

This Ministry of Foreign Affairs and Trade publication provides an overview and a practical business guide to the New Zealand – China Free Trade Agreement. A full copy of the Agreement and associated documents can be obtained at **www.ChinaFTA.govt.nz**.

Designed by typeface, Wellington

Printed by Printlink, Wellington

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Private Bag 18–901
Wellington
New Zealand
www.mfat.govt.nz

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April 2008

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ISBN 0-477-10207-7



MINISTRY OF FOREIGN AFFAIRS AND TRADE

NEW ZEALAND – CHINA **FREE TRADE AGREEMENT**



NEW ZEALAND MINISTRY OF
FOREIGN AFFAIRS & TRADE
MANATŪ AORERE

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NEW ZEALAND IS THE FIRST OECD ECONOMY TO CONCLUDE A COMPREHENSIVE FREE TRADE AGREEMENT WITH CHINA. IT IS NEW ZEALAND'S BIGGEST BILATERAL TRADE DEAL SINCE WE ESTABLISHED THE CLOSER ECONOMIC RELATIONS TRADE AGREEMENT WITH AUSTRALIA 25 YEARS AGO.

The agreement is extremely important for New Zealand. We are a trading nation whose standard of living, jobs and economic growth – now and in the future – depend to a large extent on our competitiveness in selling goods and services to overseas markets.

This deal opens the door for New Zealand businesses to the world's fastest growing economy, with its population of 1.3 billion and rapidly expanding middle class.

The most obvious measure of the advantage to us is in two-way trade terms. It is estimated that New Zealand exports to China are expected to increase by US\$180-280 million per year (20-39 per cent above baseline). New Zealand will also see a significant reduction in the cost

of trading with China with the phased elimination of tariffs that our exporters face there.

This tariff reduction is a significant benefit for New Zealand. While we already have an open economy and allow tariff-free entry to 85 per cent by value of goods from the world, important markets like China currently have tariff levels of up to 20 per cent, and significant behind-the-border barriers to trade.

With this agreement, tariffs will be removed on 96 per cent of New Zealand's exports to China. Tariffs on more than NZ\$200 million worth of New Zealand's exports will be eliminated from the day that the FTA comes into force. By the end of the tariff phase out period, tariffs on all but NZ\$80 million of



New Zealand's current NZ\$2 billion exports to China will have been removed.

The agreement will also lead to greater cooperation in the areas of customs, sanitary and phytosanitary measures and intellectual property. There are measures to address non-tariff barriers to trade and to establish a framework for resolving trade issues that may arise in the future.

Both countries have agreed to liberalise the trade in services, and investors will benefit from greater protections and from provisions which will ensure they remain competitive with investors from other countries.

In addition, the agreement ensures that any services and investment provisions that are extended by China to third countries in future trade agreements will automatically be applied to New Zealand.

The agreement also goes beyond addressing tariff and non-tariff trade barriers faced by New Zealand exporters. In the important area of labour, a legally binding Memorandum of Understanding (MOU) has been agreed to

encourage dialogue on labour matters in both countries. The MOU will promote sound labour policies and practices, and build capacity and capability in both countries. It gives New Zealand the ability to allow the temporary entry of a limited number of skilled workers to fill gaps in our labour market.

Similarly, a binding Environment Cooperation Agreement (ECA) aims to encourage sound environmental practices and improve the capacity of each country to address environmental matters through cooperation and dialogue.

The Free Trade Agreement with China is a significant achievement for New Zealand. Being first counts. As well as giving our companies a distinct edge on their competitors, the agreement means we gain huge in-country publicity, which well-prepared and focused companies can turn to their advantage, leading to increased export dollars for New Zealand.

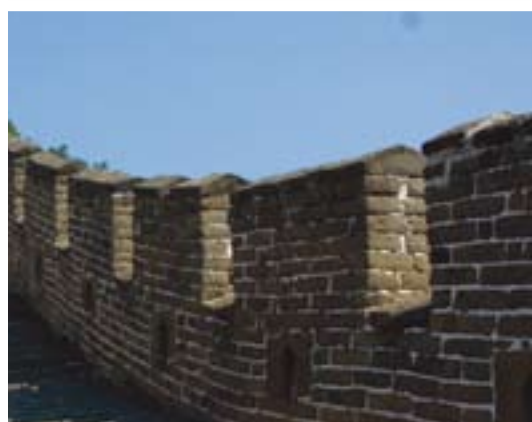
A handwritten signature in white ink on a red background. The signature is stylized and cursive, appearing to read 'Phil Goff'.

CONTENTS

1	WHAT IS THE FREE TRADE AGREEMENT?	8
2	THE PATH TO THE FREE TRADE AGREEMENT	10
3	THE STRATEGIC IMPORTANCE OF THE FREE TRADE AGREEMENT	12
4	HOW THE FREE TRADE AGREEMENT FITS INTO THE WIDER TRADE AGENDA	14
5	LIBERALISED TRADE IN GOODS	16
6	HOW TO QUALIFY FOR THE TARIFF PREFERENCES UNDER THE FREE TRADE AGREEMENT	26
7	MEASURES TO PROTECT BUSINESSES FROM UNFAIR TRADE OR IMPORT SURGES	30
8	MEASURES TO IMPROVE THE BUSINESS ENVIRONMENT	33
9	LIBERALISING TRADE IN SERVICES	37
10	INVESTMENT	44

11	DISPUTE SETTLEMENT	46
12	PROTECTIONS UNDER THE FREE TRADE AGREEMENT	47
13	MOVING FORWARD	48
14	LABOUR AND ENVIRONMENT	50
15	TAKING ADVANTAGE OF THE FREE TRADE AGREEMENT	54
APPENDIX 1	EXPORTING AND IMPORTING GOODS UNDER THE FREE TRADE AGREEMENT	56
APPENDIX 2	SAMPLE CERTIFICATE OF ORIGIN	61
APPENDIX 3	SAMPLE DECLARATION OF ORIGIN	64
APPENDIX 4	USING THE SERVICES SCHEDULES	65
APPENDIX 5	SERVICES SECTORAL CLASSIFICATION LIST	66
FURTHER INFORMATION		68





1 WHAT IS THE FREE TRADE AGREEMENT?

The New Zealand-China Free Trade Agreement (FTA) will liberalise and facilitate the trade in goods, services and investment between China and New Zealand. It contains measures to improve the business environment and promote cooperation in a broad range of economic areas of mutual interest.



The key elements of the FTA, which are set out in more detail in this booklet, include:

- **Liberalised trade in goods**

The FTA provides for the removal over time of tariffs on 96 percent of traded goods, which will equate to an annual duty saving of \$115.5 million, based on current trade.

- **Rules to govern trade**

The FTA contains rules to determine which goods qualify for tariff cuts (the 'Rules of Origin') as well as rules to counter unfair trade or unexpected surges in imported goods from the other country.

- **Liberalised trade in services**

The FTA covers services. New Zealand service providers benefit from China expanding its commitments in services including in education and environmental services.

- **Movement of people**

New Zealand will benefit from provisions to facilitate the travel of business people to China and from access to skilled workers from China in certain occupations where long term skills shortages exist.



- **Facilitation for investment**

In the area of investment, New Zealand will benefit from enhanced protections for investments established in China, as well as a provision to ensure that New Zealand investors remain competitive with investors from other countries. The FTA also provides New Zealand investors with access to binding third-party arbitration procedures if the Chinese Government breaches the investment provisions.

- **Measures to improve the business environment**

The FTA aims in other ways to improve the business environment and open up opportunities for New Zealand business.

The FTA contains measures relating to customs procedures and cooperation, sanitary and phytosanitary measures, technical barriers to trade and intellectual property, designed to reduce barriers to doing business between New Zealand and China.

The FTA establishes a framework for cooperation to enhance the benefits of the FTA. The objective is to build on the existing cooperative relationship and create new opportunities for both countries.

“ CHINA IS A MAJOR PLAYER IN THE FUTURE GLOBAL ECONOMY, AND PART OF THAT INFLUENCE WILL EXTEND TO NEW ZEALAND’S ECONOMIC WELL-BEING. TAKING STEPS NOW TO ESTABLISH CLOSER TRADING TIES IS A POSITIVE MOVE FOR NEW ZEALAND’S ECONOMIC FUTURE. ”

Henry van der Heyden, Chairman, Fonterra

- **Conformity Assessment of Electrical and Electronic Equipment**

The FTA includes a Mutual Recognition Agreement on Electrical and Electronic Equipment (EEEMRA), which will facilitate conformity assessments of a large proportion of electrical and electronic products traded between New Zealand and China.

- **Dispute Settlement**

The FTA establishes robust dispute settlement mechanisms and contains protections to preserve both countries’ domestic regulatory and policy-making flexibility.

- **Environment and Labour**

China and New Zealand have entered into a binding Environment Cooperation Agreement and a binding Memorandum of Understanding on Labour Cooperation. These Agreements will enhance communication and cooperation on these issues and help towards the objectives of raising working standards and improving environmental protection in both countries.

