



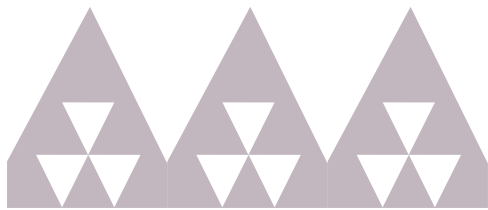
NEW ZEALAND
FOREIGN AFFAIRS & TRADE
Manatū Aorere

JUNE 2023

Aotearoa New Zealand's Inclusive Trade Action Group Three-Year Review of CPTPP

AS SET OUT IN THE JOINT DECLARATION ON
FOSTERING PROGRESSIVE AND INCLUSIVE TRADE





This Kaokao pattern featured throughout this document is from the tukutuku panels at Aorere Whare in the Ministry of Foreign Affairs office in Wellington, Aotearoa New Zealand.

The represents the way in which the Ministry prepares itself for exchanges at international fora to protect the national interests. Kaokao is the name for armpits. Open armpits signify a warrior. Warriors are the protectors of the people.

Ministerial Foreword



HON DAMIEN O'CONNOR
Minister for Trade and Export Growth

“Trade is the solution,” is a phrase I say both when travelling abroad as Trade Minister and when I’m engaging on the ground here in Aotearoa New Zealand.

We live in a time of global challenges that require global solutions. It’s accompanied by creeping protectionism that is characterised by a view that trade is the problem.

I believe trade can help tackle global challenges to deliver stability and raise standards of living, when its benefits are shared.

The Government’s Trade for All Agenda was developed to ensure that trade deals deliver for all New Zealanders. This approach began as negotiations progressed on the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), which was preceded by public unease around its predecessor: the Trans-Pacific Partnership.

Three years into CPTPP, this report is an early, but timely, review of how successful we've been in expanding the inclusivity of our trade agreements.

The benefits for New Zealand of CPTPP are significant and will continue to grow as membership of the Agreement expands in the future. I note that there are currently over 530,000 Kiwis employed by firms exporting into the bloc.

As an Inclusive Trade Action Group (ITAG) founding member, alongside Canada and Chile, New Zealand is committed to ensuring that these benefits are shared by all. The work New Zealand undertakes through ITAG helps to ensure that trade benefits are extended as widely as possible. This complements the Government's Trade for All Agenda.

The ITAG's expanding membership highlights its ongoing relevance as a driver of more inclusive and sustainable trade in our region. In 2021, New Zealand welcomed Mexico's inclusion as the fourth ITAG participant, followed by Costa Rica and Ecuador in May 2023.

This ITAG three-year review of CPTPP is an important mechanism for New Zealand to take stock of CPTPP's impacts and the implementation of its inclusive and sustainable elements. It will help to inform how we embed these priorities going forward.

The review's release is also timely because as this year's CPTPP chair, New Zealand has had a strong focus on promoting inclusive and sustainable trade.

The review shows that CPTPP has led to trade growth among its members in the early years after entry into force. It has also led to substantial tariff savings for New Zealand exporters and growing use of CPTPP tariff preferences, particularly for markets such as Japan and Canada.

Importantly, this review shows that Māori, women, small businesses, and regional economies are relatively well placed to experience the benefits of CPTPP. Although in many cases it is too early to identify the effects of CPTPP for these groups, this review provides an important benchmark to monitor and assess the impacts in the future.

The review also reiterates the importance of focusing on the Agreement's implementation with an inclusive lens. There is a way to go to fully realise the progressive aspects of CPTPP, but the New Zealand Government is committed to this process and the recommendations in this document provide valuable practical steps.

I would like to acknowledge New Zealand's partnerships with our fellow ITAG members, which have been fundamental to progressing this work. I would also like to acknowledge the invaluable contribution of our Treaty of Waitangi partners and business community stakeholders including sharing their experiences and views on CPTPP.

HON DAMIEN O'CONNOR

Minister for Trade and Export Growth

Executive Summary

The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) is one of New Zealand's most modern and sophisticated free trade agreements. The ratified agreement currently spans Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore and Viet Nam, although much of the data used in this review looks at the period prior to ratification by Peru, Chile, Malaysia, and Brunei Darussalam. Such is the attraction of CPTPP that a number of economies have subsequently sought to accede to the Agreement.

Alongside the signing of CPTPP in 2018, New Zealand, Canada, and Chile signed the Joint Declaration on Fostering Progressive and Inclusive Trade (the Joint Declaration). Under the Joint Declaration, members committed to examine the effectiveness of the CPTPP with respect to sustainable development, gender, Indigenous Peoples, domestic regional economic development, SMEs, labour rights, and the environment, including climate change. This report fulfills that commitment to examine the CPTPP's effectiveness and impact on New Zealand in these areas over its first three years.

This CPTPP review was undertaken using a hybrid approach that incorporates an effectiveness review, an impact assessment, and targeted stakeholder and Treaty partner engagement. The impact assessment provides quantitative analysis of the impacts of CPTPP, using recently developed distributional trade data. The effectiveness review complements the quantitative review by focusing primarily on how effective CPTPP's implementation has been in addressing the issues identified in the Joint Declaration. New Zealand's targeted consultation received responses from Ngā Toki Whakarurunga, the New Zealand International Business Forum, and Export New Zealand.

Evidence from the quantitative impact analysis is encouraging but tentative. In many cases, it is too early to identify and attribute impacts from CPTPP due to limited availability of data since entry into force and the time required for trade agreements to reach their full effects. However, it provides an early view of New Zealand's trade with CPTPP countries from an inclusivity and sustainability perspective and an indication of how impacts may be experienced in the future.

At the aggregate level, modelling shows that CPTPP increased trade flows amongst members in its first year after entry into force, albeit the evidence is based on a short time series so it is not possible to draw robust conclusions at this stage. There was stronger evidence that New Zealand's bilateral trade flows with Mexico have increased as a result of CPTPP. The utilisation of CPTPP tariff preferences with new FTA partners also grew over the Agreement's first two years, leading to substantial tariff savings on New Zealand's exports to Japan and Canada.

Evidence on distributional aspects at the firm level is more tentative. In general, the number of goods-exporting firms trading with CPTPP partners has increased and employment by these firms has grown, including for women and Māori. Median wages for women and Māori in these firms also tend to be higher than in firms that do not export to CPTPP countries. In addition, average tariff reductions on exports to CPTPP countries for SMEs, women-led firms, and Māori-led firms appear similar to those experienced by other firms on a trade-weighted basis. However, firm-level data only spans the first year of entry into force so results should be treated with caution. Gender and ethnic disparities in wages and firm leadership that exist in the wider export sector are also present among CPTPP exporters.

An assessment of CPTPP's impacts for regional economies and the environment is also constrained by data limitations. However, the relatively high share of exports to CPTPP countries from regions such as Taranaki, the

West Coast, Waikato, and Nelson-Marlborough suggest they may be more likely to benefit from stronger trading relationships with CPTPP countries in the future. New Zealand's trade in environmental goods with CPTPP countries has also grown since 2019 as part of a broader expansion of goods trade.

There are two overarching findings of the effectiveness review of CPTPP with respect to implementation of the Agreement. The first is that implementation activities are still ramping up across most areas. Many committees are only just developing their work programmes for engagement and a small number of committees have not met at all. This challenge has been compounded by the impacts of COVID-19 in several ways. In the early stages of the pandemic, New Zealand government resources, like that of other CPTPP partners, were diverted to focus on the COVID-19 response. CPTPP committees that planned to meet were required to meet virtually, which affected the effectiveness of discussions and planning. Finally, the more recent CPTPP accessions work programme has further affected prioritisation of implementation activities planned at the committee level.

The second overarching finding is that CPTPP chapters and their implementing committees are not always well aligned with ITAG 'themes', nor do they always embed the issues identified in the Joint Declaration into committee-level work programmes. For some chapters there are clear existing connections between the issues and the committee's mandate. For example, the SME committee has a clear connection. For other chapters the links are less obvious and more creative approaches are needed.

Overall, the Review finds that it is necessary to take deliberate, structured action to ensure that all parts of the New Zealand economy benefit from CPTPP. Inclusive trade does not happen by itself. It requires continuous attention and focus. Making trade more inclusive is an iterative and ongoing process that needs to build on lessons learnt over time.

BASED ON THESE FINDINGS, THE FOLLOWING RECOMMENDATIONS ARE MADE:

1. That New Zealand, and other ITAG members as practicable, commit to conduct a similar review of CPTPP in five years;
2. That further stakeholder and expert reviews are sought on this report so that improvements can be made to the next review;
3. That New Zealand continues to invest in improving and publishing disaggregated trade data, particularly with respect to Māori and women;
4. That New Zealand works more closely with ITAG partners on common issues, with a particular focus on ensuring ITAG themes are better embedded in CPTPP implementation activities;
5. That New Zealand continues to leverage its position as CPTPP chair in 2023 to support recommendation four;
6. That New Zealand works with ITAG members to prioritise ITAG themes in the CPTPP General Review;
7. That New Zealand continues to seek new ITAG members to participate in this work and to support trade policy coherence across CPTPP chapters and their associated committees;
8. That New Zealand convenes a lessons learnt working group with ITAG partners to share the results of this analysis and possible approaches to future evaluations; and
9. That New Zealand looks for opportunities to share the results of this review with other regional and plurilateral groupings to promote inclusive and sustainable trade.



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1. Introduction

The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) is a free trade agreement (FTA) involving 11 economies in the Asia-Pacific region. It entered into force on 30 December 2018. To date, Australia, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Viet Nam have ratified the CPTPP, although much of the data used in this report looks at the period prior to ratification by Peru, Chile, Malaysia, and Brunei Darussalam.

Alongside signing the CPTPP in 2018, New Zealand, Canada, and Chile signed the Joint Declaration on Fostering Progressive and Inclusive Trade (the Joint Declaration)¹. The Joint Declaration established the Inclusive Trade Action Group (ITAG), comprising New Zealand, Canada, and Chile. In October 2021, Mexico was welcomed as the first new ITAG member, followed by Costa Rica and Ecuador in May 2023.

The ITAG supports New Zealand's Trade for All Agenda, an approach to trade policy that ensures that all New Zealanders benefit from trade and addresses global and regional issues of concern, including environmental issues and labour standards. The aim is to ensure that trade policy works alongside other government policies to support sustainable and inclusive economic development and delivers trade benefits across all parts of the New Zealand economy. This commitment to Indigenous interests, inclusive and sustainable trade has been a core feature of New Zealand's 2023 CPTPP chairing.

Under the Joint Declaration, Canada, Chile, and New Zealand committed to examine the effectiveness of CPTPP within three years of entry into force with respect to its progressive and inclusive elements. This review is referred to as the "ITAG Review" of CPTPP. The ITAG Review coincides with the more general CPTPP Third-Year Review, which is intended to examine the impact of the CPTPP Agreement on all Parties within three years of entry into force. The wider CPTPP Third-Year Review was postponed due to the unprecedented circumstances arising from the COVID-19 pandemic but is now underway.

For New Zealand, the ITAG Review presents an opportunity to understand trade engagement with CPTPP countries in the initial years after the Agreement's entry into force. It will help to build understanding of the efficacy of the Agreement with respect to its inclusive aspects and inform a view of how the impacts of CPTPP may be experienced in the future. This will ensure that CPTPP's inclusive and sustainable outcomes are delivered and insights can be learnt that will support future negotiation of trade agreements.

1 See Annex A1 for a full copy of the Joint Declaration.

2. Background

2.1 The Comprehensive and Progressive Agreement for Trans-Pacific Partnership

The CPTPP is a high quality FTA with advanced provisions across a range of areas. Its members are 11 economies in the Asia-Pacific region, namely Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Viet Nam. CPTPP entered into force on 30 December 2018 for the initial six ratifying countries, and to date Australia, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore and Viet Nam have ratified the Agreement. A number of economies have also since applied to accede to the Agreement.

Figure 1 – CPTPP’s 11 founding member economies



Source: MFAT

CPTPP provides significant benefits for New Zealand exporters across all sectors of the New Zealand economy, with meaningful tariff savings from entry into force. In addition, New Zealand imports from CPTPP partners are now mostly duty free and will phase out entirely by 2024, delivering additional benefits for consumers including through lower prices. For New Zealand, the CPTPP established Canada, Japan, Mexico, and Peru as FTA partners for the first time.²

CPTPP also helps to address non-tariff barriers to trade in goods by reducing the time that exporters spend waiting for goods to clear customs, lowering compliance costs, increasing predictability around other countries' processes, supporting the growing services and digital sectors, and providing greater opportunities to bid for government procurement contracts in CPTPP markets.

In addition, the Agreement will help to raise labour and environmental standards in the region, reduce the impact of unfair practices, and promote sustainable development. The labour and environment outcomes in the CPTPP were the most comprehensive New Zealand had achieved in a FTA at that time, with labour and environment standards made legally enforceable for the first time.

For further information on CPTPP's outcomes and text, see the Ministry of Foreign Affairs and Trade's (MFAT's) [website](#).

2.2 The Inclusive Trade Action Group (ITAG)

ITAG has its origins in the Joint Declaration on Fostering Progressive and Inclusive Trade. This was issued by New Zealand, Canada, and Chile alongside the 2018 CPTPP signing. ITAG was established in the margins of APEC in 2018 to build on the aspirations in the Joint Declaration. In October 2021, Mexico was welcomed as the first new ITAG member, followed by Costa Rica and Ecuador in May 2023. ITAG is open for other economies to join, both economies within CPTPP and outside the Agreement.

ITAG members work together to help make trade policies more inclusive and ensure that trade and investment benefits are shared broadly. This work supports New Zealand's Trade for All Agenda, which aims to create trade policy that supports sustainable and inclusive economic development and addresses global and regional issues of concern.

ITAG members focus on collaborating in the following areas: Indigenous trade, women's economic empowerment, the sustainable development goals, labour, environment and climate change, and small and medium-sized enterprises (SMEs) development. An initial work plan under ITAG was agreed in 2019 and was updated in 2022. New Zealand, Canada, and Chile have hosted a series of workshops, seminars, and meetings to advance an inclusive trade agenda. These have taken place alongside APEC, the OECD, the WTO, and other international trade engagements.

2 The 1981 Agreement on Trade and Economic Co-Operation between New Zealand and Canada contains some trade aspects but is not considered an FTA.

3. Methodology for Conducting the Three Year Review

This review was undertaken using a hybrid approach that incorporates an impact assessment, an effectiveness review, and targeted stakeholder consultation. The results are presented in this report around the key themes set out in the Joint Declaration. Canada and New Zealand agreed to a common approach for the review, with each country reviewing the impacts on its own country, while Chile and more recently Mexico have been observers to the process.

3.1 Impact assessment

The impact assessment was comprised of two parts—aggregate analysis and firm-level analysis—that each contribute a different perspective to quantitatively understanding the impacts of CPTPP.

It is important to note that quantitative analysis in this review was significantly constrained by data availability since CPTPP’s entry into force. Due to lags in the release of data, some datasets used are limited to only one or two years. This notably constrains this review’s findings, given it can take several years for economic activity to respond fully to trade agreements and a large data series is needed to robustly identify and attribute impacts. However, the quantitative analysis is still important for shedding light on the initial effects of CPTPP and the early engagement of groups such as Indigenous peoples, women, and SMEs in trade with CPTPP countries. This establishes an early picture of how likely these groups are to benefit from CPTPP in the future and develops a dataset and benchmarks to assess impacts in the years ahead.

The two approaches used in the impact assessment were:

i. Aggregate analysis

The aggregate analysis of CPTPP impacts employs a standard analytical approach for measuring trade impacts. Trade data was analysed to understand trends in the composition and size of trade flows between New Zealand and CPTPP countries. Trade flows are influenced by a wide range of factors so changes in trade data alone are difficult to attribute to the introduction of CPTPP, particularly given the relatively limited time since entry into force. The significant disruption caused by COVID-19 further complicates the picture. However, overall trade trends are a useful starting point for understanding New Zealand’s trading relationship with CPTPP countries and for providing important context to understand distributional impacts across interest groups.

To supplement the aggregate analysis, a structural gravity model of trade was developed. Gravity models are a common tool in ex post assessments of trade agreements as they isolate (within certain parameters) the marginal impacts of a trade agreement from the wide range of other factors influencing trade flows. In doing so, they provide a quantitative estimate of the aggregate effect of a trade agreement on trade flows. Analysis of tariff preference utilisation was also undertaken to look into the extent that firms are actually making use of the negotiated CPTPP tariff outcomes available to them.

This aggregate analysis helps to illustrate the overall impacts of CPTPP. However, there are two main limitations. Firstly, the gravity modelling requires detailed trade data, including from trading partners where data is available with a longer lag than in New Zealand. This means that the gravity modelling was only able to estimate the impact on trade flows for the first year after CPTPP's entry into force. Secondly, the aggregate analysis does not shed light on the outcomes that this review is particularly seeking to address – i.e. the impacts of CPTPP on sustainable and inclusive outcomes.

ii. Firm-level analysis

To provide a “bottom-up” perspective on the impacts of CPTPP for individuals and firms, this review makes use of datasets recently developed by MFAT on the distribution of New Zealand's trading firms and their owners, managers, and employees. These datasets are derived from Stats NZ's two core administrative databases: the Longitudinal Business Database (LBD) and the Integrated Data Infrastructure (IDI).

The LBD provides a comprehensive picture of New Zealand firms based on the companies register and other administrative information. Goods exports and imports for each firm are also able to be identified through customs data. The IDI contains similar administrative microdata but for individuals, including demographic data. Due to the inclusion of monthly payroll data in each database, firms' data from the LBD and individuals' data from the IDI can be linked, creating a fairly comprehensive dataset of New Zealand's goods exporting firms, as well as the characteristics of their owners, managers, and employees.^{3 4}

A key caveat is that the dataset does not cover services trade due to the lack of a comprehensive administrative data source. As services trade comprised around a third of New Zealand's trade with CPTPP countries prior to COVID-19, this is a notable limitation that MFAT aims to address in the future.

A further limitation is that the data is only available for three years up to March 2020 – i.e. two years prior to and the first year after entry into force. As noted, this significantly constrains the ability to identify effects of CPTPP on groups of interest at this stage. It also means that firm-level data does not show impacts from the COVID-19 pandemic. However, the dataset provides a picture of how these groups were engaged in trade with CPTPP countries soon after entry into force and therefore how likely they are to experience impacts in the future.

3.2 Effectiveness review

The effectiveness review aims to understand whether CPTPP has the ability to ensure Parties reach their objectives, as defined in the text of the Agreement itself. In this respect, it looks at the range of activities underway across CPTPP's committees that focus on advancing inclusive and progressive outcomes.

In order to facilitate the effectiveness review, officials undertook information-gathering exercises in July 2021, October 2021, April 2022, and July 2022. A final update was undertaken in May 2023 as this report was being drafted. New Zealand CPTPP committee leads were asked to complete an information-gathering template setting out the activities underway in their respective committees that advance inclusive and progressive outcomes.

3 Further details on the methodology are set out in the MFAT Working Paper *'All for Trade and Trade for All: Inclusive and Productive Characteristics of New Zealand Goods Exporting Firms'*. All firms and individuals are de-identified and other protocols used to protect privacy. For further information on this, see the [Stats NZ website](#).

4 Due to incomplete or missing data, the dataset is not able to cover all businesses. Approximately 80% of goods exporting firms are included in the dataset, representing around 85% of goods exports to CPTPP countries in 2020.

This information forms the core input into the effectiveness review, set out in Sections 5 to 10.

There are two main challenges with undertaking the effectiveness review. Firstly, some CPTPP committees had not yet met at the time of the information-gathering exercise and others were in the early stages of developing their work programmes. Secondly, CPTPP chapters and their implementing committees are not always well aligned with ITAG 'themes', nor do the Committees always understand how inclusive and progressive themes are relevant to their chapters and how to embed these themes into committee-level work programmes. These challenges are discussed in the conclusion, which identifies lessons learnt from the review.

3.3 Targeted stakeholder consultation

Finally, targeted stakeholder consultation was undertaken. Feedback on a draft of this review was sought from a range of Treaty partners and stakeholders, including business, union, and trade advocacy groups. Responses were received from Ngā Toki Whakarururanga⁵, the New Zealand International Business Forum (NZIBF), and Export New Zealand (Export NZ). A summary of this feedback is provided in Section 11 and the full responses from Ngā Toki Whakarururanga, the NZIBF, and Export NZ are provided in Annex A3.

⁵ Ngā Toki Whakarururanga is the establishment group representing the Wai 2522 claimants. More information can be found at <https://www.ngatoki.nz/>.

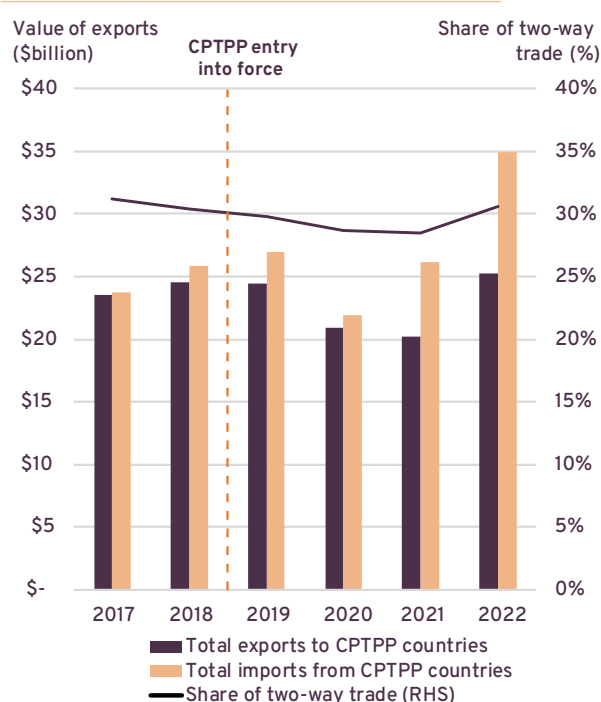
4. Aggregate Impacts of CPTPP

4.1 Description of New Zealand's trade with CPTPP partners

For its first three years in force, CPTPP was New Zealand's largest trading bloc.⁶ In 2019, New Zealand's two-way trade with CPTPP partners that had ratified the Agreement amounted to \$51 billion or 30% of total trade (Figure 2). In 2020, the COVID-19 pandemic had a significant effect on international trade, which led to trade with CPTPP countries falling to \$43 billion and remaining well below preCOVID levels in 2021. However, trade with CPTPP partners has recovered quickly and two-way trade reached \$60 billion in 2022.

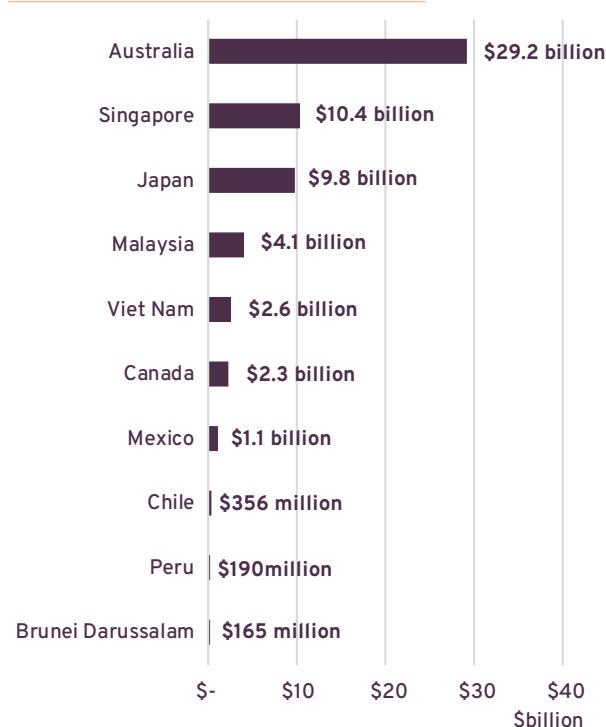
Australia is by far New Zealand's largest trading partner in CPTPP, making up around half (49%) of two-way trade with CPTPP countries in 2022 (Figure 3). Australia is also our largest services trading partner as it is a large source and destination for travel and tourism. Singapore (17%) and Japan (16%) are New Zealand's next largest trading partners in CPTPP. Although New Zealand had FTAs with countries such as Australia and Singapore prior to CPTPP, countries that were new FTA partners through CPTPP—namely Canada, Japan, Mexico, and Peru—collectively accounted for 22% of New Zealand's CPTPP trade in 2022.

Figure 2 - New Zealand's total goods and services trade with CPTPP countries



Source: Stats NZ; calendar years.

Figure 3 - New Zealand's total two-way trade with CPTPP member countries

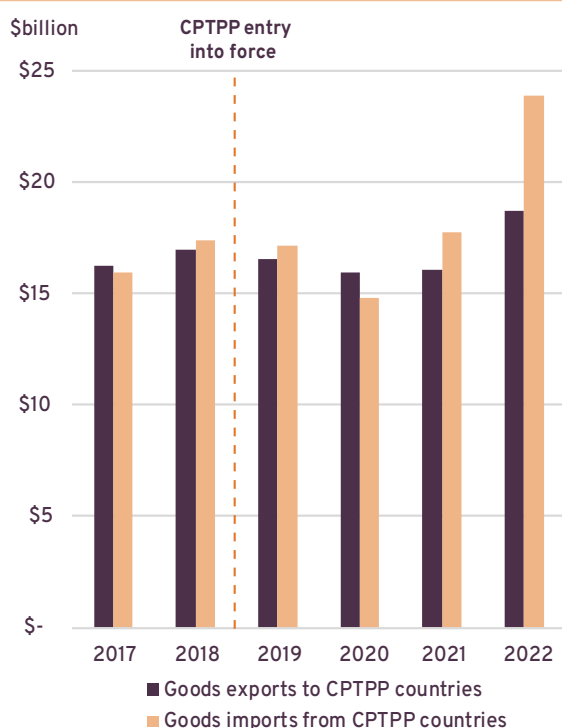


Source: Stats NZ; calendar year 2022.

⁶ The Regional Comprehensive Economic Partnership, which came into force on 1 January 2022, is now the largest trading bloc of which New Zealand is a member.

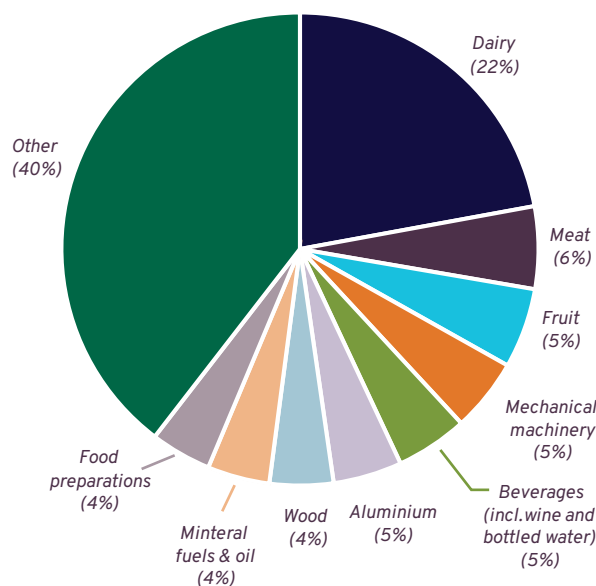
New Zealand's goods trade with CPTPP countries was heavily affected by COVID-19 but has recently recovered (Figure 4). The COVID-19 pandemic significantly affected goods exports to CPTPP members through the Agreement's early years, due to weak economic demand in many countries, supply chain disruption, and a surge in shipping costs. After remaining steady at around \$17 billion during the pandemic, the value of New Zealand's goods exports to CPTPP countries grew by 17% in 2022, reaching almost \$19 billion. Although a rise in export prices over this period means that growth in export volumes was lower. New Zealand's goods imports from CPTPP countries also fell in 2020 as the onset of the pandemic significantly dampened domestic demand for imports from households and businesses. However, imports from CPTPP countries recovered quickly, consistent with New Zealand's wider trade flows, and reached almost \$24 billion in 2022.

Figure 4 – Value of New Zealand's goods exports and imports with CPTPP countries



Source: Stats NZ; calendar years.

Figure 5 – Composition of New Zealand's goods exports to CPTPP countries



Source: Stats NZ; calendar year 2022.

