*This **document** is the European Union's (EU) proposal for the EU-New Zealand FTA. It has been tabled for discussion with New Zealand. The actual text in the final agreement will be a result of negotiations between the EU and New Zealand.*

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CHAPTER [XX]

NATIONAL TREATMENT AND MARKET ACCESS FOR GOODS

Article X.1

Objective

The Parties shall progressively and reciprocally liberalise trade in goods in accordance with the provisions of this Agreement.

Article X.2

Scope

Except as otherwise provided in this Agreement, this Chapter applies to trade in goods of a Party.

Article X.3

Definitions

For the purposes of this Chapter, the following definitions shall apply:

(a) "consular transactions" means the procedure of obtaining from a consul of the importing Party in the territory of the exporting Party, or in the territory of a third party, a consular invoice or a consular visa for a commercial invoice, certificate of origin, manifest, shipper's export declaration or any other customs documentation in connection with the importation of the good;

(b) "Customs Valuation Agreement" means the Agreement on Implementation of Article VII of GATT 1994 contained in Annex 1A to the WTO Agreement;

(c) "customs duty" means any duty or charge of any kind imposed on or in connection with the importation of a good. A 'customs duty' does not include any:

(i) charge equivalent to an internal tax imposed consistently with Article X.4(National Treatment on Internal Taxation and Regulation);

(ii) anti-dumping, special safeguard, countervailing or safeguard duty applied in conformity with the GATT 1994, the Anti-dumping Agreement, the Agreement on Agriculture, the Agreement on Subsidies and Countervailing Measures and the Agreement on Safeguards, as appropriate.

(iii) fee or other charge imposed on or in connection with importation that is limited in amount to the approximate cost of the services rendered.

(d) "good of a Party means a domestic good as this is understood in the GATT 1994, and includes originating goods.

(e) "Harmonized System" means the Harmonized Commodity Description and Coding System, including all legal notes and amendments thereto developed by the World Customs Organization (the "HS").

(f) "Import Licensing Procedure" means an administrative procedure requiring the submission of an application or other documentation (other than that generally required for customs clearance purposes) to the relevant administrative body or bodies as a prior condition for importation into the territory of the importing Party.

(g) "Export Licensing Procedures" means an administrative procedure requiring the submission of an application or other documentation (other than that generally required for customs clearance purposes) to the relevant administrative body or bodies as a prior condition for exportation from the territory of the exporting Party.

(h) "Repair" means any processing operation undertaken on a good to remedy operating defects or material damage and entailing the re-establishment of the good to its original function or to ensure compliance with technical requirements for its use, without which the good could no longer be used in the normal way for the purposes for which they were intended. Repair of goods includes restoration and maintenance but does not include an operation or process that:

(i) destroys the essential characteristics of a good, or creates a new or commercially different good;

(ii) transforms an unfinished good into a finished good; or

(iii) is used to improve or upgrade the technical performance of goods.

(i) "Remanufactured good" means a good classified in HS Chapters 84, 85, 87, 90 or 9402 that:

(a) is entirely or partially comprised of parts obtained from goods that have been used [beforehand];
(b) has similar performance and working conditions compared to the equivalent good in new condition; and
(c) is given the same warranty as the equivalent good in new condition.

(j) "Originating good" means a good qualifying under the rules of origin set out in (Protocol on Rules of Origin).

(k) "Staging category" means the timeframe for the elimination of customs duties ranging from [0] to [X] [years], after which a good is free of customs duty (unless otherwise specified in the Schedules).

Article X.4

National Treatment on Internal Taxation and Regulation

1. Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of the GATT 1994[, including its Notes and Supplementary Provisions][[1]]. To this end, Article III of the GATT 1994 [and its Notes and Supplementary Provisions are] [is] incorporated into and made part of this Agreement, mutatis mutandis.

2. [Detailed provision on non-discrimination on internal taxation].

Article X.5

Elimination of Customs Duties

1. Except as otherwise provided for in this Agreement, each Party shall reduce or eliminate customs duties on goods originating in the other Party in accordance with its Schedule in Annex [X-x] (Tariff Elimination Schedules).

2. For the purpose of paragraph 1, the base rate of customs duties shall be the one specified for each good in the Schedules in Annex [X-x] (Tariff Elimination Schedules).

3. If a Party reduces its applied most favoured nation customs duty rate, that duty rate shall apply to originating goods of the other Party for as long as it is lower than the customs duty rate determined pursuant to its Schedule in Annex [X-x] (Tariff Elimination Schedules).

4. [[X] years after the entry into force of this Agreement,] [O]on the request of a Party, the Parties shall consult to consider accelerating the reduction or elimination of customs duties set out in the Schedules in Annex [X-x] (Tariff Elimination Schedules). The [Joint Committee] may take a decision to amend Annex [X-x] (Tariff Elimination Schedules) to accelerate the tariff reduction or elimination.

