

## ANNEX 8.1

### SERVICES COMMITMENTS

#### Annex 8.1.1: Schedule of Commitments of New Zealand

##### Cover Note

1. Consistent with the objectives of this Agreement to liberalise trade in services and support the APEC Bogor goals, and in the interests of facilitating a clear understanding of the nature of services trade commitments made under this Agreement for business users and the wider public, New Zealand has adopted a *sui generis*, plain language, approach to scheduling its services specific commitments. Where further clarification regarding the coverage of a specific services commitment is required - i.e. beyond that provided in the sectoral heading or sub-heading - this is set out clearly in parentheses below in a section entitled “coverage”.

2. Unless otherwise specified, there is no residency requirement attached to registration in those services sectors where New Zealand has made specific commitments.

3. The modes of supply referred to in this schedule are:

Cross border mode	:	the supply of a service from the territory of one Party into the territory of the other Party
Consumption abroad mode	:	the supply of a service in the territory of one Party to the service consumer of the other Party
Commercial presence mode	:	the supply of a service by a service supplier of one Party, through commercial presence in the territory of the other Party
Presence of natural persons mode	:	the supply of a service by a service supplier of one Party, through presence of natural persons of that Party in the territory of the other Party

#### **Section A: All Sectors**

##### Presence of Natural Persons

1. No commitments other than on certain categories of intra-corporate transferees (i.e. natural persons employed by a service supplier of the other Party supplying services through a commercial presence) and business visitors as defined below. For intra-corporate transferees the following conditions apply:

- (a) Executives and senior managers (i.e. senior employees of an organisation who have been employed for at least 12 months prior to proposed transfer to New Zealand and who are responsible for the entire or a substantial part of an organisation's operations in New Zealand and receive general supervision or direction from higher level executives, board directors or stockholders): an initial period of stay of up to three years;
- (b) Specialist and/or senior personnel (i.e. persons being transferred to undertake a specific or specialist task at senior level within the company): an initial period of stay of up to 12 months;
- (c) Specialist personnel (i.e. natural persons who have been employed by an organisation for at least 12 months prior to proposed transfer to New Zealand and who possess trade, technical or professional skills responsible for a particular aspect of an organisation's operations in New Zealand): an initial period of stay of up to three years; and
- (d) Installers and servicers (i.e. installers and servicers of machinery /equipment where such installation or servicing is a condition of the purchase of the machinery/equipment): for periods of stay not exceeding three months in any 12 month period.

2. For business visitors (i.e. service sellers representing a service supplier of the other Party seeking temporary entry to negotiate for the sale of services where these do not involve direct sales to the general public) the following conditions apply: for a period or periods not exceeding three months in any calendar year.

### Overseas Investment

1. National treatment in the establishment of commercial presence is subject to the Overseas Investment Regulations 1995, issued under the Overseas Investment Act 1973.<sup>1</sup> These provide that Overseas Investment Commission (OIC) approval is required for the following investments by an overseas person:

- (a) acquisition or control of 25 per cent or more of any class of shares or voting power in a New Zealand entity where either the consideration for the transfer or the value of the assets, exceeds NZ\$50 million, unless an exemption exists or an authorisation is granted;
- (b) commencement of business operations or acquisition of an existing business, including business assets, in New Zealand, where the total expenditure to be

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<sup>1</sup> The OIC, in determining whether to grant approval, acts in accordance with a screening regime (a non-legally binding description of which is contained in Annex 7.2.1 (Limitations of New Zealand)) which may be adjusted or replaced from time to time by New Zealand Government legislation, regulation or policy setting.

incurred in setting up or acquiring that business or those assets exceeds NZ\$50 million, unless an exemption exists or an authorisation is granted;

- (c) acquisition, regardless of dollar value, of non-urban land (including scenic reserve land as defined in the above legislation, land over 0.4 hectares on specified off-shore islands and any land on all other islands unless an exemption exists or an authorisation is granted), and any land wherever located worth more than NZ\$10 million.

