

**CHINA-NEW ZEALAND FREE TRADE AGREEMENT
2-YEAR REVIEW**

JOINT REPORT

Executive Summary

New Zealand and China established diplomatic relations in 1972 and have had a good history of economic and trade cooperation since then.

In 2004, China and New Zealand embarked on negotiations of a comprehensive free trade agreement covering goods, services and investment which would deliver benefits to both economies. Negotiations concluded in 2007 and the China-New Zealand Free Trade Agreement entered into force on 1 October 2008. A review of the FTA was mandated at the two year point.

This joint Review looks at the implementation, operation and impact of the FTA. It considers the extent to which FTA implementation and mechanisms are serving the objectives of the FTA and the extent to which the FTA has facilitated the expansion of trade and investment. It also considers the need for further implementation or cooperation measures, and/or changes to the Agreement to enhance achievement of the objectives of the FTA.

The Review finds that the operation and implementation of the FTA to date has been consistent with, and promoted achievement of the objectives of the FTA. Substantial progress has been made on delivery of FTA commitments including in particular in relation to tariff elimination, services liberalisation, treatment of investments, establishment of temporary employment entry schemes for specified professions, and creation of institutional frameworks and mechanisms for management of the FTA. There is productive dialogue and cooperation across the range of matters covered by the FTA.

While noting this progress, the Review also identifies further work required to enhance the operation and implementation of the FTA and ensure the benefits of the FTA are fully realised. Key areas identified include further customs cooperation, consultations to enhance services trade, consultations to facilitate the movement of natural persons and engagement with business to deepen understanding of FTA provisions and requirements.

The Review finds that the FTA was a significant factor in the 20% growth in bilateral two-way merchandise trade in the first year following entry into force, and to a doubling of bilateral trade in the past five years. Benefits arising from the FTA include, *inter alia*, improved market access, improved customs procedures and trade facilitation, increased efficiency, and enhanced transfer of technology and skills.

The Review finds that the commercial sector has benefitted indirectly from the FTA, as a result of the higher profile of each country in respective market places; a greater willingness to explore possible new trade and investment opportunities; improved access to key decision-makers; increased

communication and cooperation between government agencies of the Parties; and greater confidence in the trade and investment regime. High-level visits in both directions have also further promoted the FTA and cemented these benefits.

The Review concludes that the FTA continues to provide a sound and comprehensive platform from which to promote and develop bilateral trade and investment, and to address related trade and economic matters arising in the bilateral trading relationship.

At the same time, the Review notes that the FTA will evolve and develop as the bilateral trade relationship grows and deepens. Sustained efforts will be required on both sides to ensure the full potential of the Agreement is realised. The agreement between Premier Wen Jiabao and Prime Minister John Key in Beijing in July 2010 to aim to double bilateral trade in the next five years provides further impetus for FTA implementation activities, and for continued engagement and cooperation on trade matters of mutual interest.

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Chapter One: Introduction

New Zealand and China established diplomatic relations in 1972 and have had a good history of economic and trade cooperation since then. Both countries are part of the World Trade Organisation (WTO) and the Asia Pacific Economic Cooperation forum (APEC), and are committed to strengthening the multilateral trading system and to promoting regional and economic development.

In November 2004, China's President Hu Jintao and former New Zealand Prime Minister Helen Clark jointly announced that the two countries would begin negotiations on a Free Trade Agreement (FTA) after a Joint Feasibility Study concluded that a high quality FTA covering goods, services and investment could be expected to deliver positive benefits for both economies. Negotiations began in December 2004 and concluded in Beijing in December 2007 after 15 rounds of discussions.

The Chinese Minister of Commerce, Chen Deming and former New Zealand Minister of Trade, Phil Goff, officially signed the FTA in Beijing on 7 April 2008. The signing of the FTA was witnessed by Chinese Premier Wen Jiabao and former New Zealand Prime Minister Helen Clark.

The conclusion of the FTA represented one of four firsts in the bilateral trade relationship between the two countries:

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

In 2010, New Zealand was the first country to conclude FTAs with both China and Hong Kong.

The China – New Zealand FTA entered into force on 1 October 2008. It is one of nine bilateral or plurilateral FTA agreements concluded by China, and one of eight concluded by New Zealand.

Both Parties have been working actively to promote and implement the FTA since entry into force in October 2008. These efforts have been set against a backdrop of heightened high-level political engagement which has helped raise the profile of the bilateral relationship across the board, including in relation to

the FTA. This has enhanced trade and investment between the Parties resulting in both direct and indirect benefits.

1.1 Joint Review of the FTA

Article 180 1(b) of the FTA states that the “Joint Commission shall review within 2 years of entry into force of this Agreement ... the operation and implementation of this Agreement, consider any proposal to amend this Agreement or its Annexes and otherwise oversee the further elaboration of this Agreement”.

The Parties agreed to complete a Joint Review of the FTA at the two year point in advance of the 2nd FTA Joint Commission meeting in Beijing on 18 November 2010 and in accordance with Article 180 1 (b) of the FTA.

The aim of the review is to consider the implementation, operation and impact of the FTA in order to assess:

- the extent to which mechanisms are serving the objectives of the FTA,
- the extent to which the FTA has facilitated the expansion of trade, services, investment and temporary entry linkages between NZ and China; and
- what further implementation/cooperation measures and/or changes to the Treaty (if any) might improve progress towards achieving the objectives of the FTA.

To achieve this, the review will consider the following areas:

- Specific FTA implementation commitments relating to FTA mechanisms, Committees and Working Groups, Cooperation, and Side letters and Arrangements as outlined in respective Annexes of the agreed Terms of Reference (refer Annex 1).
- Trends in trade, services, investment and temporary entry statistics since entry into force of the FTA
- Business satisfaction with the FTA; and
- Possible further implementation measures¹ and/or modifications to the FTA (if any) for consideration at the second FTA Joint Commission meeting in 2010.

¹ Including, as necessary, additional committees and *ad hoc* working groups

This report on the Joint Review of the China-New Zealand FTA has been prepared jointly by China and New Zealand led on the China side by the Ministry of Commerce (MOFCOM) and on the New Zealand side by the Ministry of Foreign Affairs and Trade (MFAT). The report is broken down into four Chapters:

- Chapter 1: Introduction
- Chapter 2: Progress Assessment of Implementation and Operation of Chapters
- Chapter 3: Bilateral Trade and Investment
- Chapter 4: Conclusions

Chapter Two: Assessment of Progress in Implementation and Operation of Chapters

Chapter Two of the Joint Review examines the operation and implementation of the FTA in terms of the provisions, institutional frameworks and commitments made by Parties in the text of the Agreement and in light of the objectives of the FTA. It also reviews the need for further implementation measures and/or modifications to the FTA for consideration (as necessary) by the FTA Joint Commission.

Section 1: Initial Provisions

Chapter 1 of the FTA set the objectives of Parties to establish the FTA, such as aiming at trade liberalization, increasing investment opportunities and supporting the wider liberalisation process in APEC etc.

Section 2: Trade in Goods (Chapter 3)

Chapter 3 outlines commitments made by Parties to eliminate customs duties as per their respective Tariff Schedules (Annex 1 of the FTA). It also details commitments with respect to Administrative Fees and Formalities, Agricultural Export Subsidies, Non-Tariff Measures and Consumer Protection

Chapter 3 also provides for Special Agricultural Safeguard Measures on dairy products exported from New Zealand to China (details of which are in Annex 2 of the FTA) and Mid-Term Review Mechanism.

A committee on trade in goods is also established, to meet at the request of either Party. Neither Party has requested a meeting of the committee to date. Contact points for the Chapter have been exchanged and recorded with other contact points for the FTA, as per Article 15.

2.1 Elimination of Customs Duties

Parties note that commitments to accelerate elimination of tariffs on goods traded have been met by both Parties as per Article 8 and Annex 1 of the FTA.

Parties note that three rounds of tariff cuts have taken place to date; the first upon Entry into Force of the Agreement on 1 October 2008; the second on 1 January 2009; and the third on 1 January 2010. More than half of two-way trade is now duty-free under the FTA. By 2016, all imports from China to New Zealand will be duty-free, and by 2019, over 96% of imports from New Zealand to China will be duty-free under the FTA.

2.2 Special Agricultural Safeguards Measures

Article 13 provides that China may apply a special safeguard measure to agricultural goods specified in Table One of Annex 2.

