



## **THE NEW ZEALAND – HONG KONG, CHINA CLOSER ECONOMIC PARTNERSHIP**



This Ministry of Foreign Affairs and Trade publication provides both an overview, and a practical business guide, to the New Zealand-Hong Kong, China Closer Economic Partnership Agreement (the “CEP”). A full copy of the CEP and associated documents can be obtained at [www.mfat.govt.nz](http://www.mfat.govt.nz).

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## **THE NEW ZEALAND – HONG KONG, CHINA CLOSER ECONOMIC PARTNERSHIP**

# THE NEW ZEALAND-HONG KONG, CHINA CLOSER ECONOMIC PARTNERSHIP AGREEMENT (THE “CEP”) IS AN IMPORTANT MILESTONE FOR NEW ZEALAND AND IS THE FIRST OF ITS KIND FOR HONG KONG OUTSIDE OF ITS CEP WITH CHINA.

The benefits to New Zealand flow from the fact that Hong Kong is both an important trading partner in its own right – it is currently the 9th largest export destination for New Zealand exports – and is strategically important as a trading partner located within the dynamic Asia region.

Significantly, the CEP complements New Zealand’s free trade agreement (FTA) with China and enhances the potential for Hong Kong to be used as a platform for trade into Mainland China. This deal will help New Zealand businesses take further advantage of growing opportunities in the region – and help maintain momentum towards New Zealand’s wider goal of multilateral trade liberalisation.

Under the CEP, duty-free access for all New Zealand goods exported into Hong Kong is guaranteed into the future. In services,

New Zealand receives an early harvest of most of what Hong Kong is offering the WTO membership in the Doha negotiations, including in services sectors of key interest to New Zealand. New Zealand service suppliers also stand to benefit from new access negotiated in the future by Hong Kong with other countries and from any further domestic liberalisation taken by Hong Kong in a number of sectors of interest to New Zealand.

New Zealand already enjoys a strong working relationship with Hong Kong, demonstrated by the fact that we cooperate closely in a number of international fora. The CEP builds on this and provides further opportunities **for dialogue and cooperation on issues such as** customs procedures and cooperation, education, sanitary and phytosanitary measures, technical barriers to trade, intellectual property, competition policy, and e-commerce.



The CEP is also New Zealand's first free trade agreement (FTA) since the Trans-Pacific Strategic Economic Partnership Agreement (the "P4") to include provisions on government procurement. These will ensure that New Zealand businesses can compete with Hong Kong businesses on a level playing-field for lucrative government contracts. There is also a legally binding commitment to negotiate a comprehensive protocol on investment within two years of conclusion of the CEP.

In conjunction with the CEP, New Zealand and Hong Kong have concluded legally binding agreements on labour and environment. The Memorandum of Understanding on Labour Cooperation is intended to assist in promoting sound labour policies and practices, improving understanding and building capacity in both New Zealand and Hong Kong. The Environment Cooperation Agreement is similarly intended to

promote sound environmental practices and improved ability to address environmental issues through cooperation and dialogue.

The CEP is an important achievement for both economies. For New Zealand, it establishes a clear, certain and effective framework within which New Zealand companies can compete in a dynamic and rewarding market. Importantly, it also complements our groundbreaking FTA with China (New Zealand was the first developed economy to conclude an FTA with China). Overall, these agreements provide us with an unparalleled opportunity to increase our exports to – and our positive engagement with – a region that will continue to be of central importance to our economy over the decades ahead.

A handwritten signature in white ink, appearing to be 'J. G. D.' followed by a flourish.

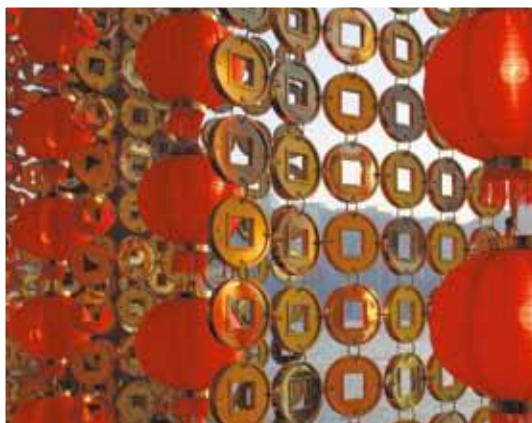
## CONTENTS

<b>1</b>	<b>WHAT IS THE CLOSER ECONOMIC PARTNERSHIP?</b>	<b>8</b>
<b>2</b>	<b>THE PATH TO THE CEP</b>	<b>10</b>
<b>3</b>	<b>THE STRATEGIC IMPORTANCE OF THE CEP</b>	<b>11</b>
<b>4</b>	<b>HOW THE CEP FITS INTO THE WIDER TRADE AGENDA</b>	<b>13</b>
<b>5</b>	<b>LIBERALISED TRADE IN GOODS</b>	<b>14</b>
<b>6</b>	<b>HOW TO QUALIFY FOR THE TARIFF PREFERENCES UNDER THE CEP</b>	<b>16</b>
	IMPORTING INTO NEW ZEALAND	16
	RULES OF ORIGIN	16
	HS CODES	19
	CERTIFICATES OF ORIGIN	19
<b>7</b>	<b>MEASURES TO PROTECT BUSINESSES FROM UNFAIR TRADE OR IMPORT SURGES</b>	<b>20</b>
<b>8</b>	<b>MEASURES TO IMPROVE THE BUSINESS ENVIRONMENT</b>	<b>21</b>
	CUSTOMS PROCEDURES AND COOPERATION	21
	SANITARY AND PHYTOSANITARY MEASURES	21
	TECHNICAL BARRIERS TO TRADE	22
	COMPETITION	22
	ELECTRONIC COMMERCE (E-COMMERCE)	23
	INTELLECTUAL PROPERTY	23
	TRANSPARENCY	23
<b>9</b>	<b>LIBERALISING TRADE IN SERVICES</b>	<b>24</b>
	IMPROVED MARKET ACCESS: NOW AND IN THE FUTURE	25
	PRIVATE EDUCATION SERVICES	27
	NEW ZEALAND COMMITMENTS	27
	DOMESTIC REGULATION	27
	MOVEMENT OF BUSINESS PERSONS	27
<b>10</b>	<b>GOVERNMENT PROCUREMENT</b>	<b>29</b>

11	<b>DISPUTE SETTLEMENT</b>	<b>31</b>
12	<b>EXCEPTIONS UNDER THE CEP</b>	<b>32</b>
	GENERAL EXCEPTIONS	32
	TREATY OF WAITANGI	32
13	<b>THE FUTURE</b>	<b>33</b>
	JOINT COMMISSION	33
	COOPERATION	33
	REVIEWS	33
14	<b>LABOUR AND ENVIRONMENT</b>	<b>34</b>
	MEMORANDUM OF UNDERSTANDING ON LABOUR COOPERATION	34
	ENVIRONMENT COOPERATION AGREEMENT	35
15	<b>INVESTMENT</b>	<b>36</b>
16	<b>REAPING THE BENEFITS OF THE CEP</b>	<b>37</b>

## **APPENDICIES**

1	EXPORTING AND IMPORTING GOODS UNDER THE CEP	38
2	SAMPLE DECLARATION OF ORIGIN	40
3	BACKGROUND ON THE SERVICES SCHEDULES	41
4	SERVICES SECTORAL CLASSIFICATION LIST	43
	<b>FURTHER INFORMATION – USEFUL CONTACTS AND FEEDBACK</b>	<b>44</b>







# 1 WHAT IS THE CLOSER ECONOMIC PARTNERSHIP?

The New Zealand-Hong Kong, China Closer Economic Partnership Agreement (the “CEP”) will secure duty-free access for New Zealand goods into Hong Kong and will ensure more certain access to Hong Kong’s services market. The CEP will promote enhanced cooperation and facilitate improved business flows across a range of economic activities.

The key elements of the CEP for New Zealand exporters include:

### Liberalised Trade in Goods

- > The CEP locks in duty-free access for New Zealand goods into Hong Kong, providing greater certainty for exporters. It also preserves New Zealand’s rights to take trade remedy action against dumped or subsidised imports and unexpected surges in imports from Hong Kong.

### Rules of Origin

- > The CEP contains rules of origin to determine which goods qualify for preferential tariff rates on entry into New Zealand.

### Liberalised Trade in Services

- > New Zealand service providers will benefit from greater certainty of access into the Hong Kong services market, including in private education, business services, environmental services and logistics. In addition, there are specific future-proofing rules which will ensure that service suppliers in some sectors will benefit from improved access that Hong Kong might grant in future FTAs with other partners, or from unilateral liberalisation of its domestic regime.





