

CHAPTER 1

INITIAL PROVISIONS AND GENERAL DEFINITIONS

Article 1.1

Establishment of a Free Trade Area

The Parties, consistent with Article XXIV of GATT 1994 and Article V of GATS, hereby establish a free trade area in accordance with this Agreement.

Article 1.2

Relation to Other Agreements

1. Each Party affirms its existing rights and obligations with respect to each other under existing bilateral and multilateral agreements to which both Parties are party, including the WTO Agreement.
2. Unless otherwise provided in this Agreement, in the event of any inconsistency between this Agreement and other agreements to which both Parties are party, the Parties shall immediately consult with each other with a view to finding a mutually satisfactory solution.
3. For as long as the Protocol on Ireland/Northern Ireland to the *Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community*, signed in London and Brussels on 24 January 2020 (“Protocol”) is in force,¹ nothing in this Agreement shall preclude the United Kingdom from adopting or maintaining measures, or refraining from doing so, further to the Protocol, and amendments thereto and subsequent agreements replacing parts thereof, provided that such measures, or the absence of such measures, are not used as a means of arbitrary or unjustified discrimination against the other Party or as a disguised restriction on trade.
4. On request of either Party, the Parties shall hold consultations, in relation to the effects of a measure described in paragraph 3 the United Kingdom has adopted, or absence thereof,² on this Agreement and seek a mutually acceptable solution.³

¹ The Parties note in particular that arrangements for democratic consent specified at Article 18 of the Protocol may result in Articles 5 to 10, and other provisions of the Protocol dependent on the same Articles for their application, ceasing to apply to the United Kingdom in accordance with the arrangements specified at Article 18.

² For greater certainty, this refers to a measure described in paragraph 3 which is adopted after entry into force of this Agreement or the absence of such measure.

³ This paragraph is without prejudice to Article 29.5 (Provision of Information – Transparency).

Article 1.3 General Definitions

For the purposes of this Agreement, unless otherwise provided in this Agreement:

“AD Agreement” means the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* in Annex 1A to the WTO Agreement;

“Agreement” means the *Free Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and New Zealand*;

“central level of government” means:

- (a) for New Zealand, the national level of government;
- (b) for the United Kingdom, her Majesty’s Government of the United Kingdom of Great Britain and Northern Ireland;

“covered investment” means, with respect to a Party, an investment in its territory of an investor of the other Party, made in accordance with the applicable law at the time the investment is made,⁴ in existence as of the date of entry into force of this Agreement or established, acquired, or expanded thereafter;

“customs authority” means:

- (a) with respect to New Zealand, the New Zealand Customs Service or its successor;
- (b) with respect to the United Kingdom, Her Majesty’s Revenue and Customs or its successor or, where relevant, any other authority responsible for customs matters within its territory. For greater certainty, with respect to the provisions of this Agreement which apply to the Bailiwick of Guernsey, the Bailiwick of Jersey, or the Isle of Man, “customs authority” shall also mean:
 - (i) with respect to the Bailiwick of Jersey, the Jersey Customs & Immigration Service or its successor;
 - (ii) with respect to the Bailiwick of Guernsey, Guernsey Customs & Excise or its successor; and
 - (iii) with respect to the Isle of Man, the Customs and Excise Division of the Isle of Man Treasury or its successor;

⁴ For greater certainty, minor or technical breaches of law shall not deprive investors and covered investments of treaty protection.

“customs duty” includes any duty or charge of any kind imposed on or in connection with the importation of a good, and any form of surtax or surcharge imposed in connection with such importation, but does not include any:

- (a) charge equivalent to an internal tax imposed consistently with Article III:2 of GATT 1994;
- (b) antidumping or countervailing duty applied consistently with the provisions of Article VI of GATT 1994, the AD Agreement, and the SCM Agreement; or
- (c) fee or other charge in connection with the importation commensurate with the cost of services rendered;

“Customs Valuation Agreement” means the *Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994* in Annex 1A to the WTO Agreement;

“days” means calendar days, including weekends and holidays;

“enterprise” means any entity constituted or organised under applicable law, whether or not for profit, and whether privately or governmentally owned or controlled, including a corporation, trust, partnership, sole proprietorship, joint venture, association, or similar organisation;

“existing” means in effect on the date of entry into force of this Agreement;

“GATS” means the *General Agreement on Trade in Services* in Annex 1B to the WTO Agreement;

“GATT 1994” means the *General Agreement on Tariffs and Trade 1994* in Annex 1A to the WTO Agreement. For greater certainty, references in this Agreement to articles in GATT 1994 include the interpretative notes;

“good” means any merchandise, product, article, or material;

“goods of a Party” means domestic products as these are understood in GATT 1994, or such goods as the Parties may agree, and includes originating goods of a Party;

