

Annex One: National Interest Analysis: Protocol to amend the Agreement between New Zealand and Singapore on a Closer Economic Partnership to include the Agreement on Trade in Essential Supplies

1. Executive Summary

The Protocol to amend the Agreement between New Zealand and Singapore on a Closer Partnership (Protocol) amends the Agreement between New Zealand and Singapore on a Closer Partnership (CEP) to incorporate the Agreement on Trade in Essential Supplies (AOTES) as an integral part of the CEP. The AOTES is a novel trade Agreement between New Zealand and Singapore that aims to keep trade of essential items open during supply shocks and to improve coordination and information sharing on supply chains. The AOTES builds on the non-binding Declaration on Trade in Essential Goods for Combating the COVID-19 Pandemic (the declaration) that was signed in 2020 that aimed to keep trade in essential goods flowing between our two countries during the COVID pandemic. Unlike the declaration, the AOTES is a binding, treaty level agreement and is not responding to an immediate supply shock but helping both of our countries prepare for future crises.

The AOTES is novel in that both parties are agreeing to forgo their ability to use the critical shortages exception in the General Agreement on Tariffs and Trade (the GATT) (Art:XI 2 (a)) for an agreed list of essential products at a Treaty level, with some exceptions. The Agreement imposes a negative obligation on both parties to not block the export of agreed upon essential goods. The list of essential goods is decided on via a positive list approach meaning both parties are required to agree to its inclusion on the list. Only goods included on the list of essential goods will be exempt from the critical shortages exception. While this commitment at treaty level is novel, to the best knowledge of New Zealand officials, we have never used this GATT provision to block any of our exports, and it is not the basis for any of our usual export related regulation.

Both parties will retain access to all other provisions or exceptions in their WTO Agreements and the General Agreement on Tariffs and Trade (GATT)¹ meaning New Zealand will continue to be able to impose export controls for reasons such as national security threats, the protection of human, plant and animal health, public morals, or the regulation of classification, grading or marketing of commodities in international trade.

¹ This includes ongoing access to the use of ART:XX and ART:XI 2(b) of the GATT for the list of essential goods.

The list of essential products that New Zealand and Singapore have included on their lists is appended to the text of the Agreement but may change over time if both parties agree to edit the list.

The essential goods that New Zealand has included on its list are reflective of what we import from Singapore, how essential it is to our economy and wellbeing, whether New Zealand could or could not stand-up production of the specific good in the times of crisis, how substitutable the good is, and whether we can easily source the good from elsewhere. Based on this criteria New Zealand's list is mostly comprised of fuels, health related goods, and inputs for construction. Singapore's list is predominantly food stuffs and other primary products.

In deciding which goods should be included on the list of essential supplies, New Zealand has not tried to predict what a future supply shock may be, this is a departure from the declaration which was focused mostly on ensuring the smooth continuous flow of goods related to responding to the COVID-19 pandemic.

To ensure that the AOTES obligations are not extended to other parties, This Agreement will form a part of the New Zealand-Singapore CEP.

The AOTES does not cut across the role of the private sector in the production and management of supply chains and does not introduce any new regulation for the private sector. Further, this Agreement does not in any way commit New Zealand or Singapore to procure or guarantee the supply of goods to one another. It also has no impact on either party's ability to introduce necessary domestic regulation. When a Party adopts a measure that may adversely affect the bilateral trade in essential goods, the two parties will exchange information and consult with one another.

2. Nature and Timing of Proposed Treaty Action

The Protocol is due to be signed by the Minister for Trade and Investment, the Hon Todd McClay as part of a future bilateral engagement with Singapore. The Protocol will come into effect on a date to be agreed between New Zealand and Singapore upon the completion of both countries' respective domestic process and once there has been an exchange of written notes confirming the completion of each party's domestic process.

The Protocol amends the CEP to incorporate the AOTES as an integral part of the CEP. Specifically, the AOTES will be appended to Chapter Two Trade in Goods and will not apply to other countries in the Realm of New Zealand.

3. Reasons for New Zealand becoming a Party to the Treaty

Background to the AOTES

In October 2024, Cabinet agreed to launch negotiations with Singapore on the AOTES. Negotiations were held over eight rounds, all virtually and in line with the mandate approved by Cabinet. Officials have now substantively concluded negotiations with this being announced during the visit of Singapore's Prime Minister Lawrence Wong to New Zealand in October 2025.

Alongside the declaration, The AOTES also builds on other existing bilateral architecture such as the Supply Chains Working Group (SCWG).

There are significant advantages for New Zealand incorporating the AOTES into the CEP with Singapore. These can be categorised in four key ways: deepening our economic resilience, advancing our bilateral relationship with Singapore, enhancing our supply chain resilience, and signalling New Zealand's support of free and fair trade internationally. These are discussed in the section below.

