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Editorial address Polish Journal of Political Science

Interdisciplinary Research Center of the University of Warsaw "Identity – Dialogue – Security" Prosta 69, 00-838 Warsaw email: centrum.tozsamosc@uw.edu.pl

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Angelina Stokłosa*

Remarks on Post-Brexit Agreements: Free Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and New Zealand, and Free Trade Agreement between the United Kingdom of Great Britain and Australia^{**}

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Abstract

Following Brexit, the United Kingdom of Great Britain and Northern Ireland (UK) negotiated a set of agreements to guide and govern the future European Union-UK relationship as well as the UK-other countries relationships. The goal of these agreements was and remains to protect citizens' rights while ensuring fair competition and continued cooperation between the UK and the rest of economies, including the other countries constituting the CANZUK. This paper is to provide a prelimi* Academy of Justice, <u>https://orcid.</u> org/0000-0003-0474-5299

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nary impact assessment of the Free Trade Agreements (FTAs) between the UK and Australia as well as between the UK and New Zealand, based on their language, rationale, background, possible economic gains and possible impacts on other countries, developed by an author from outside the CANZUK sphere. It appears that thanks to their broad, general legal language, rather of declarative nature than being a firm commitment, the said FTAs seem to serve as tools for the UK facilitating a greater access to, respectively, Australian or New Zealander markets while creating reduced regulatory burdens on goods and services. Thus, both FTAs shall be expected as documents that may induce more real opportunities for UK business entities, business persons and consumers rather than symmetry in relationships between the said countries and the UK. **Keywords** CANZUK, post-Brexit, free trade agreements, FTA Introduction ollowing Brexit, the European Union (EU) and the United Kingdom of Great Britain and North-🚽 ern Ireland (UK) negotiated a set of agreements to guide and govern the future EU-UK relation-1. By CANZUK we shall understand an ship. The goal of these agreements was and remains to protect citizens' rights while ensuring acronym for a proposed alliance comprising Canada, Australia, New Zealand fair competition and continued cooperation between the EU and the UK. However, certain agreeand the United Kingdom as part of an ments were also negotiated or already concluded between the UK and the rest of the countries coninternational organization or confedstituting CANZUK.¹ The goal of this paper is therefore to provide a preliminary impact assessment eration similar in scope to the former European Economic Community, that of the said agreements, based on their language, rationale, background, possible economic gains, and may include increased or enhanced possible impacts on other countries, developed by an author from outside the CANZUK sphere. trade, foreign policy co-operation, military co-operation and mobility of t shall be emphasized that since Brexit, the UK has signed trade deals or agreements with ca. sevcitizens between the four states, tied together by similar economic systems, Lenty countries and one with the EU. However, without doubts the majority of these documents in social values and political and legal principle "copy" the terms of previous deals or agreements the UK had entered into as an EU member. systems, and with English as a language Technically and substantively, the said Post-Brexit deals and agreements do not create new commerspoken by the majority population of each of the said countries. For more cial reality, meaning that they shall not be considered to be new trading arrangements bringing any

tich UK. details, see J. Szczepański, "Remarks on CANZUK": Theoretical and methodfor ological perspective of research on the

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ological perspective of research on the post-Brexit Anglosphere, "Polish Journal of Political Science", 2020, Vol. 6, No. 3, pp. 9–11.

2. Post-Brexit agreements, European Council 2024, https://www.consilium. europa.eu/en/policies/eu-relationswith-the-united-kingdom/post-brexitagreements/#competition, (access 28.08.2024).

3. Ibidem.

4. See: UK-New Zealand Free Trade Agreement, Department for Business and Trade 2024, https://www.gov. uk/government/collections/uk-newzealand-free-trade-agreement, (access 28.08.2024). This FTA was agreed in a video call on 20th October 2021 between UK Prime Minister Boris Johnson and New Zealand Prime Minister Jacinda Ardern after 16 months of talks. See: UK agrees historic trade deal with New Zealand, Department for International Trade, The Rt Hon Anne-Marie Treveluan and The Rt Hon Boris Johnson 2021. https://www.gov.uk/government/news/ uk-agrees-historic-trade-deal-withnew-zealand, (access 28.08.2024). The agreement between the UK and New Zealand is the UK's second trade agreement that has been negotiated from the scratch since the UK left the European Union. It is said to be a trade document that fulfils the UK government's "manifesto commitment" to secure

new legal or commercial quality. Moreover, some formal deals are made with countries with which the UK trades very little in general, and some significant countries are still negotiating with the UK. For instance, on December 24, 2020, the EU reached an agreement with the UK that set the terms for their future cooperation, and three key agreements were signed by the EU and the UK on December 30, 2020 (these are: the EU-UK Trade and Cooperation Agreement; the EU-UK Security of Information Agreement; the EU-UK Agreement for Cooperation on the Safe and Peaceful Uses of Nuclear Energy).² The said agreements applied provisionally from January 1, 2021, and came into force on May 1, 2021.³ The UK-Japan deal was signed in October 2020. The UK-Norway, Iceland and Liechtenstein agreement was announced in June 2021. The UK-New Zealand Free Trade Agreement was signed on February 28, 2022, and came into force on May 31, 2023 (and the negotiations were launched on June 17, 2020).⁴ When it comes to Australia, it shall be underlined that Australia was the first country with which the UK decided to start negotiations of a new trade agreement in the post-Brexit era. The ultimate outcome of the negotiations is the Free Trade Agreement between the UK and Australia of December 17, 2021 that officially came into force on May 2023.⁵ The UK is therefore still waiting for the agreements with, among others, the United States of America and India.⁶ The current list of trade deals concluded by the UK with other countries or trade blocs is published by the UK Government and updated on a regular basis.⁷ Most of these agreements are subject to "full ratification," and some of them are subject to provisional application, which means the effects or specified provisions of certain agreements are applied before the agreement has formally entered into force; these are, for instance, the agreements with Antigua and Barbuda, Bahamas, Barbados, Belize, Dominican Republic, Grenada, St. Vincent and the Grenadines, Trinidad and Tobago, Iceland, Norway, Morocco, and Turkey. However, the provisional application has legal (binding) effect.

The FTA between the UK and New Zealand: Scope and Goal

The Free Trade Agreement (FTA) between the United Kingdom of Great Britain and Northern Ireland and New Zealand of February 28, 2022, seems to be one of the most important FTAs to be concluded by the UK in the post-Brexit era because of the historical significance of the UK-New Zealand relationship. According to the publicly available information from the UK authorities,⁸ UK-New Zealand bilateral trade "continues to increase and is set to grow further under the new UK-New Zealand free trade agreement." The goal of this FTA is obviously to make exporting to New Zealand cheaper, faster, and more secure for UK businesses. In terms of figures, it shall be noted that total UK exports to New Zealand for the four quarters to the end of Q4 2023 is around GBP 2.1 billion,⁹ and the total UK trade with New Zealand in 2023 was GBP 3,100 million.¹⁰ At the same time, however, New



Zealand market remains the 49th largest UK export market¹¹ and generates 0.2% of total UK exports for the four quarters to the end of Q4 2023.¹² Interestingly, top five UK goods exported to New Zealand in the four quarters to the end of Q3 2023 were (descending): cars, mechanic power generators, road vehicles other than cars, specialized machinery, and medicinal & pharmaceutical products.¹³ On the other hand, the most important five UK services exported to New Zealand in the four quarters to the end of Q2 2023 were: travel services, insurance and pension, other business services, telecommunications, computer and information services, and financial services.¹⁴ The said FTA was designed to provide certain benefits, including more flexible rules of origin for export of goods purposes that would be better suited to modern supply chains, equal treatment and improved business environment for UK businesses operating in New Zealand, more convenient travel rules for UK business individuals who would like to deliver services in New Zealand. Depending on the type of goods or services to be provided in New Zealand, certain provisions of the said FTA shall apply automatically or after taking legal or factual actions by the intended beneficiaries.