The Parties note that Special Agricultural Safeguards were imposed on New Zealand dairy imports in both 2009 and 2010 calendar years as follows:

- April -December 2009: Liquid milk and cream (HS040120, HS040130)
- July – December 2009: Butter (HS04051000, HS04059000)
- August – December 2009: Milk and cream in solid forms (HS04021000, HS04022100, HS04022900, HS04029100)
- from April 2010 for the rest of the calendar year: Liquid milk and cream (HS040120, HS040130)
- from April 2010 for the rest of the calendar year: Milk and cream in solid forms (HS04021000, HS04022100, HS04022900, HS04029100)
- from June 2010 for the rest of the calendar year: Butter (HS04051000, HS04059000)
- from September 2010 for the rest of the calendar year: Cheese (HS04061000, HS04063000, HS04069000)

The Parties agree that the special agricultural safeguard measures have been applied in a transparent manner and that notice in writing (including relevant data) was provided from China to New Zealand in a timely manner in advance of the application of safeguard measures for specific products in Annex 2.

Parties reiterate the importance of the channel established by the Parties which make Article 13(5) roll-over adjustments to special safeguard trigger volumes for subsequent calendar years easily available to relevant New Zealand agencies and business/exporters.

Both parties note that since 2008, there have been significantly increased imports of dairy products from New Zealand to China. China raised its concerns about increased dairy imports in relation to the development of its domestic dairy industries. Parties agree to continue to support and develop mutually beneficial dairy cooperation and trade.

2.3 Country Specific Tariff Quotas

Annex 4 of the FTA details Country Specific Tariff Quotas (CSTQ) for New Zealand exports of wool and wool tops.

New Zealand notes that 98% of its wool exports to China under tariff heading HS51 (worth NZ\$238 million in the year to December 2009) are covered by Annex 4 CSTQ. The uptake of Annex 4 quota allocations since entry into force of the FTA is as follows:

- New Zealand exports of Wool Tops (tariff lines HS510510000, HS51052100 and HS51052900) have declined and the New Zealand industry itself has declined, as New Zealand no longer has any wool top mills. No quota has been applied under these lines for 2009 and 2010.
- The CSTQ quota allocation for Wool (tariff lines HS05011100, HS51011900, HS51012100, HS51012900, HS51013000, and HS51031010) has been fully subscribed in both 2009 and 2010.

New Zealand notes that total wool exports under these tariff lines is more than twice the CSTQ quota volume and growing at a faster rate than provided for in the quota expansion.

The Parties note that the CSTQ has been administered in accordance with China's *Detailed Rules for Implementing the Administration on Import Tariff Quotas of Wool and Wool Tops in 2007* and as subsequently revised by the relevant Chinese authority in 2010.

The Parties agree that the CSTQ has been operated in a transparent manner and that requests for information in relation to quota volumes have been responded to in a timely manner.

2.4 Comment

Parties agree that the progressive elimination of tariffs on goods traded between the Parties is being implemented as per respective commitments in Annex 1 (Tariff Schedules), and that this elimination has made a significant contribution to increasing dynamism and competitiveness in two-way trade to the benefit of both Parties.

Parties reaffirm their commitments under Articles 10 and 11 with respect to Administrative Fees and Formalities, Agricultural Export Subsidies, Non-Tariff Measures and Consumer Protection.

Parties welcome the more than 20% growth in bilateral (two-way) trade in merchandise goods since entry into force of the FTA; and in line with agreement reached by Prime Minister John Key and Premier Wen Jiabao this year, resolve to work together to further double merchandise trade between the Parties in the next five years.

Parties agree that the FTA provides a strong framework for promoting bilateral trade and resolving trade and economic issues in accordance with the objectives of the Agreement.

Section 3: Rules of Origin and Operating Procedures (Chapter 4)

Chapter 4 of the FTA covers Rules of Origin (ROO) and operating procedures for the documentation and granting of preferences under the FTA. Product Specific Rules of Origin are covered in Annex 5.

The Parties note that there has been useful cooperation and consultation between respective Customs agencies on Chapter 4 matters allowing resolution of a number of issues during the first 22-months of FTA implementation.

The Parties agree that the product-specific Rules of Origin (listed at Annex 5 of the FTA) continue to provide a sound basis for determination of preferential tariff treatment under the FTA.

3.1 Preferential Tariff Treatment

The Parties note that traders are enjoying preferential tariff treatment under the FTA for goods that satisfy Chapter 4 requirements (Article 18).

Parties have exchanged information and experiences on Article 42.2 (Denial of Preferential Tariff Treatment). Written explanations of denial of preferential tariff treatment would only be provided if goods did not meet conditions outlined in Chapter 4 of the FTA, and both Parties note that all goods that have been subject to a claim of preferential tariff treatment have received preference to date.

3.2 Direct Consignment (Article 25)

The conditions for goods to qualify as 'consigned directly' and subsequently receive preferential tariff treatment are laid out in Article 25 of the FTA.

The Parties note there has been an ongoing exchange of information on Article 25, including discussion on each countries practices for clearing goods that transit through non-Parties.

Parties agree to further explore ways to streamline and improve the implementation of Article 25, particularly with respect to goods transiting non-Parties. This will greatly enhance trade facilitation and compliance, as well as reduce administrative costs in accordance with the objectives of the FTA.

3.3 Declaration of Origin (Article 37)

Article 37 provides that New Zealand exporters are able to make a Declaration of Origin (in lieu of a Certificate of Origin) on shipments of goods to China subject to the following conditions:

- the aggregate customs value does not exceed US\$1,000;
- an Advance Ruling has been obtained in accordance with Article 52; or
- when the importing Party otherwise decides that a Certificate of Origin is not required.

Article 37(b) of the FTA provides that a Declaration of Origin shall be accepted in place of a Certificate of Origin when an Advance Ruling on Origin has been obtained in accordance with Article 52. The Parties have exchanged information on their respective practices for issuing Advanced Rulings on Origin, and will continue to work with traders to ensure they are able to take advantage of the provisions of Article 37(b).

3.4 Comment

Parties agree that further cooperation in the Customs area (under Article 50) targeted at streamlining the operation of Chapter 4 would be of mutual benefit and assist in delivering the shared goal of growth in bilateral trade.

Parties also agree there is an ongoing need to engage business on both sides to ensure they are aware of the opportunities provided under the FTA and that they understand the administrative and documentary requirements for accessing preferential tariff treatment.

Section 4: Customs Procedures and Cooperation (Chapter 5)

Chapter 5 of the FTA outlines customs procedures for the efficient, expeditious and transparent clearance of goods traded between the parties, as well as providing a framework for cooperation between respective Customs administrations.

Parties agree that cooperation and consultation on Customs Procedures under the FTA has been positive and productive. Regular contact between Customs administrations, including through bilateral talks in January 2010 in Auckland, has helped expedite the resolution of some early FTA implementation issues and facilitate responses to queries from importers and exporters.

The Parties note feedback from New Zealand business indicating that improvements in customs administration and management has been perceived

to be one of the major benefits of the FTA while simultaneously being one of the areas where further improvements were still possible and desirable to reduce cost and administrative overheads.

Both Parties agree that it would be mutually beneficial to explore further opportunities for cooperation activities in the Customs area under Article 50 with a view to fulfilling the objectives of the FTA. Such activities could include work to simplify and harmonise customs procedures; ensure predictability, consistency and transparency in the application of customs laws and administrative procedures; ensure efficient and expeditious clearance of goods and means of transport; and facilitate trade between Parties.

4.1 48-hour clearance

Article 57 of the FTA outlines that each Party shall adopt procedures which allow goods to be released within 48 hours of arrival, subject to certain conditions. Parties have discussed practical implementation of this Article, and agree to explore further ways to ensure the efficient and expeditious clearance of goods.

4.2 Paperless trading

The Parties note that Customs agencies agree to ongoing cooperation under Article 53 to explore ways to further develop paperless trading between their countries noting this will deliver significant benefits in terms of trade facilitation, compliance and administration.

4.3 Comment

The Parties agree that Chapter 5 provides a sound basis for implementation and managing customs issues as well as a practical framework for the discussion of customs issues of mutual interest looking forward.

Section 5: Trade Remedies (Chapter 6)

Chapter 6 outlines commitments by Parties towards each other with respect to trade remedies. It reiterates the WTO Agreement on Article VI of the GATT 1994, and provides supporting mechanisms for these commitments in practice. It also outlines rules relating to Bilateral Safeguard Measures.