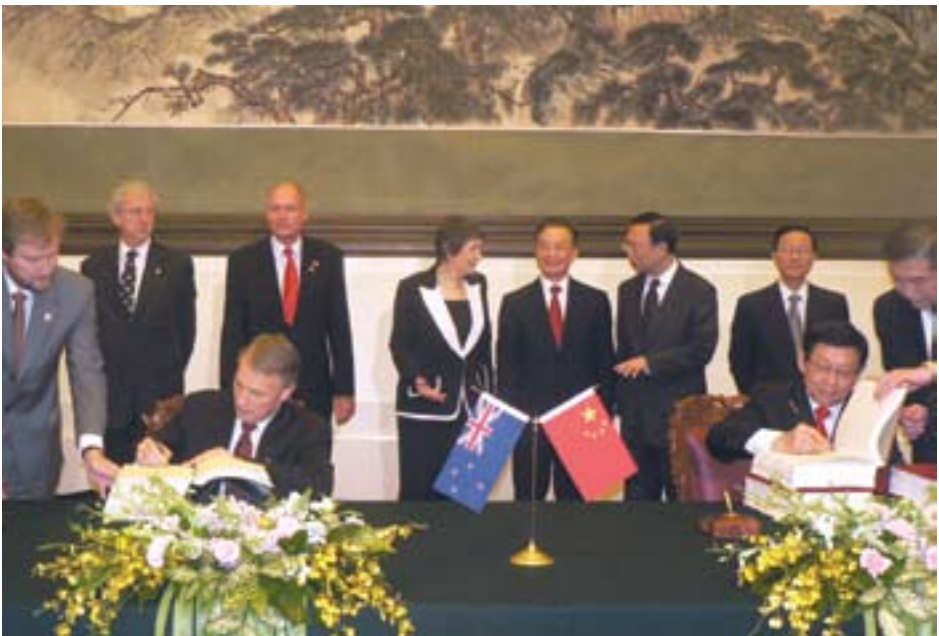
2 THE PATH TO THE FREE TRADE AGREEMENT

In November 2004, New Zealand Prime Minister Helen Clark and Chinese President Hu Jintao jointly announced that the two countries would begin negotiating an FTA. The announcement followed a Joint Feasibility Study, which concluded that a high quality FTA could be expected to deliver positive benefits for both economies and recommended negotiating an agreement covering goods, services and investment.

The two countries' bilateral relationship goes back much further. New Zealand and China established diplomatic relations in 1972, and have had a good history of economic and trade cooperation since then.

Both countries are members of the World Trade Organisation (WTO) and the Asia-Pacific Economic Cooperation forum (APEC), and are committed to strengthening the multilateral trading system and to promoting regional economic development.

The New Zealand Minister of Trade Hon. Phil Goff and Chinese Minister of Commerce Chen Deming sign the New Zealand – China Free Trade Agreement in Beijing on 7 April 2008. Witnessed by (left to right) David Walker (New Zealand lead negotiator), Tony Browne (New Zealand Ambassador to China), Minister of Education and Ethnic Affairs Chris Carter, Prime Minister Helen Clark, Premier Wen Jiabao, Chinese Minister of Foreign Affairs Yan Jiechi, Chinese Minister of Finance Xie Xuren, China's lead negotiator Zhang Shaogong.





The first round of negotiations of the FTA was held in December 2004. Negotiations continued over 15 rounds, held in both China and New Zealand. The negotiations concluded in Beijing in December 2007.

New Zealand's Minister of Trade, Phil Goff, and his counterpart Minister Chen Deming officially signed the FTA in Beijing on 7 April 2008. New Zealand Prime Minister Helen Clark and Chinese Premier Wen Jiabao witnessed the signing of the FTA.

The FTA is expected to enter into force on 1 October 2008, after the ratification process in each country has been completed.

“ WHILE THE IMPACT OF THE FREE TRADE AGREEMENT WITH CHINA WOULD HAVE ONLY A SMALL FINANCIAL BENEFIT TO THE LOG AND FOREST PRODUCTS EXPORTING SECTOR, DUE TO THE LOW LEVEL OF CURRENT TARIFFS, THE RECOGNITION OF NEW ZEALAND'S RELATIONSHIP WITH CHINA IN THIS WAY, IS EXPECTED TO PROVIDE GROWTH OPPORTUNITIES FOR THE FUTURE ”

Doug Ducker, Chairman,
Wood Council of New Zealand.

The conclusion of the FTA negotiations represented the fourth in a series of “firsts” in the bilateral trade relationship between the two countries:

- > New Zealand was the first country to agree bilaterally to China becoming a member of the WTO
- > New Zealand was the first developed country to recognise that China had established a market economy system
- > In November 2004, New Zealand was the first developed country to begin negotiating an FTA with China
- > In April 2008, New Zealand was the first developed country to conclude an FTA with China.



3 THE STRATEGIC IMPORTANCE OF THE FREE TRADE AGREEMENT

CHINA'S IMPORTANCE AS A TRADING PARTNER

The Chinese economy is growing fast and so are New Zealand's exports to China. There is room for significant growth in the trade and economic linkages between the two countries and the FTA aims to facilitate further increases.

China is the world's fastest growing major economy. Its economy has grown by around 10 percent per year for the past ten years. China is now New Zealand's third largest trading partner.

China's middle class in particular is growing, which means that there is an increasing demand for New Zealand exports including agricultural products, such as dairy, meat and wool. New Zealand exports to China now total approximately \$2 billion per year, and have increased 250 percent since 1996.

The bilateral trade in services has expanded in recent years, particularly in the sectors of tourism and education. China is now New Zealand's fourth largest source of tourists with 120,800 visitors coming to New Zealand in 2007. In the area of education China remains the largest market for New Zealand with 31,905 fee-paying students enrolled in courses of study in New Zealand in 2006. Along with the development of direct air links and the introduction of a Working Holiday Scheme for Chinese visitors to New Zealand, the FTA will help facilitate further growth in these and other services exports.

An increasing number of FTAs are being concluded internationally and China is active in negotiating FTAs with other countries. China has concluded agreements with ASEAN, Chile and Pakistan and has negotiations underway with a range of countries including Peru, South Africa, Singapore and Australia.

The FTA will help New Zealand exporters and investors maintain competitiveness in the China market.

New Zealand is the first OECD country with which China has concluded an FTA. The upfront outcomes in terms of commitments on goods, services and investment and the mechanisms which provide for further development of the agreement over time should help keep New Zealand at the forefront of the evolution of trade and investment relationships with China.



INCREASED COOPERATION ON LABOUR AND ENVIRONMENT

Two agreements, the Memorandum of Understanding on Labour Cooperation (MOU) and the Environment Cooperation Agreement (ECA) were negotiated alongside the FTA and are referenced in the FTA. These binding agreements provide for greater cooperation between the two countries in the areas of labour and environment. These arrangements are in line with the New Zealand Government's 2001 policy frameworks on labour and environment.¹

PROMOTING A CLOSER RELATIONSHIP

The FTA has the further advantage of strengthening the relationship between the parties and establishing a framework for cooperation. It will be of assistance to the two countries working together within the WTO.

The FTA supports New Zealand's objective of broadening and deepening relations in Asia and its wider trade policy interests in strengthening economic integration in the Asia-Pacific.

It will also assist in raising the commercial profile for New Zealand companies in China.

“ OUR EXPORTERS WILL BENEFIT FROM SECURING PREFERENTIAL ENTRY FOR OUR GOODS AND SERVICES INTO CHINA, THE WORLD'S FASTEST GROWING ECONOMY. THE OPPORTUNITIES ARISING FROM THIS FTA WILL SEE POSITIVE, LONG-TERM RESULTS. ”

Bob Walters, CEO, Export New Zealand



¹ The 2001 Framework for Integrating Labour Standards and Trade Agreements and the 2001 Framework for Integrating Environment Standards and Trade Agreements are available on the MFAT website (www.mfat.govt.nz).

4 HOW THE FREE TRADE AGREEMENT FITS INTO THE WIDER TRADE AGENDA

Trade negotiations carried out under the WTO framework, involving all WTO members, remain the top trade priority for New Zealand because these multilateral negotiations offer the largest potential gains. But the number of parties and interests involved in WTO negotiations means that progress is slow.

FTAs can open up important new opportunities for New Zealand exporters in a shorter timeframe than through the WTO. They allow New Zealand to accelerate progress towards more open markets by partnering with countries that share our same level of determination for progress.

Good quality FTAs can also usefully contribute to moving the WTO and APEC processes forward by highlighting the benefits of liberalisation. Closer Economic Partnerships (CEPs) and FTAs are under negotiation by most of our trading partners and have proliferated around the world – particularly in the Asia region. It is essential that New Zealand is part of this activity to strengthen economic links and obtain improved access to markets.

In 1983, New Zealand and Australia signed the Australia New Zealand Closer Economic Relations (CER) Trade Agreement, which has been described by the WTO as “the world’s most comprehensive, effective and mutually compatible free trade agreement”. But it has only been with the turn of the century that the world has seen bilateral and regional free trade agreements proliferate, with a concentration in the Asia-Pacific region.





