

New Zealand–United Kingdom Free Trade Agreement Negotiations

Report on Round Four of negotiations, held virtually from 12 -27 April 2021

New Zealand and UK officials met virtually over 60 sessions during the fourth round of negotiations held in April.

Key outcomes from the round included:

- Broad agreement on the overall framework for the New Zealand-UK free trade agreement (the FTA). This provides greater clarity on the areas the FTA will cover (up to 33 chapters).
- The substantial completion of chapters on competition policy and trade remedies.
- Significant further progress in a number of other areas, including chapter texts on goods trade, customs procedures and government procurement.
- Agreement that the FTA's labour and environment chapters should be legally enforceable.
- Agreement to begin negotiations on three further chapters (consumer protection, anti-corruption and development). Further discussions were also held on proposals that New Zealand expects to shortly share on Māori trade interests.
- Discussion of a further 37 texts and non-papers, revised goods market access offers, and initial government procurement offers – all exchanged prior to the round.
- Productive discussions on the institutional architecture that will support the FTA's effective implementation.
- Agreement to lift the pace of negotiations through a forward schedule of meetings over the coming months.

On the final day of the round (27 April), Chief Negotiators took questions from New Zealand and UK stakeholders on the negotiation. Questions covered a wide range of topics, including: agricultural food production standards; investment disputes; the impact of COVID-19 on the approach being taken to the negotiation of government procurement and intellectual property chapters; patents; wine and spirits trade; committee structure for the small and medium sized enterprises (SMEs) chapter; digital trade; labour enforcement mechanisms; and the incorporation of traditional knowledge within the Agreement.

Minister O'Connor and Secretary Truss spoke following the conclusion of the round. Reflecting the progress made, Ministers agreed during to accelerate negotiations with a view to working towards the conclusion of FTA talks in the coming months. Respective press releases can be found [here](#) and [here](#).

What happens next?

The fifth round of negotiations is scheduled to be held virtually over 8-14 June.

Before the next round:

- Chief Negotiators will meet at the end of May to take further stock of progress in negotiations.
- Various working groups will meet for inter-sessional negotiations.
- New Zealand will work towards tabling several additional proposals that reflect Māori trade interests in the UK. This includes text for the environment and intellectual property chapters, and a chapter on indigenous trade. These proposals will be informed by two independent research projects exploring how best to reflect Māori interests within the Agreement, as well as by ongoing consultation and engagement with Māori.

Minister O'Connor has also announced that he will travel to the UK in June to progress negotiations with the UK.

We will continue to hold stakeholder consultations and public meetings. Feedback from these discussions will help inform New Zealand's approach to the negotiations. To continue to deepen our understanding of Māori interests in the UK FTA, we will engage with Māori leaders, participate in upcoming regional Hui, review and consider recommendations from the two independent research projects noted above, and reach out through regional networks.

Where can I find out more?

New Zealand's high-level objectives for the UK FTA are available [here](#). Further information, including reports for Round One, Two and Three can be found in English and Te Reo Māori [here](#).

For notifications and invitations to public meetings and webinars on the UK FTA, Trade for All and our other trade agreements under negotiation, where you'll be able to ask questions and share your views with us, please sign up at FTAOutreach@mfat.govt.nz or for UK FTA specific events and updates, UKFTA@mfat.govt.nz.

Key working group progress in brief

The **Trade in Goods** working group discussed respective revised goods market access offers. New Zealand noted that the UK's current approach to market access did not meet New Zealand's expectations, including outstanding gaps in relation to the UK's offer on key agricultural products and the proposed linkage between tariff liberalisation and animal welfare provisions. In contrast, good progress was made on agreeing further text, positioning the chapter as a candidate to close (with market access negotiations to continue) at the next round.

The **Rules of Origin** working group continued discussions, agreeing further chapter text, and holding in-depth discussions on key elements such as verification, accumulation and origin declaration. The round also saw detailed discussions commence on the Product Specific Rules (which determine whether a product will be considered a New Zealand good and therefore benefit from the FTA's tariff elimination commitments). Both Parties came away from the round with action points to further close gaps in the remaining text, with agreement to also hold a virtual intersessional meeting focussed on the regional value related articles.