### **Movement of Business People**

- > New Zealand will benefit from provisions that will provide greater certainty and transparency for business visitors, investors, and traders into Hong Kong.

### **Government Procurement**

- > New Zealand suppliers are guaranteed ongoing access to areas of the government procurement market of Hong Kong on a broadly equivalent footing with both local suppliers and Parties to the WTO Government Procurement Agreement (which New Zealand has not signed).

### **Measures to Improve the Business Environment**

- > Other measures in the CEP aim to ensure an improved business environment for New Zealand exporters. The CEP contains measures relating to customs procedures and cooperation, sanitary and phytosanitary measures, technical barriers to trade, intellectual property, competition, and e-commerce. The measures are designed to reduce barriers to doing business between New Zealand and Hong Kong.
- > The CEP provides for improved cooperation and coordination on a range of issues, building on an already strong trading relationship.

### **Dispute Settlement**

- > A robust consultation and dispute settlement mechanism is provided to resolve any disputes that arise concerning the operation, implementation, or application of the Agreement.

### **Labour and Environment**

- > Alongside the CEP, New Zealand and Hong Kong have entered into binding agreements on labour and environment: the Memorandum of Understanding on Labour Cooperation (MOU) and the Environment Cooperation Agreement (ECA). These Agreements seek to enhance the capacity and capability of government agencies, research organisations, academic institutions and businesses to address trade and environment, and trade and labour matters.

### **Commitment to Negotiate New Investment Rules**

- > Alongside the CEP, New Zealand and Hong Kong have also concluded a binding agreement to negotiate a comprehensive Investment Protocol (within two years of entry into force of the CEP) to expand and build on the existing New Zealand – Hong Kong, China Investment Promotion and Protection Agreement.

## 2 THE PATH TO THE CEP

**Negotiations with Hong Kong first began in 2001. After being put on hold in 2002, the negotiations were resumed early in 2009, following the conclusion of the New Zealand – China FTA.**

New Zealand and Hong Kong have a strong bilateral relationship, and work closely in a range of multilateral fora. Both are members of the World Trade Organisation (WTO) and the Asia-Pacific Economic Cooperation forum (APEC) and cooperate closely in these organisations.

The first round of the resumed negotiations was held in May 2009. Negotiations continued over five rounds held in New Zealand, Hong Kong, and finally in Singapore. Prime Minister John Key and his Hong Kong counterpart, Chief Executive Donald Tsang, announced the successful conclusion of the CEP at the APEC leaders meeting in Singapore in November 2009.

It is hoped that the CEP will enter into force on 1 October 2010 after both Parties have completed their domestic processes for ratification.





# 3

## THE STRATEGIC IMPORTANCE OF THE CEP

**Hong Kong is one of New Zealand's top ten export destinations and is a strategically important trading partner in the Asia region. The CEP complements New Zealand's FTA with China and enhances the potential for Hong Kong to be used as a platform for trade into China.**

New Zealand is a small, export-oriented economy. More than 70 percent of New Zealand's trade and investment occurs in the Asia-Pacific region. The North Asia region is one of increasing focus and opportunity for New Zealand businesses. More secure and open access to the Hong Kong market will help New Zealand to capitalise upon new trade and investment opportunities in this region, for which Hong Kong is an important trading hub.

A CEP with Hong Kong will also help the bilateral trade and economic relationship between New Zealand and Hong Kong to expand. This will in turn contribute to New Zealand's economic development objectives. New Zealand exports to Hong Kong have increased significantly in recent years. In the year to June 2009, goods exports to Hong Kong were up 33.6 percent.

As Hong Kong is an economy which already grants duty-free access to all imports, the CEP does not offer New Zealand the usual gains of reduced tariffs. However, by locking in duty-free access to the Hong Kong market, and providing mechanisms through which to address other constraints on trade, it will ensure greater security of access to the Hong Kong market.

The CEP with Hong Kong will also offer more secure and certain access to the Hong Kong market for New Zealand services exporters in sectors of key interest for New Zealand, including private education, business services, environmental services and logistics. The CEP provides New Zealand with an "early harvest" of most of the additional liberalisation which Hong Kong has offered as part of the WTO Doha negotiations.

New Zealand has also been able to “future proof” key services, so that New Zealand businesses will benefit from more favourable terms that Hong Kong may negotiate with other countries in the future or adopt through unilateral liberalisation of its domestic regime.

The CEP also offers New Zealand suppliers guaranteed ongoing access to areas of Hong Kong’s government procurement market on a broadly equivalent footing to local suppliers. This means that New Zealand suppliers will enjoy similar access to the Hong Kong government procurement market as parties to the WTO Government Procurement Agreement (GPA) (to which New Zealand is not Party).

Hong Kong is an important source of direct investment into New Zealand. While the CEP does not contain an investment chapter, New Zealand and Hong Kong have agreed to negotiate a comprehensive Protocol on Investment within two years of the CEP’s entry into force. In the meantime, investors in both economies will continue to benefit from the New Zealand – Hong Kong Agreement for the Promotion and Protection of Investments (IPPA), which provides some limited disciplines and protections for investors. The Parties have agreed that the Protocol on Investment will build on and be broader in scope than the IPPA.

### **Increased Cooperation on Labour and Environment**

A Memorandum of Understanding on Labour Cooperation (MoU) and an Environment Cooperation Agreement (ECA) were negotiated alongside the CEP. These legally-binding agreements recognise the important relationship between trade and labour, and between trade and the environment. Together they provide for greater cooperation between New Zealand and Hong Kong in areas of mutual interest.



# 4

## HOW THE CEP FITS INTO THE WIDER TRADE AGENDA

**Trade liberalisation through negotiations at the WTO remains New Zealand's primary trade policy objective. These negotiations offer New Zealand, as a small export-focused country, the greatest potential gains. The challenges of negotiating in a multilateral forum, which reaches consensus decisions, mean that progress is inevitably slow. Once achieved, however, decisions made by consensus are extremely valuable and authoritative.**

New Zealand works closely and constructively with Hong Kong in the WTO across a range of issues. Entering into a comprehensive CEP with Hong Kong deepens the relationship between two economies that are both committed to the multilateral trading system. FTAs provide a means to develop new and targeted opportunities for trade expansion in a shorter time frame than is possible through the WTO. Bilateral and plurilateral trading agreements enable increased liberalisation between trading partners with shared objectives and shared determination.

To that end, New Zealand has entered into preferential agreements with a number of countries over the past decade:

- > Singapore (the New Zealand – Singapore CEP) in 2001
- > Thailand (the New Zealand – Thailand CEP) in 2005
- > Chile, Singapore and Brunei Darussalam (the Trans-Pacific Strategic Economic Partnership, known as P4) in 2006
- > China (the New Zealand – China FTA) in 2008
- > Agreement Establishing the ASEAN – Australia – New Zealand Free Trade Area in 2009
- > Malaysia (the New Zealand – Malaysia FTA) in 2009

New Zealand has concluded substantive negotiations on an FTA with the GCC and has also commenced negotiations towards FTAs with South Korea and India, as well as the Trans-Pacific Partnership (TPP) negotiations, which will expand the P4, bringing in the United States, Australia, Peru and Viet Nam.

High quality FTAs, such as these, can also usefully contribute to moving the WTO and APEC processes forward by highlighting the benefits of liberalisation. FTAs are under negotiation by most of New Zealand's trading partners and have proliferated around the world – particularly in Asia. It is essential that New Zealand be part of this activity in order to strengthen economic links, obtain improved access to markets and remain competitive.

# 5 LIBERALISED TRADE IN GOODS

While Hong Kong already offers duty-free imports for all countries, the CEP will ensure that New Zealand's existing duty-free access is "locked in" for New Zealand exports, giving New Zealand exporters added certainty that competitors (other than Mainland China) do not enjoy on all products.<sup>1</sup> The phase-out of domestic duties is also expected to benefit New Zealand producers who use imported Hong Kong components or capital equipment.



## Opening Up New Zealand's Market

The CEP provides Hong Kong with improved access to the New Zealand market, but also provides time for New Zealand's sensitive sectors to adjust to tariff reductions.

New Zealand will be using the same tariff reduction schedule as the New Zealand – China FTA for imported products from Hong Kong. In order to help mitigate the potential for any negative adjustment effects, the longest tariff phase-out periods apply to industry sectors in New Zealand that are particularly sensitive, such as clothing and footwear. Delayed tariff phase-outs also apply to steel, furniture, plastic, and rubber products. All of Hong Kong's exports to New Zealand will eventually be duty-free.

There are also robust rules of origin to ensure that only legitimate Hong Kong goods will qualify.