Article X.6

Standstill

1. Except as otherwise provided in this Agreement, no Party shall increase any customs duty set as base rate in Annex [X-x] (Tariff Elimination Schedule) or adopt any new customs duty on a good originating in the other Party.

[1] *note: Reference to notes and supplementary provisions to be included, unless the matter is dealt with more generally in other parts of the text (ex. final provisions).*

2. For greater certainty, a Party may raise a customs duty to the level set out in Annex [X-x] (Tariff Elimination Schedule) for the respective [year] [*option, if staging is not annual use*: staging period] following a unilateral reduction.

Article X.7

Export Duties, Taxes or Other Charges

1. No Party shall introduce or maintain any duty, tax or other charge of any kind imposed on, or in connection with, the exportation of a good to the other Party; or any internal tax or other charge on a good exported to the other Party that is in excess of the tax or charge that would be imposed on like goods when destined for domestic consumption.

2. Nothing in this Article shall prevent a Party from imposing on the exportation of a good a fee or charge that is permitted under Article X.8 (Fees and Formalities).

Article X.8

Fees and Formalities

1. Fees and other charges imposed by a Party on or in connection with importation or exportation of a good of the other Party shall be limited in amount to the approximate cost of services rendered, and shall not represent an indirect protection to domestic goods or taxation of imports or exports for fiscal purposes. No Party shall levy fees or other charges on or in connection with importation or exportation on an *ad valorem* basis.

2. Each Party may impose charges or recover costs only where specific services are rendered, in particular the following:

   (a) attendance, where requested, by customs staff outside official office hours or at premises other than customs premises;

   (b) analyses or expert reports on goods and postal fees for the return of goods to an applicant, particularly in respect of decisions relating to binding information or the provision of information concerning the application of the customs legislation;

   (c) the examination or sampling of goods for verification purposes, or the destruction of goods, where costs other than the cost of using customs staff are involved;

   (d) exceptional control measures, where these are necessary due to the nature of the goods or to a potential risk

3. Each Party shall promptly publish all fees and charges it imposes in connection with importation or exportation in such a manner as to enable governments, traders and other interested parties, to become acquainted with them.

4. No Party shall require consular transactions, including related fees and charges, in connection with the importation of any good of the other Party.

Article X.9

Repaired Goods

1. No Party shall apply a customs duty to a good, regardless of its origin, that re-enters the Party's customs territory after that good has been temporarily exported from its customs territory to the customs territory of the other Party for repair.[2]

2. Paragraph 1 does not apply to a good imported in bond, into free trade zones, or in similar status, that is then exported for repair and is not re-imported in bond, into free trade zones, or in similar status.

3. No Party shall apply a customs duty to a good, regardless of its origin, imported temporarily from the customs territory of the other Party for repair.[3]

Article X.10

Remanufactured Goods

1. [Text to be proposed soon]

Article X.11

Import and Export Restrictions

1. No Party shall adopt or maintain any prohibition or restriction on the importation of any good of the other Party or on the exportation or sale for export of any good destined for the territory of the other Party, except in accordance with Article XI of GATT 1994 [, including its Notes and Supplementary Provisions]. To this end, Article XI of the GATT 1994 [and its Notes and Supplementary Provisions] are incorporated into and made part of this Agreement, mutatis mutandis.

3. No Party shall adopt or maintain:

(a) export and import price requirements[1], except as permitted in enforcement of countervailing and antidumping duty orders and undertakings;

(b) import licensing conditioned on the fulfilment of a performance requirement;

[2] In the EU, the outward processing procedure as laid down in Regulation (EU) No 952/2013 is used for the purpose of this paragraph.
[3] In the EU, the inward processing procedure as laid down in Regulation (EU) No 952/2013 is used for the purpose of this paragraph

[1] For greater certainty, this provision is not meant to prevent a Party from relying on the price of imports in order to determine the applicable rate of a customs duty [in accordance with this Agreement]

Article X.12

Import and Export Monopolies

1. No Party shall designate or maintain a designated import or export monopoly. For the purposes of this Article, import or export monopoly means the exclusive right or grant of authority by a Party to an entity to import a good from, or export a good to, the other Party.

2. For greater certainty, this article is without prejudice to provisions in the Trade in Service and Investment Chapter and Schedules, and does not include a right that results from the grant of an intellectual property right.

Article X.13

Origin Marking

1. Where New Zealand a mark of origin on the importation of goods of the EU Party, New Zealand shall accept the origin mark "Made in the EU" under conditions that are no less favourable than those applied to marks of origin of Member States of the Union.

2. For the purposes of the origin mark "Made in the EU", New Zealand shall treat the Union as a single territory.

Article X.14

Import Licensing Procedures

1. Each Party shall adopt and administer any import licensing procedures in accordance with Articles 1 to 3 of the Agreement on Import Licensing Procedures. To this end, Articles 1 to 3 of the Agreement on Import Licensing Procedures are incorporated into and made part of this Agreement, mutatis mutandis.