The said FTA contains a preamble and 33 chapters regulating specific matters as to the merits, i.e. (apart from initial provisions and general definitions): National Treatment and Market Access for Goods, Rules of Origin and Origin Procedures, Customs Procedures and Trade Facilitation, Sanitary and Phytosanitary Measures, Animal Welfare, Technical Barriers to Trade, Trade Remedies, Cross-Border Trade in Services, Domestic Regulation, Financial Services, Telecommunications, Temporary Entry of Business Persons, Investment, Digital Trade, Government Procurement, Intellectual Property, Competition, State-Owned Enterprises and Designated Monopolies, Consumer Protection, Good Regulatory Practice and Regulatory Cooperation, Environment, Trade and Labour, Small and Medium-Sized Enterprises (SMEs), Trade and Gender Equality, Māori Trade and Economic Cooperation, Trade and Development, Anti-Corruption, Transparency, Institutional Provisions, Dispute Settlement, General Exceptions and General Provisions. Each chapter has quite standardized structure, and consists of objectives or general principles, set of definitions and more detailed provisions covering subject matter, as well as provisions on dispute resolution/settlement. It is evident, however, that particular chapters and their provisions are of a general legal nature, therefore creating rather a legal framework than provisions suitable for direct application.

As stipulated in the preamble, the UK and New Zealand are, inter alia, "conscious of their longstanding and strong partnership based on common principles and values, and of their important economic, trade, and investment relationship," "seeking to establish clear and mutually advantageous a free trade agreement with New Zealand. Moreover, it contributes to the UK's commitment of having 80% of UK trade covered by free trade agreements (FTA). See: Impact assessment of the Free Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and New Zealand, Department for International Trade 2022, p. 4, https://assets.publishing.service.gov. uk/media/621893a18fa8f54916f45f53/ uk-new-zealand-free-trade-agreement-impact-assessment.pdf, (access 28.08.2024).

5. See: UK and Australia sign world-class trade deal, Department for International Trade and The Rt Hon Anne-Marie Trevelyan 2021, <u>https://www.gov.uk/</u> government/news/uk-and-australiasign-world-class-trade-deal, (access 08.09.2024). In December 2021 UK Government announced, *inter alia*, that "the UK has signed an historic trade agreement with Australia, our first [i.e. UK's] from scratch since leaving the EU, setting new global standards in digital and services and creating new work and travel opportunities for Brits and Aussies."

6. See: Ch. Morris, *A trade deal with India in 2022 would be a big prize*, BBC 2022, <u>https://www.bbc.com/news/business-59967625</u>, (access 08.09.2024). Negotiations with India begun in January 2022.

7. See: UK trade agreements in effect, Department for Business and Trade and Department for International Trade 2022, https://www.gov.uk/guidance/

rules governing their trade and investment, to promote a predictable business environment and open and fair competition, and eliminate barriers between them," "recognizing the Parties' respective autonomy and right to regulate within their territories in order to achieve legitimate public policy objectives such as the protection and promotion of public health, public morals, animal welfare, labour standards, safety, the environment including climate change, and in the case of New Zealand meeting its Te Tiriti o Waitangi/The Treaty of Waitangi¹⁵ obligations," and "seeking to emphasize the importance of sustainable development in promoting inclusive economic growth." These goals are significant and may lead to better understanding of the entire FTA. It is worth taking a look at the most crucial parts of this particular FTA.

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A rticle 1.1 of the FTA states that the parties, consistent with Article XXIV of GATT 1994¹⁶ and Article V of GATS,¹⁷ hereby establish a free trade area in accordance with this FTA agreement. Following this founding goal, the second chapter ("National Treatment and Market Access for Goods") outlines the liberalization of trade in goods originating from the UK and New Zealand, removing tariffs as per each party's specified tariff schedule. Furthermore, this chapter also aims to facilitate trade between the two countries by reducing non-tariff barriers, enhancing transparency and cooperation, and supporting the World Trade Organization's (WTO) rule-based system. It shall be noted that both the UK and New Zealand have agreed to eliminate tariffs on each other's originating goods. However, both parties agreed that New Zealand shall eliminate tariffs on all UK goods immediately upon the agreement's entry into force. The UK, on the other hand, will gradually remove tariffs on New Zealand goods over a period of up to 15 years. During this transition period, tariff-free access for certain products such as beef, sheep meat, butter, cheese, and apples from New Zealand will be limited. Additionally, a general bilateral safeguard mechanism is included to protect industries from serious injury caused by increased imports due to the FTA. This protection rule shall apply to all products.

The third chapter ("Rules of Origin and Origin Procedures") and annexes thereto outline the rules of origin for goods, detailing the criteria a product must meet to be recognized as originating from the UK, thereby qualifying for the preferential tariff rates outlined in the FTA.

These rules of origin are designed to ensure that only goods genuinely produced in the countries that are part of the FTA benefit from the preferential tariffs, particularly in areas where there is a risk of circumvention or unfair competition. In particular, exporters and importers generally shall be obliged to prove that their product was either entirely obtained or significantly transformed

uk-trade-agreements-in-effect, (access 08.09.2024).

8. See: *Exporting from the UK to New Zealand: A market guide*, Department for Business and Trade, <u>https://www.great.gov.uk/markets/new-zealand/</u>, (access 28.08.2024).

9. According to the UK Office for National Statistics; see: *UK total trade: all countries, seasonally adjusted*, Office for National Statistics, <u>https://www.ons.gov.</u> <u>uk/economy/nationalaccounts/balan-</u> ceofpayments/datasets/uktotaltradeall-<u>countriesseasonallyadjusted</u>, (access 28.08.2024).

10. See: UK trade agreements..., op. cit.

11. According to the UK Office for National Statistics of April 2024, see: *UK total trade...*, op. cit.

12. Ibidem.

13. See: *Exporting from the...*, op. cit.

14. According to the UK Office for National Statistics of April 2024, see: *UK total trade...*, op. cit.

15. The Treaty of Waitangi is the New Zealand's founding document, that was prepared over a few days in February 1840, and enacted in two language versions: English and Maori. Technically, the Treaty of Waitangi is an agreement between the British Crown and Māori chiefs that established and guides the relationship between them.