In the last decade, New Zealand has entered into preferential agreements with a number of countries:

- Singapore (the ANZSCEP) in 2001
- Thailand (the New Zealand-Thailand CEP) in 2005
- Chile, Singapore and Brunei (the Trans-Pacific SEP) in 2006.

New Zealand is continuing negotiations for FTAs with the ASEAN group of nations, with the Gulf Cooperation Council and with Malaysia. New Zealand and South Korea have also recently completed a joint study which recommends that the two countries enter into FTA negotiations.

“ THE CHINA FTA WILL GIVE NEW ZEALAND SHEEP AND BEEF FARMERS IMMEDIATE PREFERENTIAL ACCESS FOR THEIR MEAT EXPORTS AND CERTAINTY OF ACCESS FOR WOOL. THE FTA ALSO SUPPORTS THE WORK CURRENTLY UNDERWAY BY MEAT & WOOL NEW ZEALAND AND THE MAJOR MEAT EXPORTERS TO IDENTIFY NEW OPPORTUNITIES FOR A RANGE OF QUALITY NEW ZEALAND LAMB PRODUCTS. ”

Mike Petersen, Chairman,
Meat and Wool New Zealand

5 LIBERALISED TRADE IN GOODS

Full details of the changes to tariffs and the timetables for these changes are set out in the schedule to the FTA. The tariff schedule and a 'tariff finder' tool are located on the www.ChinaFTA.govt.nz website.

A step-by-step practical guide for goods businesses exporting under the FTA is provided in Appendix 1 of this guide.

OPENING UP CHINA'S MARKET

The FTA will eliminate tariffs on 96 percent of New Zealand's current exports to China.

- **Immediate tariff elimination**

On entry to force, tariffs at or below 5 percent on over NZ\$200 million worth of New Zealand's exports will be eliminated. 35 percent of the value of current trade is duty free on day one.

Specific products that will benefit from this immediate elimination include certain types of fibreboard, fish meal for non-human consumption, scrap metal (copper and aluminium), coking coal and iron slag.

Approximately 75 percent of New Zealand's current wool exports (6 percent of total exports) will be duty free from 1 January 2009.



- **Elimination over 5 years**

Over the first 5 years, China's tariffs in the range 6-20 percent on NZ\$621 million of current exports will be eliminated. Products in this category account for 31 percent of current New Zealand exports to China and include infant milk formula, yoghurt, casein, frozen fish, frozen fish fillets, methanol, animal fats & oils, apples and wine.

- **Elimination over 6 Years**

Tariffs greater than 20 percent will be reduced to 20 percent on day one, and then reduced to zero on 1 January 2013. Products in this category account for 0.1 percent of current New Zealand exports to China.

- **Elimination over 9 years**

Over the first 9 years, China's tariffs on NZ\$77 million of current exports will be eliminated, including beef and sheep meat, edible offals, sheepskins and kiwifruit.

- **Elimination over 10-12 years**

Tariffs on butter, cheese and liquid milk will be phased out over 10 years and tariffs on whole and skim milk powders will be phased out over 12 years. By the end of the tariff phase-out period, tariffs on all but \$80 million of current trade will have been eliminated.



TABLE 1: SUMMARY OF ELIMINATION OF CHINESE TARIFFS

DATE FOR TARIFF ELIMINATION	PERCENTAGE OF CURRENT EXPORTS	KEY EXPORT PRODUCTS
2008*	35	Scrap metal, certain types of fibreboard, fish meal, coking coal and iron slag
2009	6	Around 75% of current wool exports (with the balance of current exports becoming duty free over 8 years)
2012/2013	31.2	Infant milk formula, yoghurt, casein, frozen fish, frozen fish fillets, methanol, animal fats & oils, apples and wine
2016	4	Edible offal, oranges, orange juice, milking machines, sheep & beef meat, kiwifruit, sheepskins
2017	2.5	Butter, cheese and liquid milk
2019	15.2	Skim and whole milk powders
No tariff preference	4	Certain paper products and processed wood products

*Expected date of entry into force is 1 October 2008, subject to parliamentary processes



TARIFF REDUCTIONS BY SECTOR

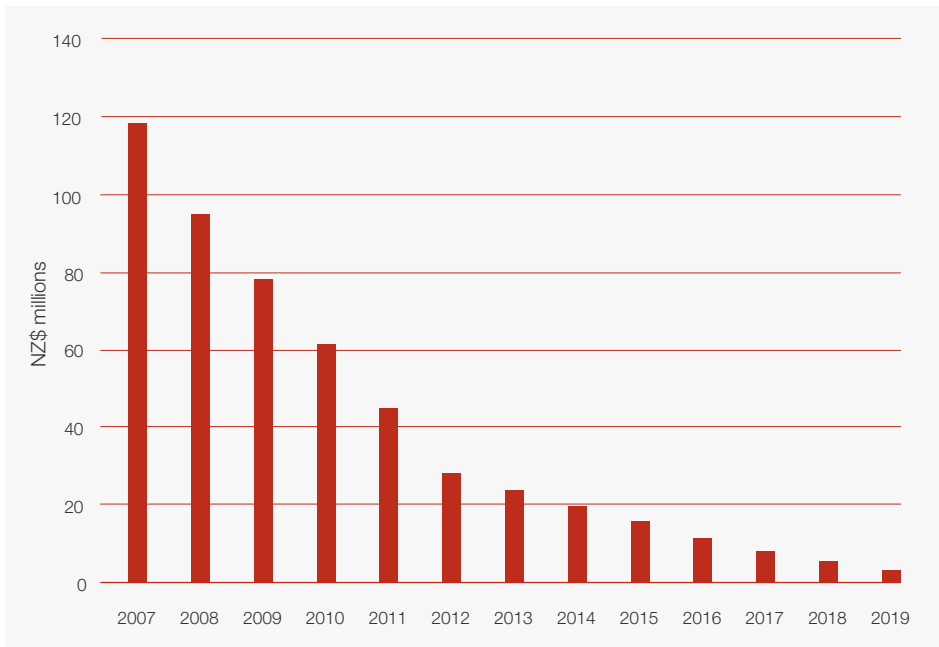
New Zealand exports to China incurred duty payments averaging \$118.5 million annually over 2004-2006. Table 2 shows the estimated reduction in duty payments on current exports to China over the implementation period of the FTA. Increased exports in response to tariff liberalisation will generate additional duty savings on a cumulative basis.

“ CHINA’S AGREEMENT TO REDUCE THE 20 PERCENT TARIFF ON KIWIFRUIT TO ZERO OVER THE COURSE OF THE NEXT NINE YEARS IS A VERY SIGNIFICANT ACHIEVEMENT – ONE THAT WILL BE WORTH MANY MILLIONS OF DOLLARS TO THE NEW ZEALAND KIWIFRUIT INDUSTRY OVER TIME. ”

Craig Greenleas, Chairman, Zespri



TABLE 2: REDUCING DUTIES ON TOTAL NEW ZEALAND EXPORTS TO CHINA





- Dairy

Dairy has an export value of NZ\$363 million (average over 2004-2006) and amounts to 18 percent of New Zealand's total exports to China. China considered that there is some domestic 'sensitivity' about some dairy products, in areas where the Chinese industry is developing. Tariffs on some dairy products (including infant milk formula, casein, yoghurt and whey) will be phased out over 5 or 6 years. A longer tariff phase-out applies to 'sensitive' products (including milk powders, cheese, butter and liquid milk).

Tariffs on cheese, butter and liquid milk will be phased out over 10 years. Tariffs on milk powders will be phased out over 12 years. For all sensitive dairy products, China will have recourse to a product-specific safeguard mechanism. For milk powders tariff reductions are also subject to a mid-term review mechanism. These mechanisms are described in the section on 'Measures to protect businesses from unfair trade or import surges' (Chapter 7).

- Other sensitive products

A further 32 product lines have been classified as sensitive by China and will be subject to a linear tariff phase out over 9 years. These products include beef and sheep meat, edible offals, sheepskins and kiwifruit. These products combined account for 4 percent of current exports to China.

- Wool

Wool has an export value of NZ\$167.1 million (average over 2004-2006) and represents 8 percent of New Zealand's current exports to China. The FTA creates a country-specific tariff quota (CSTQ) for New Zealand wool exports to China. The CSTQ will provide duty free treatment for an initial quantity of 25,000 tonnes. This represents 75 percent of current wool exports to China. This initial quantity will grow by 5 percent annually through to a cap of 36,900 tonnes in 2017. For wool tops the initial CSTQ level of 450 tonnes is equivalent to 120 percent of New Zealand's current exports. It also increases by 5 percent per year over 8 years to a level of 665 tonnes.

Any increases beyond that date will be by mutual agreement between the Parties. Access to the CSTQ will not affect the right of New Zealand exporters to access to China's existing WTO quota for wool.

