

Agreement between
New Zealand
And
The Separate Customs Territory
of Taiwan, Penghu, Kinmen and
Matsu
on Economic Cooperation

National Interest Analysis

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EXECUTIVE SUMMARY

(i) Background

New Zealand and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (hereinafter referred to as “Chinese Taipei”) signed the Agreement between New Zealand and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu on Economic Cooperation (ANZTEC) and an Air Transport Agreement (ATA) in Wellington in July 2013.

Negotiations on ANZTEC were commenced in May 2012 following the completion of independent Feasibility Studies and a Joint Study by the New Zealand Commerce and Industry Office in Taipei and the Taipei Economic and Cultural Office in Wellington. These studies concluded that a high quality economic cooperation agreement (ECA) between the two parties was feasible, and would bring significant benefits to both sides.

Three rounds of formal negotiation and one technical intersessional meeting were held in Wellington and Taipei and negotiations concluded substantively in Wellington in September 2012.

This National Impact Analysis (NIA) assesses ANZTEC and ATA from the perspective of their impact on New Zealand and New Zealanders. The NIA does not seek to address the impact of the agreements on Chinese Taipei.

(ii) Reasons for New Zealand to become a party to the agreements

The principal gains for New Zealand in entering into the ANZTEC and the ATA are:

- Increased access and improved quality of access for New Zealand trade and investment, and liberalised air services arrangements, which will contribute to growth, jobs and higher living standards;
- The establishment of a framework through ANZTEC for resolving trade and investment issues in the future;
- The establishment of a framework through ANZTEC for discussing, cooperating and resolving issues on trade and labour, and trade and environment;
- The establishment of a framework through ANZTEC for discussing, and cooperating on indigenous peoples’ issues;
- The support provided by ANZTEC to New Zealand’s wider trade policy interests in strengthening economic integration in the Asia-Pacific and multilaterally; and
- ANZTEC’s contribution to raising the commercial profile for New Zealand companies in Chinese Taipei.

(iii) Advantages and disadvantages to New Zealand in becoming a party to the agreements

Advantages

New Zealand will benefit from the removal over time of tariffs on 100% of New Zealand's current exports to Chinese Taipei. Once the agreement is fully implemented, this will equate to an estimated annual duty saving of NZ\$75.8 million¹ based on current trade.

For New Zealand goods exports that meet the required rules of origin, market access gains include:

- On entry into force, tariffs on 44% or NZ\$432.5 million of New Zealand's current exports to Chinese Taipei will be eliminated, with an estimated annual duty saving to New Zealand exporters of NZ\$40.3 million;
- Virtually all New Zealand dairy exports and all New Zealand apple, cherry and wine exports will be duty free on entry into force;
- All duties on New Zealand beef exports to Chinese Taipei (worth NZ\$120.3 million in 2011) will be eliminated over two years, with an estimated annual duty saving to New Zealand of NZ\$8.7 million;
- All duties on New Zealand kiwifruit exports to Chinese Taipei (worth NZ\$73.8 million in 2011) will be eliminated over three years, with an estimated annual duty saving to New Zealand of NZ\$14.7 million;
- By the end of the first four years 98.7% of current exports to Chinese Taipei will be duty free
- By the end of eight years 99.5% of current exports to Chinese Taipei will be duty free;
- By the end of 12 years, all tariffs on liquid milk and fresh deer velvet will be eliminated. Over this 12 year transitional period New Zealand will enjoy specific tariff quotas with expanding volumes and duty free treatment within the quotas. New Zealand exporters of liquid milk and deer velvet will still have access to Chinese Taipei's WTO global tariff quota arrangements;
- A transitional specific tariff quota (CSTQ) has been established for New Zealand fresh deer velvet exports to Chinese Taipei. The initial quota level is set at 1,000 kilograms and expands to 3,750 kilograms by year 11 of the agreement. All trade occurring within the tariff quota is duty-free and tariffs on all exports of fresh deer velvet will be eliminated by year 12. Improved access to this market increases the small number of New Zealand velvet export markets, diversifying risk for our exporters;
- A transitional CSTQ has also been established for New Zealand liquid milk exports to Chinese-Taipei. The initial quota volume is 5,500 tonnes, more than 100% of current New Zealand liquid milk exports to Chinese Taipei. All trade occurring within the tariff quota is duty-free and tariffs on all exports of liquid milk will be eliminated by year 12 of the agreement; and
- For both liquid milk and fresh deer velvet, New Zealand exporters will retain the right to also trade under Chinese Taipei's WTO global tariff quotas.

¹ Based on Chinese Taipei import statistics for 2011

The model for evidencing origin is based on New Zealand's preferred approach of self-certification by the exporter. Unlike other models, this does not impose extra costs for exporters.

New Zealand will benefit from a high quality cross-border trade in services outcome which builds on the commitments made by Chinese Taipei in the WTO General Agreement on Trade in Services (GATS). In particular, Chinese Taipei has agreed to additional commitments on trade distorting domestic regulations.

Investment rules have been agreed, which are designed to promote investment flows between New Zealand and Chinese Taipei. New Zealand investors will benefit from the agreed protections to investment, while the agreement still allows the New Zealand government the right to regulate for legitimate purposes.

ANZTEC includes services and investment market access commitments based on New Zealand's preferred negative list format that exceed Chinese Taipei's commitments under the GATS, provide new market access opportunities for New Zealand businesses in the education sector, and safeguard the competitive position of New Zealand businesses relative to businesses from other countries in the future. The ratchet mechanism incorporated into the agreement also means that Chinese Taipei's commitments can only be liberalised, except in the relatively limited situations where specific exceptions to the ratchet were included.

New Zealand will benefit from provisions to facilitate the movement of business people in Chinese Taipei.

This is the first time that an agreement of this type includes substantive chapters on trade and labour, trade and environment, and indigenous people. ANZTEC includes a commitment to immediate liberalisation of 132 products deemed to support green growth and sustainable development objectives. It will support efforts in the WTO and APEC processes to liberalise goods of this nature.

The ATA removes restrictions on the frequency of flights between destinations in New Zealand and destinations in Chinese Taipei, and at intermediate and beyond points.

ANZTEC contains measures relating to customs procedures and cooperation, sanitary and phytosanitary measures, and technical barriers to trade that enhance New Zealand's WTO rights and which should reduce barriers to doing business with Chinese Taipei.

ANZTEC retains New Zealand's WTO rights under the WTO to take action against unfairly traded imports from Chinese Taipei and contains a prohibition against export subsidies for use between the Parties.

ANZTEC makes existing arrangements on intellectual property legally binding and reinforces our rights under the WTO TRIPS Agreement. It allows for appropriate measures to protect genetic resources, traditional knowledge and traditional cultural expressions and folklore.

ANZTEC gives New Zealand exporters access to the Chinese Taipei government procurement market.

ANZTEC makes possible official co-productions between New Zealand and Chinese Taipei in film or television.

In the area of investment New Zealand will benefit from high quality rules, including around the right to regulate, and an Investor-Party Dispute Settlement mechanism. This builds in additional transparency requirements to recently adopted free trade agreements and is subject to the mutual consent of the disputing parties.

ANZTEC includes a number of noteworthy features:

- It covers all items of existing trade;
- It contains the strongest outcomes on trade and labour, and trade and environment in any agreement negotiated by New Zealand;
- It avoids special safeguard mechanisms on any agricultural product;
- The rules of origin, with minor exception, were of New Zealand design;
- The tariff quota regime is transitional in nature, provides in-quota imports with duty free treatment, and is administered in a way that is transparent and aims to minimise administrative burden on exporters;
- A credible list of environmental goods has been agreed; and
- The services and investment chapters are based on a negative list.

Disadvantages

While remaining New Zealand tariffs applied on imports from Chinese Taipei are low (the current trade weighted tariff for Chinese Taipei imports is 2.3%) the removal of these tariffs will reduce revenue by an estimated NZ\$2.6 million per year². The removal of these tariffs will also expose New Zealand industry to increased competition from Chinese Taipei imports.

Chinese Taipei was unwilling to agree the liberalisation of rice in this agreement. It has agreed to grant New Zealand the same liberalisation as it may negotiate with other parties in the future (MFN). New Zealand does not export rice.

(iv) Obligations under ANZTEC

Key new obligations for New Zealand under ANZTEC include:

- The eventual elimination of tariffs on all goods originating from Chinese Taipei, with up to a four year phase out period on some goods
- Consultation mechanisms on labour, environment, technical barriers to trade, sanitary and phytosanitary measures, customs procedures and indigenous peoples
- New co-production arrangements for film and television
- Enhanced domestic regulation rules, restricting potentially trade distorting measures
- New “negative list” commitments on national treatment, most-favoured-nation, local presence, market access, senior management and boards of directors, and performance requirements obligations for service suppliers and investors from Chinese Taipei, which go beyond New Zealand’s commitments in the GATS.

² Based on actual duties collected on imports from Chinese Taipei in 2011

Obligations in a number of other areas of ANZTEC are fully consistent with existing New Zealand law and practice. ANZTEC does not prevent New Zealand from taking measures it deems necessary to fulfil its obligations to Māori under the Treaty of Waitangi, or to support creative arts of national value.

(v) Obligations under the ATA

The ATA removes restrictions on the frequency and regularity of service provided by the designated airlines of the other Party.

(vi) Economic, social, cultural and environmental effects

Economic Effects

ANZTEC is expected to have an overall positive effect on the New Zealand economy, with gains to GDP, trade and welfare.

ANZTEC is expected to deliver economic benefits through the removal of tariffs and the reduction of other impediments to trade and investment between New Zealand and Chinese Taipei over time. The tariff reductions alone are estimated to be worth NZ\$75.8 million a year to New Zealand once the agreement is fully implemented. It is expected that actual gains will be greater as tariff reduction in Chinese Taipei is likely to increase demand for New Zealand goods in that market. Publicity about these tariff reductions is also likely to increase exporter interest in this market.