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through processing in the UK or New Zealand. By doing so, they can qualify for the reduced tariff rates under this FTA.

The fourth chapter ("Customs Procedures and Trade Facilitation") sets out provisions regarding customs procedures and practices, ensuring that customs operations in the UK and New Zealand are efficient, consistent, and transparent, while also reinforcing each country's ability to maintain effective customs control. It shall be noted that UK exporters will benefit from this chapter's provisions as it offers traders greater certainty in the customs clearance process and helps minimize the costs associated with trading.

The fifth chapter ("Sanitary and Phytosanitary Measures") sets the rules on how the UK and New Zealand will facilitate trade while safeguarding human, animal, and plant health. It complements the existing UK-New Zealand Sanitary Agreement,¹⁸ which governs trade in animal products, by focusing on plants, plant products, and processed plant-based foods. Additionally, the UK and New Zealand have agreed to expand the Sanitary Agreement to include composite products. The FTA, however, does not introduce new permissions or authorizations for imports from New Zealand. Imports must continue to meet the existing food safety and biosecurity standards in both countries.

A ccording to the seventh chapter's provisions ("Technical Barriers To Trade"), the UK and New Zealand do agree to ensure that any relevant regulations they introduce are non-discriminatory and do not create unnecessary trade barriers. These provisions will in particular allow both countries to take necessary measures to achieve legitimate objectives, such as protecting health, safety, and the environment. Both countries have agreed on specific cooperation provisions related to cosmetics, medical devices, and human and veterinary medicines, along with an annex 7A on wine and distilled spirits. The objectives of this chapter are simply to "increase and facilitate trade in goods between the Parties by preventing, identifying, and eliminating unnecessary technical barriers to trade, enhancing transparency, and promoting regulatory cooperation and good regulatory practice."¹⁹

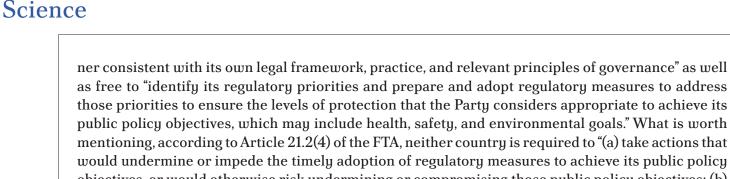
A ccording to chapter 8 ("Trade Remedies"), certain trade remedies serve as a safeguard for domestic industries against unfair trade practices or unexpected surges in imports. The parties agreed on a general bilateral safeguard mechanism, enabling either country to temporarily increase tariffs or pause further tariff reductions to protect industries from serious injury or the threat thereof due to increased imports under the FTA. These safeguards can be applied to all product categories by either 16. Withing the meaning of the FTA, the "GATT 1994" means the General Agreement on Tariffs and Trade 1994 in Annex 1A to the WTO Agreement.

17. Withing the meaning of the FTA, the "GATS" means the General Agreement on Trade in Services in Annex 1B to the WTO Agreement, and the "WTO Agreement" means the Marrakesh Agreement Establishing the World Trade Organization done at Marrakesh on 15 April 1994.

18. That is the "Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of New Zealand on Sanitary Measures Applicable to Trade in Live Animals and Animal Products" of 21 January 2019.

19. See Article 7.2 of the FTA.

party. Moreover, in this chapter the parties reaffirm both countries' existing rights and obligations under the WTO agreements, allowing them to apply trade remedies when necessary or justified. The said matter is further covered by the provisions of chapter 21 ("Good Regulatory Practice and Regulatory Cooperation"). The so-called Good Regulatory Practice (GRP) encompasses provisions aimed at fostering a transparent, stable, and predictable regulatory environment for businesses. This includes commitments to making regulations accessible, conducting public consultations during the regulatory design process, and encouraging regulatory authorities to collaborate on current and future regulations. It shall be noted that according to Article 21.1 of the FTA, for purposes of chapter 21 the "regulatory authority" means: (a) for New Zealand, "any central government organisation that administers a regulatory measure covered by this Agreement"; and (b) for the United Kingdom, "a ministerial department of the central level of government." The "regulatory measure" means: (a) for New Zealand, "(i) a Public Act of the Parliament of New Zealand; or (ii) a Regulation made by Order in Council, which is a measure of general application related to any matter covered by this Agreement, excluding: (iii) any measure that would have no or only minor impacts on businesses, individuals, or not-for-profit entities; (iv) any measure imposing, abolishing, or varying any tax, duty, levy, or other charge (or any measure in connection with that measure); (v) any measure in connection with public sector procurement; (vi) any measure in connection with the giving of grants or other financial assistance by or on behalf of a public sector organisation; (vii) any measure which is to have effect for a period of less than 12 months; or (viii) any measure related to managing, mitigating, or alleviating the impacts of declared emergency events"; (b) and for the United Kingdom, "(i) an Act of the UK Parliament; or (ii) a statutory instrument made by a Minister of the Crown under an Act of the UK Parliament, which makes provision in relation to a matter covered by this Agreement which relates to a business activity, excluding: (iii) any measure imposing, abolishing, or varying any tax, duty, levy, or other charge (or any measure in connection with that measure); (iv) any measure in connection with public sector procurement; (v) any measure in connection with the giving of grants or other financial assistance by or on behalf of a public authority; or (vi) any measure which is to have effect for a period of less than 12 months." It shall be noted that both countries' aims are defined as: "(a) promoting an effective, transparent, and predictable regulatory environment; (b) promoting compatible regulatory approaches and reducing unnecessarily burdensome, duplicative, or divergent regulatory requirements; (c) discussing regulatory measures, practice, or approaches of the Parties, including how to enhance their effective and efficient application; and (d) reinforcing bilateral cooperation between the Parties in international fora." Moreover, each country shall remain "free to determine its approach to good regulatory practice and regulatory cooperation under this Agreement in a man-



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would undermine or impede the timely adoption of regulatory measures to achieve its public policy objectives, or would otherwise risk undermining or compromising those public policy objectives; (b) achieve any particular regulatory outcome; or (c) adopt or apply domestic procedures, processes, and mechanisms that are unlikely to be cost effective for that Party."

The ninth chapter ("Cross-Border Trade in Services") refers, inter alia, to reducing "behind the border" barriers, providing businesses with greater certainty regarding the authorization process for obtaining or amending licenses to supply services in each other's markets. In particular, according to the provisions of this chapter, the parties agreed on principles of the WTO Joint Initiative on Services Domestic Regulation (that is, the "WTO JSI"). It includes commitments related to the publication of information, authorization fees, application processing, the allocation of limited licenses, and the appeals process for administrative decisions. According to Article 9.2 of the FTA, the objectives of this chapter are to: "(a) facilitate the expansion of cross-border trade in services on a mutually advantageous basis; (b) improve the efficiency and transparency of the Parties' respective services sectors and competitiveness of their export trade; and (c) work toward progressive liberalisation, while recognising the right of each Party to regulate and introduce new regulations, and to provide and fund public services, in a manner that gives due respect to government policy objectives."