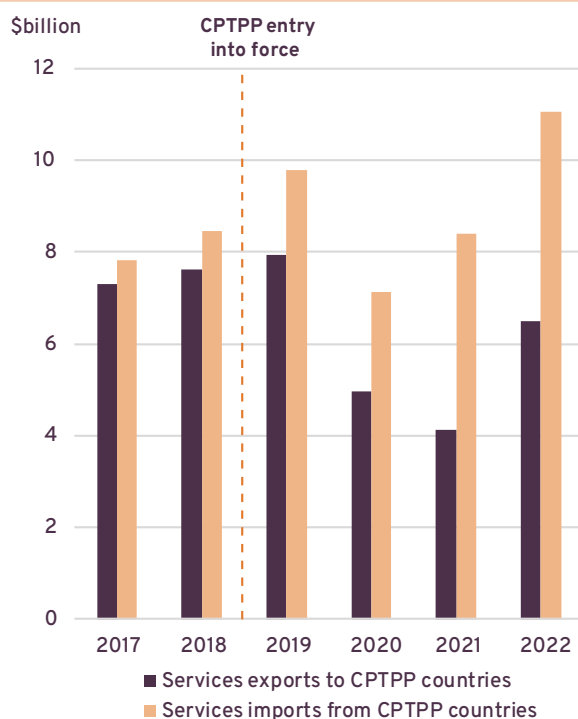
Dairy products are New Zealand's largest goods export to CPTPP countries, accounting for around 22% of goods exports in 2022 (Figure 5). Other food and beverage products also rank highly, including meat (6%), fruit (6%), and beverages (5%). New Zealand's goods export profile to CPTPP partners is slightly different and more diversified than its global export profile. For example, New Zealand's ten largest exports globally make up 74% of the value of all goods exports, whereas those same ten products make up only 58% of exports to CPTPP partners. The slightly smaller share of dairy exports among CPTPP trading partners is one factor, as dairy products comprise almost 30% of New Zealand's goods exports overall.

In terms of goods imports, CPTPP countries are important sources of mineral fuels, mechanical and electrical machinery, and vehicles. These products make up almost half of all New Zealand's goods imports from CPTPP countries. Following the closure of the Marsden Point oil refinery last year, Singapore has also become an important source of

mineral fuel imports. Other major imports include plastics (3%) and medical equipment (3%).

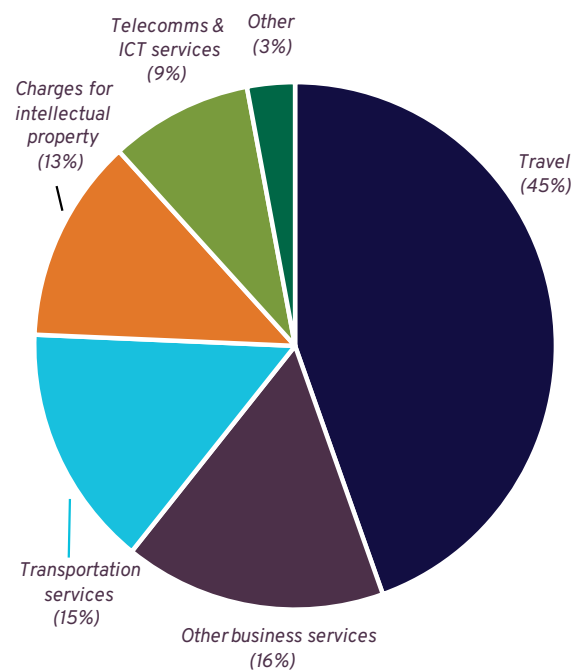
New Zealand’s services exports with CPTPP countries were also significantly impacted by the pandemic (Figure 6). New Zealand’s services exports with CPTPP countries are dominated by travel, business services, and transportation, which together made up 71% of services exports in 2022 (Figure 7). Many of these exports were heavily affected by COVID-19, particularly restrictions on the movement of people across borders. For example, although tourism exports began to recover in 2022, they remained at only 61% of their pre-COVID value. In total, New Zealand exported \$6.5 billion worth of services exports to CPTPP countries in 2022, 18% below pre-COVID levels.

Figure 6 – Value of New Zealand’s goods exports and imports with CPTPP countries



Source: Stats NZ; calendar years.

Figure 7 – Composition of New Zealand’s services exports to CPTPP countries



Source: Stats NZ; calendar year 2022.

Unlike services exports, imports of services from CPTPP partners have surpassed pre-COVID levels, reaching \$11 billion in 2022. New Zealand’s services imports are slightly more diversified than services exports, with tourism, transportation, and business services comprising 61% of imports. Business services and telecommunication services have grown noticeably since CPTPP’s entry into force, achieving sustained growth through the pandemic and comprised 35% of services imports from CPTPP members in 2022. Insurance

and pension services have also grown since entry into force and now comprise 10% of services imports.

4.2 Estimated impacts of CPTPP from gravity modelling

Due to the range of factors influencing trade, it can be difficult to identify the effects of individual trade agreements among all the other noise affecting New Zealand's international trade flows. To address this, the New Zealand government commissioned the development of a structural gravity model of trade to assist with assessing the impacts of CPTPP (and other FTAs) on the economy. This found tentative but encouraging signs that CPTPP increased trade flows in its early years.

Structural gravity models are commonly used for ex post analysis of trade agreements. These models use the persistent underlying frictions in international trade to control for influences on trade patterns, making them well suited for identifying incremental impacts of policy changes such as FTAs. Various controls are able to account for yearly variations in production across countries, whether policy related or from environmental shocks such as droughts or floods. They also account for yearly variations in income and expenditure, which influence the demand for imports.

After controlling for other factors, the structural gravity modelling found weak evidence of a small increase in trade in manufactured products between countries that initially ratified CPTPP.^{7,8} The model estimated that CPTPP resulted in a 3.4% increase in trade between signatories in its first year of operation. However, the short time series for the underlying data limits the ability to identify this with greater confidence. The 95% confidence interval for this estimate ranges from -6.8% to +14.7%, which means that we cannot be certain the estimate is not statistically different from zero. This sort of imprecision of short-run effects is not unusual or surprising at this stage, as most FTAs take time to reach their full effect.⁹ By way of example, the gravity model found that the New Zealand-China FTA had a small but statistically insignificant impact in the first year after entry into force but this became large, positive, and statistically significant over time, accumulating to a 23% increase in bilateral trade after 10 years in force.

To understand the impacts further, a variation of the gravity model examined the impacts on each bilateral pairing of CPTPP countries. This found signs that CPTPP resulted in trade growth for around half of CPTPP's participating countries (Table 1). However, consistent with the aggregate findings, many of these results were estimated with only weak evidence. 11 of the 42 directional flows identified a statistically significant impact (i.e. the confidence intervals did not span zero), of which six showed evidence of trade growth and five showed negative impacts.

7 Due to data constraints, the model focusses on trade in manufactured goods. This does include manufactured food products (including, importantly for New Zealand, dairy, meat, and other processed foods) but excludes unprocessed products such as logs, fruit, and fresh or live seafood.

8 Results for this specification of the structural gravity model are only available up to 2019 because this is the latest year for which comprehensive data is available.

9 About half of the 190 FTAs assessed in the model had first year effects that were not statistically different from zero. However, on average, if the short-term effects of an FTA are positive and statistically significant, the long-term effects are too.

Table 1 – Changes in trade of manufactured goods in 2019 associated with CPTPP entry into force

		Destination					
	AUS	CAN	JPN	MEX	NZL	SGP	VNM
AUS	-	17.6% (2.5 , 34.9)	-1.2% (-13.2 , 12.4)	1.8% (-11.0 , 16.5)	-2.0% (-8.8 , 5.3)	-4.2% (-17.3 , 11.1)	4.6% (-17.8 , 33.0)
CAN	8.3% (-3.2 , 21.2)	-	10.6% (-8.5 , 33.5)	-11.3% (-18.8 , -3.1)	5.4% (-5.5 , 17.5)	25.0% (13.4 , 37.7)	19.3% (-10.7 , 59.4)
JPN	-0.9% (-11.2 , 10.5)	-5.2% (-12.5 , 2.6)	-	-10.2% (-15.9 , -4.0)	-4.6% (-15.2 , 7.3)	-17.9% (-22.8 , -12.7)	9.3% (-17.6 , 44.9)
MEX	8.3% (-2.7 , 20.7)	-4.5% (-11.7 , 3.3)	12.2% (0.0 , 26.0)	-	17.9% (4.2 , 33.5)	5.8% (0.9 , 10.9)	-18.5% (-38.2 , 7.4)
NZL	-6.3% (-17.5 , 6.4)	-0.7% (-14.4 , 15.1)	-5.8% (-19.6 , 10.4)	54.5% (27.8 , 86.7)	-	-0.9% (-15.3 , 15.9)	16.8% (-10.1 , 51.7)
SGP	-8.2% (-16.0 , 0.5)	-4.1% (-12.7 , 5.3)	-24.0% (-29.3 , -18.2)	4.6% (-1.4 , 10.9)	-19.6% (-28.7 , -9.4)	-	-35.3% (-51.0 , -14.7)
VNM	4.8% (-16.7 , 31.8)	18.2% (-9.1 , 53.5)	4.1% (-19.8 , 35.1)	18.7% (-6.4 , 50.6)	13.3% (-7.6 , 38.8)	-14.8% (-33.5 , 9.3)	-

Source: Sense Partners; calendar years.

Note: Table shows percentage change in trade values, 95% confidence intervals are shown in brackets,¹⁰ and bolded values have confidence intervals that do not include zero.

For New Zealand, CPTPP had the most notable impact on bilateral trade with Mexico – a country with whom New Zealand did not have a trade agreement prior to CPTPP. New Zealand’s exports to Mexico increased by 55% and imports increased by 18% in 2019, with both results statistically significant. There was also weak evidence of trade growth with Viet Nam, a small decrease in trade with Australia, and limited impacts on trade with Canada. Weak evidence of impacts in either direction for Australia, Singapore, and Viet Nam is not surprising given that trade agreements were already in place with these countries, meaning that CPTPP had less additional impact. The limited impacts for trade with Canada and Japan is more surprising, although the phasing of market access outcomes for these countries may mean that the impacts of CPTPP will take longer to have a material impact on trade flows.

A final variation of the gravity modelling examined the impacts of CPTPP by industry for 2019 and 2020 – i.e. the first two years from entry into force.¹¹ This model specification is less robust for a range of reasons so these results should be treated with caution¹². However, they showed that the largest changes in trade from CPTPP were in basic metals, machinery and equipment, and vehicle manufacturing. For New Zealand, the largest statistically significant increase by industry was in food exports to Japan, which were estimated to have grown by 11% as a result of CPTPP.

10 A confidence interval displays the probability that a parameter will fall between a pair of values around the mean. Confidence intervals measure the degree of uncertainty or certainty in a sampling method.

11 A slightly different set of data requirements means that the dataset could be extended to 2020.

12 Data limitations meant that the directional trade effects model used excluded controls for globalization, changes in domestic trade, and long-term lagged effects of other trade agreements.

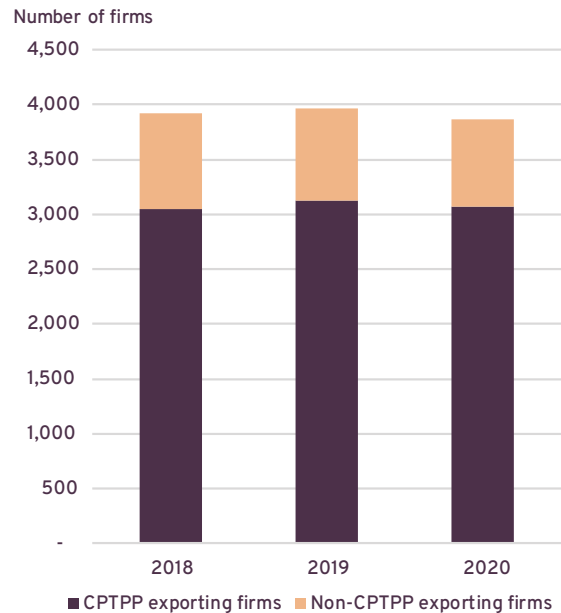
4.3 Firm-level data on New Zealand’s CPTPP exporters

Firm-level data can be a useful complement to aggregate trade data for understanding the nature of New Zealand’s trade with CPTPP countries and getting a sense of possible early impacts from CPTPP. This data shows that just over 3,000 New Zealand firms exported goods to CPTPP countries in the first year after entry into force, an increase of around 1% from 2018 which was the last full year prior to CPTPP (Figure 8). Firms that exported CPTPP countries made up around 80% of all New Zealand’s goods exporting firms in 2020 and employed around 530,000 New Zealanders (up 6% from 2018).

Given that CPTPP covers a number of countries with which New Zealand had existing trade agreements, it is useful to look at firms based on which CPTPP countries they exported to. That is, to identify whether they exported to a market that was a new FTA partner for New Zealand through CPTPP (i.e. Canada, Japan, and Mexico at the time), whether they exported only to CPTPP markets where New Zealand already enjoyed preferential market access through existing FTAs (i.e. Australia, Singapore, and Viet Nam), or only to non-CPTPP countries. This provides a better indication of the number of exporting firms likely to have benefited from CPTPP.

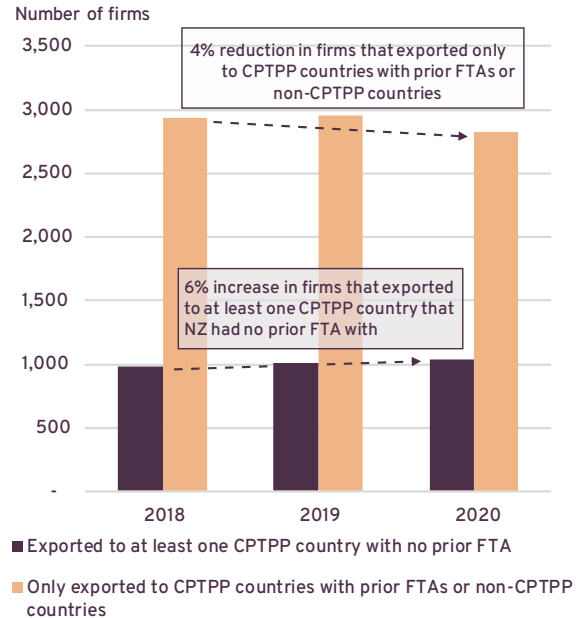
Between 2018 and 2020, there was a 6% increase in the number of firms that exported goods to at least one new FTA partner achieved through CPTPP (Figure 9). This coincided with a 4% reduction in the number of firms that only exported to CPTPP countries with existing FTAs and/or non-CPTPP countries. Although only descriptive, this could suggest the existence of an early switching effect as firms altered exporting behaviour in response to new CPTPP markets.

Figure 8 – Number of firms that exported goods to CPTPP countries vs non-CPTPP countries



Source: Stats NZ and MFAT; years ending March.

Figure 9 – Number of goods exporting firms that exported to new and existing FTA partners



Source: Stats NZ and MFAT; years ending March.

However, the size of this switching effect is smaller when looking at the value of exports to CPTPP countries rather than the number of firms. About 90% of trade by value in 2020 was from firms who had the same broad combination of trading partners as they did in the year to March 2019. Only about 0.5% of exports were by firms who did not export to CPTPP partners in 2019 and shifted to at least some trade with CPTPP partners. Meanwhile, from a product perspective, almost all CPTPP exports (98%) in the year to March 2020 were by firms that were already exporting in 2019 and exporting the same products (defined at the HS2 level). Only about 0.5% were new product lines by existing firms and 1.4% by new firms.

Given the early stage of CPTPP and the relatively high barriers and transaction costs involved with entering new markets and developing product lines, it is to be expected that there was not a large immediate shift towards new markets. This data shows promising signs that at least some firms may have responded to new opportunities from CPTPP in the first year after entry into force. It is important to note that as this data is for the year up to March 2020, it does not take into account the impacts of the COVID-19 pandemic. Future assessments will be needed to understand how the pandemic affected firms in this dataset.

4.4 Utilisation of CPTPP tariff preferences by New Zealand exporters

Another method for understanding the aggregate impact of CPTPP is to look at the tariff preference utilisation rate. The utilisation rate calculates the amount of eligible exports that have been claimed under CPTPP negotiated outcomes as a percentage of total eligible exports.¹³ This metric is particularly important for measuring the performance of an FTA as it indicates how well firms are actually making use of negotiated tariff outcomes available to them.

Although expected utilisation rates should be close to 100% as it is expected that all firms would make use of tariff savings available to them, in many instances this is not the case. Previous utilisation studies have shown that lower than expected utilisation occurs for a range of reasons. For example, complex Rules of Origin requirements can make it difficult for firms to prove eligibility, high administrative costs can discourage use, small marginal tariff reductions from the FTA or the existence of other FTAs may reduce incentives, and a lack of exporter awareness may limit use. Data quality issues can also lead to issues with the utilisation estimates. Notwithstanding this, utilisation analysis is an informative indicator for FTA performance, complementary to gravity modelling results, which provides an indication of uptake by exporters and useful context for understanding broader impacts.

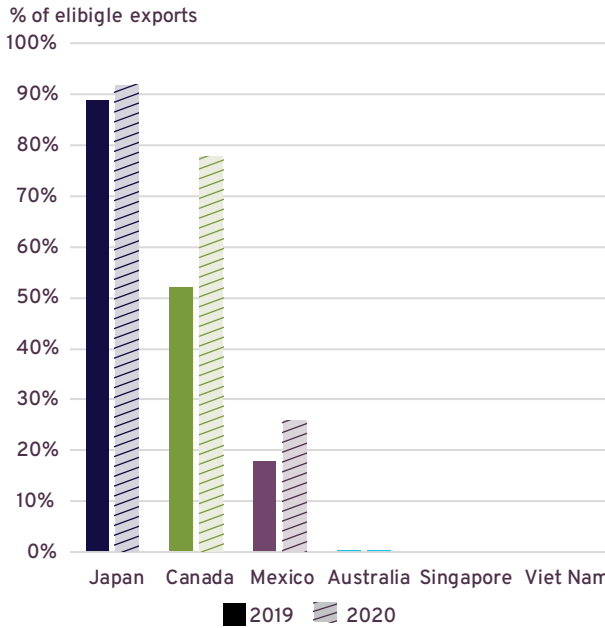
New Zealand's preference utilisation rate with CPTPP countries shows moderate use of CPTPP tariff outcomes in 2019 and 2020 (Figure 10). As would be expected, New Zealand exports experienced the highest utilisation rates with countries that were new FTA partners for New Zealand through CPTPP – Canada, Mexico, and Japan. Exporters to Japan realised the highest utilisation rate, with 92% of all eligible exports claimed under CPTPP for 2020. Following this is Canada, with exporters claiming 78% of all eligible trade under CPTPP preference, and finally Mexico, with 26% of eligible goods exports claiming CPTPP preference in 2020. It is worth noting that for both Canada and Mexico, around two thirds of all New Zealand goods exports also enter Most Favoured Nation (MFN) duty free.

13 Eligible exports are defined as exports with negotiated tariff lines less than the current Most Favoured Nation (MFN) setting. By way of example, exports that come under MFN free or exceed a tariff rate quota are not considered eligible exports.

Utilisation rates for 2019 and 2020 also show clear signs of increased use for these new FTA partners. The slow uptake in CPTPP preference in some areas may be due to limited awareness amongst New Zealand exporters, or working through administrative requirements for claiming preference under CPTPP. Given only two years' of data is available, further assessments in the years ahead will be useful to see whether this trend continues.

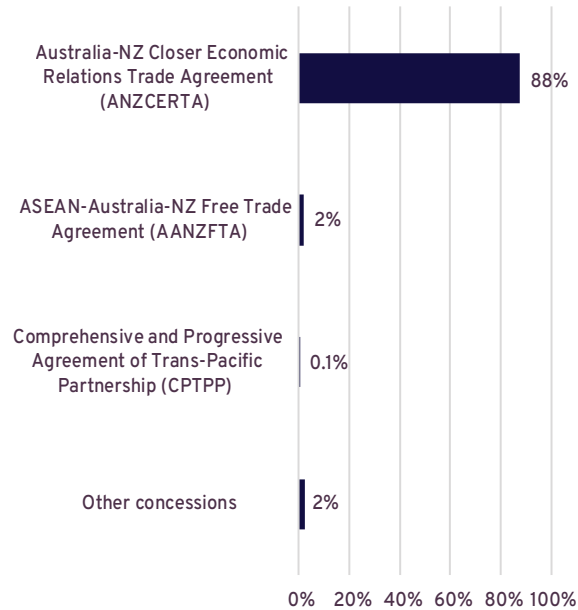
Meanwhile, CPTPP preference utilisation for Australia, Singapore, and Viet Nam was negligible due to the existence of other long-standing trade agreements with these countries. For example, New Zealand's largest and most well established trading partner, Australia, shows a very low utilisation rate of 0.1% over CPTPP's first two years. However, this is due to other trade agreements between the two nations, most notably Closer Economic Relations, which means that preferential outcomes were already possible, making claims under CPTPP unnecessary (Figure 11). Similarly, very low CPTPP utilisation rates for Singapore and Viet Nam are due to preferential outcomes available in other agreements. In particular, 99% of exports to Singapore already entered duty free under MFN rates.

Figure 10 – New Zealand’s preference utilisation on exports with CPTPP’s countries



Source: MFAT; calendar years.

Figure 11 – New Zealand’s preference utilisation on exports to Australia by trade agreement



Source: MFAT; 2020 calendar year.

Preference utilisation analysis also makes it possible to estimate the value of duty savings enjoyed on New Zealand exports to CPTPP countries. In total, duties saved on New Zealand exports from CPTPP outcomes on goods are estimated to be \$179 million for 2019 and \$251 million in 2020 (Table 2). Due to the high utilisation rate and large trade flows with Japan, the majority of duties saved were on exports to Japan, while trade with Canada was the second largest source of duty savings. Although the gravity modelling showed limited evidence of trade creation effects from CPTPP in these markets, the utilisation analysis suggests that CPTPP still had substantial tariff saving benefits for New Zealand exporters that may have already been exporting to these markets.

Table 2 – Estimated duty savings for New Zealand exports to CPTPP countries

Year	Australia	Canada	Japan	Mexico	Singapore	Viet Nam	Total
2019	\$0.2m	\$33m	\$143m	\$2m	-	\$0.02m	\$179m
2020	\$0.2m	\$80m	\$170m	\$1m	-	\$0.05m	\$251m

Source: MFAT calculations; calendar years.

Note: Tariff savings estimates are calculated as the difference in MFN and CPTPP tariff rates, multiplied by value of trade claiming CPTPP preference. They likely overstate savings somewhat.

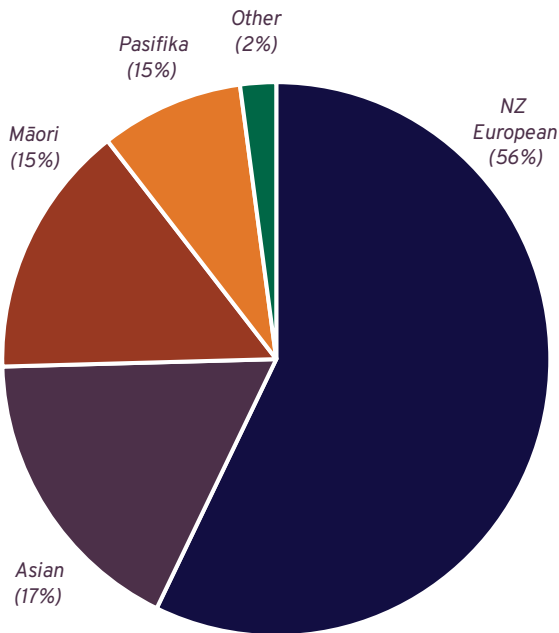
5. Indigenous Peoples

5.1 Māori involvement in CPTPP exporting

Exporting is an important driver of economic and labour market outcomes for Māori due to the significant role of trade in the Māori economy. Māori are well represented in New Zealand’s export workforce, with Māori employment in exporting firms higher than their representation in the wider workforce. Māori export employment is particularly prominent in the primary sector, with Māori comprising around one in four workers in industries such as agriculture, forestry, and fishing. Māori employed in exporting firms also earn more on average than Māori employed in domestically focussed firms¹⁴.

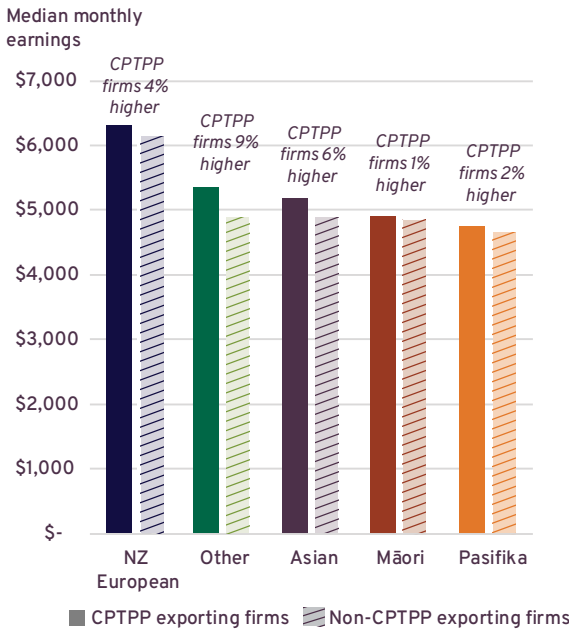
Similar employment trends can be seen for Māori workers in firms that export to CPTPP countries. Māori are relatively well represented amongst New Zealand’s goods exporting firms, with around 78,000 Māori employed in CPTPP goods exporting firms, representing 15% of employees in these firms. This is higher than in firms that export to other markets, where Māori comprise 13% of employees (Figure 12). This is partly due to relatively high rates of Māori employment in SMEs (50 employees or less) and large firms (250 employees or more) that export to CPTPP countries.

Figure 12 – Ethnicity of employees in New Zealand’s CPTPP goods exporting firms



Source: Stats NZ and MFAT; year ending March 2020.

Figure 13 – Median monthly earnings by ethnicity for employees in goods exporting firms



Source: Stats NZ and MFAT; year ending March 2020.

Māori workers also earn slightly higher wages in firms that export to CPTPP countries than in firms that export to other markets. However, the earnings benefits of employment in CPTPP exporting firms are smaller for Māori than for other ethnicities (Figure 13). In

14 MFAT Working Paper, ‘All for Trade and Trade for All: Inclusive and Productive Characteristics of New Zealand Goods Exporting Firms’, 2022

addition, consistent with wider labour market trends, large ethnic pay gaps exist among CPTPP exporters. Earnings for Māori in CPTPP exporting firms are lower on average than almost all other ethnic groups, with the exception of Pasifika employees, although these earnings differences are similar for both CPTPP exporters and those that do not export to CPTPP markets.

While Māori are relatively well represented in the workforces of CPTPP exporting firms, their representation on the leadership teams of these firms is significantly lower. Data constraints mean that it is difficult to compile an accurate picture of Māori-led firms, but estimates based on employment and earnings data for goods exporting firms suggest that as few as 2% of firms that export to CPTPP markets have a Māori majority in leadership¹⁵. While this is likely an underestimate as it does not include Māori entities such as Māori authorities¹⁶, the low rate of Māori in senior leadership roles in CPTPP exporting firms is consistent with wider trends. It is also lower than the corresponding measure for firms that do not export to CPTPP markets, where 4% of exporting firms have a Māori leadership majority.

Although the number of Māori-led firms that export to CPTPP markets is low, Māori-led firms have a slightly higher concentration of their exports in CPTPP markets than non-Māori led firms. Around 30% of goods exports from firms with a Māori majority in leadership went to CPTPP markets in 2020, compared with 26% for non-Māori led firms. This may reflect the relatively high share of agricultural and horticultural products in our goods export profile with CPTPP markets and the higher rate of Māori ownership and leadership in these sectors.

As discussed in Section 3, the dataset does not cover services trade due to the lack of a comprehensive administrative data source. As tourism is an important revenue source for the Māori export economy, particularly in regional areas, this presents a notable data gap for understanding Māori engagement in trade with CPTPP countries. However, given that CPTPP has few outcomes directly related to tourism, it is likely to be less of a limitation for understanding the impacts of CPTPP.

5.2 Initial impacts from CPTPP for Māori

It is too early to identify clear impacts from CPTPP for Māori, particularly in economic indicators such as employment, wages, and trade flows that are influenced by a range of factors and can take time to respond. As discussed, lags in data availability mean that the most recent data available at an individual and firm level (necessary for understanding distributional impacts for population groups) is one year after CPTPP entered into force.