- Wood and paper products

Most of New Zealand's current forestry exports (logs, sawn timber and wood pulp) already enter China duty free. The FTA will mean that the applied zero percent tariff becomes binding. That will provide some potential advantage to New Zealand exporters as China has scope in its WTO tariff bindings to apply a 1 percent tariff on logs and sawn timber.

There will be no tariff reduction under the FTA for some processed wood products and paper products exported to China. In total, these products account for 4 percent of New Zealand's current exports to China. While China will not make tariff reductions for these products under the FTA, it has agreed that its WTO commitment will apply to these products, so that China will give to New Zealand any preferential treatment that it offers to any other country and New Zealand will not be at a competitive disadvantage vis-à-vis other suppliers to China.

- **Raw hides and skins**

This category has an export value of NZ\$110.8 million (average over 2004-2006) and amounts to 6 percent of New Zealand's total exports to China. Most products are in the category for tariff elimination over 5 years. Those products which currently have a tariff of 5 percent or less will become duty-free on entry into force of the FTA. Some products (sheep and goat skins) are included in the sensitive category described above.

- **Other food preparations**

This category has an export value of NZ\$93.3million (average over 2004-2006) and amounts to 5 percent of New Zealand's total exports to China. Except for those products included in China's sensitive category (described above) for elimination over 9 years, tariffs on most of these products will be eliminated over 5 or 6 years.

- **Fish and other seafood**

This category has an export value of NZ\$90.1 million (average over 2004-2006) and amounts to 4 percent of New Zealand's total exports to China. Other than for products such as live fish fry and shellfish for cultivation, most of which are already duty-free, tariffs on these products will be eliminated over 5 years.

- **Animal or vegetable fats and oils**

This category has an export value of NZ\$64.8 million (average over 2004-2006) and amounts to 3 percent of New Zealand's total exports to China. Most tariffs on these products will be eliminated over 5 years.



TABLE 3: TOP TEN NEW ZEALAND EXPORTS TO CHINA

PRODUCT	EXPORT VALUE (NZ\$ MILLION AVERAGE 2004-06)	% OF TOTAL EXPORTS
Dairy produce	363.0	18
Wood and articles of wood	252.9	13
Wood Pulp	170.5	9
Wool	167.1	8
Raw hides and skins	110.8	6
Other food preparations	93.3	5
Fish and other seafood	90.1	4
Paper and paperboard	65.5	3
Animal or vegetable fats and oils	64.8	3
Ores, slag and ash	57.4	3
Subtotal top ten exports	1,435.3	72
Total exports	2,001.3	

Data Source: World Trade Atlas

OPENING UP NEW ZEALAND'S MARKET

The FTA provides China with improved access to the New Zealand market but at the same time provides time for New Zealand's sensitive sectors to adjust to tariff reductions.

The FTA tariff cuts are broadly consistent with phase outs under other FTAs. New Zealand is currently implementing a unilateral programme of tariff cuts through to July 2009 and during this period, the tariffs under the FTA in 'sensitive' product areas will not, in the majority of cases, be lower than the tariff under the unilateral tariff cuts. However, all of China's exports to New Zealand will eventually be duty-free. Specific outcomes include:

- Tariffs on the most highly traded clothing and footwear products and some textile products will be phased out on a linear basis by 2016
- Tariffs on carpet, the remaining clothing, footwear products and certain highly traded textile products will be phased out on a linear basis by 2014
- The FTA provides for phase outs for tariffs in the range of 6-12.5 percent by 2012. This includes products such as whiteware, steel, plastics and furniture. Some less sensitive textile and clothing products are also included in this category. New Zealand has retained a slower initial tariff phase out profile for particular steel and whiteware products to ensure that tariff reductions under the FTA go no faster than under the unilateral tariff reduction programme through to 2009.



TABLE 4: SUMMARY OF NEW ZEALAND'S ELIMINATION OF TARIFFS

DATE FOR TARIFF ELIMINATION	PERCENTAGE OF CURRENT IMPORTS	KEY IMPORT PRODUCTS
2008*	38.5	37% of trade is already duty free
2012/2013	35.5	Steel, whiteware, plastics, furniture, tyres, plasterboard
2014	4.5	Clothing, footwear, carpets and some textiles
2016	21.5	Clothing and footwear

*Expected date of entry into force, subject to parliamentary processes

6 HOW TO QUALIFY FOR THE TARIFF PREFERENCES UNDER THE FREE TRADE AGREEMENT

In order to qualify for the reductions in tariff under the FTA, rules applying to the origin of goods must be met and certain steps must be followed.

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

The Rules of Origin (ROO) and the product-specific ROO are set out in Chapter 4 of the FTA and in Annex 5, available on the www.ChinaFTA.govt.nz website. ROO applying to specific products can be located using the website's 'tariff finder' tool.

RULES OF ORIGIN

To qualify for preferential tariffs under the FTA, products must qualify as 'originating' goods from either China or New Zealand, under the ROO set out in the FTA. Any goods traded between the two countries that do not meet the ROO will be subject to normal tariffs.

In general a good can qualify as 'originating' under the FTA if:

- it is wholly obtained or wholly produced in either China or New Zealand, or
- it is produced entirely in either or both China and New Zealand, from materials that conform to the provisions of the ROO Chapter (Chapter 4 of the FTA), or
- the good is manufactured in either or both China and New Zealand using inputs from other countries, and meets the product-specific ROO in Annex 5 of the FTA, and the other requirements specified in the ROO Chapter.





WHOLLY OBTAINED OR PRODUCED

Typically these goods are natural-resource based goods such as farming or fishing products. Goods that apply to this category are listed in Chapter 4 of the FTA.

PRODUCED ENTIRELY FROM ORIGINATING MATERIALS

These are goods produced entirely in either or both China and New Zealand, exclusively from originating materials, with no imported material content. Materials originating in China that are used in the production of goods in New Zealand are deemed to be originating materials (and vice versa).

PRODUCT SPECIFIC RULES

For products that contain third party inputs, the FTA predominantly uses a change of tariff classification (CTC) approach to determine origin. Under the CTC approach, a good will qualify in principle as originating if all third party inputs used in the production of that good have undergone a specified change of tariff classification. Annex 5 to the FTA details the precise form of CTC that will apply to a particular good.

For some products there are additional regional value content (RVC) rules where the product must meet CTC plus an additional RVC requirement. For example, certain machine tools must meet a CTC rule plus 40 percent RVC. A small number of chemical products have a stand-alone RVC requirement and ships and boats have an alternative RVC requirement.

Some agricultural products must be wholly obtained from New Zealand or China in order to qualify for tariff preference into the other country. For example, some meat products (fresh, chilled or frozen beef and lamb) must come only from animals born and raised in New Zealand or China in order to qualify for preference.

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.

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 China will require a Certificate of Origin in order to benefit from preferential tariffs under the FTA.

Authorised Bodies approved by the New Zealand Government and notified to China will certify that goods for export comply with the ROO and issue Certificates of Origin. 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.

Where a consignment of goods 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.

In accordance with long-established practice, New Zealand will not require that certificates of origin accompany imports from China. Normal risk management techniques will provide sufficient assurance that only goods of Chinese origin under the rules of origin will receive the benefits of the FTA tariff preference.

“ CHINA HAS THE BIGGEST POTENTIAL MARKET IN THE WORLD, WITH THE BIGGEST POPULATION. THE CHINESE WANT OUR MEAT, WOOL AND DAIRY PRODUCTS. THEIR MIDDLE CLASS IS GROWING ALL THE TIME AND AS THE POPULATION GETS WEALTHIER THEY WILL DEMAND MORE OF OUR PRODUCE. IT IS A GREAT TIME TO BE A FOOD PRODUCER IN NEW ZEALAND. ”

Charlie Pedersen, President,
Federated Farmers



7 MEASURES TO PROTECT BUSINESSES FROM UNFAIR TRADE OR IMPORT SURGES

Under the FTA, New Zealand and China retain their existing rights and obligations under the WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, WTO Agreement on Subsidies and Countervailing Measures and the WTO Safeguards Agreement. Both countries have agreed to use any measures in a transparent manner.

ANTIDUMPING

Anti-dumping measures allow an importing country to impose special import duties when a firm sells a product on the importing market below what the firm charges for the same product on its home market.

Both countries retain their existing WTO rights and obligations on anti-dumping.

NO EXPORT SUBSIDIES

New Zealand and China have agreed under the FTA that neither country will introduce or maintain any form of export subsidy on products being exported to the other country.

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.

Either party may exclude the other party from global safeguard action if the imports from the other party are not causing serious injury.





BILATERAL SAFEGUARD MEASURES

The FTA also contains additional bilateral safeguard measures. Under these measures, either country will be able to revert to higher tariffs for a limited period (of 2 years, which may be extended by 1 year) where there is 'serious injury' or the threat of serious injury to domestic industries caused by increased imports due to tariff reductions under the FTA. At the end of the period during which the safeguard measure applies, the tariff shall be at the rate that would have applied had the safeguard measure never been applied.

Bilateral safeguard measures will only apply after an investigation in accordance with the provisions of the FTA. The party applying a safeguard measure will be required to provide compensation to the other party while the safeguard measure is being applied.