Particularly important in market practice seems to be chapter 11, related to "Financial Services."²⁰ Its provisions are designed to ensure that UK companies can continue delivering high-value financial services to clients in New Zealand while supporting the long-term competitiveness and stability of the UK's financial services sector. It is commonly thought to encourage innovation in financial services in both countries, and strengthen the existing financial services trading relationship with New Zealand. The chapter includes, inter alia, a commitment to non-discrimination rules, ensuring that UK and New Zealander firms receive fair treatment when providing services in each other's markets (see in particular Articles 11.11 and 11.17 in this regard). The parties have also committed to facilitating cross-border trade in financial services – such as insurance and portfolio management – and allowing the free flow of financial data across borders. Both countries agreed to an ongoing cooperation in

20. The importance of the financial services as the UK's key export product is extensively described by Oliver Bullough, see: O. Bullough, *Butler to the World. How Britain became the servant of tycoons, tax dodgers, kleptocrats, and criminals,* Profile Books 2022.

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promoting sustainable finance, recognizing the importance of environmental, social, and governance considerations (ESG).

hapter 11 is closely associated with chapter 14 on "Investment," according to which and its as-✓ sociated schedules the parties' goal is to strengthen the investment relationship between the UK and New Zealand. UK investors shall therefore enjoy broader and deeper market access than New Zealand has ever provided in any previous trade agreement. According to Article 14.1 of the FTA, the objective of chapter 14 is to "encourage and promote the flow of investment between each Party on a mutually advantageous basis, under conditions of transparency within a stable framework of rules to ensure the protection and security of investments by investors of the other Party within each Party's territory, while recognising the right of each Party to regulate in order to achieve legitimate public policy objectives, such as the protection of public health, safety, and the environment." For purposes of chapter 14, an "investment" means "every kind of asset that an investor owns or controls, directly or indirectly, that has the characteristics of an investment, including characteristics such as the commitment of capital or other resources, the expectation of gain or profit, or the assumption of risk. Forms that an investment may take include: (a) an enterprise; (b) shares, stock, and other forms of equity participation in an enterprise; (c) bonds, including government issued bonds, debentures, other debt instruments, and loans; (d) futures, options, and other derivatives; (e) rights under turnkey, construction, management, production, concession, revenue-sharing, and other similar contracts; (f) intellectual property rights; (g) licences, authorisations, permits, concessions, and similar rights conferred pursuant to a Party's law; and (h) other tangible or intangible, movable or immovable property, and related property rights, such as leases, mortgages, liens, and pledges, but investment does not mean an order or judgment entered in a judicial or administrative action. Returns that are invested shall be treated as investments. Any alteration of the form in which assets are invested or reinvested does not affect their qualification as investments."

A ccording to chapter 13 provisions ("Temporary Entry of Business Persons"), the UK and New Zealand have made commitments to facilitate the entry and temporary stay of a broad range of business persons traveling between the two countries for business purposes. Its provisions grant greater certainty for businesses by clarifying application procedures and outlining conditions for the transparent provision of information, thereby easing the movement of business persons. According to Article 13.1 of the FTA, for the purposes of this chapter the "business person" means "a national, who is engaged in trade in goods, the supply of services, or the conduct of investment activities." The ob-

jectives of the regulation are defined as follows: "(a) to facilitate temporary entry of natural persons for business purposes on a reciprocal basis; and (b) ensure an expeditious and transparent process to facilitate the temporary entry of natural persons for business purposes, while recognising the need of a Party to ensure its security and to protect its domestic labour force and employment."

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Chapter 15 ("Digital Trade") is another of great importance today. Its provisions are designed to enhance growth in digital trade between the UK and New Zealand, in particular through expanding opportunities for digital trade for businesses and consumers alike. The FTA shall eliminate unjustifiable barriers to digital trade and promote the interoperability of digital trading systems, making trade more cost-effective, faster, and simpler. According to Article 15.2 of the FTA, the parties "recognise the economic growth and opportunities provided by digital trade and the importance of: (a) adopting frameworks that promote consumer confidence in digital trade; (b) promoting interoperability of regulatory frameworks to facilitate digital trade; (c) avoiding unnecessary barriers to the use and development of digital trade; and (d) digital inclusion, including participation of Māori, women, persons with disabilities, rural populations, low socio-economic groups as well as enterprises, individuals, and other groups that disproportionately face barriers to digital trade."

ccording to chapter 17 ("Intellectual Property"), both countries agreed to ensure adequate, effec $oldsymbol{A}$ tive, and balanced protection in the field of the so-called IP field, as well as to enhance enforcement of IP rights to foster innovation and creativity. Its provisions cover copyright and related rights, designs, trademarks, geographical indications, trade secrets, enforcement, patents, and test data (see Article 17.1 of the FTA). According to Article 17.2, "the protection and enforcement of intellectual property rights should contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations." The parties agreed on two principles that shall govern the IP field. These are: (a) "any Party may, in formulating or amending its laws and regulations, adopt measures necessary to protect public health and nutrition, and to promote the public interest in sectors of vital importance to their socio-economic and technological development, provided that such measures are consistent with the provisions of this Chapter," and (b) "Appropriate measures, provided that they are consistent with the provisions of this Chapter, may be needed to prevent the abuse of intellectual property rights by right holders or the resort to practices which unreasonably restrain trade or adversely affect the international transfer of technology."

A nother important part of the FTA refers to the "Competition" (chapter 18). According to Article 18.1 of the FTA, the objectives of this chapter are "to promote economic efficiency and consumer welfare through the maintenance and enforcement of law to address anti-competitive activities and promote competition, and through cooperating on matters covered by this Chapter. The pursuit of these objectives will help to secure the benefits of this Agreement, including facilitating bilateral trade and investment between the Parties." It shall be noted that based on Article 18.2 of the FTA, each party "shall maintain competition law in their respective territories which: (a) proscribes anti-competitive agreements between enterprises, including cartel agreements; (b) proscribes anti-competitive practices by enterprises that have substantial market power; and (c) effectively addresses mergers with substantial anti-competitive effects." However, each party may provide for certain exemptions from the application of its competition law provided that those exemptions are "transparent, established in its law, and based on public policy grounds."

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More importantly, according to Article 18.5(1), both countries "recognize the importance of cooperation between their respective national competition authorities to promote effective application and enforcement of competition law. To this end, the Parties may cooperate, through their national competition authorities, on issues relating to the application and enforcement of competition law. That cooperation may include: (a) notification by a Party to the other Party of its activities relating to application and enforcement of competition law that it considers may substantially affect the important interests of the other Party, as promptly as reasonably possible; (b) exchange of information between the Parties to foster understanding or to facilitate effective application and enforcement of competition law; and (c) coordination of investigations that raise the same or related concerns relating to the application or enforcement of competition law."

Provisions of chapter 20 ("Consumer Protection") are designed to promote consumer welfare and trust by advocating for transparent and effective consumer protection measures. In particular, they are to ensure that consumers from both countries can trade with confidence, and can be sufficiently protected legally. The rules cover symmetrically both consumers from the UK and New Zealand who purchase goods and services in each other's markets. The intended protection refers in particular to the local laws of both countries requiring goods to be of certain quality at the time of delivery. According to Article 20.2 of the FTA, each country shall "maintain measures against fraudulent, deceptive, misleading, or unfair commercial activities. Fraudulent, deceptive, misleading, or unfair commercial activities. Fraudulent, deceptive, misleading, or unfair commercial activities.