Social effects

ANZTEC is not expected to have any discernible negative social effects in New Zealand. It is expected to increase employment in export industries. No negative impact on employment is expected as the level of tariff protection against imports from Chinese Taipei is so low. This agreement is the first of its type that New Zealand has negotiated that contains a dedicated chapter on trade and labour.

Cultural Effects

Reflecting the unique connection between the indigenous people of Chinese Taipei and New Zealand Māori, ANZTEC includes a Chapter on Indigenous people's cooperation. This increases opportunities for cultural and economic interaction between Maori and the indigenous peoples of Chinese Taipei. The film and television co-production chapter likewise increases the scope for cooperation and collaboration between the New Zealand and Chinese Taipei screen industries. ANZTEC contains safeguards to ensure that there are no negative effects on New Zealand cultural values including Maori interests.

Environmental Effects

The ANZTEC is not expected to have any discernible negative effects on the environment in New Zealand that cannot be managed using existing policy and regulatory frameworks. Its provisions are intended to promote sustainable development and enhance environmental performance in both countries.

(vii) Costs

One-off costs associated with negotiating and implementing ANZTEC, incurred in the 2011/12 and 2012/2013 Financial Years are estimated to amount to NZ\$500,000. This has been funded from the Trade Negotiations Fund. One off costs for setting up the ANZTEC website, leveraging activities and road-shows to maximise the benefit of ANZTEC to exporters are estimated at \$150,000. There will be on-going costs in terms of travel and staffing to meet the new obligations agreed in ANZTEC. These are expected to be covered from the baselines of the agencies involved. A number of the obligations agreed in ANZTEC will replace or can be combined with activities that were part of the relationship prior to the negotiation of ANZTEC.

(viii) Subsequent Protocols and/or amendments to the agreements and their likely effects

ANZTEC and the ATA include general provisions for review and amendment subject to the agreement of the parties and subject to the completion of domestic legal procedures

(ix) Implementation

Legislative and regulatory amendments are required to align New Zealand's domestic regime with rights and obligations created under ANZTEC – in particular those relating tariffs and rules of origin.

(x) Consultation

The Joint Study, preparation and negotiating phases of ANZTEC and the ATA involved extensive consultation between the negotiating team and stakeholders in New Zealand.

1 NATURE AND TIMING OF PROPOSED AGREEMENT ACTIONS

The Agreement between New Zealand and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu on Economic Cooperation (ANZTEC) and the Air Transport Agreement (ATA) between New Zealand and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu were signed in Wellington in July 2013 2012. For both Agreements, entry into force is subject to the domestic legal procedures of both parties and will occur in a date specified in the exchange of notes between the Parties notifying each other that their respective domestic procedures are complete. Both Parties hope to have completed necessary procedures in time for the Agreements to enter into force by 1 December 2013 (TBC).

2 REASONS FOR NEW ZEALAND BECOMING A PARTY TO

THE AGREEMENTS

2.1 Background to the Agreements

While New Zealand and Chinese Taipei do not enjoy formal diplomatic relations, New Zealand's one China policy allows the full pursuit of trade, economic and cultural links with Chinese Taipei. Accordingly, Chinese Taipei has for a number of years been an important market for New Zealand goods and services exporters. Its import regime, like a number of others in North Asia, was heavily protected against imports of agricultural, fisheries and forestry products.

Major liberalisation occurred in 2001 when Chinese Taipei joined the WTO as the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu. Over the years considerable work has been done analysing the potential impact of a bilateral trade liberalisation agreement and assessing potential interest in such an agreement from the Chinese Taipei authorities. In the meantime New Zealand has negotiated a Free Trade Agreement with China and a Closer Economic Partnership with Hong Kong.

3 ADVANTAGES AND DISADVANTAGES TO NEW ZEALAND

3.1 Advantages to New Zealand entering into ANZTEC

3.1.1 Trade in Goods

The goods deal negotiated covers all items of current trade. It would see approximately 69% of the current value of New Zealand trade fully liberalised on entry into force (EIF), 98.7% within four years and 99.5% within eight years. As 25% of our trade is currently tariff free, an additional 44% of New Zealand trade would have tariffs eliminated on EIF of the agreement. This is an estimated annual duty saving of NZ\$40.3 million. Products that will have tariffs eliminated on EIF include key export items: virtually all New Zealand dairy products, apples, cherries and wine. Beef exports to Chinese Taipei will be duty free in two years and duties on kiwifruit exports to Chinese Taipei will be eliminated over three years.

Liquid milk and deer velvet are particularly sensitive items for Chinese Taipei. Seven tariff lines in those areas (worth 0.5% of New Zealand's trade with Chinese Taipei) will be subject to transitional tariff quotas and all tariffs on these items will be fully eliminated in 12 years. During the transitional 12 year period New Zealand will have tariff quota access, with expanding volumes and duty free treatment within the quotas. New Zealand exporters will retain access to Chinese Taipei's WTO global tariff quota arrangements.

Tariffs on rice products will be applied in accordance with Chinese Taipei's WTO commitments, provided that Chinese Taipei gives New Zealand equivalent treatment should it grant preferential treatment to any other country.

No agricultural products will be subject to any special agricultural safeguard measures under this agreement. The Parties have also agreed not to introduce or maintain any export subsidy on any agricultural good destined for the other Party (Article 6).

3.1.2 Cross-Border Trade in Services

The Cross-Border Trade in Services chapter contains high quality framework obligations on trade in services.

ANZTEC includes new rules relating to domestic regulation of a standard higher than has been reached in the WTO or in any of our earlier trade agreements. Based on provisions that both parties support in the WTO Working Party on Domestic Regulation, these rules will provide greater certainty and transparency for New Zealand service suppliers. They will also help to prevent domestic regulation being used as a barrier to trade.

3.1.3 Investment

Up until now, New Zealand has not had international legal rules in place between safeguarding the interests of New Zealand investors in Chinese Taipei. The ANZTEC establishes a set of rules based on international best practice intended to facilitate investment flows and provide for the protection of investment.

The ANZTEC includes a high quality investment chapter that encourages free and open flows of investment between New Zealand and Chinese Taipei and guarantees minimum protections to

investments. These include rules on non-discrimination, nationality requirements imposed on senior managers and boards of directors of foreign companies and trade distortive performance requirements, designed to assist foreign investors to enter the market and compete. There are also rules designed to protect investments from expropriation without compensation, or arbitrary or unfair conduct by a Party, and establishing requirements on the ability to transfer capital related to an investment.

The investment chapter also includes an Investor-Party Dispute Settlement (IPDS) mechanism which is along the lines of the outcomes in New Zealand's recent trade agreements with China, Malaysia and ASEAN. This mechanism can be used by investors to resolve disputes arising under the Chapter with Chinese Taipei, where Chinese Taipei consents to having a claim brought against it. IPDS can be a useful alternative mechanism to other party-to-party approaches. The IPDS rules provide for enhanced transparency procedures compared to existing trade agreements.

The investment rules and IPDS mechanism include safeguards intended to protect the Government's regulatory prerogatives and to minimise the government's exposure to inappropriate expropriation claims.

3.1.4 Cross-Border Trade in Services and Investment Market Access

New Zealand's only existing commitments on services and investment from Chinese Taipei are through the WTO General Agreement on Trade in Services (GATS). However, these only cover services sectors (rather than investment more broadly, such as investment in manufacturing, mining and land) and are set out in a positive-list which is inherently less liberal than New Zealand's preferred negative list approach.

ANZTEC includes commitments on services and investment market access in New Zealand's preferred negative list format. This format required Chinese Taipei to list commitments it did not wish to make, rather than the ones it did, resulting in legal certainty, greater transparency, a high level of ambition and a future-proofed outcome, compared to other formats.

The ratchet mechanism incorporated into the agreement also means that Chinese Taipei is required to automatically extend the benefit of any future liberalisation of a measure listed in Annex I to New Zealand. The liberalisation becomes the new level of commitment in ANZTEC and cannot be taken away from New Zealand service suppliers – even if the measure is repealed or made more restrictive in the future. Under the ratchet mechanism Chinese Taipei's commitments can only be liberalised, except in the relatively limited situations where specific exceptions to the ratchet were included. Chinese Taipei took relatively few exceptions to the ratchet, meaning that it has made a high level of commitment. These exceptions apply to:

- Social services
- Rights or preferences granted to minorities with social or economic disadvantages
- Issues relating to indigenous peoples
- Games of luck and chance

- Ground-handling and hangar services
- Financial services commitments made in international agreements; and
- Existing restrictions on services and investment by persons of a non-Party.

Outside of these exceptions, and subject to the existing restrictions listed in Chinese Taipei's schedule, Chinese Taipei has made commitments to New Zealand in all services and investment sectors which are subject to the ratchet (liberalise only) mechanism. These are New Zealand's first international commitments from Chinese Taipei on non-services investment and build upon Chinese Taipei's commitments under the GATS.

Services

New market access opportunities in respect of:

Primary education services

Secondary education services

New air transport-related commitments on:

Specialty air services

Ground-handling services

Airport operation and management services

Early harvest of Chinese Taipei's Doha Offer on *maritime transport services* and *maritime auxiliary services*

Commitments building on Chinese Taipei's GATS commitments, including in the following areas:

- Professional services:
 - Medical and dental services
 - Services provided by midwives, nurses, physiotherapists and para-medical personnel
 - Other
- Real estate services
- Other business services:
 - Services incidental to hunting
 - Services incidental to fishing
 - Services incidental to energy production Investigation and security services
- Distribution services:
 - Other
- Financial services:
 - Settlement and clearing services for financial assets
 - Advisory and other auxiliary financial services
 - Other

- Health related social services:
 - Social services
 - Other
- Recreational, cultural and sporting services:
 - Entertainment services
 - Sporting and other recreational services
 - Other
- Internal waterways transport
- Road transport services:
 - Passenger transportation
 - Freight transportation
 - Rental of commercial vehicles with operator
 - Supporting services for road transport services

Non-Services

ANZTEC is the first agreement between New Zealand and Chinese Taipei covering investment in non-services sectors. All commitments are new.

