarifying that wine includes sparkling (including carbonated) and fortified wines (Paragraph 5 and footnote 2);
- to permit the use of the term 'wine' as the product name (Paragraph 6). Where a product contains no more than 0.5% alcohol by volume, a Party may require additional qualifiers or descriptions as provided for in its laws and regulations (Paragraph 7);
- to Parties' ability to require truthfulness of information, and to certain specifications in the context of language and legibility of labelling information (Paragraphs 8, 9 and 10);
- a requirement that Parties permit information to be repeated whether or not in the same form in accordance with its laws and regulations (Paragraph 11);

- a right for Parties to prohibit certain label claims for health and safety reasons (Paragraph 12);
- to permit the use of supplementary labels with certain parameters (Paragraph 13), but with a Party's ability to restrict such supplementary labels if required by the Party's laws and regulations (Paragraph 14);
- to permit net content information to be displayed using the metric system and displayed as either millilitres or litres using a variety of abbreviations (Paragraph 15);
- to not require certain date marking information for wine with certain exceptions (Paragraphs 16 and 17);
- to endeavour to not require a disclosure of additives or processing aids permitted by the importing party on the wine labels or containers, except for human health or safety objectives (Paragraph 18);
- to permit alcoholic content to be displayed in various forms, and in percentage terms to one decimal point (Paragraph 19);
- to allow vintage labelling for wine in line with the exporting Party's law provided that at least 85% of the wine is derived from grapes of that vintage (Paragraph 20);
- to permit variety labelling for wine in line with the exporting Party's rules, if such wine conforms to varietal composition permitted in line with exporting law and at least 75% of such wine is obtained from grapes of that variety. Multi-variety labelling is subject to further conditions including that each variety listed is in greater proportion in the wine than varieties not listed and that such varieties are listed in descending order, and if required by the importing Party in characters of the same size, and that at least 85% of the wine so labelled is obtained from grapes of those varieties. (Paragraphs 21 and 22);
- that Parties must not require translations of a trademark or trade name on a wine container, label or packaging (Paragraph 23);
- that Parties have the right to require lot identification on wine labels (Paragraph 24);
- that defacement of lot identification is prohibited unless the importing party permits otherwise (Paragraph 25);
- to not require imported wine to be certified by an official certification body of the Party in whose territory the wine was produced regarding vintage, varietal and regional claims for wine, unless such certification is required due to reasonable and legitimate concerns about a vintage, varietal or regional claim (Paragraph 26 and 27);
- to permit sale of existing stock (until exhausted) that has been produced or labelled in line with requirements in place at entry into force (Paragraph 28);
- to provide a reasonable transitional period to the exporting party where the exporting party's wine does not have to comply with a new or amended labelling requirement

if introduced by the importing party affecting wine if the wine has entered the importing party's territory but not yet cleared customs or is in transit between parties (Paragraph 29);

- that the Wine, Whisky, and Other Distilled Spirits Working Group established under Article 17.5 of the Agreement to administer the Annex shall report to the Joint Commission (Paragraph 30).
- that the Working Group will provide a forum to monitor implementation and operation of the Annex and to discuss, progress, and aim to arrive at mutually satisfactory outcomes including on:
  - assessment of the other Party's laws, regulations and requirements in respect of oenological practices with the aim of reaching agreements to provide for each Party's acceptance of the other Party's mechanisms for regulating oenological practices. The Parties have agreed to commence the assessment within one year of the Agreement entering into force and to endeavour to complete the assessment within two years of beginning their assessment;
  - acceptable tolerance levels for imported wines in the context of variation of actual alcoholic strength by volume from that indicated on a label;
  - acidity levels and other limits on imported wines;
  - as to how precise location requirements on wine labels apply to wine traded between parties;
  - supplementary labelling of mandatory information described in Paragraphs 10 and 11;
  - Whisky maturation practices (noting the Parties cannot pre-empt the outcome from this discussion given their respective domestic regulatory regimes – Paragraph 30 and footnote 4). The footnote accounts for New Zealand's standard for whisky being governed by the Australia New Zealand Joint Food Standards Code administered by Food Standards Australia New Zealand.

## 5.8 Chapter 8: Trade in Services

The Trade in Services chapter contains the rules that apply to both India and New Zealand, while each Party's country-specific services market access commitments are made in Annexes 8H and 8I. A sub-set of rules known as 'reservable obligations' are applied to specific services sectors in those Annexes. The sectors which these reservable obligations apply to, along with any limitations, were negotiated bilaterally.

Three obligations in the Trade in Services chapter are *subject to reservations* specified in each Party's schedules of specific commitments (in the case of India) or schedule of non-conforming measures (in the case of New Zealand):

- **National Treatment:** Except as specified, each Party must grant services suppliers of the other Party treatment no less favourable than the treatment it gives its own service suppliers in like circumstances (Article 8.4).
- **Market Access:** Except as specified, a Party cannot place certain types of numerical restrictions on the participation of the other Party's service providers in their market or require specific types of legal entity to be formed to deliver those services (Article 8.5).
- **Most-Favoured-Nation Treatment:** Except as specified, each Party must grant services suppliers of the other Party treatment no less favourable than the treatment it gives to services suppliers from any other country in like circumstances. (Article 8.6).

There are some rules which India and New Zealand have agreed will apply to all services sectors. These are termed non-reservable obligations. These obligations are:

- **Transparency:** The Parties have agreed to standards of regulatory transparency relating to trade in services. These standards relate to publication of relevant regulations or other measures (Article 8.12);
- **Domestic Regulation:** The Parties have agreed standards for the administration of authorisation regimes focusing on the ability of services providers to submit applications and examinations, procedures for review of these applications and examinations, and the fees charged for these processes. The Parties will also review the result of the WTO negotiation pursuant to Article VI.4 of GATS and, as appropriate, incorporate the results into this agreement to ensure each Parties' qualification requirements and procedures, technical standards, and licensing requirements are based on objective and transparent criteria and are not more burdensome than necessary (Article 8.13);
- **Recognition:** Each Party acknowledges that it may recognise the education or experience obtained, requirements met, or licenses or certification granted by a non-party as meeting the standards it requires for authorisation, licensing or certification of a services supplier. A Party is not required to automatically extend such non-party recognition to the other Party but must provide adequate opportunity to the other Party to either accede to or negotiate comparable recognition arrangements to those in place with a non-party or demonstrate that autonomous recognition should also be accorded (Article 8.14); and
- **Monopolies and Exclusive Service Suppliers:** The Parties agree that any existing monopoly providers will not abuse their monopoly position in a way which undermines the market access and national treatment commitments that a Party has undertaken (Article 8.15).

There are a number of areas that are explicitly *exclusions* from the application of the chapter. These are government procurement, subsidies or grants, services supplied in the exercise of government authority, cabotage in maritime transport services, and some air services (Article 8.2).

As noted above, each Party is permitted to have exceptions to the 'reservable' obligations (Articles 8.7 and 8.8). These are termed 'limitations' (for India, using the positive list approach) or 'reservations' (for New Zealand, using a negative list approach). New Zealand's reservations are set out in our Schedule of Non-Conforming Measures (Annex 8I). This schedule is separated into List A (setting out existing measures that New Zealand retains the right to maintain in present form) and List B (setting out sectors where New Zealand reserves the right to adopt measures that would ordinarily breach one or more of the reservable obligations). New Zealand's reservations listed in List A and List B are consistent with previous FTA practice.

#### *5.8.1 Annex 8A: Financial Services Annex*

The Financial Services Annex (Annex 8A) contains a range of obligations relating to trade in financial services. Consistent with the WTO GATS Financial Services Annex, the term "financial services" means any service of a financial nature, and includes all insurance and insurance-related services, and all banking and other financial services (Article 8A.1).

The prudential carve-out (Article 8A.3) allows either side to adopt prudential measures including for the protection of investors, depositors, policy-holders, or persons to whom a fiduciary duty is owed by a financial service supplier, or to ensure the integrity and stability of their financial system.

Article 4 obliges each Party to endeavour to permit a financial institution of the other Party established in the territory of the host Party to supply a new financial service in the territory of the host Party through commercial presence, that the host Party would permit its own financial institutions, in like circumstances, to supply without adopting a law or modifying an existing law.

The Annex also contains a commitment (subject to exceptions, including for legitimate public policy objectives) to refrain from preventing the transfer of information or processing of information necessary to conduct business and the supply of new financial services (Article 8A.8). Pursuant to paragraph 3(d), the Article does not prevent New Zealand from adopting or maintaining measures that it deems necessary to protect or promote Māori rights, interests, duties and responsibilities (including those relating to mātauranga Māori) in respect of matters covered by this chapter, including in fulfilment of New Zealand's obligations under Te Tiriti o Waitangi/the Treaty of Waitangi.

#### *5.8.2 Annex 8B: Telecommunications Annex*

Key obligations include:

- Interconnection with major suppliers (Article 8B.13): ensures that each side's major suppliers provide the other Party's public telecommunications suppliers access to their networks at a fair and reasonable cost and in a timely manner.
- Scarce Resources (Article 8B.10): ensures fair and transparent procedures for the allocation and use of scarce resources (such as 4G and 5G spectrum frequencies) related to telecommunications.

- Mobile Number Portability (Article 8B.5): ensures that suppliers of public telecommunications services provide number portability for mobile services designated by that Party (to the extent technically and economically feasible) on a timely basis, and on reasonable and non-discriminatory terms and conditions.

### *5.8.3 Annex 8C: Temporary Movement of Natural Persons*

The Temporary Movement of Natural Persons Annex ensures efficient application of processing procedures and transparency requirements for temporary entry into and from India. It does not apply to people seeking access to the employment market, nor does it apply to measures regarding citizenship, nationality, residence or employment on a permanent basis (Article 8C.2).

There are requirements on the Parties to meet certain standards for the processing of relevant immigration formalities. Both Parties must:

- make a decision as expeditiously as possible after receiving a completed application (Article 8C.4.1);
- upon request, endeavour to promptly provide the applicant with information concerning the status of the application (Article 8C.4.2);
- promptly inform the applicant of the decision, and if the application has been approved, if the period of stay and other conditions (Article 8C.4.3);
- to the extent practicable, endeavour to accept applications in electronic format (Article 8C.4.4);
- where appropriate accept copies of documents authenticated in accordance with its laws in place of original documents where domestic law allows (Article 8C.4.5);
- ensure fees for processing an application are reasonable, in that they do not in themselves represent an unjustifiable impediment to movement (Article 8C.4.6);
- make publicly available the requirements for temporary entry including relevant forms and documents (Article 8C.5.1); and
- maintain mechanisms to respond to enquiries on regulation affecting temporary entry (Article 8C.5.3).

New Zealand already meets these requirements under current policy settings. These commitments also fall within the bounds of what New Zealand has committed within its previous FTA practice.

Relevant authorities maintain the ability to deny an application for temporary entry if prescribed application procedures are not followed and any of the eligibility requirements are not met (Article 8C.3.2). Even where temporary entry is granted, a business person must still meet any licencing or other requirements, including any mandatory codes of conduct, to practice a profession or otherwise engage in business activities (Article 8C.3.3).

### *New Zealand Commitments*

Each Party is required, under Article 8C.3.1, to set out in a country-specific schedule to Annex 8C (Temporary Movement of Natural Persons) its commitments regarding temporary movement of natural persons. A Party must include in its schedule any conditions and limitations for the entry and temporary stay of designated categories of persons.

This Annex is not subject to dispute settlement unless the matter involves a pattern of practice and individuals have exhausted all available administrative remedies.

New Zealand’s commitments are as follows (Annex 8K):

New Zealand has made commitments as summarised in the following table in respect of Business Visitors, Intra-Corporate Transferees, Installers and Servicers, Independent Services Suppliers, Contractual Services Suppliers, and Partners and Dependent Children.

<b>Category</b>	<b>Description of Category</b>	<b>Conditions and Limitations</b>
Business Visitors	<p>A natural person of a Party whose remuneration and financial support is derived entirely from sources outside New Zealand and is seeking temporary entry to New Zealand for business purposes, such as:</p> <ul style="list-style-type: none"> <li>(i) meetings and consultations;</li> <li>(ii) Training seminars;</li> <li>(iii) Trade fairs and exhibitions;</li> <li>(iv) Taking orders or negotiating sales</li> <li>(v) Purchasing goods or services for an enterprise;</li> <li>(vi) Commercial transactions;</li> <li>(vii) Undertaking business negotiations; and</li> <li>(viii) Tourism personnel,</li> </ul> <p>provided the above are not seeking to enter the New Zealand labour market and whose principal place of business, actual remuneration and predominant place of accrual of profits remains outside New Zealand.</p>	Entry for a period of stay up to 90 days in any 12-month period.
Intra-Corporate Transferees	<p>An executive, manager or a specialist:</p> <ul style="list-style-type: none"> <li>(i) who is an employee of a goods supplier, service supplier or investor of a Party with a commercial presence in New Zealand; and</li> <li>(ii) whose salary and any related payments are paid entirely by the</li> </ul>	Entry for a period of initial stay up to a maximum of three years.

