ATTACHMENT

For the purposes of transparency, regarding the commitment in Article 8.12 (Transition), New Zealand notes the following entries which describe the current measures and the policy space that New Zealand typically includes in its Schedule of Non-Conforming Measures and which New Zealand reserves the right to include as appropriate in its future Schedule of Non-Conforming Measures under this Agreement.

Current Measures:

New Zealand's current measures entries relate to:

- Requirements under New Zealand's financial reporting regime for certain overseas non-issuer companies to file audited financial statements with the Registrar of Companies.
- Restrictions on the registration of patent attorneys as set out in the *Patents Act 1953*.
- Provisions in the *Dairy Industry Restructuring Act 2001* relating to management of a national database for herd testing data.
- Requirements in the *Constitution of Chorus Limited* for government approval for the shareholding of any single overseas entity to exceed 49.9 per cent and that at least half of board directors are New Zealand citizens.
- The provision under the *Radiocommunications Act 1989* that requires written approval of the Chief Executive of the Ministry of Business, Innovation and Employment for the acquisition by foreign governments or their agents of licences or management rights to use the radio frequency spectrum, or any interest in it.
- Provisions in the *Primary Products Marketing Act 1953* that give the Government the ability to impose regulations enabling the establishment of statutory marketing authorities with monopoly marketing and acquisition powers for products derived from beekeeping, fruit growing, hop growing, deer farming or game deer, or goats. Such regulations may, among other things, require that board members or personnel be nationals of or resident in New Zealand.
- The requirement that only a licensed air transport enterprise may provide international scheduled air services as a New Zealand international airline. Licenses are subject to conditions to ensure compliance with New Zealand's air services agreements and may include requirements that an airline is substantially owned and effectively controlled by New Zealand nationals, has its principal place of business in New Zealand or is subject to the effective regulatory control of the New Zealand Civil Aviation Authority.
- The restriction that no one foreign national may hold more than 10 per cent of shares that confer voting rights in Air New Zealand unless they have the permission of the Kiwi Shareholder. In addition, at least three members of the board of directors must be ordinarily resident in New Zealand, and more than half of the board of directors must be New Zealand citizens.
- Any existing non-conforming tax measures.

Policy Space:

New Zealand's policy space entries relate to:

- The provision of public law enforcement and correctional services as well as certain social services established for a public purpose.
- Water, including the allocation, collection, treatment, and distribution of drinking water.
- The devolution of a service that is provided in the exercise of governmental authority at the date of entry into force of this Agreement.
- The sale of any shares in an enterprise, or any assets of an enterprise, where the enterprise is wholly owned or under the effective control of the New Zealand Government.
- The specific commitments New Zealand made under Article XVI of GATS (as set out in its Schedule of Specific Commitments).[14]
- Certain foreign investment activities which require prior approval from the New Zealand Government (subject to the *Overseas Investment Act 2005*, the *Fisheries Act 1996*, and the *Overseas Investment Regulations 2005*), and the approval criteria to be applied to the categories of overseas investment that require approval under New Zealand's overseas investment regime.
- Existing bilateral or multilateral agreements, including measures taken as part of a wider process of economic integration or trade liberalisation between the parties to such agreements. Also any future agreements relating to aviation, fisheries, and maritime matters.
- The control, management, or use of protected areas or species owned or protected under enactments by the Crown.
- Nationality or residency in relation to animal welfare and the preservation of plant, animal, and human life and health.
- The foreshore and seabed, internal waters as defined in international law, territorial sea, the Exclusive Economic Zone, and the continental shelf.
- The provision of publicly funded legal services.
- The provision of fire-fighting services (excluding aerial fire-fighting services).
- Research and development services carried out by State funded tertiary institutions or by Crown Research Institutes when such research is conducted for a public purpose; and certain research and experimental development services.
- Composition and purity testing and analysis services; technical inspection services; other technical testing and analysis services; geological, geophysical, and other scientific prospecting services; and drug testing services.
- Controlling of the activities of foreign fishing consistent with the provisions of the *United Nations Convention on the Law of the Sea*.
- The production, use, distribution, or retail of nuclear energy.
- Services incidental to mining.
- Immigration services.
- Postal services.
- Preferential co-production arrangements for film and television productions.

[14] New Zealand's Schedule of Specific Commitments under GATS will, for the purposes of this entry, be modified to reflect the additional commitments made in New Zealand's Schedule in Annex II (Schedules of Specific Commitments for Services).