Contact points on Trade Remedies were exchanged along with other contact points for the FTA following entry into force.

5.1 Anti-dumping notifications

Parties note that in accordance with Article 62.2, China provided formal notification to New Zealand in June 2009 of its acceptance of a properly documented application from its methanol industry which cited amongst others a New Zealand company.

Parties note that in accordance with Article 62.2, New Zealand provided formal notification to China in July 2009 of its acceptance of a properly documented application from dairies retailers which cited three Chinese companies.

5.2 Bilateral Safeguard Measures

Parties note that no Bilateral Safeguard Measures have been introduced since entry into force of the FTA outside those special agricultural safeguard measures permitted under Article 13 and Annex 2 of the FTA.

Section 6: Sanitary and Phytosanitary Measures (Chapter 7)

The Sanitary and Phytosanitary (SPS) Chapter establishes the SPS Joint Management Committee to facilitate bilateral trade in goods affected by SPS measures and gives practical effect to the SPS Chapter of the FTA, including through the establishment and monitoring of Implementing Arrangements. This section of the Joint Report covers the operation and implementation SPS arrangements under the FTA.

6.1 Joint Management Committee (Article 88)

The SPS Joint Management Committee at the vice-ministerial level was established in accordance with Article 88 and has met twice, once in June 2009 (Wellington) and again in June 2010 (Beijing). Both meetings were held in a cooperative spirit with Parties making steady progress in addressing bilateral SPS matters. Agreed Records of both Joint Management Committee meetings were prepared.

At the second SPS JMC meeting, Parties agreed to establish the Bilateral Phytosanitary Meeting under Chapter 7 of the FTA. Parties also agreed to establish a technical working group (TWG) to enhance cooperation on Animal Feeds (details below).

6.2 Competent Authorities and Contact Points (Article 78)

A list of Competent Authorities and contact points was completed in June 2009 and updated in June 2010, and recorded in Implementing Arrangement Chapter 7A.

6.3 Risk Analysis (Article 79)

Parties have established a priority list for consideration of market access requests of the other Party, and recorded this list in Implementing Arrangement Chapter 7B (1). The list was first compiled in June 2009 and updated in June 2010 to reflect the completion of market access requests and consequently record Parties' current market access priorities.

Since entry into force, the following arrangements have been concluded on new or improved market access:

- Updated Protocol on Quarantine and Health Requirements for Bovine Semen to be Imported from New Zealand to the People's Republic of China (June 2009)
- Updated Protocol on Quarantine and Health Requirements for Cattle to be imported from New Zealand to the People's Republic of China (June 2009)
- Arrangement on New Zealand Product Process Hygiene Requirements for Processing Edible Tripe Products for Export from New Zealand to the People's Republic of China (November 2009)
- Cooperation Arrangement on Management of Sanitary Measures Regulating the Import of Dairy Products from New Zealand (February 2010)
- Official Assurance Programme (OAP) for the export of Pears from China to New Zealand (March 2010)
- Agreed electronic certificate for live seafood exports from New Zealand to China (April 2010)
- Certificate for Ovine and Caprine By-Products for Processing into Petfood exported from New Zealand to the People's Republic of China (February 2010)
- Official Assurance Programme for the Export of Table Grapes (*Vitis vinifera*) from the People's Republic of China to New Zealand (June 2010)
- Official Assurance Programme for the Export of Fresh Processed Onions (*Allium cepa*) from the People's Republic of China to New Zealand (June 2010)

6.4 Adaptation to Regional Conditions (Article 80)

New Zealand formally recognised regional conditions for areas of fruit fly freedom for pears from China in December 2009 and for table grapes from China in January 2010 as per Article 80.

Parties held a joint seminar on the SPS concepts of regionalisation and equivalence in Beijing, May 2010. Parties discussed guidance from relevant international standard-setting bodies such as the World Organisation for Animal Health (OIE), International Plant Protection Convention (IPPC) and Codex Alimentarius Commission (CAC).

The seminar enabled both sides to exchange views and share examples of their experiences with the theory and practical implementation of regionalisation and equivalence concepts. The seminar was part of the step-by-step approach to implementation of the SPS Chapter and will assist in jointly developing the principles, criteria and processes for adaptation to regional conditions to apply to our bilateral trade.

6.5 Equivalence (Article 81)

Parties held a joint seminar on the SPS concepts of regionalisation and equivalence in Beijing, May 2010, as highlighted in 6.5 above. In response to a recommendation arising from this seminar, the SPS Joint Management Committee established a Technical Working Group (TWG) on Animal Feed Safety. Part of the scope of the TWG is to discuss equivalence in animal feeds. The TWG is expected to meet at least once in the next 12 months and report on its progress at the third SPS JMC.

6.6 Verification (Article 82)

Verification visits by Chinese experts to New Zealand germplasm centres, persimmon orchards and meat plants took place in 2009/10 as part of China's verification procedures for products exported from New Zealand.

6.7 Certification (Article 83)

Model SPS certificates have been recorded in Implementing Arrangement Chapter 7F. They are being used effectively in bilateral trade.

6.8 Cooperation (Article 85)

Parties note that cooperation under this Chapter has attracted the interest and attention of leaders of both countries. A substantial programme of activities has taken place. The SPS Joint Management Committee has recorded completed activities, and provides an outline of current and proposed future activities in Implementing Arrangement Chapter 7H. Specific activities are listed briefly below.

Completed:

- Two Study Programmes by Chinese Food Safety Officials hosted by New Zealand, focusing on meat and dairy, and seafood respectively
- Seminar on the concepts of Regionalisation and Equivalence held in Beijing in May 2010
- Cooperation on Electronic Phytosanitary Certification
- Joint workshop, in Beijing on international standards
- Dairy farm management/food safety study programme for 22 Chinese dairy representatives on New Zealand's dairy sector hosted by New Zealand

Current:

- Five Food Safety Scholarships for Chinese officials to study in relevant courses in New Zealand tertiary institutions
- Cooperation on strategies to minimise the use of ozone-depleting fumigants on imports of timber and other products as per 85.2 (c) (part ii)
- Cooperation on Electronic Certification for Animal Products
- Cooperation on Electronic Phytosanitary Certification use and development
- Cooperation in alignment of submissions to OIE and IPPC on animal and plant health standards for international trade
- Funding awarded to four New Zealand research institutes and universities to build academic linkages with Chinese partner institutions and to pursue mutually beneficial projects in food safety research (as per 85.2 (c) (part v))
- Sponsoring six China Ministry of Agriculture delegates to attend the International Dairy Federation World Dairy Summit and a separate two-day dairy study programme

Future:

- One four-week internship in New Zealand for two officials from China
- Scholarships allocated to Chinese officials under the New Zealand-China Doctoral Research Scholarships Programme

- Masters level training opportunities in biosecurity within a World Bank-sponsored program at Massey University
- A wine regulatory study programme in New Zealand for Chinese officials
- Technical Working Group (TWG) to enhance cooperation in the field of animal feeds to meet at least once within the next 12 months

Parties have agreed that the SPS cooperation programme to date has been very successful and mutually beneficial. China found the activities helpful to experts and officials to promote knowledge and experience in the SPS area. These activities aim to strengthen bilateral links and promote bilateral trade in agricultural products, thereby fulfilling the objectives of Article 85.2 (a).

6.9 Comment

The Parties agree that the SPS Chapter and associated institutional mechanisms are being implemented, and are operating, in a manner consistent with the stated objectives of the Chapter.

The Parties note that the friendly manner in which the SPS Joint Management Committee operates and close working relationship and cooperation between the Competent Authorities and Contact Points have contributed to giving effect to the provisions in the SPS Chapter and objectives of the Agreement. They agree that the SPS work programme provides a sound basis for progressing SPS issues of mutual interest. They also note that SPS cooperation has provided meaningful outcomes for both Parties.

Section 7: Technical Barriers to Trade (Chapter 8)

Chapter 8 establishes mechanisms to reduce the impact of technical barriers to trade in goods, and provides for increased cooperation between regulatory authorities to improve understanding and greater alignment of each others' regulatory regimes.

The *Agreement between New Zealand and China in the Field of Conformity Assessment in Relation to Electrical and Electronic Equipment and Components* (EEE) sits under the scope of Chapter 8, and facilitates conformity assessments of a proportion of electrical and electronic products traded between the Parties. The Agreement is more commonly referred to as the EEE MRA (Mutual Recognition Agreement).