	<p>service supplier or enterprise that employs the intra-corporate transferee.</p>	
<p>Installers and Servicers</p>	<p>A natural person who is an installer or servicer of machinery and/or equipment, where such installation and/or servicing by the supplying company is a condition of purchase of the said machinery or equipment.</p> <p>An installer or servicer cannot perform services which are not related to the service activity which is the subject of the contract.</p>	<p>Entry for periods not exceeding 90 days in any 12-month period.</p>
<p>Independent Service Suppliers</p>	<p>Self-employed Services supplier working on a contractual basis, without a requirement for commercial presence.</p> <p>In the following category only: Independent Professionals.</p> <p>Definition: Self-employed natural person with advanced technical or professional skills, without the requirement for a commercial presence, working under a valid contract in New Zealand.</p> <p>Independent professionals must also have (i) a qualification resulting from three or more years of formal post-secondary school education leading to a recognised degree or diploma and (ii) six or more years of experience.</p> <p>Both (i) and (ii) must be in the field in which the Independent Professionals wish to supply their professional services.</p>	<p>In specified sectors, and subject to economic needs tests, entry for a period of stay up to a maximum of 12 months.</p>
<p>Contractual Services Suppliers</p>	<p>A services supplier employed in their home country working providing services in the other Party on a contractual basis.</p> <p>Definition: natural person employed by a juridical person of a Party that:</p> <ul style="list-style-type: none"> <li>• is not an agency for placement and supply services of personnel</li> </ul>	<p>In specified sectors and subject to an economic needs test, entry for a cumulative period of not more than 12 months or for the duration of the contract, whichever is less.</p>

	<p>and not acting through such agency;</p> <ul style="list-style-type: none"> <li>• has not established in the territory of New Zealand; and</li> <li>• has concluded a bona fide contract to supply services to a final consumer in New Zealand, requiring the presence on a temporary basis of its employees in New Zealand in order to fulfil the contract to supply services.</li> </ul> <p>Additionally, a contractual services supplier must have:</p> <ul style="list-style-type: none"> <li>(i) a tertiary-level degree of at least 3 years duration and the relevant professional qualifications, and</li> <li>(ii) at least six years' experience in a relevant field to the services being provided.</li> </ul>	<p>The contractual service supplier (CSS) must have been an employee of the enterprise offering the services for at least one year prior to the date of application of entry.</p> <p>The CSS must have a valid employment contract with a juridical person of India and receive pay, while in New Zealand, that is at least equivalent to that which a comparable New Zealand worker providing like services in the same or similar field would expect to receive.</p> <p>The CSS must be employed on conditions that are equivalent to New Zealand minimum employment standards.</p> <p>The CSS does not receive pay for the provision of services in New Zealand other than that paid by the enterprise employing the CSS or from a source from outside New Zealand.</p> <p>The number of persons covered by the services contract cannot be larger than necessary to provide the services per the contract.</p> <p>The contract to supply a service must comply with New Zealand law.</p>
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<p>Partners and Dependent Children</p>	<p>New Zealand will allow the entry and temporary stay of the partner and any dependent children accompanying a person that has been granted entry and temporary stay for a period of over 12 months (which will only apply to intra-corporate transferees as set out above).</p> <p>Partner means: any spouse or civil partner from India of the recipient of a visa under the above categories including a marriage, civil union or equivalent union or partnership recognised under New Zealand law. For greater certainty, this includes and unmarried or same sex partner.</p> <p>Dependent children means: children under the age of 20 who are dependent on the recipient of a visa under above categories and who are recognised as dependent children in accordance with the law of New Zealand where, either:</p> <ul style="list-style-type: none"> <li>(a) the applicant has the legal right to remove them from their home country; or</li> <li>(b) both of the children's parents will be granted entry and temporary stay in accordance with this Agreement.</li> </ul>	<p>Entry and temporary stay will be the same as granted to the recipient of the visa under the categories above. Note: This only allows for entry, and does not allow work or study.</p>
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New Zealand has made commitments on the temporary entry of natural persons from India in order to work in skilled occupations under an employment contract concluded pursuant to New Zealand law (Annex 8L). These skilled workers cannot have an intention to establish permanent residence in New Zealand.

The following table details the commitments New Zealand has made on temporary employment entry as well as any limitations or conditions placed on such entry.

**Temporary Employment Entry for Iconic Indian Occupations**

For all: Duration of stay up to three years at any one time, dependent on the employment agreement. This cannot be extended beyond three years and persons who have spent three years in New Zealand working under this Annex are not eligible for a further work visa or work permit under this Annex until they have spent a minimum of three years outside New Zealand.

Yoga Instructors	Person from India who has a recognised Yoga qualification, of at least a bachelor's degree from an institution recognised by the Indian Government, and holds International English Language Testing System (IELTS) Level 5 in Listening and Speaking English or an equivalent English-language testing system recognised by New Zealand.	Up to a maximum of 100 visas at any one time.
Indian Chefs	A person from India who has a tertiary-level qualification in Indian cuisine, obtained after at least two years' successful study at an institution recognised by the Indian government, and who has at least two years' relevant work experience post-qualification, and holds IELTS Level 5 in Listening and Speaking English, or an equivalent score in an English language testing system recognised by the New Zealand government.	Up to a maximum of 250 visas at any one time
Music Teachers	A person from India who has bachelor's degree or equivalent three-year tertiary qualification in music, has at least two years' relevant work experience as a music teacher, and holds IELTS score of 6.5, or an equivalent score in an English language testing system recognised by the New Zealand government.	Up to a maximum of 50 visas at any one time
AYUSH Practitioners (excluding Yoga instructors)	<p>A person from India who:</p> <ul style="list-style-type: none"> <li>• holds a bachelor's degree in Indian Traditional Medicine/AYUSH Systems of Medicine, recognised by the Indian Ministry of Ayush, and which required at least three years of successful study from an institution recognised by the Indian Government;</li> <li>• has at least four years of professional experience working as a recognised practitioner of ayurveda, yoga and naturopathy, Unani, Siddha, Sowa Rigpa, or homeopathy; and</li> <li>• holds an IELTS score of 6.5, or an equivalent score in an English</li> </ul>	<p>Up to a maximum of 200 visas at any one time.</p> <p>This commitment is for natural persons of India seeking employment as an AYUSH Practitioner, in the following fields:</p> <ul style="list-style-type: none"> <li>• Ayurveda;</li> <li>• Naturopathy;</li> <li>• Unani;</li> <li>• Siddha;</li> <li>• Sowa Rigpa; and</li> <li>• Homeopathy</li> </ul>

	language testing system recognised by the New Zealand government.	
<p><b>Temporary Employment Entry for <u>Skilled Occupations</u></b></p> <p>For all the sector categories below, the person from India must:</p> <ul style="list-style-type: none"> <li>• hold the minimum required qualifications and/or relevant work experience as specified for each category;</li> <li>• hold an IELTS score of 6.5, or an equivalent score in an English language testing system recognised by New Zealand;</li> <li>• have registered with the appropriate professional body or obtained a licence or approval to work in New Zealand from the relevant regulatory authority.</li> </ul> <p>Duration of stay: up to three years at any one time, dependent upon the employment agreement. This cannot be extended beyond three years. Recipients of visas under the Temporary Employment Entry commitment who have spent three years in New Zealand under this Annex are not eligible for a further work visa or work permit under this Annex until they have spent a minimum of three years outside New Zealand.</p>		
IT Sector: Software Engineer; Software and Applications Programmers; and ICT Project Managers	Hold a relevant bachelor’s degree, and at least five years of professional experience in that field.	Up to a maximum of 1,000 temporary employment entry visas at any one time.
Engineering Occupations: Civil Engineer; Mechanical Engineer; Structural Engineer; Environmental Engineer;	One of the following: <ul style="list-style-type: none"> <li>• a Washington Accord accredited (initial) engineering degree;</li> <li>• a Bachelor of Engineering with Honours (NZQCF Level 8); or</li> <li>• a qualification at NZQCF Level 7 or higher, with a letter from Engineering New Zealand certifying that the degree and any further learning meet the benchmark requirements towards Chartered Professional Engineer professional status in New Zealand.</li> <li>• NZ registration as a Chartered Professional Engineer by Engineering New Zealand.</li> </ul>	Up to a maximum of 1,000 temporary employment entry visas at any one time.
Construction Sector:	For Construction Project Manager: One of the following:	Up to a maximum of 700 temporary employment

<p>Construction Project Manager; Building Project Manager;</p>	<ul style="list-style-type: none"> <li>• Bachelor of Engineering with Honours (NZQCF Level 8).</li> <li>• Bachelor of Engineering Technology (NZQCF Level 7).</li> <li>• Bachelor of Construction (NZQCF Level 7).</li> <li>• A Washington Accord or Sydney Accord accredited undergraduate (initial) engineering degree in Civil Engineering.</li> <li>• A qualification at NZQCF Level 7 or higher, with a letter from Engineering New Zealand certifying that the degree and any further learning meet the benchmark requirements towards Chartered Professional Engineer professional status in New Zealand.</li> <li>• NZ registration in the field of civil engineering as a Chartered Professional Engineer or an Engineering Technologist by Engineering New Zealand</li> </ul> <p>For construction project manager and building project manager, one of the following</p> <ul style="list-style-type: none"> <li>• A bachelor's degree at NZQCF Level 7, or a higher qualification with the minimum equivalent of 360 credits, which includes the requirements of a New Zealand major in the focus areas of construction management, civil engineering, or highway engineering.</li> <li>• A Graduate Diploma at NZQCF Level 7, or a higher qualification which includes the knowledge requirements of a New Zealand Graduate Diploma in the focus areas of construction management, highway engineering, civil engineering or construction project management.</li> </ul>	<p>entry visas at any one time.</p>
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	<ul style="list-style-type: none"> <li>• A diploma at NZQCF Level 6, or a higher qualification, with the minimum equivalent of 240 credits, which includes the knowledge requirements of a New Zealand Diploma in the focus areas of civil engineering, highway engineering, construction or construction management.</li> </ul>	
<p>Education Sector: Primary School Teacher; Secondary School Teacher.</p>	<p>NZ registration with the appropriate licensing or regulatory body and with either a provisional or full practising certificate issued by the appropriate licensing or regulatory body.</p> <p>For transparency, examples of the qualifications that are acceptable include the following:</p> <ul style="list-style-type: none"> <li>• Bachelor of Education</li> <li>• Bachelor of Education (Early Childhood)</li> <li>• Bachelor of Education (Technology)</li> <li>• Bachelor of Teaching</li> <li>• Bachelor of Teaching (Early Childhood Education)</li> <li>• Bachelor’s degree with a Graduate diploma in Education or Teaching.</li> </ul>	<p>Up to a maximum of 500 temporary employment entry visas at any one time.</p>
<p>Health Sector: Registered Nurse (all categories); Physiotherapists.</p>	<p>Registered Nurse: A person from India that is registered with the appropriate licensing or regulatory body of New Zealand, holds relevant qualification, and as three years of professional experience working in that occupation.</p> <p>Physiotherapists: A person from India that is registered with the appropriate licencing or regulatory body, hold a relevant qualification, and has at least three years of professional experience working in that occupation.</p>	<p>Registered Nurse: Up to a maximum of 900 temporary employment entry visas at any one time.</p> <p>Physiotherapists: Up to a maximum of 300 temporary employment entry visas at any one time.</p>

#### 5.8.4 Annex 8D: Professional Services Annex

The Professional Services Annex (Annex 8D) aims to encourage the development of systems for the recognition of professional qualifications and experience, registration and licensing of professionals between the Parties.

Under the Professional Services Annex, each Party shall encourage its relevant regulatory bodies to:

- Establish dialogues with their counterparts in the other Party with a view to concluding mutual recognition arrangements for qualifications, licensing, and registration procedures across professional services within 12 months of the entry into force of the FTA (Article 8D.4)
- Work towards the development of mutually acceptable professional standards in areas such as examinations, experience, conduct and ethics (Article 8D.6).

The Parties may also consider taking steps to implement a temporary, limited or project-specific licensing or registration regime or granting such license or registration (Article 8D.5).

#### 5.8.5 Annex 8E: Foreign Investment Framework Annex

Under this Annex, the Parties agree that a decision made under relevant domestic investment authorisation procedures will not be subject to dispute settlement under Chapter 19 (Dispute Settlement). For New Zealand this applies to decisions to grant consent, or to decline to grant consent under the *Overseas Investment Act 2005*.

#### 5.8.6 Annex 8F: Students' Mobility and Post Study Work Visa

Under Paragraph 1, both Parties agree to grant visas, subject to fulfilment of immigration requirements, to students who have been accepted by recognised education institutions. Under Paragraph 2, Parties cannot impose numerical limits on admissions and entry of students subject to the fulfilment of the prescribed eligibility conditions of the relevant educational institutions. Under Paragraph 3, Parties will allow qualifying students to work at least 20 hours per week in line with respective national policies.

Under Paragraphs 4 and 5 New Zealand will allow students who have completed a bachelor's degree (or above) qualification from recognised New Zealand education institutions to work in New Zealand temporarily for periods of two to four years depending on the level of degree completed and subject to their fulfilment of all relevant immigration requirements. The relevant periods will be:

- up to 2 years for graduates at the bachelor's level.
- up to 3 years for graduates at the master's level.

- up to 3 years for graduates of bachelor's degrees with first-class honours in STEM fields, including ICT fields.
- up to 4 years for graduates at the PhD level.

Under Paragraph 6, India will provide work-based immigration routes with reciprocal eligibility and duration requirements to New Zealand students who successfully complete their studies in India and wish to supplement their education with professional experience in India.

#### *5.8.7 Annex 8G: Health-related Services and Traditional Medicine Services*

Under Article 8G.2, when imposing licencing or qualification requirements on the supply of health related services or traditional medicine services, each Party must ensure fees are reasonable and transparent, inform the applicant of a decision within a reasonable timeframe, where possible establish an indicative timeframe for processing applications, on request identify additional information required, provided reasons for declining an application, and endeavour to accept applications in electronic format.