4. Advantages and disadvantages of New Zealand Becoming a Party to the Treaty

Advantages

- 1) **Deepening our economic resilience and security:** The AOTES will improve New Zealand's access to critical goods from Singapore during periods of a supply shock. Singapore is New Zealand's fourth largest trading partner (YE March 2025) and one of our largest sources of fuels. Deepening New Zealand's fuel security has

been a key goal of the New Zealand government. During a supply shock Singapore will no longer be able to apply the critical shortages exception on these goods meaning there will be greater certainty for the ongoing commercial supply during a crisis. The provisions on supply chain cooperation will also allow for both parties to raise issues they are encountering with the production and sale of essential goods to one another.

- 2) **Growing our bilateral relationship:** Singapore is one of New Zealand's closest and most trusted partners. Both presently and historically, New Zealand and Singapore have worked closely on several innovative trade Agreements including the P4 which was the genesis of CPTPP. This Agreement demonstrates the level of trust between our two countries and our ability to continue to innovate together.
- 3) **Enhancing our supply chain resilience:** The AOTES will enable better and more efficient information sharing and cooperation between New Zealand and Singapore during a supply shock. Given Singapore's role as a global shipping and transit hub this information could be extremely valuable to New Zealand in understanding the breadth of supply shocks.
- 4) **Signalling our support for free and open trade.** As two small trading nations, Singapore and New Zealand are reliant on free and open trade, and it being protected by a strong international rules-based order. The AOTES sends a strong signal to both the private sector and other countries about our commitment to keeping trade open and making sure that our two countries complementary economies continue to best support one another.

Disadvantages

The New Zealand- Singapore CEP contains a special provision for Singapore to adopt any measure to address critical shortages, or threat thereof, of essential imports. During a supply chain crisis, Singapore may seek to use this provision as an exemption from the AOTES. However, the threshold for triggering this special exemption for Singapore is high, as the relevant goods need to be listed as essential in Singapore's domestic law, the critical shortages need to give rise to major difficulties for Singapore, and the measure should not be used to arbitrarily discriminate against New Zealand or to impose a disguised restriction on trade.

Officials have taken steps to mitigate this risk in three keyways:

- 1) By employing a positive list approach, New Zealand and Singapore need to agree to the inclusion of any good on either list, so both parties can check to see if we are

able to meet our obligations before it is included. To officials' best knowledge New Zealand has never previously imposed the critical shortages exception and the restricting of exports in this way runs against New Zealand's traditional trade philosophy.

- 2) Alongside the positive list approach, the text also includes a rapid review clause that will allow either party to call for an emergency meeting to discuss adding or removing goods from the lists. When one party requests a meeting, the other must respond within 5 days and hold a meeting within 10.
- 3) Maintaining other GATT exceptions. To the best knowledge of officials, New Zealand has never used GATT Article XI:2(a) to impose temporary export restrictions to address critical shortages of essential goods including during previous supply shocks. It is also not the basis for any of our existing export controls or domestic legislation. New Zealand will continue to be able to rely on all other GATT provisions or exceptions. This means both parties will be able to continue to impose export prohibitions and restrictions on the listed goods in a wide range of situations including for the regulation of classifications, grading and marking of commodities, the protection of human, plant, and animal life and the conservation of exhaustible natural resources. The AOTES will also not affect how we regulate our domestic industries.

5. Legal Obligations for New Zealand

Initial provisions

Paragraph 1 provides definitions of general application to the AOTES. The AOTES applies in the event of a supply chain disruption or an imminent supply chain disruption and applies only to essential goods listed in the Appendix that are traded between the Parties (Paragraph 2). The Parties may agree to amend the list of essential goods in the Appendix or have an urgent meeting to add or remove an essential good (Paragraph 3).

Connectivity and Facilitation of Trade in Essential Supplies

This section contains obligations for the Parties to expedite and facilitate the flow and transit of essential goods listed in the Appendix during times of crises, including through electronic processing of import documentation and customs fees and charges, and through cooperation to facilitate communication and enable continued access to transportation and logistics services (Paragraphs 4-8). The Parties are also required to consult with each other via national contact points and share relevant information when they are experiencing or responding to supply chain disruptions (Paragraphs 9-12). Paragraph 15 lists possible actions a Party may take to support the other Party's response to supply chain disruptions, such as sharing best practices or experiences or maintaining procedures to expeditiously process the export of essential goods. Paragraph 16 requires the Parties to refrain from unnecessary actions that would exacerbate supply chain disruptions.

Quantitative Restrictions

Paragraph 17 prevents the Parties from relying on GATT Article XI:2(a) to impose temporary export restrictions to prevent or relieve critical shortages of foodstuffs or other essential products.

Consultations and transparency

As mentioned above, the scope of consultation and transparency provisions in Paragraphs 19 to 27 does not cover 1) sanitary and phytosanitary (SPS) measures that are already subject to consultations and transparency requirements of the SPS Chapter of the New Zealand-Singapore CEP; and 2) domestic fisheries quota management system related measures (Paragraph 18).