Data shows that Māori employment in goods exporting firms increased slightly in the year after CPTPP's entry into force, although it is not possible to establish a direct CPTPP effect. The number of Māori employed in firms that exported goods to CPTPP markets increased by 4% between 2018 and 2020. This was the same growth rate as for Māori employed in firms that did not export to CPTPP markets. In addition, growth in Māori employment among

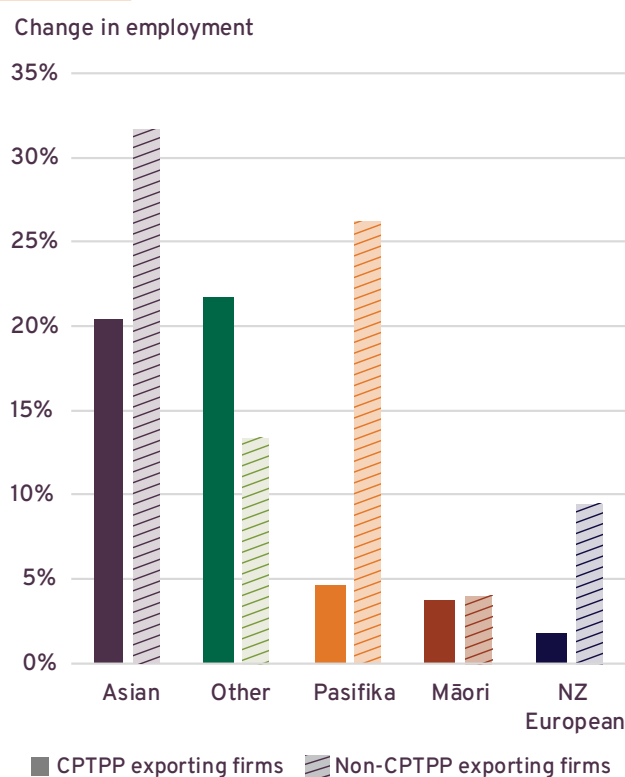
15 Estimates of Maori-led firms uses the methodology set out in Verevis et al (2022), which is based on the assumption that the 5% highest paid employees constitute a firm's senior leadership. Firms are defined as "Māori-led" if Māori represent more than half of the firm's highest paid employees and 'non-Maori led' if not. This is a data-driven approach to defining leadership to partly overcome constraints and limitations in the dataset. While earnings is only a rough proxy for decision-making responsibilities, it provides some insight into the representation of Māori in leadership roles in exporting firms.

16 StatsNZ identify 12 Māori authority goods exporters in 2021, which exported around \$870 million worth of goods. However, a detailed breakdown by export markets is not available so it is not possible to identify those that exported to CPTPP countries.

CPTPP exporters was lower than for other ethnic groups apart from New Zealand Europeans (Figure 14). This makes it difficult to attribute growth in Māori employment to CPTPP and indicates that growth in Māori export employment lagged that of most other ethnic groups between 2018 and 2020.

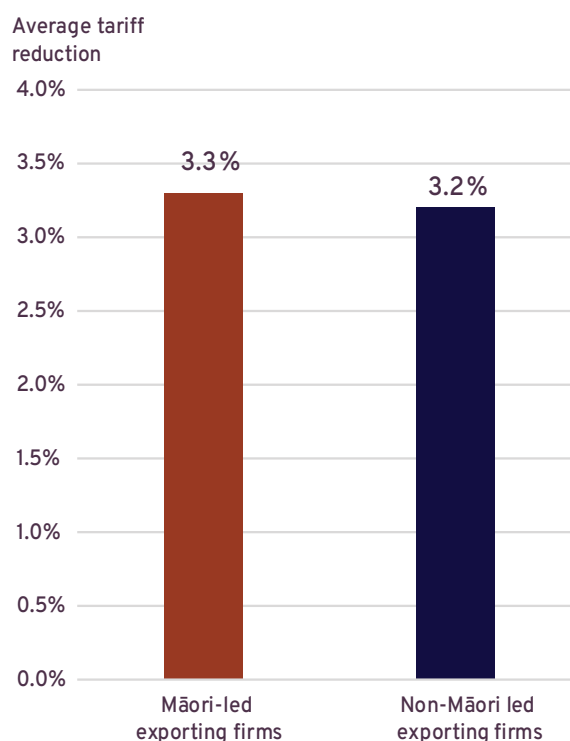
It also appears that the number of Māori-led firms that exported to CPTPP countries fell in the first year after entry into force. 75 Māori-led firms exported to CPTPP countries in the year to March 2020. This was down from an average of 98 firms over the preceding two years, with the reduction concentrated in SMEs. However, similar falls were seen across all exporting firms, including non-CPTPP exporters and non-Māori led firms, suggesting the decline in the number of Māori CPTPP exporters may have been part of a wider trend.

Figure 14 – Employment growth in goods exporting firms by ethnicity between 2018 and 2020



Source: Stats NZ and MFAT; year endings March.

Figure 15 – Average trade-weighted tariff reduction for Māori-led and non-Māori led CPTPP exporting firms



Source: Stats NZ and MFAT; year ending March 2020.

One area where we can identify a clearer effect from CPTPP is in the estimated average trade-weighted tariff reduction experienced by Māori exporters¹⁷. On a trade-weighted basis, Māori-led exporting firms experienced average tariff reductions of 3.3% on exported products to CPTPP markets in the first year after entry into force (Figure 15). This compares with an average tariff reduction of 3.2% for non-Māori firms. While this measure does not take into account firm’s actual utilisation of tariff preferences, it indicates that tariff reductions from CPTPP were available at a similar rate for both Māori-led and non-Māori led firms.

See the annex of distributional data tables (A4.1, A4.2 and A4.3) for more detailed data.

¹⁷ This is an aggregate estimate of tariff reductions based on goods export data for exporting firms and calculated from average tariff reductions at a tariff-line level, weighted by the value of exports across those products.

5.3 Implementation of CPTPP and other relevant developments for Māori

There is no specific chapter or committee in CPTPP that addresses Indigenous Peoples' interests in trade. However, key trade in goods outcomes from CPTPP that particularly benefit Māori businesses include tariff elimination and significant tariff reductions in the primary sector, including for forestry, fisheries, kiwifruit, apples, wine, sheep and beef meat, and dairy export products.

CPTPP also includes a number of provisions aimed at improving the treatment of traditional knowledge and traditional cultural expressions, including in relation to intellectual property. For example, New Zealand was able to negotiate an option to allow the government to adopt a plant variety rights protection system that gives effect to the *International Convention for the Protection of New Varieties of Plants* (UPOV 91), rather than acceding to it. This allowed the New Zealand government to make changes to its plant variety rights legislation that met the CPTPP obligation of giving effect to UPOV 91 while also fulfilling treaty obligations by adopting measures to protect kaitiaki relationships with taonga species¹⁸. The new legislation came into effect in 2022. Ngā Toki Whakarururanga considers that this legislation does not address ongoing Māori concern in relation to the ability of the Crown to protect taonga species in the context of CPTPP, specifically due to the current wording of Annex 18-A of CPTPP.

Like other New Zealand free trade agreements, CPTPP contains a Treaty of Waitangi exception (Article 29.6). This explicitly allows the New Zealand government to adopt measures it considers necessary to provide more favourable treatment to Māori, including in fulfilment of its obligations under the Treaty.¹⁹ This provision allows the government to implement policies that protect and promote Māori interests without being obliged to offer equivalent treatment to persons from other CPTPP economies, provided these are not used as arbitrary or unjustified discrimination or a disguised restriction on trade. This exception applies across the entire CPTPP. We further note that Ngā Toki Whakarururanga does not accept that the Treaty Exception clause provides adequate protection for Māori rights and interests.

Wai 2522

In considering CPTPP implementation in respect of Māori, it is important to acknowledge the Waitangi Tribunal's Wai 2522 inquiry, which examined claims regarding the Trans-Pacific Partnership Agreement (and later carried over to CPTPP), in particular its consistency with the Crown's obligations to Māori under the treaty and its principles. There were multiple 'stages' to this inquiry and various issues considered by the Tribunal, including in relation to the Article 29.6 Treaty of Waitangi Exception described above, the Plant Variety regime established under Article 18.7.2(d) and Annex 18-A, and various provisions in Chapter 14 (E-commerce).

18 For reference purposes, "Treaty" is used when referring to the English language version, "Tiriti" is used when referring to the reo Māori version, and "treaty" is used when referring to both documents.

19 See CPTPP Article 29.6: Treaty of Waitangi" 1. Provided that such measures are not used as a means of arbitrary or unjustified discrimination against persons of the other Parties or as a disguised restriction on trade in goods, trade in services and investment, nothing in this Agreement shall preclude the adoption by New Zealand of measures it deems necessary to accord more favourable treatment to Maori in respect of matters covered by this Agreement, including in fulfilment of its obligations under the Treaty of Waitangi. 2. The Parties agree that the interpretation of the Treaty of Waitangi, including as to the nature of the rights and obligations arising under it, shall not be subject to the dispute settlement provisions of this Agreement. Chapter 28 (Dispute Settlement) shall otherwise apply to this Article. A panel established under Article 28.7 (Establishment of a Panel) may be requested to determine only whether any measure referred to in paragraph 1 is inconsistent with a Party's rights under this Agreement."

- Stage 1²⁰ considered the Treaty of Waitangi exception clause and found that it “would be likely to function in the TPPA substantially as intended” and “could be said to offer a reasonable degree of protection to Māori interests.”
- Stage 2²¹ considered the Crown’s engagement with Māori over the plant variety rights regime, and found the claims of Treaty breach in relation to these issues were not made out.
- Claims relating to the engagement and confidentiality approach taken in the negotiations were withdrawn following their settlement between the claimants and the Crown via a mediation agreement.
- In its third and final report,²² the Tribunal considered certain provisions in the e-commerce chapter of CPTPP and found that in negotiating this chapter, the Crown breached the treaty principles of partnership and active protection for the taonga that is mātauranga Māori. The Tribunal did not make recommendations in its report, citing the constructive changes the Crown had made to engagement with Māori over the period of the inquiry. The Government response to the final report has been published online²³. This response outlines the significant engagement with Treaty partners on digital issues, adjustments to subsequent negotiation positions, and a suite of domestic policy initiatives that further address Māori interests and concerns raised by the Wai 2522 claimants in the digital area.

Other developments in response to Wai 2522 inquiry include the finalisation and publication of an investor-state dispute settlement (ISDS) Protocol in 2022.²⁴ This followed the Tribunal suggesting that the Crown adopt a Protocol, in dialogue with Māori, to govern New Zealand procedure should New Zealand become a party to an ISDS case in which the Treaty of Waitangi exception would be relied on.

As reflected in the mediated settlement, and withdrawal of claims in the inquiry relating to the engagement and confidentiality approach, there have been significant developments in the Crown’s engagement with Māori since the CPTPP was negotiated. This includes the Crown, through MFAT, establishing formal engagement partnership arrangements and mechanisms with Māori trade groups, resourcing to support that engagement, discussing Māori trade rights, issues and interests, and reflecting those rights and interests, where possible, in trade negotiations.

20 [Report on the Trans-Pacific Partnership Agreement \(2016\)](#)

21 [Report on the Crown’s Review of the Plant Variety Rights Regime \(2020\)](#)

22 [The Report on the Comprehensive and Progressive Agreement for Trans-Pacific Partnership \(justice.govt.nz\) \(2021\)](#)

23 [Government response to the Third and Final WAI2522 report \(2022\)](#)

24 [An ISDS Protocol | New Zealand Ministry of Foreign Affairs and Trade \(mfat.govt.nz\) \(2022\)](#)

ENGAGEMENT WITH TREATY PARTNERS

The New Zealand government has regular engagement with a number of Treaty partner representative groups on a range of issues including CPTPP implementation, to strengthen awareness, understanding, and utilisation among Māori of the opportunities and benefits available under CPTPP. This engagement is ongoing and will continue to inform the Government's approach to trade policy and negotiations going forward, including in respect of issues such as those identified in the Wai 2522 claims. Treaty partner feedback is noted in Section 11.

The New Zealand government has worked specifically with Ngā Toki Whakarururanga²⁵ as part of this review process to identify how Māori rights, interests, duties and responsibilities are affected by the implementation of CPTPP – while acknowledging that there are a range of actors, including other Māori trade entities, with interests in this review that may have different perspectives.

SUMMARY OF NGĀ TOKI WHAKARURURANGA'S ASSESSMENT OF IMPACTS OF IMPLEMENTATION FOR MĀORI

An overview of the feedback provided by Ngā Toki Whakarururanga that touches on implementation, the current text of the Agreement, and considerations of how the Agreement could evolve in future, is provided in Section 11, while those aspects that are focused on the impact on Māori of implementation to date are highlighted here.

Ngā Toki Whakarururanga expressed concern that the current institutional structure of CPTPP means that there is no existing committee with oversight of the impacts of implementation on Māori and Indigenous Peoples, whether positive or negative.

Ngā Toki Whakarururanga said that the current Treaty of Waitangi exception clause in CPTPP has created uncertainty for Māori around the scope of protection it provides.

The implementation of Chapter 18 (intellectual property) was also said to constitute an ongoing violation of Te Tiriti, and specifically to have increased the exposure of Māori Tiriti rights over taonga species to more intrusive exploitative rights.

Ngā Toki Whakarururanga said that Māori Tiriti rights are currently vulnerable to ISDS in relation to climate change measures involving Indigenous Peoples, and in relation to decisions around natural resources such as water and mining, given that New Zealand does not have side letters to exclude ISDS between New Zealand and all CPTPP Parties (New Zealand has such side letters with Australia, Brunei, Chile, Malaysia, Peru and Viet Nam). There was also concern around current general protections for natural resources.

Regarding the quantitative impacts of CPTPP, Ngā Toki Whakarururanga questioned what inferences can be drawn from the data, including more attention to the impacts of trade diversion. More broadly, they called for a holistic and qualitative approach to wellbeing and development of a methodology that allows a fully informed assessment through Te Ao Māori lens (Māori worldview).

25 Under a Memorandum of Understanding between Ngā Toki Whakarururanga Establishment Group and The Ministry of Foreign Affairs and Trade regarding the report on the CPTPP Joint Declaration on Fostering Progressive and Inclusive Trade, signed on 2 October 2022.

6. Gender

6.1 Female involvement in CPTPP exporting

The number of New Zealand women engaged in exporting has increased steadily over the past two decades, and women in exporting firms tend to receive higher wages on average than those in domestically focused businesses. However, as in many developed economies, New Zealand women remain underrepresented in the export sector. Female representation is particularly low in export-oriented industries such as manufacturing and primary industries, where women comprise only a third of employees in exporting firms. Gender earnings gaps also tend to be slightly larger in exporting firms²⁶.

Similar gender disparities exist in firms that export to CPTPP countries. Around 240,000 women were employed in New Zealand firms that exported goods to CPTPP countries in the year to March 2020, representing 45% of the workforce. This is slightly higher than women's share of employment in firms that do not export to CPTPP countries (44%), but lower than the 47% that women comprise in New Zealand's total labour force. Female representation is particularly low among SMEs (1 to 49 employees) and mid-sized CPTPP exporters (50 to 249 employees), with only 37% and 39% of employees respectively identified as women in these firms (Figure 16). This is consistent with other research that has shown that the constraints contributing to female under-representation in exporting industries tend to be lower in larger firms²⁷.

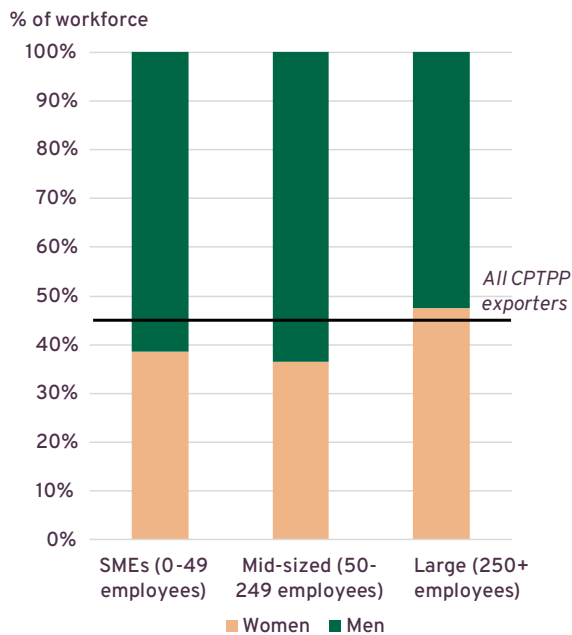
Women also tend to have higher earnings in CPTPP exporting firms than in firms that do not export to CPTPP countries. On average, women receive 4% higher monthly earnings in CPTPP exporting firms than they do in firms that export to other markets (Figure 17). However, this earnings "premium" for women in CPTPP exporting firms is less than for their male counterparts, as men employed in CPTPP exporting firms receive 11% more than in non-CPTPP exporting firms. Gender-based earnings gaps are also larger in firms that export to CPTPP countries, with median monthly earnings for women 24% lower on average than men, compared with 16% lower in non-CPTPP exporting firms²⁸. This suggests that although women have higher representation and wages in firms that export to CPTPP countries, they may not be experiencing the economic benefits of trade as much as men in these firms.

26 MFAT Working Paper, 'All for Trade and Trade for All: Inclusive and Productive Characteristics of New Zealand Goods Exporting Firms', 2022

27 Ibid.

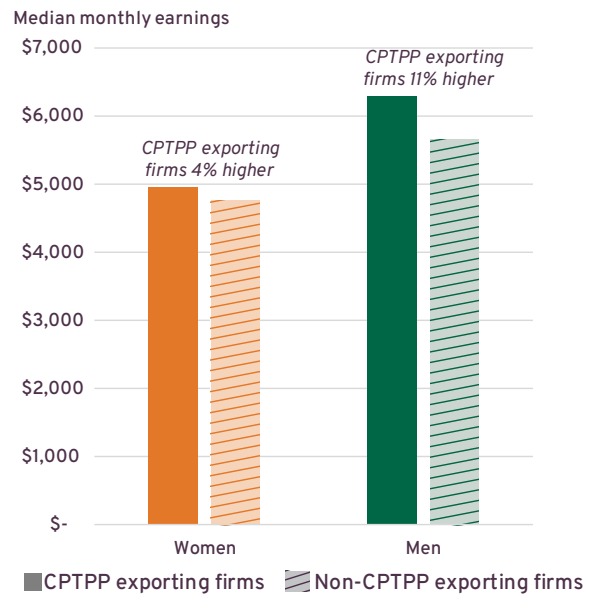
28 Median monthly earnings figures discussed in this section are different to the more commonly discussed "gender pay gap", which is usually defined as the difference in median hourly earnings. While both measures show earnings differences between men and women, median hourly earnings is a more direct estimate of remuneration levels per hour worked, whereas monthly earnings includes differences in the number of hours worked. As women are more likely than men to work part-time and less likely to work overtime, the difference in median monthly earnings tends to be larger than the official gender pay gap based on hourly earnings, which has averaged around 10% in New Zealand over the past decade.

Figure 16 – Gender representation of employees in CPTPP goods exporting firms



Source: Stats NZ and MFAT; year ending March 2020.

Figure 17 – Median monthly earnings by gender in goods exporting firms



Source: Stats NZ and MFAT; year ending March 2020.

As discussed in Section 5 for Māori, it is difficult to compile an accurate picture of the extent of female leadership in exporting firms. However, estimates based on employment and earnings data suggest that 17% of goods exporting firms that exported to CPTPP markets had a female majority on their leadership teams in the year to March 2020²⁹. This is slightly lower than the proportion of female-led firms across all goods exporting firms (19%) and noticeably lower than for domestically focused firms, which has previously been estimated at 28%³⁰. In addition, female-led CPTPP exporting firms tend to be smaller than their male-led counterparts, with the vast majority (86%) having fewer than 50 employees. As a result, CPTPP exports from female-led firms comprised just 5% of the total value of New Zealand’s exports to CPTPP countries in 2020.

6.2 Initial impacts from CPTPP for women

While it is too early to identify and attribute impacts to CPTPP, female employment in CPTPP exporting firms grew noticeably between 2018 and 2020. In fact, employment growth among women made up almost all employment growth over this period. The number of women in firms that exported to CPTPP countries grew by 14%, or around 30,000 women, while employment for men remained largely unchanged (Figure 18). This contributed to the female share of employment increasing from 42% to 45%. It also coincided with a small reduction in the number of women employed in firms that exported only to other markets, which may suggest at least some of the increase is a switching effect due to firms opting to export to CPTPP partners. The vast majority of female employment growth in CPTPP firms (92%) occurred in the largest firms – i.e. those with more than 250 employees.

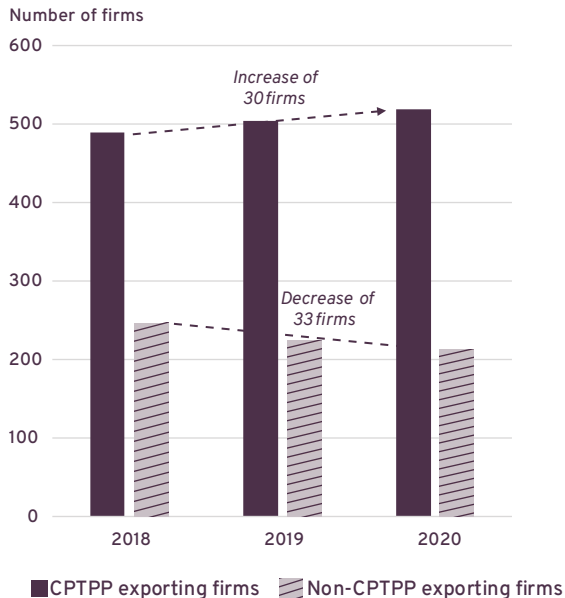
29 This uses the same approach as for estimating the number of Māori-led firms, which is based on the assumption that the 5% highest paid employees constitute a firm’s senior leadership. Firms are defined as “female led” if women represent more than half of the firm’s highest paid employees and vice-versa for “male led” firms. “Split” firms are those with 50% men and women among their highest paid employees.

30 MFAT Working Paper, ‘All for Trade and Trade for All: Inclusive and Productive Characteristics of New Zealand Goods Exporting Firms’, 2022

It also appears that a small number of women-led exporting firms have begun exporting to CPTPP countries that previously were not. The number of firms with a majority of women on their leadership teams that exported to CPTPP countries increased by 30 (6%) from 2018 to 2020, which corresponded with a similar-sized fall in the number of firms that did not export to CPTPP countries (33 firms or 14%). Overall, the number of women-led exporters remained largely unchanged at around 730 firms.

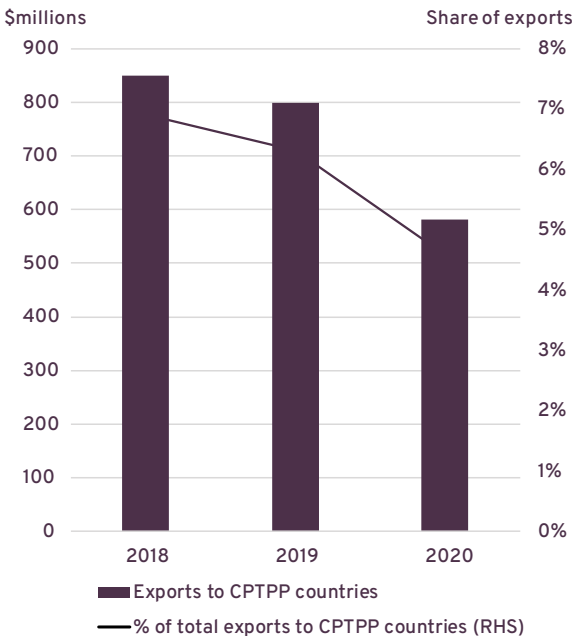
It is important to note that the growth in female employment and increase in number of female-led exporting firms occurred prior to and after CPTPP’s entry into force. This suggests the increased representation of women may reflect broader trends in New Zealand’s export sector rather than the effects of CPTPP itself. In addition, despite growth in the number women-led firms, the value of goods exports to CPTPP partners from these firms actually decreased by \$260 million (31%) between 2018 and 2020 (Figure 19). The availability of additional data in the future will be helpful for gaining a clearer understanding of the drivers of these trends.

Figure 18 – Number of women-led goods exporting firms



Source: Stats NZ and MFAT; years ending March.

Figure 19 – Goods exports from female-led firms to CPTPP countries



Source: Stats NZ and MFAT; years ending March.

In addition, women-led exporting firms experienced similar average trade-weighted tariff reductions as male-led firms from CPTPP. Women-led exporting firms experienced average tariff reductions of 3.2% in the first year after CPTPP’s entry into force. This is slightly higher than for male-led firms (3.0%).

See the annex of distributional data tables (A4.4, A4.5 and A4.6) for more detailed data.

6.3 Implementation of CPTPP and other relevant developments for women

CPTPP does not have a specific chapter or committee on gender, but does include gender-specific provisions and Parties to the Agreement agreed to reaffirm the importance of promoting gender equality. For example, Article 23.4 of the Development Chapter addresses

women and economic growth, recognising the value of enhancing opportunities for women to participate in the domestic and global economy. It also specifies that Parties shall consider undertaking cooperative activities to enhance the ability of women to fully access and benefit from the economic opportunities created by CPTPP. These activities could include training, information exchanges, and consideration of workplace flexibility.

There is also reference to the promotion of gender equality in the Cooperation and Capacity Building Chapter (Article 21.2) and in relation to cooperation under the Labour Chapter (Article 19.10).

In addition, the Global Trade and Gender Arrangement (GTAGA) can trace its origins from CPTPP through ITAG. GTAGA was signed by New Zealand, Canada, and Chile in August 2020 and is New Zealand's first trade arrangement specifically on gender. It commits participants to addressing barriers that women face when participating in trade and aims to support economic and societal change by promoting gender considerations internationally. Mexico joined the GTAGA in 2021, followed by Colombia, Peru, Costa Rica, and Ecuador.

GTAGA Participants have reaffirmed their commitment to the Sustainable Development Goals, specifically Goal 5 on ending all forms of discrimination against women and girls everywhere and leaving no-one behind.

GTAGA commits to the goal of gender equality in the workplace. Participants agree to cooperate and share best practices to eliminate discrimination in employment and occupation, including on the basis of sex, pregnancy, possibility of pregnancy, maternity, gender and gender identity, and sexual orientation.

GTAGA also includes cooperation activities to promote the internationalization of SMEs led by women and the fuller integration of women into the formal economy. It contains specific cooperative activities aimed at raising awareness of and enhancing economic opportunities for Indigenous women and women in rural areas.

7. Small and Medium Enterprises (SMEs)

7.1 SMEs' involvement in CPTPP exporting

SMEs are a key feature of New Zealand's export economy and make up the majority of New Zealand's exporting firms. However, due to their small size and limited resources, they can struggle to overcome the costs and challenges of international trade. These include undertaking market research and product development, managing distribution networks, complying with different regulatory frameworks, and absorbing the financial risks associated with trade. As a result, although SMEs represent the majority of New Zealand exporting firms, their share of total exports is small and they are much less likely to participate in exporting than larger firms³¹. Efforts to streamline processes, minimise costs, and improve regulatory coherence through trade agreements can therefore provide significant benefit to small firms.

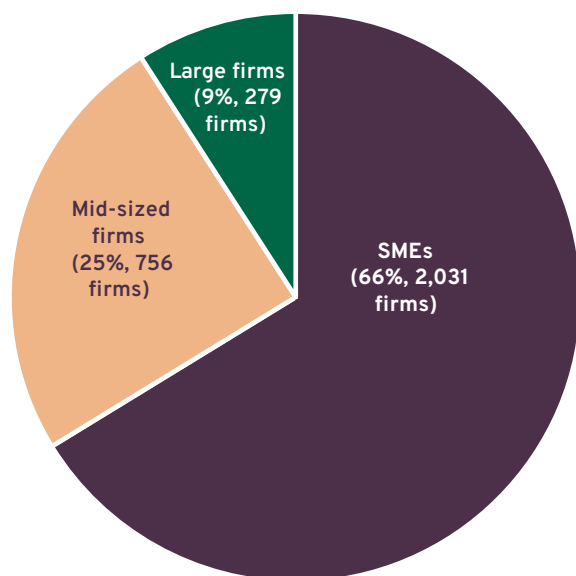
SMEs are relatively well represented among New Zealand's CPTPP exporters³². Around two thirds (67%) of firms that exported goods to CPTPP countries in 2020 were SMEs – a similar rate as among firms that exported to other markets (70%) (Figure 20). SMEs that export to CPTPP countries also appear to be slightly larger than other exporting SMEs. On average, SMEs that exported goods to CPTPP countries had 15 employees per firm and exported \$2.9 million worth of goods, compared with nine employees and \$1.8 million worth of exports for SMEs that export to other markets. In total, CPTPP countries provided over a quarter of SMEs' total revenue from goods exporting, although SMEs' exports made up only 16% of the total value of New Zealand's goods exports to CPTPP countries.