Under Article 8G.2.2 each Party, to the extent practicable, must ensure that exams are scheduled regularly, provide reasonable timeframes for submitting an application, and encourage the use of electronic means for taking exams.

Under Articles 8G.2.4 and 8G.2.5 each Party must, where possible, avoid requiring applicants to approach more than one authority for applications and allow the submission of applications at any time of the year.

Under Article 8G.4 the Parties undertake to cooperate on matters relating to traditional medicine services, including Rongoā Māori. Where the Parties require registration or licencing of practitioners and therapists of traditional medicine, the Parties must encourage their relevant authorities to recognise qualifications obtained in the other Party and publish relevant information concerning such licencing and certification.

This Annex is not subject to dispute settlement unless the matter involves a pattern of practice and individuals have exhausted all available administrative remedies.

### 5.9 Chapter 9: Investment Promotion and Cooperation

New Zealand is required to promote foreign direct investment from investors of New Zealand into India with the aim to increase such investment by US\$20 billion over 15 years from entry into force of the FTA (Article 9.2).

The chapter provides for cooperation between New Zealand and India on investment and provides examples of cooperation activities such as information exchanges, strategies and programmes to promote investment and facilitating public-private dialogues (Article 9.3).

In addition to sharing contact points to help facilitate the implementation of the chapter, each Party shall, to the extent practicable, establish investment desks to support any cooperation activities in Article 9.3. India shall establish a New Zealand-specific desk to assist New Zealand investors seeking to invest, investing or having invested in India, including with any issues that arise through the life cycle of their investment (Article 9.4).

The Parties agree to a transparency requirement whereby they aim to make available information needed by investors to comply and become acquainted with the requirements for obtaining any investment authorisation (Article 9.6).

The chapter establishes a Committee on Investment Promotion and Cooperation to assess, monitor, and review the implementation of the chapter (Article 9.7).

The chapter is not subject to dispute settlement under Chapter 19 (Dispute Settlement) (Article 9.11). There is instead a detailed and in-depth review and consultation process between the Parties, including at Ministerial level, to resolve differences between the Parties (if any) regarding their commitments. Article 9.9 provides for review and reporting in relation to New Zealand's commitment to promote investment into India. This includes a three-tier government to government process involving consultations and discussions at working, senior official, and Ministerial levels. The final review would take place 15 years after the date of entry into force of the Agreement. New Zealand may also request a grace period of an additional three years to comply with its commitments (Article 9.9.12).

If there is a difference of views between the Parties and if consultations do not resolve the matter (and the matter is not resolved during any grace period), Article 9.10 allows India to impose proportionate remedial measures to rebalance the concessions given to New Zealand under its tariff schedule if India determines New Zealand has not fulfilled its commitment under Article 9.2. However, any remedial measures can only be imposed following the three-tier government to government consultation process noted above (including Ministerial consultations). Any remedial measures that are imposed are intended to be temporary and must be removed once the investment objective in Article 9.2 has been achieved (Article 9.10.3).

New Zealand can request consultations with India after five years with further consultations taking place every three years after that until the remedial measures cease to apply (Article 9.10.7).

## 5.10 Chapter 10: Competition

Under Article 10.2, each Party:

- must maintain and apply competition laws that prohibit anti-competitive agreements (including cartels), abuse of a dominant position, and mergers or combinations with substantial anti-competitive effects. These laws must apply to all commercial activities in each Party's territory, including those of public enterprises.

- may provide for exemptions from competition law only where such exemptions are transparent, established in law, and based on public policy or public interest grounds. Each Party must also maintain an operationally independent national competition authority responsible for effective application and enforcement of competition law and ensure that enforcement is conducted in a non-discriminatory manner.

Each Party must apply its competition laws in a transparent manner and ensure procedural fairness for enterprises subject to investigation or enforcement action. This includes the right to be heard and the right to judicial review of decisions. Each Party must also protect confidential information obtained during investigations, subject to applicable legal exceptions (Article 10.3).

The chapter provides for cooperation between the Parties and their national competition authorities to foster effective law enforcement and competition policy. Cooperation may include exchanges of non-confidential information and coordination of activities on matters of mutual interest, consistent with each Party's laws, interests, and available resources (Article 10.4).

Either Party may request consultations with the other on matters arising under this chapter. The request must set out the reasons for seeking consultations, and the other Party must give full and sympathetic consideration to the concerns raised. This mechanism enables the Parties to address potential competition-related issues affecting trade or investment (Article 10.5).

This chapter is not subject to dispute settlement under Chapter 19 (Dispute Settlement) (Article 10.6).

## 5.11 Chapter 11: Intellectual Property

Section A *General Provisions* contains key definitions and set out certain core principles for each Party's intellectual property regime, including agreement to:

- definitions of 'geographical indication' 'intellectual property' and 'national', for purposes of the chapter, which are consistent with those of the WTO Agreement on Trade-Related Intellectual Property (TRIPS), WIPO the acronym for the World Intellectual Property Organization is also defined (Article 11.1);
- the objectives for the protection and enforcement of intellectual property being to promote innovation and the transfer and dissemination of technology for the mutual benefit of the producers and the users of the protected knowledge, and in a manner that enhances social and economic outcomes (Article 11.2);
- principles that recognise that each Party may adopt: appropriate measures to prevent right holders abusing their intellectual property rights or unreasonably restrain trade provided those measures are consistent with the Agreement; and measures to protect public health and nutrition, promote public interest in areas of vital importance, provided those measures are consistent with the chapter (Article 11.3);

- understandings that, noting the underlying public policy objective of intellectual property, that the Parties recognise need to: promote innovation and creativity; facilitate the diffusions of information, knowledge, technology, culture and the arts; and protect against unfair competition in accordance with the TRIPS agreement, while also e respecting transparency, due process and the interests of right holders, users and the public (Article 11.4);
- the Parties are required to give effect to the provisions of the chapter but are free to determine how to implement those provisions within their own legal system and practice; the Parties may also provide more extensive intellectual property protections than those set out in the chapter but is not obliged to (Article 11.5);
- the Parties affirm their obligations set out in a number of multilateral intellectual property agreements, including, the TRIPS Agreement, and a number of World Intellectual Property Organization administered agreements (Article 11.6);
- the Parties affirm their commitment to the WTO Declaration on TRIPS and Public Health of 14 November 2001, that the chapter should be interpreted and implement in a manner supportive of their rights to protect public health and affirm that nothing in the chapter shall limit their rights and obligations under Article 31 and Article 31bis of the TRIPS agreement (Article 11.7);
- consistent with Article 3(1) the TRIPS Agreement, each Party will provide 'national treatment' for the categories of IP covered by the chapter, meaning that each Party must provide nationals of the other Party a level of IP protection that is no less favourable than it provides its own nationals (Article 11.8);
- transparency requirement, including that the Parties shall endeavour to make information concerning the application and registration of trademarks, geographical indications, industrial designs and patents accessible for the general public; acknowledge the importance of informational materials such as public databases that help the public become acquainted with protected intellectual property rights; and shall endeavour to make information available on the Internet (Article 11.9);
- the chapter does not give rise to obligations in respect of acts that occurred the date of entry of the Agreement (Article 11.10);
- the Agreement does not prevent a Party from determining when IP rights are 'exhausted' under its own legal system (Article 11.11); and
- each Party may provide concessions, such as reduced fees to small and medium enterprises, startups and educational institutions (Article 11.12).

In Section B *Cooperation*, Article 11.13 sets out that the Parties will endeavour to cooperate on the subject matter of the chapter, such as through coordination, training and exchange of information between respective intellectual property offices. Any cooperation activity will be on subject to the availability of resources, on request and mutually agreed terms and conditions.

Section C *Trade Marks* confirms that the Parties:

- will not deny the registration of a trade mark on the ground that it is a sound, a Party may require a concise and accurate description, or representation or both of the trademark (Article 11.14);
- shall provide the owners of registered trademarks the right to prevent others, without the owner's consent, from using signs that are identical or similar to their marks on goods or service that are similar to those on which the owner uses their mark on, in the course of trade, where such use would result in a likelihood of confusion (Article 11.15);
- may provide limited exceptions to the rights conferred by a trademark, taking into account the legitimate interests of the owner and third parties (Article 11.16);
- recognise the importance of the Joint Recommendation Concerning Provisions on the Protection of Well-Known Marks adopted by the Assembly of the Paris Union for the Protection of Industrial Property, for the purpose of giving effect to the protection for well-known trademarks consistent with Article 6bis of the Paris Convention and paragraphs 2 and 3 of Article 16 of the TRIPS Agreement (Article 11.17);
- provide systems for the examination and registration of trademarks that include communicating with the applicant in writing around any reasons for refusing to register a trade mark, providing applicants with the opportunity to respond to communications, contest refusals, oppose registrations, and seek cancellations, and requiring that decisions in administrative proceedings of opposition and cancellation to be reasoned and in writing; communications may be provided by electronic means (Article 11.18);
- adopt or maintain a trademark classification system that is consistent with the Nice Agreement Concerning the International Classification of Goods and Services (Article 11.19); and
- provide that initial registration and each renewal of registration of a trademark is for a term of at least 10 years (Article 11.20).

In Section D *Country Names*, Article 11.21 sets out that each party will provide means for interested persons to prevent the commercial use of a country name of a Party in a way that misleads consumers about the origin of the goods.

In Section E *Geographical Indications*, without limiting the requirement on the separate Side Letter on Geographical Indications, the Parties:

- reaffirm that geographical indications may be protected through a trademark or sui generis system or other legal means (Article 11.22);
- require that, if a Party provides administrative procedures for seeking the protection or recognition of geographical indications (including through a trade mark or sui

generis registration system), it shall provide procedures to allow at least interested persons to oppose the protection of a geographical indication (Article 11.23).

In Section F *Patents*, the Parties agree:

- to provide that a third party may do an act that would otherwise infringe a patent if it is done for the purposes of obtaining regulatory or marketing approval in that Party or another country (Article 11.24);
- that nothing in the chapter shall limit a Party's rights and obligations under the TRIPS agreement in relation to the use, or authorisation of the use of a patent without the authorisation of the right holder (Article 11.25);
- to require an applicant for a patent to disclose the invention in a manner that is sufficiently clear and complete, so that it could be carried out by a person skilled in that area; and may require the applicant to indicate the best way to carry out the invention, known at the priority date of the application, as well as information concerning the applicant's corresponding foreign applications and grants (Article 11.26);
- that a Party may require a patent owner to provide disclosure of information concerning the working of a patent, in accordance with its law (Article 11.27);
- provide a system for the examination and registration of patents that includes communicating with the applicant in writing around any reasons for refusing to register a patent, providing applicants with the opportunity to respond to communications, contest refusals, seek cancellations and invalidations, and requiring that decisions in administrative proceedings of opposition and cancellation to be reasoned and in writing, and providing patent applicants at least one opportunity to make amendments, corrections or observations in connection with their application (Article 11.28);
- allow for each Party to provide limited exceptions to the rights conferred by a patent, provides such exceptions do not unreasonably conflict with the normal exploitation of the patent, taking into account the legitimate interests of the owner and third parties (Article 11.29).

In Section G *Industrial Designs*, the Parties agree:

- to provide for the protection of independently created industrial designs that are new and original, through the registration of protection, which will confer an exclusive right upon the holder in accordance with the TRIPS agreement (Article 11.30); and
- that Party may provide limited exceptions to the rights conferred by the registration of an industrial design, provided that such exceptions do not unreasonably conflict with a normal exploitation of an industrial design, taking into account the legitimate interests of the owner and third parties (Article 11.31).

In Section H *Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions*, the Parties recognise the relevance of intellectual property systems and traditional knowledge associated with genetic resources to each other and:

- affirm the importance of the World Intellectual Property Organization Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge;
- affirm the importance of the work of the World Intellectual Property Organization Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore; and
- agree that they shall endeavour to exchange views and information and cooperate through their responsible agencies to enhance the understandings of intellectual property related aspects of genetic resources, traditional knowledge, and traditional cultural expressions (Article 11.32).

The Parties shall also endeavour to pursue quality patent examination that includes:

- taking into account relevant public information related to traditional knowledge associated with genetic resources in determining prior art;
- providing an opportunity for the third parties to provide to competent authorities prior art disclosures that may have a bearing on patentability;
- the use of databases and digital libraries containing traditional knowledge associated with genetic resources; and
- if agreed and subject to available resourcing cooperating in the training of patent examiners in the examination of patent applications related to traditional knowledge associated with genetic resources (Article 11.33).

Section I *Copyright and Related Rights* sets out that:

- consistent with relevant international agreements, the Parties will provide adequate and effective protection to authors for their works, performers for fixations of their performances in phonograms, producers for their phonograms and broadcasters for their broadcasts, broadcasting organizations will also have the exclusive right to authorise the broadcasting of their broadcasts (Article 11.34);
- a Party may provide limitations or exceptions in its domestic law to the rights conferred by copyrights and related rights to certain special cases that do not conflict with the normal exploitation of the work taking into account the legitimate interests of the right holder, consistent with the limitations and exceptions in the TRIPS Agreement, Berne Convention the WCT and the WPPT (Article 11.35);
- each Party will provide adequate and effective legal remedies against those who remove or alter any electronic rights management information and/or distribute, import for distribution, broadcast or communicate to the public, without authority, works or copies of works where electronic rights management information has been removed or altered without authorisation (Article 11.36); and

- the Parties recognise the role of collective management societies for copyright and related rights in collecting and distributing royalties based on fair, efficient, transparent and accountable practises, each Party shall also encourage the establishment of reciprocal arrangements between their collective management societies to ensure easier licensing and sharing of rights revenues (Article 11.37).