2. No commitment to national treatment concerning enterprises currently in State ownership.

## **Section B: Sector-Specific Commitments**

### **BUSINESS SERVICES**

#### **Professional Services**

##### Legal Services

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

##### Accounting, Auditing and Bookkeeping Services

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

##### Taxation Preparation Services

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

##### Architectural Services

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

##### Engineering Services

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

##### Integrated Engineering Services

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

### Urban Planning and Landscape Architectural Services

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

### Dental Services

No market access limitations in the consumption abroad or commercial presence modes of supply. No national treatment limitations in the consumption abroad mode of supply. Market access in the cross border mode of supply and national treatment in the cross border, commercial presence and presence of natural persons modes of supply is limited to registered dentists who must satisfy the relevant registration board that they intend to reside and practise in New Zealand.

### Veterinary Services

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

### **Computer And Related Services**

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

### **Research And Development Services**

#### Research and Development Services on Social Sciences and Humanities except Research and Development Services undertaken by State-Funded Tertiary Institutions

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

### **Real Estate Services**

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

### **Rental/Leasing of Equipment Without Crew**

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

### **Other Business Services**

#### Advertising Services

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

#### Market Research and Public Opinion Polling Services

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

#### Management Consulting Services

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

#### Services Related to Management Consulting

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

#### Technical Testing and Analysis Services

(Coverage: testing and analysis services of physical properties, testing and analysis services of integrated mechanical and electrical systems)

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

#### Services Incidental to Agriculture, Hunting and Forestry

(Coverage: services incidental to animal husbandry covered in next entry)

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

#### Services Incidental to Animal Husbandry

No market access or national treatment limitations in the cross border or consumption abroad modes of supply. Market access in the commercial presence mode of supply is subject to the Herd Testing Regulations under the Dairy Board Act 1961 which restrict the provision of herd testing services to providers licensed by the New Zealand Dairy Board. The number of licences may be limited.

#### Services Incidental to Manufacturing

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

#### Placement and Supply Services of Personnel

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

#### Investigation and Security Services

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

#### Related Scientific and Technical Consulting Services

(Coverage: subsurface surveying services, surface surveying services, and mapmaking services excluding cadastral surveying services)

No market access or national treatment limitations in the consumption abroad or commercial presence modes of supply. Supply of services cross border is not technically feasible.

#### Maintenance and Repair of Equipment (not including Maritime Vessels, Aircraft or other Transport Equipment)

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

#### Building Cleaning Services

No market access or national treatment limitations in the consumption abroad or commercial presence modes of supply. Supply of services cross border is not technically feasible.

#### Photographic Services

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

#### Packaging Services

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

#### Printing Services

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

#### Convention Services

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

### Translation and Interpretation Services

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

### Interior Design Services

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

### Exhibition Management Services

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

## **COMMUNICATIONS SERVICES**

### **Courier Services**

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

### **Telecommunications Services**

No market access limitations in the cross border, consumption abroad or commercial presence modes of supply. No national treatment limitations in the cross border or consumption abroad modes of supply. National treatment in the commercial presence mode of supply is subject, in the case of the Telecom Corporation of New Zealand Limited, to the Articles of Association of that corporation which limit the shareholding by any single overseas entity to 49.9 per cent and require that at least half of the Board of Directors be New Zealand citizens.

### **Audio-visual Services**

#### Motion Picture Projection Services

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

## **CONSTRUCTION AND RELATED ENGINEERING SERVICES**

(Coverage: general construction work for buildings, civil engineering, installation and assembly work, building completion and finishing work, site preparation, new construction (other than pipelines), and maintenance and repair of fixed structures)

No market access or national treatment limitations in the consumption abroad or commercial presence modes of supply. Supply of services cross border is not technically feasible.

## **DISTRIBUTION SERVICES**

### **Commission Agents' and Wholesale Trade Services**

(Coverage: commission agents' services (excluding agricultural raw materials, live animals, food products, beverages, tobacco and wool), wholesale trade services (excluding agricultural raw materials, live animals, food products, beverages, tobacco and wool))

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

#### Retail Trade Services

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

#### Franchising

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

## **EDUCATION SERVICES**

(Coverage: primary, secondary and tertiary education in private institutions)

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply<sup>2</sup>.