There are full commitments on manufacturing.

There are commitments, subject to existing restrictions, including in the following areas:

- Agriculture, forestry and fisheries
- Mining
- Electricity, gas and water
- Land and property

Education

Particularly noteworthy were the improved commitments New Zealand was able to secure from Chinese Taipei in respect of education services. Chinese Taipei has committed to liberalise its education sector to provide for further New Zealand involvement. In particular, Chinese Taipei agreed to liberalise its existing restriction on the operation of international schools on a for-profit basis for New Zealand investors. With respect to local primary and secondary schools, Chinese Taipei also agreed to liberalise its existing restrictions on foreign investment in primary and secondary schools to allow New Zealand investors to invest in existing not-for-profit schools.

3.1.5 Temporary Entry of Business Persons

The agreement includes a high quality chapter on Temporary Entry of Business Persons aimed at facilitating the movement of business persons engaged in trade and investment and establishing streamlined and transparent procedures for applications made by business persons.

There is a requirement that applications for immigration formalities are processed expeditiously and that within fifteen working days of making an application for temporary entry, business persons must be either informed of a decision, or informed when a decision will be made. Any fees imposed for the processing of an immigration formality must be reasonable and based on the approximate cost of services rendered.

Each party under ANZTEC makes specific commitments relating to the movement of business persons. Chinese Taipei's schedule contains commitments that go beyond its commitments in GATS. The schedule contains the following commitments on the temporary entry and duration of stay for particular categories of business persons on the following basis:

- Business visitors for a period not exceeding 90 days;
- Intra-corporate transferees for a period of initial stay up to a maximum of three years that may be renewed for one-year periods indefinitely;
- Installers or servicers for a period not exceeding 90 days; and
- Independent professionals, subject to economic needs tests, for a period not exceeding one year.

These commitments on independent professionals are not included in Chinese Taipei's GATS commitments or in any of its existing trade agreements. Chinese Taipei also provided a specific exemption for New Zealand lawyers to provide "fly in, fly out" services for periods of less than 30 days when entering Chinese Taipei as an independent professional.

ANZTEC obliges Chinese Taipei to publish all relevant information about its immigration requirements in respect of the categories of business persons covered by its schedules of commitments. Any changes to these regulations must be published promptly.

3.1.6 Rules of Origin

ANZTEC provides trade-facilitating rules of origin built on New Zealand's preferred approach of "Change in Tariff Classification". The majority of the product specific rules (PSRs) adopted were of New Zealand design. These rules are based on those of the New Zealand-China, AANZFTA and NZ-Malaysia FTAs. Some alternative PSRs were agreed for a few non-sensitive product lines (rice, rice products and some synthetic textile products). For synthetic textiles (HS 54), the technical discussions were guided by our textile industry feedback.

There is no requirement for a third party to issue Certificates of Origin. The model for evidencing origin is based on New Zealand's preferred approach of self-certification by the exporter. Unlike other models, this does not impose extra costs for exporters.

3.1.7 Customs Cooperation and Procedures

The Customs Chapter is in line with the approach followed by New Zealand in other recent trade agreements, such as China, AANZFTA and Malaysia. The customs chapter builds on existing bilateral customs cooperation to enable the early resolution of any issues affecting the movement of trade across borders.

3.1.8 Trade Remedies

The Trade Remedies chapter retains both Parties' ability to use trade remedies in accordance with World Trade Organisation (WTO) rules on anti-dumping, countervailing measures and safeguards. It also enhances transparency in the administration of trade remedy actions through cooperation and consultation.

3.1.9 Sanitary and Phytosanitary (SPS)

The SPS chapter sets in place a mechanism and measures to improve communications and consultation, and establishes a framework in which trade access issues and their justification can be addressed in an objective and scientific manner.

3.1.10 Technical Barriers to Trade (TBT)

The TBT Chapter affirms the Parties' existing rights and obligations in the WTO TBT Agreement and builds on these by promoting cooperation and collaboration to build strong institutional relationships inter alia to resolve specific trade concerns and to manage risks associated with imported products more effectively and efficiently. It also encourages Chinese Taipei to recognise the competence of New Zealand's regulatory approaches, standards and conformity assessment infrastructure. The Chapter also establishes a mechanism for the negotiation and conclusion of sector-specific arrangements on mutually agreed terms. This is a "WTO-plus" provision that future-proofs the Chapter.

3.1.11 Competition Policy

The Competition Chapter provides a principles-based approach to substantive provisions on competition law and provisions for competition policy cooperation. It encourages cooperation between the Parties through the exchange of information. Consistent with New Zealand's approach

to competition chapters in trade agreements, commitments in the competition chapter are not subject to dispute settlement.

3.1.12 Electronic-Commerce

The chapter on Electronic Commerce reaffirms the importance of electronic commerce and its contribution to economic growth and the need to avoid barriers to its use and development.

3.1.13 Intellectual Property

This chapter promotes the importance of intellectual property rights in fostering trade between New Zealand and Chinese Taipei. The chapter incorporates the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) and both Parties reaffirm their commitments to TRIPS. It also recognises the need to achieve a fair balance between the rights of intellectual property rights holders, the legitimate interests of users and the wider interest of the public with regard to the protected subject matter. The chapter provides for adequate protection and enforcement of intellectual property rights and also retains flexibility to deal with issues related to the protection of genetic resources, traditional knowledge and folklore.

3.1.14 Government Procurement

ANZTEC gives New Zealand exporters increased opportunities to compete for contracts in Chinese Taipei's government procurement market. The Government Procurement chapter text includes binding obligations on non-discrimination and national treatment, a range of transparency obligations, and procedural requirements for contracts valued at or above SDR 130,000³ (approximately NZ\$244,000) for goods and services and SDR 5 million (approximately NZ\$9.4 million) for construction services. This puts New Zealand suppliers on equal footing with suppliers from members of the WTO Government Procurement Agreement (GPA) in respect of government contract opportunities with central government agencies.

3.1.15 Legal and Institutional Issues

The legal and institutional provisions include party-to-party dispute settlement mechanisms that are simple, effective, and flexible in line with the principles and guidelines of the WTO Dispute Settlement Understanding and with New Zealand's best practice in trade agreements. The chapters also include appropriate general provisions, review mechanisms and general exceptions including the Treaty of Waitangi and creative arts exceptions, in line with previous New Zealand trade agreements.

³ Thresholds are expressed in IMF Special Drawing Rights (SDRs). The conversion from SDRs to New Zealand dollars may change periodically with currency fluctuations.

3.1.16 Trade and Labour, Trade and Environment

ANZTEC includes chapters on Trade and Labour, and Trade and Environment. This is the first time such chapters have been included in the body of New Zealand's trade agreements (in the past they have been covered by side arrangements or agreements) and ANZTEC represents the strongest outcome that New Zealand has achieved in these areas to date. In the Trade and Environment text there are provisions on Voluntary Market Mechanisms and an article on liberalising trade in Environmental Goods and Services that includes a list of 132 environmental goods. This is likely to be the first time in any bilateral trade agreement that an environmental goods list has been agreed. On voluntary market mechanisms, both Parties have agreed to encourage the development and use of flexible and voluntary mechanisms to protect natural resources and the environment and to encourage those developing or applying voluntary environmental standards (such as labelling) to do so in a transparent way that does not create unnecessary barriers to trade. The inclusion of this issue is similarly ground-breaking. Both issues were priorities for New Zealand.

3.1.17 Air Transport

The Air Transport Services Chapter incorporates a new "open skies" ATA which removes restrictions on the frequency of flights between destinations in New Zealand, destinations in Chinese Taipei and destinations in other parts of the world.

3.1.18 Film and TV co-production

ANZTEC provides for the possibility of official co-productions between New Zealand and Chinese Taipei in film or television. The chapter includes principles covering: approval; contributions; entitlement to benefits; rules of participation and engagement in a co-production; government facilitation; functioning of the agreement; and implementing arrangements for the guidance of the competent authorities.

3.1.19 Cooperation on Indigenous Issues

In light of the unique connection between Indigenous People in Chinese Taipei and New Zealand Māori ANZTEC includes a chapter on Indigenous Cooperation. The chapter builds on the previous non-legally binding 2004 arrangement between NZCIO and TECO on indigenous cooperation. It seeks to enhance the cultural and people-to-people links between the indigenous people of Chinese Taipei and New Zealand Maori as well as expand and facilitate trade between the two groups.

3.2 Disadvantages to New Zealand entering into ANZTEC

Any trade agreement involving reciprocal tariff removal, while providing better access for exporters, can create adjustment costs for domestic producers. Domestic producers are likely to face increased competition from imports as foreign suppliers take advantage of reduced protection at the New Zealand border. However, the tariff phase-outs on 29 lines, in industry sectors most sensitive to imported products from Chinese Taipei, will occur over four years.

3.2.1 Reduction in tariff revenue

While remaining New Zealand tariffs on Chinese Taipei are low (the current trade weighted tariff for Chinese Taipei imports is 2.3%) the removal of these tariffs will reduce revenue by an estimated NZ\$2.6 million per year⁴. The removal of these tariffs will also expose New Zealand industry to increased competition from Chinese Taipei imports. However, tariffs on the 29 product lines identified as being sensitive to New Zealand industry will be phased out over four years. Tariffs on these lines range from 5-10% and trade in these products was worth 2.5% (in value terms) of Chinese Taipei's trade with New Zealand.

3.2.3 Exclusion of rice and rice products

Chinese Taipei was unwilling to agree the liberalisation of rice in this agreement. It has agreed to grant New Zealand the same liberalisation as it may negotiate with other parties in the future. New Zealand does not export rice.

3.3 Disadvantages to New Zealand entering into the ATA

The Agreement does not include seventh freedom cargo rights⁵, wet-leasing of aircraft⁶ and cabotage⁷.