2. A Party that institutes licensing procedures, or changes to existing licensing procedures, shall notify the other Party of such within [60] days of publication. The notification shall include the information specified in Article 5(2) of the Agreement on Import Licensing Procedures. A Party shall be deemed to be in compliance with this provision if it has notified the relevant import licensing procedure, or any modifications thereof, to the Committee on Import Licensing provided for in Article 4 of the Import Licensing Agreement, including the information specified in Article 5(2) of that Agreement.

3. Upon request of a Party, the other Party shall promptly provide any relevant information, including the information specified in Article 5(2) of the Agreement on Import Licensing Procedures, regarding any import licensing procedure that it intends to adopt, has adopted or maintains, or changes to existing licensing procedures.

Article X.15

Export Licensing Procedures

1. Each Party shall publish any new export licensing procedure, or any modification to an existing export licensing procedure, in such a manner as to enable governments, traders and other interested parties to become acquainted with them. Such publication shall take place, whenever practicable, [45] days before the procedure or modification takes effect, and in all events no later than the date such procedure or modification takes effect.

2. The publication of export licensing procedures shall include the following information:

   (a) the texts of its export licensing procedures, or of any modifications it makes to those procedures;

   (b) the goods subject to each licensing procedure;

   (c) for each procedure, a description of the process for applying for a license and any criteria an applicant must meet to be eligible to apply for a license, such as possessing an activity license, establishing or maintaining an investment, or operating through a particular form of establishment in a Party's territory;

   (d) a contact point or points from which interested persons can obtain further information on the conditions for obtaining an export license;

   (e) the administrative body or bodies to which an application or other relevant documentation should be submitted;

   (f) a description of any measure or measures that the export licensing procedure is designed to implement;

   (g) the period during which each export licensing procedure will be in effect, unless the procedure will remain in effect until withdrawn or revised in a new publication;

   (h) if the Party intends to use a licensing procedure to administer an export quota, the overall quantity and, if applicable, the value of the quota and the opening and closing dates of the quota; and

   (i) any exemptions or exceptions that replace the requirement to obtain an export license, how to request or use those exemptions or exceptions, and the criteria for granting them.

3. Within [30] days after the date of entry into force of this Agreement, each Party shall notify the other Party of its existing export licensing procedures. A Party that institutes new export licensing procedures, or changes to existing licensing procedures, shall notify the other Party of such within [60] days of publication. The notification shall include the reference to the source(s) where the information required in paragraph 2 is published and include, where appropriate, the address of the relevant government Internet website(s).

4. For greater certainty, nothing in this Article requires a Party to grant an export license, or prevents a Party from implementing its obligations or commitments under United Nations Security Council Resolutions, as well as under multilateral non-proliferation regimes and export control arrangements, including the *Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, the Australia Group, the Nuclear Suppliers Group*, and the *Missile Technology Control Regime*].

Article X.16

Customs Valuation

Each Party shall determine the customs value of goods of the other Party imported into their territory in accordance with Article VII of the GATT 1994 and the Customs Valuation Agreement. To this end, Article VII of the GATT 1994 , including its Notes and Supplementary Provisions, and Articles 1 to 17 of the Customs Valuation Agreement, including its Interpretative Notes, are incorporated into and made part of this Agreement, *mutatis mutandis*.

Article X.17

General Exceptions

1. For the purposes of this Chapter and Chapter [X] on Customs and Trade Facilitation, Article XX of the GATT 1994, including its Notes and Supplementary Provisions, is incorporated into and made part of this Agreement, *mutatis mutandis*.

2. The Parties understand that

   (a) the measures referred to in Article XX(b) of the GATT 1994 include environmental measures, such as measures taken to implement multilateral environmental agreements, which are necessary to protect human, animal or plant life or health; and

   (b) Article XX(g) of the GATT 1994 applies to measures for the conservation of living and non-living exhaustible natural resources.

3. Before a Party takes any measures provided for in subparagraphs (i) and (j) of Article XX of the GATT 1994, it shall provide the other Party with all relevant information, with a view to seeking a solution acceptable to the Parties. If no agreement is reached within 30 days of providing the information, the Party may apply the relevant measures. Where exceptional and critical circumstances requiring immediate action and which make prior information or examination impossible, the Party intending to take the measures may apply forthwith precautionary measures necessary to deal with the situation. The Party shall inform the other Party immediately thereof.

Article X.18

Institutional Provisions

Article X.19

Preference utilisation

1. For the purpose of monitoring the functioning of the Agreement and calculating preference utilisation rates, the Parties shall annually exchange import statistics for a period starting one year after the entry into force of this Agreement until 10 years after the tariff elimination is completed for all goods according to the Schedules in Annex [X-x] (Tariff Elimination Schedules). Unless the [Trade Committee] decides otherwise, this period shall be automatically extended for five years, and thereafter this Committee may decide to subsequently extend it.

2. The exchange of import statistics shall cover data pertaining to the most recent year available, including value and, where applicable, volume, at the tariff line level for imports of goods of the other Party benefitting from preferential duty treatment under this Agreement and those that received non-preferential treatment.

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