## **ENVIRONMENTAL SERVICES**

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

## **FINANCIAL SERVICES**

### Banking and other Financial Services (excluding Insurance)

Banking and other financial services (excluding insurance) referred to in these commitments are understood to include:

- (a) acceptance of deposits and other repayable funds from the public;

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<sup>2</sup> Specific commitments on market access and national treatment through any mode of supply shall not be construed to confer recognition of university degrees for the purposes of admission, registration and qualification for professional practice in New Zealand.



- (b) lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction;
- (c) financing leasing;
- (d) all payment and money transmission services, including credit, charge and debit cards, travellers cheques and bankers drafts;
- (e) guarantees and commitments;
- (f) trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:
  - (i) money market instruments (including cheques, bills, certificates of deposits);
  - (ii) foreign exchange;
  - (iii) derivative products including, but not limited to, futures and options;
  - (iv) exchange rate and interest rate instruments, including products such as swaps, forward rate agreements;
  - (v) transferable securities;
  - (vi) other negotiable instruments and financial assets, including bullion;
- (g) participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues;
- (h) money broking;
- (i) asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;
- (j) settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;
- (k) provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services;
- (l) advisory, intermediation and other auxiliary financial services on all the activities listed in paragraphs (a) through (k), including credit reference and

analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy.

National treatment in the commercial presence mode of supply is subject to the provisions of the Financial Reporting Act 1993 and the Companies Act 1993. These Acts require overseas companies to prepare financial statements on an annual basis comprising a balance sheet, a profit and loss statement and (if required by an applicable financial reporting standard approved by the Accounting Standards Review Board) a statement of cash flows. The Acts also require such financial statements in relation to an overseas company's New Zealand business. The Acts require the following companies to deliver annual audited financial statements to the Registrar of Companies for registration:

- (a) issuers (ie those which have raised investment from public);
- (b) overseas companies;
- (c) subsidiaries of companies or bodies corporate incorporated outside New Zealand;
- (d) companies in which 25 per cent or more of the shares are held or controlled by:
  - (i) a subsidiary of a company or body corporate incorporated outside New Zealand or a subsidiary of that subsidiary;
  - (ii) a company or body corporate incorporated outside New Zealand; or
  - (iii) a person not ordinarily resident in New Zealand.

Commitments in the cross-border mode of supply for insurance and insurance-related services are limited to:

- (a) insurance of risks relating to maritime shipping and commercial aviation and space launching and freight (including satellites), with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting them and any liability arising therefrom, and goods in international transit; and
- (b) reinsurance and retrocession and services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services.

Commitments in the consumption abroad mode of supply for insurance and insurance-related services are limited to:

- (a) life insurance;

- (b) insurance of risks relating to maritime shipping and commercial aviation and space launching and freight (including satellites), with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting them and any liability arising therefrom, and goods in international transit; and
- (c) reinsurance and retrocession and services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services.

Commitments in the cross-border mode of supply for banking and other financial services (excluding insurance) are limited to:

- (a) provision and transfer of financial information and financial data processing as referred to in paragraph (k) above, and advisory and other auxiliary services, excluding intermediation, relating to banking and other financial services as referred to in paragraph (l) above.

Commitments in the consumption abroad mode of supply for banking and other financial services (excluding insurance) cover:

- (a) financial services as indicated in paragraphs (a) to (l) above.

#### Insurance and Insurance-Related Services

For life insurance, reinsurance and retrocession and services auxiliary to insurance, no market access or national treatment limitations in the commercial presence mode of supply.

For non-life insurance, market access and national treatment in the cross border mode of service supply is subject to the following limitation:

Compulsory worker's compensation insurance via levies on vehicle owners, employers, employees and the self-employed is provided solely by the Accident Compensation Corporation.