Under Section J *Enforcement*, the Parties agree to:

- provide in their respective laws for the enforcement of intellectual property rights covered by the chapter consistent with the TRIPS Agreement (Article 11.38); and
- adopt procedures to enable a right holder, who suspects the importation of counterfeit trademark or pirated copyright goods to lodge application with authorities in the Parties to have border measures apply which prevent the Party's Customs authorities from releasing the suspected infringing goods into free circulation, Parties may also extend these procedures to goods involving infringements of other intellectual property rights or to prevent the release of infringing goods destined for export (Article 11.39).

## 5.12 Chapter 12: Trade and Sustainable Development

In Article 12.1, the Parties affirm their commitment to pursue the objective of sustainable development after recalling multilateral environmental and legal instruments to which both India and New Zealand are party.

New Zealand and India:

- agree to promote international trade in such a way as to contribute towards sustainable development including inclusive economic growth, social development, high levels of environmental protection and long-term transition strategies and to work to integrate and reflect this objective in their trade relationship (Article 12.1.2); and
- emphasise that it is their aim to strengthen their trade relations and cooperation in ways that promote sustainable development, but that the chapter does not oblige the Parties to harmonise their environmental and social standards of protection (Article 12.1.3).

Under Article 12.2 (Right to Regulate and Uphold Levels of Protection), the Parties:

- recognise the right of each Party to set its domestic sustainable development policies and priorities, to establish its own levels of environmental (including climate) and labour protection, and to adopt or modify its relevant laws and policies in a manner consistent with the provisions of this chapter (Article 12.2.1);
- commit not to encourage trade by derogating from or failing to effectively enforce their respective environmental and labour laws in a manner affecting trade between the Parties (Article 12.2.2);

- stress that environmental, and labour measures shall not be applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination between the Parties or a disguised restriction on trade (Article 12.2.3); and
- stress that neither environmental issues nor labour standards shall be used for protectionist trade purposes (Article 12.2.4).

The Parties agree to implement the multilateral environmental agreements to which they are a party and affirm their adherence to the principles reflected in the international instruments listed above in relation to Article 12.1 (Article 12.3).

In relation to Trade and Labour (Article 12.3), the Parties:

- in accordance with their obligations as members of the ILO and the ILO Declaration on Fundamental Principles and Rights at Work, commit to respect, promote and realise, in good faith, the fundamental principles and rights at work which are the subject of the fundamental ILO Conventions (Article 12.3.1), and
- affirm their commitment to effectively implement in their laws and practices in accordance with the ILO Conventions which they have respectively ratified and will make efforts towards ratifying the fundamental ILO Conventions (Article 12.3.2), and
- agree to enhance cooperation and share information, experiences and best practice in areas of mutual interest (Article 12.3.3).

On Trade and Gender Equality (Article 12.4), the Parties:

- recognise the importance of gender equality and the empowerment and participation of all women in advancing sustainable and inclusive economic growth and development, including through women's participation in international trade (Article 12.4.1);
- recognise the importance of gender-responsive policies and practices for advancing gender equality and the empowerment of all women. The Parties recognise the importance of adapting, maintaining and implementing women's economic empowerment and equality laws, regulations, policies and best practice in line with Sustainable Development Goal 5 of the UN's 2030 Agenda on Sustainable Development, while recognising CEDAW and the Beijing Declaration and Platform for Action (Article 12.4.2);
- shall endeavour to foster women's entrepreneurship and leadership; promote the exchange of relevant information and best practice; and cooperate to identify and address the barriers face by women in trade and investment including safety and access to information, networks and finance (Article 12.45.3); and
- agree to implement the Agreement and cooperation activities established under this Article in a manner that advances the full, equal and meaningful participation of women in the economy, fosters women's entrepreneurship, and in a manner that protects and promotes their human rights and economic well-being (Article 12.4.4).

Regarding Trade and Environment (Article 12.6), the Parties:

- shall allow for the optimal use of the world's resources seek to protect and will seek preserve the environment, and to enhance the means for doing so consistent with their different levels of economic development. The Parties also recognise that the multilateral trading system and the WTO have important positive roles in encouraging the sustainable use of resources, sustainable ecosystems and sustainable long-term growth (Article 12.6.1);
- recognise the importance of strengthening policies and programmes and define paths towards sustainable development and inclusive growth based on each Party's stage of development, national circumstances and priorities (Article 12.6.2);
- recognise that the policy objectives to facilitate the transition to a resource efficient and circular economy includes extending product lifetimes, increasing the proportion of materials and products being reused and recycled and reducing waste throughout supply chains (Article 12.6.3); and
- recognise the importance of the conservation and sustainable use of biological diversity consistent to the relevant MEAs to which they are a party (Article 12.6.4); and
- recognise the importance of the conservation and sustainable management of forests for providing environmental functions and economic and social opportunities for present and future generations (Article 12.6.5), and
- agree to endeavour to cooperate in areas of mutual interest (Article 12.6.6).
- affirm they will implement their respective cooperation commitments under the international agreements referred to in this chapter (Article 12.6.7).

Regarding Marine Fisheries (Article 12.7), the Parties:

- recognise the importance of conserving and sustainably managing marine fisheries, while underlining the importance of marine fisheries to their development and to the livelihoods of their fishing communities, including small-scale fishers (Article 12.7.1); and
- agree to support national, regional and international goals to address illegal, unreported and unregulated (IUU) fishing, including through international frameworks and cooperate on fisheries policies and measures bilaterally, regionally, and in internationally to promote sustainable fishing practices (Article 12.7.2).

Regarding Climate Change (Article 12.8), the Parties:

- recognise the importance of achieving the objectives of the United Nations Framework Convention on Climate Change (UNFCCC) and the goals of the Paris Agreement (Article 12.8.1);
- reaffirm their commitment to implement their respective UNFCCC and Paris Agreement obligations (Article 12.8.2);

- underline the importance of climate actions, to be implemented in accordance with each Party's national circumstances, capabilities and equity (Article 12.8.3); and
- shall endeavour to cooperate in areas of mutual interest related to mitigation and adaptation to climate change in areas including sustainable finance and investment, sharing knowledge and evidence-based innovations, cooperation under Paris Agreement Article 6, and exploring opportunities for climate and energy solutions (Article 12.8.4).

Regarding Cooperation (Article 12.9), the Parties:

- recognise cooperation as a means to implement the chapter and that any cooperation activities under this Agreement will seek to complement and build on existing agreements or arrangements between the Parties; (Article 12.9.1);
- endeavour to strengthen their cooperation and agree that cooperative activities agreed under this chapter shall align with the parties' respective national circumstances, and environmental, climate and other commitments in the chapter; (Article 12.9.2);
- agree a range of activities that the Parties may agree to undertake as part of cooperation under the chapter; (Article 12.9.3);
- shall, as appropriate, share their cooperation priorities and the objectives; propose cooperation activities; and develop and participate in cooperation activities where agreed; (Article 12.9.4); and
- agree that in implementing the cooperation activities under this chapter, they may invite the views and participation of relevant stakeholders (Article 12.9.5).

The Trade and Sustainable Development Committee (TSD Committee) (Article 12.10):

- is composed of government representatives of the Parties; (Article 12.10.1) and is co-chaired by the Parties and meets either in person or online within one year of entry into force and thereafter as agreed by the Parties (Article 12.10.2);
- makes decisions by agreement of the Parties; (Article 12.10.3);
- has functions that include: reviewing and monitoring the implementation of the chapter; discussing technical issues arising from the implementation; fostering understanding and facilitate consultations and dialogue; where appropriate, agreeing cooperation activities; and other matters as agreed; (Article 12.10.4);
- may provide a forum for exchanges of information discussions best practices; and for seeking advice from relevant third parties; (Article 12.10.5); and
- shall report to the Joint Commission (Article 12.10.6).

Regarding Contact Points (Article 12.11), each Party shall each designate a contact point and promptly notify the other party of any changes to that contact point.

The Consultations and Dialogue (Article 12.12), provides a process for Parties to raise and attempt to resolve any matter arising under the chapter through confidential consultations and dialogue, and requires that the Parties shall endeavour to achieve a satisfactory resolution.

The Parties agree that they shall periodically review this chapter in line with the General Review provisions inviting, as appropriate, the views and participation of relevant stakeholders (Article 12.13).

The Parties agree that neither Party shall have recourse to dispute settlement under Chapter 19 (Dispute Settlement) for any matter arising under this chapter (Article 12.14).

### 5.13 Chapter 13: Cultural, Trade, Traditional Knowledge and Economic Cooperation

The purpose of this chapter is to pursue mutual cooperation to contribute towards Parties' efforts to enable and advance their peoples' economic and cultural aspirations, including Māori for New Zealand. The Parties recognise the importance of facilitating and expanding trade and economic opportunities and addressing disparities, and promoting traditional knowledge, including traditional systems of medicine, and traditional cultural expressions. Further, the Parties recognise that integrating traditional knowledge into the Agreement can lead to shared economic growth, cultural preservation and sustainability (Article 13.1).

The Parties seek to enhance the ability for SMEs, Māori and tribal-owned enterprises, artisans, and community-led startups to access and benefit from the trade opportunities created by this Agreement through a range of cooperation activities (Article 13.3). The chapter identifies an indicative list of cooperation activities, while underlining that cooperation activities may extend to any other area of mutual interest that the Parties may agree to (Article 13.3.2).

The cooperation activities are to be carried out through the Joint Committee, and are subject to available resources (Article 13.4). Each Party will designate and notify a contact point for implementing the chapter, who will facilitate communication, coordination, and information exchanges between the Parties (Article 13.5).

The Parties recognise that New Zealand is to implement cooperation under the chapter in a manner consistent with Te Tiriti o Waitangi/the Treaty of Waitangi (Article 13.1.3).

The chapter does not impose legal or financial obligations on either Party (Article 13.4.2) and is not subject to dispute settlement under Chapter 19 (Dispute Settlement) (Article 13.6).

## 5.14 Chapter 14: Economic Cooperation and Technical Assistance

The objective of the chapter is to support the effective and efficient implementation and utilisation of the FTA through activities that relate to trade, investment and capacity building. Cooperation and technical assistance should promote and facilitate trade and investment between the Parties and foster economic growth (Article 14.1).

The Parties may agree on areas of cooperation and technical assistance, including the thematic areas listed in Annexes 14A (Agriculture Cooperation and Technical Assistance Thematic Areas) and 14B (Non-Agriculture Cooperation and Technical Assistance Thematic Areas) of the chapter. The Parties may also agree specific activities within each agreed area, including the activities listed under each of the thematic areas in the Annexes (Article 14.3).

Any cooperation and technical assistance under the FTA will have the objective of maximising cooperation benefits, building capacity, supporting pathways to trade and investment facilitation, and further improving market access and openness to contribute to sustainable inclusive economic growth and prosperity. The Parties shall promote cooperation and where activities are agreed, take the necessary steps to facilitate them. Cooperation in this chapter may support cooperation activities undertaken elsewhere in the Agreement (Article 14.3).

Under Section B of the chapter, the Parties establish the Agriculture Productivity Partnership (APP) to promote productivity in agriculture and allied sectors (including livestock, fisheries, apiculture, forestry, and food processing). The purpose of the APP is to: establish a long-term cooperation partnership between New Zealand and India producers; promote and facilitate engagement across value chains between New Zealand and India to foster economic growth; and to ensure the effective implementation of the chapter (Article 14.4).

To support the APP, the Parties establish the Joint Agriculture Productivity Council (JAPC) consisting of, for New Zealand, the Director-General, Ministry for Primary Industries, and for India, the Secretary, Agriculture and Farmers Welfare. The JAPC will meet annually or as agreed and will fulfil a range of functions including: facilitating the effective implementation and operation of the APP, allow the Parties to share and consider cooperation proposals, receive reports on and review progress of working groups and cooperation activities, discuss matter in the wider agriculture relationship, and report to the Joint Commission (Article 14.5).

Under Section C of the chapter, the Parties establish a Committee on Economic Cooperation and Technical Assistance (CECTA) for cooperation and technical assistance in sectors other than agriculture and allied sectors, that will meet annually unless otherwise agreed. The CECTA's role is to support the effective implementation and operation of non-agricultural cooperation, including by overseeing the progress of cooperation being undertaken and establishing Working Groups to set up new cooperation (Article 14.6).

As set out in Section D of the chapter, the JAPC and CECTA may establish, restructure or dissolve working groups; as well as receive annual reports on their progress to review. The functions of working groups include agreeing work programmes, activities, budgets, coordination of Action Plans, and reporting annual progress to the JAPC or CECTA (Article 14.7).

Work programmes developed, adopted and maintained under this chapter shall: include planned, ongoing and completed activities; be guided by the Objectives and General Provisions; and address the mutual priorities of the Parties (Article 14.8).

The chapter provides that Action Plans may be developed where a significant programme of work, resources, investment or other contribution is required. Where a Party proposes an action plan, the other Party shall consider it and, subject to resourcing, work to develop a suitable action plan provided that any developed action plan is subject to agreement of both Parties (Article 14.9).

The chapter recognises in Section D that the Parties may identify and agree to share, transfer or jointly develop technologies for mutual benefit. In doing so, the Parties may enter suitable agreements to address the rights and responsibilities in relation to any new intellectual property (Article 14.10).