“government procurement” means the process by which a government obtains the use of or acquires goods or services, or any combination thereof, for governmental purposes and not with a view to commercial sale or resale or use in the production or supply of goods or services for commercial sale or resale;

“Harmonized System” or **“HS”** means the Harmonized Commodity Description and Coding System, including its General Rules of Interpretation, Section Notes, Chapter Notes, and Subheading Notes;

“heading” means the first four digits in the tariff classification number under the Harmonized System;

“Joint Committee” means the New Zealand – United Kingdom Joint Committee established under Article 30.1 (Establishment of the Joint Committee – Institutional Provisions);

“measure” includes any law, regulation, procedure, requirement, or practice;

“national” means:

- (a) for New Zealand, a citizen of New Zealand under its laws or a natural person who has the right of permanent residence in New Zealand;
- (b) for the United Kingdom, a British Citizen in accordance with its applicable laws and regulations, or a permanent resident;

“OECD” means the Organisation for Economic Co-operation and Development;

“originating good” or **“originating material”** means a good that qualifies as originating under the rules of origin in Chapter 3 (Rules of Origin and Origin Procedures);

“person” means a natural person or an enterprise;

“person of a Party” means a national or an enterprise of a Party;

“recovered material” means a material comprising one or more individual parts that results from:

- (a) the disassembly of a used good into individual parts; and
- (b) the cleaning, testing, or other processing of those individual parts as necessary for improvement to sound working condition;

“regional level of government” means:

- (a) for New Zealand: the term regional level of government is not applicable;
- (b) for the United Kingdom:
 - (i) England, Northern Ireland, Scotland, or Wales; or
 - (ii) Her Majesty’s Government of the United Kingdom of Great Britain and Northern Ireland in respect of England,

Northern Ireland, Scotland, or Wales, but not the United Kingdom as a whole;

“remanufactured goods” means a good that:

- (a) is entirely or partially comprised of recovered materials;
- (b) has similar life expectancy and performance compared to the equivalent good when new; and
- (c) has a warranty similar to that applicable to such a good when new;

“Safeguards Agreement” means the *Agreement on Safeguards* in Annex 1A to the WTO Agreement;

“sanitary or phytosanitary measure” means any measure referred to in paragraph 1 of Annex A to the *Sanitary and Phytosanitary Agreement* in Annex 1A to the WTO Agreement;

“Sanitary Agreement” means the *Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of New Zealand on Sanitary Measures Applicable to Trade in Live Animals and Animal Products* done at London on 21 January 2019;

“SCM Agreement” means the *Agreement on Subsidies and Countervailing Measures* in Annex 1A to the WTO Agreement;

“SME” means a small and medium-sized enterprise, including a micro-sized enterprise;

“state enterprise” means an enterprise that is owned, or controlled through ownership interests, by a Party;

“subheading” means the first six digits in the tariff classification number under the Harmonized System;

“territory” means:

- (a) for New Zealand, the territory of New Zealand and the exclusive economic zone, seabed, and subsoil over which it exercises sovereign rights with respect to natural resources in accordance with international law, but does not include Tokelau;
- (b) in respect of the United Kingdom:
 - (i) the territory of the United Kingdom of Great Britain and Northern Ireland including its territorial sea and airspace;

- (ii) all the areas beyond the territorial sea of the United Kingdom, including the seabed and subsoil of those areas, over which the United Kingdom may exercise sovereign rights or jurisdiction in accordance with international law;
- (iii) the Bailiwick of Guernsey, the Bailiwick of Jersey, and the Isle of Man (including their airspace and the territorial sea adjacent to them), territories for whose international relations the United Kingdom is responsible, as regards the following provisions in their entirety, unless otherwise provided in this Agreement:
 - (A) Chapter 2 (National Treatment and Market Access for Goods), including Annex 2A (Schedule of Tariff Commitments for Goods);
 - (B) Chapter 3 (Rules of Origin and Origin Procedures);
 - (C) Chapter 4 (Customs Procedures and Trade Facilitation);
 - (D) Chapter 5 (Sanitary and Phytosanitary Measures); and
 - (E) Chapter 6 (Animal Welfare); and
- (iv) any territory for whose international relations the United Kingdom is responsible and to which this Agreement is extended or further extended in accordance with Article 33.6 (Territorial Extension – Final Provisions);

“TRIPS Agreement” means the *Agreement on Trade-Related Aspects of Intellectual Property Rights* in Annex 1C to the WTO Agreement;⁵

“WTO” means the World Trade Organization; and

“WTO Agreement” means the *Marrakesh Agreement Establishing the World Trade Organization* done at Marrakesh on 15 April 1994.

⁵ For greater certainty, TRIPS Agreement includes any waiver in force between the Parties of any provision of the TRIPS Agreement granted by WTO members in accordance with the WTO Agreement.