

New Zealand–United Kingdom Free Trade Agreement Negotiations

Report on Round Three of negotiations, held virtually from 26 January-9 February 2021

Free trade agreement negotiations between the UK and New Zealand continued with the third round commencing virtually on 26 January. In opening the round, Chief Negotiators noted the political-level contact that had taken place since Round Two and welcomed the insights and perspectives shared by Te Taru White's 22 January presentation to negotiating teams on Te Tiriti o Waitangi (Treaty of Waitangi), the Crown-Māori partnership, the breadth of Māori interests in trade, and Māori expectations for the FTA. The shared commitment to engage constructively and pragmatically, to make progress toward the early conclusion of a high quality, comprehensive and inclusive free trade agreement was also noted.

Negotiators met virtually across 25 issue-specific working groups, with 42 working sessions taking place over the two-week period. In the lead up to Round Three, further texts and non-papers were shared (over 35 in total) alongside the exchange of initial goods market access offers.

Discussions continue to be positive and constructive as negotiations intensified during the Round. Good progress has been made and most working groups are now working from a single negotiating text that has combined UK and New Zealand proposals. Areas of difference are also clearer. The first chapter was substantively agreed (on Small and Medium Sized Enterprises, though work continues on small business outcomes across the agreement) and most elements of the Competition and Trade Remedies chapters should be finalised in the coming weeks.

Both sides also presented and discussed initial goods market access offers, which were shared in January, and agreed to target the exchange of revised offers before Round Four, alongside initial government procurement schedules. The process for exchanging services and investment offers will be discussed further at Round Four.

A summary of the working group discussions follows.

During the round, New Zealand and UK stakeholders were invited to join both Chief Negotiators in a joint webinar run in conjunction with the UK's Department of International

Trade on 10 February. Chief Negotiators provided an overview of progress made during Round Three, and discussed a range of issues raised by stakeholders, covering government procurement, environment, consumer rights and protections, mutual recognition of qualifications, financial services, strategic priorities for digital trade, as well as the approach being taken to intellectual property provisions within the agreement.

What happens next?

The fourth round of negotiations is scheduled to be held virtually from 13-27 April 2021.

Before the next round:

- Further meetings between negotiators will take place in February and March on a wide range of topics (Trade Remedies, Cross Border Trade in Services, Domestic Regulation, Investment, Digital Trade, Competition, Trade and Labour, and Transparency).
- Both sides will aim to table all remaining text proposals in advance of Round Four. This undertaking is subject to both Parties' right to revise their text in the future, as informed by ongoing stakeholder consultation.
- Initial government procurement offers and revised goods market access offers will be exchanged.

Throughout this process, 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 deepen our understanding of Māori interests in this negotiation, we will maintain our engagement with Māori leaders, participate in upcoming regional Hui, commission a second independent research project, 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 the Round One and Two reports can be found in English and Te Reo [here](#).

For notifications and invitations to public meetings and webinars on the NZ-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 either

FTAOutreach@mfat.govt.nz (for all our free trade agreement updates) or
UKFTA@mfat.govt.nz (for UK FTA specific events).

Key working group progress in brief

The **Trade in Goods** working group welcomed the exchange of initial goods market access offers. During the round, the Parties introduced their respective initial goods offers and discussed their respective positions and expectations. The nature of these initial offers indicate there is some work to do to reach an agreement that achieves our shared ambition of a high quality, comprehensive outcome that removes tariffs. New Zealand noted its expectation that key gaps in relation to the UK's offer on agricultural products should be addressed in a revised offer.

The Parties also discussed their chapter text proposals and made good progress consolidating text, with little text still remaining. New Zealand reinforced that it remains focussed on securing a comprehensive and commercially meaningful market access outcome.

The **Rules of Origin** working group continued the productive discussions on chapter text from Round Two. Gaps in positions and language continued to be closed, and a forward plan that includes an extensive list of action points should lead to significant progress in Round Four. The Parties also began discussions on product specific origin rules, which focused on the approach each Party had taken in developing its schedules and the principles that underpinned them.

The **Customs Procedures and Trade Facilitation** working group developed a consolidated text intersessionally that formed the basis of discussion for Round Three. Good progress was made across the chapter, with provisions on customs brokers and customs valuation agreed, and substantial progress made on a number of other articles. Constructive discussions were held on policy differences in respective proposals, with suggestions made on how to move forward. Action points were agreed by the working group that focus future discussions on areas where differences remain.

Substantial progress was made over two sessions in the **Sanitary and Phytosanitary** working group with text agreed in a number of areas. There were shared interests on issues like cooperation on antimicrobial resistance. The relationship of the UK-NZ Sanitary Agreement to the free trade agreement was also discussed. Reflection from these discussions should allow for further text to be agreed in Round Four. The UK also noted its interest in animal welfare dialogue and cooperation with New Zealand.

The working group on **Technical Barriers to Trade (TBT)** focused on several key provisions in the chapter text including conformity assessments, international standards provisions, transparency, market surveillance, and marking and labelling. The UK presented on four sectors where it intends to propose product annexes: spirits, cosmetics, medicines and medical devices. The working group agreed to meet before Round Four to further progress the discussions on the above issues and work towards a single consolidated text.

The **Trade Remedies** working group discussed text tabled by both Parties on potential WTO-plus provisions, including provision of information in remedy proceedings and the Public Interest Test and Lesser Duty Rule. Discussions showed that both Parties were closely aligned in their ambitions to agree a robust, best practice chapter that reaffirms WTO rights and obligations, reflected principles of transparency and openness, facilitated trade liberalisation, and supported industry by providing access to trade remedies. The high level of alignment in these objectives led to good progress in agreeing text.