A provisional safeguard measure (for 200 days) may also apply in limited circumstances, before an investigation has been completed. If it is found after the investigation that the measure should not have been applied, the exporting country will get a refund of the higher tariff rates it paid.

In New Zealand, the Ministry of Economic Development will be responsible for conducting any bilateral safeguards investigations, once the FTA has come into force.

“ TO COUNTERBALANCE THE PHASING DOWN OF REMAINING DUTIES ON GOODS FROM CHINA, THE FTA BRINGS INTO PLAY COMPREHENSIVE COMMERCIAL PROCESSES DESIGNED TO ENSURE OUR BUSINESSES HAVE SOME PROTECTION FROM UNFAIR TRADE PRACTICES. ”

Bruce Goldsworthy, Acting Chief Executive,
Employers & Manufacturers Association (EMA)

SPECIAL SAFEGUARD MECHANISM FOR DAIRY PRODUCTS

China is permitted to apply a temporary quantity-based special safeguard mechanism during the phase out period of tariffs on specified dairy products and for an additional 5 years once tariffs have been eliminated. The safeguard allows China to apply an additional tariff for any quantity of imports of the specified products above an agreed trigger level. The initial trigger levels are all at or above current export levels and grow at a rate of 5 percent compounding annually over the life of the mechanism. If triggered, the special safeguard allows China to raise tariffs up to the 'Most Favoured Nation' applied rate, which is 10 percent for milk powders and butter, 12 percent for cheese and 15 percent for liquid milk.



MID-TERM REVIEW MECHANISM FOR DAIRY PRODUCTS

The FTA also includes a mid-term review mechanism for dairy products. Under this mechanism, the Trade in Goods committee established under the FTA will undertake a review following the year 6 tariff cut to determine whether increased dairy imports from New Zealand have caused an overall negative impact on the Chinese dairy industry. If the Committee determines that an overall negative impact has occurred, then the next scheduled tariff reduction, on milk powders only, may be postponed by one year. Such a determination can only be made if both countries agree that the review demonstrates, on the basis of objective evidence, the existence of a causal link between tariff reductions under the Agreement, increased imports of the products concerned from New Zealand and the overall negative impact on the Chinese dairy industry.



8

MEASURES TO IMPROVE THE BUSINESS ENVIRONMENT

CUSTOMS PROCEDURES AND COOPERATION

The FTA provides for cooperation in the administration of customs. It contains a general obligation to ensure that customs procedures are predictable, consistent and transparent and facilitate trade.

The FTA sets out specific ways in which the two countries will cooperate and how any differences that arise will be resolved.

In the normal course of events, Customs administrations in both parties are required to release originating products within 48 hours of arrival.

Traders can apply for advance rulings in respect of origin and tariff classification, to ascertain whether or not a good will qualify for preferential tariffs under the Rules of Origin. This may be done at least three months before the date of importation.

New Zealand exporters will be able to request advance rulings on origin direct from China Customs. There will be no need to channel such requests through a Chinese importer.

Applications for an advance ruling on tariff classification, on the other hand, will only be accepted from persons registered with China Customs. Chinese legislation requires applicants for an advance ruling on classification to have a physical presence in China.

Contact details for assistance on Customs procedures are available at the end of this booklet.

SANITARY AND PHYTOSANITARY MEASURES

Sanitary and phytosanitary measures (SPS) 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 FTA establishes procedures for the resolution of SPS issues when they arise. It also establishes a framework to avoid SPS issues arising, creating a mechanism for encouraging the two countries to recognise each others' SPS measures as being equivalent, and adaptation to regional conditions including pest or disease free areas.

If a dispute arises, each country may choose to use the dispute settlement provisions available under the FTA or those available through the WTO.

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 China should contact the Ministry of Agriculture and Forestry.

Contact details are available 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 FTA aims to reduce unnecessary TBT between New Zealand and China by encouraging cooperation between relevant officials, regulators and technical experts.

Both countries are encouraged to accept each other's technical regulations as equivalent, and to accept the result of each other's procedures for sampling, testing and inspecting goods (conformity assessment procedures).

The FTA establishes a Joint TBT Committee to work towards joint standards and regulations.

Both parties have affirmed their existing rights and obligations under the WTO TBT Agreement. If a TBT dispute arises, members can use either the dispute settlement provisions under the FTA or those available through the WTO.

Businesses facing standards and conformance problems when exporting to China should contact the Ministry of Economic Development.

ELECTRICAL AND ELECTRONIC EQUIPMENT MUTUAL RECOGNITION AGREEMENT

The FTA contains an agreement on the mutual recognition of conformity assessment for electrical and electronic equipment (EEEMRA). The EEEMRA concerns electrical and electronic products that are subject to the China Compulsory Certification (CCC) system and to the requirements of New Zealand supplier declarations of conformity for such products.

Currently Chinese exports to New Zealand must be tested to New Zealand standards while New Zealand exports to China must be tested, inspected and certified by Chinese conformity assessment bodies. The EEEMRA gives suppliers in both countries an alternative way to demonstrate compliance with electrical safety and electromagnetic compatibility regulatory requirements.

New Zealand exporters will be able to apply the CCC mark to products before the products are exported to China, on the basis of accreditations and conformity assessment procedures carried out by New Zealand agencies which have been formally accepted in China and to have their products recognised as meeting Chinese requirements on importation.



The EEEMRA will make it easier for New Zealand regulators to monitor and enforce the electrical safety and electromagnetic compatibility of imported products, including through providing for cooperation with Chinese regulators in surveillance and enforcement actions.

Other benefits include reduced language barriers; better compliance of Chinese imports by making it easier for Chinese manufacturers to demonstrate compliance; and improved quality assurance through requirements for factory inspections and certification.

The EEEMRA is a first for China. It is the first agreement under which its authorities accept the results of testing, inspection and certification by Conformity Assessment Bodies accredited in another jurisdiction.

In addition to the benefits for trade in covered products by the EEEMRA, the EEEMRA will provide a basis for the exploration with China of similar approaches to reduce transactions costs and manage risks associated with regulation of other areas of interest to New Zealand in the bilateral trading relationship.

The EEEMRA preserves the sovereign right of each country to set and apply mandatory requirements in relation to the covered products; and to take any measures deemed necessary in relation to non-compliant products.

INTELLECTUAL PROPERTY

Intellectual property covers rights and obligations in areas such as copyright, trademarks and patents.

The FTA reaffirms New Zealand and China's commitments on intellectual property rights under the TRIPS (Trade-related aspects of intellectual property rights) Agreement and other multilateral agreements and incorporates the provisions of the TRIPS Agreement as relevant to the bilateral context. This means that New Zealand rights and obligations in respect of China under the TRIPS Agreement are actionable under the FTA, as well as in the WTO.

Each country has agreed to establish and maintain transparent intellectual property rights regimes and systems that:

- Provide certainty over the protection and enforcement of intellectual property rights
- Minimise compliance costs for business; and
- Facilitate international trade through the dissemination of ideas, technology and creative works.

The parties have agreed to cooperate on eliminating trade in goods infringing intellectual property rights, subject to the laws of each party.

A consultation mechanism means that New Zealand can request consultations to seek a timely and mutually satisfactory solution on any intellectual property issue within the scope of the FTA.

“ THE SIGNING OF A FTA (FREE TRADE AGREEMENT) WITH CHINA WILL CREATE FURTHER MARKET DEVELOPMENT OPPORTUNITIES FOR THE NEW ZEALAND SEAFOOD INDUSTRY: ”

Alastair McFarlane, General Manager of Trade, Seafood Industry Council

TRANSPARENCY

Under the FTA, New Zealand and China are obliged to ensure that any laws, regulations, procedures and administrative rulings on matters covered by the FTA are published.

People in New Zealand and China will be provided with reasonable notice about any administrative proceedings that may affect them. Each country will also establish or maintain impartial and independent tribunals or panels to review and correct administrative actions regarding matters covered by the FTA.

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





9

LIBERALISING TRADE IN SERVICES

The FTA aims to reduce barriers to trade in services, which will help New Zealand companies conduct business in China.

Services cover areas such as tourism, education, construction and transport.

Though the trade in services is not as easily recognised as the trade in goods, the WTO estimates that by 2020, services will represent 50 percent of world trade.

Examples of barriers to trade in services include:

- Different rules or requirements for foreign companies compared to Chinese companies which are designed to give Chinese companies a competitive advantage
- Requirements for foreign companies to employ a certain percentage of Chinese nationals or to enter into a joint venture with a Chinese company.

The services chapter in the FTA does not apply to subsidies or government procurement, though parties may negotiate an agreement relating to government procurement in the future; or services supplied in the exercise of governmental authority. These are services supplied neither on a commercial basis nor in competition with one or more service supplier.

THE FOUR MODES OF SERVICE SUPPLY

Trade in services includes services supplied using any of the following four 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.

NATIONAL TREATMENT AND MARKET ACCESS

Both New Zealand and China have made commitments in the FTA which expand on their respective commitments in the WTO General Agreement on Trade in Services (GATS). The services chapter of the FTA establishes the general obligation of national treatment and market access in sectors listed in the services schedules to the FTA, subject to the restrictions specified in the schedules.