7.1 Implementation (Article 100)

A Joint Technical Barriers to Trade (TBT) Committee has been established to promote and monitor the implementation of Chapter 8. The TBT Committee held its first meeting by teleconference on 16 July 2009. At the meeting, Parties

agreed on a forward work programme to further strengthen cooperation. The second Joint TBT Committee meeting took place on 11 October 2010 in Beijing.

The TBT Committee work programme focussed on initiatives including:

- a study of the interface between the EEE MRA and China's statutory inspection system with a view to removing any obstacles.
- development of ways to strengthen communication on industry needs;
- a review of the operation and implementation of the EEE MRA;
- deeper cooperation in the application of risk management techniques;
- exploration of the potential for cooperation in the area of energy efficiency and conservation; and
- further exchange of information on the regulatory role and scope of respective agencies with a view to further deepening collaborative relationships.

The Parties note that national contact points on TBT matters were exchanged and recorded in Implementing Arrangement Chapter 8 A in July 2009, and updated in October 2010.

7.2 International Standards (Article 94)

The relevant authorities continue to share a good relationship in the context of APEC and the WTO.

7.3 Equivalence of Technical Regulations (Article 95)

At the inaugural Joint TBT Committee meeting, China requested that New Zealand study the possibility of recognising China's statutory inspection and quarantine certifications as equivalent, with a view to facilitating the clearance of Chinese products at the New Zealand border. The Parties will exchange further information on this proposal.

7.4 Regulatory Cooperation (Article 96)

Under the framework of the EEE MRA, the relevant authorities continue to cooperate on regulatory issues, such as risk assessment methodology.

In November 2009, the Parties exchanged information on each others' regulatory systems for consumer products with a view to deepening relationships and gaining a better understanding of the respective regulatory frameworks. This exchange led to the signing of an *Arrangement on*

Cooperation in the Field of Consumer Product Safety in June 2010. The Arrangement provides a framework for cooperation in consumer product safety, as per Article 96.1 (c). Parties are now jointly considering a work programme under the Arrangement.

7.5 Annex 14: Agreement between New Zealand and China in the Field of conformity Assessment in Relation to Electrical and Electronic Equipment and Components (EEE MRA)

There have been a series of productive meetings between respective national authorities with respect to the implementation and operation of the EEE MRA in accordance with Article 97 (Conformity Assessment Procedures).

The scope of the EEE MRA was adjusted in December 2009 to include two product categories of export interest to New Zealand. Other minor amendments and updates to cited Standards were also made to the Product Schedules at this time.

The relevant national authorities held a workshop on the operation of the China Compulsory Certification (CCC) regime and its application through the EEE MRA in March 2010 in Auckland, New Zealand. The workshop targeted New Zealand businesses and other interested stakeholders to enable them to gain a better understanding of the technical requirements for compliance with the CCC regime. New Zealand companies found the workshop very useful, and expressed a desire to continue the open dialogue with China's authorities on the CCC regime.

China officials also met with some individual firms and certification/testing bodies in Auckland and Christchurch for more detailed discussions on the CCC regime. Discussions helped New Zealand participants to better understand what needed to be done for compliance under Chinese certification processes.

New Zealand notes that it is working to facilitate accreditation of certification bodies in New Zealand under the provisions of the EEE MRA. This will enable product certification to be carried out in New Zealand so that CCC marks can be placed on products in New Zealand prior to export to China.

To further support the implementation of the EEE MRA, and in line with the objectives of Article 99 (Technical Assistance), Chinese officials held a five-day training course on the China Compulsory Certification regime in Beijing in March 2009 for New Zealand technical personnel.

7.6 Comment

The Parties note that there is an active TBT implementation and cooperation programme underway which provides ongoing momentum towards achieving

the objectives of Chapter 8. Parties agree that continued work towards mutual recognition of each others' regulatory regimes and further streamlining bilateral trade in electronic and electrical products through the improved implementation of the EEE MRA will bring mutual benefits. The Parties also agree that this lays the foundation for work in other product sectors with the aim of further enhancing bilateral trade.

Section 8: Trade in Services (Chapter 9)

Chapter 9 covers measures relating to the trade in services between Parties. It establishes specific principles and commitments aimed at facilitating the expansion of trade in services on a mutually advantageous basis. The chapter covers all four modes of service delivery².

8.1 General commitments (Articles 106, 107, 108)

Parties agree that commitments made by the Parties under Articles 106 (National Treatment), 107 (Most Favoured Nation Treatment) and 108 (Market Access) have been met with respective Schedules of Specific Commitments (listed at Annex 8).

8.2 Qualifications Recognition Cooperation (Article 113)

Parties signed an Arrangement on Mutual Recognition of Academic Degrees in Higher Education in April 2008. This Arrangement facilitates the flow of students between the two countries particularly at the post-graduate level. The Arrangement also provides for information sharing, staff training and cooperation on mutual recognition of qualifications.

The 7th meeting of the New Zealand-China Education Joint Working Group (JWG) took place in June 2010 in Beijing, as per Article 113.1. The JWG identified a range of opportunities for the further development of the relationship including enhanced links at schooling and tertiary levels, promotion of Chinese language and culture teaching in New Zealand, intensification of research cooperation, and participation in joint training programmes.

As mandated in Article 113.2, the New Zealand Qualifications Authority and the Ministry of Human Resources and Social Security (previously named Ministry of Labour and Social Security) of China have established a Joint Working Group to advance mutual recognition of vocational qualifications.

Parties first met in New Zealand in November 2009 to discuss the establishment of the JWG and NZQA tabled the Terms of Reference. At a

² The four modes of service delivery are: Mode 1 (cross-border mode); Mode 2 (consumption abroad mode); Mode 3 (commercial presence mode); Mode 4 (presence of natural persons mode).

second meeting in Beijing in April 2010 both Parties exchanged detailed information on each others' qualifications systems, with a view to identifying specific qualifications from each Party to be considered for formal recognition by the other Party.

The Terms of Reference for the objectives and operation of the JWG are agreed.

This work also forms a part of broader Recognition cooperation outlined in Article 112.

8.3 Committee on Services (Article 117)

A committee on trade in services is established to meet at the request of either Party. The parties agree to explore opportunities to hold the inaugural meeting at a mutually convenient time.

8.4 Cooperation (Article 122)

Film Co-Production Agreement

An Agreement on Film Co-production was signed by Prime Minister John Key and Premier Wen Jiabao in Beijing in July 2010. The Agreement helps facilitate screen industry partnerships between New Zealand and China, and offers greater certainty to investors looking to fund New Zealand – China film co-productions. The Agreement also provides co-production film makers access to funding and incentives in line with those available for national films in each country. Parties will also facilitate temporary immigration and importation of equipment associated with film-making, within existing regulations.

8.5 Review (Article 124)

Article 124 mandates that Parties shall consult to review the implementation of Chapter 9 (Services) and consider other trade in services issues of mutual interest, including with a view to progressive liberalisation of services to mutual advantage.

Parties reaffirm their commitment to undertake services consultations as per Article 124.

8.6 Comment

Parties note that services were discussed at the first FTA Joint Commission meeting in August 2009. At that meeting, Parties reaffirmed the importance of trade in services for their respective economies. Tourism was highlighted as the fastest-growing services area in both directions. Parties also noted the excellent cooperation between the relevant authorities in the field of education.

Parties note the lack of comprehensive data to fully quantify bilateral services trade but note that two-way services trade is growing, and now includes a number of new companies and sectors. In light of the increased importance of services trade to growth in both economies, Parties agree to explore ways to collect and exchange two-way services data with a view to gaining a better understanding of bilateral services trade and reviewing commitments accordingly.

Section 9: Movement of Natural Persons (Chapter 10)

Chapter 10 of the FTA outlines commitments and measures to facilitate the temporary entry of business visitors, contractual services suppliers, intra-corporate transferees, skilled workers, and installers and servicers travelling between the Parties. It also outlines the commitments made on Temporary Employment Entry, and establishes a Committee on Movement of Natural Persons.

9.1 Committee on Movement of Natural Persons (Article 133)

The first meeting of the Committee on Movement of Natural Persons was held in Wellington on 19 August 2009. At this meeting Parties discussed implementation measures for the temporary employment entry and temporary entry provisions, and the implementation of the Working Holiday Scheme³. An Agreed Record was prepared summarising outcomes from the meeting. The Parties agree to explore opportunities to hold the second meeting at a mutually convenient time.