The **Customs Procedures and Trade Facilitation** working group continued to make positive progress across the chapter, agreeing a further seven articles (authorised economic operator, customs procedures and trade facilitation, transparency and publication, simplified customs procedures, single window, risk management, and transit and transshipment). Substantial progress was also made on a number of other articles, meaning it should be possible to substantially conclude this chapter at Round five.

Three negotiating sessions were held on the **Sanitary and Phytosanitary** chapter. Agreement was reached on text within a number of Articles (Objectives, Competent Authorities, Audit, Inspection and Verification and Emergency Measures). Several action points were agreed to be progressed prior to the next round.

The **Technical Barriers to Trade** working group developed a consolidated text that formed the basis of discussion at this round. The UK presented text proposals on the sectoral Annexes: spirits, cosmetics, medicines and medical devices. Both sides engaged in technical discussions to deepen understanding of the respective annex proposals, including identifying areas of commonality and differences, and approaches to domestic implementation.

The **Trade Remedies** working group were able to substantively conclude their chapter, with the only issues left to resolve being dependent on progress in market access negotiations. The outcome reaffirms New Zealand's existing rights and obligations under the WTO agreements, and also includes new provisions that will promote transparency, consultation and consideration of the public interest in anti-dumping and countervailing investigation procedures and processes.

The **Services** cluster of working groups made some good progress this round discussing domestic regulation (held before round four), financial services, temporary entry of business persons, cross-border services, telecommunications, and express delivery services. In many of these areas, such as domestic regulation and cross-border trade, New Zealand and UK interests are well-aligned. In other areas, such as financial services, progress is more difficult owing to differences in approach. Broad agreement has been reached on the structure of services provisions in the FTA, with negotiators working on five chapters (cross-border services, domestic regulation of services, temporary entry of business persons, financial services, and telecommunications) three annexes (professional business services, express delivery services, and maritime services). Significant work is still required on content in many of these texts, some of which will be dependent on progress made in other areas of the negotiation.

Within the **Investment** working group, we made important progress in discussions on prohibition of performance requirements, senior management and boards and market access. The UK presented its approach on denial of benefits and how it sees air services being covered by the investment chapter. Solutions to a number of outstanding technical issues in other articles are now in sight. The Parties engaged in a productive exercise on policy differences underpinning several different areas, including in respect to investment protections. New Zealand reiterated that it would not be agreeing to investor-state dispute settlement provisions in the FTA.

The **Digital** working group made good progress this round, with a discussion on almost all tabled articles. A high degree of alignment in policy intent is evident in many areas. Some text was agreed during the round and a number of new proposals were discussed for the first time. Before the next round the group will exchange further information on domestic policy approaches in a number of areas expected to be included in a digital trade chapter, including electronic transactions and contracts, digital identities, e-invoicing, and paperless trading.

The **Good Regulatory Practice and Regulatory Cooperation** working group had a constructive discussion on the good regulatory practice provisions in the consolidated chapter text. This included considering New Zealand proposals to further integrate aspects of the New Zealand and UK text. Some text was agreed at the round and other text should be agreed by email exchange in the coming weeks. The discussion confirmed a shared policy intent on other issues, notwithstanding differences in the respective text proposals. Each side has undertaken to consider “halfway house” options that would be acceptable to both sides and accommodate differences in domestic settings. The Parties have also agreed to hold an intersessional discussion prior to Round 5 to consider the regulatory cooperation elements of the text.

The **Competition** working group were able to conclude their chapter, with remaining issues agreed inter-sessionally and during the round. The chapter includes provisions that proscribe anticompetitive activities and builds on CPTPP (the Comprehensive and Progressive Agreement for Trans-Pacific Partnership) outcomes in respect to procedural fairness (extending disciplines to cover merger reviews), and promote transparency and cooperation.