3.4 Comment

Given the significant economic and trade facilitating advantages detailed in 3.1.1-3.1.19 above and the limited disadvantages outlined in 3.2-3.3 the Government has concluded that the advantages of ANZTEC and the ATA outweigh the disadvantages and that entering into the Agreements is the best policy option for New Zealand.

⁴ Based on actual duties collected on imports from Chinese Taipei in 2011

⁵ Seventh freedom rights allow a foreign airline to provide international services between two airports without having to originate or terminate these services in its home territory

⁶ Wet-leasing involves the provision of an aircraft together with fuel and a crew

⁷ Cabotage involves the carriage by a foreign airline of domestic passengers or cargo

4 LEGAL OBLIGATIONS WHICH WOULD BE IMPOSED ON NEW ZEALAND BY ANZTEC AND AN OUTLINE OF THE DISPUTE SETTLEMENT MECHANISM

ANZTEC provides for the liberalisation of trade between New Zealand and Chinese Taipei with the objectives of encouraging expansion and diversification of trade; eliminating barriers to trade and facilitating the movement of goods and services; and substantially increasing investment opportunities.

The key obligations that New Zealand will assume in each chapter of ANZTEC are set out below. Also included in this Section are the obligations arising from the ATA.

4.1 Initial Provisions

The Preamble and Chapter 1 of ANZTEC confirm that the agreement builds on the rights and obligations of the Parties in the WTO and shall be interpreted in accordance with the rules of interpretation applicable to the WTO Agreement.

4.2 Trade in Goods

New Zealand is required to eliminate its customs duties (tariffs) on goods originating from Chinese Taipei in accordance with the phase-out schedule in Annex 1 Part A of ANZTEC, and may not increase existing customs duties.

ANZTEC imposes obligations, consistent with WTO requirements, to accord national treatment⁸ (Article 2), to ensure that all fees and charges are limited in amount to the approximate cost of services rendered, and that any non-tariff measures do not represent any unnecessary obstacles to trade (Articles 4 and 5).

There is provision for consultation and discussion of any issues arising pursuant to the chapter (Article 7).

4.3 Rules of Origin

ANZTEC sets out rules for determining whether goods traded between the parties qualify as originating goods and therefore qualify for bilateral tariff preferences.

There are three avenues through which goods can qualify for preferential tariff treatment (Article 2):

- The goods are wholly obtained or produced in New Zealand or Chinese Taipei
- The goods are produced entirely in New Zealand or Chinese Taipei exclusively from originating materials from one or both of the Parties;
- The goods are produced in New Zealand or Chinese Taipei using third-party inputs

⁸ National treatment means that foreigners and locals should be treated equally i.e. that imported and locally-produced goods should be treated equally after the foreign goods have entered the market.

ANZTEC uses a change of tariff classification (CTC) approach to determine origin. Under the CTC approach, a good will qualify for preferential tariff treatment if all third party inputs used in its production have undergone a specified change of tariff classification. Annex 2 to ANZTEC details the precise form of CTC that will apply to a particular good.

For some products there are regional value content (RVC) rules. Under the RVC approach, a good will qualify for preferential tariff treatment provided the value of originating inputs is equal or greater than the specified RVC value of that good. For certain products there is an optional RVC requirement, which allows producers to choose which rule best suits their particular business model, and also allows for origin conferring transformation where the structure of the Tariff Schedule does not provide for an appropriate CTC rule.

For any good to qualify for the tariff preferences, it must be consigned directly between the two Parties (Article 9). If transported through a third party, the good must not enter into the trade or commerce there or undergo any operation there other than unloading and reloading, repacking, or any operation required to preserve them in good condition or to transport them to the importing Party.

Importers wanting to make a claim for preferential tariff treatment under ANZTEC may do so based on:

- A written or electronic declaration of origin;
- A written or electronic certificate of origin; or
- Other evidence to substantiate the tariff preference.

4.4 Customs Procedures and Cooperation

ANZTEC involves a range of commitments on trade facilitation and customs cooperation. These commitments fall within current policy settings and include:

- Ensuring customs procedures and practices are predictable, consistent, and transparent (e.g. providing customs valuations, using internationally accepted tariff classifications, and providing advanced rulings) (Articles 4, 5 and 6) to ensure efficient administration and the expeditious clearance of goods
- Encouraging the use of international best practice on customs and facilitating the use of automated systems, express consignments and providing for the electronic submission of import requirements in advance of the arrival of the goods, to expedite the procedures for the release of goods (Articles 7, 8 and 9). In the normal course of events, Customs administrations in both parties are required to release originating products within 48 hours of arrival (Article 9)
- Encouraging customs cooperation and providing for contact points and consultations to discuss any issues which might arise (Articles 12, 13 and 14)
- Publishing customs laws and administrative procedures (Articles 15 and 16)

4.5 Trade Remedies

ANZTEC does not affect New Zealand's rights to apply anti-dumping, countervailing and global safeguard measures for trade with Chinese Taipei, consistent with WTO rights and obligations (Article 1).

A party taking a global safeguard action must exclude imports of originating goods from the other party if such imports do not cause or threaten to cause serious injury (Article 2).

ANZTEC provides for consultation between contact points on any matter arising from the implementation of the chapter (Article 3).

4.6 Sanitary and Phytosanitary Measures

ANZTEC maintains existing rights and obligations under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement).

It also provides for the development of mechanisms to allow parties to enhance implementation of the SPS Agreement, including the development of Implementing Arrangements to determine and recognise the equivalence of each other's SPS measures (Articles 5 and 8).

ANZTEC ensures that import checks applied to imported animals, animal products, plants and plant products or related goods are based on risk and carried out without delay and in the least trade restrictive manner. If import checks reveal non-conformity with the relevant standards the actions of the importing Party should be proportionate to the risk involved. If the exporting requests and both Parties agree, testing of the preserved sample may be carried out in a process agreed by the Parties.

There are specific procedures outlined in the chapter concerning verification of systems and notification of SPS-related changes by either side (Articles 9 and 13). The chapter also sets out a mechanism to seek an explanation of and consultations on any SPS measure affecting trade (Article 16).

4.7 Technical Barriers to Trade

The Technical Barriers to Trade (TBT) chapter incorporates Articles 1-9 of the WTO Agreement on TBT and maintains New Zealand's existing rights and obligations under the TBT Agreement (Article 3.4) including the right to adopt or maintain technical regulations necessary to ensure national security, the prevention of deceptive practices and the protection of human health or safety, animal or plant life or health or the environment.

The key provisions of the TBT Chapter include:

- A commitment to cooperate to ensure that international standards, guides and recommendations on technical regulations and conformity assessment procedures do not create unnecessary obstacles to trade (Article 5);
- A commitment to apply the same or equivalent procedures and criteria to conformity assessment bodies located in the other Party as in its own jurisdiction (Article 6.1);
- A Party may refuse to accept conformity assessment results from a conformity assessment body provided it can substantiate the refusal and that this is not inconsistent with the TBT Agreement and ANZTEC (Article 6.8);
- Any conformity assessment fees imposed by a Party must be limited to the approximate cost of services rendered (Article 6.12); and
- Commitments to enhance transparency and information exchange between the Parties (Article 8), facilitate technical discussions (Article 9), and establish a Committee on TBT to intensify joint work on technical regulations, conformity assessment procedures and standards (Article 10).

4.8 Competition

The Competition chapter includes a commitment to promote competition and to seek to ensure that the design of trade and competition policies and the implementation of domestic laws give due weight to their effects on competition (Article 2). The competition chapter encourages cooperation and information exchange by the Parties in the area of competition policy (Article 7) and requires them to consult on particular anti-competitive practices adversely affecting trade or investment between the Parties (Article 8). The chapter also recognises that certain exemptions may be necessary to achieve other legitimate policy objectives (Article 4). Both Parties must ensure that private rights of action (the right of a person to independently seek redress from a court or independent tribunal for injury to its business or property caused by the violation of competition laws) are available to persons of both New Zealand and Chinese Taipei. The Competition Chapter is not subject to the dispute settlement mechanism.

4.9 Electronic Commerce

ANZTEC establishes principles for the conduct of e-commerce between the Parties. The Electronic Commerce chapter includes commitments to:

- promote the efficient functioning of e-commerce by developing open regulatory frameworks and providing a predictable and simple legal environment for e-commerce (Article 2.1.a);
- ensure that regulations and the development of regulations affecting e-commerce are

- transparent (Article 2.1.b);
- maintain privacy protection laws and consumer laws relating to e-commerce (Article 2.1.d.i);
- ensure the protection of intellectual property rights, while enabling the application of e-commerce and business innovation (Article 2.1.d.iii);
- work towards the implementation of initiatives to provide for paperless trading (Article 3); and
- maintain the current practice of not imposing customs duties on electronic transmissions between the Parties (Article 4).

The chapter also provides for consultation on any policies or decisions which may impact adversely on e-commerce aspects of trade (Article 5). The Electronic Commerce Chapter is not subject to the dispute settlement mechanism (Article 6).

4.10 Intellectual Property

ANZTEC reaffirms each Parties' commitments to the TRIPS Agreement and any other multilateral agreement relating to intellectual property to which both are Parties. It also incorporates the TRIPS Agreement (Article 3). Each Party must maintain transparent intellectual property regulations, efficient and non-discriminatory enforcement mechanisms and access to expeditious remedies, in accordance with TRIPS obligations (Article 3.5). The chapter establishes contact points (Article 4), facilitates cooperation (Article 5) and provides a mechanism for consultation between the Parties (Article 8). ANZTEC also recognises both Parties' right to establish appropriate measures to protect genetic resources, traditional knowledge and traditional cultural expressions or folklore (Article 6). ANZTEC also recognises that geographical indications may be protected through a trade mark system and provides grounds for opposing or cancelling the registration or designation of a geographical indication.

4.11 Government Procurement

The commitments in the Government Procurement chapter are consistent with New Zealand's existing Government Procurement Policy and the Mandatory Rules for Procurement by Departments. No new obligations are created and, therefore, no new measures are required to implement the chapter.