Priorities for cooperation and technical assistance activities shall be decided based on interests, available resources and benefits. Cooperation with external parties may be considered to support cooperation activities (Article 14.11).

Within 60 days of entry into force of this Agreement, an official contact point shall be designated by each Party to address matters related to this chapter and to facilitate regular communication and coordination, and to develop and implement cooperation activities (Article 14.12).

Neither Party shall have recourse to dispute settlement under Chapter 19 (Dispute Settlement) for any matter arising under this chapter (Article 14.13).

Annex 14A (Agriculture Cooperation and Technical Assistance Thematic Areas) lists thematic areas for potential cooperation and technical assistance in agriculture and related sectors. It also sets out indicative cooperation activities under the APP within thematic areas, for use by any Working Groups that may be established in a particular thematic area.

The listed thematic areas in the Annex are: Forestry, Horticulture, Apiculture and Honey, Livestock, Fisheries and Aquaculture, and Wine. The Annex also lists two cross-cutting thematic areas for potential cooperation and technical assistance, namely: Organics, and Cooperatives.

While the listed cooperation or technical assistance activities in most areas are indicative and subject to future agreement, New Zealand has agreed to support Action Plans in relation to kiwifruit, apples, and apiculture and honey (Articles 14A.4 and 14A). Those articles, and the separate Annex on Implementation and Review of Economic Cooperation

Action Plans and Related Tariff Rate Quotas annexed to the Trade in Goods chapter, specify that the TRQs and market access provided for kiwifruit, apples and mānuka honey are subject to New Zealand fulfilling commitments under the respective Action Plans. (For more detail, see section 5.2 Trade in Goods).

Annex 14B (Non-Agriculture Cooperation and Technical Assistance Thematic Areas) lists thematic areas for potential cooperation and technical assistance outside of agriculture and aligned sectors. It also sets out an indicative list of potential cooperation activities within thematic areas specified in the Annex, for use by any Working Groups that may be established in a particular thematic area.

The listed thematic areas in the Annex are: Traditional Knowledge and Traditional Medicine, Tourism, Audio-visual Production, and Sports.

### 5.15 Chapter 15: Small and Medium-Sized Enterprises

The chapter commits the Parties to foster close cooperation between SMEs of the Parties and cooperate in promoting jobs and growth in SMEs (Article 15.1), and to seek to increase trade and investment opportunities for SMEs through cooperation between the Parties, with a list of potential cooperation activities (Article 15.2).

Under Article 15.3 (Information Sharing), each Party is obliged to establish or maintain a website that allows the public to access specified information free of charge. The information must be kept up-to-date and accurate. The specified information includes information about the Agreement and, to the extent feasible, websites of its own government agencies that provide information that the Party considers useful to any person interested in doing business in that Party's territory (Article 15.3).

Each Party shall designate an SME contact point to address matters related to the chapter, and shall promptly notify any changes to its contact point. SME contact points are required, among other things, to exchange information to assist in monitoring the implementation of the Agreement as it relates to SMEs, to share best practices in supporting SMEs, to facilitate regular communication and coordination between the Parties, and to cooperate and coordinate to develop and implement joint cooperation initiatives, where appropriate and to the extent practicable (Article 15.4).

The chapter is not subject to dispute settlement under Chapter 19 (Dispute Settlement).

### 5.16 Chapter 16: Transparency

The Transparency chapter requires that each Party:

- Promptly publish its laws, regulations, procedures and administrative rulings of general application with respect to any matter covered by the FTA, including on an official website (Article 16.2);

- ensure that wherever possible, persons of the other Party that are directly affected by an administrative proceeding are provided with reasonable notice, and have reasonable opportunity to respond (Article 16.3); and
- establish or maintain tribunals or procedures, as applicable, for prompt review and, where warranted, correction of final administrative actions regarding matters covered by the FTA (Article 16.4). These must be carried out in a non-discriminatory and impartial manner. Tribunals must be impartial and independent of the authority which carries out administrative enforcement powers. Each Party must ensure that parties to proceedings have a reasonable opportunity to support or defend their positions, and are provided with the final decision.

## 5.17 Chapter 17: Administrative and Institutional Provisions

Article 17.1 establishes a Joint Commission comprising representatives of the Parties, which is to meet within one year of entry into force of the Agreement and afterwards every two years unless otherwise agreed. Rules of Procedure for the Joint Commission shall be established at its first meeting.

Article 17.2 sets out the functions of the Joint Commission. The mandatory functions of the Joint Commission are:

- monitoring the implementation and operation of the FTA, and considering ways to further trade and investment between the Parties;
- considering any matter relating to the implementation and operation of the FTA;
- considering ways to further trade and investment between the Parties, including improving market access;
- considering proposals to amend or modify the FTA and make recommendations to the Parties regarding this;
- supervising and coordinating the work of committees and other bodies established under the FTA;
- conducting a general review of the FTA, (in accordance with the agreed timeframes of within one year after the entry into force of the FTA and thereafter every two years); and
- considering any other matter that may affect the operation of the FTA.

The Joint Commission is also able to, as set out in Article 17.2:

- adopt decisions, make recommendations, and issue interpretations relating to the FTA;
- seek to resolve differences or disputes that could arise under the FTA, without prejudice to the rights of the Parties in Dispute Settlement Chapter;

- issue interpretations of the FTA that are binding for dispute settlement panels;
- establish, assign tasks to, delegate functions to, or consider matters raised by any committee, subsidiary body or working group established by the FTA;
- restructure, reorganise or dissolve any committee, subsidiary body or working group established by the FTA;
- determine the functions of the committees, subsidiary bodies, or working groups established by the FTA; and
- consider and adopt modifications (subject to the completion of necessary legal procedures) to specific parts of the agreement including market access and dispute settlement chapters.

The Administrative and Institutional Provisions chapter establishes in Article 17.5 the following Committees under the FTA:

- Committee on Trade in Goods;
- Committee on Rules of Origin;
- Committee on Trade Facilitation;
- Committee on Sanitary and Phytosanitary Measures;
- Committee on Technical Barriers to Trade;
- Committee on Trade in Services;
- Committee on Trade and Sustainable Development;
- Joint Agriculture Productivity Council;
- Committee on Economic Cooperation and Technical Assistance;
- Committee on Investment Promotion and Cooperation; and
- Committee on Biosecurity, Food and Primary Products.<sup>37</sup>

The chapter also outlines that all decisions made by the Joint Commission, committees, subsidiary bodies or working groups established under the FTA shall be made by mutual agreement of the Parties (Article 17.7).

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<sup>37</sup> As per Article 17.6, the Committee on Biosecurity, Food and Primary Products may consider any technical measure that is not being addressed by another Committee under this Agreement that falls under the jurisdiction of the competent authorities responsible for regulation of agricultural, food, forestry and fisheries products.

## 5.18 Chapter 18: Exceptions and General Provisions

The Exceptions and General Provisions chapter provides exceptions that allow the Parties to justify actions that would otherwise violate the obligations under the FTA. The chapter also includes an article that imposes legal obligations on a Party if it receives confidential information from the other Party.

### *General Exceptions*

Article 18.1 applies the General Exceptions that are found in Article XX of the WTO General Agreement on Tariffs and Trade (GATT) and Article XIV of the General Agreement on Trade in Services (GATS) to the FTA, to chapters where such exceptions are relevant. The effect of incorporating this is that, so long as measures are not used for trade protectionist purposes, the FTA will not prevent either Party from taking measures, including environmental ones, necessary to protect human, animal or plant life or health, or public morals.

### *Security Exception*

Article 18.2 states that a Party cannot be required to provide or allow access to any information where it determines that doing so would be contrary to its essential security interests. In addition, the exception ensures that either Party may apply any action which it considers necessary for such interests in relation to supply of arms to a military establishment, to fissionable and fusionable materials and their derivatives, to protection of critical public infrastructure, or in time of domestic emergency, war or other international relations emergency.

A Party may also take any action in pursuit of its United Nations Charter obligations to maintain international peace and security.

### *Taxation Exception*

Article 18.3 outlines the scope of application of FTA obligations to taxation measures. It provides that the FTA does not apply to direct taxation measures (e.g. taxes on income). This taxation exception also outlines that tax conventions between or including New Zealand and India (e.g. the New Zealand – India Double Taxation Agreement) will prevail in the event of any inconsistency between the FTA and that tax convention.

### *Measures to Safeguard the Balance of Payments*

Article 18.4 allows either Party to adopt or maintain restrictive safeguard measures consistent with GATT 1994 and the WTO Understanding on the Balance-of-Payments Provisions of the GATT 1994, with respect to both trade in goods and in services, where they experience serious difficulties or the threat of such difficulties, with balance of payments or external financial difficulties. Any such measures must be notified to the other Party.

### *Te Tiriti o Waitangi / the Treaty of Waitangi*

Article 18.5 provides that the FTA will not prevent New Zealand from taking measures it deems necessary to accord more favourable treatment to Māori in respect of matters covered by the FTA, including in fulfilment of its obligations under Te Tiriti o Waitangi/the

Treaty of Waitangi, provided that a measure is not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade. The text also specifies that interpretation of Te Tiriti o Waitangi/the Treaty of Waitangi, including as to the nature of the rights and obligations arising under it, shall not be subject to the dispute settlement provisions of the FTA.

#### *Disclosure of Information*

Article 18.6 ensures that nothing in the FTA requires either Party to provide or allow access to information where doing so would be contrary to its domestic law, or would impede law enforcement, or be contrary to the public interest, or would prejudice the legitimate commercial interests of particular enterprises.

#### *Confidentiality*

Article 18.7 requires that each Party maintain the confidentiality of information as designated as confidential by the other Party. It does not prevent the disclosure of information where it is required to do so by its law.

## 5.19 Chapter 19: Dispute Settlement

The first step in bringing a dispute under the FTA is to request formal consultations as provided for in Article 19.5. If the Parties are unable to resolve the matter through those consultations, the Party that requested consultations may request the establishment of a panel to make findings and determinations on the issue (Article 19.7).

Each of the Parties has the opportunity to appoint one panellist to the arbitration panel, with the third panellist (the chair) chosen by agreement of the Parties where possible. The chair cannot be a national of the disputing Parties. If the Parties cannot agree on appointment of the chair, the chair can be selected by lot, to ensure that no Party can block composition of the panel.

The FTA also contains rules of procedure for disputes in Annex 19A. A code of conduct for panellists is set out in Annex 19B.

If a panel determines that a measure is inconsistent with a Party's obligations under the Agreement, the responding must bring itself in compliance with the Agreement (Article 19.13). The responding Party must do so within a reasonable period of time if it is not practicable for it to comply immediately (Article 19.14). The Parties must endeavour to agree on a reasonable period of time, but if they are unable to do so, the matter may be referred to the original panel to determine a reasonable period.

If requested by the complaining Party, in certain circumstances the Parties must enter into consultations with a view to agreeing on mutually acceptable compensation (Article 19.16). If there is no agreement on compensation, the complaining Party can notify the other Party that it intends to suspend the application of obligations under the covered provisions, provided that the notification specifies the level of intended suspension.

There is provision for the panel to be reconvened if the responding Party considers that the level of benefits that the complaining Party is proposing to suspend exceeds the nullification or impairment caused by the violation, or if it considers that it has eliminated the non-conformity or nullification or impairment (Article 19.17).

The Parties can reach a mutually agreed solution at any time, and if they do, they must communicate this with the panel (Article 19.19). The dispute will then be terminated.

At any time during the dispute settlement process, the Parties may agree to utilise good offices, conciliation, or mediation to try and find a solution to their dispute (Article 19.6).

## 5.20 Chapter 20: Final Provisions

Article 20.6 states that the FTA will enter into force 30 days after the date on which the Parties exchange written notifications confirming that they have completed their internal legal procedures necessary for entry into force, or on another date agreed by the Parties.

Article 20.2 allows the Parties to agree, in writing, to amend the Agreement. Such amendments enter into force 60 days after exchange of written notifications certifying completion of internal legal requirements and procedures for entry into force, or on such other date as the Parties may agree.

Under Article 20.3, each Party affirms its rights and obligations with respect to each other under existing agreements to which both Parties are party, including the WTO Agreement. It also outlines procedures to follow in the event of inconsistency between the FTA and other international agreements which both Parties are party.

Article 20.4 provides for a general review of the FTA within one year of entry into force, and every two years thereafter, or as otherwise agreed by the Parties, with any General Review to take into account the following: the consideration of further liberalisation of market access for goods and services; that balanced outcomes flow from the Agreement; that the disciplines contained in the Agreement remain relevant to the trade issues and challenges confronting the Parties; work of relevant committees and other subsidiary bodies, including reviews under relevant chapters; relevant developments in international law; and any other matters as may be agreed by the Parties.

Article 20.5 provides that the FTA may be terminated by either Party by written notice to the other Party. This termination takes effect six months after such a notification is delivered, unless otherwise agreed.

## 5.21 Side Letters

The FTA contains six legally binding treaty-level side letters<sup>38</sup>, to be signed and exchanged alongside the signature of the FTA:

### *5.21.1 Wine Trade – Most Favoured Nation*

India affirms that wine imports from New Zealand will be automatically subject to treatment as favourable as that provided to imports of wine from any non-party with respect to customs duties or other charges connected to that importation.

### *5.21.2 Dairy Consultations*

This side letter confirms the understanding that if India offers tariff concessions on core dairy products such as milk powders, cheese, or butter as part of a trade agreement in force with a comparable non-Party, on New Zealand's request, India agrees to consult on whether to offer similar treatment to New Zealand in the Agreement as part of and during the review of the Agreement. Unless the Parties agree otherwise, such consultations may commence no later than 60 days after the date of the request and will be undertaken with the view to conclude consultation within 180 days.