The national treatment obligation means that for the sectors specified in its schedule, each country will treat service suppliers from the other country no less favourably than it treats its domestic suppliers in like circumstances.

The market access obligation means that for the sectors specified in its schedule, each country should not be able to restrict access to their market in the form of limitations on foreign capital or on:

- the number of service suppliers, service operations or persons employed in a particular service sector
- the value of services
- the legal structure used.



China's commitments for modes 1-3 that go beyond its commitments in the WTO are in the following sectors:

- Computer and Related Services – including software implementation services, data processing services, and input preparation services
- Services related to management consulting
- Education (discussed in further detail below)
- Environmental services – an improved Mode 3 (investment in environmental services) commitment permitting wholly foreign-owned enterprises
- Sporting and other recreational services
- Air transport services (aircraft repair and maintenance services, and air travel computer reservation services); and
- Road Transport services (freight transportation by road in trucks or cars; maintenance and repair of motor vehicles; storage and warehousing services; and freight forwarding agency services).

New Zealand's commitments for modes 1-3 that go beyond its commitments in the WTO are in the following sectors:

- Other Education Services (training provided in specialist language institutions, language assessment services provided through Chinese language testing centres, and tuition in subjects taught at the primary and secondary levels in specialist institutions operating outside the New Zealand compulsory school system)
- Environmental Services (the provision of consultancy services, and the delivery of services, across the full range of environmentally related services)
- Computer Services (Maintenance and Repair of office machinery and equipment, including computers and other computer services)
- Photographic Services
- Duplicating Services
- Construction services (consultancy related to construction services).

MOST FAVOURED NATION TREATMENT

The FTA includes a reciprocal Most Favoured Nation (MFN) provision covering services in the following sectors: construction², environmental services, services incidental to agriculture and forestry³, engineering services, integrated engineering services, computer and related services and tourism services.

The MFN provision means that New Zealand exporters of these services will automatically receive the benefit of commitments which China makes in future free trade agreements that are more liberal than those in the FTA. This will help to ensure that the competitive position in the China market of New Zealand exporters of these services is not eroded. The 'most favoured nation' obligation does not apply to treatment granted by either country to third countries under any previous free trade agreement.

New Zealand and China have also agreed to ensure that their domestic measures affecting the trade in services are administered in a reasonable, objective and impartial manner.

EDUCATION

Education is New Zealand's single most important services export sector after tourism.

China has made a binding commitment to include on the China Ministry of Education "Study Abroad Website" the eight New Zealand Universities, the twenty Institutes of Technology and Polytechnics, Te Wānanga o Aotearoa, Te Whare Wānanga o Awanuiārangi and Te Wānanga o Raukawa, and six degree conferring Private Training Establishments duly approved and accredited by the New Zealand Qualifications Authority.

China has also agreed that both parties will jointly initiate work at the official level on the evaluation of the quality assurance criteria for qualifications that include a distance delivery component.

Both parties have agreed to establish a Joint Working Group to explore possibilities for mutual recognition of respective vocational qualifications.

² The following construction services are covered: construction work for buildings; assembly and erection of prefabricated constructions; installation work; and building completion and finishing work.

³ China has entered a reservation against its commitment on this sector to the effect that it applies only to agreements China concludes with the 30 countries (including New Zealand) which are members of the Organisation for Economic Cooperation and Development (OECD).



TEMPORARY ENTRY AND TEMPORARY EMPLOYMENT ENTRY

The FTA aims to facilitate temporary entry for New Zealand and Chinese nationals to each other's countries.

China has agreed to expeditious processing of visa applications from New Zealanders visiting China for business purposes, including services suppliers, investors and goods sellers⁴, and to greater transparency in processing those applications. This will ensure that the procedures that New Zealand business people need to follow in order to gain entry to China to do business are not onerous, and provides New Zealand with a good basis on which to seek improvements to these conditions over time.

In sectors where it has made services commitments China has also agreed to extend the maximum stay of New Zealand business visitors to six months, compared to the 90 days given to business visitors under China's WTO commitments.

“ AROUND 144,000 CHINESE STUDENTS STUDIED OVERSEAS IN 2007 AND WE WANT AS MANY OF THEM AS POSSIBLE TO CHOOSE NEW ZEALAND AS THEIR DESTINATION. ”

Hon. Chris Carter, Minister of Education



⁴ In the context of the FTA, 'goods sellers' are people who are negotiating the sale of goods but not to members of the public; 'service suppliers' are, similarly, people who are negotiating the sale of services, but not to members of the public; 'investors' includes individual investors and the representatives of investors.

Intra-corporate transferees employed as managers, executives or specialists will be granted a work permit for the length of their contract or for an initial stay of three years in China, whichever is shorter.

In each of the service sectors for which New Zealand has made modes 1-3 service commitments (education, environmental, computer, photographic, duplicating and construction services), Chinese executives or managers who have been employed by their employer for at least twelve months prior to their proposed transfer to New Zealand may enter for an initial stay of up to three years, which may be extended for a further three years if the need for the executive or manager still exists.

Temporary employment entry to New Zealand for up to three years, without labour market testing (but subject to specified qualifications and work experience requirements and the requirement for a bona fide job offer), shall be granted to:

- Up to, at any one time, 200 traditional Chinese medicine practitioners (including traditional Chinese medicine nurses)
- Up to, at any one time, 200 Chinese chefs
- Up to, at any one time, 150 Mandarin teaching aides
- Up to, at any one time, 150 Chinese “Wushu” martial arts coaches; and
- Up to, at any one time, 100 Chinese tour guides.

In addition, a maximum of 1000 skilled Chinese workers at any one time shall be granted temporary employment for up to three years, in specified occupations where New Zealand has a skills shortage. Entry will be limited to no more than 100 workers in each occupation at any one time. Although involving only a limited number of Chinese workers, these commitments may help to ease labour shortages in the context of New Zealand’s current tight employment market. Should the labour market in New Zealand loosen in the future, the requirement that such workers hold a bona fide job offer, and meet specified qualifications, work experience and registration requirements, will protect conditions for New Zealanders.⁵

⁵ The list of occupations upon entry into force of the FTA is as follows (all occupations have attached qualification and experience requirements): Computer Application Engineer, Senior Test Analyst, Structural Engineer, Veterinarian, Fitter and Turner, Registered Nurse, Fitter Welder, University or Higher Education Lecturer, Early Childhood Education Teacher, Design Engineer – Electronics / Product Engineer, Auditor, Electronics Technician, Medical Diagnostic Radiographer, Medical Radiation Therapist, Nuclear Medicine Technologist, Boatbuilder, Film Animator, Electrician, Plumber, Automotive Electrician, Diesel Mechanic, Motor Mechanic.



New Zealand has also made two new Visa Facilitation commitments:

- a commitment to provide a decision within 10 working days on student visa applications where the applicant has an offer of place in a degree-level course from an accredited New Zealand tertiary institution that has been enrolling Chinese students for at least two years, and the student meets health and character requirements, and
- a commitment to create a new group transit visa for Chinese nationals.

Both countries have also made a commitment, within 10 working days of a completed temporary entry or temporary employment entry visa application being received, to either decide the application or to advise when a decision will be made.

WORKING HOLIDAY SCHEME

Alongside the FTA, New Zealand has established a working holiday scheme with China. The scheme provides for a maximum of 1000 Chinese nationals per year to enter New Zealand for one year. The scheme will allow young, skilled Chinese to engage in tourism and incidental employment in New Zealand and may assist in meeting labour shortages in areas such as the hospitality and horticulture and viticulture industries.



10 INVESTMENT

Investment between New Zealand and China is increasing. A number of New Zealand companies have begun to establish operations in China, and investment into New Zealand from China has increased in recent years. As at 31 March 2006, total Chinese investment in New Zealand was NZ\$1.66 billion. Total New Zealand investment in China at that time was NZ\$333 million.



Both New Zealand and China have agreed to treat investors and investments of the other country at least as well as they treat their own investors subject to an exception for existing measures that are not in conformance with the obligations ('national treatment').

Both countries have also agreed to extend to each other any better treatment relating to investment that is given to third countries ('most favoured nation treatment'), except in respect of fisheries and maritime matters. This provision future-proofs China's investment commitments and ensures that the level of treatment afforded to New Zealand investors will not fall behind as China agrees new commitments with third countries.

As in the case of services, the obligations on investment do not apply in respect of subsidies or government procurement. The 'most favoured nation' obligation does not apply to treatment granted by either country to third countries under any previous free trade agreement.



The FTA contains additional protections for investments:

- compensation for losses arising from war, armed conflict and similar situations
- protection against expropriation and guarantee of fair and equitable treatment, so that neither country may expropriate or nationalise the investments of investors of the other country, unless such an action is done for a public purpose; in accordance with domestic law; in a non-discriminatory manner; not contrary to any prior undertaking; and on payment of compensation which must be equivalent to fair market value
- subject to specific limitations, the free transfer of all payments relating to an investment, including capital necessary for establishing the investment, and the returns generated from that investment.

