



## HONG KONG, CHINA - NEW ZEALAND IMPLEMENTATION REPORT

### JOINT SUBMISSION BY THE PARTIES ON THE CLOSER ECONOMIC PARTNERSHIP AGREEMENT BETWEEN HONG KONG, CHINA AND NEW ZEALAND

This Implementation Report has been drafted in accordance with Article 15 of the Transparency Mechanism Decision and following the draft guidelines contained in JOB/REG/4 issued in January 2013.

This report does not prejudge the Parties' position on the concept and the duration of the implementation periods in FTAs and their relationship to the "reasonable length of time" within the meaning of Art. XXIV:5(c) of the GATT 1994 or "the reasonable time-frame" within Art. V:1(b) of the GATS.

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## 1 BACKGROUND INFORMATION ON THE AGREEMENT

1.1. The Hong Kong, China - New Zealand Closer Economic Partnership Agreement (CEP) was signed on 29 March 2010 and the Agreement entered into force on 1 January 2011. Upon entry into force of the Agreement, Hong Kong, China bound its existing zero-tariff regime for all goods originating in New Zealand. New Zealand removed tariffs on a linear basis and its full implementation has been effective since 1 January 2016.

1.2. Statistical data on trade in goods and on trade in services between the Parties can be found in Annex 1 of this report.

## 2 PROVISIONS ON TRADE IN GOODS

### 2.1 Import duties and charges, and quantitative restrictions

2.1. Annex 1 to Chapter 3 of the Agreement contains the tariff liberalization schedules of the Parties. Hong Kong, China applies zero duty on all imports on an MFN basis. As a result, prior to the entry into force of the Agreement, 100% of tariff lines corresponding to 100% of Hong Kong, China's imports from New Zealand were already duty free. Thus, upon entry into force of the Agreement, no additional tariff lines became duty free.

2.2. The Tariff Elimination Schedules between Hong Kong, China and New Zealand have been completed over a period of six years for goods originating in Hong Kong, China. Pursuant to the Agreement, New Zealand has eliminated tariffs for all goods originating from Hong Kong, China since 1 January 2016. The tariff elimination schedule as presented in the factual presentation (WT/REG291/1/Rev.1) correctly reflects this process.

#### 2.1.1 Tariffs

2.3. Please refer to Annex 1 to Chapter 3 of the Agreement:

- Hong Kong, China's tariff elimination schedule:  
[https://www.tid.gov.hk/english/ita/fta/hknzcep/files/HKNZCEP031\\_HKSchedule.pdf](https://www.tid.gov.hk/english/ita/fta/hknzcep/files/HKNZCEP031_HKSchedule.pdf)

- New Zealand's tariff elimination schedule:

<https://www.mfat.govt.nz/assets/FTAs-agreements-in-force/Hong-Kong-FTA/NZ-HK-CEP5-NZ-tariff-schedules.pdf>

### **2.1.2 Tariff quotas**

2.4. Neither Party maintains tariff rate quotas, including under the Agreement.

### **2.1.3 Final tariff schedule applied by RTA parties**

2.5. Final data to be found in the WTO RTA database.

## **2.2 Export duties and charges, and quantitative restrictions**

2.6. There are no provisions on export duties and charges or quantitative restrictions in the Agreement. Article 2.1 in Chapter 3 of the Agreement provides that the Parties shall not adopt or maintain any non-tariff measures on exports except in accordance with their rights and obligations under the WTO.

## **2.3 Regulatory provisions on trade in goods**

### **2.3.1 Rules of Origin**

2.7. Provisions concerning rules of origin and operating procedures for documentation and granting of tariff preferences are described in Chapter 4 of the Agreement. Product Specific Rules of Origin (PSR) are covered in Annex 1 to Chapter 4.

2.8. The transposition of PSR in Annex 1 to Chapter 4 to reflect Harmonized Commodity Description and Coding System (HS) 2017 nomenclature was completed and the amendments on the PSRs were agreed by the Parties on 20 July 2017.

### **2.3.2 Sanitary and phytosanitary measures**

2.9. Chapter 7 of the Agreement focuses on enhanced implementation of the WTO Agreement on Sanitary and Phyto-Sanitary (SPS) Measures as well as mechanisms for strengthening collaboration and consultation on SPS matters between the Parties. It provides a framework to address and where possible resolve trade access issues with a view to facilitating trade in all products, while protecting human, animal or plant life or health.

### **2.3.3 Technical barriers to trade**

2.10. Chapter 8 of the Agreement establishes mechanisms to reduce the impact of technical barriers to trade in goods, and provides for increased cooperation between regulatory authorities. In Article 10, the Agreement established a Committee on Technical Barriers to Trade that has allowed the Parties to monitor the implementation of the Chapter.