ANZTEC provides that, where procurements are valued at or above the specified thresholds (Annex II) those government entities covered by ANZTEC (Annex I) must afford national treatment (Article 5) and follow certain procedures that provide for open and selective tendering (Articles 9-14) except in certain circumstances (Article 15). The thresholds are SDR 130,000 (approximately NZ\$244,000) for the procurement of goods and services and SDR 5 million (approximately NZ\$9.4 million) for construction services.

New Zealand has committed 24 of the 31 central government entities already obliged to conduct their procurement in accordance with the New Zealand Government Procurement Policy and the Mandatory Rules for Procurement by Departments. New Zealand has committed all goods and services procured by those entities except services relating to the procurement of research and development, public health, education, and welfare services. The Government Procurement chapter does not apply to commercial sponsorship arrangements.

Chinese Taipei has committed the central entities, goods, services and construction services contained in its final offer in the WTO Agreement on Government Procurement.

4.12 Investment

The investment rules in ANZTEC are designed to facilitate and protect investments. Rules designed to facilitate investment flows include the following, which are subject to specific reservations or exemptions in the services and investment schedules of the ANZTEC (see section – *Services and Investment Market Access*):

- National treatment: Chinese Taipei investors and investments in New Zealand are entitled to non-discriminatory treatment compared to domestic investors and investments “in like circumstances”;
- Most-favoured-nation treatment: Chinese Taipei investors and investments in New Zealand are entitled to non-discriminatory treatment compared to other foreign investors and investments “in like circumstances”. This means that Chinese Taipei investors receive the benefits of any better treatment which New Zealand provides to other foreign investors, subject to certain reservations and exceptions (for example, better treatment of investors under an existing trade agreement would not have to be extended);
- Performance requirements: Chinese Taipei investors and investments may not be subject to a range of trade and investment distorting performance requirements, such as requirements to purchase goods produced in New Zealand or to relate domestic sales to export earnings, whether absolute or in order to receive an advantage ; and
- Senior management and boards of directors: Chinese Taipei investments in New Zealand may not be required to appoint persons of a particular nationality to senior management positions, or to appointment persons of a particular nationality or residency to their board of directors.

These are supplemented by rules designed to protect investors and investments from conduct to which investors in foreign countries can be exposed. These include the following rules:

- Transfers: Limitations on the circumstances in which restrictions can be imposed on the transfer of a Chinese Taipei investor’s capital out of New Zealand;
- Expropriation and compensation: The New Zealand Government can only expropriate or nationalise a Chinese Taipei investor’s property in New Zealand for a public purpose, in a

non-discriminatory manner, on payment of compensation, and in accordance with due process;

- Minimum standard of treatment: Chinese Taipei investments in New Zealand must be treated in accordance with the customary international law minimum standard of treatment which requires fair and equitable treatment and the provision of full protection and security.

4.13 Cross-Border Trade in Services

ANZTEC seeks to facilitate the expansion of cross-border trade in services, improve the efficiency and transparency of the Parties service sectors and competitiveness of export trade and work towards progressive liberalisation. The agreement also recognises each party's right to regulate and introduce new regulations and to provide and fund public services, in a manner that gives due respect to government policy objectives.

The following general rules are included in the Cross-Border Trade in Services Chapter, which are subject to specific reservations or exemptions in the services and investment schedules of ANZTEC (see section – *Services and Investment Market Access*):

- National treatment: where applicable, Chinese Taipei services and service suppliers operating in New Zealand are entitled to non-discriminatory treatment compared to domestic services and service suppliers;
- Most-favoured-nation treatment: where applicable, Chinese Taipei services and service suppliers operating in New Zealand are entitled to non-discriminatory treatment compared with services and service suppliers of a non-party "in like circumstances". This means that Chinese Taipei service suppliers receive the benefits of any better treatment which New Zealand provides to service suppliers of other countries, subject to certain reservations and exceptions (for example, better treatment of service suppliers under an existing trade agreement would not have to be extended to Chinese Taipei service suppliers);
- Market access: where applicable, Chinese Taipei service suppliers wishing to operate in New Zealand are entitled to access the market without limitation on the number of service suppliers, value of the service transaction, number of service operators, total quantity of service output, total number of persons employed in a service sector or that a service supplier may employ, or the type of legal entity or joint venture which a service supplier may provide a service; and
- Local presence: in most cases New Zealand cannot require a Chinese Taipei service supplier to establish a local presence (for example, set up a representative office) or be a resident, as a condition for supplying their service in New Zealand.

New Zealand's market access, national treatment, local presence and MFN treatment commitments in ANZTEC go beyond New Zealand's existing WTO commitments. However, none of these new commitments go beyond New Zealand's current regulatory environment or policy settings.

These general obligations are supplemented by rules, including:

- Domestic regulation: New Zealand has made commitments on how it will make and administer any measures affecting trade in services. While these commitments are of a higher standard than previous trade agreements, they do not go beyond New Zealand's current regulatory settings. Subject to some exceptions in New Zealand's annexes, these commitments include:
 - administering measures in a reasonable, objective and impartial manner;
 - maintaining independent or objective and impartial judicial, arbitral or administrative tribunals or procedures;
 - ensuring that qualification requirements and procedures, technical standards and licencing requirements and procedures do not constitute unnecessary barriers to cross-border trade in services;
 - ensuring authorities following procedural requirements where authorisation is required for a service or an examination is required for a licencing or qualification requirement; and
 - ensuring that licencing fees and qualification fees are reasonable, transparent and commensurate with the administrative costs incurred;
- Recognition: while New Zealand is not required to extend any recognition of education, experience, requirements, licences or certification granted in a non-Party to Chinese Taipei, New Zealand must afford Chinese Taipei the adequate opportunity to negotiate similar arrangements; and
- Monopolies and exclusive service providers: New Zealand has made commitments in relation to monopoly service suppliers (and in some cases, exclusive service suppliers) acting in accordance with the market access, national treatment, most-favoured-nation and local presence obligations under the chapter.

4.14 Cross-Border Trade in Services and Investment Market Access

ANZTEC includes commitments on services and investment market access in the form of a negative list which allows each party to list reservations to the market access, national treatment, local presence, MFN treatment obligations, senior management and boards of directors and performance requirements obligations. This is the first time that New Zealand has concluded an agreement with a joint services and investment negative list.

The first part (Annex I) sets out existing measures (laws, regulations, decisions, procedures etc) that restrict the access of foreign service suppliers and investors – 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 New Zealand is required to automatically extend the benefit of any future liberalisation of a measure listed in Annex I to Chinese Taipei. The liberalisation becomes the new level of commitment in ANZTEC and cannot be taken away from Chinese Taipei

service suppliers – even if the measure is repealed or made more restrictive in the future. Unless specifically reserved against, Annex I reservations are also subject to the MFN obligation.

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

New Zealand’s Annex I reservations include:

- Financial reporting requirements on foreign companies;
- Registration of patent attorneys;
- Limitations and obligations related to herd testing data and investment in the Livestock Improvement Corporation under the Dairy Industry Restructuring Act 2001;
- Telecom shareholding;
- The acquisition of licences or management rights to use the radio frequency spectrum;
- Marketing and distribution services relating to certain statutory marketing organisations;
- Licensing of air transport enterprises of the purpose of providing international air services as a New Zealand airline; and
- Air New Zealand shareholding.

In Annex II New Zealand reserves the right to adopt or maintain any measure relating to sectors including:

- Social services established for a public service covering childcare, health, income security and insurance, public education, public housing, public training, public transport, public utilities, social security and insurance and social welfare;
- Water, including the allocation, collection, treatment and distribution of drinking water;
- The sale and devolution of state-owned enterprises and assets;
- New Zealand’s overseas screening regime including a \$20 million threshold; categories that trigger screening; criteria used for assessing applications;
- Protected areas including land and water, set up for heritage management purposes, public recreation, and scenery preservation, and species owned or protected under enactments by the Crown;
- Animal welfare, and the preservation of plant, animal and human life and health and in particular food safety of domestic and exported food, animal feeds, food standards, biosecurity, biodiversity, and certification of the plant or animal health status of goods;
- Measures in respect of the foreshore and seabed, internal waters as defined in international law (including the beds, subsoil and margins of such internal waters), territorial sea, the Exclusive Economic Zone, and issuance of maritime concessions in the continental shelf;

- Provision of publicly funded legal services;
- Provision of fire fighting services, excluding aerial fire fighting services;
- Research and development services carried out by publically-funded tertiary institutions or Crown research institutes for public purpose and testing and analysis services;
- Fishing and activities on foreign fishing vessels;
- Nuclear energy;
- Preferential co-production arrangements for film and television productions;
- Promotion of film and television production in New Zealand and the promotion of local content on public radio and television, and in films;
- The holding of shares in the co-operative dairy company arising from the amalgamation under the Dairy Industry Restructuring Act 2001;
- Export marketing of fresh kiwifruit under the Kiwifruit Industry Restructuring Act 1999 and Regulations;
- Cooperative dairy company and quota allocation schemes for rights to export agricultural products, agricultural and export marketing;
- Statutorily protected educational terms and titles;
- Financial services limited to WTO GATS obligations;
- Adoption services, hospital services, maternity and midwife services;
- Gambling, betting and prostitution services;
- Cultural heritage of national value; including ethnological, archaeological, historical, literary, artistic, scientific or technological heritage, as well as collections of museums, galleries, libraries, archives and other heritage collecting institutions; public archives; library and museum services; and services for the preservation of historical or sacred sites or historical buildings;
- Maritime and port services; and
- Public health or social policy purposes with respect to wholesale and retail trade services of tobacco products and alcoholic beverages.

New Zealand's cross border trade in services and investment commitments are consistent with existing policy settings, and other free trade agreements adopting a negative list format that New Zealand has entered into. However, the commitments in respect of services go beyond New Zealand's commitments under the WTO General Agreement on Trade in Services (GATS).