Specific outcomes include:

- > Tariffs on the most highly traded clothing and footwear products will be phased out on a linear basis by 2016.
- > Tariffs on carpet, the remaining clothing, footwear products and some textile products will be phased out on a linear basis by 2014.
- > The CEP provides for phase outs for tariffs currently at 5 percent by 2012. This includes products such as whiteware, steel, plastics and furniture.

<sup>1</sup> Currently, 14 percent of Hong Kong's tariff schedule is unbound meaning that, without the CEP commitment to bind all tariffs to zero, Hong Kong could at some point in the future raise those tariffs.





**TABLE 4: SUMMARY OF NEW ZEALAND'S TARIFF ELIMINATION**

DATE FOR TARIFF ELIMINATION	PERCENTAGE OF CURRENT IMPORTS <sup>2</sup> SUBJECT TO TARIFF ELIMINATION	KEY IMPORT PRODUCTS
2010	54.0	53.1 percent of trade is already duty-free
2012	85.6	Whiteware, steel, plastics, furniture, jewellery, microphones, stoves and ranges, toy models, lamps
2013	85.7	Some fabrics and twine products
2014	88.5	Clothing, footwear, carpets and some textiles.
2016	100.0	Clothing and footwear

<sup>2</sup> Average 2008-2009 June year imports from Hong Kong

# 6 HOW TO QUALIFY FOR THE TARIFF PREFERENCES UNDER THE CEP

New Zealand exporters already enjoy duty-free access to the Hong Kong market. The CEP “locks in” on-going duty-free access for all goods exported from New Zealand to Hong Kong. There will not be any change to New Zealand export practice with respect to rules of origin as a result of this CEP.

## IMPORTING INTO NEW ZEALAND

In order for goods being imported into New Zealand to qualify for the reductions in tariff under the CEP, particular rules applying to the origin of goods must be met. These Rules of Origin (ROO) are set out in Chapter 4 of the CEP. In addition to the overarching ROO set out in Chapter 4, detailed product specific rules (PSRs) for all products are set out in Annex I to Chapter 4 of the CEP. It is recommended that readers refer to both Chapter 4 and Annex I to Chapter 4 of the CEP, available on the [www.mfat.govt.nz](http://www.mfat.govt.nz) website to determine how ROO should be applied.

Appendix 1 of this booklet provides a step-by-step guide for businesses wanting to import under the CEP.

## RULES OF ORIGIN

To qualify for preferential tariffs in New Zealand under the CEP, goods from Hong Kong must meet the ROO set out in the CEP. Any goods imported into New Zealand that do not meet the ROO will be subject to normal tariffs.

In general, a good can qualify as ‘originating’ under the CEP if:

- > it is wholly obtained or wholly produced in either Hong Kong or New Zealand; or
- > it is produced entirely from materials that originate from either Hong Kong or New Zealand; or
- > the good is manufactured in either or both Hong Kong and New Zealand using inputs from other countries, and meets the product-specific ROO in Product Specific Rules Schedule of the CEP, and the other requirements specified in the ROO Chapter.





#### **(a) Wholly Obtained or Produced**

Typically, these goods are natural-resource based goods such as certain animal or agricultural products. These products (e.g. live animals, cereals) must be wholly obtained in the exporting economy. The type of goods that fall into this category are listed in Chapter 4 of the CEP, and specific products that fall into this category are listed in Annex I to Chapter 4.

#### **(b) Produced Entirely from Originating Materials**

These are goods produced entirely in either or both Hong Kong and New Zealand, exclusively from originating materials, with no imported material from a non-party to this CEP. Goods produced in Hong Kong containing materials that originated in New Zealand are deemed to be originating in Hong Kong (and vice versa).

#### **(c) Produced Using Inputs from Other Countries**

Annex I of Chapter 4 of the CEP sets out the rules which apply to all goods that contain inputs from countries other than Hong Kong or New Zealand. These rules are called the Product Specific Rules (PSR). For products containing non-party (countries other than Hong Kong and New Zealand) inputs, the CEP predominantly uses a change of tariff classification (CTC) approach to determine origin. This means that any inputs from a non-party should undergo (in one or other of the Parties) the specified change of tariff classification as set out in Annex I of Chapter 4. Small amounts of non-originating material (up to 10 percent of the free on board (FOB) value of the good) that have not undergone a change of tariff classification will not, however, alter the originating status of a good.

#### **(d) Product Specific Rules (Annex I of Chapter 4)**

Product specific rules (PSRs) stipulate different methods (rules) for conferring the status of origin of a good. To determine the specific rule that applies for a specific product, importers will need to consult the PSRs. The following is an explanation of the different kinds of rules that are used in addition to the wholly obtained rule discussed above:

##### **> Change of Tariff Classification (CTC) Rule:**

Under the CTC approach, a good will qualify in principle as originating if third party inputs used in the production of that good have undergone a specified change of tariff classification under the Harmonised System (HS) for tariff classification (see below for an explanation of this system of tariff classification).

These CTC rules take the form of a 'change in chapter' (CC), a 'change in tariff heading' (CTH), or a 'change in tariff sub-heading' (CTSH). An example of how this CTC approach works is: fruit juice (HS **Chapter 20**) which is produced in Hong Kong from fruits (HS **Chapter 8**) imported from a non-party will be treated as originating in Hong Kong. This is because the CTC rule applied to fruit juice is CC – i.e. the non-party inputs must be classified in a different chapter to the final product (in this example, the product classification changes from Chapter 8 to Chapter 20). The PSR Schedule of the CEP sets out the precise change of tariff classification (the degree of transformation) required to confer origin for all goods.

> **Regional Value Content (RVC) Approach:**

For certain goods, the *Product Specific Rules* use the RVC approach. These goods will qualify for preferential treatment if the value of originating inputs is equal to or greater than the specified RVC threshold for that good.

For example, essential oil of orange (HS code 330112) claimed as originating in Hong Kong should contain inputs from Hong Kong to the value of at least 50 percent of its FOB value. The formulae for calculating the RVC can be found in Article 5 of Chapter 4. For certain products there is either an alternative RVC requirement (which allows producers to choose between specific CTC or RVC rules) or a RVC requirement in addition to a specific CTC rule (the good must meet both the CTC and the RVC requirements of the ROO).

- > **Process Rules:** Where a specified process rule is the designated origin-conferring rule, these specified processes must be undertaken on the good in either of the Parties. Process rules are predominantly used in the chemicals chapters (HS Chapters 28 to 32 in particular) as an alternative to CTC rules.

For some clothing items (the products in clothing Chapters 61 and 62 of the HS tariff classification), the ROO are identical to those of the New Zealand – China FTA, but allow manufacturers to undertake part-processing (in an agreed manner as described below) in China without the items losing their status as being of Hong Kong origin (where preferential tariff treatment is claimed). This will allow Hong Kong manufacturers (it is not relevant for New Zealand manufacturers as Hong Kong is a duty-free market) to meet the required CTC rule and gain preferential access into New Zealand for:

- > knitted clothing products (HS Chapter 61) if the clothing panels have been knitted in the Party, even where the panels have been subsequently assembled in Mainland China; and for
- > clothing products – not knitted (HS Chapter 62) if the garment has been sewn/assembled in the Party even where the garment has been initially cut to shape in Mainland China.

**Other Requirements**

For any good to qualify for preference it must be consigned directly between the two countries. If transport involves transit through one or more non-parties, the goods must not enter trade or commerce there or undergo anything more than simple logistical processes, such as unloading and reloading, repacking, or any operation required to keep them in good condition.



Chapter 4 of the CEP also specifies certain minimal processes (e.g. cutting, washing, ironing) that do not confer originating status to a product. However, where a minimal process is specified as a *product specific rule* (Annex I of Chapter 4 of the CEP), product specific rules will take precedence.

## HS CODES

Both the tariff and the rules of origin for each product depend on the tariff classification of the product. The international tariff classification system, administered by Customs services around the world, is called the Harmonised Commodity Description and Coding System (HS). It uses a common customs classification made up of 6 digits. Most countries then add a further 2 digits, which are unique to that country. The result is an 8-digit number referred to as the HS code.

- > The first two digits (HS 2-digit level) relate to chapter headings
- > The next two digits (HS 4-digit level) relate to headings
- > The next two digits (HS 6-digit level) relate to subheadings
- > The last two digits (8-digit level) sit below each subheading and are unique to each country.

For example, the HS code for kiwifruit is 08105000 which can be broken down into:

- > **08**: Chapter: Edible Fruit and Nuts
- > **0810**: Heading: Other Fruit, Fresh
- > **081050**: Subheading: Kiwifruit
- > **08105000**: further identifier.