With agreement reached to consider a dedicated chapter, discussions in the **Consumer Protection** working group highlighted a broad degree of alignment between UK and New Zealand positions on the role effective consumer protection provisions should play as part of a comprehensive FTA. A stand-alone chapter on consumer protection represents a ‘first’ in New Zealand FTAs and would serve to highlight consumers as a key stakeholder and beneficiary of the agreement. Technical discussions focused on deepening understanding of respective proposals, including identifying areas of commonality and differences, and approaches to domestic implementation.

Two working group sessions were held to continue discussions on the UK’s proposals in respect to **State-owned Enterprises and Designated Monopolies**. Discussions were focused on the relationship between the UK’s proposal and New Zealand’s own experience of these issues in the CPTPP.

The **Government Procurement** working group focused on the exchange of initial market access offers and made substantial progress in closing negotiations on the chapter text. A frank discussion was held on initial offers and expectations for improvements, including the UK’s interest in guaranteeing access in the FTA to government tenders at the regional

and local level of government in New Zealand. Progress was also made on text that explicitly recognises that open government procurement systems under the FTA also need to support social and environmental outcomes in tender decisions.

The **Intellectual Property** chapter discussions considered text proposals from the UK on patents, trade secrets and online enforcement, and (from both Parties) on geographical indications. While discussions were positive with significant areas of overlap between the parties, a number of areas of difference were also identified, particularly in relation to geographical indications where there are significant differences in respective proposals and domestic policy positions.

The **Anti-Corruption** working group covered topics including measures to combat corruption and their enforcement, whistle-blowing, integrity among public officials, and participation of private sector and civil society. Discussions focused on areas of common UK-New Zealand interest, and the working group identified areas where policy intent is aligned. The Parties agreed to make further progress inter-sessionally, and identified areas of divergence to be discussed in more detail at Round Five.

Good progress was made within the **Environment** working group with all remaining article proposals tabled. Article text proposals from both sides were consolidated and areas of agreement and substantial agreement identified. An article on Responsible Business Conduct was fully agreed and significant progress made in agreeing text in the definitions, context and objectives, right to regulate and enforcement of environment law articles. An inter-sessional work programme was established to ensure progress on agreeing text continues through to Round Five.

The UK presented its text proposals in the **Labour** working group, with productive discussions occurring over the intention behind and detail of the proposed provisions. Discussions covered definitions, the right to regulate, labour protection and enforcement, corporate social responsibility and modern slavery, women's equality, labour cooperation, public participation, institutional machinery and dispute resolution. There was a generally high degree of alignment between the UK and New Zealand proposals, and both sides have agreed to consolidate their respective texts as a basis for further discussions inter-sessionally, and at the next round.

The UK presented its text proposals on Trade and Women's Economic Empowerment in the **Trade and Gender** working group covering objectives, cooperation, institutional

mechanisms and enforceability provisions. Parties were able to swiftly agree text where there was clear alignment with New Zealand's earlier text proposals (e.g. objectives, non-derogation and areas of cooperation) and agreed to work inter-sessionally on clearing away further text for the chapter in advance of Round Five.

The **Development** working group considered the UK's text proposal for a chapter on trade and development, and discussed how to anchor development related provisions across the FTA to recognise the role that trade and investment can play in contributing to positive economic and social development outcomes. Parties also discussed potential areas for cooperation in support of developing countries' trade interests in multilateral fora.

There was productive dialogue on the **Legal and Institutional Provisions**. This included further discussion of **General Exceptions** provisions as well other cross-cutting provisions. An initial discussion took place on the **Transparency** chapter, which typically includes provisions on publication of laws affecting trade, review and appeal of administrative decisions, and administrative proceedings. There was continued progress on the **Dispute Settlement** processes that would apply in the event of a dispute under the FTA. The working group agreed text on elements where there is policy alignment, with outstanding issues to be discussed inter-sessionally and at Round Five.