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qualities, price, suitability for purpose, quantity, or origin of goods or services; (b) advertising goods or services for supply without intention to supply; (c) charging consumers for goods or services for supply without intention to supply; or (d) charging or debiting consumers' financial, telephone, or other accounts without authorization." Moreover, each party shall also maintain measures that: "(a) require goods provided to be of reasonable and satisfactory quality at the time of delivery and consistent with the supplier's claims regarding the quality of the goods; (b) require services provided to be performed with reasonable skill and care, in a reasonable time, and consistent with the supplier's claims regarding the quality of the services; and (c) provide consumers with appropriate redress when a supplier breaches the measures described in subparagraphs (a) and (b)."

hapter 22 refers to "Environment." This chapter seems to be one of the most important nowadays J for the Western World and it could not have been omitted anyhow in this FTA. It has to be accentuated that this part of the FTA refers directly to the "2030 Agenda," that is, the UN 2030 Agenda for Sustainable Development adopted by the UN General Assembly Resolution 70/1 on September 25, 2015, and its Sustainable Development Goals.²¹ In Article 22.3 both countries stipulated that they recall the Agenda 21 and the Rio Declaration on Environment and Development adopted by the UN Conference on Environment and Development in 1992, the Johannesburg Plan of Implementation of the World Summit on Sustainable Development of 2002, the Outcome Document of the UN Conference on Sustainable Development of 2012 titled "The Future We Want" endorsed by the UN General Assembly Resolution 66/288 adopted on July 27, 2012, and the said 2030 Agenda. Therefore, the objectives of chapter 22 are "to promote mutually supportive trade and environmental policies; promote high levels of environmental protection and effective enforcement of environmental laws; encourage the Parties to address the urgent threat of climate change; and enhance the capacities of the Parties to address trade or investment-related environmental issues, including through cooperation." Furthermore, both countries have agreed that they recognize that: "(a) sustainable development encompasses economic development, social development, and environmental protection, all three being interdependent and mutually reinforcing, and affirm their commitment to promote the development of international trade and investment in a way that contributes to the objective of sustainable development; (b) enhanced cooperation to protect and conserve the environment and sustainably manage their natural resources brings benefits that can contribute to sustainable development, strengthen their environmental governance, and complement the objectives of this Agreement (FTA - A.S.); (c) the urgent need to address climate change, as outlined in the Intergovernmental Panel on Climate Change Special Report on Global Warming of 1.5°C, is a contribution to the economic, social,

21. See Article 22.1 of the FTA.

and environmental objectives of sustainable development; and (d) the environment plays an important role in the economic, social, and cultural well-being of Māori in the case of New Zealand, and acknowledge the importance of engaging with Māori in the long-term conservation of the environment." Thus, some of the general commitments of the parties are as follows: "The sovereign right of each Party to establish its own environmental priorities and levels of environmental protection relating to the environment, including mitigation of and adaptation to climate change, and those which a Party establishes pursuant to the multilateral environmental agreements to which it is a party, and to establish, maintain, or modify its relevant law and policies accordingly," as well as "endeavour to ensure that its environmental and other relevant laws and policies provide for, and encourage, high level of environmental protection, and to continue to improve its respective level of environmental protection." At the same time, the countries have agreed that they recognize that it is "inappropriate to encourage trade or investment by weakening or reducing the protection afforded in their respective environmental laws. Accordingly, a Party shall not waive or otherwise derogate from, or offer to waive or otherwise derogate from, its environmental laws in a manner that weakens or reduces the protection afforded in that law in order to encourage trade or investment between the Parties." Based on Article 22.7(3) of the FTA, the parties shall cooperate on ways to enhance trade in environmental goods and services. Areas of cooperation "may include": renewable and low carbon energy; energy efficient products and services; clean transport including uptake of electric vehicles; energy storage technologies; sustainable financial services; clean heat; carbon capture; utilization and storage; climate change adaptation and resilience technologies and services; conservation of biological diversity; pollution abatement, and water conservation, and identification and further liberalization of trade in, environmental services.

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Chapter 22 covers also many other local aspects related to each party (e.g. "kaitiakitanga," "sustainable agriculture," "sustainable forest management," "conservation of biological diversity," "ozone depleting substances and hydrofluorocarbons").

Chapter 23 ("Trade and Labour") are designed to reaffirm both parties' commitments to uphold international labor standards and to refrain from weakening these standards to attract trade and investment.²² The commitments refer also to effective enforcement of labor laws while preserving or securing the right to regulate. Furthermore, the chapter covers additional aspects of trade and labor, in particular promoting gender equality in trade and in the workplace. It also addresses modern slavery in supply chains, and fostering quality employment. Based on Article 23.5 of the FTA, both



countries declared they shall respect, promote, and realize in its laws the principles concerning the fundamental rights at work, defined in the FTA as follows: freedom of association and the effective recognition of the right to collective bargaining; elimination of all forms of forced or compulsory labor; effective abolition of child labor and, for the purposes of the FTA, a prohibition on the worst forms of child labor, and elimination of discrimination in respect of employment and occupation. The countries also recognize that it is inappropriate to use labor laws for protectionist trade purposes or to encourage trade or investment by weakening or reducing the protections afforded in each party's labor laws. The parties agreed that each of them shall promote public awareness of its labor laws, including by ensuring that information related to its labor laws and enforcement and compliance procedures is publicly available. It is particularly important that all provisions within chapter 23 are enforceable.

A ccording to the provisions of chapter 25 ("Trade and Gender Equality"), both countries have committed to promoting women's economic empowerment throughout this FTA. This chapter in particular facilitates collaboration between the UK and New Zealand to support women business owners, entrepreneurs, and workers in fully accessing the opportunities provided by international trade. Based on Article 25.2 setting out the objectives, both countries have agreed to affirm their intention to implement the provisions of this FTA in a manner that "advances women's economic empowerment and promotes gender equality." Moreover, "in addition to this Chapter," other chapters of this FTA contain articles "which seek explicitly to advance this objective," including: Article 10.4 (Development of Measures – Domestic Regulation); Article 11.11 (Transparency – Financial Services) and Article 11.13 (Diversity in Finance – Financial Services); Article 15.20 (Digital Inclusion – Digital Trade); Article 16.22 (Working Group on Government Procurement – Government Procurement); Article 23.8 (Non-Discrimination and Gender Equality in the Workplace – Trade and Labour); Article 24.3 (Cooperation to Increase Trade and Investment Opportunities for SMEs – Small and Medium-Sized Enterprises); and Article 27.1 (General Provisions – Trade and Development).