2.11. Since the entry into force of the Agreement, the Committee on Technical Barriers to Trade have met and agreed to work intersessionally towards establishing a mechanism to formalize cooperation between regulatory authorities to improve understanding and greater alignment of each other's regulatory regimes.

### **2.3.4 Safeguards**

2.12. Chapter 6, Article 3.1 restates the Parties rights and obligations under Article XIX of the GATT 1994 and the WTO Agreement on Safeguards. Article 3.2 requires that global safeguard measures not be applied to imports from the other Party unless the imports in and of themselves cause or threaten serious injury. No provisions on bilateral or special safeguards are included in the Agreement.

2.13. Since entry into force of the Agreement, the Parties have not applied any global safeguard measures using the mechanisms established under the Agreement.

### **2.3.5 Trade defence instruments**

2.14. The Parties have not applied any measure using the mechanisms under the Agreement.

### **2.3.6 Customs-related procedures**

2.15. Chapter 5 of the Agreement aims to simplify and harmonize customs procedures as well as streamlining and facilitating trade and cooperation between the Parties. There have been regular productive and positive cooperation and consultation between the respective Customs administrations on the implementation of the Agreement.

2.16. The Customs administrations of New Zealand and Hong Kong, China share a strong relationship across all areas of Customs activities. Neither Parties have received any requests to make operational enquiries relating to the Agreement.

## **3 PROVISIONS ON TRADE IN SERVICES**

### **3.1 Commitments**

3.1. The provisions related to trade in services (Chapter 13) cover all four modes of supply. The Agreement's treatment of specific commitments in modes 1-3 of services is on a "negative list" (Article 7) while mode 4 (Article 15.3 and 15.4) is based on a positive list.

3.2. There are however certain exceptions to the coverage on trade in services. Article 2.2 provides that this Chapter does not apply to government procurement, subsidies and grants, natural persons seeking employment or citizenship, residence or employment. Article 2.3 provides that this Chapter does not apply to measures affecting air transport or related services in support of air services (except to aircraft repair and maintenance services, selling and marketing of air transport services, and computer reservation system services).

3.3. Article 8 provides for a Mandated Services Review, under which the Parties will discuss possible new services commitments and further cooperation in areas of mutual interest. At the third Joint Commission meeting, the Parties agreed that the Mandated Services Review would be undertaken as part of the Second General Review of the CEP Agreement.

3.4. Under Article 16, the Agreement also established a committee on trade in services for the effective implementation and operation of Chapter 13 and Chapter 14 (Movement of Business Persons).

3.5. Chapter 13 also establishes disciplines on domestic regulation and recognizing the importance of education in its bilateral services relationship, measures to enhance the education relationship between the two Parties. An education cooperation arrangement between the Parties concluded in October 2011.

### **3.2 Regulatory provisions**

#### **3.2.1 Denial of Benefits**

3.6. Article 14.1 of Chapter 13 provides conditions under which the Parties may deny the benefits of the Chapter to a service supplier of the other Party where the Party determines that the services is being supplied by an enterprise that is owned or controlled by persons of a non-party and has no substantive business operations in the Area of the other Party; or the service is being supplied by an enterprise that is owned or controlled by persons of the denying Party and has no substantive business operations in the Area of the other Party. Although substantive business operations and ownership and control are not defined in the Agreement, the Parties note that similar terms are used in the GATS. Article 14.2 requires that upon denial of benefits a Party must enter into consultations (if requested) with the other Party within 30 days of receipt of the request. Any consultations held

under that paragraph are without prejudice to the rights and obligations of the Parties under Chapter 16 of the Agreement or the WTO Dispute Settlement Understanding.

### **3.2.2 Domestic Regulation**

3.7. Article 9 of Chapter 13 is concerned with domestic regulation and is based on Article VI of the GATS. The obligations contained apply to all sectors in which there are no reservations. Annex III to Chapter 13 sets out disciplines on Domestic Regulation. The purpose of this annex is to ensure domestic regulations do not constitute unnecessary barriers to trade in services between the Parties. Annex III to Chapter 13 also describes requirements on transparency, licensing and procedures, qualification and procedures and technical standards, providing greater certainty and transparency for the Parties' service suppliers.

### **3.2.3 Recognition**

3.8. Chapter 13, Article 10 concerns recognition of education, experience, qualifications, licences or certification granted to services suppliers in the other Party. Article 10.2 provides that when a Party recognizes the education, experience, qualifications, licences or certification granted to services suppliers in a non-Party to the Agreement, it is not obliged to afford recognition to service suppliers of a Party to the Agreement but shall afford adequate opportunity to the other Party, upon request, to negotiate its accession to such an agreement or arrangement or to negotiate one comparable with it.