## CERTIFICATES OF ORIGIN

Goods exported to Hong Kong will continue to enter duty-free and not require any Certificates of Origin.

In accordance with long-established practice, New Zealand will not require that Certificates of Origin accompany most imports from Hong Kong. Normal risk management techniques will provide sufficient assurance that only goods of Hong Kong origin under the rules of origin will receive the benefits of the CEP tariff preference.

Certificates of Origin will, however, be required for clothing items where part-processing in China has been allowed for in the CEP.<sup>9</sup> For these goods, the preferential tariffs will only apply to goods which have a valid Certificate of Origin. A Certificate of Origin shall remain valid for 12 months from the date of issue. In addition, records relating to exportation should be retained for 7 years by the producers of items for which preferential entry is claimed.

Where a consignment of goods ordinarily requiring a Certificate of Origin has a value of less than US\$1,000, or in other limited circumstances, a Declaration of Origin will be accepted in place of a Certificate of Origin. However, in most instances, a Certificate of Origin will be required for these clothing items.

Contact details for assistance and advice with rules of origin are set out at the end of this booklet.

<sup>9</sup> Those clothing items included in chapters 61 and 62 of the Harmonised System of Tariff Classification (the HS system).

# 7 MEASURES TO PROTECT BUSINESSES FROM UNFAIR TRADE OR IMPORT SURGES

**Under the CEP, New Zealand and Hong Kong retain their existing rights and obligations under the WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (the Anti-Dumping Agreement), the WTO Agreement on Subsidies and Countervailing Measures, and the WTO Safeguards Agreement. Both Parties have agreed to refrain from taking any trade remedy actions under those agreements in an arbitrary or protectionist manner; to ensure that their trade remedy actions are carried out in a transparent manner and in accordance with the principle of procedural fairness; and to apply accepted WTO standards of best practice.**

Hong Kong does not currently have legislation allowing it to undertake trade remedy actions, although this does not preclude it from adopting such legislation in future. The provisions of the CEP protect New Zealand's interests in the event that Hong Kong was to introduce trade remedies legislation.

## Anti-Dumping

An importing economy can impose anti-dumping duties when an overseas firm sells a product on the importing market below what it charges for the same product on its home market, and this causes injury to an industry in the importing market. There are no significant changes to WTO anti-dumping rules under the CEP, other than the additional provisions set out above that apply to all forms of trade remedy action.

## Subsidies and Countervailing Measures

Countervailing duties can be imposed by an importing economy where an overseas firm sells a product on the importing market that has benefited from certain types of subsidies provided by a foreign government, and this causes injury to an industry in the importing market.

New Zealand and Hong Kong have agreed under the CEP that neither Party will introduce or maintain any form of export subsidy on products being exported to the other.

## Global Safeguard Measures

Global Safeguard Measures are temporary measures designed to slow imports of a particular product from all countries, to enable a domestic industry to adjust to heightened competition from foreign suppliers. Both Parties must exclude the other Party from global safeguard action if the imports from the other Party are not causing serious injury.

Contact details for assistance and advice on trade remedies are set out at the end of this booklet.

# 8

## MEASURES TO IMPROVE THE BUSINESS ENVIRONMENT

### CUSTOMS PROCEDURES AND COOPERATION

New Zealand has for many years benefited from a strong trading relationship with Hong Kong. The CEP builds on this and provides a framework for facilitating trade at least cost to industry. The CEP also sets out specific ways in which the two Parties will cooperate and how any differences that arise will be resolved.

Some of the practical outcomes which will achieve predictability, certainty and reduce costs for traders include:

- > New Zealand goods will be cleared within 48 hours of the time of arrival in most cases;
- > Traders can obtain written advance rulings on tariff classification;
- > A risk management approach to customs clearance will facilitate clearance of low-risk goods; and
- > Provisions on challenging customs decisions.

Contact details for assistance and advice on customs procedures are set out at the end of this booklet.

### SANITARY AND PHYTOSANITARY MEASURES

Sanitary and phytosanitary (SPS) measures are used to protect human, animal or plant life or health by preventing the introduction of pests and diseases, and to help ensure food is safe for consumption.

The CEP establishes a framework that is intended to help prevent SPS issues arising. It does this by creating a facility for each economy to recognise, where appropriate, each others' SPS measures as being equivalent. This means that the importing country would accept the exporting country's measures as being equivalent to its own (even though they may differ) if the exporting country can objectively demonstrate that its measures meet the importing country's appropriate level of sanitary or phytosanitary protection. This is backed up by provision for each party to verify and audit each others' SPS regulatory systems and reduce the associated regulatory costs.



There is also provision to allow for recognition of specific regional conditions such as pest or disease free areas. Decisions on matters affecting New Zealand biosecurity and food safety will continue to be made and enforced strictly in accordance with our existing regulatory regime, and international obligations.

Businesses experiencing any SPS problems when exporting to Hong Kong should contact the Ministry of Agriculture and Forestry. Contact details for assistance and advice on SPS issues are set out at the end of this booklet.

### **TECHNICAL BARRIERS TO TRADE**

Standards, regulations and conformity assessment procedures can act as technical barriers to trade (TBT). The CEP aims to reduce unnecessary TBTs between New Zealand and Hong Kong by establishing a framework of provisions and mechanisms to enable the resolution of issues as and when they arise. These include:

- > International standards, guides and recommendations are to be used as the basis for technical regulations whenever possible;
- > The Parties are encouraged to accept each other's technical regulations as being equivalent, so that satisfying one set is equivalent to satisfying the other;
- > The Parties are encouraged to use a broad range of mechanisms to facilitate the acceptance of conformity assessment procedures conducted in the area of the other Party; and
- > Regulatory cooperation is encouraged in recognition of the fundamental link between good regulatory practices and the removal of trade barriers.

There are also provisions for greater transparency, cooperation and information sharing which are designed to facilitate trade and reduce transaction costs for people doing business between New Zealand and Hong Kong. These include the establishment of a TBT Committee which has responsibility for monitoring the implementation and administration of the Chapter. More specifically the TBT Committee is responsible for identifying and agreeing priority sectors and areas for enhanced cooperation and developing targeted work programmes to address issues or concerns.

Both Parties have affirmed their existing rights and obligations under the WTO TBT Agreement. Businesses facing standards and conformance problems when exporting to Hong Kong should contact the Ministry of Economic Development.

Contact details for assistance and advice on TBT issues are set out at the end of this booklet.

### **COMPETITION**

The CEP recognises the importance of promoting and maintaining competition for the purposes of enhancing trade and investment, economic efficiency and consumer welfare. The CEP provides a principles-based approach to the development and enforcement of competition policies. It provides a mechanism for Parties to consult on competition issues should a matter arise, and encourages cooperation between the Parties through the exchange of information.

This Competition Chapter is not subject to the dispute settlement mechanism.





## **ELECTRONIC COMMERCE (E-COMMERCE)**

The CEP establishes principles for the conduct of e-commerce between the Parties. In particular, it requires the maintenance of a predictable and simple legal environment for e-commerce based on the United Nations Commission on International Trade Law (UNCITRAL) Model Law of Electronic Commerce 1996. There is provision for consultation between the Parties on e-commerce policies. The Electronic Commerce Chapter is not subject to the dispute settlement mechanism.

## **INTELLECTUAL PROPERTY**

The intellectual property provisions of the CEP cover rights and obligations in areas such as copyright, trademarks, patents and traditional knowledge.

The CEP reaffirms New Zealand and Hong Kong's commitments on intellectual property rights under the WTO TRIPS (Trade-Related Aspects of Intellectual Property Rights) Agreement, and other multilateral agreements.

The CEP requires New Zealand and Hong Kong to:

- > Provide information to each other on any new laws of theirs which enter into force in relation to intellectual property;
- > Exchange information on developments in intellectual property policy and systems in their economy, including regarding developments in intellectual property rights enforcement; and
- > Endeavour to reduce transaction costs associated with implementing their respective intellectual property regimes.

Both New Zealand and Hong Kong have agreed to cooperate on eliminating trade in goods infringing intellectual property rights, subject to their respective domestic laws and policies.

The CEP specifically provides that, subject to existing international obligations, each Party may establish appropriate measures to protect genetic resources, traditional knowledge and traditional cultural expressions or folklore.

Contact details for assistance and advice on intellectual property issues are set out at the end of this booklet.

## **TRANSPARENCY**

Under the CEP New Zealand and Hong Kong are obliged to publish or make available their laws, regulations, procedures and administrative rulings of general application. There are additional requirements for each Party to make available information on their business laws and to encourage cooperation between their regulatory authorities on business law.