Both countries expressly acknowledge the key role that gender-responsive policies can play in achieving inclusive economic growth and sustainable development. The general commitments of the parties, according to Article 25.3, are inter alia: (a) both countries shall implement and enforce their respective laws, policies, practices, and regulations that promote gender equality and improve women's access to trade and economic opportunities; (b) both parties shall take steps towards increasing women's participation in trade and investment, including by identifying the range of bar-

riers that limit opportunities for women in the economy, to enable the delivery of evidence-based interventions in response; (c) each party shall promote public awareness of its gender equality laws, regulations, policies, and practices relating to trade, including by making them publicly available. Both countries also acknowledge that it is inappropriate to waive, or otherwise derogate from, their gender equality laws to encourage trade or investment. Moreover, both countries "recognise that inclusive trade policies can contribute to advancing women's economic empowerment and gender equality in line with Sustainable Development Goal 5 of the UN's 2030 Agenda on Sustainable Development adopted by the UN General Assembly Resolution 70/1 on September 25, 2015 (Article 25.4(3) of the FTA). In Article 25.5(3) of the FTA the parties have established potential areas of their cooperation in the abovementioned regard, that may include for instance: developing programmes to promote women's full and equal participation, empowerment, and advancement in society by encouraging, valuing, and recognizing women's unpaid care work, capacity building, and skills enhancement including at work, in business, and at senior levels in all sectors of society (such as on public and private boards), insofar as doing so is related to trade; improving women's access, participation, leadership, and education, in particular in fields in which they are underrepresented such as science, technology, engineering, mathematics (STEM), as well as innovation, e-commerce, and any other field as it relates to trade; promoting business development services for women to improve women's digital skills and access to online business tools; promoting financial inclusion and literacy, access to relevant financing, and financial assistance; developing trade missions for businesswomen and women entrepreneurs; fostering women's entrepreneurship, including activities to promote the internationalisation of SMEs led by women; supporting economic opportunities for diverse groups of women in trade and investment; in the case of New Zealand, providing opportunities for wahine Māori to engage n trade activities including with a Te Ao Māori framework."23

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Chapter 26 ("Māori Trade and Economic Cooperation") refers to a very specific subject, that is, cooperative activities or measures aimed at strengthening trade relationships between the UK, New Zealand, and Māori enterprises. The provisions of this chapter, although general, are designed to help Māori enterprises to coexist with UK and New Zealand businesses.

In chapter 27 ("Trade and Development"), both countries have agreed to acknowledge "the importance of development in promoting inclusive economic growth, as well as the instrumental role that sustainable trade and investment can play in contributing to economic development, prosperity, and a resilient global economy." For both countries, an inclusive economic growth includes "a more 23. For the purposes of this chapter 25, the term "Te Ao Māori" shall have the meaning ascribed to it under Article 26.1 (Māori Terminology – Māori Trade and Economic Cooperation). The said definition says that "'Te Ao Māori' refers to the Māori world view based on a holistic approach to life". *Māori* are the indigenous Polynesian people of mainland New Zealand (that is Aotearoa – the Māori-language name for New Zealand).



broad-based distribution of the benefits of economic growth through the expansion of business and industry, including for SMEs and women-led businesses, the creation of jobs, and the alleviation of poverty." The parties also acknowledge that inclusive economic growth should be sustainable, and the "sustainable growth encompasses economic development, social development, climate resilience, and environmental protection." According to Article 27.2 of the FTA, both countries agreed their cooperative activities may include: "(a) dialogue and an exchange of information between the Parties; (b) sharing of best practice on trade and development policies and programmes; (c) promoting developing country participation in multilateral and regional fora and joint advocacy in areas relating to trade and development; or (d) any other form of cooperation as may be agreed between the Parties including in support of least developed countries and small island developing states." Furthermore, the parties may invite, as appropriate, multilateral, regional, private sector, non-governmental, or other relevant organizations to assist with these cooperative activities.

Chapter 30 relates to "Institutional Provisions." Based on Article 30.1 of the FTA, both countries have established a Joint Committee which may meet at the level of senior officials or Ministers, as mutually determined by the parties. According to Article 30.2, this Joint Committee shall provide a forum to discuss trade-related matters and ensure the smooth operation of the agreement, including considering any proposal to amend this FTA. The duties and rights of the Joint Committee are defined in Article 30. Nevertheless, the parties shall endeavor to cooperate to facilitate the identification and exchange of other information relevant to the effective monitoring of the functioning of this FTA, including for instance: ad hoc discussions between their expert-level representatives, entering into arrangements to exchange relevant information identified, determining methods for interpreting and analyzing that information. In addition to chapter 30, there are certain provisions in other chapters of this FTA, including, where appropriate, by consulting them and seeking their views. Article 30.7(2) expressly states that these include: chapter 22 ("Environment"), chapter 23 ("Trade and Labour"), chapter 24 ("Small and Medium-Sized Enterprises"), chapter 25 ("Trade and Gender Equality"), chapter 26 ("Māori Trade and Economic Cooperation") as well as chapter 27 ("Trade and Development").

A ccording to chapter 31 ("Dispute Settlements"), both countries have agreed to provide an effective, efficient, and transparent process for the settlement of disputes between them concerning their rights and obligations under this FTA. However, chapter 31 shall apply subject to those special and additional provisions on dispute settlement contained in other chapters of this FTA. This

dedicated process may be, inter alia, the establishment of a panel composed of three arbitrators²⁴ to consider a dispute arising under this FTA. Chapter 31 is without prejudice to the rights of the parties to have recourse to dispute settlement procedures available under any other international agreement to which both countries are party, including the WTO Agreement. However, if a dispute regarding the same matter arises under this FTA and under another international agreement to which both countries are party, the complaining party may select the forum in which to settle the dispute. Chapter 32 ("General Exceptions and General Provisions") consists of provisions upon which the UK and New Zealand governments are granted certain flexibility to safeguard important domestic priorities, such as national security, the National Health Service of the United Kingdom (NHS)²⁵ and the New Zealand Health and Disability System, climate change, and the creative arts,²⁶ through various specific exceptions and general provisions. Based on provisions of chapter 32, New Zealand has been allowed to protect its domestic priorities related to the Māori in accordance with the Treaty of Waitangi. According to Article 32.5 of the FTA, "Provided that such measures are not used as a means of arbitrary or unjustified discrimination against persons of the other Party 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. 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 31 (Dispute Settlement) shall otherwise apply to this Article. A panel established under Article 31.6 (Establishment of a Panel – Dispute Settlement) may be requested by the other Party to determine only whether any measure (referred to in paragraph 1) is inconsistent with its rights under this Agreement" (for more details, see below).