### **3.2.4 Subsidies**

3.9. Article 2.2(c) of Chapter 13 provides that the chapter does not apply to subsidies provided by a Party.

### **3.2.5 Safeguards**

3.10. The Agreement contains no provisions on services safeguards.

## **4 OTHER PROVISIONS IN THE AGREEMENT**

### **4.1 Competition**

4.1. Chapter 9 of the Agreement provides a framework for the promotion of an open competitive market, reducing anti-competitive practices and the promotion of the APEC principles of non-discrimination, comprehensiveness, transparency and accountability. The Parties agree there is scope for ongoing and mutually beneficial cooperation in this area.

### **4.2 Electronic Commerce**

4.2. Chapter 10 of the Agreement aims to minimise the regulatory burden on Electronic Commerce (E-commerce), providing online consumer protection and encouraging cooperation on E-commerce issues. The Parties have reaffirmed the importance of a predictable and simple legal environment for e-commerce and continued dialogue on matters relating to e-commerce.

### **4.3 Intellectual Property rights**

4.3. Both Parties commitments on intellectual property rights under the WTO Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement are reaffirmed in the Agreement. In relation to geographical indications (GIs) the Agreement is based on adherence to international agreements.

4.4. The Agreement requires both Parties to provide, on request, information on any new laws which enter into force in relation to intellectual property, and to exchange information on developments in intellectual property policy.

#### **4.4 Government Procurement**

4.5. Chapter 12 of the Agreement covers Government Procurement, with Parties restating their commitment to the APEC Non-Binding Principles on Government Procurement. Annex I and II outlines the commitments made by both Parties in terms of the list of entities, covered goods and services, and threshold values for government procurement.

4.6. Hong Kong, China's List of Entities and Covered Goods and Services in Annex I to Chapter 12 do not exceed its commitments under the WTO Agreement on Government Procurement (GPA). In 2015, New Zealand subsequently acceded to the GPA. Both Parties noted the need for a simplified mechanism to amend Annexes I, III and IV to Chapter 12 and continue to discuss the matter.

#### **4.5 Transparency**

4.7. Chapter 15 of the Agreement sets out measures ensuring transparent and open communication in relation to the laws, regulations, procedures, and administrative rulings of general application with respect to matters covered by the Agreement.

4.8. As provided for under Article 2 of Chapter 15, both Parties ensure that the laws, regulations, procedures and administrative rulings of general application with respect to these matters are promptly published or otherwise made available to interested persons and the other Party with a reasonable opportunity to comment on such proposed measures.

#### **4.6 Environment and Labour Cooperation**

4.9. Chapter 18, Article 4 notes that parties shall continue cooperation in the context of the New Zealand - Hong Kong, China Environment Cooperation Agreement and the Memorandum of Understanding on Labour Cooperation which concluded separately from, but at the same time, as the Agreement.

4.10. The Environment Cooperation Agreement establishes a set of shared environment principles and a framework for cooperation. The Memorandum of Understanding on Labour Cooperation establishes a set of shared labour principles, and establishes a framework for cooperation and for promoting mutually beneficial sharing of experience and expertise.

#### **4.7 Dispute Settlement**

4.11. Chapter 16 (and its annex) of the Agreement provides a transparent mechanism for the resolution of disputes between Hong Kong, China and New Zealand resulting from the implementation of the Agreement. An arbitral tribunal may be established if consultations fail to resolve the issue. The Parties have not made use of this mechanism.

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**ANNEX 1**

## STATISTICS ON TRADE IN GOODS AND SERVICES

**Table A1.1 Hong Kong, China: Imports from New Zealand HK\$ (million)**

Year	Goods	Services	Total
2009	3,319	1,662	4,981
2010	3,574	1,887	5,461
2011	4,060	2,134	6,194
2012	4,679	2,060	6,739
2013	4,604	1,995	6,599
2014	4,323	2,095	6,418
2015	3,708	1,919	5,627
2016	3,718	1,914	5,632
2017	4,708	2,078	6,786
2018	5,383	N.A.	N.A.

N.A. Not available.

Source: [Hong Kong Census & Statistics Department](#)

**Table A1.2 New Zealand: Imports from Hong Kong, China NZ\$ (million)**

Year*	Goods	Services	Total
2009	152	263	415
2010	140	285	425
2011	150	282	432
2012	145	246	391
2013	136	269	405
2014	120	308	428
2015	105	335	440
2016	99	288	387
2017	85	314	399
2018	90	323	413

\* Year ended December.

Source: [Stats NZ](#)