### *5.21.3 Organics*

This side letter confirms the understanding that India and NZ have negotiated an Interim Mutual Recognition Arrangement (MRA) that facilitates reciprocal trade in organic products based on the acceptance of a mutually accepted third country's standard (Australia), which shall come into effect on the same date the Agreement enters into force.

The Parties also agree to endeavour to conclude negotiations of an MRA of organics equivalence of their own technical regulations and conformity assessment procedures within 12 months of the Agreement coming into force.

### *5.21.4 Comparable Regulators – Medical Devices*

In relation to the Annex on Medical Devices, this Side Letter identifies the following regulatory authorities as being recognised as a 'comparable regulator' by each Party:

- Australian Therapeutic Goods Administration (TGA);
- European Medicines Agency (EMA);
- Health Canada;
- Pharmaceuticals and Medical Devices Agency (PMDA), Japan;
- United Kingdom Medicines and Healthcare Products Regulatory Agency (MHRA); and
- United States Food and Drug Administration (US FDA)

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<sup>38</sup> A non-binding side letter to establish a Working Holiday Scheme will also be signed and exchanged alongside the signature of the FTA. See sections 4.7 and 4.17 for more detail.

The Letter recognises the Parties may amend the list by written notice.

*5.21.5 Comparable Regulators – Pharmaceuticals*

In relation to the Annex on Pharmaceuticals, this Side Letter identifies the following regulatory authorities as being recognised as a 'comparable regulator' by each Party:

- Australian Therapeutic Goods Administration (TGA);
- European Medicines Agency (EMA);
- Health Canada;
- United Kingdom Medicines and Healthcare products Regulatory Agency (MHRA);
- United States Food and Drug Administration (US FDA); and
- Pharmaceuticals and Medical Devices Agency (PMDA), Japan (only for Good Manufacturing Practice (GMP) certification).

The Letter recognises the Parties may amend the list by written notice.

*5.21.6 Geographical Indications*

New Zealand and India have agreed through the NZ-India FTA Side Letter – (Geographical Indications) that from the date of the signing of the side letter that the Parties will commence work towards a review of the Geographical Indications section of the intellectual property chapter of the agreement, with the aim of completing the review within six months of entry into force of the agreement.

The review shall consider at least the following:

- amending the section to provide a mechanism for protection of geographical indications under the agreement;
- address protection of specific geographical indications nominated by each party, including "BASMATI";
- amending the agreement so that no less favourable treatment is applied to geographical indications nominated by India than is provided under the New Zealand – European Union Free Trade Agreement or any other New Zealand international agreement;

For names nominated by India, New Zealand is required under the side letter to promptly initiate any notification, opposition or other process that are required in relation to granting protection to those geographical indications.

The Parties recognise that any review will be conducted in accordance with each Party's international obligations. For New Zealand, this includes the notification and public opposition process requirements required under the CPTPP in relation to the consideration of protection of geographical indications.

New Zealand shall also undertake all necessary steps (including any necessary legislative changes) to provide any protection of any geographical indications resulting of the review as promptly as possible, with the aim of completing those steps within 12 months of completing the review.

## 6. Measures which the Government Could or Should Adopt to Implement the Treaty Action, Including Implementing Legislation

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### 6.1 New Legislation

Most of the obligations in the Agreement are consistent with New Zealand law or policy settings. However, some changes to New Zealand legislation are required to implement certain obligations and to enable the Agreement to enter into force.

The following is required to enable New Zealand to manage the administration of new access for our exporters under tariff rate quotas (TRQs):

- amendments to the **Dairy Industry Restructuring Act 2001** (DIRA) to enable TRQs for albumins under the Agreement to be brought within the existing quota administration system for dairy export quotas, by adding albumins to Schedule 5(a) of the DIRA, and creating a new regulation making power, enabling 10% of the albumins quota to be reserved for otherwise ineligible participants; and
- the creation of a **new piece of primary legislation** to enable separate quota administration systems for apples, kiwifruit and mānuka honey to be established via regulations.

Amendments are also required to the following legislation:

- the **Customs and Excise Act 2018** to allow the chief executive of the New Zealand Customs Service to designate an authorised certification body to certify that goods originate in New Zealand for the purposes of the NZ-India FTA;
- the **Customs and Excise Regulations 1996** to implement the agreed rules of origin and product specific rules of origin for goods imported from India;
- the **New Zealand Tariff** to enable the application of the preferential tariff rates agreed in the NZ-India FTA and to implement obligations relating to the tariff treatment of goods returned after repair or alteration;
- the **Tariff Act 1988** to provide a provisional transitional safeguard mechanism for imports from India; and
- the **Overseas Investment Act 2005** and the **Overseas Investment Regulations 2005** to increase from \$100 million to \$200 million the monetary threshold above which consent is required for investments by non-government investors from India in "significant business assets" in New Zealand in relation to the provision of services.

The legislation will be included in a single omnibus bill. An Order in Council will be required to bring the Bill into force, after New Zealand and India agree on the date that the Agreement can enter into force. The implementing legislation must come into force on the same date that the Agreement enters into force.

## 6.2 Immigration instructions

Implementation of the visa commitments will require the Minister of Immigration to certify new immigration instructions under section 22 of the Immigration Act 2009. A fee will be set for the new visa categories that need to be established, in line with the existing fee for WHSs and Work Visa (Other) in Schedule 4 of the Immigration (Visa, Entry Permission and Related Matters) Regulations 2010.

## 7. Economic, Social, Cultural and Environmental Costs and Effects of the Treaty Action

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### 7.1 Summary of impacts from the NZ-India FTA

Trade and other forms of international engagement often provide aggregate economic and other benefits (particularly for smaller economies) as well as associated environmental, social and other impacts<sup>39</sup>.

This section assesses the overall economic, social, cultural and environmental effects of the NZ-India FTA for New Zealand, drawing on independent economic modelling, the advantages and disadvantages outlined in Section 4, as well as analysis conducted on previous free trade agreements.

### 7.2 Economic Impacts

Independent economic modelling from external consultancy Motu<sup>40</sup> shows that the FTA is expected to increase New Zealand's trade, GDP, and real wages relative to a baseline where the NZ-India FTA is not in place. By 2037, approximately 10 years after entry into force when all tariff phasing is expected to be completed, annual GDP (in 2024 dollars) is expected to be 0.07% or \$401 million higher than non-FTA baseline GDP. Relative to the non-FTA baseline, these FTA-related gains are modelled to grow each year, reaching \$657.7m (0.10%) by 2050, in part driven by expected growth of the Indian economy. The modelling also estimates that the FTA will improve aggregate real wages 0.07% above the non-FTA baseline by 2036.

The FTA is expected to add to New Zealand's total global export growth when it comes into force. The modelling estimates New Zealand's total annual exports, net of trade diversion, to be \$225 million, \$273 million and \$379 million higher than the baseline projection that excludes the effects of the NZ-India FTA 10, 15 and 23 years after entering into force respectively. Bilateral trade flows between New Zealand India are projected to see larger gains, with total annual exports to India projected to be \$842 million higher than baseline projections by 2036, and \$1,272 million by 2050. There is an estimated \$616 million of annual exports in 2036, and \$892 million in 2050, that are diverted from other, lower returning, markets to meet the new demand from India.

By 2036, New Zealand's total annual imports are estimated to be \$428 million higher than the baseline that excludes the FTA. Imports directly from India are expected to be \$524 million higher than the baseline by 2036, with imports from India partly supported by \$96 million of import demand diverted from other trading partners.

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<sup>39</sup> MFAT Working Paper: Understanding the linkages between trade and productivity, sustainability and inclusiveness: Drought and Mellor: June 2020.

<sup>40</sup> Motu Economic and Public Policy Research Trust: Economic Impact Assessment of the New Zealand-India Free Trade Agreement, March 2026.

Given the current income and consumption profiles of India, and that increases in trade are off a very low base, the initial gains from the FTA are modest. However, beyond 2036 the gains in New Zealand's total exports from the Agreement is expected to grow by an average of 3.8% per annum, which compares to an expected 1.3% per annum rate of growth in the baseline. Having an FTA in place allows New Zealand to benefit from India's emergence as an economic power, with India expected to be the third-largest economy behind the US and China by the end of the decade.

Modelling measures the incremental gains that are directly attributable to provisions of the FTA, and as a result can be conservative and may underestimate the potential for products with limited existing trade. Experience with New Zealand's FTA with China, which came into force in 2008, suggests that FTAs with big emerging markets may encourage New Zealand businesses to pivot towards new opportunities in a way that generates higher-than-modelled returns. This is acknowledged in the modelling report, which notes that "the emergence of new trade networks for products where little trade previously existed could lead to larger economic impacts than those captured in the modelling".<sup>41</sup>

### **Estimated economic gains from trade liberalisation**

The modelling provides a breakdown of the economic gains from the FTA by the main trade liberalisation measures, including tariff elimination and reduction, amelioration of non-tariff barriers (NTBs), and improved trade facilitation.

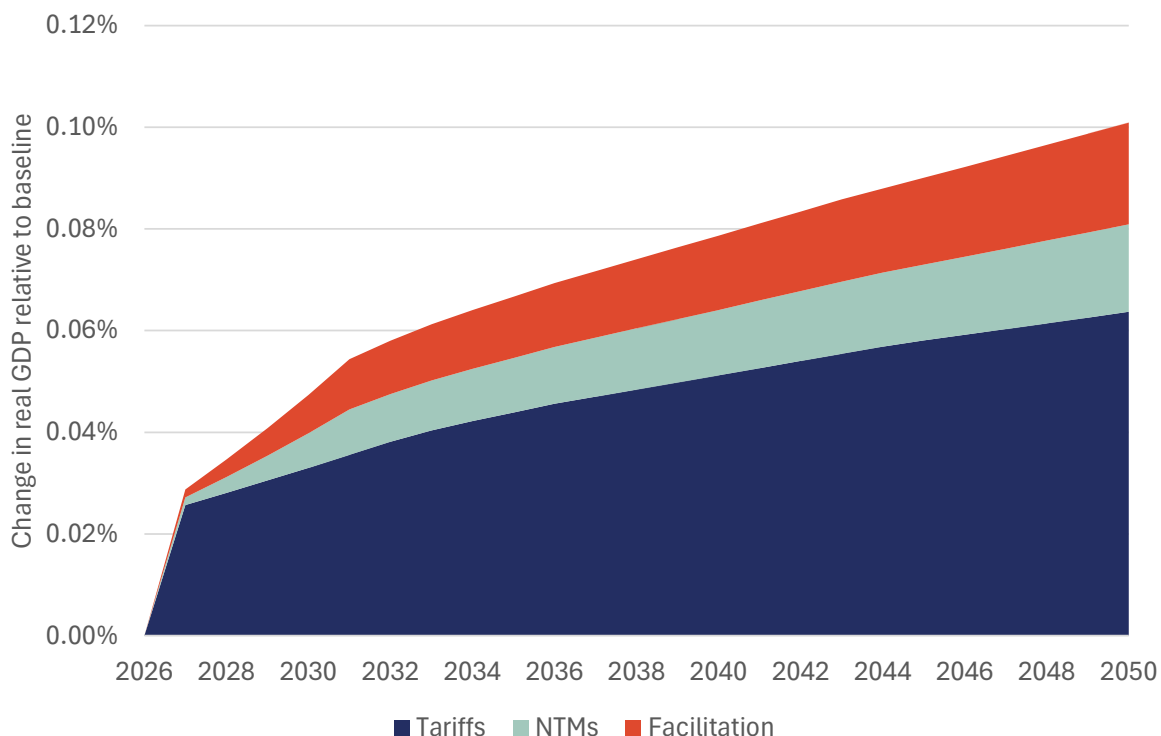
Tariff elimination and reduction generate by far the largest economic gains, with economic modelling indicating that around two thirds of the gain from the NZ-India FTA will be generated by tariff reductions. 57% of New Zealand's current exports to India will be duty-free upon entry into force, rising to 82% once the agreement is fully phased in. The FTA will reduce tariffs on 95% of New Zealand's current exports once fully phased in.

The remaining third of the gains from the agreement are shared between the reduction in NTMs and improved trade facilitation for New Zealand goods entering India (Figure 1). Reduced NTBs are expected to lower the cost of trading with India. The modelled impacts of addressing NTBs and improving trade facilitation are relatively conservative (including in comparison to modelling undertaken for the NZ-EU FTA and CPTPP). Over the longer term, the NZ-India FTA provides tools for addressing NTBs that are likely to lower the cost of trading with India. Trade facilitation is aided by an agreement between both parties to set customs standards for processing shipments, which over time is expected improve the viability of India as an export market – particularly for perishable goods.

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<sup>41</sup> Motu Economic and Public Policy Research Trust: Economic Impact Assessment of the New Zealand-India Free Trade Agreement, March 2026 (Executive Summary).

**Figure 1: Estimated change in real GDP from the NZ-India FTA**



Source: Motu Economic and Public Policy Research Trust: Economic Impact Assessment of the New Zealand-India Free Trade Agreement, March 2026.