Compared with larger firms, SMEs that export to CPTPP countries also tend to have a higher share of their export revenue derived from these markets. Among CPTPP goods exporting firms, revenue from CPTPP countries made up 35% of SMEs' total export revenue compared with 22% for large firms (Figure 21). This is not surprising given that large firms are able to take advantage of economies of scale to expand and diversify into multiple markets. However, this more limited market diversification among SMEs suggests that outcomes in CPTPP that support a more stable regulatory and trading environment and improves ease of doing business for exporters may be more important for SMEs that export to CPTPP countries than for large firms.

31 MFAT Working Paper, 'All for Trade and Trade for All: Inclusive and Productive Characteristics of New Zealand Goods Exporting Firms', 2022

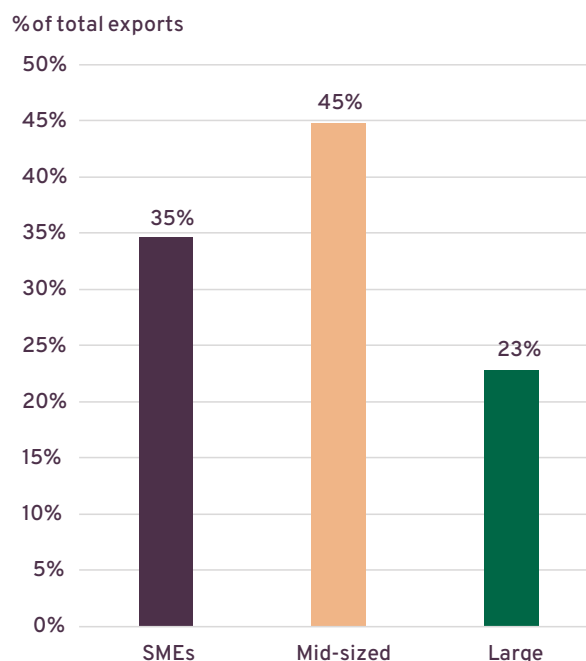
32 An SME is defined in this assessment as any firm with fewer than 50 employees. Meanwhile, firms with between 50 and 249 employees are defined as 'mid-sized' firms and firms with more than 250 employees are defined as 'large' firms.

Figure 20 – Number of firms that exported goods to CPTPP countries by firm size



Source: Stats NZ and MFAT; year ending March 2020.

Figure 21 – Share of firms’ export revenue derived from CPTPP countries by firm size



Source: Stats NZ and MFAT; year ending March 2020.

7.2 Initial impacts from CPTPP for SMEs

Firm-level data suggest that SMEs experienced broadly similar changes in CPTPP exporting patterns as larger firms between 2018 and 2020. However, the early data is mixed and it is too early at this stage to identify clear impacts from CPTPP for SMEs.

Overall, the number of SMEs that exported to CPTPP countries remained relatively steady between 2018 and 2020 at around 2,000 firms. However, there are signs of a small switching effect over this period, as there was an increase in the number of SMEs exporting to new FTA partners through CPTPP (i.e. Canada, Japan, and Mexico). Between 2018 and 2020, the number of firms that exported goods to at least one new FTA partner through CPTPP increased by 5% (Figure 22). This coincided with a 4% reduction in the number of firms that only exported to countries with existing FTAs and/or to non-CPTPP countries. Similar changes were seen amongst mid- to large-sized firms (i.e. those with 50 employees or more), where the number of firms that exported to a new FTA partner increased by 8% and those exporting only to CPTPP countries with existing FTAs and/or non-CPTPP countries decreased by 4%.

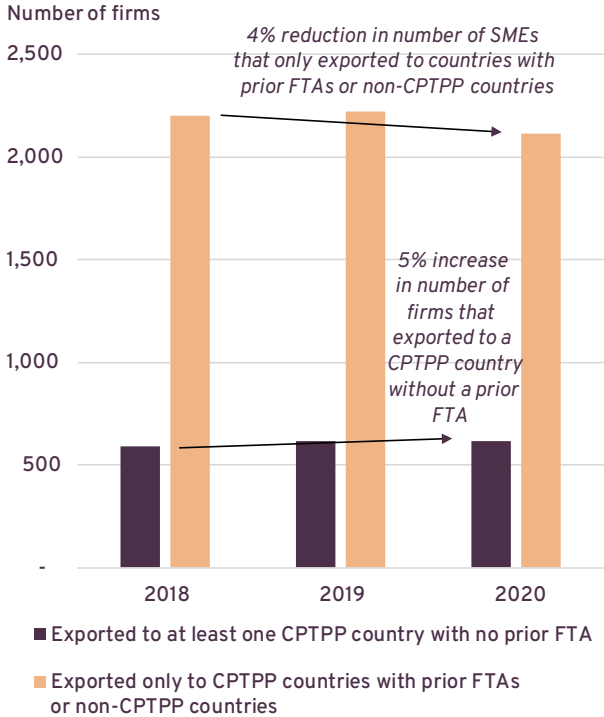
The value of SMEs’ goods exports to CPTPP countries also grew by 5% between 2018 and 2020, reaching \$2 billion in 2020 (Figure 23). This is consistent with a wider trend of export growth over the period, as SMEs’ exports to non-CPTPP partners grew (by 10%) and CPTPP exports from large businesses experienced a similar increase. The larger growth in SMEs’ exports to non-CPTPP members means that the share of SME exports that went to CPTPP countries actually fell slightly, from 29% to 27% over the period.

SMEs also appear to have experienced similar average trade-weighted tariff reductions as larger firms in the first year after CPTPP’s entry into force. SMEs, mid-sized firms, and large

firms enjoyed average tariff reductions of 3.2%, 3.3% and 3.1% respectively on their exports to CPTPP countries in the year to March 2020.

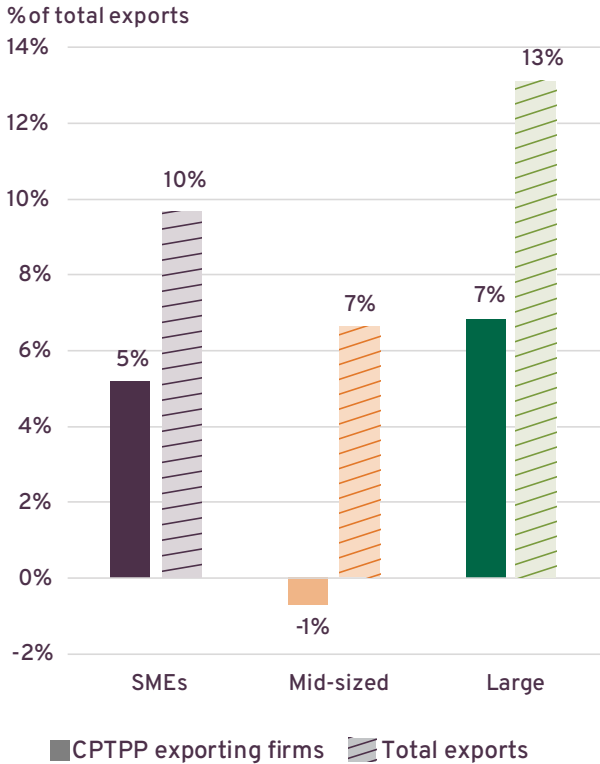
See the annex of distributional data tables (A4.3 and A4.6) for more detailed data.

Figure 22 – Number of goods exporting SMEs by new and existing FTA partners



Source: Stats NZ and MFAT; years ending March 2020.

Figure 23 – Growth in the value of goods exports by firm size between 2018 and 2020



Source: Stats NZ and MFAT; years ending March.

7.3 Implementation activities

CPTPP is New Zealand’s first FTA to include a specific chapter on SMEs and provides a useful platform for developing regional models of trade that can support ease of doing business for SMEs. The chapter establishes online information-sharing mechanisms for SMEs to facilitate trade with other CPTPP economies. More broadly, CPTPP outcomes also make it easier for SMEs to trade with CPTPP markets through tariff eliminations or reductions. For New Zealand businesses, there are particular tariff benefits in Japan, Mexico, Canada, and Peru, as well as improvements with existing partners such as Viet Nam and Malaysia.

The SME chapter establishes the Committee on SMEs, which is committed to identifying challenges and opportunities for SMEs, and developing forms of assistance for SMEs to help take advantage of the benefits of CPTPP. The SME Committee has so far focused on information sharing to support SMEs. Another important part of its work is coordinating with other Committees to improve outcomes on issues that face SMEs across a number of areas.

In CPTPP's e-commerce chapter, there is a specific commitment to work together to assist SMEs to overcome obstacles, acknowledging the role that digital trade can play in enabling SMEs to access and benefit from trade. No specific activities relating to SMEs have yet been proposed in the e-commerce chapter, but the use of digital tools can minimise costs of doing business for all businesses.

The Technical Barriers to Trade Committee has recently developed detailed accounts of each members' quality infrastructure, including arrangements for technical regulation, testing, metrology, standards, and conformity assessment. The information provided encompasses national procedures, organisational bodies, and regulatory measures in these areas. Though this knowledge-sharing exercise is designed primarily to improve understanding among members and enhance transparency, it could also offer an information resource for agencies to support SMEs in navigating members' regulatory requirements.

The Sanitary and Phytosanitary Measures chapter does not specifically mention SMEs, but does provide for CPTPP members to work cooperatively to develop model certificates and promote the implementation of electronic certification and other technologies to facilitate trade between members. Activities related to these areas can positively contribute to more progressive and inclusive trade for SMEs by simplifying certification processes and reducing barriers for SMEs to export. The transparency provisions and associated information exchanges on SPS requirements can also reduce barriers to export by increasing access to relevant information.

The Sanitary and Phytosanitary Measures Committee has also established a Certification Working Group, co-chaired by New Zealand and Canada, which has developed a work programme for members on certification models and practices, including onward certification, electronic certification (and guidance to promote this for members), and standardised attestations to cover areas where harmonisation is possible between members. This can be expected to reduce transaction costs for SMEs.

The Customs Administration and Trade Facilitation chapter commits to customs procedures that are predictable, consistent and transparent, which serves the interests of SMEs. This includes information sharing on customs issues, greater transparency for SMEs on customs procedures, and increased digitisation and streamlined processes, including 48-hour customs clearance.

The Competitiveness and Business Facilitation chapter strengthens cooperation among CPTPP economies on supply chain efficiency, and in particular commits to developing recommendations to enhance the participation of SMEs in regional supply chains.

The Transparency and Anti-Corruption chapter commits to the elimination of bribery and corruption in international trade and investment, with specific reference to encouraging the development of internal programmes, controls, and other measures that support SMEs to prevent and detect bribery and corruption in trade.

Finally, the Temporary Entry for Business Persons chapter supports enhanced mobility of business persons within CPTPP economies and improves transparency on temporary entry requirements, which can be key challenges for SMEs.

8. Environment and Climate Change

8.1 New Zealand's trade in environmental goods with CPTPP countries

A growing focus of efforts regarding international trade and the environment in recent years has been the role that trade can play in supporting the spread and adoption of environmental technologies. Environmental goods are products with an environmental end use or benefit, typically aimed at reducing environmental risks and minimising pollution and resource use. They include goods used to measure, limit, or correct environmental damage to water, air, and soil, as well as goods for addressing issues related to waste, noise, and ecosystems³³.

The CPTPP agreement recognises the importance of trade and investment in environmental goods and services as a means of addressing environmental challenges. By strengthening trade relationships between members, the Agreement also supports the exchange of environmental goods and services across a number of key exporters of these products and services. Japan, Mexico, Singapore, Canada, Malaysia, and Viet Nam are six of the world's largest exporters of environmental goods. As trade between CPTPP members grows over coming years, the exchange of environmental technologies will also grow, supporting the uptake of environmentally friendly production and more efficient resource use across the region.

New Zealand is a net importer of environmental goods, both generally and in our trade with CPTPP countries, as we rely on technologies and products developed and manufactured overseas for a range of environmental uses. New Zealand imported over \$1 billion of environmental goods from CPTPP countries in 2022 (Figure 24). Goods related to the production and consumption of renewable energy was the largest category, followed by goods used in the management of waste and potable water, waste management and recycling, and environmental monitoring and assessment. Australia was the largest source for these products, followed by Japan, Malaysia, and Canada.

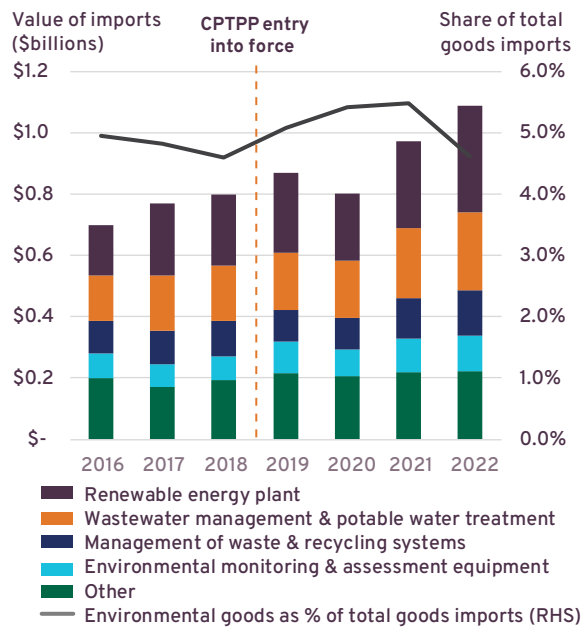
New Zealand's imports of environmental goods from CPTPP countries has grown by 36% since CPTPP's entry into force. While this is notable growth, the share of environmental goods as a proportion of total imports from CPTPP countries remained broadly steady at around 5%. This suggests the growth was part of a broader expansion of trade with CPTPP countries rather than a specific result of CPTPP in supporting environmental goods trade. However, imports of environmental goods from Japan, Canada, and Mexico—i.e. CPTPP members with which New Zealand previously had no trade agreement—grew faster on average than from existing trade partners, although for Canada and Mexico these were from relatively low bases.

New Zealand's exports of environmental goods to CPTPP countries has also grown since entry into force. New Zealand exported over \$600 million worth of environmental goods to CPTPP countries in 2022 (Figure 25). The composition of environmental exports is similar to imports, with renewable energy, water management and treatment, and waste management the largest areas. Exports grew by over 30%, which again appears to be mainly the result of a broader expansion of trade flows since the share of environmental goods exports grew

33 There is no common agreement on the definition of traded environmental goods and services. This analysis is based on the OECD's list as defined in the 'Combined List of Environmental Goods', which provides Harmonised System 6-digit level codes for 248 environmentally-related goods. See OECD Trade and Environment Working Paper, 'Trends in Policy Indicators on Trade and Environment' (2019/01).

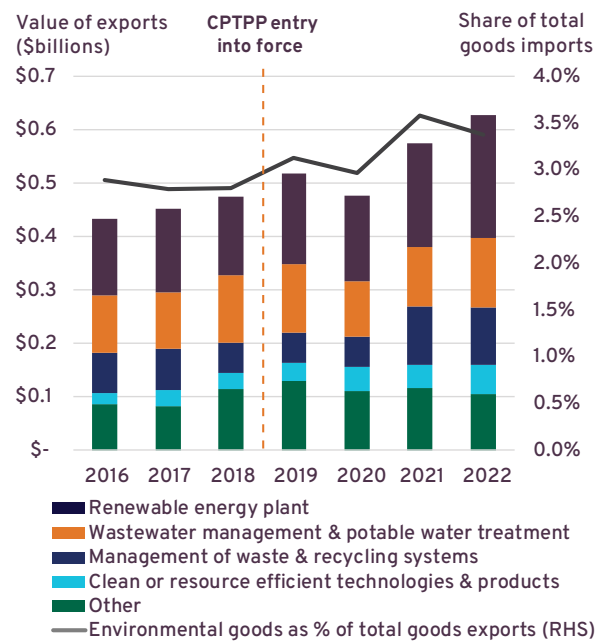
only slightly from 3% to 3.5%. Three quarters of exports of environmental goods were to Australia, followed by Japan and Canada.

Figure 24 – New Zealand’s imports of environmental goods from CPTPP countries



Source: Global Trade Atlas and MFAT; calendar years.

Figure 25 – New Zealand’s exports of environmental goods to CPTPP countries



Source: Global Trade Atlas and MFAT; calendar years.

8.2 Implementation of CPTPP activities to environmental outcomes

CPTPP was New Zealand's first FTA to include provisions on fish subsidies and wildlife trade, and has a range of environmental provisions which were considered world-leading at the time text was finalised.

The functions of the Environment Committee include providing a forum to discuss and review implementation and cooperative activities under the Environment Chapter, providing periodic reports to the Commission on implementation, and considering and resolving matters referred to the Committee under Article 20.2 (Senior Representative Consultations). The Environment Committee met in 2022 and will meet again in June 2023.

The Environment Committee agreed in 2022 to the following priority areas for cooperation:

- Climate change (low emissions technologies, clean energy, and international carbon markets);
- Circular economy;
- Conservation and bio-diversity; and
- Plastic pollution including marine.

In 2021 and 2023, Mexico and Canada hosted workshops on combatting illegal wildlife trade, with the first workshop focused on turtles and tortoises and the second on sharks and stingrays. These workshops brought together relevant experts from CPTPP countries to provide opportunities for international collaboration to combat illegal wildlife trade, enable participants to share current policy ideas and frameworks, and develop recommendations to address illegal wildlife trade in the Trans-Pacific region.

In August 2022, Singapore hosted a seminar on Green Economy Cooperation in the CPTPP. The seminar examined key issues surrounding the green economy, and reflected on existing efforts by Members that contribute to shaping regional policies on trade and environmental sustainability.

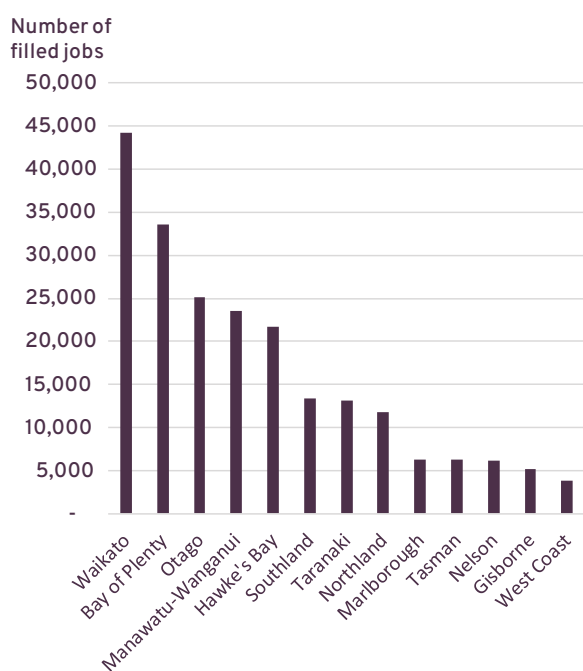
In 2019, New Zealand developed a template for reporting on fisheries subsidies under CPTPP and shared it with the membership to support subsidies notification efforts.

9. Domestic Regional Economic Development

9.1 Regional distribution of CPTPP trade

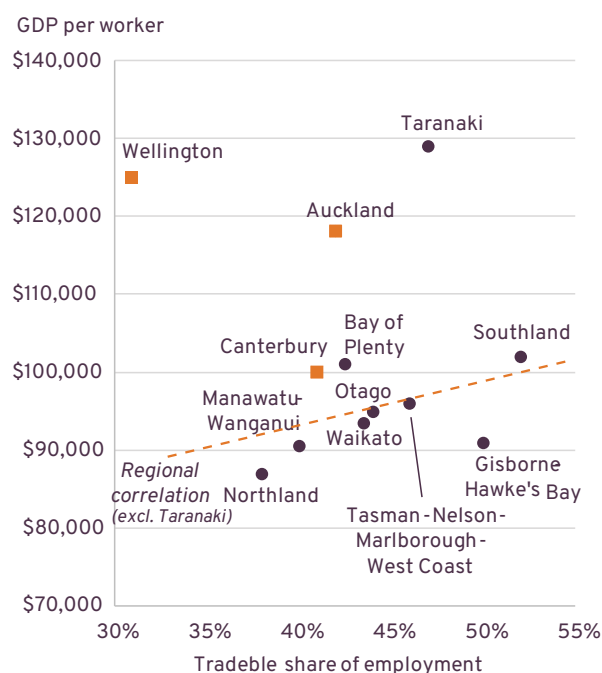
Trade's impacts vary across New Zealand's regional economies due to variations in their industry composition and relative exposure to international markets. The share of export-related employment in regional economies tends to be higher than in main urban centres, due to the regional nature of New Zealand's export-intensive primary production and tourism (Figure 26). The data also suggests that regions with higher tradable sector activity tend to experience better economic outcomes around incomes and employment (Figure 27). Given that economic indicators in regional economies tend to be lower on average than in urban economies, international trade can provide important opportunities to support regional economic development.

Figure 26 – Number of export-related jobs in regional economies³⁴



Source: Sense Partners, Stats NZ; year ending June 2018.

Figure 27 – GDP per worker and tradable share of employment by region



Source: Stats NZ and NZIER; year ending June 2018.

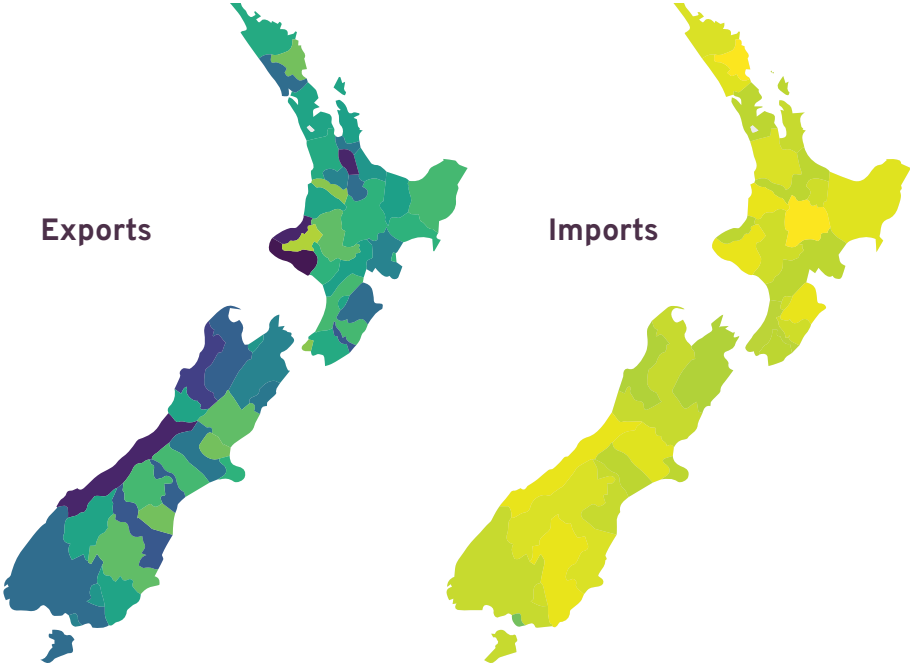
Unfortunately, data on international trade flows at a regional level are not available. This constrains the ability to assess the impact of CPTPP on regional economic outcomes. However, as regional differences in industry structure underpin the way in which the CPTPP can be expected to affect different regions, it is possible to draw some conclusions about possible effects based on what is known about the relative export and import exposure of industries and the composition of regional economic activity³⁵.

34 Export employment estimates are based on the methodology in the MFAT Research Paper, 'Industry Exposure to Trade – The Trade Opportunities and Risk Model', 2020

35 This analysis is based on data previously commissioned by MFAT from Sense Partners that links New Zealand's international trade flows with national and regional economic activity. For further information, see the MFAT Research Paper, 'Industry Exposure to Trade – The Trade Opportunities and Risk Model', 2020.

Rural regions tend to have the highest export exposure to CPTPP countries and are therefore more likely to experience economic benefits from improved access to these markets. Regions such as Taranaki, the West Coast, Waikato, and Nelson-Marlborough sell a higher proportion of their exports to CPTPP countries than other regions (Figure 28, left panel). This reflects their comparative advantage in producing New Zealand’s major exports to CPTPP countries, including dairy, meat, horticulture, and seafood products. Exports of oil (mainly to Australia and recently Singapore) also contributes to relatively high export exposure to CPTPP countries in Taranaki.

Figure 28 – Relative regional distribution of trade with CPTPP countries



Source: Sense Partners, Stats NZ, and MFAT; year to June 2018.
 Note: Darker colours reflect a higher intensity of gross output exported to CPTPP countries (left panel) or intermediate consumption imported from CPTPP countries (right panel).

Although export opportunities are often a key focus of trade analysis, improved access to imports is another key benefit of trade agreements. Trade agreements support lower prices and wider access to consumer and intermediate goods through a combination of reduced tariffs and access to cheaper and/or higher quality products from abroad. However, consumption of imports tends to vary less across regions than it does for exports due to the nature of New Zealand’s imports (Figure 28, right panel). New Zealand’s imports from CPTPP countries are comprised heavily of products such as vehicles, machinery, fuel, plastics, and pharmaceutical products. As these are important inputs and goods for many industries and households, regional exposure to CPTPP’s imports varies less than for exports. As a result, the import benefits for consumers and businesses from CPTPP are likely to be distributed relatively evenly across the country.

9.2 Implementation of CPTPP activities to support regional economic development

CPTPP does not have specific provisions related to regional economic development. However, as a large regional plurilateral agreement, CPTPP is well placed to enhance domestic and regional economic development by improving conditions in offshore markets for exporters and by improving access to productive foreign investment in a way that continues to protect sensitive land and assets.

Since 2020, the Committee meetings on Trade in Goods and Agricultural Trade have been held together. This has provided a joint forum for trade and agricultural officials to discuss issues and opportunities related to domestic regional economic development.

The functions of the Committee on Trade in Goods include promoting trade in goods between the Parties, addressing tariff and non-tariff barriers to trade between the Parties, and other obligations relating to the HS trade classification system. Meanwhile, the Committee on Agriculture Trade provides a forum for promoting agricultural trade, monitoring and promoting cooperation on the implementation and administration of agricultural trade, consultation, and undertaking assigned work from the Committee on Trade in Goods.

In 2021, the CPTPP Joint Committee agreed to hold a collaborative CPTPP webinar on the data exchange of preferential tariff utilisation, hosted virtually by Japan. This looked to increase understanding of how to better measure the effects of CPTPP on domestic and regional economic development by increasing the amount of usage data shared between members. There is work under way in the Trade and Goods and Agricultural Trade Committees to assess the value of CPTPP in this space. However, understanding the opportunities that CPTPP presents for greater economic development will require continued engagement on transparency.

The Sanitary and Phytosanitary Measures chapter also provides for CPTPP members to work cooperatively to support domestic regional economic development by simplifying SPS certification processes, thereby reducing barriers to export for businesses.

As described in Section 7, work is also underway in the Technical Barriers to Trade Committee to build an understanding of each members' regulatory architecture. This has involved the collection of information on national organisations and procedures for technical regulation, standardisation, and conformity assessment. By providing this evidence to improve administrative coordination, the information can be mobilised to support regional economic development.

10. Labour Rights

10.1 Implementation of CPTPP activities to support labour rights

CPTPP labour outcomes were the most comprehensive New Zealand had achieved in a trade agreement, with labour standards made legally enforceable for the first time. This includes the ability to sanction and withdraw preferences if members were found to be in breach of commitments. CPTPP members must have in place laws and practices governing minimum wages, hours of work, and occupational safety and health, thereby raising labour standards in the region and reducing the impact of unfair practices.

The objectives of the CPTPP Labour Chapter are, broadly speaking, to ensure that international labour rights are maintained and promoted and not weakened or derogated from to encourage trade or investment. These rights relate to freedom of association and the promotion of collective bargaining, the elimination of discrimination in employment, and the elimination of forced labour and child labour.