“ AS WELL AS THE DIRECT BENEFITS, THE AGREEMENT WILL PROVIDE ADDITIONAL GAINS FOR NEW ZEALAND THROUGH THE INCREASED INVESTMENT IT IS LIKELY TO ATTRACT FROM FOREIGN COMPANIES WANTING TO TAKE ADVANTAGE OF THE FTA ”

Charles Finny, CEO,
Wellington Chamber of Commerce

The FTA also provides a mechanism for the compulsory settlement of disputes between foreign investors and the country in which the investment is made. If a dispute cannot be settled within six months through consultation and negotiation, and unless the parties to the dispute agree otherwise, the investor is able to submit the issue to conciliation or arbitration by the International Centre for the Settlement of Investment Disputes (ICSID) or arbitration under the rules of the United Nations Commission on International Trade Law (UNCITRAL).

The existence of this mechanism will enhance the protection of New Zealand investments in China through providing New Zealand investors with the same kind of recourse to dispute resolution processes outside the Chinese legal system as that enjoyed by investors from a number of other OECD countries.

11 DISPUTE SETTLEMENT

The FTA includes a robust and transparent government-to-government dispute settlement process to resolve disputes that arise over interpretation or implementation of the FTA.

As a first step, consultations will take place. If consultations fail to resolve the issue, an arbitral tribunal may be established under the dispute settlement procedures.

If either country is found to be acting inconsistently with the FTA (i.e. is not conforming to the FTA), then that country's benefits under the Agreement may be suspended or it may need to pay compensation.

The Cooperation chapter is exempt from the dispute settlement provisions under the FTA.

Both parties also retain their ability to take an issue to the WTO as an alternative to dispute settlement under the FTA.





12 PROTECTIONS UNDER THE FREE TRADE AGREEMENT

GENERAL EXCEPTIONS

The FTA contains a range of exceptions to ensure that each government retains decision-making powers in areas of national importance.

Provided that such measures are not used for trade protectionist purposes, the FTA 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
- Conserve exhaustible national resources.

The FTA will not prevent New Zealand from taking any actions necessary to protect its essential security interests or respond to serious balance of payments issues or financial difficulties. Taxation measures are also largely excluded from the Agreement.

Neither party to the FTA will be required to disclose information if it considers that the disclosure would:

- Be contrary to public interest
- Be contrary to the laws of the party
- Impede law enforcement
- Prejudice legitimate commercial interests of particular enterprises.

“ CHINA HAS A HIGH DEMAND FOR WOOL AND THIS IS EXPECTED TO INCREASE AND SO AN FTA THAT PROVIDES FOR IMPROVED SECURITY FOR NEW ZEALAND WOOL WILL BE VALUABLE. ”

Mike Petersen, Chairman,
Meat and Wool New Zealand.

TREATY OF WAITANGI

As in other trade agreements that New Zealand has entered into, there is also a general exception to ensure that the FTA will not prevent any New Zealand government from taking measures it deems necessary to fulfil its obligations to Māori, including under the Treaty of Waitangi.



13 MOVING FORWARD

JOINT COMMISSION

The FTA establishes a Joint Commission that is responsible for the implementation and review of the agreement.

The Commission meetings are an opportunity for either country to raise issues arising in relation to the FTA. In response, the Commission may establish committees or working groups to resolve these issues.

The Commission aims to ensure that the FTA evolves in a way that secures ongoing trade and investment expansion between New Zealand and China.

The Commission will meet once a year and at other times at the request of either country. It will meet at the senior official level unless there is a request to convene a meeting at the Vice Minister or Minister level. The Commission may seek advice from interested parties on any matter falling within its responsibilities.

COOPERATION

The FTA sets out objectives and indicative activities for economic cooperation and cooperation on small and medium sized enterprises as a means to enhance the benefits of FTA.

The parties are required to enhance their communication and cooperation on labour and environment matters through the Environment Cooperation Agreement (ECA) and the Memorandum of Understanding on Labour Cooperation (MOU).



REVIEWS

New Zealand and China have agreed to carry out a general review of the FTA within two years of the Agreement coming into force and every three years following the initial review. Reviews will be carried out by the FTA Joint Commission.

FUTURE NEGOTIATIONS ON GOVERNMENT PROCUREMENT

New Zealand and China have agreed to start negotiations on an agreement on government procurement as soon as possible following the completion of negotiations on China's accession to the WTO Agreement on Government Procurement.

“ COMING 25 YEARS AFTER THE CLOSER ECONOMIC RELATIONS AGREEMENT WITH AUSTRALIA, IT MARKS THE PROGRESS NEW ZEALAND HAS MADE FROM AN INWARD-LOOKING ECONOMY TO A FREE AND OPEN ONE. ”

Rob McLeod, Chairman,
Business Roundtable



14 LABOUR AND ENVIRONMENT

As part of the overall outcome of negotiations, alongside the FTA, New Zealand and China have negotiated a Memorandum of Understanding on Labour Cooperation (MOU) and an Environment Cooperation Agreement (ECA). These agreements are consistent with the Government's 2001 policy framework on labour and environment and are legally binding. Both agreements are referenced in the Cooperation chapter of the FTA, which provides that New Zealand and China are to enhance communication and cooperation on labour and environment matters through the MOU and the ECA.

Both agreements are available on the www.ChinaFTA.govt.nz website.

MEMORANDUM OF UNDERSTANDING ON LABOUR COOPERATION (MOU)

Under the MOU, New Zealand and China have recognised that it is inappropriate to set or use labour laws, regulations, policies and practices for trade protectionist purposes and that it is inappropriate to encourage trade or investment by weakening or reducing the protections afforded in domestic labour laws, regulations, policies and practices.



COOPERATION AND CONSULTATION

New Zealand and China have agreed to improve dialogue and conduct cooperative activities with China, including in the following areas:

- Labour laws, policies and practices, including social dialogue, and raising the awareness of the legal rights and obligations of employers and employees, to realise decent work
- Compliance and enforcement systems and labour inspection
- Sound labour relations, including management labour consultation, cooperation and labour dispute settlement
- Working conditions
- Human capital development, training and employability; and
- Promotion and protection of the employment rights and obligations of migrant workers.

Each country is required to appoint a coordinator to facilitate communication between the two countries and to seek funding for cooperation activities. There will be regular meetings between senior officials to establish a program of cooperative activities and serve as a channel for dialogue and discussion on labour issues of mutual interest or concern.

The MOU requires the two countries to meet within 90 days to “assist in the resolution” of any issues that arise.

PUBLIC PARTICIPATION

Each country may invite unions and 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 (ECA)

The ECA recognises that environmental laws and policies should be administered in pursuit of environmental objectives in a way that contributes to the mutual supportiveness of these and other policies to achieve sustainable development. This draws on language agreed by the World Summit for Sustainable Development (WSSD) referencing the mutual supportiveness of trade, environment and development.

COOPERATION AND CONSULTATION

The ECA provides for a mechanism to consult on issues that may arise that touch on these commitments or any others in the text with a view to their resolution. There is agreement that when a Party seeks a meeting to resolve any issues, this will be held “as soon as practicable.”

The ECA requires China to engage with New Zealand on cooperative activities in relation to environmental management, environmental remediation, nature conservation, and technologies (including systems and processes) for environmental benefit, including in the following areas:

- Management of water environment
- Coastal ecological conservation and pollution control
- 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
- Environment and trade
- Biodiversity conservation; and
- Other areas mutually agreed upon.



Each country is required to appoint a coordinator to facilitate communication between the two countries and to seek funding for cooperation activities. There will be regular meetings between senior officials to establish a program of cooperative activities and serve as a channel for dialogue.

PUBLIC PARTICIPATION

Under the ECA, members of the public and non-governmental organisations will be given the opportunity to submit views on the operation of the ECA and may take part in identifying and carrying out cooperative activities. The ECA also encourages the two countries to promote direct contact between their respective environmental protection organisations, enterprises and municipalities, research institutions and other entities.

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 MOU.

Contact details are available at the end of this booklet.

“ ...THE LABOUR MEMORANDUM [GIVES] A CHANNEL FOR UNIONS TO RAISE LABOUR RIGHTS ISSUES. ”

Peter Conway, Economist,
Council of Trade Unions (CTU)

15 TAKING ADVANTAGE OF THE FREE TRADE AGREEMENT

In order to take maximum advantage of the opportunities the FTA provides, New Zealand will be taking a collaborative approach to implementation. An on-going whole of government and business community effort is needed.

Alongside the removal of tariffs, New Zealand will be working to address any non-tariff barriers to trade. Government agencies will continue to look for strong private sector input into this task.

The Government will also need to work with the private sector to establish and maintain long-term business-to-business links.





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

The www.ChinaFTA.govt.nz website contains the texts of the FTA and its annexes, the Memorandum of Understanding on Labour and the Environment Cooperation Agreement and an explanation of how the agreements will operate. The website has extensive information on doing business with China. A 'tariff finder' tool enables traders to locate the tariff and ROO applying to their products.