For non-life insurance, market access and national treatment in the commercial presence mode of supply is subject to the following limitations:

- (a) compulsory worker's compensation insurance via levies on vehicle owners, employers, employees and the self-employed is provided solely by the Accident Compensation Corporation;
- (b) the Earthquake Commission is the sole insurer of residential property disaster insurance for replacement cover up to NZ\$100,000 per dwelling and NZ\$20,000 on personal property. These amounts may be increased by regulation;

- (c) the Apple and Pear Marketing Board has the power to organise compulsory hail insurance on behalf of growers and to require them to pay a levy to recover the premium amount of this insurance.

For insurance intermediation services, market access and national treatment in the cross border mode of supply is subject to the following limitation:

Compulsory worker's compensation insurance via levies on vehicle owners, employers, employees and the self-employed is provided solely by the Accident Compensation Corporation.

For insurance intermediation services, market access and national treatment in the commercial presence mode of supply is subject to the following limitations:

- (a) compulsory worker's compensation insurance via levies on vehicle owners, employers, employees and the self-employed is provided solely by the Accident Compensation Corporation;
- (b) the Apple and Pear Marketing Board and United Wheatgrowers (New Zealand) Ltd have the power to organise compulsory disaster insurance on behalf of growers and to require them to pay a levy to recover the premium amount of this insurance.

No commitment on the marketing and sale of insurance and insurance intermediation services for the following products: agricultural, horticultural and market gardening products, live animals and animal products, meat and meat products, vegetables, fruit, animal and vegetable oils, dairy products, other food products and wool.

#### Banking and Other Financial Services

No market access or national treatment limitations in the commercial presence mode of supply.

### **HEALTH RELATED AND SOCIAL SERVICES**

#### **Other Human Health Services**

##### Ambulance Services and Residential Health Facilities Services other than Hospital Services

No market access limitations in the consumption abroad or commercial presence modes of supply. Supply of services cross border is not technically feasible.

### **TOURISM AND TRAVEL-RELATED SERVICES**

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

## **RECREATIONAL, CULTURAL AND SPORTING SERVICES**

### Archive Services (excluding “Public Archives” as defined in the Archives Act 1957)

No market access or national treatment limitations in the cross-border, consumption abroad or commercial presence modes of supply.

### Sports and Recreational Services (excluding Gambling and Betting Services)

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

## **TRANSPORT SERVICES**

### **Maritime Transport Services**

No commitment on apples, pears, kiwifruit, dairy products and hops.

### International Transport of Freight and Passengers (excluding Cabotage)

No market access or national treatment limitations in the cross border or consumption abroad modes of supply. No commitment on the establishment of a registered company for the purpose of operating a fleet under the New Zealand flag in the commercial presence mode of supply. No commitment on ships’ crews in the presence of natural persons mode of supply.

### Maritime Agency Services, Maritime Brokerage Services and International Towage

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

### Certain Port Services

(Coverage: pilotage, towing and tug assistance, provisioning, fuelling and watering, garbage collecting and ballast waste disposal, port captains’ services, navigation aids, emergency repair facilities, anchorage, other shore-based operational services essential to ship operations, including communications, water and electrical supplies)

No commitments on market access or national treatment. No measures shall be applied which deny international maritime transport suppliers reasonable and non-discriminatory access to the above port services.

### **Air Transport Services**

### Sales and Marketing of Air Transport Services

Apart from the following products, no market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

No commitment on apples, pears, kiwifruit, dairy products and hops.

#### Computer Reservation System Services

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

#### **Rail Transport**

(Coverage: passenger, freight, and pushing and towing services)

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

#### **Road Transport**

(Coverage: commercial road transport services: passenger, freight (excluding mail), rental and vehicle recovery)

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

#### **Pipeline Transport**

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.

#### **Services Auxiliary to All Modes of Transport**

No commitment on apples, pears, kiwifruit, dairy products and hops.

#### Storage and Warehousing Services

No market access or national treatment limitations in the consumption abroad mode of supply. No market access or national treatment limitations for storage and warehousing services for land and maritime transport in the commercial presence mode of supply. Supply of storage and warehousing services cross border is not technically feasible.

#### Freight Forwarding Services

No market access or national treatment limitations in the cross border, consumption abroad or commercial presence modes of supply.