9.2 Expeditious Application Procedures (Article 128)

Parties note that commitments on the expeditious processing of applications for immigration formalities from natural persons of the other Party and notification to applicants of the decision on their application within 10 working days are being met as required under Article 128.1 and Article 128.2, respectively.

9.3 Visa Fees (Article 128.4)

Parties agree to discuss further the Article 128.4 which provides that "any fees imposed in respect of the processing of an immigration formality shall be limited to the approximate cost of services rendered".

Parties agreed to hold further discussion between visa authorities on relevant visa issues in the future.

9.4 Annex 12: Visa Facilitation

³ Refer Section 18 for discussion of the Working Holiday Scheme

Parties note that New Zealand has ensured that Chinese students who submit a complete application for a student visa to study towards a degree level course at an accredited New Zealand tertiary institution receive a decision within 10 working days, as per its commitment in Annex 12, part (a).

Parties also note that New Zealand has established a group transit visa for Chinese natural persons transiting New Zealand to and from all destinations, as per its commitment in Annex 12, part (b), and that Chinese people have accessed this visa since its introduction.

9.5 Transparency (Article 131)

Parties agree that the implementation of this Chapter has enhanced transparency and information-sharing, as per Article 131. Regular contact on matters relating to the implementation of Chapter 10 has taken place through the established contact points (Article 132) including with respect to:

- agencies providing information and materials relating to this Chapter on respective websites;
- exchange of website notices relating to the *Arrangement on Temporary Employment Entry by Natural Persons from China*; and
- updates on new immigration measures that potentially affect the other Party.

9.6 Grant of Temporary Entry (Article 129)

Parties agree that the specific commitments made in respect of temporary entry of natural persons travelling between New Zealand and China (Annex 10) are working well.

9.7 Grant of Temporary Employment Entry (Article 130)

Parties note that New Zealand has established Temporary Employment Entry categories for all occupations specified under Annex 11. These are:

- China Special Work Policy which allows non-labour market tested work permits for up to three years for the following occupations provided that the applicants are qualified and have genuine job offers in New Zealand:
 - 200 Chinese chefs
 - 200 Traditional Chinese Medicine (TCM) practitioners (including TCM nurses)
 - 150 Mandarin teachers' aides

- 150 Chinese Wushu Martial Arts coaches; and
- 100 Chinese tour guides.
- China Skilled Workers Policy which allows up to 1000 skilled Chinese workers, non-labour market tested work permits for up to three years provided they are qualified and have a genuine job offer in one of 20 listed skilled occupations.

Parties note that with exception of the Chinese chef category, uptake of these policies has been limited to date. New Zealand holds the view that the uptake of these visa opportunities has varied due to a number of reasons including current market factors and the global economic recession.

China raised its concerns on the limited uptake of these visa opportunities under China Special Work Policy and China Skilled Workers Policy. China requests relevant consultations to be arranged under the Committee of Movement of Natural Persons at an early date, with a view to explore the reasons for low uptake of these policies, identify and recommend appropriate measures to promote increased movement of natural persons.

Department of Labour of New Zealand undertook to continue to ensure timely availability of information on the number of Chinese worker applications and approvals under the FTA categories and all immigration policies (including FTA policies) for Chinese citizens.

Parties note that two arrangements have been signed with the aim of facilitating the operation, implementation and uptake of Temporary Employment Entry by Chinese nationals to New Zealand in occupations specified under Annex 11 as follows:

- *Arrangement on Temporary Employment Entry by Natural Persons from China* (signed in August 2009 between China's Ministry of Commerce and New Zealand's Department of Labour)
- *Arrangement on the Placement of Mandarin Teaching Aides in New Zealand Schools* (signed in December 2009 between the New Zealand Ministry of Education and China's Ministry of Education)

9.8 Comment

Parties agree that progress has been made on implementing Chapter 10 and delivering on respective commitments outlined in Annex 10 and (for New Zealand) Annex 11. A productive first meeting of the Committee on Movement of Natural Persons has contributed to the development of positive relations and regular communication between relevant authorities on matters relating to the Movement of Natural Persons.

Section 10: Investment (Chapter 11)

Chapter 11 establishes a framework of rules which aim to: encourage and promote investment between the Parties; ensure the protection and security of investments of one Party in the territory of the other; and provide for mutually beneficial cooperation between the Parties and their investors.

Parties note that investment provisions in the FTA build on investment measures already in place under the China-New Zealand Investment Protection and Promotion Agreement (IPPA) signed in 1988, while also providing further protections and improved measures to facilitate investments.

The Parties agree that the obligations under Chapter 11 applying to measures affecting investors and their investments have been met by the Parties, including in relation to Articles 138 (National Treatment), 139 (Most-Favoured Nation Treatment), Article 142 (Transfers) and Article 143 (Fair and Equitable Treatment).

Contact points on matters relating to investment have been established and recorded as per Article 147.

10.1 Promotion and Facilitation of Investment (Article 151)

Parties have engaged in a number of activities aimed at promoting and facilitating bilateral investment.

New Zealand Prime Minister John Key hosted an Investment-focused lunch for Chinese business leaders at the Boao Forum for Asia hosted in Sanya, China in April 2009 during which he outlined the New Zealand Government's economic priorities and possible areas of opportunity for high quality foreign investment in New Zealand. New Zealand also held an investment seminar at the 13th China International Fair for Investment and Trade (CIFIT) in Xiamen in September 2009.

10.2 Review of New Zealand's Overseas Investment Act

New Zealand notes that a review of its Overseas Investment Act 2005 and Overseas Investment Regulations 2005 was launched in March 2009 and concluded in September 2010. The review focused on increasing efficiency and considered ways to provide adequate flexibility for New Zealand Ministers to consider factors in deciding an application.

New Zealand affirms that it would provide China with detailed information on the review once final regulations have been issued, and Parties agree to discuss

and make relevant clarifications, in explaining their effects under the committee on investment at an early date.

10.3 Comment

The Parties agree that Chapter 11 provides a practical foundation for encouraging two-way bilateral investment between respective countries.

Parties reaffirm the importance of bilateral investment to the growing trade and economic relationship, and agree to explore opportunities for further cooperation to promote and facilitate mutually-beneficial bilateral investment.

Parties note that the Investor-State Dispute Settlement Mechanism (Section 2 of Chapter 11) has not been invoked by an investor of either Party.

Section 11: Intellectual Property (Chapter 12)

Chapter 12 notes the importance of intellectual property rights in promoting economic and social development, and aims to establish transparent intellectual property rights regimes and systems in both Parties. In this Chapter, Parties reaffirm their commitments to the TRIPS Agreement and establish mechanisms to support the realisation of the principles in that Agreement.

Contact Points for Chapter 12 have been designated and recorded alongside other FTA Contact Points, as per Article 162.

11.1 General Provisions (Article 161)

Parties acknowledge the importance of adequate IP protection to facilitate technology transfer associated with doing business and investment.

Parties reaffirm their commitments made under TRIPS and Chapter 12 of the FTA with respect to protection of intellectual property, and agree to explore opportunities for mutually beneficial cooperation in this area.

11.2 Cooperation and Capacity Building (Article 164)

Parties agree to build on the agreement in Article 164 to cooperate with a view to increasing capacity in the development of intellectual property policy and eliminating trade in goods infringing intellectual property rights. Parties also agree to pursue other joint cooperation under this Article, including promoting awareness of intellectual property rights and systems in both Parties.

11.3 Comment

Parties note that formal consultations to resolve issues arising within the scope of Chapter 12 have not been requested by either Party (as per Article 166).

Section 12: Transparency (Chapter 13)

Chapter 13 sets out measures ensuring the transparent and open communication of matters relating to the FTA and other measures relevant to the implementation of the FTA between the Parties.

12.1 Publication (Article 168)

Parties note that the laws, regulations, procedures and administrative rulings of general application with respect to matters covered by the Agreement have been promptly published or otherwise made available in such a manner as to allow interested persons to become acquainted with them as per Article 168.

New Zealand notes that it has established a website on the China-New Zealand FTA (www.chinafta.govt.nz) to promote better understanding of the Agreement and facilitate closer engagement with business and other interested persons.

12.2 Contact Points (Article 171)

Parties note that a matrix of contact points for the FTA, including for each chapter of the FTA was completed and exchanged in December 2008 and updated immediately prior to the 2nd FTA Joint Commission.