**Estimated impact by sector**

Improved access for many of New Zealand’s primary sector exports is a major driver of the economic gains from the FTA. Improved and preferential quota access for certain goods such as kiwifruit and apples, and lower tariffs on a variety of products such as forestry, sheepmeat, and other horticulture products, will help to lift New Zealand’s competitiveness in the Indian market and lift domestic agricultural production. The output gains anticipated for the agri-food sector are reflected in the projections of New Zealand’s exports. For instance, the modelling estimates the total annual value of New Zealand’s global forestry exports to be \$163 million higher in absolute terms by 2036 than if the NZ-India FTA wasn’t in place, and \$264 million higher in 2050. In the same manner, the total annual value of New Zealand’s global horticulture and meat exports are modelled to be \$27 and \$24 million higher respectively by 2036, and \$15 and \$61 million higher respectively in 2050.

Manufacturing production and exports are also projected to benefit from the FTA according to the modelling. The phased elimination of tariffs on iron and steel, and preferential access on other industrial products is estimated to lift exports on manufacturing products in relation to the FTA not being in place. In absolute terms, the value of New Zealand’s annual global industrial exports is projected to be \$128 million above non-FTA baseline estimates by 2036, and \$192 million by 2050.

However, the modelling suggests not all sectors experience absolute gains in production and exports relative to the baseline. While there is anticipated to be a small lift in dairy

exports to India, with the Agreement delivering duty-free access for bulk infant formula and high-value dairy preparations, global dairy exports are projected to be \$48 million lower relative to the baseline by 2036. The result does not suggest that New Zealand's total dairy production is set to shrink over next decade. Instead, the result is a representation of exports relative to a baseline, which is still likely to be growing over time. Moreover, in relation to the dairy sector's \$24 billion annual exports, a \$48 million impact is negligible. Services exports to India are expected to be \$70 million higher than baseline projections by 2036. But in absolute terms, New Zealand's global services exports are estimated to be \$49 million lower than baseline figures in 2036. Again, the result for services does not suggest services exports will be lower a decade after the FTA coming into force, relative to an expanding baseline of services trade.

In relation to imports, the largest absolute annual projected increases in New Zealand's imports by 2036 are found among industrial/manufacturing sectors (see Table 3 below) including in clothing and footwear (\$44 million), and textiles (\$30 million). Increased imports from India are likely to add increased competition for domestic producers and other suppliers in these sectors, while at the same time lowering prices for households and businesses that consume these products.

**Table 3: Impact on New Zealand's global trade by main sectors, 2036 & 2050**

	2036		2050	
	Percent	NZ\$	Percent	NZ\$
<b>Exports</b>				
Agriculture-Food	0.21%	\$147m	0.30%	\$246m
Industry	0.63%	\$128m	0.85%	\$192m
Services	-0.14%	-\$49m	-0.14%	-\$58m
Total	0.18%	\$225m	0.26%	\$379m
<b>Imports</b>				
Agriculture-Food	0.36%	\$49m	0.47%	\$75m
Industry	0.38%	\$289m	0.54%	\$486m
Services	0.24%	\$90m	0.31%	\$136m
Total	0.34%	\$425m	0.47%	\$698m

Source: Motu Economic and Public Policy Research Trust: Economic Impact Assessment of the New Zealand-India Free Trade Agreement, March 2026.

### Labour market outcomes

Increased demand from India, due to the FTA, for New Zealand's exports is expected to see real wages exceed baseline trends, representing further gains for households. The modelling estimates that the FTA will improve aggregate real wages 0.07% above the

baseline by 2036. Wage growth over baseline rates is expected to be concentrated in sectors that experience proportionality larger increases in export growth.

### 7.3 Effects on SMEs, Women, and Regional Economies

While the NZ-India FTA is expected to generate overall economic benefits to New Zealand, the effects for groups such as SMEs, women, and regional economies will vary depending on a range of characteristics, including their sectoral representation and export propensities in products expected to benefit most from the NZ-India FTA.

Outcomes in the NZ-India FTA that reduce non-tariff barriers and streamline trade facilitation may have larger benefits for SMEs that trade with the India than for larger firms. SMEs - typically defined as those with fewer than 50 employees - are a key feature of New Zealand's economy and export sector, representing around 96% of firms involved in exporting goods.<sup>42</sup> However, administrative processes associated with trade can disproportionately affect small firms as they have fewer resources than larger ones to navigate regulatory frameworks in overseas markets. As a result, outcomes in the NZ-India FTA that support trade facilitation and reduce compliance and administrative costs for businesses would be expected to be particularly beneficial for SMEs.

The NZ-India FTA also includes a dedicated SME chapter that provides for cooperation between the Parties to enhance the ability of SMEs to benefit from opportunities arising under the Agreement. The chapter requires each Party to make freely available online any information that would be useful for SMEs interested in taking advantage of the opportunities provided by the Agreement.

As female-led export businesses tend to be smaller than those led by men, these trade facilitation benefits are also expected to accrue to women in businesses that export to India. Research from the OECD has shown that women-owned and women-led exporting businesses in New Zealand, as in many developed countries, tend to be smaller than those led by men.<sup>43</sup> As a result, the OECD highlighted the importance of improving trade facilitation as a mechanism to reducing barriers to trade for New Zealand women in exporting.

Research shows that women are underrepresented in export business and sectors overall<sup>44</sup>. The Trade and Sustainable Development chapter includes provisions on trade and gender equality that recognise the importance of women in advancing sustainable and inclusive economic growth, including through participation in international trade. The Parties also agree to implement the Agreement in a manner that advances the full, equal and meaningful participation of women in the economy, and in a manner that protects and promotes their human rights and economic well-being. New Zealand and India's cooperation in the implementation of the Agreement further includes efforts to foster women's entrepreneurship and leadership and promoting women's access to the benefits

<sup>42</sup> MFAT Working Paper, 'Inclusive and Productive Characteristics of New Zealand Goods Exporting Firms', 2022: [Inclusive-and-productive-characteristics-of-New-Zealand-goods-exporting-firms-MFAT-Working-Paper.pdf](https://www.mfat.govt.nz/assets/Working-Papers/Inclusive-and-productive-characteristics-of-New-Zealand-goods-exporting-firms-MFAT-Working-Paper.pdf).

<sup>43</sup> OECD, 'Trade and Gender Review of New Zealand', June 2022: [https://www.oecd.org/en/publications/trade-and-gender-review-of-new-zealand\\_923576ea-en/full-report.html](https://www.oecd.org/en/publications/trade-and-gender-review-of-new-zealand_923576ea-en/full-report.html).

<sup>44</sup> See BERL report 'New Zealand Women in Export Trade', 2023: <https://www.women.govt.nz/library/new-zealand-women-export-trade-understanding-barriers-2023>.

and opportunities provided by the Agreement. This includes efforts under the Agreement to identify and address barriers faced by women in trade.

The distribution of benefits across regional economies in New Zealand will differ due to the variability in industry composition across regions and their export exposure to the India and focus on exports on key goods that enjoy particular market access benefits under the FTA.

## 7.4 Effects on Māori

As New Zealand's founding document, Te Tiriti o Waitangi/the Treaty of Waitangi is fundamental to the ongoing relationship between the Government and Māori. All of New Zealand's FTAs concluded since 2001, including the NZ-India FTA, include a specific provision that enables the Crown to meet its obligations to Māori under Te Tiriti o Waitangi/the Treaty of Waitangi. It also specifies that New Zealand's interpretation of Te Tiriti o Waitangi/the Treaty of Waitangi will not be subject to dispute settlement.

Exporting is an important economic driver for Māori due to the due to their strong interests across exporting sectors. In 2023, Māori Authorities and other Māori enterprises exported around \$1.4 billion of goods, and around one in four Māori workers derived their livelihoods from producing goods and services for export.<sup>45</sup> Much of the engagement in trade arises from the relatively high share of Māori-owned land and other primary sector assets, and the high rate of Māori employment in primary industries. As the NZ-India FTA is expected to deliver particular benefits for the forestry, seafood, sheepmeat, mānuka honey, and horticulture sectors, the agreement will improve market access and trade facilitation for products of particular relevance to Māori export businesses. The general improvement in market access more generally to India will also provide wider opportunities for Māori firms to grow and diversify.

As outlined in section 4.12, the Agreement includes a chapter on Cultural, Trade, Traditional Knowledge, and Economic Cooperation. Among other things, the Parties undertake to cooperate in a range of areas of interest to or benefit to Māori. These include cooperating to promote and strengthen outcomes in traditional knowledge, traditional medicines/Rongoā Māori, biodiversity, traditional cultural expressions, business to business promotion, and science, research and innovation.

## 7.5 Environmental Effects

The FTA contains general exceptions that are consistent with those provided for in existing international agreements (GATT and GATS), which are designed to provide policy space for Governments to regulate for legitimate public policy purposes, such as the protection of natural resources and the protection of human, animal or plant life or health.

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<sup>45</sup> MFAT Working Paper, 'Understanding the Linkages Between Trade and Productivity, Sustainability and Inclusiveness', June 2020: <https://www.mfat.govt.nz/assets/Trade-General/Trade-stats-and-economic-research/Understanding-the-linkages-between-trade-and-productivity-sustainability-and-inclusiveness.pdf>.

New Zealand will not be restricted from applying existing or future environmental laws, policies and regulations, provided they are applied to meet a legitimate objective and are not implemented in a manner which would constitute a disguised restriction on trade.

In terms of the impacts of economic activity on the environment, the NZ-India FTA is not expected to have material effects. In general, trade can generate a mix of effects on a country's environment and natural resources. Incentives from trade can lead industries with a comparative advantage in production to expand in response to global demand. It can also facilitate cross-border sharing of environmentally sustainable technologies and techniques. Environmentally related cooperation agreed to in this FTA includes efforts to share practices in the conservation of biodiversity, taking action to prevent the spread of alien species, sharing policy frameworks which facilitate eco-innovation, and work to make sustainable technologies affordable.

Agreed forestry-related cooperation between the two countries with potential environmental benefits include efforts to promote the conservation and sustainable management of forests, encouraging trade in forest products from sustainable supply chains, and working together to contribute towards global efforts to combat illegal logging, illegal deforestation and associated trade.

New Zealand and India also recognise the importance of conserving and sustainably managing marine fisheries, and agree to support national, regional and international goals to address illegal, unregulated and unreported (IUU) fishing, while cooperating on fishery policies and measures which help promote sustainable fishing practices.

As regards climate change, both parties have reaffirmed their commitments under the UNFCCC and the Paris Agreement, and have listed mitigation and adaptation cooperation efforts in areas of mutual interest which include the sharing of knowledge and innovations (including traditional, local and indigenous knowledge) to support solutions to climate change; climate smart and climate resilient agriculture; clean energy; and climate-friendly technology. The Agreement includes the possibility for cooperation under Article 6 of the Paris Agreement, which provides, amongst other elements, an emissions trading framework.

The NZ-India FTA also includes provisions on sustainable development that support New Zealand's interests in trade and the environment, including ensuring that environmental measures cannot be used as trade barriers, and commitments not to encourage trade by derogating from or failing to enforce their environmental laws in a manner affecting their bilateral trade.

## 7.6 Social and Cultural Effects

The NZ-India FTA would have few implications for New Zealand's ability to develop social and cultural policy. The NZ-India FTA Preamble reaffirms the right of each Party to regulate in pursuit of legitimate public welfare objectives and New Zealand's non-conforming measures specifically reserve the New Zealand government's rights in the area of social services provided for a public purpose, including in education, health, housing and public transport.

New Zealand's social policy frameworks would not be affected by the NZ-India FTA. In the Trade in Services chapter, the NZ-India FTA follows the structure of the GATS and excludes services supplied in the exercise of government authority. In addition, New Zealand has not made any commitments in respect of the following social services established for a public purpose: child care; health; income security and insurance; public education; public housing; public training; public transport; public utilities; social security and insurance; or social welfare. The Agreement also includes exceptions that provide a further safety net to ensure legitimate public policy in support of social objectives would not be precluded.

The NZ-India FTA is expected to support improved labour market outcomes across sectors and regions through growth, productivity and export expansion and a range of labour commitments. New Zealand and India have committed to respect, promote and realise the principles and rights at work which flow from the International Labour Organization (ILO) Fundamental Conventions – and have affirmed their commitment to effectively implement the Conventions they have ratified. They have agreed to enhance cooperation by sharing information, experience and best practice in areas of mutual interest such as responsible business conduct and implementing relevant aspects of the ILO Decent Work Agenda. Both countries commit not to encourage trade by derogating from or failing to enforce their labour laws in a manner affecting their bilateral trade.

The NZ-India FTA incorporates the relevant WTO general exceptions (from GATT and GATS), including that the NZ-India FTA Parties may take measures necessary to protect national treasures of artistic, historic or archaeological value, providing that such measures are not used for trade protectionist purposes.

## 8. Costs to New Zealand of Compliance with the Treaty

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### 8.1 Tariff revenue foregone

The majority of the estimated fiscal costs from the NZ-India FTA come from foregone annual tariff revenue. The elimination of all tariffs on imports from India on entry into force of the Agreement will immediately remove approximately NZ\$15 million per year in customs duties.<sup>46</sup> The cost represents foregone tariff revenue and from an economic perspective is treated as a cost. However, the overall net effect for New Zealand is likely to be positive as a result of cheaper consumer goods for consumers and inputs for business, alongside increased innovation and competition.

The tariff revenue foregone on New Zealand's imports from India will be significantly exceeded by the benefits to New Zealand of the FTA entering into force, in terms of the tariff savings as a result of the elimination and reduction of tariffs on New Zealand exports to India (estimated on current trade levels to be \$43 million in the first year, increasing to \$62 million per annum once fully implemented) and the export growth the FTA is expected to unlock.