Each Party commits to providing impartial administrative proceedings and reviews and appeals in accordance with general due process requirements. The CEP also provides for notification and information exchange should any proposed or actual measure substantially affect the other Party's interests or materially affect the operation of the CEP. Contact points are also established to facilitate communications between the Parties.

These transparency provisions are consistent with New Zealand's existing law and administrative practice.

## 9

## LIBERALISING TRADE IN SERVICES

The CEP provides more certainty to New Zealand service companies conducting business in Hong Kong through commitments by Hong Kong to continued openness in a range of sectors of interest to New Zealand, supplementing commitments already made multilaterally in the WTO under the General Agreement on Trade in Services (GATS).

Services trade involves trade in things other than specific tangible goods. It covers economic activities such as tourism, education, and transport. A service is “traded” where the service suppliers are from different countries, even though the actual service supply will usually take place in just one of the countries. For WTO purposes, a service is traded when the supplier and the customer are from different countries, regardless of the location of the transaction.

While trade in services is more difficult to quantify than trade in goods, the WTO estimates that by 2020 services will represent 50 percent of world trade.

#### The Four Modes of Supply

Trade in services includes services supplied using any of the following modes:

- » **Mode 1: Cross Border Trade**  
The service is supplied by a provider physically located in one country, to a customer in another country (for example, over the internet).
- » **Mode 2: Consumption Abroad**  
A customer travels to another country to consume a service (for example, a student travels abroad to study).
- » **Mode 3: Commercial Presence**  
A foreign service supplier establishes a legal presence in another country to provide a service (for example, a company opens an office or enters into a joint venture in another country).
- » **Mode 4: Movement of Natural Persons**  
A person travels temporarily to another country in order to supply a service directly.





## IMPROVED MARKET ACCESS: NOW AND IN THE FUTURE

Commitments for Mode 4 fall under the Movement of Business Persons Chapter, while the Services Chapter of the CEP establishes the following core obligations for Modes 1-3:

- > **Market Access** – the Parties are prohibited from limiting access to their market through the use of quantitative restrictions such as limits on the number of service suppliers or the value of services supplied.
- > **National Treatment** – the Parties must treat services suppliers from the other country no less favourably than they treat their own domestic suppliers in like circumstances.
- > **Local Presence** – the Parties cannot require a foreign service provider to have a commercial presence as a precondition to operating in the market when the services can be delivered in other ways.
- > **Most Favoured Nation (MFN)** – the Parties will automatically receive the benefit of commitments the other Party makes in future free trade agreements that are more liberal than those in the CEP.

Each Party is required to observe these four obligations unless a service or mode of delivery is specifically excluded by a reservation in the Party's services schedule (or by an exception in the text of the CEP). This is called a 'negative list' approach to scheduling services commitments. A negative list approach is generally more comprehensive as it means that everything is covered unless specifically excluded. Appendix 3 provides an explanation of how to read a negative list.

## Hong Kong's Commitments

The CEP provides New Zealand with an "early harvest" of most of what Hong Kong has offered the entire WTO membership in the yet to be concluded Doha Round services negotiations.

Hong Kong's commitments beyond its existing WTO General Agreement on Trade in Services (GATS) levels include commitments in the following new services sectors of key interest to New Zealand:

- > Business:
  - Professional Services (Architectural, Engineering, Integrated Engineering, Urban Planning and Landscape Architectural, Veterinary)
  - Computer & Related Services (Other)
  - Other Business Services (Related to Management Consulting, Technical Testing, Services Incidental to Manufacturing, Related to Scientific and Technical Consulting, Packaging, Printing & Publishing, Credit Reporting, Collection Agency).
- > Communication:
  - Telecommunications (Telex, Telegraph, Electronic Mail, Voice Mail, Online Information and Database Retrieval, Electronic Data Interchange, Enhanced/Value-Added Facsimile, Code and Protocol Conversion)
  - Audiovisual (Motion Picture Projection).
- > Construction and Related Engineering (General Construction Work for Civil Engineering).
- > Distribution (Commission Agents, Wholesale Trade, Franchising).

- > Private Education (Primary, Secondary, Higher and Other Education) – see section below for a fuller discussion on the education outcome.
- > Environmental (Sewage, Refuse Disposal, Sanitation, Cleaning, Noise Abatement, Nature and Landscape Protection, Other).
- > Sporting and Other Recreational Services.
- > Tourism and Travel Related (Lodging).
- > Logistics:
  - Air Transport (Selling and Marketing, Computer Reservation Systems, Aircraft Repair and Maintenance)
  - Maritime Transport (Passenger Transport, Pushing and Towing, Supporting Services, Maritime Freight Forwarding, Pre-shipment Inspection)
  - Services Auxiliary to All Modes of Transport – except Air and Rail – (Cargo-handling, Storage and Warehousing, Freight Transport Agency).
- > Computer & Related Services (Installation, Software Implementation, Data Processing and Database).
- > Distribution (Retailing).
- > Tourism and Travel Related (Hotel, Restaurant and Catering, Travel Agencies).
- > Maritime Transport (Freight, Rental of Vessels with Crew, Maintenance and Repair of Vessels, Cargo-handling, Maritime Agency).

These commitments will provide New Zealand service suppliers with the certainty of continued openness in these areas consistent with the CEP. Since they are additional to those made to WTO members under the GATS, service suppliers of other countries will not benefit from them unless covered by similar CEP-type bilateral commitments.

New Zealand services exporters will also benefit from strong “future-proofing” of their position in the Hong Kong market, so that in certain sectors New Zealand will automatically get the benefit of future liberalisation by Hong Kong. The two mechanisms which provide this are:

In service sectors where Hong Kong has existing GATS commitments it has made a number of improvements of interest to New Zealand:

- > Business Services (Accounting and Auditing, Taxation, Advertising, Market Research, Management Consulting, Services Incidental to Agriculture, Maintenance and Repair of Equipment, Building Cleaning, Photographic, Convention, Translation and Interpretation, Public Relations).

- > a MFN clause, subject to certain reservations and restrictions; and
- > a “ratchet clause” where, in some sectors, Hong Kong binds in any unilateral liberalisation of specified restrictions currently in place.



## **PRIVATE EDUCATION SERVICES**

As with recent FTAs, securing improvements in access for the private education services sector was one of New Zealand's highest priorities for the services negotiations. Hong Kong had not previously made commitments on education either in GATS or in its Doha Round offer. The CEP contains a range of commitments affecting Primary, Secondary, Higher and Other education, although these are subject to a range of existing restrictions.

New Zealand education exporters will also benefit from MFN treatment, ensuring they will never be any worse off than their competitors in Hong Kong.

The CEP also allows for a closer relationship between New Zealand and Hong Kong regulators through an education cooperation arrangement.

## **NEW ZEALAND COMMITMENTS**

New Zealand's commitments go beyond its existing WTO GATS commitments, but have either already been made in other FTAs or offered by New Zealand in the WTO Doha negotiations. New Zealand has agreed to an increase in the threshold at which overseas investment are screened to \$20 million (a separate mechanism provides for New Zealand subsequently to review this threshold with a view to increasing it). In practice the threshold that applies under the Overseas Investment Act is \$100 million. None of New Zealand's commitments go beyond New Zealand's current regulatory environment or policy settings. For details on the services sectors excluded from New Zealand's commitments see New Zealand's negative list on the Ministry of Foreign Affairs and Trade website: [www.mfat.govt.nz](http://www.mfat.govt.nz).

## **DOMESTIC REGULATION**

The CEP includes new rules relating to domestic regulation of a standard higher than has been reached in the WTO or in any of our earlier FTAs. This will provide greater certainty and transparency for New Zealand service suppliers, particularly in relation to authorisation and licensing processes in Hong Kong.

## **MOVEMENT OF BUSINESS PERSONS**

The CEP provides commitments aimed at facilitating the movement of business persons engaged in trade and investment and ensuring transparent application procedures for temporary entry processes for business people.

The CEP obliges both Parties to publish all relevant information about their immigration requirements. There is a requirement that fees for processing immigration formalities are reasonable and, within ten days of making an application for temporary entry, business visitors and service suppliers must be either informed of a decision, or informed when a decision will be made.

Like the Services Chapter, the rules relating to movement of business persons include a schedule from each of the Parties. Hong Kong's schedule contains commitments on the temporary entry and duration of stay for particular categories of business people, investors, and service suppliers on the following basis:

- > The commitments for all business visitors (e.g. those attending meetings, taking orders, negotiating contracts – not just service suppliers) allow for temporary entry of 90 days.