12.3 Comment

Parties note that there has been an extensive programme of communication between relevant agencies, including through designated Contact Points and within the institutional frameworks established under the FTA. They welcome the constructive and cooperative nature of such engagement.

Parties agree that further work can be done to promote transparency and greater understanding of each other's legal and regulatory systems as they relate to matters covered by this Agreement.

Section 13: Cooperation (Chapter 14)

Chapter 14 facilitates the development of close cooperation between the Parties aimed at, inter alia, creating new opportunities for trade and investment and encouraging the presence of the Parties and their goods and services in each others' markets.

Cooperation under Chapter 14 supplements the cooperative activities undertaken under the auspices of SPS, TBT and Customs Chapters of the FTA. Many activities are also consistent with the objectives of the Trade and Economic Cooperation Framework Agreement between New Zealand and the People's Republic of China, signed in May 2004.

Contact points for this Chapter were exchanged upon Entry into Force, as per Article 178.

Parties reaffirm the importance of all forms of trade and economic cooperation in contributing towards the objectives of this agreement.

Contact points for this Chapter were exchanged upon Entry into Force, as per Article 178.

13.1 Economic Cooperation (Article 175)

Parties note that cooperation has covered a wide range of activities and sectors including investment, aviation linkages, tourism, education, science and technology, wool, dairy and food safety. Parties wish to note the following activities in particular:

High level visits

There have been 18 high-level visits by Leaders and Ministers of the Parties between the two countries since the FTA entered into force including visits by Vice President Xi Jinping and Vice Premier Li Keqiang of China to New Zealand, and two visits by New Zealand Prime Minister John Key to China.

The Parties agree that this tempo of high-level engagement has helped strengthen bilateral relationships and smooth implementation of the FTA while also contributing to ongoing policy dialogue and exchange of information as per Article 175.2 (a).

Trade Missions

Parties note there were seven Minister-led trade missions from New Zealand to China in 2010 which have strengthened existing relationships and built new relationships between government and business communities of the Parties; and given rise to new partnerships and other business opportunities. The seven New Zealand ministerial trade missions were:

- Agriculture technology (dairy) trade mission led by the New Zealand Agriculture Minister to Beijing, Inner Mongolia and Heilongjiang Provinces (March 2010);
- Trade mission led by the New Zealand Trade Minister to Beijing (February 2010)
- Trade mission focused on wine linkages led by trade officials to Southern China (April 2010);

- Trade mission focussed on the meat and seafood sectors led by the New Zealand Trade Minister to Shanghai (May 2010);
- Aviation sector led by the New Zealand Economic Development Minister to Beijing, Tianjin and Shanghai (June 2010);
- Education mission led by the New Zealand Education Minister and Tertiary Education Minister to Shanghai (June 2010);
- Maori trade and tourism mission led by the New Zealand Minister of Maori Affairs to Beijing, Guizhou, and Shanghai (September 2010);
- Science mission led by the New Zealand Minister of Science to Shanghai and Beijing in October 2010; and
- Information Communications and Technology mission led by the New Zealand Minister for Communications and Information Technology to Beijing, Shanghai and Shenzhen (October 2010).

The Parties note that China has also sponsored several trade missions to New Zealand, including in association with the visits to New Zealand by Vice President Xi Jinping.

Parties also note that other trade missions undertaken by China Provincial leaders have also supported implementation and business development.

Regional Trade and Enterprise offices

New Zealand Trade and Enterprise has opened three new offices in China since 2008; a Wholly Foreign Owned Enterprise (WFOE) New Zealand Central in Shanghai with WFOE branch offices in Shenzhen and Qingdao. These offices support and facilitate New Zealand companies trading with or operating in China and are in addition to the Trade Commissioner led offices in Beijing, Shanghai and Guangzhou.

FTA Joint Seminars

Parties have cooperated actively to promote the FTA to business and other public constituents in both countries through two large seminars.

In May 2010, a joint seminar on the FTA was held at the Centre of Executive Leadership Academy Pudong (CELAP) in Shanghai, at which the New Zealand Minister of Trade and China's Vice Minister Yi Xiaozhun addressed an audience of over 100 Chinese officials and academics on the topic of "Leadership in Trade Policy: New Zealand-China FTA".

In June 2010, a joint seminar on the FTA was held in honour of the visit to New Zealand by the Vice President of China, Xi Jinping. The seminar, held at

the Langham Hotel in Auckland, attracted an audience of 400 business leaders from both New Zealand and China and included eight speakers from leading businesses and industries who have benefitted from the FTA.

Other trade and economic cooperation

Parties note that there has been a busy work programme of trade and economic cooperation since the FTA entered into force with a view to developing and growing trade and economic links. Specific activities included:

- China's successful hosting of the Shanghai World Expo was a catalyst for a record number of high level exchanges between New Zealand and China in 2010. In recognition of the importance of the bilateral relationship, New Zealand invested \$30 million in its pavilion to create a platform in China for the promotion of education, tourism, investment and commercial linkages.
- Parties signed a Tourism Cooperation Arrangement in April 2009. New Zealand notes that it would welcome a visit by the relevant Chinese authority to New Zealand to start work on implementing this Arrangement
- Parties signed the Arrangement on Dairy Cooperation in March 2010.
- A Cooperation Arrangement on Technical Issues of Wool Testing, signed in June 2009, established a Technical Working Group on Wool Quality to discuss issues of wool testing in trade and strengthen communication and cooperation between the Parties. Under this Arrangement, a delegation of Chinese officials visited New Zealand to study wool quality testing in June 2010.
- In July 2010, Prime Minister Key and Premier Wen jointly launched the New Zealand-China Strategic Research Alliance. This Alliance provides a formal framework for bilateral science cooperation. In October 2010, Parties jointly announced a funding mechanism to support collaborative research under this Alliance.

The Parties note that education cooperation has intensified with a range of new academic connections and initiatives since the FTA entered into force:

- Tripartite research agreements have continued to develop with new three-way relationships between Lincoln University, Zhejiang University and Guizhou University; and between Auckland University of Technology, Shanghai Jiaotong University and Xinjiang University.
- The New Zealand Contemporary China Research Centre at Victoria University of Wellington, the Centre for New Zealand Studies of Xiamen University and Confucius Institutes at the University of Canterbury (with

Huazhong University of Science and Technology) and at Victoria University of Wellington (with Xiamen University) have all opened. These institutions provide additional focus on the study of New Zealand in China, and of China in New Zealand.

13.2 Labour and Environmental Cooperation (Article 177)

Parties note that there are a number of bilateral activities between the respective Labour and Environment ministries and agencies to advance bilateral labour and environment cooperation as provided under Article 177.

13.3 Comment

Parties note that bilateral trade and economic cooperation since entry into force of the FTA has been varied and productive, allowing for enhanced implementation of the FTA and overall growth in bilateral trade.

Parties agree to continue pursuing a comprehensive programme of trade and economic cooperation to support the implementation of the FTA and further strengthen the bilateral trading relationship.

Section 14: Administrative and Institutional Provisions (Chapter 15)

Chapter 15 establishes the Administrative and Institutional provisions to support the implementation and operation of the FTA. It establishes the FTA Joint Commission, outlines its functions and rules of procedure, and provides for a formal review of the FTA within 2 years of entry into force.

14.1 New Zealand-China Free Trade Area Joint Commission (Article 179)

The FTA Joint Commission has been established as per Article 179. It held its first meeting at senior officials' level on 19 August 2009 in Wellington, New Zealand. At this meeting, Parties reviewed the operation and implementation of the Agreement in the first year of the FTA. The meeting also received reports from the Committees on SPS Measures, TBT Measures and Movement of Natural Persons. The Agreed Record contains detailed outcomes of the meeting.

The second Joint Commission is scheduled to take place at senior officials' level on 18 November in Beijing, China. The Joint Commission will receive reports from the Committees on SPS and TBT, as well as considering any other matter arising under the Agreement to date.

Parties noted that there has been broad participation by key agencies from both parties with responsibility for implementation and operation of the Agreement in

both Joint Commission meetings. This includes representatives from respective Customs, Agriculture, Labour, Foreign Affairs, Trade and Economic Development departments. This wide representation has promoted timely and constructive engagement by relevant experts across the range of issues under consideration by the Joint Commission.