4.15 Temporary Entry of Business Persons

There is a requirement that applications for immigration formalities are processed expeditiously and that within fifteen working days of making an application for temporary entry, business persons must be either informed of a decision, or informed when a decision will be made. Any fees imposed for the processing of an immigration formality must be reasonable and based on the approximate cost of services rendered.

Each party under ANZTEC makes specific commitments relating to the movement of business persons. New Zealand's schedule is consistent with current New Zealand policy settings and contains the following commitments on the temporary entry and duration of stay for particular categories of business persons on the following basis:

- Business visitors for a period not exceeding in aggregate three months in any calendar year;
- Intra-corporate transferees for a period of initial stay up to a maximum of three years for senior managers (provided they have been employed by their employer for at least 12 months prior to their proposed transfer to New Zealand) and specialists;
- Installers or servicers for periods not exceeding three months in any 12-month period; and
- Independent professionals, subject to economic needs tests, for a period up to a maximum of twelve months. New Zealand's commitments for independent professionals cover a significantly broader range of services sectors than its GATS commitments.

4.16 Air Transport Services

The Chapter incorporates the ATA and aims to create opportunities for air transport services between and beyond the Parties' flight information regions and ensure the highest degree of safety and security in transport services. The chapter encourages promotion between competent authorities to establish arrangements facilitating exchange of information, mutual recognition of safety regulatory certification and/or processes, and trade in civil aviation-related goods and services.

If any dispute arises, the Parties must endeavour to settle it by consultations. Otherwise, the Chapter outlines the process for dispute settlement and notes that any disputes arising from the chapter or the ATA will be governed by the provisions in the Dispute Settlement Chapter and that any arbitrators appointed must have specialised knowledge of, or experience in air transport services.

4.17 The ATA between New Zealand and the Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu

To give effect to the Parties' desire to create opportunities for air transport services the ATA sets out process for designation and authorisation of airlines to operate scheduled services on agreed commercial air routes, and revocation and suspension of authorisation. It also outlines the traffic rights of airlines designated by both Parties including rights to uplift/discharge passengers, cargo and mail either separately or in combination at all points on the agreed commercial air routes in the Route Schedule except for purely domestic air carriage, known as cabotage (Article 4).

The Agreement also sets out obligations relating to Aviation Safety and Security including that Parties must recognise as valid licences and certificates of airworthiness and competency issued or

validated by the other Party (Article 6) and that Parties must provide upon request all necessary assistance to each other to prevent threats to aviation security (Article 7).

There are also provisions to enhance commercial opportunities, and set out processes for cooperative marketing arrangements and leasing arrangements. On the basis of reciprocity, some aviation related items are exempted from taxes, duties, fees and charges (Article 11). The Parties are to allow designated airlines to determine pricing and capacity based on commercial considerations in the market place (Article 12-13).

Upon request by either Party, consultations will take place within sixty days from the date of the other Party receiving the request. Any dispute is to be settled according to the provisions in the Dispute Settlement Chapter of ANZTEC.

4.18 Trade and Labour

The Trade and Labour Chapter aims to promote the common aspiration that free trade and investment should lead to jobs with terms and conditions that adhere to internationally recognised fundamental labour principles (Article 1). ANZTEC includes commitments for Parties to recognise in its laws: freedom of association and recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the effective abolition of child labour; and the elimination of discrimination in respect of employment and occupation. There are also commitments to ensure that the Parties do not weaken their labour laws or enforcement of those laws in a manner affecting trade and that a Party's labour laws are not set or applied for trade protectionist purposes (Article 2).

There is an undertaking to cooperate on mutually agreed labour issues, including through the interaction and involvement, as appropriate, of government, industry, educational and research institutions of each Party. The Chapter sets out potential areas of cooperation and certain modes of cooperation. Any cooperative activities agreed are to take into account each Party's needs, priorities and available resources. Resourcing is to be decided on a case by case basis (Article 4). The Chapter also establishes contact points to facilitate communication between the Parties and sets out the process for meetings between the Parties. A meeting of the Parties, comprised of senior labour officials or other persons selected by each Party, is to take place within the first year after entry into force, and subsequently as agreed by the Parties (Article 3).

Should any issue arise in relation to the implementation of this Chapter, a Party may request consultations with the other Party through the contact point. The completion of consultations is to be decided between the Parties but should not exceed 180 days (Article 5).

4.19 Trade and Environment

This chapter aims to enhance the capacities and capabilities of the Parties to address trade-related

environmental issues including through cooperation. The Parties respect each other's right to enforce their own environmental laws and regulations and reaffirm their commitments to fulfil their international environmental obligations. Key commitments under ANZTEC include: not weakening environmental laws in a manner affecting trade; ensuring that a Party's environmental laws, regulations and policies and practices are not used for protectionist purposes, and promoting public awareness of environmental laws and regulations (Article 2); and a commitment to eliminate tariffs on the list of 132 environmental goods Annexed to the Chapter (Article 3).

To address the issue of non-government actors implementing mechanisms contributing to environmental protection, each Party is to encourage businesses and non-governmental organisations to use and develop flexible and voluntary mechanisms in a manner that is transparent and does not create unnecessary obstacles to trade (Article 5).

ANZTEC encourages cooperation between the Parties through various means. Any cooperative activities must take into consideration each Party's environment priorities, needs and available resources. There is provision for the involvement of non-government sectors and other organisations in these cooperative activities (Article 6).

As with the Trade and Labour Chapter, this chapter establishes contact points and a meeting of the parties which is to take place within the first year after entry into force and subsequently as mutually agreed (Chapter 7). Should any issue arise in relation to the implementation of this Chapter a Party may request consultations through its contact point. The Parties are to decide the timeframe for completion of consultations, which are not to exceed 180 days.

4.20 Film and Television Co-Production

ANZTEC provides for official co-production films and television programmes between the Parties to be recognised as domestic productions and fully entitled to the benefits available to domestic productions. This chapter sets out the process for approval of projects, contribution and participation requirements (Articles 3, 4 and 6), and also provides for the approval of co-productions involving non-Parties (Article 5). It also sets out requirements in relation to making up to first-release print, location filming, soundtrack, acknowledgments, and credits (Articles 7-10). For the purpose of making or promoting a co-production film or television programme, each Party undertakes to permit natural persons of the Parties and co-producing non-Parties to enter and remain in their jurisdiction (Article 11) and there is also provision, in accordance with legislation, for technical equipment to enter temporarily, free of import duties and taxes, for the making of official co-productions.

The Chapter also establishes a Film and Television Mixed Commission to review the operation of the Chapter and to make any proposals necessary to improve its effectiveness. The Mixed Commission is to be convened (physically or by teleconference) within six months of a request by either of the Parties.

Annexed to this chapter is an implementing arrangement which sets out in more detail the approvals process under Article 3.

4.21 Cooperation on Indigenous Issues

The chapter sets up a process for annual meetings between Chinese Taipei's Council of Indigenous Peoples and Te Puni Kokiri as well as a mechanism for the promotion and facilitation of the exchange of experiences, development of direct contacts, and personnel exchanges.

4.22 Transparency

ANZTEC's transparency chapter contains obligations that ensure that each Party publishes or makes available its laws, regulations, procedures and administrative rulings of general application (Article 2). Each Party commits to providing impartial administrative proceedings and reviews and appeals in accordance with its law (Articles 3 and 5). ANZTEC provides for notification and information exchange should any proposed or actual measure materially affect the operation of ANZTEC or substantially affect the other Party's interests (Article 5). Contact points are also established to facilitate communications between the Parties (Article 4).

4.23 Dispute Settlement

The Dispute Settlement chapter provides a mechanism for the resolution of disputes between Chinese Taipei and New Zealand relating to the application or interpretation of ANZTEC.

The dispute settlement mechanism provides effective, efficient and transparent processes to settle any disputes arising. This ensures that New Zealand is able to pursue a matter to arbitration should it consider that Chinese Taipei has not acted in accordance with obligations under ANZTEC. Conversely, New Zealand may also be held to account if Chinese Taipei considers that New Zealand has not fulfilled its obligations.

Each Party must allow adequate opportunity for consultation to resolve any disputes (Article 5) and may agree to alternative dispute resolution through good offices, conciliation or mediation (Article 6). The chapter also allows for Parties to select the WTO as a forum for dispute settlement, rather than the ANZTEC dispute settlement process, but once that selection is made the Parties must stick to their choice of forum. If the ANZTEC mechanism is chosen, the chapter sets out a process for the establishment of an arbitral tribunal, its functions, proceedings, termination of proceedings and reports of the arbitral tribunal (Articles 7-12). The findings and rulings of the arbitral tribunal are final and binding on the Parties (Article 13) and the Parties must comply immediately with the findings and rulings or within a reasonable period of time (Articles 13 and 14).

4.24 Institutional Provisions

ANZTEC's Institutional Provisions Chapter sets out how the implementation of ANZTEC will be overseen by a Joint Commission comprising of delegations from New Zealand and Chinese Taipei. The Joint Commission will consider any matters relating to the implementation of ANZTEC; review the general functioning of ANZTEC; consider any proposal to amend ANZTEC or its annexes; supervise the work of all ANZTEC Committees and working groups; and consider any other matters in relation to ANZTEC's operation.

There is also provision to adopt procedures for the transposition of Tariff Schedules and technical revisions to the Product Specific Rules Schedule to accommodate periodic amendments to the Harmonised System (Article 3).

The Joint Commission is to meet within a year of entry into force and annually thereafter or as mutually agreed by the Parties. A general review will take place within two years of entry into force and then at least every three years, unless the Parties agree otherwise (Article 5).

4.25 General Provisions

The General Provisions Chapter confirms that nothing in ANZTEC derogates from any rights and obligations of New Zealand or Chinese Taipei under the WTO Agreement, or any other agreement to which either are Party. It also provides that, in the event of any inconsistency between ANZTEC and any other agreement to which both Parties are party, the Parties must immediately consult with each other with a view to finding a mutually satisfactory solution (Article 3). Where ANZTEC refers to or incorporates any other international agreement, it must apply it in the same way to any amendments or successor international agreements to which the Parties are party, unless otherwise agreed (Article 4).