- > For service suppliers Hong Kong provides additional commitments beyond WTO levels for ‘intra-corporate transferees’ (senior managers or specialists) in a broad range of sectors, essentially reflecting the openness provided for the same services in its “negative list”. These commitments allow entry for one year, extendable for up to five years.
- > Hong Kong’s commitments for ‘installers or servicers’ also go beyond its WTO commitments with temporary entry of three months in a year (subject to an economic needs test) in eleven new sub-sectors.

New Zealand’s commitments go beyond its existing WTO commitments but no further than recent commitments in the New Zealand-Malaysia FTA. All are consistent with current New Zealand immigration practice:

- > Business visitors from Hong Kong will be able temporarily to enter New Zealand for a period not exceeding three months in aggregate in any one year.
- > Intra-corporate transferees from Hong Kong will be able temporarily to enter New Zealand for a period of initial stay of up to three years.
- > Installers or servicers from 11 specified sub-sectors (matching those committed by Hong Kong) will be able to visit for periods not exceeding three months in any 12 month period.

New Zealand and Hong Kong have committed to reviewing their MBP commitments relating to ‘installers or services’ and ‘independent service suppliers’ one year after entry into force, with a view to improving these commitments.

# 10

## GOVERNMENT PROCUREMENT

**The CEP with Hong Kong is New Zealand's first agreement since the Trans-Pacific Strategic Economic Partnership Agreement (P4) to include a government procurement chapter.**

The CEP ensures that both Hong Kong and New Zealand will continue to be open and non-discriminatory in their government procurement. Suppliers from both New Zealand and Hong Kong already enjoy open access to each other's government procurement markets. The CEP ensures this will continue to be the case for procurements covered by the chapter.

### COVERAGE

<b>THRESHOLDS</b>	Applies to procurement of goods and services valued at or above SDR 130,000 (approx. NZ\$289,000 <sup>4</sup> ) and SDR 5 million (approx. NZ\$11 million) for construction services.
<b>GOODS AND SERVICES</b>	With some limited exceptions, applies to procurement of all goods.  New Zealand's coverage of its GP services commitments is set out in Annex 1 to Chapter 12. It is the same as its P4 commitments and excludes procurement of public education, health, welfare, and research and development services.  Hong Kong's coverage of its GP services commitments is set out in Annex 1 to Chapter 12. It is the same as its coverage under the GPA.
<b>GOVERNMENT ENTITIES</b>	<b>New Zealand:</b> 30 public service departments listed in Annex I to Chapter 12.  <b>Hong Kong:</b> 59 central government entities listed in Annex I to Chapter 12.

Where procurements are valued at or above specified thresholds, the Parties have agreed to follow certain procedures that provide for transparent and competitive tendering. There is a commitment to use open or selective tendering in all but a limited set of circumstances.

<sup>4</sup> Thresholds are expressed in IMF Special Drawing Rights (SDRs). The conversion from SDRs to New Zealand dollars may change periodically with currency fluctuations.

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The agreed procedures apply to the New Zealand government agencies listed in Annex I to Chapter 12 of the agreement, and are consistent with New Zealand's current government procurement policy and rules governing these agencies' procurement.

The chapter includes:

- > a commitment to advance publication of notices of intended procurement, along with requirements for the content of tender documents;
- > transparency requirements for the use of standing supplier lists;
- > a commitment to avoid the use of technical specifications as a disguised barrier to trade; and
- > encouragement to use electronic communications wherever possible.

Contact details are set out at the end of this booklet.



# 11

## DISPUTE SETTLEMENT

The CEP dispute settlement mechanism sets out clear and detailed processes to allow for disputes to be dealt with quickly and effectively. If consultations are not able to resolve a dispute, the complaining Party may request the establishment of an arbitral tribunal to make findings and rulings on the issue. The process is compulsory and the outcomes are binding. It ensures that New Zealand is able to pursue a matter to arbitration should Hong Kong not act in accordance with its obligations under the CEP, and provides a bilateral channel which can sit alongside the WTO dispute settlement channel, but which may be more expeditious to pursue.

The CEP dispute settlement mechanism includes the non-violation ground of complaint (where a Party considers that the benefit which it could reasonably have expected to accrue to it is being nullified or impaired as a result of a measure that is not inconsistent with the CEP).

Commitments under the Competition and Electronic Commerce Chapters are excluded from the scope of the dispute settlement mechanism. Specified commitments under the Transparency Chapter are also excluded, and commitments under the Movement of Business Persons Chapter are subject to the dispute settlement mechanism only in limited circumstances.



# 12

## EXCEPTIONS UNDER THE CEP

### GENERAL EXCEPTIONS

The CEP contains a range of exceptions to ensure that each government retains decision-making powers to take measures in certain circumstances (such as to deal with an emergency or to achieve certain priority policy outcomes).

Provided that such measures are not used for trade protectionist purposes, the CEP will not prevent New Zealand from taking measures necessary to:

- > protect human, animal or plant life or health, or public morals;
- > protect national works, items or specific sites of historical or archaeological value;
- > provide support for creative arts of national value; and
- > conserve exhaustible natural resources.

The CEP will not prevent New Zealand from taking any actions necessary to protect its essential security interests, for prudential reasons, or to respond to serious balance of payments issues and external financial difficulties. Taxation measures are also largely excluded from the CEP, except to the extent that they are covered by the WTO.

Neither Party to the CEP will be required to disclose information if it considers that the disclosure would:

- > be contrary to its domestic laws;
- > impede law enforcement;
- > be contrary to the public interest;
- > prejudice legitimate commercial interests of particular enterprises; or
- > disclose information for the purpose of judicial proceedings.

### TREATY OF WAITANGI

As in other trade agreements which New Zealand has entered into, there is also a general exception to ensure that New Zealand maintains its ability to take measures to accord more favourable treatment to Māori, including in fulfilment of Treaty of Waitangi obligations, as long as such measures are not used as a means of arbitrary or unjustified discrimination or as a disguised restriction on trade.



# 13

## THE FUTURE

### JOINT COMMISSION

The CEP establishes a Joint Commission that is responsible for matters relating to the implementation of the CEP.

The Joint Commission meetings are an opportunity for either Party to raise issues arising in relation to the CEP. There are various specialist committees created by the CEP, which the Joint Commission will oversee.

The Joint Commission will also be responsible for establishing any additional committees or working groups as required, and for exploring measures for further expansion of trade and investment between the Parties.

### COOPERATION

There are a number of specific commitments which provide for increased regulatory cooperation. These include commitments relating to standards; technical regulations and conformity assessment procedures; education; customs procedures; competition; and sanitary and phytosanitary measures.

### REVIEWS

In addition to the subject-specific reviews provided for in individual chapters, New Zealand and Hong Kong have agreed to carry out a general review, at Ministerial level, of the CEP within two years of its entry into force, and every three years after that. These reviews provide an opportunity to accelerate and expand the commitments under the CEP.



# 14

## LABOUR AND ENVIRONMENT

As part of the overall outcome of the CEP negotiations, New Zealand and Hong Kong have negotiated a Memorandum of Understanding on Labour Cooperation (MoU) and an Environment Cooperation Agreement (ECA). These agreements are legally binding. They provide a basis for New Zealand to advance its objectives for environmental protection, labour standards and building stronger economic and political relationships with our trade partners.

Both agreements are available on the [www.mfat.govt.nz](http://www.mfat.govt.nz) website.

### MEMORANDUM OF UNDERSTANDING ON LABOUR COOPERATION

The Memorandum of Understanding on Labour Cooperation (MOU) is comprehensive and includes explicit references to the relationship between trade and labour.

#### Key Elements of the MoU

The MoU provides that both Hong Kong and New Zealand are required to:

- > promote domestic public awareness of their labour laws and regulations;
- > maintain close dialogue with interested groups or individuals in the formulation of labour policies and practices;
- > designate a national contact point for labour matters to facilitate communication between the Parties and establish a cooperation programme;
- > exchange information on areas of interest and expertise;
- > cooperate with one another on labour matters of mutual interest and benefit; and
- > provide funding to support mutually agreed cooperative activities.

There is also explicit recognition that labour laws, regulations, policies and practices should not be used for trade protectionist purposes, nor may they be weakened or reduced to secure trade or investment advantage. Both Parties also reaffirm their respective commitment to the principles of the ILO Declaration on Fundamental Principles and Rights at Work and its follow-up.





### **Public Participation**

Each Party may invite unions, employers and other relevant non-governmental organisations to take part in cooperative activities or consult with its public over the operation of the MoU.

### **ENVIRONMENT COOPERATION AGREEMENT**

The Environment Cooperation Agreement (ECA) sets out shared objectives aimed at improving the environment and enhancing the capacity and capability of each Party's government agencies, research organisations, academic institutions and businesses to address trade and environment matters.