### 8.2 Costs to government agencies of implementing and complying with the FTA

#### *Establishing quota allocation systems*

The New Zealand Government, or delegated authority, will need to establish quota allocation systems for kiwifruit, apples, mānuka honey and albumins. Establishment costs will be covered will be met within forecast baseline expenditure, and ongoing costs will be recovered from relevant exporters benefiting from the new quota access.

#### *Cooperation activities, including those linked to market access*

The goods market outcomes for apples, kiwifruit and mānuka honey are linked to cooperation action plans agreed by New Zealand and India under the FTA, under which New Zealand has made specific commitments to support implementation of the action plans. New Zealand's contribution to these activities is expected to be largely funded by benefiting sectors, with the government covering limited remaining costs as necessary. The expected benefits of new access to the Indian market for these sectors outweigh the costs of delivering on these action plans, with additional spillover benefits expected from the cooperation activities.

The Agreement provides the ability for New Zealand and India primary sectors to agree mutually beneficial cooperation plans under the Agriculture Productivity Partnership (APP), in addition to the specific commitments for products covered by action plans. Given the costs of activities will be dependent on agreement between New Zealand and Indian sectors it is not possible, at this stage, to determine the total cost of activities under the APP. New Zealand's contribution towards cooperation projects will primarily be covered by

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<sup>46</sup> Estimated revenue foregone calculated based on the average \$15 million in duties per annum collected by the New Zealand Customs Service on goods imported from India over the three-year period from 2022-2024.

relevant sectors, with the costs of establishing and maintaining the programme to be met by MPI.

*Establishing an electronic exchange system for proof of origin documents*

The New Zealand Customs Service will incur one-off costs of approximately \$1 million to establish an electronic exchange system for exchanging the data from proof of origin documents under the FTA with India. This system is an obligation under Chapter 3 (Rules of Origin) of the FTA, and must be implemented before the FTA enters into force. The New Zealand Customs Service already has a similar origin data exchange system – the Joint Electronic Verification System (JEVS) - in place to support trade under the NZ-China FTA. Once established, ongoing costs for operating the system will be met within forecast baseline expenditure.

*Implementation of Geographical Indications side letter*

The Side Letter on Geographical Indications will require agencies (primarily MFAT and MBIE) to undertake the review and negotiation of proposed standard and mechanisms for the protection of geographical indications (GI) under the FTA, as well as to the possible protection of individual GI names, which will require a public consultation/opposition process. If protection is agreed as a result of the review, agencies will then need to meet the cost implement that protection through changes to the Geographical Indications Act 2006, as well as potential minor costs associated with the registration of GIs. The described costs will be met from baseline or existing funds.

*Temporary Movement of Natural Persons-related implementation costs*

There will be implementation costs associated with the temporary movement of natural persons components of the FTA, of around \$0.5 million. It is expected that these costs can be covered from existing baselines, however, depending on the timing, this may require some reprioritisation that will delay the implementation of other priority policy changes.

*Other implementation costs*

All other implementation costs will be met within forecast baseline expenditure, including MFAT and other agencies staffing Committees established under the Agreement.

## 9. Consultation with Māori, the Community and Parties Interested in the Treaty Action

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### 9.1 Overview of Consultations

#### 9.1.1 Public consultations

Public Submissions on the NZ-India FTA ran from 24 March to 15 April 2025, with 97 written submissions received from businesses, industry, non-governmental organisations (NGOs), civil society groups and the public.

The majority of submissions (67%) were supportive of efforts to secure an FTA. The primary reason given was the potential to increase trade in goods and services, but also the potential for increased collaboration in a wide variety of sectors. The submissions that were neutral or not supportive expressed immigration or human rights concerns.

The Ministry has also continued to monitor the inbox used (as listed on the website) to receive additional insights and feedback from the public throughout the negotiation process. In addition, the website was kept up to date with a timeline of the negotiations after each formal round.

#### 9.1.2 Industry consultations

- Negotiators also undertook further consultations where appropriate, including with relevant industry bodies.
- These consultations were undertaken throughout the full course of the negotiations.
- This engagement included regular briefings and communication on specific commercial issues to a range of New Zealand businesses and business representatives, including but not limited to: Apiculture New Zealand, Beef + Lamb NZ, Dairy Companies Association of New Zealand (DCANZ), Fonterra, the Meat Industry Association, Onions NZ, Horticulture Export Authority, New Zealand Apple and Pears, New Zealand Forest Owners Association, New Zealand Timber Industry Federation, New Zealand Winegrowers, Seafood New Zealand, Unique Mānuka Factor Honey Association, Wood Processors & Manufacturers Association, Wool Impact, and Zespri, amongst many others.

#### 9.1.3 Māori

- Officials engaged closely with Māori trade representative groups Ngā Toki Whakarururanga, Te Taumata, Federation of Māori Authorities, National Iwi Chairs Forum, and the Mānuka Charitable Trust throughout the negotiations to ensure that Māori interests and perspectives were discussed and considered in the negotiations.
- These interests included the Tiriti o Waitangi/ Treaty of Waitangi exception, goods market access, cooperation to support business to business engagement, traditional knowledge, and traditional medicines.

- New Zealand hosted a Māori business roundtable with the Indian negotiation team during the Queenstown round in September 2025, which included representatives from Ngāi Tahu, New Zealand Māori Tourism Council, Ngā Toki Whakarururanga, mānuka honey exporters, and traditional medicines. This provided an opportunity for Māori to convey directly to India their interests in the trade agreement.

## 9.2 Summary of views from Māori

The FTA text was not publicly available until signature. As a result, Māori were not able to analyse and provide their views on the agreement's outcomes. Ngā Toki Whakarururanga has, however, provided an interim assessment based on available information. This is summarised below:

- Ngā Toki Whakarururanga has provided assessments for previous NIAs based on process, expectations, and outcomes. For this NIA, Ngā Toki Whakarururanga has only been able to provide its assessment based on New Zealand's initial FTA proposals and summary information as India, unlike in other FTA negotiations, did not agree to text being shared.
- Ngā Toki Whakarururanga identified the following specific interests in the FTA negotiations with a view to a win-win outcome for Māori and India: traditional knowledge; intellectual property rights and the Convention on Biological Diversity; ayurveda and rongoā; organics, plant variety rights, seeds, hua parakore, and GMOs; data sovereignty and digital governance; generic medicines and health products; creatives and culture.
- The outcome does not include language to provide stronger protections for Te Tiriti o Waitangi than the existing and, Ngā Toki Whakarururanga believes, flawed Treaty of Waitangi clause that has been included in all of New Zealand's FTAs concluded since 2001.
- Former Ngā Toki Whakarururanga co-convenor, Pita Tipene, and kaihautū/rongoā expert, Donna Kerridge, participated in a Māori business roundtable with the Indian negotiating team, but were not permitted to participate in the negotiations.
- The Technical Barriers to Trade chapter has an interim mutual recognition arrangement for organic products but does not make provision for hua parakore.
- The services chapter among other things provides for health mobility and traditional medicines but the impacts for Rongoā Māori practitioners are not known.
- It is also unclear whether the audio-visual and cultural services commitments allow for more local content, te reo Māori, and co-production.
- The working groups to be established under the Economic Cooperation and Technical Assistance chapter include traditional knowledge, traditional medicine, audio-visual production, apiculture, and honey, although it is unclear what resourcing will be available, whether action is subject to mutual agreement, or what role Indigenous experts from both countries will play.

- There is no generic recognition of the importance of Te Tiriti o Waitangi/the Treaty of Waitangi to New Zealand, or of the duties, rights and interests of Indigenous Peoples for both countries.
- The Cultural, Trade, Traditional Knowledge and Economic Cooperation chapter references the Treaty of Waitangi but not Te Tiriti o Waitangi. It covers kaupapa of importance, such as traditional medicines (AYUSH and rongoā), traditional knowledge, traditional cultural expressions, biodiversity, arts, crafts, dance, music and tourism, but this chapter, as with similar chapters in other FTAs, is unenforceable, has a commercial focus, and does not have any resourcing commitments.
- It is unclear if the Trade and Sustainable Development chapter addresses the climate crisis. Ngā Toki Whakarururanga has challenged the failure of trade agreements to address this issue in the Waitangi Tribunal Climate Change Inquiry.
- Ngā Toki Whakarururanga also expressed concern that its full Interim Tiriti Assessment will not be included as an annex to the NIA, as has been recent practice.

### 9.3 Summary of submissions received

A summary of the public submissions received is set out in the following sections.

#### 9.3.1 Goods Market Access

Thirty five percent of public submissions related to goods market access. Submitters included industry bodies and exporters (including from the dairy, honey, horticulture, seafood, wood, and wine mining, biotech, nutraceutical, and natural health product sectors), academics, and private individuals.

The majority supported New Zealand negotiating a free trade agreement with India. The key themes that emerged in these submissions included the need to:

- reduce or eliminate tariffs, with most highlighting the high tariffs that India currently has on many goods.
- address non-tariff barriers, including those arising from standards recognition, sanitary and phytosanitary requirements such as maximum residue levels (MRLs), regulatory compliance, oenological practices, labelling requirements, biosecurity and customs procedures, and supply chain logistics.

A number of these submissions also highlighted interests in advancing collaborative opportunities in the Indian market, such as sector dialogues, exchanges of experts, research and development, and joint ventures – including to help build long term relationships within the Indian market.

Submissions in this category opposed to or neutral about the negotiation raised immigration and the difficulty of accessing and operating in the Indian market as their primary concerns.

### 9.3.2 Movement of natural persons

Thirteen percent of public submissions focused on the movement of natural persons (MNP). Of these, the majority (all from private individuals) were opposed to immigration or visas being covered by the negotiations.

Those in favour of MNP being covered by the negotiation included:

- private individuals requesting a streamlined process for Temporary Visitor Visas and Multi-Year, Multi-Entry Family Visas for Indian nationals;
- tertiary education representatives; and
- businesses wanting greater temporary entry for Indian service suppliers.

### 9.3.3 Cross-cutting submissions

Thirty three percent of public submissions addressed multiple areas including: goods market access; movement of natural persons, sector specific opportunities, areas of potential collaboration, connectivity and people-to-people links, and other broader interests and considerations including values and strategic opportunities. Submitters included private citizens, academics, industry groups, and individual businesses.

Examples include businesses and other submitters with interests in relation to the access to goods (including into New Zealand), improved access into the Indian market (including through the removal of non-tariff barriers), and the benefits of allowing temporary entry visas for technical services suppliers from India. Some also raised industry specific issues or opportunities in sectors such as tourism, education, health, finance and investment, or defence and security.

### 9.3.4 Issue-specific submissions

Nearly a quarter of public submissions primarily focused on key areas of interest, or issues specific to the submitter. These included submissions focused on: digital trade; gender equality; arts and culture; human rights and security; labour rights; animal welfare; climate and environment; and intellectual property.

Submissions were also received addressing Māori trade interests – including market access for key exports, traditional knowledge, traditional cultural expressions, genetic resources and intellectual property, traditional medicine, opportunities to build long term trade relationships, recognising commonalities, and Tiriti o Waitangi/Treaty of Waitangi interests.

## 9.4 Inter-departmental consultation

The NZ-India FTA was negotiated by an inter-agency team led by MFAT, and primarily comprised officials from MFAT, the Ministry of Business Innovation and Employment (MBIE), the Ministry for Primary Industries (MPI) and the New Zealand Customs Service. Officials from these agencies also led negotiations on specific chapters.

A wider range of other agencies were consulted on relevant chapters throughout the negotiations, including Treasury, the New Zealand Film Commission, Ministry for Culture and Heritage, Ministry for the Environment, Te Puni Kōkiri, New Zealand Trade and Enterprise, Invest New Zealand, Sport New Zealand, Tourism New Zealand, and Inland Revenue Department.

## 10. Possibility of Subsequent Protocols or Amendments to the Treaty, and Their Likely Effects

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The Final Provisions chapter allows for the two Parties to agree to amend the FTA by mutual agreement in writing (Article 20.2). Any such amendment would only enter into force 60 days after the date on which the Parties exchange written notifications that they have completed all legal requirements, or on such a date as agreed between the Parties.

A proposal for an amendment may also come about through the work done by the Joint Commission, or by a Committee or other subsidiary body established under the FTA.

New Zealand has agreed in a side letter to conduct a review of Section E (Geographical Indications) of the Intellectual Property chapter with a view to completing the review within six months from the date on which the Agreement enters into force. This review may result in amendments to Section E of the Intellectual Property chapter which may require domestic legislative changes to bring into effect FTA changes.

New Zealand would consider any proposed amendment to the Agreement on a case-by-case basis.

## 11. Withdrawal or Denunciation Provision in the Treaty

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Either Party may terminate the NZ-India FTA by providing written notice to the other Party (Article 20.5). The termination would take effect six months after the date of the notification, or on another date agreed by the Parties.

## 12. Agency Disclosure Statement

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This extended NIA has been prepared by the Ministry of Foreign Affairs and Trade, in consultation with other relevant government agencies. It identifies all the substantive legal obligations in the NZ-India FTA, some of which will require legislative implementation, and analyses the advantages and disadvantages to New Zealand in becoming a Party to the NZ-India FTA.

It also presents the findings of the independent economic modelling of the Agreement's impacts prepared by Motu Economic and Public Policy Research, providing an assessment of the potential economic value of the Agreement.

Implementation of the obligations arising under the NZ-India FTA would not be expected to impose significant additional costs on businesses; impair private property rights, market competition, or the incentives on businesses to innovate and invest; or override fundamental common law principles.

BACK COVER PAGE

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