The chapter also stipulates that any cooperative activities envisaged or undertaken under ANZTEC are subject to the availability of resources and the domestic law and policies of the parties.

4.26 General Exceptions

Provided that such measures are not used for disguised trade protectionist purposes, ANZTEC will not prevent New Zealand from taking measures (including environmental measures) necessary to protect human, animal or plant life or health. This also applies to measures relating to the conservation of living and non-living exhaustible natural resources, to prevent the adoption or enforcement by a Party of measures necessary to protect that Party's works or specific sites of historical or archaeological value, or to support creative arts of significant value to that Party.

ANZTEC will also not prevent New Zealand from taking any actions necessary to protect its essential

security interests or to respond to a serious balance of payments and external financial difficulty.

Taxation measures are excluded from ANZTEC except to the extent they are covered by the WTO Agreement or the expropriation provisions in the Investment Chapter. Any tax agreement between the Parties (i.e. the *Agreement Between the New Zealand Commerce and Industry Office and the Taipei Economic and Cultural Office in New Zealand for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income*) relating to the avoidance of double taxation takes precedence over ANZTEC (Article 5).

ANZTEC will not prevent New Zealand from taking measures for prudential reasons, including for the protection of investors and other owed a fiduciary duty by a financial service supplier, or to ensure the integrity and stability of the financial system (Article 4).

Provided that such measures are not used for disguised protectionist purposes, there is also a general exception to ensure that ANZTEC will not prevent New Zealand from adopting measures necessary to fulfil its obligations to Māori under the Treaty of Waitangi.

5 MEASURES WHICH THE GOVERNMENT COULD OR SHOULD ADOPT TO IMPLEMENT THE AGREEMENT ACTIONS

A small number of legislative (including regulatory) amendments are required to align New Zealand's domestic legal regime with certain rights and obligations under ANZTEC and thereby enable New Zealand to ratify the Agreement.

No legislative (including regulatory) changes are required by the Air Services Agreement.

The following legislative changes have been identified as being required:

- An amendment to the Tariff of New Zealand to enable the application of preferential tariff rates to goods imported under ANZTEC;
- Amendments to the Customs and Excise Regulations 1996 to implement the agreed rules of origin.

It has been proposed that the New Zealand-Chinese Taipei Economic Cooperation Bill (if required) be included in the 2013 Legislative Programme with priority.

The Bill (if required) would need to be passed before the end of October 2013 if the Agreement is going to enter into force on 1 December 2013 (tbc).

A comprehensive communication plan is in place to notify the business community, media and other stakeholders of how to benefit from and comply with ANZTEC and the ATA. The plan includes:

- An ANZTEC website – also accessible through the websites of the New Zealand Commerce and Industry Office, the Ministry of Foreign Affairs and Trade, and New Zealand Trade and Enterprise – containing detailed information on the text of the ANZTEC, and ATA, information on the trade relationship and information on doing business with Chinese Taipei;
- NZCIO and its advisors are undertaking a series of “roadshows” throughout New Zealand to explain details of ANZTEC and the ATA; and
- Various agencies (such as Customs) updating their websites to include guidance on trading under ANZTEC.

6 ECONOMIC, SOCIAL, CULTURAL AND ENVIRONMENTAL COSTS AND EFFECTS OF THE AGREEMENT ACTIONS

6.1 Economic Effects

ANZTEC and the ATA are expected to have an overwhelmingly positive impact on the New Zealand economy.

Trade is an important factor in driving our national economic performance. Changes in trade can impact on the economy – for example, by affecting levels of prices, income or employment. Trade also affects macroeconomic performance in terms of the dynamics of the economy's growth, stability and distribution. Extensive economic research has demonstrated that trade and growth are positively related, and an economy's openness to trade has been linked to the explanation of differences in the economic growth rate of countries.

The direct impact of trade liberalisation on economic growth may be described as the “static” effects. These include the gains derived from:

- lowered tariff and non-tariff barriers in export markets generating higher export returns and volumes; and
- domestic tariff liberalisation generating efficiency gains from a better allocation of resources, cheaper consumption and competitive effects.

The quantitative impact of ANZTEC's tariff and non-tariff barrier reductions are considered below.

Aside from these “static” effects, ANZTEC is expected to achieve a number of “dynamic” impacts. These are harder to quantify but may be greater than the “static” impact.

The “dynamic” effects range from the impact of improved transparency, cooperation in areas such as Technical Barriers to Trade, Sanitary and Phytosanitary Measures, the new dispute settlement mechanisms, and the publicity associated with ANZTEC. This is big news in Chinese Taipei and has seen extensive coverage accorded to New Zealand and the goods and services New Zealand exports to Chinese Taipei. The Agreement will also send a useful signal to New Zealand exporters that trading with Chinese Taipei and investing there, or receiving investment from there, will have no negative impact on trade and economic relations with the People's Republic of China. There is anecdote that suggests that prior to the negotiation of ANZTEC some New Zealand businesses were reducing emphasis on Chinese Taipei out of concern that their operations there might be putting at risk opportunities on the Chinese mainland.

The “static” impacts are much easier to quantify. They include:

- the estimated annual duty saving on New Zealand exports of NZ\$40.3 million on ANZTEC entering into force;
- the estimated annual NZ\$8.7 million in duty saved on New Zealand beef exports after tariffs are removed over two years;
- the estimated annual NZ\$14.7 million in duty saved on New Zealand kiwifruit exports after these are liberalised over three years;
- When all products are fully liberalised, New Zealand exports will benefit to the tune of NZ\$75.8 million a year based on current trade. The impact of these tariff reductions is likely to be larger as New Zealand exports to Chinese Taipei can be expected to grow as tariffs are lowered;
- For deer velvet and liquid milk, increased duty-free access for limited tariff quota volumes during a 12 year implementation period, followed by the full elimination of all tariffs on these products;
- New Zealand will benefit from Chinese Taipei expanding its commitments in services, particularly in financial services, education, professional services and services ancillary to aviation;
- All new services will automatically be traded without restriction;
- New Zealand will benefit from the provisions to facilitate the movement of business people into Chinese Taipei;
- ANZTEC gives New Zealand access to Chinese Taipei's government procurement market.

6.2 Social Effects

ANZTEC and ATA are expected to have overall benefit to New Zealand socially. No negative social effects are anticipated.

Because New Zealand's tariffs on imports from Chinese Taipei are so low, the removal of these tariffs is unlikely to have any negative impact on employment in New Zealand. Conversely the better returns expected on exports to Chinese Taipei, and the expansion in exports that is likely to result should boost employment opportunities in New Zealand.

This is the first agreement of its type that New Zealand has negotiated that contains a dedicated chapter on trade and labour.

6.3 Immigration

ANZTEC will require no changes to New Zealand immigration policy.

6.4 Cultural effects

Culture is an important element of ANZTEC. It contains provisions allowing film and television co-production and it encourages increased cooperation between Māori and the indigenous people of Chinese Taipei.

ANZTEC contains safeguards that ensure that there are no adverse effects on New Zealand cultural values including Māori interests.

ANZTEC incorporates the full range of exceptions in respect to trade in goods and trade in services provided under the WTO through Article XX of GATT 1994 and Article XIV of GATS. These exceptions

cover measures necessary for the protection of public morals and those imposed for the protection of treasures of significant artistic, historic or archaeological value to the Parties.

In addition, subject to the same provisos as in the WTO that such measures are not used for trade protectionist purposes, ANZTEC also provides general cultural exceptions covering:

- protection of national works and items or specific sites of historic or archaeological value;
- support for creative arts of national value (including performing arts, visual arts and craft, literature, film and video, language arts, and indigenous traditional practice and contemporary cultural expression).

Provided such measures are not used for trade protectionist purposes, ANZTEC also gives successive New Zealand governments the right to adopt measures they deem necessary in relation to Māori, including fulfilment of the Treaty of Waitangi obligations. Furthermore, interpretation of the Treaty of Waitangi is not subject to ANZTEC dispute settlement provisions.

ANZTEC also recognises the right of each party to establish measures to protect genetic resources, traditional knowledge and folklore consistent with international obligations.

6.5 Environmental effects

New Zealand has long recognised the links between trade and the environment. One of the aims of New Zealand's trade agreements is to ensure that the outcomes contribute to sustainable development and environmental objectives, consistent with the government's 2001 policy framework. The ANZTEC includes provisions that recognise the important role that trade liberalisation can play in supporting environmental improvements and the role that improved environmental performance can play in underpinning economic development.

Key environmental outcomes of the ANZTEC are:

- ANZTEC is the first agreement of its type negotiated by New Zealand that has a substantive Chapter on Trade and Environment. This contains some key commitments on the setting, administration and enforcement of each party's environmental laws, regulations and policies;
- This is likely to be the first time in a bilateral agreement that two WTO members have agreed to liberalise trade in environmental goods and services, and the first time a list of environmental goods has been agreed; and
- The outcome on voluntary market mechanisms, which addresses the issue of private sector activities in the regulatory space which might inhibit trade, such as the use of environmental standards, is similarly ground breaking.

Given the links between trade and the environment, trade agreements can affect sustainable development in a number of positive and negative ways, principally through:

6.5.1 Regulatory effects

Existing environmental policies and standards can, in principle, be affected by trade agreements. International experience related to these regulatory effects is that any potentially negative effects of trade agreements on such policies can be avoided through careful application of provisions in trade agreements. In particular, negotiations on trade agreements should be approached in a fashion that

does not undermine the ability of governments to pursue appropriate and effective environmental policies.