#### **Cooperation and Dialogue**

The ECA enables both Parties to work together in advancing their understanding of the environment and trade. It provides that the Parties will meet to establish, oversee and evaluate cooperation activities. The Parties will meet within the first year after the ECA enters into force and then on a regular basis by mutual agreement.

The areas identified for cooperation include but are not limited to:

- > air pollution control and monitoring;
- > improvement of environmental awareness (including environmental education and public participation);
- > management and disposal of waste (including hazardous waste);
- > environmental management of chemicals;
- > water quality management; and
- > other areas as mutually agreed upon.

The ECA states the Parties' shared commitments that the primary purpose of environmental laws, policies and practices should be to achieve environmental objectives. It also confirms that it is inappropriate to either encourage trade and investment by weakening the effectiveness of environmental laws, or to set or use such laws for trade protectionist purposes.

### **Public Participation**

Each Party may consult with members of its public or other organisations on matters relating to the operation of the ECA and may, in consultation with the other Party, invite them to meetings of the Parties.

### **New Zealand Contact Points**

The New Zealand contact points for the two agreements are the Department of Labour for the Labour Cooperation MOU and the Ministry for the Environment for the Environment Cooperation.

# 15 INVESTMENT

The CEP itself does not include an investment chapter. However, New Zealand and Hong Kong have concluded a binding agreement to negotiate a comprehensive Protocol on investment. The commitment is to complete the negotiations within two years of entry into force of the CEP.

The Parties have agreed that the Investment Protocol will build upon and be broader in scope than the existing New Zealand-Hong Kong Agreement for the Promotion and Protection of Investments, and will also be drafted with reference to the New Zealand – China FTA. The Investment EoL sets out the elements and principles which the negotiations will cover, and will serve to guide New Zealand and Hong Kong towards a high quality outcome on investment.





# 16

## REAPING THE BENEFITS OF THE CEP

**Concluding the CEP opens the door to enhancing the New Zealand – Hong Kong trading relationship. However, reaping the full benefits of the CEP will require an ongoing effort from interested parties and a collaborative approach by the private sector and government agencies.**

While there are not the immediate gains associated with the removal of tariffs, the CEP offers certainty of continued tariff-free access for all goods and improved certainty around continued access for a range of key services sectors of importance to New Zealand. In addition, one of the key outcomes of the CEP is a range of mechanisms to help address any non-tariff barriers to trade, including through the promotion of greater transparency, cooperation, and consultation.

In order to take maximum advantage of the opportunities for increased cooperation and dialogue, the government will need to work closely with relevant businesses. The government will seek the input of the private sector to help identify priorities and concerns. The commitment to negotiate an Investment Protocol to the CEP, in particular, will require the input of business, investors and other interested Parties.

In order to appreciate the full benefits of the CEP one must see it in the context of New Zealand's broader interests in the North Asia region. Hong Kong's position as a regional trading hub, and a platform into the rest of China, makes the CEP of relevance and interest to a broad range of companies doing business in the region.

One of the first steps towards helping New Zealand businesses to take advantage of the opportunities which the CEP provides is to make sure that they are informed.

The [www.mfat.govt.nz](http://www.mfat.govt.nz) website contains the texts of the CEP and its annexes, the Memorandum of Understanding on Labour Cooperation, the Environment Cooperation Agreement, and the Exchange of Letters on the Conclusion of an Investment Protocol and an explanation of how the agreements will operate. The website has extensive information on doing business with Hong Kong. A 'tariff finder' tool enables importers to locate the tariff and rules of origin provisions applying to their products.

## APPENDIX 1

# EXPORTING AND IMPORTING GOODS UNDER THE CEP

### Exporters

Hong Kong already offers duty-free access to all imports into Hong Kong. The process for exporting to Hong Kong will remain unchanged.

The CEP guarantees that this duty-free access will continue, even if Hong Kong were to decide to deny it to exporters from other destinations.

### Importers

This step-by-step guide is designed for individual importers who want to determine how their goods will be treated under the CEP.

A copy of the guide and a tariff finder tool can be found on the [www.mfat.govt.nz](http://www.mfat.govt.nz) website.

There are 3 key steps and a 4<sup>th</sup> additional step in the case of certain clothing items.

There are 4 key steps.

- Step 1** Establish the tariff classification of a good
- Step 2** Check the tariff commitments for the good in the relevant tariff schedule
- Step 3** Determine the Rules of Origin (ROO) applying to the good
- Step 4** Obtain a Certificate of Origin or Declaration of Origin

### Step 1: Establish the tariff classification of a good

Tariff classification determines the specific Rule of Origin (ROO) for each good and what tariff preferences might apply. It is therefore critical to establish the tariff classification first.

### Classification

You can get an indication of the tariff classification of a good by entering a description of the good into the tariff finder tool on the [www.mfat.govt.nz](http://www.mfat.govt.nz) website.

If you or your broker are not confident with your classification of a good, you can apply under the CEP for a binding tariff classification or 'advance ruling' which is only relevant to the applicant. Please contact the New Zealand Customs Service.

### Step 2: Check the tariff commitments for the good in the relevant tariff schedule

Please note, tariff preference is only applicable to 'originating goods' – see step 3.

To import products into New Zealand you need to check New Zealand's tariff schedule. The New Zealand tariff is contained in annex 1 to the CEP and is available on the [www.mfat.govt.nz](http://www.mfat.govt.nz) website. The schedule contains lines that show the year-by-year tariff phase-out arrangements for every tariff item. You can use the 'tariff finder' tool on the website to search for tariff lines.

Each tariff line contains the following details:

- > A 'base rate' column showing the tariff that applied in 2005
- > The preferential rates under the CEP for each year over the tariff phase-out period

The tariff cuts shown will take effect on 1 January of the relevant year.

### Step 3: Determine the Rules of Origin applying to the good

Goods must qualify as 'originating' to gain preferential tariff treatment under the CEP.





Any imports into New Zealand that do not meet the Rules of Origin (ROO) set out in Chapter 4 and Annex I to Chapter 4 to the CEP will be subject to normal tariff rates and not the preferential rates that apply under the CEP.

A good can qualify as 'originating' under the CEP if:

- > The good is wholly obtained or produced entirely in either Hong Kong or New Zealand.

These goods receive the tariff preference as of right.

To qualify as wholly obtained or produced the good must be:

- Obtained (e.g. farmed or fished in Hong Kong) or produced entirely from natural resource-based goods (e.g. produced in Hong Kong from goods farmed or fished in Hong Kong)

OR

- The good is produced entirely in either or both Hong Kong and New Zealand, exclusively from materials whose origin conforms to the provisions of the ROO Chapter and the ROO schedule (Chapter 4 and Annex I to Chapter 4 of the CEP)

OR

- The good is manufactured in either or both Hong Kong and New Zealand, using inputs from other countries, where those third Party inputs conform to the provisions of the ROO Chapter and the ROO schedule (Chapter 4 and Annex I to Chapter 4 of the CEP)

The product-specific ROO (Annex I to Chapter 4 under the CEP) can be found on the [www.mfat.govt.nz](http://www.mfat.govt.nz) website.

In all circumstances above, to claim the preferential tariff rate, the good must not enter the commerce of a country other than Hong Kong or New Zealand after export or before import. Simple trans-shipment is allowed, however.

As with tariff classification, you may seek an 'advance ruling' on the origin of the good, by contacting the New Zealand Customs Service. The contact details for requesting an advance ruling are listed under 'Contact details' later in this section.

#### **Step 4: Importers obtain a Certificate of Origin or Declaration of Origin**

If an importer wishes to claim the CEPA tariff preference applicable to articles of clothing and clothing accessories classified in Harmonised System chapters 61 and 62 from Hong Kong, they must obtain a Certificate of Origin from the Hong Kong producer or exporter.

This Certificate of Origin must have been issued by the Trade and Industry Department of Hong Kong, or by a Government-Approved Certification Organisation (GACO) of Hong Kong.

Importers only need to present the Certificate of Origin to New Zealand Customs on request.

## APPENDIX 2

### SAMPLE DECLARATION OF ORIGIN

DECLARATION OF ORIGIN	
<p>I _____ _____ (print name and position) being the <b>exporter / producer / exporter and producer</b> (strike out that which does not apply) hereby declare that the goods enumerated on this invoice _____ (insert invoice number) are originating from <b>NEW ZEALAND / HONG KONG</b> (strike out that which does not apply) in that they comply with the rules of origin requirements of the New Zealand – Hong Kong, China Closer Economic Partnership Agreement.</p>	
<b>If applicable:</b>	
<p>These goods are covered by advance ruling _____ _____ _____ (insert reference number) that deems the goods to qualify as originating in accordance with the rules of origin under the New Zealand–Hong Kong Closer Economic Partnership.</p>	
Signed:	_____
Date:	_____
<b>Note:</b> This declaration must be printed and presented as a separate document accompanying the commercial invoice. The maximum number of items covered by this declaration should not exceed 20.	