Chapter 33 ("Final Provisions") is more technical and relate to the entering into force,²⁷ application, amending, and terminating of the FTA. Both countries may agree, in writing, to amend this FTA, and any amendment shall enter into force on a date agreed by the parties, following delivery of the latter of the parties' notifications confirming completion of their respective applicable internal requirements for entry into force, unless the parties agree otherwise. According to Article 33.4 of the FTA, this Agreement may be terminated by either party (country) on giving six months' written notice to the other party, unless the parties agree otherwise.²⁸ Furthermore, according to Article 33.6(1), at the time of entry into force of this agreement, or any time thereafter, this FTA or specified provisions

24. Qualifications of arbitrators are defined in Article 31.8 of the FTA.

25. For greater certainty, the National Health Service of the United Kingdom includes for the purposes of this Article 31, the National Health Service in England, Scotland, and Wales, and Health and Social Care in Northern Ireland. Volume 10 Issue 3 (2024)

26. It is further clarified in Article 31.1 that "creative arts" within the meaning of this FTA include "ngā toi Māori (Māori arts), the performing arts including theatre, dance, and music, haka (traditional Māori posture dance), waiata (song or chant) – visual arts and craft such as painting, sculpture, whakairo (carving), raranga (weaving), and tā moko (traditional Māori tattoo), literature, film and video, language arts, creative online content, indigenous traditional practice and contemporary cultural expression, and digital interactive media and hybrid art work, including those that use new technologies to transcend discrete art form divisions. The term encompasses those activities involved in the presentation, execution, and interpretation of the arts; and the study and technical development of these art forms and activities."

27. Entry into force of this FTA was subject to the completion of the necessary domestic procedures of each of the parties, according to Article 33.8.

28. It seems to a be a disproportionately convenient path to terminate this FTA.

of it, may be extended to such territories for whose international relations the United Kingdom is responsible as the parties may agree. An extension in accordance with this provision may include extension of further provisions of this FTA to the Bailiwicks of Guernsey and Jersey and the Isle of Man, as well as any extension to any other territories for whose international relations the UK is responsible, including, but not limited to, Gibraltar.

Impact Assessment

The FTA between the UK and New Zealand was announced as a "historic trade deal" and "groundbreaking deal."²⁹ More importantly, this particular FTA was officially presented as the trade agreement that "will cut red tape for businesses, end tariffs on UK exports and create new opportunities for tech and services companies, while making it easier for UK professionals to live and work in New Zealand."³⁰ After the signing, this FTA was described as a "deal worth £2.3 billion" in 2020 and the figures were set to grow under the deal.³¹

espite its general and broad language, this FTA shall be considered as a practical tool to remove m J barriers to trade between the UK and New Zealand. At this stage, however, it is too early to assess if this FTA can really facilitate access for UK's "advanced tech and services companies, while making it easier for smaller businesses to break into the New Zealand market" as it was presumed to be.³² In February 2022, UK's Department for International Trade published an official document titled "Impact assessment of the Free Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and New Zealand" presenting a very detailed assessment of this FTA.³³ According to the FTA Assessment, this is "a modern and comprehensive agreement, with elements that go further than the UK or New Zealand have committed to before."34 This FTA has been introduced as, inter alia, the agreement removing tariffs on all UK exports to New Zealand at entry into force, worth more than GBP 17 million in annual tariff reductions, as well as removing and reducing regulatory barriers.³⁵ Moreover, according to the FTA Assessment, this FTA shall increase investment opportunities in both countries. However, it has been already noted that the said investment opportunities are supposed to mean that for UK investors it would be "easier to expand their footprint" thanks to the FTA. On the other hand, investment opportunities would be "more profitable" in New Zealand.³⁶ Thanks to the FTA, business persons employed by UK enterprises, representing sectors like audit, legal services and management consultancy, when travelling to New Zealand, shall have secured access to the market. It is also expected that based on the FTA, greater access to New Zealand markets and reduced regulatory burdens on goods and services shall bring "extensive

29. See: UK agrees historic..., op. cit.

30. See: ibidem.

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31. See: ibidem.

32. As it was announced in October 2021; see: *UK-New Zealand Free...*, op. cit.

33. See: UK-New Zealand FTA: impact assessment, Department for Business and Trade and Department for International Trade 2022, <u>https://www.gov.</u> <u>uk/government/publications/uk-new-</u> zealand-fta-impact-assessment, (access 28.08.2024); hereinafter the "FTA Assessment."

34. Ibidem, p. 4.35. Ibidem.36. Ibidem.

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opportunities for UK businesses and consumers."³⁷ The predicted impact of the FTA presented in the FTA Assessment is now supposed to be monitored on a regular basis in the years to come.³⁸ 37. Ibidem, p. 5. 38. Ibidem, pp. 7-8. t this stage it shall be noted that both FTA's language and its official assessment presented by A the UK Department for International Trade suggest at least slight asymmetry between potential benefits for UK and New Zealand resulting from the FTA. For the UK side, the benefits seem to be more clear in terms of their economic implications. For New Zealand, on the other hand, they seem to be more related to the protection of roots, nature, and culture, and therefore may petrify long-term economic dependence on UK growth and powers. **The FTA** t shall be noted that according to official data, total UK trade with Australia only in 2023 amounted between L to GBP 20,036 million.³⁹ In 2020, during the hit of the COVID-19 pandemic, trade between the UK and Australia was worth GBP 13.9 billion, which was the result of constant growth since 2010.⁴⁰ Ac-39. See: UK trade agreements..., op. cit. the UK and cording to the public statistics, main UK goods exports to Australia are chemicals and manufacturing, Australia: 40. See: Impact assessment of the FTA and the key services exports include insurance, pensions, and finance.⁴¹ It has to be emphasized that between the UK and Australia: executive **Scope and** UK exports to Australia are believed to already support over 100,000 jobs in the UK. When it comes summary (web version), Department Goal to import demand from Australia, it is expected to grow by 30% in real terms over the next ten years.⁴² for International Trade 2022, https:// www.gov.uk/government/publications/ The said data and figures show the importance of Australia as a partner in trade. uk-australia-fta-impact-assessment/ impact-assessment-of-the-fta-be-Therefore, the goal of this "deep and comprehensive agreement" of December 2021 that came into tween-the-uk-and-australia-execuforce in May 2023 was to "enhance the historic trading and investment relationship" between tive-summary-web-version, (access 08.09.2024). these two nations as it was officially introduced.⁴³ This FTA has been designed to "build upon longlasting economic and cultural links" and is "expected to bring long-term economic benefits for both 41. See: ibidem. nations, support UK jobs and provide opportunities for growth in sectors all around the UK," as the 42. See: ibidem. official UK statement says.⁴⁴ The UK-Australia FTA's structure is similar to the abovementioned FTA between the UK and New Zealand, as well as to other FTAs already concluded by the UK. However, it 43. See: ibidem. is not exactly the same. 44. See: ibidem. The agreement contains 32 chapters titled as follows: Initial Provisions and Definitions, Trade in L Goods, Trade Remedies, Rules of Origin and Origin Procedures, Customs Procedures and Trade Facilitation, Sanitary and Phytosanitary Measures, Technical Barriers to Trade, Cross Border Trade in Services, Financial Services, Professional Services and Recognition of Professional Qualifications,



Temporary Entry for Business Persons, Telecommunications, Investment, Digital Trade, Intellectual Property, Government Procurement, Competition Policy and Consumer Protection, State-Owned Enterprises and Designated Monopolies, Small and Medium-Sized Enterprises (SMEs), Innovation, Labour, Environment, Development, Trade and Gender Equality, Animal Welfare and Antimicrobial Resistance, Good Regulatory Practice, Cooperation, Transparency and Anti-Corruption, Administrative and Institutional Provisions, Dispute Settlement, General Provisions and Exceptions, and Final Provisions. A quick comparison of both discussed FTAs leads to the conclusion that since both agreements are similar in terms of their structure, they are not identical and certain differences occur because of natural background and history of Australia and New Zealand, different cultures, nations and their beliefs or values they want promote, in particular when we compare Australia to New Zealand and vice versa.