The ANZTEC, as with New Zealand's recent other trade agreements, does not inhibit the New Zealand government's ability to regulate for environmental protection. Its general exceptions are consistent with those provided for in international legislation (GATT and GATS). These exceptions apply across all aspects of the ANZTEC, and allow both governments to introduce measures necessary to protect human, animal or plant life or health, and to conserve exhaustible natural resources, provided these measures are not applied in a manner that constitute an arbitrary or unjustifiable discrimination or a disguised restriction on trade or investment. The provisions on cooperation provide an avenue for enhanced dialogue and engagement on environmental matters.

The ANZTEC will not restrict New Zealand from applying existing or future environmental laws, policies and regulations, provided they are applied to meet a legitimate objective and are not implemented in a discriminatory fashion. New Zealand has a suite of relevant existing legislation that is designed to address any potential adverse environmental outcomes of economic activity, including the Resource Management Act 1991, the Hazardous Substances and New Organisms Act 1996, the Ozone Layer Protection Act 1996, the Soil Conservation and Rivers Control Act 1941, the Energy Efficiency and Conservation Act 2000, the Climate Change Response Act 2002, the Biosecurity Act 1993, the Conservation Act 1987, the Crown Minerals Act 1991, the Fisheries Act 1996, Part IIIA & B of the Forests Act 1949 (amended 1993), and the Wildlife Act 1953. Voluntary initiatives such as the Clean Streams Accord and the New Zealand Packaging Accord act alongside and support this legislative framework, and New Zealand also encourages multinational firms to promote environmental management systems through its support of the OECD's Guidelines on Multinational Enterprises.

6.5.2 Product effects

Trade liberalisation under the ANZTEC is likely to lead to a change in the mix of products that New Zealand exports and imports. This change in the composition of trade can have both positive and negative environmental effects.

The liberalisation of trade in environmental goods and services – a rapidly growing export sector for New Zealand – under ANZTEC will deliver both pure economic and sustainable development benefits. More generally, trade liberalisation results in a more efficient use of resources, and the additional income that is generated by trade liberalisation can also be used – at least in part – to invest in new technology and production processes that can have positive environmental outcomes.

At the same time, changes in the composition of New Zealand's imports that arise from ANZTEC's trade liberalisation provisions may present a possible increase in biosecurity risk. There could potentially be an increase in the amount of environmentally sensitive or hazardous items brought into New Zealand. These risks will need to be carefully monitored, but New Zealand's existing framework of environmental laws, regulations policies and practices are designed to address any such change in the risk profile of imported goods.

6.5.3 Structural effects

Structural effects relate to the ways in which trade liberalisation can affect the production of goods and services that have environmental effects. If trade liberalisation leads to a shift in resources away from environmentally-damaging production processes or techniques (such as over-production or land degradation associated with primary production), these structural effects are likely to be a net positive for the environment. Negative structural effects can occur if domestic policy settings are not sufficiently robust to deal with a potential increase in the production of goods and services resulting from trade liberalisation that may damage the environment.

The ANZTEC is unlikely to have any discernible negative structural effects, given the degree of structural reform that New Zealand has experienced over the past three decades, natural resource and capacity constraints, the already open nature of the New Zealand economy, and the environmental management legislation already in place.

6.5.4 Scale effects

As economies expand as a result of trade liberalisation, there is a risk of increasing pollution levels and other environmental factors. This risk stems largely from the potential product and structural effects outlined above. However, this risk may be offset by the productivity improvements (and hence income gains) that are also associated with liberalisation. As a result of allocative efficiency gains, it may in fact be possible to produce more goods and services using the same amount of aggregate resources. Also, over time, technological improvements, which can be hastened by trade liberalisation and broader economic integration, are also likely to contribute to a more efficient use of natural resources.

Given New Zealand's existing environmental and resource management policy frameworks, and the provisions in the ANZTEC to promote the liberalisation of environmental goods and services and to promote capacity building on environmental issues, it is unlikely that scale effects resulting from the ANZTEC would result in any environmental degradation.

7 COSTS TO NEW ZEALAND OF COMPLIANCE WITH THE AGREEMENT

7.1 Tariff revenue

The elimination of tariff revenue on imports from Chinese Taipei will cost an estimated \$2.6 million a year.

7.2 Costs to government agencies of implementing and complying with ANZTEC

One off costs for setting up the ANZTEC website, leveraging activities and road-shows to maximise the benefit of ANZTEC are estimated at \$150,000. There will be some on-going costs in terms of travel and staffing to meet the new obligations agreed in ANZTEC. These are expected to be covered in the baseline costs of the agencies involved. A number of the obligations agreed in ANZTEC will replace or can be combined with activities that existed prior to the negotiation of ANZTEC.

7.3 Costs to businesses of complying with ANZTEC

The expected effect of ANZTEC is to reduce compliance and at the border costs for New Zealand and Chinese Taipei businesses. The model for evidencing origin is based on New Zealand's preferred approach of self-certification by the exporter. Unlike other models, this does not impose extra costs for exporters.

8 COMPLETED OR PROPOSED CONSULTATION WITH THE COMMUNITY AND PARTIES INTERESTED IN THE AGREEMENT

Negotiation of ANZTEC and the ATA was led by the New Zealand Commerce and Industry Office in Taipei with the assistance of technical advice provided by the private sector and the Ministry of Foreign Affairs and Trade, Ministry for Primary Industries, Ministry of Business Innovation and Employment, Ministry for the Environment, New Zealand Customs Service, Ministry of Transport, Ministry for Culture and Heritage, Treasury, New Zealand Film Commission, Te Puni Kokiri, and the Ministry of Health.

The Department of Prime Minister and Cabinet was consulted throughout the negotiations.

An extensive consultation process took place during the study phases of the process that preceded negotiations (involving all significant goods exporters to Chinese Taipei and those who might potentially be impacted by the liberalisation of imports from Chinese Taipei). A similar consultation process was conducted with the services sector. In some cases, consultations continued throughout the negotiations where input from New Zealand business was helpful to the design of elements of the agreement.

Those consulted will be advised on the outcome of the negotiations.

On signature full detail of ANZTEC and the ATA will be published along with a guide to the agreements.

During the study phases the New Zealand Commerce and Industry Office called for submissions on the possible agreement. A number were received. All submissions were strongly supportive of an ECA between New Zealand and Chinese Taipei.

The submission process was supplemented by a programme of consultation with organisations, companies and individuals either, already doing business with Chinese Taipei, or keen to do so in the future.

Stakeholder consultations revealed a number of key points and themes including:

- Chinese Taipei is an important and long-term market for New Zealand traders;
- High tariffs were an issue for a number of New Zealand exporters, particularly those exporting agricultural products;
- That tariff quotas on certain agricultural products were constraining exports;
- While Chinese Taipei was a relatively easy market to do business with there was support for greater cooperation on regulatory issues, particularly SPS and TBT; and
- There was broad support for the inclusion of chapters relating to indigenous peoples, air services, and film and television co-production.

9 SUBSEQUENT PROTOCOLS AND/OR AMENDMENTS TO THE AGREEMENTS AND THEIR LIKELY EFFECTS

ANZTEC provides that it may be amended by agreement in writing by the Parties and such amendments are to come into force on the date or dates agreed by the Parties (Chapter 25 (Final Provisions), Article 2).

Specific provisions in ANZTEC envisage the possibility of review of existing commitments or the conclusion of further arrangements between the Parties. These include:

- A general review of the Agreement within two years of its entry into force and at least every three years thereafter, unless the Parties agree otherwise (Chapter 22 (Institutional Provisions), Article 5);
- Periodic review of customs procedures and the development of mutually beneficial arrangements (Chapter 4 (Customs Procedures and Cooperation), Article 16);
- Modifications to the lists of entities, goods and services coverage, and thresholds relevant to government procurement (Chapter 11 (Government Procurement), Article 21);
- Implementing Arrangements for the implementation of the SPS Chapter (Chapter 6 (Sanitary and Phytosanitary Measures), Article 5);
- Implementing Arrangements for the implementation of the TBT Chapter, including on specific product sectors of mutual interest to the Parties (Chapter 7 (Technical Barriers to Trade), Article 11);
- A review to consider the implementation of the Cross-Border Trade in Services Chapter and to consider other trade in services issues of mutual interest, with a view to the progressive liberalisation of trade in services between the Parties (Chapter 13 (Cross-Border Trade in Services), Article 9); and
- A process for the transposition of Tariff Schedules and technical revision to the PSR schedule to accommodate periodic amendments to the Harmonised System, or changes to a Party's tariff for any other technical reason. Such revisions are to be considered as technical modifications and do not constitute an amendment to the Agreement.

ANZTEC makes it clear that the negotiation and modification of implementing arrangements must be consistent with the Agreement, and are not treaty-level processes – so do not constitute a formal amendment to the Agreement.

ATA provides that any amendment of the Agreement and its Annexes is to be made by written agreement between the Parties and the amendment will enter into force on the date of the later signature after completion of internal procedures of both Parties.

10 WITHDRAWAL OR DENUNCIATION

ANZTEC may be terminated by either Party giving 180 days written notice to the other Party (Chapter 25 (Final Provisions), Article 3).

ATA may be terminated by either party giving 12 months written notice to the other Party (Article 17).

Any decision by New Zealand to terminate ANZTEC or ATA would be subject to the usual domestic approvals and procedures for a treaty action.

AGENCY DISCLOSURE STATEMENT

This extended National Interest Analysis (NIA) has been prepared by the Ministry of Foreign Affairs and Trade, in consultation with other relevant government agencies. The extended NIA identifies all the substantive legal obligations in the *Agreement between New Zealand and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu on Economic Cooperation* and the associated Air Transport Agreement, a few of which will require legislative implementation, and analyses the advantages and disadvantages to New Zealand in becoming a party to these agreements. The Government has identified certain types of regulatory effects that would require a particularly strong case before regulation would be considered (impose additional costs on business during the current economic recession; impair private property rights, market competition, or the incentives on businesses to innovate and invest; override fundamental common law principles), but implementation of the obligations arising under ANZTEC are not expected to give rise to effects of this type.