The Chapter also provides for labour cooperation between the parties. This is discussed by the Labour Committee, including reviewing priorities on labour cooperation and discussing other matters of mutual interest. The Labour Committee has met twice since 2019, with a focus on identifying priorities for potential labour cooperation amongst CPTPP parties. A range of bilateral and multilateral instances of cooperation focussed on policy exchange or capacity building have been identified across a range of labour-related themes.

In 2021, the Committee agreed four priority areas for future cooperation:

- Responding to the changing nature of work and employment
- Promoting occupational safety and health
- Promoting gender equality
- Promoting ethical and sustainable supply chains

The Committee is continuing to discuss the development of a work programme based on these priorities.

The Labour Committee faces some difficulties in agreeing specific cooperation topics and undertaking activities given that CPTPP members comprise a large and diverse group of economies. Resourcing for a work programme is also a key consideration to ensure it is as effective as possible. However, the potential for effective labour cooperation in CPTPP aimed at supporting inclusive and sustainable economic growth is significant.

11. What We Heard in Stakeholder Consultations

The New Zealand government sought feedback on a draft of this review with a range of Treaty partners and stakeholders, including business, union, and trade advocacy groups. Full responses were received from Ngā Toki Whakarururanga, the New Zealand International Business Forum (NZIBF), and Export New Zealand (Export NZ). A summary of this feedback is provided below and the responses from Ngā Toki Whakarururanga, the NZIBF, and Export NZ are provided in Annex A3.

Stakeholders expressed some positive views on the progress of the overall implementation of CPTPP as laid out in the review. NZIBF was “pleased” to see that trade flows with CPTPP partners have increased and that “utilisation of preferences is high”. Export NZ was “encouraged” by the level of opportunity for exporters to leverage new markets. However, stakeholders agreed that there was work to be done on implementation.

Stakeholders shared the view that expectations for the delivery of trade benefits under CPTPP should take into account external factors impacting on effective implementation.

This includes the review timeframe of three years since entry into force of the Agreement. NZIBF noted that the review came “fairly early in the life of this agreement”, and Export NZ said it was “too early to judge the success” of CPTPP. However, Te Taumata said that, notwithstanding this context, often the value of FTAs is lost through “poor execution and implementation”.

The economic impacts of the COVID-19 pandemic were also mentioned. NZIBF noted that the review was undertaken at a “time of constraint for the region’s economy”. Export NZ specifically noted the data regarding SME exporters which “shows very little growth”, and attributed this to “the effects of COVID-19 border restrictions and the limits put on New Zealand businesspeople travel”.

Improved coordination on implementation across government was also supported, with an interest in increased support for businesses from NZTE specifically mentioned.

Ngā Toki Whakarururanga said there were a range of areas where implementation efforts should be improved, and/or changes to the text of the Agreement be considered, to actively protect Māori rights, interests, duties, and responsibilities in compliance with Te Tiriti o Waitangi. These included:

- The protection of taonga species, noting specifically the approach in the Intellectual Property Chapter (Chapter 18);
- The CPTPP Treaty of Waitangi Exception clause;
- The E-commerce Chapter (Chapter 14) in relation to the finding of the Waitangi Tribunal (WAI2522) that the Crown was in breach of Te Tiriti o Waitangi in negotiating this chapter;
- Climate change policies and measures in relation to the Environment Chapter (Chapter 20) and the connected risk of Investor state dispute settlement (ISDS) under the Investment Chapter (Chapter 9);

- Legislation and decisions involving natural resources in relation to the Cross-Border Services Chapter (Chapter 10) and the connected risk of ISDS under the Investment Chapter (Chapter 9); and
- Recognition and protection for mātauranga Māori and kaitiakitanga in relation to the Intellectual Property Chapter, Cross-Border Services Chapter, and Environment Chapter.

Ngā Toki Whakarururanga also noted some evolving issues that, in their view, may require addressing in CPTPP in the future to protect compliance with Te Tiriti o Waitangi, including in relation to biotechnology and genetic modification, alcohol policies and laws, and rongoā Māori.

Stakeholders welcomed a focus on inclusion and supported an increase in efforts to improve inclusivity in trade. NZIBF saw that “more could be done” to increase awareness of the benefits of CPTPP to women, Māori, and SMEs in trade, including through the use of digital tools. Export NZ agreed that more could be done to improve understanding of international trade opportunities among potential exporters.

Ngā Toki Whakarururanga said that the quantitative findings of the review in relation to benefits for Māori were “underwhelming”. Further disaggregation of data and/or additional capturing of data would be welcome, for instance to better understand impacts on Māori SMEs. Data analysis through the lens of Te Ao Māori (Māori worldview) was also recommended.

Ngā Toki Whakarururanga also said that “Māori and iwi taketake (Indigenous People) have no voice whatsoever” at an institutional level in CPTPP, for instance a dedicated committee. They said that an institutional mechanism to examine and address the impacts of CPTPP on Māori, in a way that is consistent with Article 18 of the UNDRIP, should be considered an obligation under Te Tiriti o Waitangi.

NZIBF also welcomed the review’s findings on sustainable trade in CPTPP, while noting that “broader discussion of impacts on the environment and climate would be helpful”.

12. Conclusion

12.1 Quantitative findings on the impact of CPTPP

Evidence from the Impact Analysis is promising but tentative. In many cases, it is too early to clearly identify and attribute impacts from CPTPP due to limited availability of data since entry into force and the time required for trade agreements to reach their full effects. However, it provides an early view of New Zealand's trade with CPTPP countries from an inclusivity and sustainability perspective and an indication of how impacts may be experienced in the future.

At an aggregate level, the gravity modelling shows signs of increased trade flows among CPTPP's members in its first year after entry into force. There is stronger evidence that New Zealand's bilateral trade flows with Mexico—one of the 'new' FTA partners—increased as a result of CPTPP. Similarly, the utilisation of CPTPP tariff preferences with new FTA partners grew over the Agreement's first two years. This led to substantial duty savings on New Zealand exports, particularly to Japan and Canada.

Firm-level analysis also provides encouraging signs. Overall, more than 530,000 New Zealanders were employed in firms that exported goods to CPTPP countries in 2020, and the number of firms that traded with CPTPP countries increased slightly between 2018 and 2020. While it's not possible to unpick the effect of new firms entering the market or switching to CPTPP member countries with any certainty, it is likely that reduced barriers to market entry from CPTPP is a motivating factor for at least some of this change. SMEs also appear to have experienced similar average tariff reductions from CPTPP as larger firms.

Female engagement in CPTPP exporting appears relatively high, although similar gender disparities exist as in the wider export sector. The share of women in employment and business leadership in CPTPP exporting firms is higher than in other exporting firms and women in these firms have higher average earnings. Female-led firms also make up a higher share of exports to CPTPP countries than in overall exports and experienced similar average tariff reductions as male-led firms from CPTPP. While women experienced substantial employment growth among CPTPP exporting firms between 2018 and 2020, it is too early at this stage to say what role CPTPP played in this growth.

Māori also appear relatively well represented among CPTPP goods exporting firms and the number of Māori employed in these firms has grown. Similar to women, earnings for Māori are slightly higher in CPTPP exporting firms and Māori-led firms have experienced similar average tariff reductions as non-Māori led firms on exports to CPTPP countries. However, growth in Māori export employment lagged that of other ethnic groups between 2018 and 2020 and there was a fall in the number of Māori-led firms exporting to CPTPP countries. Both effects were not unique to CPTPP exporters, but it will be important to monitor these trends to ensure Māori outcomes do not lag other ethnic groups as CPTPP's impacts grow.

An assessment of CPTPP's impacts for regional economies and the environment is also constrained by data limitations. However, the relatively high share of exports to CPTPP countries from regions such as Taranaki, the West Coast, Waikato, and Nelson-Marlborough suggest they may be more likely to benefit from stronger trading relationships with CPTPP countries in the future. New Zealand's trade in environmental goods with CPTPP countries has also grown since 2019 as part of a broader expansion of goods trade.

12.2 Implementation activities

There are two overarching findings of the Effectiveness Review of CPTPP with respect to implementation of the Agreement. The first, and by far the most significant, is that implementation activities are still ramping up across most areas. Many committees are only just developing their work programs for engagement and a small number of committees have not met at all.

This challenge has been compounded by the impacts of COVID-19 in several ways:

- In the early stages of the pandemic, New Zealand government resources were diverted to focus on the COVID-19 response;
- CPTPP Committees that planned to meet were required to meet virtually, which affected the effectiveness of discussions and planning; and
- The CPTPP accessions work programme has affected prioritisation for implementation activities planned at the committee level.

The second overarching finding is that CPTPP chapters and their implementing committees are not always well aligned with ITAG ‘themes’. It is also clear that embedding the issues identified in the Joint Declaration into committee-level work programmes remains a work in progress for ITAG partners.

For some chapters there are clear existing connections between Joint Declaration issues and the committees’ mandates. For example, the SME Committee has a clear link. Activities such as GTAGA are also underway that has created a focus in some committees on the need to improve outcomes for women. However, for other chapters the links are more peripheral and creative approaches are needed to ensure issues are pursued. Further, there is an opportunity to increase general knowledge of the links between ITAG and specific committees among those working on CPTPP to enable an increased push for meaningful implementation activities. This would be particularly relevant to committees that may require a more creative approach to incorporate ITAG’s aims into their work programme.

12.3 Conclusion and next steps

A key conclusion of this review is that in order to advance ITAG priorities, it will be necessary for members to take structured and deliberate action. Inclusive trade does not happen without active engagement. It requires continuous attention and focus in order to ensure that the full benefits of a trade agreement are enjoyed across all parts of the New Zealand economy. It also requires deliberate efforts to strengthen data and methodological approaches to assess and monitor the inclusive and sustainable impacts of trade. That said, New Zealand is still learning how to do this. Making trade more inclusive is an iterative process that will build on the lessons learnt over time.

BASED ON THESE FINDINGS, THE FOLLOWING RECOMMENDATIONS ARE MADE:

1. That New Zealand, and other ITAG members as practicable, commit to conduct a similar review of CPTPP in five years;
2. That further stakeholder and expert reviews are sought on this report so that improvements can be made to the next review;
3. That New Zealand continues to invest in improving and publishing disaggregated trade data, particularly with respect to Māori and women;
4. That New Zealand works more closely with ITAG partners on common issues, with a particular focus on ensuring ITAG themes are better embedded in CPTPP implementation activities;
5. That New Zealand continues to leverage its position as CPTPP chair in 2023 to support recommendations four;
6. That New Zealand works with ITAG members to prioritise ITAG themes in the CPTPP General Review;
7. That New Zealand continues to seek new ITAG members to participate in this work and to support trade policy coherence across CPTPP chapters and their associated committees;
8. That New Zealand convenes a lessons learnt working group with ITAG partners to share the results of this analysis and possible approaches to future evaluations; and
9. That New Zealand looks for opportunities to share the results of this review with other regional and plurilateral groupings to promote inclusive and sustainable trade.

Annex



Annex A1: Joint Declaration on Fostering Progressive and Inclusive Trade

New Zealand, Canada and Chile confirm our shared commitment to working together to help make international trade policies more progressive and inclusive in order to ensure that the benefits of trade and investment are more broadly shared, which can have a positive impact on economic growth and helps to reduce inequality and poverty.

New Zealand, Canada and Chile confirm our shared commitment to the 2030 Agenda for Sustainable Development.

We also commit to working together to deliver on our expectations that trade can contribute to the achievement of sustainable development and solutions for global issues of concern including with regard to gender equality, Indigenous Peoples, domestic regional economic development, Small and Medium Enterprises (SMEs), labour rights, environment and climate change.

To this end, New Zealand, Canada and Chile will work together to:

- Affirm the inherent right of each Participant to regulate within its territory to achieve legitimate public policy objectives such as the protection of health, safety, the environment or public morals, social or consumer protection or the promotion and protection of cultural diversity;
- Uphold our respective commitments for an ambitious and effective implementation of the Paris Agreement and support the achievement of Sustainable Development Goal 13 (Climate Action);
- Reaffirm our intention to work together in the transition to a low emissions and resilient economy, helping our collective and individual actions to combat climate change thereby contributing to achieving the collective long-term temperature goal of the Paris Agreement, and reducing the adverse effects of climate change;
- Implement our obligations under the Convention on the Elimination of all Forms of Discrimination Against Women and work towards gender equality and the empowerment of women and girls;
- Contribute to achieve the objectives of Goal 5 of the Sustainable Development Goals in the United Nations 2030 Agenda for Sustainable Development, in particular in areas related to gender equality and empower all women and girls;
- Affirm the objectives of the Declaration on the Rights of Indigenous Peoples adopted by the United Nations on 13 September, 2007;
- Affirm the right of each Party to preserve, develop and implement its cultural policies for the purposes of enriching its cultural identity and the diversity of cultural expressions in all its forms, given the essential role that culture plays in society, supporting social and economic prosperity, and in the lives of individuals
- Reaffirm our commitments to international standards on corporate social responsibility

of enterprises which provide guidelines to enterprises with respect to the environment, labour, human rights, community relations and anti-corruption efforts, such as the OECD Guidelines for Multinational Enterprises;

- Respect and promote internationally-recognized labour rights and principles, as set out in the International Labour Organization (ILO) Declaration on Fundamental Principles and Rights at Work of 1998. This includes the right to freedom of association and collective bargaining, the abolition of child labour, the elimination of discrimination in respect of employment and occupation, and the elimination of forced or compulsory labour;
- Promote acceptable conditions of work regarding minimum wages, hours of work and occupational safety and health;
- Examine ways to address the range of barriers that limit opportunities for women, Indigenous Peoples and SMEs in international trade;
- Improve the policy environment for SME innovation and promote SME growth through innovation, including to strengthen the digital competitiveness of SMEs in order to access the opportunities offered by the internet and the digital economy;
- Share information to help develop the regional economies within our countries to ensure they benefit from the opportunities of international trade; and
- Within three years of the entry into force of the CPTPP examine the effectiveness of the Agreement with respect to sustainable development, gender, Indigenous Peoples, domestic regional economic development, SMEs, labour rights, the environment and climate change.

Agreed March 2018

www.mfat.govt.nz/assets/Trade-agreements/CPTPP/CPTPP-Joint-Declaration-Progressive-and-Inclusive-Trade-Final.pdf

Annex A2: List of CPTPP Committees

Committee Name	Responsible New Zealand Government Agency	Whether Active	Last Meeting
Trade in Goods / Agricultural Trade	Ministry of Foreign Affairs and Trade	Yes	July 2022
Rules of Origin	New Zealand Customs	Yes	July 2022
Textile and Apparel Goods	New Zealand Customs	Yes	July 2022
Sanitary and Phytosanitary Measures	Ministry for Primary Industries	Yes	April 2023
Technical Barriers to Trade	Ministry of Business, Innovation & Employment	Yes	July 2022
Professional Services Working Group	Ministry of Foreign Affairs and Trade and New Zealand Qualifications Authority	Yes	August 2022
Financial Services	Ministry of Foreign Affairs and Trade	Yes	July 2022
Temporary Entry for Business Persons	Ministry of Foreign Affairs and Trade	Yes	2019
Telecommunications	Ministry of Foreign Affairs and Trade	No, except in relation to UK accession	2021
Electronic Commerce	Ministry of Foreign Affairs and Trade	Yes	June 2023
Government Procurement	Ministry of Business, Innovation & Employment	The committee has not met yet	Plans are underway for a meeting in July 2023
State-Owned Enterprises and Designated Monopolies	Ministry of Foreign Affairs and Trade	Yes	September 2022
Labour Council	Ministry of Business, Innovation & Employment	Yes, the Labour Council is required to meet every 2 years unless otherwise agreed	2021
Environment	Ministry of Foreign Affairs and Trade	Yes	June 2023
Cooperation and Capacity Building	Ministry of Foreign Affairs and Trade	No, except in relation to UK accession (primarily in late 2021)	July 2021
Competitiveness and Business Facilitation / Small and Medium-Sized Enterprises	Ministry of Foreign Affairs and Trade	Yes. These Committees meet jointly on an as needed basis	September 2022
Development	Ministry of Foreign Affairs and Trade	No, except in relation to UK accession (primarily in late 2021)	July 2021
Regulatory Coherence	The Treasury	Yes, the Regulatory Coherence Committee meets at the discretion of the economy chairing CPTPP	May 2021

Annex A3: Full responses from stakeholder consultation

A3.1 Reponse from New Zealand International Business Forum

As a long-term supporter and advocate of CPTPP (and its predecessor) we welcome this review. While it comes fairly early in the life of this agreement (and, as the review notes, a time of constraint for the region's economy), we are pleased (although not at all surprised) to see that trade flows with CPTPP partners have increased and utilisation of preferences is high, notably with Mexico, Canada and Japan. Anecdotal evidence suggests that CPTPP has given New Zealand much to gain in terms of trade with Japan particularly as tariff elimination/reduction in key sectors accelerates. Implementation efforts remain critical. We appreciate the New Zealand Government's willingness to consider options to enforce existing obligations through utilising CPTPP's dispute settlement provisions where necessary (e.g. such as in the case of Canada's approach to dairy tariff rate quota administration). We hope also that the work of CPTPP implementing committees can pick up pace now that the pandemic has eased – we see significant value to be gained, especially in trade facilitation, from the work of these committees.

We understand that this review has been undertaken primarily to assess the impact of the agreement in terms of inclusion and sustainability. We would however make the (obvious) point that unless the agreement gives rise to increased trade and investment, the outcomes in other areas are unlikely to be achieved fully. In that context, since CPTPP entered into force, NZIBF has welcomed the interest in new members acceding to the agreement, and the formal launch of the UK's accession process. We support CPTPP as an 'open plurilateral' to build on the existing agreement and allow new members to join on the basis that they can meet the existing standards of the agreement. We note however that we would not want to see the dilution of existing trade access, through for example, the ability of new members to access existing tariff rate quotas. We appreciate the New Zealand Government's efforts to protect and maintain this existing access as membership expands. With regard to new members, we appreciate also the Government's efforts to advocate for the US to re-join in the future. While we understand that the US may not be in a position to join at this point, we welcome the Government's ongoing advocacy of their future accession.

In relation to inclusion, we welcome the progress and metrics in relation to women, Māori and SMEs. In New Zealand we believe more could be done to bring the agreement and its benefits to the attention of these groups. While again the pandemic has had an effect on outreach, we consider this needs to be stepped up in the next period. In relation to SMEs we suggest the development of further metrics around usage of digital tools, particularly in relation to paperless trade, would be useful.

We also welcome the review's findings in relation to sustainability. In this regard we note the range of metrics pertaining to environmental goods appears to be rather narrow: some broader discussion of impacts on the environment and climate would be helpful, although we appreciate data is difficult to identify.

As a general comment, not related directly to the review document, we are unsure what use has been made of the Trade for All Advisory Board in seeking comments on the review. We note the Board is not one of the entities identified with in the targeted stakeholder

consultation. Having been consulted on the establishment of the Trade for All Advisory Board, we are disappointed that little public information is available on the Board's continuing work or their role in guiding the development of trade policy. Since Trade for All was established to make up for a deficit in information related to trade negotiations, this seems something of an anomaly.

In general, we are pleased to endorse the recommendations in the review document. We appreciate the opportunity to be consulted.

A3.2 Reponse from Export New Zealand

Export New Zealand (ExportNZ) has been a consistent voice for free and liberal trade and has been a long-term advocate for the Comprehensive & Progressive Agreement for Trans-Pacific Partnership (CPTPP) and also its predecessor the Trans-Pacific Partnership.

While it is too early to judge the success of the CPTPP in growing trade links between New Zealand and the other CPTPP partners, ExportNZ is encouraged by the level of opportunity there is for New Zealand exporters to leverage new markets, especially with partners where the CPTPP is our only trade agreement (namely, Canada, Japan, Mexico, and Peru). The expansion of the CPTPP is also very appealing to New Zealand businesses and ExportNZ welcomes the accession of new partners to the agreement.

Regarding the Inclusive Trade Action Group (ITAG) review of the impact of the CPTPP on inclusiveness and sustainable trade, ExportNZ would agree with the working draft report that the impact on Small-to-Medium Enterprises, Women-led, and Māori-led businesses (all to be referenced to as SMEs in this letter) has been limited over the three-year period.

The data regarding SME exporters shows very little growth over the past three years. We would attribute this to the effects of Covid-19 border restrictions and the limits put on New Zealand businesspeople travel in and out of New Zealand and other markets. When it comes to building relationships in business and growing opportunities in new markets, much of the work must be done face-to-face and, on the ground, especially for new businesses. Border restrictions put in place by the New Zealand government and foreign governments meant these transactions could not happen and therefore exporters were limited in their ability to leverage the CPTPP.

In addition, our ExportNZ DHL Barometer Survey 2022 shows that the respondents (a majority of which had less than 20 employees) exported mostly to Australia (81.2%), North America (49.1%), Europe (43.1%), the United Kingdom (33.2%), China and the Pacific Islands (tied at 29%).

ExportNZ's impression of these results is that SME exporters prefer to explore markets where there is already a sense of familiarity and market knowledge. Time and financial investment in new and unfamiliar markets may also inhibit SMEs' ability to leverage new opportunities such as those presented through CPTPP.

ExportNZ is not surprised that smaller exporters are choosing markets where they think it is easier to do business. We support exporters factoring in all risk factors and making sensible market choices. The majority of New Zealand's export earnings are through a group of 200 large goods exporters, these businesses are the ones that will leverage trade agreements the most and will always be the vanguard that tackles new markets.

The All For Trade & Trade For All report released by MFAT in February 2022 is a valuable

source of information when discussing SMEs in the exporting space. To the point above, Table 2. – Market Diversification of Exporting Firms (pg.12) shows the vast majority of New Zealand exporters only export to three markets at most and equal a small percentage of our country’s export earnings. In this chapter, the report says,

“Cultural familiarity, particularly English language usage, and institutional similarity may also be a factor in smaller firms’ market decisions. Five of New Zealand’s six most popular export markets in 2018 have English as an official language and a common working language... There is also a clear pattern of larger New Zealand exporters tending to diversify across several markets while smaller exporters concentrate on just a single market.”

While ExportNZ hopes that more exporters utilise the CPTPP and other free trade agreements to explore and grow in new markets, we expect this process to take several years to show any real impact.

ExportNZ supports more activity to improve inclusion in trade, and while the data shows a slow uptake in inclusive trade, we are encouraged that there are now metrics to show what progress is being made in these areas. ExportNZ believes more can be done in New Zealand to promote a better understanding of international trade opportunities to new groups of potential exporters. This should be done with all of New Zealand’s free trade agreements in mind, not just the CPTPP.

Our ExportNZ DHL Barometer Survey 2022 also asked what support exporters would like from the government regarding their exporting activity. Responses were mixed, but there are several initiatives ExportNZ would support, including support to attend trade shows (24.3%), more free trade agreements with new partners (23.4%), more help with non-tariff barriers (NTBs) (20.4%), and more help from New Zealand Trade & Enterprise (NZTE) in overseas markets (19.5%). For SME exporters we believe attending trade shows is an important step to realising what the opportunities are in different markets, not just as an avenue to develop relationships with distributors, but also for potential exporters to understand the expectation, competition, and market environment for themselves. NTBs are always difficult for SMEs to navigate and sometimes it is simply understanding where SMEs need to go for the correct information and process that is the issue.

ExportNZ is committed to supporting the Ministry of Foreign Affairs & Trade (MFAT) and other government partners in business and exporter outreach and is committed to supporting New Zealand businesses on their exporting journeys.

A3.3 Response from Ngā Toki Whakarururanga and recommendations for CPTPP

Ngā Toki Whakarururanga has prepared this memorandum as input into New Zealand’s three-year review of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) as part of the Inclusive Trade Action Group (ITAG) that was established under the Joint Declaration for the Fostering of Inclusive and Progressive Trade between Aotearoa New Zealand, Canada and Chile (Joint Declaration).

We appreciate the willingness of the Ministry of Foreign Affairs and Trade (MFAT) to co-design the Indigenous Peoples’ section of the ITAG review and to ensure that our voice is heard by attaching our memorandum to its report, consistent with our joint Memorandum of Understanding of 19 August 2022.¹ The substantive memorandum will also be available at www.ngatoki.nz.

Ngā Toki Whakarururanga has its origins in the Waitangi Tribunal claim (Wai 2522) lodged in 2015 that the Trans-Pacific Partnership Agreement (TPPA), and its successor the CPTPP, breached the obligations of the Crown (the New Zealand Government) under Te Tiriti o Waitangi.² A Mediation Agreement adopted in November 2020 between the claimants and the Crown provided for the establishment of Ngā Toki Whakarururanga, with a commitment to ensure it would exercise effective and genuine influence over all stages of trade policy and negotiations.³

The mandate of Ngā Toki Whakarururanga is to uphold the rangatiratanga o ngā hapū i te whenua Rangatira, as affirmed in He Whakaputanga o te Rangatiratanga o Nu Tireni and Te Tiriti o Waitangi, and hold the Crown to account when it fails to deliver on that commitment. To that end, Ngā Toki Whakarururanga is committed to set the bar for Te Tiriti o Waitangi-consistent trade policy and agreements and bring a new leadership model to every stage of their development that reflects its Kaupapa:

“Mana whakahaere in the global domain is informed by Rangatiratanga and Kāwanatanga working together in a mana-enhancing relationship of equals, consistent with Te Tiriti o Waitangi and He Whakaputanga o Te Rangatiratanga o Nu Tireni”.

This memorandum addresses the three-year ITAG Review prepared by MFAT with reference to the implementation of the CPTPP through that Tiriti lens, under the following headings:

- A. Rangatiratanga and Indigenous Self-determination
- B. Compliance with Te Tiriti o Waitangi Obligations to Māori in the TPPA/CPTPP
 - i) Article 29.6 Treaty of Waitangi Exception
 - ii) Taonga species: Chapter 18 (Intellectual Property) Article 18.7.2 & Annex 18-A
 - iii) Digital: Chapter 9 (Investment), Chapter 10 (Cross-border services), Chapter 11 (Financial Services) & Chapter 14 (Electronic Commerce)
 - iv) The Climate Crisis: Chapter 9 (Investment) & Chapter 20 (Environment)
 - v) Natural resources, Chapter 9 (Investment) Section B: Investor-State Dispute Settlement, Chapter 10 (Cross-border services)
 - vi) Mātauranga Māori and Kaitiakitanga (except digital): Chapter 10 (Cross-border services), Chapter 18 (Intellectual Property), Chapter 20 (Environment)

- vii) Hua Parakore and Genetic Modification: Chapter 2 Section C (Agriculture)
- viii) Waipiro/Alcohol: Chapter 8 (Technical Barriers to Trade), Chapter 9 (Investment), Chapter 10 (Cross-border Services), Chapter 26 (Transparency)
- ix) Rongōa: Chapter 8 (Technical Barriers to Trade), Chapter 18 (Intellectual Property)

C. Assessing Economic Impacts of the CPTPP for Māori

For the reasons set out in this memorandum, among others, we believe that the TPPA/CPTPP fails to provide the necessary protections for Māori rights, interests, duties and responsibilities under Te Tiriti and He Whakaputanga.

As we have noted in previous kōrero and submissions to MFAT over the past few years, Ngā Toki Whakarururanga perceives real and present risks to Māori and Indigenous Peoples generally, from the current approach to the negotiation of free trade agreements, including the TPPA/CPTPP, that is almost exclusively commercially driven even though their scope is much broader. That is why it is important for Māori and Indigenous Peoples to have a seat and a voice around the negotiating tables. Our worldview and perspectives on these matters are crucial to bring a much needed and unique balance to these discussions and negotiations. This is what Te Tiriti promised Māori – tino rangatiratanga me o rātou taonga katoa.

However, we are also realistic enough to appreciate that this required change will not happen ‘overnight’. Faced with that reality, and recognising the limitations of the current review, we recommend as interim steps towards Tiriti-compliance that we urge the Crown to take, and ITAG to support in a revised Joint Declaration and Work Programme, and in the forthcoming review of the CPTPP itself.