The **Services** cluster of working groups remains a large work area, with proposals now on the table for chapters on cross-border services, temporary entry of business persons, investment, financial services, telecommunications and additional texts on domestic regulation, professional business services, and (tabled by the UK before Round Three) new proposals for sectoral annexes on international maritime transport and express delivery services. In some of these areas, New Zealand and UK interests are strongly aligned and there is scope to make quick progress. During this round, good progress was made on the temporary entry chapter text, while intersessional meetings will be held on cross-border services and domestic regulation. In other areas, New Zealand will consider proposals in the context of what progress is being made in sectors of export interest to New Zealand.

The Parties held useful discussions on the **Investment** chapter including important definitional aspects of the text. Intersessional meetings will be held between negotiators ahead of the next round.

The text of the **Small and Medium-sized Enterprises (SMEs)** chapter was substantively concluded at Round Three. The chapter provides for:

- information being made available that will help SMEs looking to trade in the UK or New Zealand

- cooperation between the Parties to promote the agreement to SMEs, and to increase trade and investment opportunities for SMEs
- referencing the SME-friendly provisions that are included in other areas of the agreement.

While the chapter has been substantially agreed, work continues in other areas of the negotiation on proposals that reflect small business interests.

The UK presented its text on **Good Regulatory Practice and Regulatory Cooperation** and explained the intention behind proposed provisions. A productive discussion between the Parties reinforced the high degree of alignment on good regulatory practice principles and outcomes, as well as on the importance of regulatory cooperation. Both sides have agreed to consolidate the New Zealand and UK texts as a basis for further discussion at the next round.

Agreement was reached on several articles and paragraphs in the **Competition** chapter, and technical solutions to outstanding issues are in sight. Both Parties are committed to concluding the chapter negotiations as soon as possible, and to ensuring the final agreement is comprehensive, ambitious and reflects a 'high watermark' amongst competition chapters internationally.

A productive and constructive discussion was had in the **Consumer Protection** working group, which further highlighted the recognition from both sides on the importance and benefits of effective consumer protection provisions as part of a comprehensive free trade agreement. New Zealand and the UK both presented text proposals on consumer protection, with New Zealand proposing a dedicated chapter within the agreement. Proposals discussed included articles on objectives, protections available to consumers against misleading and deceptive conduct, unsolicited commercial electronic messages, transparency, cooperation and redress mechanisms. Both sides engaged in technical discussions to deepen understanding of each other's proposals, including identifying areas of commonality and differences, and approaches to domestic implementation.

A working group session was also held to discuss the UK's proposals in respect to **state-owned enterprises** and designated monopolies. Discussions were focused on developing a further understanding of the UK's interests in the context of New Zealand's own experience of these issues in the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP).

The **Government Procurement** working group made considerable progress on the text, agreeing a significant number of articles and sub-articles and narrowing further text discussion to areas of shared interest that go beyond current WTO procurement rules. The Parties had constructive discussions to prepare for the tabling of initial market access offers, including an exchange on existing government procurement commitments between them and their expectations for initial offers.

The **Intellectual Property** chapter discussions considered text proposals from each Party on enforcement and from the UK, on copyright. Each Party discussed their respective trade and domestic policy interests in these areas. While there are significant areas of overlap between the Parties, areas of difference were also identified such as copyright term, the protection of technological protection measures (or digital locks) and the scope of safe harbour protections for online service providers.

The UK presented its proposal for an **Anti-corruption** chapter. The working group discussed policy objectives supporting elements of the chapter.

In the **Environment** working group, New Zealand presented further proposals for the environment chapter and the UK presented a first tranche of text. Discussions were productive with both Parties identifying areas of convergence in right to regulate, sustainable forestry, climate change, circular economy, and environmental goods and services. Both Parties should be able to start agreeing text for these articles at Round Four. Useful discussions were also held on fisheries, biodiversity, indigenous peoples' issues and voluntary mechanisms.

Before Round Three, New Zealand invited external expert Te Taru White to present on the importance of the Treaty of Waitangi, Te Ao Māori and the Māori economy, with a view to raising awareness of Māori interests in trade, and to outline the key drivers behind these interests to the UK negotiating team. In the **Indigenous** working group, New Zealand reiterated the importance of the Treaty of Waitangi to its approach to trade agreements, Māori interests in trading with the UK, provided an update on ongoing engagement efforts with Māori, and spoke at a high-level on elements that could emerge as proposals in the negotiation as a result of the engagement and research processes under way. The working group continues to frame discussions within efforts to deliver benefits across our economies and societies, with New Zealand highlighting the importance of ensuring these benefits extend to Māori.

The **Development** working group considered the opportunities and challenges associated with measuring the effects of trade and trade policies on development outcomes for developing countries. The group also discussed the scope to include provisions in the agreement that provide opportunities in support of developing countries.

There was positive progress on the **Dispute Settlement** processes that would apply in the event of a dispute under the FTA. The working group moved towards consolidated text on elements where there was policy alignment, with other issues to be discussed in more detail at Round Four. There was constructive dialogue on other **Legal and Institutional Provisions**. This covered a range of cross-cutting provisions, including an initial discussion about the operation of the FTA Joint Committee and further detailed discussion of General Exceptions provisions, including New Zealand's Treaty of Waitangi exception.