## APPENDIX 3

# BACKGROUND ON THE SERVICES SCHEDULES

### Scope of Services Covered in the CEP

The Services Chapter in the CEP only applies to a limited number of air services and does not apply to government procurement; services supplied in the exercise of governmental authority; or subsidies or grants provided by either government to services sectors (although there are provisions enabling the Parties to enter into consultations on subsidies issues). With these exceptions, the CEP covers all types of services.

### Use of the 'Negative List'

The CEP uses a “negative list”, which allows each Party to list reservations to the market access, national treatment, local presence and MFN treatment obligations.

Each Party's negative list has two parts. The first part (Annex I) sets out existing measures (laws, regulations, decisions, procedures etc) that restrict the access of foreign service suppliers – for example, by imposing quotas that restrict market access and/or caveat national treatment. These reservations are subject to the so-called “ratchet” clause. This means that the Party with the reservation is required to automatically extend the benefit of any future unilateral liberalisation of a measure listed in Annex I to the other Party. The liberalisation becomes the new level of commitment in the CEP and cannot be taken away from the other Party's service suppliers – even if the measure is repealed or made more restrictive in the future.

The second part of the negative list (Annex II) lists sectors and activities that are exempted from the market access, national treatment, MFN treatment, and/or local presence obligations. The “ratchet” clause does not apply to any measure captured by one of these reservations.

A negative list can include broad reservations that apply generally to all services, or it may be specific to certain service sectors or sub-sectors. As a useful reference point to determine whether the benefits of the CEP might be available to an exporter in a particular sector, it will be useful to classify the services which you wish to provide.

### Identifying the Type of Service Supplied for the Purposes of the CEP

Services are described in the negative list at either the services sector or sub-sector level.

The steps to determine a classification for a service:

- (i) *Identify the services sector relevant to your business*

The sector specific reservations in the CEP are generally divided into the same 12 sectors used in the WTO Services Sectoral Classification Code.<sup>5</sup>

A summarised version of the Services Sectoral Classification is in **Appendix 4** of this booklet. It will assist you in determining the likely classification used for a specific service. For example, a business supplying refuse disposal services would fit under the Environmental services sector.

<sup>5</sup> Services Sectoral Classification List WTO Document MTN.GNS/120 (also referred to as the W-120) can be found at: [www.wto.org/english/tratop\\_e/mtn\\_gns\\_w\\_120\\_e.doc](http://www.wto.org/english/tratop_e/mtn_gns_w_120_e.doc)

*(ii) Identify the service sub-sector relevant to your business.*

Some services or reservations are broken down further based on the Central Production Classification (CPC).<sup>6</sup>

Once a service has been classified it can then be checked against the negative list to determine how that service is treated under the terms of the CEP.

Finally, it will also be important to read the whole of the negative list to determine whether any broad reservations may apply.

<sup>6</sup> The CPC is a numerical listing of almost all services. It is similar to the Harmonised System (HS) code, which is used to classify goods. The CPC expands on the Services Sectoral Classification code and provides definitions of specific services. The source of the CPC is Statistical Office of the United Nations Statistical Papers, Series M, No.77, Provisional Central Product Classification, 1991 (UN CPC code).



## APPENDIX 4

# SERVICES SECTORAL CLASSIFICATION LIST

### SUMMARY OF THE MAIN SECTORS AND SUB-SECTORS

#### 1. BUSINESS SERVICES

- A. Professional services
- B. Computer and related services
- C. Research and development services
- D. Real estate services
- E. Rental/leasing services without operators
- F. Other business services

#### 2. COMMUNICATION SERVICES

- A. Postal services
- B. Courier services
- C. Telecommunication services
- D. Audiovisual services
- E. Other

#### 3. CONSTRUCTION AND RELATED ENGINEERING SERVICES

- A. General construction work for buildings
- B. General construction work for civil engineering
- C. Installation and assembly work
- D. Building completion and finishing work
- E. Other

#### 4. DISTRIBUTION SERVICES

- A. Commission agents' services
- B. Wholesale trade services
- C. Retailing services
- D. Franchising
- E. Other

#### 5. EDUCATIONAL SERVICES

- A. Primary education services
- B. Secondary education services
- C. Higher education services
- D. Adult education
- E. Other education services

#### 6. ENVIRONMENTAL SERVICES

- A. Sewage services
- B. Refuse disposal services
- C. Sanitation and similar services
- D. Other

#### 7. FINANCIAL SERVICES

- A. All insurance and insurance-related services
- B. Banking and other financial services
- C. Other

#### 8. HEALTH RELATED AND SOCIAL SERVICES

- A. Hospital services
- B. Other human health services
- C. Social services
- D. Other

#### 9. TOURISM AND TRAVEL RELATED SERVICES

- A. Hotels and restaurants (incl. catering)
- B. Travel agencies and tour operators services
- C. Tourist guides services
- D. Other

#### 10. RECREATIONAL, CULTURAL AND SPORTING SERVICES (other than audiovisual services)

- A. Entertainment services (including theatre, live bands and circus services)
- B. News agency services
- C. Libraries, archives, museums and other cultural services
- D. Sporting and other recreational services
- E. Other

#### 11. TRANSPORT SERVICES

- A. Maritime transport services
- B. Internal waterways transport
- C. Air transport services
- D. Space transport
- E. Rail transport services
- F. Road transport services
- G. Pipeline transport
- H. Services auxiliary to all modes of transport
- I. Other transport services

#### 12. OTHER SERVICES NOT INCLUDED ELSEWHERE

## FURTHER INFORMATION

Further information about the CEP is available on the [www.mfat.govt.nz](http://www.mfat.govt.nz) website.

### USEFUL CONTACTS:

For Hong Kong Desk Officer  
Asia Division  
Ministry of Foreign Affairs and Trade  
[www.mfat.govt.nz](http://www.mfat.govt.nz)  
04 439 8000

For assistance and advice on business  
with Hong Kong:

New Zealand Trade and Enterprise  
[www.nzte.govt.nz](http://www.nzte.govt.nz)  
0800 555 888

For assistance and advice on rules of origin  
or customs procedures:

The Manager, Trade Policy  
New Zealand Customs Service  
[www.customs.govt.nz](http://www.customs.govt.nz)  
04 473 6099

For assistance and advice on rules of origin policy:

Senior Analyst, Trade Environment  
Ministry of Economic Development  
[www.med.govt.nz](http://www.med.govt.nz)  
04 472 0030

For assistance and advice on intellectual property:

Senior Analyst, Intellectual Property Group  
Ministry of Economic Development  
[www.med.govt.nz](http://www.med.govt.nz)  
04 472 0030

For assistance and advice on trade remedies:  
Manager, Trade Rules, Remedies and Tariffs  
Ministry of Economic Development  
[www.med.govt.nz](http://www.med.govt.nz)  
04 472 0030

For assistance and advice on technical barriers to trade:  
Senior Analyst, Trade Facilitation Team

Ministry of Economic Development  
[www.med.govt.nz](http://www.med.govt.nz)  
04 472 0030

For assistance and advice on government procurement:  
Senior Analyst, Government Procurement

Development Group  
Ministry of Economic Development  
[www.med.govt.nz](http://www.med.govt.nz)  
04 472 0030

For assistance and advice on sanitary and phytosanitary  
(SPS) issues:

SPS Enquiry Point Coordinator/Adviser  
Ministry of Agriculture and Forestry  
[www.maf.govt.nz](http://www.maf.govt.nz)  
04 894 0431  
[sps@maf.govt.nz](mailto:sps@maf.govt.nz)

For assistance and advice on the Labour  
Cooperation Memorandum of Understanding:  
Department of Labour  
[www.dol.govt.nz](http://www.dol.govt.nz)  
04 915 4000

For assistance and advice on immigration issues:  
Immigration New Zealand  
[www.immigration.govt.nz](http://www.immigration.govt.nz)  
04 915 4000

For assistance and advice on the Environment  
Cooperation Agreement:  
International Adviser  
Ministry for the Environment  
[www.mfe.govt.nz](http://www.mfe.govt.nz)  
04 439 7400

#### **FEEDBACK:**

The business community and other interested parties were consulted extensively when the New Zealand – Hong Kong, China CEP was negotiated.

We want to continue this dialogue as the CEP is implemented. You can contact the Ministry of Foreign Affairs and Trade through the:

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