We **recommend** that the Crown:

- a) proposes to the other ITAG Parties the adoption of an institutional arrangement that ensures Indigenous Peoples have rights of representation and effective participation in decision-making in all ITAG activities, consistent with the UN Declaration and Te Tiriti o Waitangi;
- b) seeks the support of the other ITAG Parties, as an implementation issue, for a revision of the TPPA/CPTPP’s institutional arrangements in the forthcoming CPTPP review to ensure the Agreement provides rights of representation and effective participation of Māori and other Indigenous Peoples in decision-making, consistent with the UN Declaration and Te Tiriti o Waitangi;
- c) proposes to extend the scope of the Joint Declaration to include examining and addressing the negative as well as positive impacts of the TPPA/CPTPP on Māori and other Indigenous Peoples, to be included in the next ITAG Work Programme;
- d) seeks agreement from other ITAG Parties, as part of their Work Programme, to co-design with Indigenous Peoples who live in the territories of those parties a broad and comprehensive Indigenous rights carveout to the CPTPP and to propose the adoption of that carveout during the forthcoming review of the CPTPP;
- e) as part of the current ITAG review, informs the ITAG Parties that the ongoing Te Pae Tawhiti process is likely to have implications for the Intellectual Property chapter of the CPTPP that may require it to seek a review of that chapter, and specifically that the Crown may need to revisit the sui generis legislation developed pursuant to Annex 18-A on UPOV 1991 in light of the outcome of the Te Pae Tawhiti review, and seeks their support to take these necessary steps;

- f) conveys the findings of the Wai 2522 Waitangi Tribunal on CPTPP Chapter 14 Electronic Commerce, and the Crown's obligations under Te Tiriti o Waitangi, to the other ITAG Parties and seeks their support for the adoption of a comprehensive Indigenous rights carveout in Chapter 14 in the forthcoming review of the CPTPP. Failing that, any lesser measures need to be more robust than those in the EU NZ FTA and co-designed with Māori and other Indigenous Peoples to the point of final drafting and adoption;
- g) seeks the support of the other ITAG Parties to promote, as an implementation issue, the exclusion of ISDS from the CPTPP during the forthcoming review; for those Parties that have signed side-letters with New Zealand committing to the non-application of ISDS to extend them to cover all agreements between them; and for ITAG Parties that have not yet signed such side-letters to do so;
- h) seeks the support of the other ITAG Parties to initiate, as part their Work Programme, a thorough review of how non-conforming measures in Investment and Cross-border Services chapters of CPTPP can provide better protection for measures that are based in whole, or in part, on meeting the Parties' obligations under Te Tiriti o Waitangi and/or the UN Declaration, and take action to implement those findings in the forthcoming CPTPP review;
- i) seeks agreement from other ITAG Parties to conduct, as part of their Work Programme, an Indigenous-led investigation of the implications of CPTPP provisions relating to biotech and GMOs for the right of Māori and other Indigenous Peoples to exercise rights, interests, duties and responsibilities in relation to food, seeds, and the natural domain consistent with Te Tiriti o Waitangi and the UN Declaration, and to take action to ensure more effective protection for them during the review of the CPTPP itself;
- j) works with experts in Kaupapa Māori methodology and the Productivity Commission in Aotearoa to develop an appropriate methodology that combines embodied data and narratives to allow a fully informed assessment of the implications of the TPPA/CPTPP for Māori, through the lens of Te Ao Māori; and
- k) seeks the support of the ITAG Parties to incorporate a similar initiative to (j) into the ITAG Work Programme to develop a broadly common methodology based on Indigenous knowledge systems for future use in assessing the implementation and impacts of the TPPA/CPTPP on all affected Indigenous Peoples.

A. RANGATIRATANGA AND INDIGENOUS SELF-DETERMINATION

In August 2022 Ngā Toki Whakarururanga and MFAT signed a Memorandum of Understanding (MoU) to work together to develop the Indigenous Peoples section of the ITAG report. The role of Ngā Toki Whakarururanga has been to provide expert input and strategic direction on Māori rights, interests, duties and responsibilities at each stage of preparation of the Indigenous section of the review, based on Kaupapa Māori and sourced in Te Tiriti o Waitangi. This input is being appended to MFAT's ITAG review. The MoU also commits the Crown to use its best endeavours to facilitate targeted opportunities for Ngā Toki Whakarururanga, in conjunction with other Māori entities, to present their views to the Parties to the Joint Declaration.

The MoU was a genuine attempt to give effect to the relationship of Māori rangatiratanga and Crown kāwanatanga under Te Tiriti o Waitangi and develop a methodology to co-design a report that authentically reflects the views of each. It was also consistent with Article 18 of the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration):

“Indigenous peoples have the right to participate in decision-making in matters which would affect their rights through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.”

This constructive relationship between the State and Indigenous Peoples provides an important precedent that should inform the work of ITAG and the subsequent reviews of the Joint Declaration and CPTPP. Unfortunately, that relationship was absent during the original TPPA/CPTPP negotiations, the creation of the Joint Declaration, and the work of ITAG to date. Our recommendations propose ways to remedy that failure.

Māori and other Indigenous Peoples had no effective voice during the negotiation of the TPPA/CPTPP. Nor do they have a place in its governance or implementation. There is no recognition of Māori or other Indigenous Peoples in any of the institutional mechanisms, nor is there empowerment of them to participate in decision making that directly affects them. The chapter-based structure of the TPPA/CPTPP and its committees means there is no committee, even comprised of State Parties, that has oversight of the positive and/or negative impacts of its implementation on Māori and other Indigenous Peoples.

The Joint Declaration Fostering Progressive and Inclusive Trade was developed and signed three years after the Wai 2522 claim was lodged. Yet, there was no attempt to discuss the Joint Declaration with the claimants or, we believe, other Māori entities. Presumably, the same applied to Indigenous Peoples in the territories of other state signatories to the Declaration. It seems ironic that an “inclusive trade” instrument was prepared in secret with no inclusion of those it purports to “include” and provides no place for them in its decision-making or implementation.

The ITAG Review reveals the almost-inevitable consequences of such a fundamental omission. The first pillar of its methodology was to gather information from committee leads. The Review itself concedes that some CPTPP committees have not yet met, while others are in the early stages of developing their work programmes. Given there is no chapter dedicated to Indigenous Peoples, there is no committee to provide this information. Chapter-specific committees are not equipped to do so. As the review observes, “CPTPP chapters and the implementing committees are not always well aligned with ITAG ‘themes’, nor do the Committees always understand how inclusive and progressive themes are relevant to their chapters and how to embed these themes into committee-level work programmes” (p.13). Given this context, it is no surprise that CPTPP committees had nothing to report on the Indigenous Peoples element of the Joint Declaration.

There has been a particularly low priority on action in relation to the Indigenous Peoples component of the Joint Declaration itself. The Work Plans for 2019-2020 and 2020-2022 were never raised with the Wai 2522 claimants or Ngā Toki Whakarururanga.

The 2019-2020 plan proposed an Indigenous business forum that was already scheduled and a “possible launch of Trilateral CPTPP side letter on trade and indigenous peoples”, which appears not to have happened. The 2020-2022 plan names “Trade and Indigenous Peoples and Trade and Climate Change” as key priorities for consideration of further work, including possible negotiation of new instruments. Again, nothing seems to have happened. As a consequence, implementation issues of importance to Māori and other Indigenous Peoples have remained invisible to the ITAG and CPTPP Parties.

It is our expectation that tino rangatiratanga of Māori as guaranteed under Te Tiriti o Waitangi and the rights of Indigenous Peoples to have and to exercise self-determination over the global domain will be protected and not be undermined by this Agreement.

To address this we propose steps to see that both the ITAG and the CPTPP include processes to empower Māori, and other Indigenous Peoples within the territories of the CPTPP Parties, to examine and address the negative as well as positive impacts on them of the TPPA/CPTPP and to identify and seek redress for breaches of their rights, interests, duties and responsibilities under Te Tiriti and the UN Declaration. This includes having seats at the decision-making tables with due accountability to their people and independence from the state.

We recommend that the Crown

- a. proposes to the other ITAG parties the adoption of an institutional arrangement that ensures Indigenous Peoples have rights of representation and effective participation in decision-making in all ITAG activities, consistent with the UN Declaration and Te Tiriti o Waitangi; and
- b. seeks the support of the other ITAG Parties, as an implementation issue, for a revision of the TPPA/CPTPP's institutional arrangements in the forthcoming CPTPP review to ensure the Agreement provides rights of representation and effective participation for Māori and other Indigenous Peoples in decision-making, consistent with the UN Declaration and Te Tiriti o Waitangi.

B. COMPLIANCE WITH TE TIRITI O WAITANGI OBLIGATIONS TO MĀORI

The TPPA/CPTPP does not reflect Indigenous worldviews, values, ethics and practices, including trading relationships, and its provisions are often in conflict with them, for example on intellectual property rights, investor protections and enforcement, pure food production and GMOs, Te Taiao and climate, among others.

The terms of reference for the ITAG review, which focus on implementation of the CPTPP, do not provide space for consideration of the negative impacts of the Agreement on Māori and other Indigenous Peoples. In this regard, we are pleased that the Crown has supported a broader approach to reviewing “implementation” to enable these matters to be addressed.

“Implementation” is interpreted in this memorandum to mean both “compliance” with obligations under the CPTPP and the implications for recognised obligations to Indigenous Peoples, including omissions or failure to actively protect Māori rights, interests, duties and responsibilities. Incorporating these issues in the ITAG Review should enable the Parties to address them in the operation and work plans of ITAG and the forthcoming reviews of the Joint Declaration and the CPTPP itself. Ngā Toki Whakarururanga welcomes this opportunity to present that information to the other Parties, and provide a more complete explanation of the Waitangi Tribunal's reports and findings, as well as other issues, which will need to be addressed during these forthcoming reviews.

(i) Article 29.6 Treaty of Waitangi Exception

Māori were excluded from decision-making about how their rights, interests, duties and responsibilities would be protected in the TPPA/CPTPP. The Treaty of Waitangi Exception was drafted over twenty years ago, for the Singapore New Zealand Closer Economic Partnership 2001. It has been routinely rolled over since then, including in the TPPA/CPTPP,⁴ despite the much broader scope of contemporary free trade agreements.

Unfortunately, the Crown’s account of the Waitangi Tribunal’s views on the Treaty Exception in the ITAG Review (pages 26-27) is incomplete, as it omits repeated advice to reconsider the Exception. At the initial hearing held under urgency the Tribunal found that, at a general level:

“the exception clause will be likely to operate in the TPPA substantially as intended and therefore can be said to offer a reasonable degree of protection to Māori interests. We have come to this view even though the clause as drafted only applies to measures that the Crown deems necessary to accord more favourable treatment to Māori. This raises a question about the scope of the clause.”⁵

The Tribunal then observed that:

“Adjustment of the Treaty exception may be necessary and we suggest that this could include space for dialogue between the Crown and Māori on this important provision. There may be practical and logistical questions, but these ought not to be insurmountable given the lines of communication established during this inquiry ...”

“Claimants must recognise that additional dialogue does not imply or guarantee particular outcomes. A judgement call will have to be made as to whether some changes to improve the exception might put the entire exception at too great a risk or rejection by other states, or cause too much uncertainty as to the application of the Treaty exceptions in existing FTAs. However, this is not a sufficient reason to deny domestic dialogue”.⁶

The subsequent Tribunal report on the Plant Variety Rights Regime/UPOV 1991 reiterated that:

“We did not find a breach of the Tiriti/Treaty principles in that inquiry, but our report expressed some concerns and suggested further dialogue between Māori and the Crown over an appropriate exception clause for future trade agreements.”⁷

The Wai 2522 Mediation Agreement envisages the identification of options for an alternative Treaty clause to be discussed with the Crown.⁸

The Wai 2522 Tribunal took an even stronger position on the Treaty of Waitangi Exception in its report on the CPTPP E-commerce chapter. It found that the Exception, even when read in conjunction with other exceptions, was not sufficient to mitigate the significant risks that the claimants identified and did not provide the level of active protection for mātauranga Māori the Crown was required to provide. In other words, in this case the Treaty Exception was not “likely to provide reasonable protection of the kind envisaged by the Crown”, as the Tribunal anticipated in the urgency hearing. The Tribunal went further, observing that “the predominant reliance on exceptions falls short of the active protection standard”.⁹

The Trade for All Advisory Board report to the Minister of Trade in 2019 reinforced these concerns and recommended as an “immediate measure”:

“Discussing the drafting of the ‘Treaty of Waitangi exception’ used in New Zealand FTAs with Māori, as recommended by the Waitangi Tribunal in Wai 2522; decisions made on the future text of the exception should only be made following that dialogue.”¹⁰

The forthcoming CPTPP review is an important opportunity to address this issue, and we urge the Crown to seek the support of other ITAG partners to do so. We note that the Crown has recognised and sought to address these concerns in other agreements. In negotiations on a Joint Statement Initiative (JSI) on E-commerce at the World Trade Organization, New Zealand has proposed a Treaty of Waitangi Exception on the lines supported by Ngā Toki Whakarururanga:

Article [x]: Indigenous Peoples

“Nothing in this Agreement shall preclude a Party/Member from adopting or maintaining measures it deems necessary to protect or promote rights, interests, duties and responsibilities of indigenous peoples in its territory, including in fulfilment of its obligations under its legal, constitutional or treaty arrangements with those indigenous peoples.

The Parties/Members agree that the interpretation of a Party’s/Member’s legal, constitutional or Treaty arrangements with indigenous peoples in its territory, including as to the nature of its rights and obligations under it, shall not be subject to the dispute settlement provisions of this agreement.”¹¹

In our view, this wording can provide genuine protection consistent with the Crown’s Tiriti o Waitangi obligations and removes almost all the current uncertainties. It is a stronger version of an Indigenous rights exception recently included in the United States Mexico Canada Agreement (USMCA) between states that are current or former parties to the TPPA/CPTPP. The USMCA Indigenous Exception is similar to the Treaty of Waitangi Exception but omits the limiting words “more favourable treatment”. However, it retains the “chapeau” that still provides an avenue for challenges based on “arbitrary or unjustified discrimination” or disguised restraints on trade.

We believe that Canada, Mexico, and other CPTPP countries in which Indigenous Peoples live, such as Peru and Chile, who are all signatories to the UN Declaration, may welcome the opportunity to adopt a broader Indigenous rights carveout as part of the CPTPP.

We urge the ITAG parties to include in their Work Programme a commitment to work with Indigenous Peoples in their territories to co-design a broad and comprehensive Indigenous rights carveout and to promote its adoption in the forthcoming CPTPP review.

We recommend the Crown

- a. proposes to extend the scope of the Joint Declaration to include examining and addressing the negative as well as positive impacts of the TPPA/CPTPP on Māori and other Indigenous Peoples, to be included in the next ITAG Work Programme plan; and
- b. seeks agreement from other ITAG Parties, as part of their Work Programme, to co-design with Indigenous Peoples who live in the territories of those Parties a broad and comprehensive Indigenous rights carveout to the CPTPP and to propose the adoption of that carveout during the forthcoming review of the CPTPP.

(ii) Taonga Species: Chapter 18 (Intellectual Property) Article 18.7.2 & Annex 18-A

The Crown’s failure to provide effective protection for rangatiratanga (full authority) and kaitiakitanga (responsibilities as protectors) over all taonga species (native birds, plants and animals of special cultural significance and importance to Māori) is a long-standing, and still unresolved, Tiriti o Waitangi issue in Aotearoa.

The Wai 262 Waitangi Tribunal claim started as an inquiry relating to flora and fauna, partly in response to the negotiation of the Trade-related Agreement on Intellectual Property Rights (TRIPS), and was later expanded to all forms of mātauranga Māori.

The Wai 262 report *Ko Aotearoa Tēnei*¹² was published in 2011. In 2019 the Crown established a process to develop a whole-of-government response to Wai 262, Te Pae Tawhiti. The goal of developing a Tiriti-based approach to domestic law and policy under Te Pae Tawhiti requires protection of the policy space to do so in the international arena, including in negotiations of international free trade agreements, such as the TPPA/CPTPP.

This issue came to the fore in relation to the proposed obligation to adopt the International Union for the Protection of New Varieties of Plants (UPOV) 1991 in the TPPA. The Crown was negotiating the TPPA while the Te Pae Tawhiti process was evolving. It apparently recognised that adopting UPOV 1991 would breach its Tiriti obligations and that the Treaty of Waitangi Exception would not provide effective protection.

The Crown secured the inclusion of Annex 18-A to the TPPA's Intellectual Property chapter of a provision that allowed it either to adopt UPOV 1991 or a sui generis version thereof that was nevertheless consistent with Te Tiriti o Waitangi. However, that obligation was adopted without any involvement from Māori (outside of the Crown), a practice that should no longer occur under the terms of the Mediation Agreement in the Wai 2522 claim.

The Annex 18-A obligation was the subject of a Waitangi Tribunal hearing in December 2019. The claimants argued that the TPPA obligation would prevent Te Pae Tawhiti from proceeding in a holistic manner, given that rangatiratanga and kaitiakitanga over taonga species are an integral element of Te Pae Tawhiti. They also predicted that the wording of Annex 18-A (notably reference to “indigenous plant species”) would be problematic, and the three-year time frame for its implementation would be unachievable if the policy and legislative processes were to be Tiriti-compliant.

The Crown assured the Tribunal that there was no problem with the wording and that Annex-18A would allow the Crown to meet its Tiriti obligations. It further argued that to seek a delay would seriously undermine New Zealand's credibility with the other parties to the CPTPP and would be unlikely to be agreed to.¹³

The Tribunal reported on this issue in August 2020. The Crown's account of this in the ITAG Review over-simplifies the findings and obscures important issues for the future. The Tribunal reached a curious conclusion that the Crown had not breached its Te Tiriti obligations, because by including Annex 18-A “*it is reducing the extent to which it is not in full compliance with its Tiriti/Treaty obligations.*”¹⁴

The resulting Plant Variety Rights Review was always under time pressure because of the TPPA/CPTPP obligation. Annex 18-A required the sui generis legislation to be implemented by 30 December 2021. That did not happen. The Plant Variety Rights Bill was introduced to Parliament in May 2021. The Select Committee hearings were in November 2021, one month before the CPTPP deadline, and the committee took 6 months to report back. Following consultation on regulations necessary for the legislation to be implemented the Act and regulations entered into force in January 2023.¹⁵

It is unclear what reasons New Zealand gave to the CPTPP Parties for its failure to comply with the timeline. Some delay could be attributed to Covid-19. But other legislation was passed more expeditiously during that time. The delays were also caused by concerns raised with officials and at the Select Committee, especially by Māori, that the Bill failed to meet the Crown's Tiriti obligations. That required further consideration and redrafting of key provisions.

The Crown's determination to proceed with the stand-alone UPOV-related legislation has denied Māori the right to have these matters addressed in what they consider to be a Tiriti-compliant manner through Te Pae Tawhiti. The actual legislation was drafted after the Tribunal's report, so its substantive provisions were not subject to the inquiry. Notably, the parts of the new legislation that implement the UPOV 91 obligations came into force immediately, but protections for Māori taonga species under Part 5 were not required to do so for another 2 years.¹⁶ This meant Māori Tiriti rights were vulnerable to more intrusive exploitative rights over plant varieties than prior to the TPPA/CPTPP.

The following extracts from Māori submissions on the Bill¹⁷ express a clear view that the Plant Variety Rights Bill was driven by the Crown's obligations to implement Annex 18-A, by-passed Te Pae Tawhiti and was not consistent with its Tiriti o Waitangi obligations:

Angeline Greensill, Chairperson for Tainui o Tainui Charitable Trust, Environmental Spokesperson for Tainui Hapū of Whaingaroa Raglan and Wai 2522 claimant: “the introduction of the bill appears to undermine Te Pae Tawhiti and the work being carried out by Minister Mahuta and fellow Ministers. ... On the 30 December 2021 deadlines imposed on the New Zealand Government by the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) take effect. It is my belief that rather than waiting for Te Pae Tawhiti to be completed the PVR Bill has been rushed through to meet external deadlines, and appease breeders who stand to benefit financially from exclusively owning plant varieties. Allowing domestic policy on Maori issues raised in Wai 262 to be resolved under Te Pae Tawhiti in a treaty compliant manner is collateral damage.”

Te Kāhui Rōngoa Trust, the national collective of Māori healers: “The approach proposed in this Bill is inconsistent with the approach led by Minister Mahuta when she established Te Pae Tawhiti and fails to allow Māori to exercise tino rangatiratanga over mātauranga Māori and taonga. ... The Bill, as it stands, undermines the efforts being made by the current Government to establish a more positive relationship with its Treaty partner. It calls into question the Crown's integrity. It erodes the trust that is necessary to establish a working partnership. As has been too often the case since the signing of the Treaty, when it comes to the crunch Māori always take second place and it reinforces the view held by many Māori that the Crown can not be trusted to keep its word.”

Tainui-Waikato: “Consistent with the principle of co-management, the 2008 Settlement and Settlement Act specifically require the Crown to engage directly with Waikato-Tainui at an early stage when developing any legislation or policies, or making any decisions, affecting the Waikato River. This includes our wai and related environs. The Crown has failed to do this. ... It is simply inconceivable to Waikato-Tainui how the Crown has failed to consider a comprehensive engagement strategy with iwi and hapū and not meeting such obligations under the Te Tiriti o Waitangi or related commitments through Te Tiriti Settlements between the Crown and Iwi.”

Wakatū Incorporation: “acknowledges the importance of this Bill as part of broader reform that seeks to (in part) respond to Wai 262. While we consider that the Bill does respond to aspects of the recommendations in Wai 262, we note that there is still a broader constitutional conversation that needs to occur (as noted at [14] of this submission). We remind the Committee that a key part of the Wai 262 claim was seeking a review of constitutional issues, with an emphasis on recognition of a true partnership and real shared decision making between Māori and the Crown. The long-term vision of the claimants being ‘Māori control over things Māori’.”

The Regulatory Impact Statement and exposure draft for accompanying regulations was released in December 2021,¹⁸ and the proposed regulations were published in April 2022. The

guide to the proposed regulations conceded that definitions of “taonga species” should have been addressed in Te Pae Tawhiti:

“We acknowledge that it has been a challenge for this review to address the issue of defining ‘taonga species’. The scope of the PVR regime is too narrow for this question to be comprehensively addressed, and it is better considered as part of Te Pae Tawhiti, the response to the Wai 262 report. If subsequent work settles on a more comprehensive definition of taonga species, the approach taken in the Bill and these regulations can be revisited.”¹⁹

However, it remains uncertain whether the Te Pae Tawhiti review will be able to address taonga species in the comprehensive manner it would have without the CPTPP-driven legislation. In the Tribunal hearing, the claimants raised the prospect that other CPTPP Parties might object if New Zealand amends its implementation of Annex 18-A on the basis that it has revised its understanding of what its own Tiriti obligations are, and whether the prospect of such objections may have a chilling effect on its willingness to do so. That risk still needs to be addressed.

We recommend, as part of the current ITAG review, that the Crown informs the ITAG Parties that

- a. the ongoing Te Pae Tawhiti process is likely to have implications for the Intellectual Property chapter of the CPTPP that may require it to seek a review of that chapter;
- b. that the Crown may need to revisit the sui generis legislation developed pursuant to Annex 18-A on UPOV 1991 in light of the outcome of the Te Pae Tawhiti review; and
- c. it seeks their support to take these necessary steps.

(iii) **Digital: Chapter 9 (Investment), Chapter 10 (Cross-border Services), Chapter 11 (Financial Services) & Chapter 14 (Electronic Commerce)**

The Waitangi Tribunal found that Chapter 14 on Electronic Commerce of the TPPA/CPTPP breached the Crown’s Te Tiriti o Waitangi obligations by failing to ensure active protection of mātauranga Māori, which the Tribunal described as going to the heart of Māori identity.²⁰ We believe the Crown has a responsibility to correct that breach in the pending review of the CPTPP. Compliance with that finding is an urgent implementation issue to be advanced through the ITAG review.

The obvious solution is to amend the Treaty of Waitangi Exception to provide a more effective and comprehensive carveout that is not limited to “more favourable treatment” and does not include the chapeau, as New Zealand has proposed in the JSI on e-commerce, discussed above.

An alternative position, which we find less attractive because it provides less protection, is a chapter-specific carveout of the kind included in the NZ EU FTA (Article 12.1.2c). That would still be constrained by the “chapeau”. It would also only apply to Chapter 14, and not apply to Chapters 9, 10 or 11 that include obligations that have a similar effect, but which were out of scope for the Tribunal hearing.

A further option is to insert a new non-conforming measure (NCM) to New Zealand’s Annex II on cross-border services and investment, similar to the wording in the NZ EU FTA. But that does not provide effective protection as it only applies to certain rules. The EU FTA wording is also limited to measures affecting electronically enabled services, which may not include the digital-enabling services themselves. Including a more comprehensive NCM through the forthcoming review would

provide increased protection, but still only partially address the prejudice to mātauranga Māori. This should also be advanced through the ITAG.

We recommend that the Crown conveys the findings of the Wai 2522 Waitangi Tribunal on CPTPP Chapter 14 Electronic Commerce, and its obligations under Te Tiriti o Waitangi, to the other ITAG Parties and seeks their support for the adoption of a comprehensive Indigenous rights carveout in Chapter 14 in the forthcoming review of the CPTPP. Failing that, any lesser measures need to be more robust than those in the EU NZ FTA and co-designed with Māori and other Indigenous Peoples to the point of final drafting and adoption.

(iv) The Climate Crisis: Chapter 9 (Investment) & Chapter 20 (Environment)

Environment and climate crisis (we prefer the more accurate descriptor than “change”) policies and measures are of existential importance to Māori, to Aotearoa and the world. There is no effective protection for climate crisis measures in the CPTPP. Chapter 20 Environment is weak and does not require any specific action to be taken. Article 20.15 simply acknowledges that “transition to a low emissions economy requires collective action” and proposes possible areas of cooperation. The General Exception makes environmental measures subject to a “necessity test” and the chapeau, creating a high risk when relying on that as a defence.²¹ There is particular concern about special rights of investors to which the General Exceptions do not apply.²²

Risks to Te Taiao (environment) were raised in the initial pleadings for the Wai 2522 claim, but were not among the four selected to go to full hearing. Nevertheless, the Waitangi Tribunal expressed concern in its urgency report about the risks of a dispute being brought by an investor in a controversial offshore investor-state dispute settlement (ISDS) process and the uncertainty of whether the Treaty Exception would apply to such disputes.²³

The Tribunal proposed a protocol be developed to ensure Māori had some guaranteed input into and influence over such a dispute.²⁴ Ngā Toki Whakarururanga considers the protocol MFAT adopted falls short of the Tribunal’s proposal and our own expectations. Even if the Protocol was more robust, it would not remove the legal risk of a dispute, only how it would be handled.

The Labour-New Zealand First Government elected in 2016 during the final stages of negotiating the CPTPP said it would no longer include ISDS in FTAs. However, it was unable to renegotiate its obligations in the CPTPP. Instead, it sought bilateral side-letters with other parties agreeing not to permit the use of ISDS as between them. Those side-letters with Australia, Vietnam, Brunei, Malaysia, Peru, and Chile only prevent an ISDS dispute under the CPTPP and do not apply to any other agreements between the same parties which also provide for ISDS. Nor do they protect New Zealand from an investment dispute on a state-state basis.

International developments show the potential for challenges to climate change measures under the TPPA/CPTPP Chapter 9 Investment is very real, making it a pressing implementation issue. The same risk applies to climate legislation, rulings of administrative tribunals, or resource management decisions. These cases are already occurring overseas.²⁵ There is also potential for a state-state dispute involving the investment chapter. Canada recently requested consultations under the investment chapter of the USMCA over Mexico halting the issue of permits under its energy reforms,²⁶ which could lead to a state-state dispute if unresolved.

This poses an equally real risk to Tiriti-based climate initiatives, which are mounting. Recent litigation brought by the spokesperson on climate change for the Iwi Chairs Forum relied in part on tikanga Māori and Te Tiriti o Waitangi.²⁷ The Supreme Court in a recent case has also

observed that tikanga Māori is part of the law of Aotearoa New Zealand.²⁸ A Māori Party Bill to legislate against deep sea mining was recently before Parliament, but was not referred to select committee.²⁹ Parliament's Environment Committee has launched an inquiry into seabed mining, which will doubtless involve Tiriti and trade law issues.³⁰

The pending review of the CPTPP provides the opportunity for all Parties to revisit the ISDS provisions given the growing trend of countries to avoid or withdraw from them. We note there is no ISDS in the Regional Comprehensive Economic Partnership (RCEP) to which Australia, Brunei, Malaysia, Japan, Singapore, Vietnam, and New Zealand are Parties. It was almost totally removed from the USMCA, which involves two other CPTPP parties, Mexico and Canada. There is no ISDS in New Zealand's FTAs with the United Kingdom and European Union. The ITAG Parties should collectively support such a move.

At a minimum, New Zealand should seek support from ITAG parties, in advance of the forthcoming CPTPP review, for side-letters between all the CPTPP countries and New Zealand that cover ISDS between them under any agreement, not just the CPTPP.