The Parties are required to share or publish information and consult with each other when either Party adopts, or proposes to adopt, a measure during a supply chain disruption that may adversely affect the trade in essential supplies between the Parties (Paragraphs 19 to 26). If the matter is urgent or involves perishable goods, the consultations may take place within a shorter timeframe (Paragraph 27). Paragraph 28 requires the Parties to review and withdraw their measure as soon as practicable if the circumstances giving rise to its introduction no longer exist.

Cross-cutting provisions of the New Zealand – Singapore CEP

The Protocol does not affect the application of the cross-cutting provisions of the New Zealand-Singapore CEP, including the following provisions:

1) Objectives and General Definitions

The objectives (Article 1.1) and general definitions (Article 1.2) apply to matters covered under the New Zealand- Singapore CEP, of which the AOTES is an integral part.

2) Dispute Settlement

Chapter 14 (Dispute Settlement) applies to matters affecting the implementation, interpretation or application of the New Zealand-Singapore CEP.

3) Institutional Provisions

Chapter 15 (Institutional Provisions) applies to matters relating to the implementation of the New Zealand – Singapore CEP, of which the AOTES is an integral part.

4) General Provisions

The Protocol does not affect the application of Chapter 16 (General Provisions) of the New Zealand-Singapore CEP, including the General Exceptions (Article 16.4), Treaty of Waitangi (Article 16.7), Security (Article 16.9), Amendments (Article 16.15), Annexes (Article 16.16) and Termination (Article 16.17) provisions.

6. Measures that the Government could or should adopt to implement the treaty action, including specific reference to implementing legislation

No new legislation is required for New Zealand to ratify the AOTES and to enable it to implement its obligations. The AOTES will not impact on New Zealand's existing domestic

legislation or existing regulatory processes, as such no measures are needed to adopt the legislation. As this Protocol only applies during a supply shock no immediate related actions will be required from the Government. During a supply shock the Government will be required to refrain from imposing the critical shortages exception (ART: XI 2(a)) of the GATT.

The administration of the AOTES will be coordinated by national contact points. From the New Zealand side this contact point will be a member of the Trade and Economic Group at the Ministry of Foreign Affairs and Trade.

7. Economic, social, cultural and environmental costs and effects of the treaty action

The AOTES is intended to better prepare New Zealand for future supply shocks and to deepen our commercial connections with Singapore. It does not impose any economic costs on New Zealanders.

Officials have considered any potential impact this Protocol may have for Māori including via engagement with treaty partners. They are confident there are no issues relating to the Treaty in this Protocol and note the existing Treaty of Waitangi exemption clause in the existing FTA will continue to apply.

There are no immediate cultural or environmental impacts from this Agreement as it does not impact on any domestic legislation or regulation.

8. The costs to New Zealand of compliance with the treaty

The Protocol will not impose any new costs on New Zealand or impact existing revenue streams. No tariff revenue is affected in any way by this Protocol and the ongoing implementation of the AOTES will be covered out of existing budgets of New Zealand agencies.

This Protocol does not contain any investment related provisions but does signal an openness and commitment to supporting and growing the economies of New Zealand and Singapore through trade.

9. Completed or proposed consultation with the community and parties interested in the treaty action

The Ministry of Foreign Affairs and Trade has worked closely with the Ministry for Primary Industries, the Ministry of Business Innovation and Employment, New Zealand Customs, and the Ministry of Transport prior to and throughout the negotiation process. Relevant documents, such as Cabinet Papers and Submissions, were also reviewed by the Treasury, the Department of Prime Minister and Cabinet, and the Ministry for Regulation.

The Ministry of Foreign Affairs and Trade launched a public consultation process prior to the commencement of negotiations, which remained open through the initial negotiating rounds. Public feedback was limited with the main concerns being around the inclusion of fuel products on New Zealand's list of essential items.

During the negotiations the Ministry of Foreign Affairs and Trade also approached Treaty partners, Trade Unions, and Industry groups to ensure their views were considered and heard. There have been one on one consultations with any groups and organisations which have indicated an interest in the Agreement.

10. Subsequent protocols and/or amendments to the treaty and their likely effects

Noting that the AOTES is itself an amendment to a treaty, there is one further way amendments to the AOTES need to be considered. This is via the review and rapid review clauses that will allow for the products included on New Zealand and Singapore's lists to be amended.

With regards to the list of goods appended to this Agreement both parties can request meetings to amend the list of goods. New Zealand negotiated the inclusion of the rapid review clause to mitigate associated risks around the inclusion of food products.

The Agreement also contains a standard clause about the ability of the text to be amended upon the agreement of both parties.

11. Withdrawal or denunciation provisions in the treaties

The New Zealand – Singapore CEP, of which the AOTES will be a part, may be terminated by either Party on giving 180 days written notice to the other Party.