14.2 2-Year Joint Review of the FTA

Parties note that the joint Review of the Free Trade Agreement at the two year point was completed in November 2010 as mandated in Article 180.1 (b) based on Terms of Reference agreed between Parties in March 2010.

Parties agree that this Joint Report should be tabled and adopted at the second FTA Joint Commission scheduled to take place in Beijing on 18 November 2010.

14.3 Comment

Parties agree that the FTA Joint Commission provides a sound platform for the consideration of matters relating to the implementation and operation of this Agreement and for promoting trade in line with the objectives of the FTA.

Parties acknowledge the spirit of cooperation and positive engagement on both sides, and ongoing commitment to resolve issues in a friendly and constructive manner.

Section 15: Dispute Settlement (Chapter 16)

Parties note that dispute settlement mechanisms established under Chapter 16 of the FTA have not been invoked by either Party.

Section 16: Exceptions (Chapter 17)

Parties note that exceptions detailed under Chapter 17 of the FTA have not been invoked by either Party since the FTA entered into force.

Section 17: Final Provisions (Chapter 18)

Parties note that the FTA entered into force on 1 October 2008 following the completion of respective domestic legal procedures. (Article 213 refers).

Parties note that the FTA was formally notified to the World Trade Organisation (WTO) in April 2009. The Committee on Regional Trade Agreements of the WTO Secretariat published a Factual Presentation on the FTA in December 2009, to which Parties provided a joint response in July 2010. The Factual

Presentation has been completed and circulated to member-states for comments in the lead-up to the Committee's consideration of the FTA and the Presentation on 29 November 2010.

Section 18: Other mechanisms

Parties note that three arrangements were signed alongside the FTA:

- Temporary Employment Entry for specified skilled occupations,
- New Zealand China Working Holiday Scheme, and
- New Zealand China Doctoral Research Scholarship Programme.

18.1 Temporary Entry Side Letters

Side letters were exchanged between the New Zealand Minister of Trade and the China Minister of Commerce setting out the list of specified skilled occupations to which New Zealand's commitments under Annex 11 of the FTA (Temporary Employment Entry) apply for a period of five years from entry into force.

New Zealand notes that this list remains in force and will be reviewed in accordance with Annex 11 at the end of the five-year period. A revised list of specified skilled occupations will then be exchanged in accordance with the outcome of that review.

18.2 Working Holiday Scheme Arrangement

The New Zealand-China Working Holiday Scheme allows for 1,000 young Chinese nationals per year to holiday and work in New Zealand for up to 12 months.

The scheme was launched on 1 October 2008. Since then, a total of 2,000 visas have been made available under the Working Holiday Scheme, as per the commitment made by New Zealand.

A review of the Working Holiday Scheme took place in early 2010 to consider ways to improve the operations of the Scheme to mitigate implementation risks that had been identified.

China expresses its concern on the newly increased criteria for language requirement. New Zealand agrees to continue to monitor the effect of the new language requirement in terms of the uptake under the Working Holiday Scheme.

Parties note the importance of the Working Holiday Scheme to the bilateral relationship and reaffirm their commitment to working together cooperatively to ensure the Scheme is fully subscribed.

Parties further agree to continue to monitor and discuss the implementation of the Working Holiday Scheme to ensure it meets the objectives of the FTA.

Parties agree to further discuss this issue at the Committee on the Movement of Natural Persons meeting at an early date.

18.3 Doctoral Research Scholarship Programme

The New Zealand-China Doctoral Research Scholarship Programme, launched alongside the FTA through an exchange of letters, allows ten students per year from each Party to study a three-year PhD research programme at an institution of the other Party.

This programme has been successfully implemented and some promotion of the Programme has taken place through appropriate institutions in both Parties.

Chapter Three: Bilateral Trade and Investment

Section 1: Overview

Chapter 3 of the Joint Report looks at bilateral trade in goods and services trade, and foreign investment since the entry into force of the FTA in October 2008. The review is based on analysis of bilateral trade data, feedback from business surveys and interviews, and analysis of the operation and implementation of the FTA by the relevant departments of both Parties. Trade and investment data was sourced from:

- New Zealand Statistics
- New Zealand Customs
- New Zealand Treasury
- Ministry of Commerce of China
- National Bureau of Statistics of China

1.1 Caveats on analysis of bilateral trade and investment

Parties note that only 22 months of trade and investment data was available during preparation of the Joint Report (not two full years) but agree that this does not significantly affect the outcomes of the analysis.

Parties note there are differences in merchandise trade data between China and New Zealand statistics, particularly in relation to Chinese statistics on exports to New Zealand as compared to New Zealand statistics on imports from China.

The Parties acknowledge that entry into force of the FTA is only one of a number of other factors, albeit significant, which shaped bilateral trade and investment over the period. Other factors include, for example, the global economic climate; variations in global commodity prices, changes in technology, and high levels of sustained growth in the Chinese economy. The Parties agree these factors need to be taken into consideration when analysing trade and investment.

1.2 Historical perspective

At the time of signing of the FTA in April 2008, China's GDP was estimated at US\$3,860 billion while that of New Zealand was US\$130.6 billion⁴. In addition:

- China was the world's second largest exporter (total annual merchandise exports of US\$1,428.3 billion) and third largest importer, while New Zealand ranked 63rd exporter and 60th importer (US\$30.5 billion and US\$34.3 billion, respectively).
- China ranked fifth in terms of both exports and imports of commercial services (US\$146.4 billion and US\$158 billion respectively) while New Zealand ranked 54th services exports and 53rd for services imports (US\$8.8 billion and US\$9.4 billion, respectively).
- China's trade-to-GDP ratio, averaged over 2006-2008 at 73.4, was similar that of New Zealand at 58.6.

In 2008, China was New Zealand's fourth largest export market for goods (5.9% of total New Zealand exports) and second largest source of imports (13.3% of total imports). New Zealand was China's 59th largest export market (0.2% of China's exports) and 52nd largest source of imports (0.2% of its imports).⁵

The top three categories for services exports and imports in 2008 for both China and New Zealand were other business services, transportation services, and travel services. Education was also a significant services category for New Zealand.

In 2008, New Zealand's stock of Foreign Direct Investment in China was valued at US\$44 million, constituting 0.3% of its total investment in the world. China's Foreign Direct Investment in New Zealand in 2008 was valued at US\$91 million constituting 0.17% of its total investment from the world in the same year.

Section 2: Trade in Goods

2.1 Two-way bilateral trade

Parties note that total two-way merchandise trade between New Zealand and China grew significantly since the entry into force of the FTA. Total trade in 2009 was estimated to be NZ\$9.6 billion (New Zealand)/US\$4.562 billion (China).

China's importance to New Zealand as a trading partner has grown in relative and absolute terms. It is now New Zealand's second-largest trading partner

⁴ WTO Statistics Database, Trade Profile (October 2009).

⁵ UNSD, Comtrade database (2008). The ranking is individually reported for the members of the European Communities to Comtrade.

overall, as well as second-largest source of imports and second-largest destination for exports. New Zealand's importance as a trading partner for China has also grown with New Zealand's share of China's total trade of China rising from 0.17% in 2007 to 0.21% in 2009.

Growth in two way trade between New Zealand and China exceeded the average annual growth rate of all New Zealand's major trading partners and for China in 2009, was higher than the growth rate for China's total trade overall, in spite of the global financial crisis.

New Zealand exports to China

Total exports from New Zealand to China in the first year of the FTA were estimated to be NZ\$3.5 billion (New Zealand)/US\$2.476 billion (China). New Zealand's share of China's total imports has risen from 0.16% in 2007 to 0.25% in 2010.

Exports are predominantly agricultural, including dairy products (44%), timber and forestry products (23%), meat (8%), fish and fish products (7%), and wool (6%). Manufactured items made up 8% of total exported goods to China in the first year of the FTA. According to New Zealand's statistics, there has been an increase in the level of processing for primary and manufactured products.

China notes that imports from New Zealand have witnessed a rapid growth since 2008, indicating the effect that the bilateral FTA has had as a factor stimulating China's imports from New Zealand.

China notes with concern the significant increase in dairy imports from New Zealand. Since the FTA entered into force, the imports of milk and dairy products from New Zealand increased rapidly. According to China's statistics, the value of dairy imports has doubled since 2007, and the annual growth rate of 2009 reached a historically high level of 82.5%.

New Zealand notes that trade is market driven and there are many factors driving the trade.