We recommend that the Crown seeks the support of the other ITAG Parties to promote, as an implementation issue, the exclusion of ISDS from the CPTPP during the forthcoming review; for those Parties that have signed side-letters with New Zealand committing to non-application of ISDS to extend them to cover to all agreements between them; and for ITAG Parties that have not yet signed such side-letters to do so.

(v) Natural Resources, Chapter 9 (Investment) Section B: Investor-State Dispute Settlement, Chapter 10 (Cross-border Services)

Similar concerns, especially but not solely around ISDS, apply to developing Tiriti-compliant legislation and decisions involving natural resources, such as water and mining. These were raised in the Wai 2522 Urgency hearing but not part of the four issues selected for the full hearing. There are already instances of policy advice from MFAT that an export tax on water would breach the TPPA/CPTPP.³¹ It is likely that similar issues would arise if moves to assert Māori customary rights over water, or protests against consents to extract large amounts of groundwater, forced foreign bottling export operation to shut down.³² To provide active protection against this occurring requires a comprehensive Indigenous rights carveout.

We recommend that the Crown seeks the support of the other ITAG Parties to

- a. take the steps to address ISDS, described under (iv) climate crisis;
- b. initiate, as part their Work Programme, a thorough review of how non-conforming measures in the Investment and Cross-border Services chapters of CPTPP can provide better protection for measures that are based in whole, or in part, on meeting the Parties' obligations under Te Tiriti o Waitangi and/or the UN Declaration, and take action to implement those findings in the forthcoming CPTPP review.

(vi) Mātauranga Māori and Kaitiakitanga (other than digital): Chapter 10 (Cross-border Services), Chapter 18 (Intellectual Property), Chapter 20 (Environment)

The Crown has obligations to actively protect mātauranga Māori (knowledge, concepts and values), and the exercise of related rights, interests, duties and responsibilities under Te Tiriti o Waitangi. This includes rangatiratanga and kaitiakitanga over culture, identity, taonga works, or natural domains such as awa, maunga or whenua. The TPPA/CPTPP chapters on intellectual property, cross-border services, and environment, neither recognise nor protect these fundamentals in relation to Te Ao Māori. The implementation of the intellectual property rights required in the TPPA/CPTPP, for example, constitute an ongoing violation of Te Tiriti. This is a Wai 262 matter being pursued under Te Pae Tawhiti, raising similar issues to those discussed above for taonga species.

The omission of active and effective protection from the CPTPP is, we believe, an implementation issue that needs to be addressed in the forthcoming CPTPP review. To that end, we urge the Crown to secure a commitment from other ITAG Parties as part of their Work Programme to work together with Indigenous Peoples in their territories to develop and secure a comprehensive Indigenous rights carveout in the pending CPTPP review.

We recommend the Crown:

- a. takes the steps relating to Intellectual Property rights in the CPTPP, described under (ii) Taonga Species;
- b. take the steps relating to an Indigenous rights exception in the CPTPP, described under (i) Treaty of Waitangi Exception.

(vii) Hua Parakore and Genetic Modification: Chapter 2 Section C (Agriculture)

Māori have long resisted genetic modification (GM) and GM organisms (GMOs) as incompatible with the protection of the whakapapa of flora and fauna, mātauranga and tikanga, and kaitiaki responsibilities. They also endanger Māori control over organic food production through tikanga based practices.

This fundamental Tiriti issue was not among the four selected for the Waitangi Tribunal Wai 2522 claim. The secrecy surrounding the TPPA meant the inclusion of provisions on GMOs was not known until the text was concluded and released.

However, GMOs had already been the subject of the Wai 262 inquiry. The Report of the evidence presented by Te Waka Kai Ora to the Wai 262 Tribunal shows why accepting GM would violate Māori rights, interests, duties and responsibilities and breach the Crown's obligations under Te Tiriti o Waitangi. Dr Jessica Hutchings, a long-standing member of Te Waka Kai Ora (the Māori organics network) and a kaihautū of Ngā Toki Whakarururanga specifically warned the Wai 262 Tribunal of the risks to rangatiratanga and kaitiakitanga that trade agreements pose to a GM-free Aotearoa:

The debate regarding GM raises not only the issues of protecting mauri ... but also the issues of globalisation, free trade, intellectual property rights and the plundering of global resources for profit. If we as Māori are to reject GM then we must also make the connection and strongly reject globalisation and free trade on our land: biotechnology is the new global wave of colonisation.³³

Consistent with the Wai 2522 Tribunal findings on digital, we believe the inclusion of biotech obligations in free trade agreements could circumscribe or chill domestic policy and the endorsement of Tiriti-based approaches to GMOs. As the Treaty of Waitangi Exception only covers measures that give “more favourable treatment” of Māori, we fear that it would not protect a breach the GM rules intended, at least in part, to protect Māori rights, interests, duties and responsibilities.

In addition to a comprehensive Indigenous rights carveout, we urge the ITAG Parties to include an Indigenous-led inquiry into the implications of the implementation of the biotech provisions in the CPTPP for Indigenous rights, interests, duties and responsibilities.

We recommend the Crown seeks agreement from other ITAG parties to:

- a. take the steps relating to an Indigenous rights exception in the CPTPP, described under (i) Treaty of Waitangi Exception; and
- b. conduct as part of their Work Programme an Indigenous-led investigation of the implications of CPTPP provisions relating to biotech and GMOs for the right of Māori and other Indigenous Peoples to exercise rights, interests, duties and responsibilities in relation to food, seeds, and the natural domain consistent with Te Tiriti o Waitangi and the UN Declaration, and to take action to ensure more effective protection for them during the review of the CPTPP itself.

(viii) Waipiro/Alcohol: Chapter 8 (Technical Barriers to Trade), Chapter 9 (Investment), Chapter 10 (Cross-border Services), Chapter 26 (Transparency)

A claim currently before the Waitangi Tribunal relating to the Sale and Supply of Alcohol Act 2012 (Wai 2624) seeks findings that alcohol policies and laws fail to protect Māori from the disproportionate exposure to and harm caused by alcohol.³⁴ There are legal arguments that various CPTPP chapters (technical barriers to trade, investment, cross-border services and transparency) may chill the adoption of alcohol policies and laws designed to protect Māori from the disproportionate exposure to and harm caused by alcohol, as occurred with tobacco.

The schedules of protections or NCMs for the CPTPP services and investment chapters only relate to the wholesale and retail trade in alcoholic beverages, not for example to advertising, marketing and promotion, entertainment, or digital services. Article 29.5 in Chapter 29 Exceptions allows the parties to block ISDS disputes over tobacco control measures, which implicitly recognises the risk of such disputes. There is no equivalent protection for alcohol control measures against similar risks of investor-state disputes being brought by Big Alcohol.

This is another instance where measures to meet the Crown’s Tiriti obligation would not involve “more favourable treatment” for Māori under the Treaty of Waitangi Exception. The recommended work in ITAG to co-design an effective and comprehensive carveout for Indigenous Peoples should be complemented by a thorough review of non-conforming measures to identify how they can provide more effective protections for matters like alcohol when implementing CPTPP rules.

We recommend the Crown seeks agreement from other ITAG Parties to:

- a. take the steps relating to an Indigenous rights exception in the CPTPP, described under (i) Treaty of Waitangi Exception; and
- b. take the steps relating to non-conforming measures in the Investment and Cross-border Services chapters recommended under (v) Natural Resources.

(ix) Rongoā: Chapter 8 (Technical Barriers to Trade), Chapter 18 (Intellectual Property)

The introduction of a Therapeutic Products Bill to Parliament in November 2022 has been vigorously challenged by rongoā practitioners and other Māori as a breach of Te Tiriti o Waitangi.³⁵ The initial scope of that legislation included rongoā Māori and denied Māori rangatiratanga and kaitiakitanga over the sources, processes and uses of rongoā.

Again, this Tiriti issue has a history in trade agreements. In 2006, the proposed establishment of the Australia New Zealand Therapeutic Authority under the Closer Economic Relations agreement was subject to an urgent Waitangi Tribunal claim by Te Waka Kai Ora as part of Wai 262.³⁶ That claim challenged the authority of the Crown to define the identities and inherent authority that is imbued within the descent lines of the claimants and the rights of the Crown to template the claimants within foreign frameworks, telling them, their whānau, and their hapū who they are, or who they should be, and what their traditions are.

In June 2023 the Government announced rongoā would be excluded from the Bill except for products made for commercial wholesale or export.³⁷ That compromise suggests that trade agreements like the TPPA/CPTPP are a factor that circumscribes the way that rongoā can be regulated in Aotearoa and that the Treaty Exception was not considered sufficient to excuse the non-application of such rules. This reinforces our view that the ITAG Parties need to work urgently with Indigenous Peoples to co-design a comprehensive Indigenous rights carveout.

We recommend the Crown takes the steps relating to an Indigenous rights exception in the CPTPP, described under (i) Treaty of Waitangi Exception.

D. ASSESSING ECONOMIC IMPACTS OF CPTPP FOR MĀORI

The Minister's states in his Foreword to MFAT's ITAG Review that Māori are "relatively well placed to experience the benefits of CPTPP". We believe that conclusion is premature.

The data on Māori employment and Māori exporters on pages 23 to 25 of the ITAG Review is not robust enough to draw any firm inferences. Even taken at face value, the quantitative assessment of the commercial, economic and employment benefits of the TPPA/CPTPP to Māori is underwhelming, especially if these gains are meant to compensate for negative impacts of other parts of the Agreement.

For example, it is impossible to tell how much of the small increase reported in Māori export activities or Māori jobs in businesses exporting to CPTPP countries is due to trade diversion of exports that would have gone to other countries, rather than a real increase in economic activity and related employment. The distributional data only deals with goods, so there is no indication of if or how CPTPP provisions might have affected services exports in crucial sectors for Māori such as tourism, especially compared to other factors like the value of the dollar, immigration rules or circumstances like the pandemic or wars. The fall in the number of Māori small businesses is also likely to be disproportionately significant for provincial communities.

These, among other, questions highlight the problem that decontextualised statistics tell us nothing qualitative about what is happening in the real world of Māori work and businesses, especially in the regions. Any proper assessment of impacts on Māori need to take a holistic and qualitative approach to wellbeing. We recommend that MFAT works with the Productivity Commission to identify a more appropriate Kaupapa Māori methodology that combines embodied

data with narratives viewed through the lens of Te Ao Māori that can provide a more fully informed assessment of the CPTPP's impacts on Māori businesses and workers.

We recommend that

- a.** the Crown works with experts in Kaupapa Māori methodology and the Productivity Commission in Aotearoa to develop an appropriate methodology that combines embodied data and narratives to allow a fully informed assessment of the implications of the TPPA/CPTPP for Māori, through the lens of Te Ao Māori; and
- b.** the ITAG Parties incorporate a similar initiative into the ITAG Work Programme to develop a broadly common methodology based on Indigenous knowledge systems for future use in assessing the implementation and impacts of the TPPA/CPTPP on all affected Indigenous Peoples.

Endnotes

- 1 <https://www.ngatoki.nz/mous>
- 2 <https://www.justice.govt.nz/assets/WT-Wai-2522-2.5.0009-TPPA.pdf>
- 3 Mediation Agreement on the Trans-Pacific Partnership Agreement Issues of Engagement and Secrecy, (Wai 2522), 2 October 2020, <https://www.ngatoki.nz/whakapapa>
- 4 Article 29.6 Treaty of Waitangi. “Provided that such measures are not used as a means of arbitrary or unjustified discrimination against persons of the other Parties or as a disguised restriction on trade in goods, nothing in this Agreement shall preclude a Party/Member from adopting or maintaining measures it deems necessary to accord more favourable treatment to Māori in respect of matters covered by this Agreement, including in fulfilment of its obligations under the Treaty of Waitangi.

The Parties/Members agree that the interpretation of the Treaty of Waitangi, including as to the nature of its rights and obligations arising under it, shall not be subject to the dispute settlement provisions of this Agreement. Chapter 28 (Dispute Settlement) shall otherwise apply to this Article. A Panel established under Article 28.7 (Establishment of a Panel) may be requested to determine only whether a measure referred to in paragraph 1 is inconsistent with a Party’s rights under this Agreement.”
- 5 Waitangi Tribunal, Report on the Trans-Pacific Partnership Agreement, (Wai 2522), 2016, x <https://tpplegal.files.wordpress.com/2015/12/pre-publication-report.pdf>
- 6 Waitangi Tribunal, Report on the Trans-Pacific Partnership Agreement, (Wai 2522), 2016, 57.
- 7 Waitangi Tribunal, The Report on the Crown’s Review of the Plant Variety Rights Regime. Stage 2 of the Trans-Pacific Partnership Agreement Claims, (Wai 2522), 2020, 2 https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_167062478/Plant%20Variety%20Rights%20Regime%20W.pdf
- 8 Mediation Agreement on the Trans-Pacific Partnership Agreement Issues of Engagement and Secrecy, (Wai 2522), 2 October 2020, [13.8].
- 9 Waitangi Tribunal, Report on the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, (Wai 2522), 173, https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_195473606/Report%20on%20the%20CPTPP%20W.pdf
- 10 Report of the Trade for All Advisory Board, November 2019, [36.c], see also [67] <https://www.mfat.govt.nz/assets/Trade-General/Trade-policy/Trade-for-All-report.pdf>
- 11 WTO, Joint Statement Initiative on E-Commerce, Discussion paper on Digital Inclusion, Communication from New Zealand, INF/ECOM/71, 25 November 2022.
- 12 Waitangi Tribunal, Ko Aotearoa Tēnei (Wai 262), 2011, <https://waitangitribunal.govt.nz/news/ko-aotearoa-tenei-report-on-the-wai-262-claim-released/>
- 13 Waitangi Tribunal, The Report on the Crown’s Review of the Plant Variety Rights Regime. Stage 2 of the Trans-Pacific Partnership Agreement Claims, (Wai 2522), 2020, 40.
- 14 Waitangi Tribunal, The Report on the Crown’s Review of the Plant Variety Rights Regime. Stage 2 of the Trans-Pacific Partnership Agreement Claims, (Wai 2522), 2020, 9.
- 15 <https://bills.parliament.nz/v/6/d2ec5576-40ba-46a6-835a-87968b2fea04?Tab=history>
- 16 <https://www.legislation.govt.nz/act/public/2022/0061/latest/whole.html>
- 17 <https://bills.parliament.nz/v/6/d2ec5576-40ba-46a6-835a-87968b2fea04?Tab=sub>
- 18 <https://www.treasury.govt.nz/publications/risa/regulatory-impact-statement-regulations-accompany-new-plant-variety-rights-act>
- 19 MBIE, Guide to the Proposed New PVR Regulations, April 2022, 3. <https://www.mbie.govt.nz/dmsdocument/19887-guide-to-the-proposed-new-plant-variety-rights-regulations-2022>
- 20 Waitangi Tribunal, Report on the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, (Wai 2522), xiv, 45.
- 21 Daniel Rangel, “The WTO General Exceptions. Trade Law’s Fayulty Ivory Tower”, Public Citizen, https://www.citizen.org/wp-content/uploads/WTO-General-Exceptions-Paper_-1.pdf
- 22 Especially Minimum Standards of Treatment (TPPA/CPTPP Art 9.6), Expropriation (TPPA/CPTPP Art 9.8). TPPA/CPTPP Article 29.1 General Exceptions does not apply to the Investment Chapter.
- 23 Waitangi Tribunal, Report on the Trans-Pacific Partnership Agreement, (Wai 2522), 2016, x, 40-41.
- 24 <https://www.mfat.govt.nz/en/trade/trade-law-and-dispute-settlement/an-isd-protocol/>

- 25 UNCTAD, 'Treaty-based Investor-State Dispute Settlement Cases and Climate Action', IIA no.4, Sept 2022, <https://investmentpolicy.unctad.org/publications/1270/treaty-based-investor-state-dispute-settlement-cases-and-climate-action>
- 26 <https://arbitrationblog.kluwerarbitration.com/2022/11/25/mexicos-new-energy-sovereignty-puts-the-usmca-dispute-resolution-mechanisms-to-a-test/>
- 27 Michael John Smith v Fonterra & Ors, <https://www.courtsofnz.govt.nz/cases/michael-john-smith-v-fonterra-co-operative-group-limited-genesis-energy-limited-dairy-holdings-limited-new-zealand-steel-limited-z-energy-limited-new-zealand-refining-company-limited-and-bt-mining-limited>; see also <https://www.minterellison.co.nz/insights/what-s-hot-climate-change-litigation-in-new-zealand>
- 28 Peter Hugh McGregor Ellis v R [2022] NZSC 114.
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- 31 <https://www.stuff.co.nz/national/politics/99401595/export-tax-on-water-would-breach-tpp-and-other-free-trade-agreements-mps-told>
- 32 <https://www.rnz.co.nz/news/te-manu-korihi/407280/maori-water-rights-case-aims-to-stop-water-bottlers>; <https://waateanews.com/2023/03/24/iwi-petition-water-bottling-consent/>
- 33 He Kai te Rongoā, He Rongoā te Kai, Te Waka Kai Ora, October 2022, 49. [https://www.tewakakaiaora.co.nz/site_files/24901/upload_files/Wai262Report_DIGITAL_SMALL\(1\)\(1\).pdf?dl=1](https://www.tewakakaiaora.co.nz/site_files/24901/upload_files/Wai262Report_DIGITAL_SMALL(1)(1).pdf?dl=1)
- 34 <https://www.tematalaw.co.nz/our-mahi/wai-2624>
- 35 <https://thespinoff.co.nz/atea/15-06-2023/rongoa-and-the-therapeutic-products-bill-explained>
- 36 Waitangi Tribunal, Ko Aotearoa Tēnei (Wai 262), 2011, vol.2, 637-8.
- 37 <https://www.beehive.govt.nz/release/therapeutic-products-bill-reduces-regulation-small-scale-producers-exclude-rongo%C4%81>

Annex A4: Distributional Data Tables

A4.1 Goods exporting firms' employment by ethnicity, firm size, and export partner

	Women			Men			Total		
	2018	2019	2020	2018	2019	2020	2018	2019	2020
FIRMS THAT EXPORTED TO CPTPP COUNTRIES									
All CPTPP and non-CPTPP members	3,300	3,600	3,700	5,000	4,700	5,000	8,400	8,400	8,700
New CPTPP members & non-CPTPP members	340	510	410	620	640	470	970	1,100	890
New CPTPP members only	130	100	100	160	150	240	280	250	340
Old & new CPTPP members only	80	130	150	160	220	210	240	350	350
Old CPTPP members & non-CPTPP members	5,600	5,900	6,000	11,100	11,500	10,400	16,800	17,500	16,400
Old CPTPP members only	1,700	1,700	1,700	3,000	2,900	2,900	4,800	4,600	4,800
Total firms that exported goods to CPTPP countries	11,150	11,940	12,060	20,040	20,110	19,220	31,490	32,200	31,480
FIRMS THAT DID NOT EXPORT GOODS TO CPTPP COUNTRIES	2,600	2,400	2,300	4,500	4,600	4,100	7,100	7,100	6,300
TOTAL	13,750	14,340	14,360	24,540	24,710	23,320	38,590	39,300	37,780
FIRMS THAT EXPORTED TO CPTPP COUNTRIES									
All CPTPP and non-CPTPP members	10,400	10,900	12,300	16,700	17,700	19,300	27,100	28,600	31,600
New CPTPP members & non-CPTPP members	640	460	650	1,400	880	940	2,100	1,400	1,600
New CPTPP members only	110	110	-	170	160	-	290	270	-
Old & new CPTPP members only	160	-	170	440	-	390	610	-	550
Old CPTPP members & non-CPTPP members	13,900	14,900	13,200	28,400	29,400	25,600	42,400	44,300	38,700
Old CPTPP members only	3,300	3,200	3,100	5,200	4,500	4,700	8,400	7,600	7,700
Total of firms that exported goods to CPTPP countries	28,510	29,570	29,420	52,310	52,640	50,930	80,900	82,170	80,150
FIRMS THAT DID NOT EXPORT GOODS TO CPTPP COUNTRIES	1,900	2,400	3,200	4,900	4,600	5,800	6,800	7,100	9,000
TOTAL	30,410	31,970	32,620	57,210	57,240	56,730	87,700	89,270	89,150
FIRMS THAT EXPORTED TO CPTPP COUNTRIES									
All CPTPP and non-CPTPP members	76,000	89,700	83,200	105,300	110,100	108,300	181,300	199,900	191,700
New CPTPP members & non-CPTPP members	470	540	-	740	880	-	1,200	1,400	-
New CPTPP members only	-	-	-	-	-	-	-	-	-
Old & new CPTPP members only	-	-	-	-	-	-	-	-	-
Old CPTPP members & non-CPTPP members	89,600	86,300	105,900	101,500	94,700	106,300	191,200	181,100	212,400
Old CPTPP members only	6,900	9,600	11,300	12,100	6,400	6,900	19,000	15,900	18,200
Total of firms that exported goods to CPTPP countries	172,970	186,140	200,400	219,640	212,080	221,500	392,700	398,300	422,300
FIRMS THAT DID NOT EXPORT GOODS TO CPTPP COUNTRIES	14,800	15,200	13,500	10,400	15,000	14,400	25,200	30,100	28,000
TOTAL	187,770	201,340	213,900	230,040	227,080	235,900	417,900	428,400	450,300
FIRMS THAT EXPORTED TO CPTPP COUNTRIES									
All CPTPP and non-CPTPP members	89,700	104,200	99,200	127,000	132,500	132,600	216,800	236,900	232,000
New CPTPP members & non-CPTPP members	1,450	1,510	1,060	2,760	2,400	1,410	4,270	3,900	2,490
New CPTPP members only	240	210	100	330	310	240	570	520	340
Old & new CPTPP members only	240	130	320	600	220	600	850	350	900
Old CPTPP members & non-CPTPP members	109,100	107,100	125,100	141,000	135,600	142,300	250,400	242,900	267,500
Old CPTPP members only	11,900	14,500	16,100	20,300	13,800	14,500	32,200	28,100	30,700
Total of firms that exported goods to CPTPP countries	212,630	227,650	241,880	291,990	284,830	291,650	505,090	512,670	533,930
FIRMS THAT DID NOT EXPORT GOODS TO CPTPP COUNTRIES	19,300	20,000	19,000	19,800	24,200	24,300	39,100	44,300	43,300
TOTAL	231,930	247,650	260,880	311,790	309,030	315,950	544,190	556,970	577,230

A4.2 Goods exporting firms' monthly median wages by ethnicity, firm size, and export partner

Monthly Median Wages in Goods Exporting Firms (Year to March)												
	Women			Men			Total			Gender Pay Gap		
	2018	2019	2020	2018	2019	2020	2018	2019	2020	2018	2019	2020
Firms with 1 - 49 employees												
FIRMS THAT EXPORTED TO CPTPP COUNTRIES												
All CPTPP and non-CPTPP members	\$4,469	\$4,591	\$4,885	\$6,115	\$6,328	\$6,483	\$5,531	\$5,656	\$5,893	-27%	-27%	-25%
New CPTPP members & non-CPTPP members	\$4,722	\$4,559	\$4,392	\$6,308	\$6,333	\$6,304	\$5,772	\$5,514	\$5,286	-25%	-28%	-30%
New CPTPP members only	\$3,373	\$3,231	\$3,673	\$4,377	\$4,274	\$5,387	\$3,920	\$3,795	\$4,873	-23%	-24%	-32%
Old & new CPTPP members only	\$3,675	\$3,911	\$4,887	\$4,323	\$5,649	\$5,256	\$3,814	\$5,195	\$5,108	-15%	-31%	-7%
Old CPTPP members & non-CPTPP members	\$4,741	\$4,758	\$4,913	\$6,126	\$6,325	\$6,676	\$5,735	\$5,864	\$6,156	-23%	-25%	-26%
Old CPTPP members only	\$4,187	\$4,531	\$4,687	\$5,384	\$5,801	\$5,836	\$4,977	\$5,421	\$5,508	-22%	-22%	-20%
FIRMS THAT DID NOT EXPORT GOODS TO CPTPP COUNTRIES	\$3,699	\$4,080	\$4,364	\$4,545	\$5,187	\$5,413	\$4,142	\$4,655	\$4,887	-19%	-21%	-19%
Firms with 50 - 249 employees												
FIRMS THAT EXPORTED TO CPTPP COUNTRIES												
All CPTPP and non-CPTPP members	\$4,725	\$5,064	\$5,220	\$6,380	\$6,506	\$6,643	\$5,730	\$5,916	\$6,096	-26%	-22%	-21%
New CPTPP members & non-CPTPP members	\$4,290	\$4,096	\$4,364	\$5,274	\$4,966	\$5,365	\$4,880	\$4,948	\$4,958	-19%	-18%	-19%
New CPTPP members only	\$3,482	\$4,087	-	\$4,668	\$5,071	-	\$4,482	\$4,872	-	-25%	-19%	-
Old & new CPTPP members only	\$4,458	-	\$4,949	\$6,616	-	\$6,124	\$6,436	-	\$6,011	-33%	-	-19%
Old CPTPP members & non-CPTPP members	\$4,938	\$5,056	\$5,350	\$6,350	\$6,457	\$6,854	\$6,019	\$6,053	\$6,432	-22%	-22%	-22%
Old CPTPP members only	\$4,398	\$4,871	\$4,797	\$5,641	\$5,901	\$5,908	\$5,190	\$5,598	\$5,586	-22%	-17%	-19%
FIRMS THAT DID NOT EXPORT GOODS TO CPTPP COUNTRIES	\$4,567	\$4,597	\$4,994	\$5,472	\$5,377	\$5,898	\$5,184	\$5,168	\$5,597	-17%	-15%	-15%
Firms with 250 + employees												
FIRMS THAT EXPORTED TO CPTPP COUNTRIES												
All CPTPP and non-CPTPP members	\$5,337	\$5,486	\$5,812	\$6,856	\$7,141	\$7,480	\$6,371	\$6,561	\$6,775	-22%	-23%	-22%
New CPTPP members & non-CPTPP members	\$4,181	\$5,223	-	\$5,318	\$6,255	-	\$4,946	\$5,730	-	-21%	-17%	-
New CPTPP members only	-	-	-	-	-	-	-	-	-	-	-	-
Old & new CPTPP members only	-	-	-	-	-	-	-	-	-	-	-	-
Old CPTPP members & non-CPTPP members	\$5,661	\$5,492	\$5,915	\$6,926	\$6,676	\$7,060	\$6,348	\$6,216	\$6,664	-18%	-18%	-16%
Old CPTPP members only	\$4,903	\$5,556	\$5,465	\$6,041	\$6,909	\$6,775	\$5,638	\$6,586	\$5,989	-19%	-20%	-19%
FIRMS THAT DID NOT EXPORT GOODS TO CPTPP COUNTRIES	\$4,754	\$4,256	\$4,905	\$6,360	\$4,801	\$5,631	\$5,490	\$4,503	\$5,156	-25%	-11%	-13%

A4.3 Goods exporting firms by Māori and non-Māori led firms, firm size, and export partner