“ THE AGREEMENT PUTS NEW ZEALAND EXPORTERS IN A STRONG POSITION TO LEVERAGE CHINA'S EMERGENCE AS ONE OF THE WORLD'S TOP ECONOMIES AND CONSUMER MARKETS. ”

Earl Rattray, Chairman,
Dairy Companies Association of New Zealand (DCANZ)

APPENDIX 1

EXPORTING AND IMPORTING GOODS UNDER THE FREE TRADE AGREEMENT

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

A copy of the guide, and a tariff finder tool, can be found on the www.ChinaFTA.govt.nz website.

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.

> 1

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.ChinaFTA.govt.nz website.

If you or your broker are not confident with your classification of a good, you can apply under the FTA (at least 3 months in advance) for a binding tariff classification or ‘advance ruling’ which is only relevant to the applicant.

EXPORTERS

If you are exporting to China and would like an advance ruling, you will need to contact the Chinese customs administration. There will be no need to channel requests for rulings on origin through a Chinese importer. Applications for an advance ruling on tariff classification, on the other hand, will only be accepted from persons registered with China Customs. Chinese legislation requires applicants for an advance ruling on classification to have a physical presence in China.

You may also seek advice from the New Zealand Customs Service on the likely tariff classification, but they cannot provide a guaranteed tariff classification ruling for China due to the differences in each country’s tariff schedules at the HS 8 level.

IMPORTERS

If you are importing goods into New Zealand and would like an advance ruling on the classification of a good, please contact the New Zealand Customs Service.

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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.

If you are exporting to China, you need to check China's tariff schedule. If you are importing from China, you need to check New Zealand's tariff schedule. Both tariff schedules are contained in annex 1 to the FTA and are available on the www.ChinaFTA.govt.nz website. The schedules contain 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 FTA for each year over the 12-year tariff phase out period.

The tariff cuts shown will take effect on 1 January of the relevant year, except for the 2008 tariff cut, which it is expected will take effect from 1 October 2008.

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STEP 4: EXPORTERS OBTAIN A CERTIFICATE OF ORIGIN

Goods from New Zealand to China require a Certificate of Origin in order to obtain the preferential tariffs under the FTA.

Appendix 2 of this booklet contains an example of a Certificate of Origin. The form for the Certificate is also set out in Annex 6 of the FTA and on the www.ChinaFTA.govt.nz website.

Either the exporter or the producer must complete the Certificate of Origin form and submit to a body authorised to issue certificates. If the goods comply with the ROO, the certifying agent will issue a Certificate of Origin.

The Certificate of Origin supports a claim for obtaining a preferential tariff. However, the Customs administration of either country may request additional information which they consider necessary to satisfy them that a good complies with the ROO.

OVERLEAF INSTRUCTION

- Box 1:** State the full legal name, address (including country) of the exporter.
- Box 2:** State the full legal name, address (including country) of the producer. If more than one producer's good is included in the certificate, list the additional producers, including name, address (including country). If the exporter or the producer wishes the information to be confidential, it is acceptable to state "Available to the authorised body upon request". If the producer and the exporter are the same, please complete field with "SAME". If the producer is unknown, it is acceptable to state "UNKNOWN".
- Box 3:** State the full legal name, address (including country) of the consignee.
- Box 4:** Complete the means of transport and route and specify the departure date, transport vehicle No., port of loading and discharge.
- Box 5:** The customs administration of the importing country must indicate (√) in the relevant boxes whether or not preferential tariff treatment is accorded.
- Box 6:** Any additional information such as Customer's Order Number, Letter of Credit Number, etc. may be included.
- Box 7:** State the item number, and item number should not exceed 20.
- Box 8:** State the shipping marks and numbers on the packages.
- Box 9:** Number and kind of package shall be specified. Provide a full description of each good. The description should be sufficiently detailed to enable the products to be identified by the Customs Officers examining them and relate it to the invoice description and to the HS description of the good. If goods are not packed, state "in bulk". When the description of the goods is finished, add "****" (three stars) or " \ " (finishing slash).
- Box 10:** For each good described in Box 9, identify the HS tariff classification to six digits.
- Box 11:** If the goods qualify under the Rules of Origin, the exporter must indicate in Box 11 of this form the origin criteria on the basis of which he claims that his goods qualify for preferential tariff treatment, in the manner shown in the following table:

<p>The origin criteria on the basis of which the exporter claims that his goods qualify for preferential tariff treatment</p>	<p>Insert in Box 11</p>
<p>The good is wholly obtained or produced in the territory of a Party as set out and defined in Article 20, including where required to be so under Annex 5</p>	<p>WO</p>
<p>The good is produced entirely in the territory of one or both Parties, exclusively from materials whose origin conforms to the provisions of Section 1 of Chapter 4</p>	<p>WP</p>
<p>The good is produced in the territory of one or both Parties, using non-originating materials that conform to a change in tariff classification, a regional value content, a process requirement or other requirements specified in Annex 5, and the good meets the other applicable provisions of Section 1 of Chapter 4.</p>	<p>PSR⁶</p>

Box 12: Gross weight in kilograms should be shown here. Other units of measurement e.g. volume or number of items which would indicate exact quantities may be used when customary.

Box 13: Invoice number, date of invoices and invoiced value should be shown here.

Box 14: The field must be completed, signed and dated by the exporter for exports from China. It is not required for New Zealand exports to China. Insert the place, date of signature.

Box 15: The field must be completed, signed, dated and stamped by the authorised person of the authorised body.

⁶ When the good is subject to a regional value content (RVC) requirement stipulated in Annex 5, indicate the percentage

APPENDIX 3

SAMPLE DECLARATION OF ORIGIN

DECLARATION OF ORIGIN

I being the
(print name and position)

EXPORTER / PRODUCER / EXPORTER AND PRODUCER

(strike out that which does not apply)

hereby declare that the goods enumerated on this invoice (insert invoice number)
are originating from

NEW ZEALAND / CHINA

(strike out that which does not apply)

in that they comply with the rules of origin requirements of the New Zealand – China Free Trade Agreement.

If applicable:

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–China Free Trade Agreement.

Signed:.....

Date:.....

Note: 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 4

USING THE SERVICES SCHEDULES

To look up a service in the services schedule, you need to know how the service is classified.

Services are classified in the schedules according to sector, sub-sector and Central Production Classification (CPC) number.

The WTO Services Sectoral Classification Code (Services Sectoral Classification List WTO Document MTN.GNS/120, also referred to as W-120) is used to classify services sectors. A summarised version of the Sectoral Classification Code is included in Appendix 5 of this booklet and the full Code can be found at:

http://www.wto.org/english/tratop_e/serv_e/mtn_gns_w_120_e.doc

The service sectors are divided into sub-sectors which are then further broken down into services using the CPC number.

The CPC is a numerical listing of almost all services. It expands on the Services Sectoral Classification Code. It is similar to the Harmonised System (HS) code, which is used to classify goods. The full CPC can be found at <http://unstats.un.org/unsd/cr/registry/regct.asp?Lg=1>

Once you know how a service is classified, you can check the services schedules to:

- See if the service is included in the commitments made under the FTA by either New Zealand or China
- See if either New Zealand or China has placed any limits on national treatment or market access for that service
- See if either New Zealand or China has made any additional commitments for that service.

APPENDIX 5

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 FTA is available on the www.ChinaFTA.govt.nz website.

USEFUL CONTACTS:

For assistance and advice on the New Zealand – China FTA:

China FTA Desk Officer
Asia Division

Ministry of Foreign Affairs and Trade

www.mfat.govt.nz

04 439 8000

For assistance and advice on business with China:

New Zealand Trade and Enterprise

www.ChinaFTA.govt.nz or

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.ChinaFTA.govt.nz or

www.customs.govt.nz

04 473 6099

For assistance and advice on Rules of Origin policy:

Senior Analyst, Trade Facilitation Team

Ministry of Economic Development

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

04 472 0030

For assistance and advice on trade remedies:

Manager, Trade Rules, Remedies and Tariffs

Ministry of Economic Development

www.med.govt.nz

04 472 0030

For assistance and advice on technical barriers to trade and the EEEMRA:

Senior Analyst, Trade Facilitation Team

Ministry of Economic Development

www.med.govt.nz

04 472 0030

For assistance and advice on sanitary and phytosanitary issues:

SPS Enquiry Point Coordinator/Adviser

Ministry of Agriculture and Forestry

www.maf.govt.nz

04 894 0431

sps@maf.govt.nz

For assistance and advice on the Labour
Cooperation Memorandum of Understanding:
Department of Labour
www.dol.govt.nz
04 915 4000

For assistance and advice on immigration issues:
Immigration New Zealand
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
04 439 7400

FEEDBACK:

The business community and other interested parties were consulted extensively when the New Zealand – China FTA was negotiated.

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

Trade Policy Liaison Unit
Ministry of Foreign Affairs and Trade
Private Bag 18901
Wellington
tplu@mfat.govt.nz
(00 64) 4 439 8000