China exports to New Zealand

Total exports from China to New Zealand in the first year of the FTA were estimated to be US\$2.086 billion (China)/NZ\$6.1 billion (New Zealand).

China notes that the share of New Zealand in the total export of China has not witnessed notable growth since 2008 and remained at about 0.17%. According to China's data exports contracted in 2008 compared with the period of 2005-2007, and even became negative in 2009 because of the impact of the global financial crisis.

New Zealand notes that since 2008 according to New Zealand statistics, imports from China to New Zealand have on average grown in contrast to imports from the rest of the world which have contracted.

Exports from China to New Zealand were predominantly manufactured goods comprising machinery and electrical machinery (40%) including automatic data processing machines, cellular telephones and communications apparatus, reception apparatus for televisions; tricycles; and Textiles, Clothing and Footwear (20%). China exports of machinery and electrical machinery to New Zealand have more than doubled in the last five years. China is now New Zealand's largest source of imports for such machinery.

China's exports to New Zealand are spread over a broader array of merchandise compared to New Zealand's exports to China. The top 20 exported products from China comprise only 25% of total exports to New Zealand, compared to the top 20 exported products from New Zealand comprising 80% of exports to China.

2.2 Comment

Parties note that the benefits and opportunities presented by the FTA continue to be viewed as positive by the majority of stakeholders in both countries.

Analysis of New Zealand business feedback suggests that companies with existing footprints and relationships in China-New Zealand were better able to realise potential benefits arising from the FTA, though there has also been growth in the number of new business entrants.

Parties note that there is continued and strong interest from companies not yet trading to explore trade and investment opportunities.

Section 3: Trade in Services

3.1 Two-way services trade

Parties note that analysis of services trade between respective countries is constrained by the lack of comprehensive data available on services trade generally, and on bilateral services trade in particular. This constraint is due to amongst other things, the nature of the services transactions involved, the difficulty in capturing services data and commercial confidentiality of that data. Parties note that the discussion on services is therefore based on analysis of sectoral and other data as is available, coupled with anecdotal evidence and business feedback.

Parties note that the main services exports from New Zealand to China were travel, transportation, education and communications services while the main

services exports from China to New Zealand were travel, transportation and other business services.

New Zealand notes recent feedback from business indicating that a number of companies have become active in new areas including aviation training, landscape design, software and internet-related services, and business consulting services.

Tourism remains a key sector in bilateral services trade. China is New Zealand's fourth largest source of overseas visitors, resulting in approximately NZ\$330 million annually in tourism revenues. China notes that while New Zealand visitor numbers to China levelled over the period due to the global economic recession, this number increased as a proportion of its total overseas traveller arrivals.

China is New Zealand's largest source of overseas students and an important partner in education. In 2008 there were 20,579 Chinese students in New Zealand, 23% of the total overall international student enrolment.

3.2 Comment

Parties agree that services trade is a significant and valuable component of the bilateral trading relationship.

Parties agree that while it is difficult to obtain a comprehensive picture of the bilateral services trade, there is evidence of a steady expansion in services trade both in terms of overall value and diversity of sectors, and the emergence of a number of new entrants into the market.

Parties note that there continues to be strong interest by businesses in both China and New Zealand in pursuing opportunities for services trade in the other Party.

Parties agree to jointly explore possibilities for improving the collection and reporting of more comprehensive data on services trade in order to better inform Parties of progress under the FTA.

3.3 Movement of Natural Persons

In 2009, 102,259 Chinese nationals visited New Zealand and 56,289 New Zealand nationals visited China on short-term visits. In the same year 5,982 Chinese nationals travelled to New Zealand on permanent or long-term stays, and 2,175 New Zealanders travelled to China on permanent or long-term stays.

Parties agree that the specific commitments made in respect of temporary entry of natural persons travelling between New Zealand and China are working well.

Parties note the low uptake under the China Special Work Policy and China Skilled Workers Policy. China requests relevant consultations to be arranged under the Committee of Movement of Natural Persons at an early date, with a view to explore the reasons for low uptake of these policies, identify and recommend appropriate measures to promote increased movement of natural persons.

Section 4: Investment

4.1 Two-way investment

Parties note that the flow of investments in both directions has grown steadily over the period under consideration from a low point in 2007.

Parties noted that China is now New Zealand's thirteenth largest investor, and that while New Zealand's investment in China is now at an historic high, its overall share of China's total investment has declined.

Parties note that Chinese investment in New Zealand has traditionally been in the property and natural resource sectors but has more recently broadened into other sectors including dairy processing and manufacturing.

Parties also note that New Zealand investment in China has traditionally been in manufacturing, leasing and business services.

New Zealand notes data which indicates investment in China has diversified and grown in both the agricultural and manufacturing sectors; Feedback also suggests that an increasing number of New Zealand firms are now part-manufacturing components in New Zealand for assembly in China, or producing fully in China for both domestic Chinese consumption and export to third country markets.

4.2 Comment

Parties welcome the growth in two-way bilateral investment and agree that there is considerable scope for further investment, particularly in the agri-business (food processing, aquaculture, dairy), forestry, education, high-value manufacturing and services sectors.

Parties note that bilateral investment has resulted in direct economic benefits to both countries in of the form of technology transfers, shared knowledge and skills; efficiency gains; integration of supply chains; streamlined distribution, improved marketing and research; and allocation of resources toward more productive and dynamic outputs.

Parties note that there are significant opportunities for further investments based on complementarities between the two economies, and welcome these investments as an important aspect of economic cooperation and integration.

Chapter Four: Conclusion

Implementation and Operation of the FTA

Parties agree that the operation and implementation of the FTA to date has been consistent with, and promoted achievement of the objectives of the FTA.

Parties note there has been good progress in the delivery of commitments by both Parties under the FTA including in particular in relation to tariff elimination; services liberalisation; treatment of investments; establishment of temporary employment entry schemes for specified professions; and creation of institutional frameworks and mechanisms for dialogue on non-tariff barriers to trade.

Parties agree that despite the substantial progress in implementation and operation of the FTA to date, more work is required to enable businesses to realise the full potential of the FTA. Specific areas of future cooperation and dialogue have been identified under relevant chapters of this Report.

Impact on Trade

Parties agree that overall, the FTA has had a positive impact on bilateral trade and investment in both directions, with significant growth seen over the 22 months since entry into force. The benefits of the FTA on bilateral trade and investment include, *inter alia*, improved market access, tariff preference, improved customs procedures and trade facilitation (consistency and transparency), increased profitability and efficiency, and enhanced transfer of technology and skills.

In addition to the trade benefits of the FTA, businesses have also noted indirect benefits from the FTA including the higher profile of each country in respective market places; greater willingness to explore possible new trade and investment opportunities, improved access to key decision-makers, increased communication and cooperation between government agencies of the Parties; and greater confidence in the trade and investment regime. High-level visits in both directions have also further promoted the FTA and cemented these benefits.

Analysis of New Zealand business feedback suggests that companies with existing footprints and relationships in China were better able to realise potential benefits arising from the FTA, though there has also been growth in the number of new business entrants. Parties note that there is continued and strong interest from companies not yet trading with China to explore trade and investment opportunities.

Parties agree that more work could be done to encourage new entrants in the bilateral trading market through continued promotion of the FTA and cooperation on how to do business in respective markets and leverage the FTA to maximise benefits.

Looking forward

The Parties note that they have not recommended further implementation measures or changes to the Treaty as a result of this Review.

Parties note the agreement between Premier Wen Jiabao and Prime Minister John Key made in Beijing in July 2010 to aim for a doubling of bilateral merchandise trade in the next five years.

Parties agree that the FTA continues to provide a sound and comprehensive platform from which to promote and develop bilateral trade and investment in line with the goal set by leaders, and to address related trade and economic matters arising in the bilateral trading relationship.

Parties note there has been substantial progress in implementing the FTA. All of the institutional frameworks for management of the FTA have been established and met as mandated. There is regular and constructive engagement between key agencies of both Parties responsible for implementing the FTA. There are targeted ongoing work and cooperation programmes across the range of matters covered by the FTA. Both Parties have engaged widely with key stakeholders to promote understanding of the provisions of the FTA and awareness of the opportunities presented therein.

The Parties agree that the China-New Zealand FTA will continue to evolve and develop in support of a growing bilateral trade relationship. Parties agree to continue to seek opportunities to improve the operation of the FTA in ways that bring about the realisation of the wish of the leaders of New Zealand and China to double trade between the countries in the next five years.