Number of Goods Exporting Firms and Value of Goods Exports (Year to March)										
By Trading Partner Group	Number of Firms			CPTPP Goods Exports			Total Goods Exports			Avg CPTPP Tariff Reduction in 2020
	2018	2019	2020	2018	2019	2020	2018	2019	2020	
Women Led										
FIRMS THAT EXPORTED TO CPTPP COUNTRIES										
All CPTPP and non-CPTPP members	105	126	129	\$261,710,756	\$335,379,494	\$194,485,210	\$516,333,194	\$712,197,992	\$502,515,520	3.5%
New CPTPP members & non-CPTPP members	18	27	21	-	\$6,589,138	\$2,552,109	\$22,837,666	\$47,628,301	\$20,470,599	1.8%
New CPTPP members only	9	6	9	\$1,331,511	\$974,742	\$1,358,096	\$1,331,511	\$974,742	\$1,358,096	4.0%
Old & new CPTPP members only	6	6	-	\$5,130,571	\$1,277,828	\$735,046	\$5,130,571	\$1,277,828	\$735,046	2.5%
Old CPTPP members & non-CPTPP members	228	225	225	\$543,540,344	\$408,009,188	\$319,028,499	\$795,516,384	\$698,937,427	\$668,582,574	3.2%
Old CPTPP members only	123	114	135	\$37,499,687	\$46,367,437	\$62,434,135	\$37,499,687	\$46,367,437	\$62,434,135	4.1%
Total firms that exported goods to CPTPP countries	489	504	519	\$849,212,869	\$798,597,827	\$580,593,095	\$1,378,649,013	\$1,507,383,727	\$1,256,095,970	
FIRMS THAT DID NOT EXPORT GOODS TO CPTPP COUNTRIES	246	222	213	-	-	-	\$466,216,873	\$205,247,604	\$345,257,124	
TOTAL	735	726	732	\$849,212,869	\$798,597,827	\$580,593,095	\$1,844,865,886	\$1,712,631,331	\$1,601,353,094	
Men Led										
FIRMS THAT EXPORTED TO CPTPP COUNTRIES										
All CPTPP and non-CPTPP members	666	657	687	\$7,538,889,643	\$7,671,489,283	\$8,011,994,094	\$33,931,415,336	\$34,983,327,873	\$37,788,178,597	3.0%
New CPTPP members & non-CPTPP members	87	84	75	\$291,310,970	\$62,578,773	\$85,959,260	\$794,837,620	\$739,988,733	\$514,967,188	2.8%
New CPTPP members only	24	21	21	-	-	-	-	-	-	
Old & new CPTPP members only	12	15	24	\$11,749,699	\$9,213,009	\$16,771,932	\$11,749,699	\$9,213,009	\$16,771,932	2.6%
Old CPTPP members & non-CPTPP members	1,251	1,317	1,206	\$2,952,640,337	\$3,512,587,696	\$2,953,309,071	\$6,115,946,564	\$7,525,768,940	\$6,889,018,385	3.2%
Old CPTPP members only	342	345	348	\$404,278,555	\$365,157,510	\$658,102,401	\$404,278,555	\$365,157,510	\$658,102,401	3.3%
Total firms that exported goods to CPTPP countries	2,382	2,439	2,361	\$11,198,869,204	\$11,621,026,271	\$11,726,136,758	\$41,258,227,774	\$43,623,456,065	\$45,867,038,503	
FIRMS THAT DID NOT EXPORT GOODS TO CPTPP COUNTRIES	606	591	555	\$-	\$-	\$-	\$1,026,700,527	\$1,447,372,229	\$1,448,490,207	
TOTAL	2,988	3,030	2,916	\$11,198,869,204	\$11,621,026,271	\$11,726,136,758	\$42,284,928,301	\$45,070,828,294	\$47,315,528,710	
Split Leadership										
FIRMS THAT EXPORTED TO CPTPP COUNTRIES										
All CPTPP and non-CPTPP members	57	54	60	\$135,977,274	\$172,759,424	\$181,989,239	\$241,278,625	\$471,146,766	\$446,746,050	3.1%
New CPTPP members & non-CPTPP members	-	9	-	-	\$1,811,895	-	-	\$14,646,989	-	
New CPTPP members only	-	-	-	-	-	-	-	-	-	
Old & new CPTPP members only	-	-	-	-	-	\$1,635,397	-	-	\$1,635,397	3.9%
Old CPTPP members & non-CPTPP members	93	84	84	\$80,208,597	\$49,828,821	\$167,558,422	\$227,066,774	\$173,033,398	\$264,984,262	3.3%
Old CPTPP members only	24	21	24	\$19,846,649	\$24,310,076	\$15,806,601	\$19,846,649	\$24,310,076	\$15,806,601	4.1%
Total firms that exported goods to CPTPP countries	174	168	168	\$236,032,520	\$248,710,216	\$366,989,659	\$488,192,048	\$683,137,229	\$729,172,310	
FIRMS THAT DID NOT EXPORT GOODS TO CPTPP COUNTRIES	21	30	27	\$-	\$-	\$-	\$24,503,021	\$31,471,091	\$23,935,623	
TOTAL	195	198	195	\$236,032,520	\$248,710,216	\$366,989,659	\$512,695,069	\$714,608,320	\$753,107,933	
Total - All Firms										
FIRMS THAT EXPORTED TO CPTPP COUNTRIES										
All CPTPP and non-CPTPP members	828	837	876	\$7,936,577,673	\$8,179,628,201	\$8,388,468,543	\$34,689,027,155	\$36,166,672,631	\$38,737,440,167	
New CPTPP members & non-CPTPP members	105	120	96	\$291,310,970	\$70,979,806	\$88,511,369	\$817,675,286	\$802,264,023	\$535,437,787	
New CPTPP members only	33	27	30	\$1,331,511	\$974,742	\$1,358,096	\$1,331,511	\$974,742	\$1,358,096	
Old & new CPTPP members only	18	21	24	\$16,880,270	\$10,490,837	\$19,142,375	\$16,880,270	\$10,490,837	\$19,142,375	
Old CPTPP members & non-CPTPP members	1,572	1,626	1,515	\$3,576,389,278	\$3,970,425,705	\$3,439,895,992	\$7,138,529,722	\$8,397,739,765	\$7,822,585,221	
Old CPTPP members only	489	480	507	\$461,624,891	\$435,835,023	\$736,343,137	\$461,624,891	\$435,835,023	\$736,343,137	
Total firms that exported goods to CPTPP countries	3,045	3,111	3,048	\$12,284,114,593	\$12,668,334,314	\$12,673,719,512	\$43,125,068,835	\$45,813,977,021	\$47,852,306,783	
FIRMS THAT DID NOT EXPORT GOODS TO CPTPP COUNTRIES	873	843	795	\$-	\$-	\$-	\$1,517,420,421	\$1,684,090,924	\$1,817,682,954	
TOTAL	3,918	3,954	3,843	\$12,284,114,593	\$12,668,334,314	\$12,673,719,512	\$44,642,489,256	\$47,498,067,945	\$49,669,989,737	

A4.3 Goods exporting firms by Māori and non-Māori led firms, firm size, and export partner (continued)

By Firm Size	Number of Firms			CPTPP Goods Exports			Total Goods Exports			Avg CPTPP Tariff Reduction in 2020
	2018	2019	2020	2018	2019	2020	2018	2019	2020	
Women Led										
1 - 49	642	630	633	\$226,406,639	\$276,691,606	\$300,017,397	\$998,643,869	\$912,672,971	\$1,038,316,808	3.3%
50 - 249	63	66	72	-	\$131,700,932	\$134,283,970	\$544,182,210	\$321,217,065	\$402,504,533	4.2%
250 +	27	30	30	-	\$390,205,289	\$146,291,728	\$302,039,807	\$478,741,295	\$160,531,753	4.2%
Total	732	726	735	\$226,406,639	\$798,597,827	\$580,593,095	\$1,844,865,886	\$1,712,631,331	\$1,601,353,094	
Men Led										
1 - 49	1983	2043	1932	\$1,577,749,357	\$1,870,994,160	\$1,623,627,970	\$5,349,885,085	\$5,992,513,695	\$6,049,347,514	3.1%
50 - 249	732	726	723	\$2,442,670,410	\$2,552,141,289	\$2,584,519,083	\$5,804,795,282	\$6,148,907,641	\$6,144,612,659	3.3%
250 +	276	264	261	\$7,211,858,216	\$7,439,944,608	\$7,760,391,244	\$31,163,656,713	\$33,171,460,744	\$35,363,970,076	3.0%
Total	2991	3033	2916	\$11,232,277,983	\$11,863,080,057	\$11,968,538,297	\$42,318,337,080	\$45,312,882,080	\$47,557,930,249	
Split Leadership										
1 - 49	159	159	162	\$135,781,023	\$101,044,319	\$117,677,515	\$383,145,206	\$308,231,590	\$305,036,902	3.5%
50 - 249	42	45	42	\$88,653,680	\$76,959,731	\$165,294,287	\$125,649,627	\$186,306,450	\$355,441,073	2.7%
250 +	0	0	0	-	-	-	-	-	\$109,644,984	6.0%
Total	201	204	204	\$224,434,703	\$178,004,050	\$282,971,802	\$508,794,833	\$494,538,040	\$770,122,959	
Total										
1 - 49	2784	2832	2727	\$1,939,937,019	\$2,248,730,085	\$2,041,322,882	\$6,731,674,160	\$7,213,418,256	\$7,392,701,224	
50 - 249	837	837	837	\$2,531,324,090	\$2,760,801,952	\$2,884,097,340	\$6,474,627,119	\$6,656,431,156	\$6,902,558,265	
250 +	303	294	291	\$7,211,858,216	\$7,830,149,897	\$7,906,682,972	\$31,465,696,520	\$33,650,202,039	\$35,634,146,813	
Total	3924	3963	3855	\$11,683,119,325	\$12,839,681,934	\$12,832,103,194	\$44,671,997,799	\$47,520,051,451	\$49,929,406,302	
Total Actual Exports				\$15,380,579,723	\$15,613,172,905	\$15,533,071,340	\$54,603,000,000	\$58,386,000,000	\$60,628,000,000	
Dataset Coverage Rate				80%	81%	82%	82%	81%	82%	

A4.4 Goods exporting firms' employment by gender, firm size, and export partner

Number of Employees in Goods Exporting Firms (Year to March)												
	New Zealand European			Māori			Pasifika			Total		
	2018	2019	2020	2018	2019	2020	2018	2019	2020	2018	2019	2020
Firms with 1 - 49 employees												
FIRMS THAT EXPORTED TO CPTPP COUNTRIES												
All CPTPP and non-CPTPP members	5,600	5,600	5,700	780	810	840	370	390	390	8,300	8,300	8,700
New CPTPP members & non-CPTPP members	580	790	580	120	120	85	100	25	20	970	1,100	890
New CPTPP members only	180	150	200	35	55	45	-	-	-	280	250	340
Old & new CPTPP members only	150	260	210	35	30	60	6	6	20	240	340	340
Old CPTPP members & non-CPTPP members	10,800	11,000	10,500	1,800	1,800	1,600	1,100	1,300	1,100	16,800	17,500	16,400
Old CPTPP members only	3,000	2,900	3,100	530	490	470	410	360	330	4,800	4,600	4,800
Total firms that exported goods to CPTPP countries	20,310	20,700	20,290	3,300	3,305	3,100	1,986	2,081	1,860	31,390	32,090	31,470
FIRMS THAT DID NOT EXPORT GOODS TO CPTPP COUNTRIES	3,200	3,400	3,000	740	710	560	450	550	410	7,000	7,000	6,300
TOTAL	23,510	24,100	23,290	4,040	4,015	3,660	2,436	2,631	2,270	38,390	39,090	37,770
Firms with 50 - 249 employees												
FIRMS THAT EXPORTED TO CPTPP COUNTRIES...												
All CPTPP and non-CPTPP members	15,600	16,300	17,800	3,200	3,500	4,000	2,100	2,500	2,600	27,200	28,500	31,600
New CPTPP members & non-CPTPP members	860	510	640	410	400	300	180	100	150	2,000	1,300	1,600
New CPTPP members only	140	150		55	45		45	18		290	280	
Old & new CPTPP members only	380	-	330	40	-	110	130		35	610		560
Old CPTPP members & non-CPTPP members	23,600	24,000	20,600	5,800	6,300	5,300	4,600	4,900	4,300	42,300	44,400	38,700
Old CPTPP members only	4,400	4,600	4,200	1,300	1,100	1,200	780	630	670	8,400	7,600	7,800
Total firms that exported goods to CPTPP countries	44,980	45,560	43,570	10,805	11,345	10,910	7,835	8,148	7,755	80,800	82,080	80,260
FIRMS THAT DID NOT EXPORT GOODS TO CPTPP COUNTRIES	3,200	3,000	3,600	1,100	1,100	1,600	840	790	1,100	6,800	7,000	9,100
TOTAL	48,180	48,560	47,170	11,905	12,445	12,510	8,675	8,938	8,855	87,600	89,080	89,360
Firms with 250 + employees												
FIRMS THAT EXPORTED TO CPTPP COUNTRIES...												
All CPTPP and non-CPTPP members	106,600	113,700	102,600	30,200	32,200	31,100	13,000	14,500	15,600	181,300	199,800	191,800
New CPTPP members & non-CPTPP members	660	550	-	220	690	-	85	50	-	1,200	1,400	-
New CPTPP members only	-	-	-	-	-	-	-	-	-	-	-	-
Old & new CPTPP members only	-	-	-	-	-	-	-	-	-	-	-	-
Old CPTPP members & non-CPTPP members	109,900	101,600	120,600	27,800	27,300	30,100	17,900	15,700	18,100	191,300	181,100	212,500
Old CPTPP members only	11,600	10,500	12,200	2,700	2,000	2,600	1,400	890	830	19,100	15,900	18,100
Total firms that exported goods to CPTPP countries	228,760	226,350	235,400	60,920	62,190	63,800	32,385	31,140	34,530	392,900	398,200	422,400
FIRMS THAT DID NOT EXPORT GOODS TO CPTPP COUNTRIES	12,600	13,200	14,200	3,600	4,800	3,500	2,600	3,600	3,400	25,100	30,100	28,000
TOTAL	241,360	239,550	249,600	64,520	66,990	67,300	34,985	34,740	37,930	418,000	428,300	450,400
Total - All Firm Sizes												
FIRMS THAT EXPORTED TO CPTPP COUNTRIES...												
All CPTPP and non-CPTPP members	16,400	17,200	18,600	3,300	3,700	4,200	2,200	2,600	2,700	28,200	30,200	32,900
New CPTPP members & non-CPTPP members	1,100	770	1,300	490	440	390	200	160	190	2,500	1,900	2,500
New CPTPP members only	190	880	400	60	120	60	45	45	12	490	1,300	560
Old & new CPTPP members only	670	500	520	120	90	150	150	25	45	1,100	780	850
Old CPTPP members & non-CPTPP members	32,700	32,400	27,400	7,600	7,900	6,500	5,800	6,000	5,000	56,900	58,100	49,500
Old CPTPP members only	15,500	14,800	14,900	3,500	3,600	3,600	2,000	2,200	2,000	26,200	25,300	26,300
Total firms that exported goods to CPTPP countries	294,050	292,610	299,260	75,025	76,840	77,810	42,206	41,369	44,145	505,090	512,370	534,130
FIRMS THAT DID NOT EXPORT GOODS TO CPTPP COUNTRIES	19,000	19,600	20,800	5,440	6,610	5,660	3,890	4,940	4,910	38,900	44,100	43,400
TOTAL	313,050	312,210	320,060	80,465	83,450	83,470	46,096	46,309	49,055	543,990	556,470	577,530

A4.5 Goods exporting firms' monthly median wages by gender, firm size, and export partner

Monthly Median Wages in Goods Exporting Firms (Year to March)																				
	New Zealand European			Māori			Pasifika			Asian			Other			Total			Maori Pay Ga	
	2018	2019	2020	2018	2019	2020	2018	2019	2020	2018	2019	2020	2018	2019	2020	2018	2019	2020	2018	2019
Firms with 1 - 49 employees																				
FIRMS THAT EXPORTED TO CPTPP COUNTRIES																				
All CPTPP and non-CPTPP members	\$5,874	\$5,952	\$6,217	\$4,373	\$4,336	\$4,465	\$4,412	\$4,193	\$4,372	\$4,689	\$4,686	\$5,050	\$4,630	\$5,417	\$5,211	\$5,531	\$5,656	\$5,893	-26%	-27%
New CPTPP members & non-CPTPP members	\$6,206	\$5,761	\$5,388	\$3,987	\$4,217	\$3,770	\$4,718	\$4,384	\$4,483	\$4,841	\$5,322	\$4,577	\$4,324	\$4,040	-	\$5,772	\$5,514	\$5,286	-36%	-27%
New CPTPP members only	\$4,124	\$3,936	\$5,124	\$3,231	\$3,662	\$4,529	-	-	-	\$3,615	\$4,377	\$4,759	-	-	-	\$3,920	\$3,795	\$4,873	-22%	-7%
Old & new CPTPP members only	\$3,879	\$5,079	\$5,388	\$3,251	\$3,276	\$4,358	-	-	\$4,545	\$5,203	\$4,334	\$4,796	-	-	-	\$3,814	\$5,195	\$5,108	-16%	-35%
Old CPTPP members & non-CPTPP members	\$6,293	\$6,400	\$6,693	\$4,621	\$4,825	\$4,978	\$4,488	\$4,515	\$4,695	\$4,951	\$5,218	\$5,398	\$5,107	\$5,134	\$5,244	\$5,735	\$5,864	\$6,156	-27%	-25%
Old CPTPP members only	\$5,422	\$5,658	\$5,751	\$4,108	\$4,505	\$4,938	\$4,165	\$4,305	\$4,510	\$4,163	\$4,683	\$4,915	\$4,464	\$5,090	\$4,703	\$4,977	\$5,421	\$5,508	-24%	-20%
FIRMS THAT DID NOT EXPORT GOODS TO CPTPP COUNTRIES	\$5,017	\$5,258	\$5,760	\$4,107	\$4,623	\$4,543	\$4,205	\$4,293	\$4,220	\$3,777	\$4,191	\$4,441	\$4,374	\$4,693	\$4,709	\$4,142	\$4,655	\$4,887	-18%	-12%
Firms with 50 - 249 employees																				
FIRMS THAT EXPORTED TO CPTPP COUNTRIES																				
All CPTPP and non-CPTPP members	\$6,572	\$6,762	\$7,078	\$4,762	\$4,952	\$5,114	\$4,341	\$4,425	\$4,643	\$4,882	\$5,101	\$5,318	\$5,240	\$5,619	\$5,780	\$5,730	\$5,916	\$6,096	-28%	-27%
New CPTPP members & non-CPTPP members	\$5,444	\$4,947	\$4,949	\$4,226	\$4,579	\$4,396	\$4,201	\$3,714	\$4,152	\$4,674	\$4,526	\$4,544	\$5,548	\$4,200	\$4,249	\$4,880	\$4,948	\$4,958	-22%	-7%
New CPTPP members only	\$4,692	\$5,017	-	\$3,970	\$4,803	-	\$4,179	\$4,672	-	\$4,304	\$4,418	-	-	-	-	\$4,482	\$4,872	-	-15%	-4%
Old & new CPTPP members only	\$7,702	-	\$6,617	\$5,210	-	\$4,608	\$4,466	\$-	\$5,073	\$5,737	\$-	\$5,041	\$5,451	-	\$5,011	\$6,436	-	\$6,011	-32%	-
Old CPTPP members & non-CPTPP members	\$6,760	\$6,889	\$7,270	\$4,896	\$5,055	\$5,304	\$4,561	\$4,621	\$4,958	\$5,197	\$5,409	\$5,732	\$5,294	\$5,465	\$5,611	\$6,019	\$6,053	\$6,432	-28%	-27%
Old CPTPP members only	\$5,645	\$6,005	\$6,204	\$4,575	\$4,751	\$5,033	\$4,139	\$4,501	\$4,442	\$4,370	\$4,599	\$4,955	\$4,548	\$4,725	\$4,973	\$5,190	\$5,598	\$5,586	-19%	-21%
FIRMS THAT DID NOT EXPORT GOODS TO CPTPP COUNTRIES	\$6,102	\$6,294	\$6,300	\$4,502	\$4,510	\$5,011	\$4,075	\$4,290	\$4,548	\$4,745	\$4,873	\$5,222	\$4,777	\$4,658	\$4,940	\$5,184	\$5,168	\$5,597	-26%	-28%
Firms with 250 + employees																				
FIRMS THAT EXPORTED TO CPTPP COUNTRIES																				
All CPTPP and non-CPTPP members	\$7,298	\$7,714	\$7,960	\$5,435	\$5,661	\$5,910	\$5,037	\$5,271	\$5,476	\$5,645	\$5,822	\$5,998	\$5,944	\$6,203	\$6,194	\$6,371	\$6,561	\$6,775	-26%	-27%
New CPTPP members & non-CPTPP members	\$5,332	\$6,522	-	\$4,000	\$4,966	-	\$4,015	\$4,083	-	\$4,732	\$5,855	-	\$4,620	\$6,451	-	\$4,946	\$5,730	-	-25%	-24%
New CPTPP members only	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Old & new CPTPP members only	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Old CPTPP members & non-CPTPP members	\$7,203	\$7,016	\$7,470	\$5,456	\$5,313	\$5,759	\$5,056	\$5,046	\$5,217	\$5,719	\$5,615	\$6,084	\$5,795	\$5,816	\$6,419	\$6,348	\$6,216	\$6,664	-24%	-24%
Old CPTPP members only	\$6,918	\$6,683	\$6,230	\$5,362	\$5,743	\$5,439	\$4,784	\$5,183	\$5,159	\$5,558	\$6,257	\$5,455	\$4,141	\$5,657	\$5,599	\$5,638	\$6,586	\$5,989	-22%	-14%
FIRMS THAT DID NOT EXPORT GOODS TO CPTPP COUNTRIES	\$5,918	\$5,152	\$6,181	\$5,091	\$4,360	\$4,996	\$4,578	\$4,201	\$5,198	\$5,592	\$4,406	\$4,998	\$5,659	\$4,845	\$5,134	\$5,490	\$4,503	\$5,156	-14%	-15%

A4.6 Goods exporting firms by gender leadership, firm size, and export partner

Number of Goods Exporting Firms and Value of Goods Exports (Year to March)										
By Trading Partner Group	Number of Firms			CPTPP Goods Exports			Total Goods Exports			Avg CPTPP Tariff Reduction in 2020
	2018	2019	2020	2018	2019	2020	2018	2019	2020	
Māori Led										
FIRMS THAT EXPORTED TO CPTPP COUNTRIES										
All CPTPP and non-CPTPP members	21	21	18	\$83,154,221	\$72,138,448	\$19,885,149	\$506,019,398	\$139,941,717	\$141,690,771	2.6%
New CPTPP members & non-CPTPP members	6	9	-	\$3,438,557	\$16,659,927	-	\$9,932,352	\$136,324,340	-	
New CPTPP members only	-	-	-	-	\$2,062,555	-	-	\$2,062,555	-	
Old & new CPTPP members only	-	-	-	-	-	-	-	-	-	
Old CPTPP members & non-CPTPP members	42	48	42	\$89,107,793	\$45,897,597	\$30,203,541	\$212,362,670	\$96,981,063	\$52,313,752	3.3%
Old CPTPP members only	24	24	15	\$4,450,756	\$-	\$7,579,238	\$4,450,756	-	\$7,579,238	3.6%
Total firms that exported goods to CPTPP countries	93	102	75	\$180,151,327	\$136,758,527	\$57,667,928	\$732,765,176	\$375,309,675	\$201,583,761	
FIRMS THAT DID NOT EXPORT GOODS TO CPTPP COUNTRIES	30	42	33	\$-	\$-	\$-	\$52,433,956	\$52,575,351	\$40,927,585	0.0%
TOTAL	123	144	108	\$180,151,327	\$136,758,527	\$57,667,928	\$785,199,132	\$427,885,026	\$242,511,346	
Non-Māori Led										
FIRMS THAT EXPORTED TO CPTPP COUNTRIES										
All CPTPP and non-CPTPP members	813	822	861	\$7,853,701,920	\$8,107,958,929	\$8,368,590,842	\$34,184,987,038	\$36,028,904,623	\$38,595,854,597	3.1%
New CPTPP members & non-CPTPP members	102	114	96	\$297,783,048	\$54,319,879	\$85,739,213	\$817,299,376	\$665,939,683	\$532,192,229	2.7%
New CPTPP members only	30	27	30	-	-	-	-	-	-	
Old & new CPTPP members only	18	21	30	\$16,484,639	\$10,581,056	\$19,142,375	\$16,484,639	\$10,581,056	\$19,142,375	2.8%
Old CPTPP members & non-CPTPP members	1,530	1,581	1,476	\$3,487,638,488	\$3,924,757,076	\$3,409,692,451	\$6,927,499,679	\$8,301,145,448	\$7,770,271,469	3.2%
Old CPTPP members only	471	456	489	\$457,174,135	\$401,222,196	\$728,763,899	\$457,174,135	\$401,222,196	\$728,763,899	3.5%
Total firms that exported goods to CPTPP countries	2,964	3,021	2,982	\$12,112,782,230	\$12,498,839,136	\$12,611,928,780	\$42,403,444,867	\$45,407,793,006	\$47,646,224,569	
FIRMS THAT DID NOT EXPORT GOODS TO CPTPP COUNTRIES	846	807	765	\$-	\$-	\$-	\$1,466,599,086	\$1,655,642,978	\$1,781,801,630	0.0%
TOTAL	3,810	3,828	3,747	\$12,112,782,230	\$12,498,839,136	\$12,611,928,780	\$43,870,043,953	\$47,063,435,984	\$49,428,026,199	
Total - All Firms										
FIRMS THAT EXPORTED TO CPTPP COUNTRIES										
All CPTPP and non-CPTPP members	834	843	879	\$7,936,856,141	\$8,180,097,377	\$8,388,475,991	\$34,691,006,436	\$36,168,846,340	\$38,737,545,368	
New CPTPP members & non-CPTPP members	108	123	96	\$301,221,605	\$70,979,806	\$85,739,213	\$827,231,728	\$802,264,023	\$532,192,229	
New CPTPP members only	30	27	30	-	\$2,062,555	-	-	\$2,062,555	-	
Old & new CPTPP members only	18	21	30	\$16,484,639	\$10,581,056	\$19,142,375	\$16,484,639	\$10,581,056	\$19,142,375	
Old CPTPP members & non-CPTPP members	1,572	1,629	1,518	\$3,576,746,281	\$3,970,654,673	\$3,439,895,992	\$7,139,862,349	\$8,398,126,511	\$7,822,585,221	
Old CPTPP members only	495	480	504	\$461,624,891	\$401,222,196	\$736,343,137	\$461,624,891	\$401,222,196	\$736,343,137	
Total firms that exported goods to CPTPP countries	3,057	3,123	3,057	\$12,292,933,557	\$12,635,597,663	\$12,669,596,708	\$43,136,210,043	\$45,783,102,681	\$47,847,808,330	
FIRMS THAT DID NOT EXPORT GOODS TO CPTPP COUNTRIES	876	849	798	\$-	\$-	\$-	\$1,519,033,042	\$1,708,218,329	\$1,822,729,215	
TOTAL	3,933	3,972	3,855	\$12,292,933,557	\$12,635,597,663	\$12,669,596,708	\$44,655,243,085	\$47,491,321,010	\$49,670,537,545	

A4.6 Goods exporting firms by gender leadership, firm size, and export partner (continued)

By Firm Size	Number of Firms			CPTPP Goods Exports			Total Goods Exports			Avg CPTPP Tariff Reduction in 2020
	2018	2019	2020	2018	2019	2020	2018	2019	2020	
Māori Led										
1 - 49	108	123	102	\$-	\$36,943,508	\$38,547,324	\$201,561,023	\$175,512,340	\$136,046,716	3.1%
50 - 249	15	18	9	\$48,364,028	\$83,756,992	\$18,399,283	\$180,538,720	\$143,617,692	\$48,918,420	3.6%
250 +	-	-	-	-	-	-	-	-	-	
Total	123	141	111	\$48,364,028	\$120,700,500	\$56,946,607	\$382,099,743	\$319,130,032	\$184,965,136	
Non-Māori Led										
1 - 49	2685	2715	2625	\$1,861,502,876	\$2,212,484,721	\$2,002,775,558	\$6,535,037,666	\$7,062,553,561	\$7,261,700,769	3.2%
50 - 249	825	819	828	\$2,856,282,011	\$2,677,044,960	\$2,865,705,505	\$6,294,088,399	\$6,514,853,679	\$6,853,745,046	3.3%
250 +	303	294	294	\$7,429,328,127	\$7,850,520,654	\$7,986,789,522	\$31,075,248,672	\$33,727,239,943	\$35,555,922,189	3.2%
Total	3813	3828	3747	\$12,147,113,014	\$12,740,050,335	\$12,855,270,585	\$43,904,374,737	\$47,304,647,183	\$49,671,368,004	
Total										
1 - 49	2793	2838	2727	\$1,861,502,876	\$2,249,428,229	\$2,041,322,882	\$6,736,598,689	\$7,238,065,901	\$7,397,747,485	
50 - 249	840	837	837	\$2,904,646,039	\$2,760,801,952	\$2,884,104,788	\$6,474,627,119	\$6,658,471,371	\$6,902,663,466	
250 +	303	294	294	\$7,429,328,127	\$7,850,520,654	\$7,986,789,522	\$31,075,248,672	\$33,727,239,943	\$35,555,922,189	
Total	3936	3969	3858	\$12,195,477,042	\$12,860,750,835	\$12,912,217,192	\$44,286,474,480	\$47,623,777,215	\$49,856,333,140	

A4.7 Stats NZ Disclaimer for Distributional Data

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