▼t shall be also accentuated that the FTA with Australia contains chapter 20 ("Innovation") that has been introduced as the "first chapter of its kind to be included in any free trade agreement" and that consists of provisions designed to create a platform for the UK and Australia to engage in discussions on how innovation influences trade between these two countries. This chapter's provisions cover topics such as regulatory frameworks, the commercialization of emerging technologies, and the resilience of supply chains. The idea behind its provisions it to ensure that the FTA adapts to the evolving nature of both economies, UK and Australian, as they grow and evolve.⁴⁵ According to Article 20.1 of this FTA and for the purposes of chapter 20, "innovation" means the development or implementation of a new or improved product, process, or organizational method, or combination thereof. The objective of this chapter 20 is to support trade and economic growth between both countries "through collaboration on innovation, consistent with the laws, regulations and policies of each Party" (Article 20.2). According to Article 20.3, both countries "recognise the important role that innovation plays in their economies, including by stimulating competitiveness, increasing productivity, encouraging investment and promoting international trade." Therefore, the countries confirm that their intention is for this FTA to "support innovation in their respective economies, including by fostering opportunities in innovation-intensive industries and encouraging trade in innovative goods and services." Both countries also "acknowledge the existing collaboration on innovation between their governments, industries, universities, publicly funded research agencies and other non-governmental bodies, and confirm their commitment to further strengthening this collaboration." Further articles of chapter 20 refer to cooperation in the field of "Artificial Intelligence and Emerging Technologies" (in this field, the FTA creates more statements rather than any

45. See: ibidem.

real commitment) and "Strategic Innovation Dialogue," that is established in Article 20.5 of the FTA. Through the said Strategic Innovation Dialogue, the countries shall mutually "identify areas of cooperation to promote and facilitate innovation in their territories." Examples of areas of cooperation that are expressly defined in the FTA may include: (a) regulatory approaches that facilitate innovation, including the uptake and implementation of international innovation best practice standards; (b) emerging and transformative technologies, including clean and low emissions technologies, artificial intelligence, and other digital technologies; (c) the commercial application of new technologies, including in economic sectors such as agriculture, health, energy, mineral resources, space, and manufacturing; (d) value chain matters, including supply chain resilience; and (e) global innovation networks and cross-border trade in intangible assets, including through higher education and research collaboration." Furthermore, based on Article 20.5(8), both UK and Australia shall, on entry into force of this FTA, designate a contact point for the Strategic Innovation Dialogue and notify the other party of that contact point as well as on any further change to those contact details.

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A mong different potential or expected impact categories one seems to be particularly interesting. Namely, the macroeconomic impacts. The UK Government analysis suggests, inter alia, that bilateral trade between the UK and Australia could increase by approximately GBP 10.4 billion in the long term.⁴⁶ This growth is measured against projected trade levels in 2035 (adjusted to today's prices) without the said FTA. It reflects a central estimate of a 53% trade boost due to the FTA, primarily driven by reduced regulatory barriers for goods and services, lower tariffs, and the positive effects of income and supply chain growth as the UK economy expands.⁴⁷ The potential impact assessment analysis also indicates that UK GDP could see a long-term increase of approximately GBP 2.3 billion compared to projected GDP levels in 2035 (at today's prices) without the agreement. This reflects an estimated 0.08% rise in GDP by 2035 as a result of the FTA, including significant uncertainty of the predicted outcome. Additionally, thanks to the FTA, UK workers' take-home pay is expected to grow by GBP 900 million in the long run, compared to wage levels in 2019 without this agreement.⁴⁸

It shall be noted that according to Article 32.8 of the FTA, either UK and Australia may terminate this FTA by giving the other party notice in writing. Such termination shall take effect six months after the date of the notification, or on such date as the parties may agree. However, within thirty days of the date of the said notification, either party may request consultations regarding whether the termination of any provision of this FTA should take effect on a date later than that provided above. The

46. See: ibidem.

47. See: ibidem. It must be noted that the estimates are based on key assumptions regarding the global economy and the nature of the UK-Australia relationship, however. Therefore, they carry a degree of uncertainty since any estimation cannot fully encompass all factors that could influence the agreement's impact. Nevertheless, the UK analysis indicates that the long-term gross domestic product (GDP) effect in the UK could range from 0.06% to 0.10%.

48. See: ibidem.



said consultations shall commence within thirty days of the date of the request, or on such date as the countries may agree. **Conclusions** Thanks to its broad, general legal language, rather of declarative nature than being a firm commit-L ment, the FTA between the UK and Australia seems to be a tool for the UK allowing for a greater access to Australian markets as well as creating reduced regulatory burdens on goods and services. Thus, it shall be expected as the document that may induce more real opportunities for UK business entities, business persons and consumers rather than symmetry in relationship between both countries. The anticipated impact of this FTA on the UK economy that has been made publicly available is 49. This is the so-called Computable L based on a certain method of modelling, a well-regarded method for estimating the effects of free General Equilibrium (CGE) modelling. CGE models are a class of economic trade agreements.⁴⁹ This approach offers insights into the relative scale of impacts, though it does not models that use actual economic data to account for all possible dynamic outcomes, making the predictions inherently uncertain. Therefore, estimate how an economy might react after over one year with this FTA in effect (as well as the FTA between the UK and New Zealand), it to changes in policy, technology or other external factors, according to general is crucial for further conclusions, evaluations, and research to ensure that ongoing monitoring or meaning. CGE models are widely used monitoring and evaluation are maintained and duly documented. This would definitely allow for a by governmental organizations and comprehensive understanding of real consequences of both FTAs for the countries involved in these academic institutions to analyze the economywide effects of events such as FTAs. Based on the said future monitoring or evaluation, further respective policy decisions shall be climate change, tax policies, and immimade, including decisions on refraining from making any changes to the existing FTAs. For the UK gration - see: M.E. Burfisher, Introducside, this is the Department for Business and Trade⁵⁰ (formerly, Department for International Trade), tion to Computable General Equilibrium which is a dedicated entity that shall oversee the said monitoring or evaluation of the performance of Models, Cambridge University Press 2011, p. 3. the FTAs and their implications. 50. See: Department for Business and Trade, https://www.gov.uk/government/ **References** organisations/department-for-busi-Bullough O., Butler to the World. How Britain became the servant of tycoons, tax dodgers, kleptocrats, and criminals, Proness-and-trade, (access 08.09.2024). file Books 2022. Burfisher M.E., Introduction to Computable General Equilibrium Models, Cambridge University Press 2011. Department for Business and Trade, https://www.gov.uk/government/organisations/department-for-business-and-trade, (access 08.09.2024).



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