

SUBMISSION BY



to

THE MINISTRY OF FOREIGN AFFAIRS AND TRADE

on

OPEN PLURILATERAL ARRANGEMENT TO RESOLVE NTBs

26 June 2025

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INTRODUCTION

NZTech thanks the Ministry of Foreign Affairs and Trade for the opportunity to contribute to its consultation on the Open Plurilateral Arrangement. Non-tariff barriers are very significant to New Zealand tech exporters and pose some key challenges to the tech sector, so we welcome the Ministry's initiative.

ABOUT NZTECH

NZTech is a member-funded, not-for-profit organisation representing more than 2,500 members who together employ 10 percent of the New Zealand workforce, comprising startups, local tech firms, multinationals, education providers, financial institutions, major corporations, network providers, hi-tech manufacturers, and government agencies that work closely with the tech ecosystem.

The tech sector is a significant and growing part of the New Zealand economy, employing 121,000 people and contributing around \$22b in GDP. It is also one of the fastest-growing export sectors – New Zealand's 3rd largest – with export receipts of \$10.7b in 2023. Software exports, for example, are growing at more than 20% p.a.

We note that "tech" includes physically manufactured products with a significant digital/knowledge-intensive component (e.g. Rakon, Tait Communications, F&P Healthcare), as well as weightless "digital" exports such as software, AI or gaming (e.g. Datacom, Xero, Orion Health, RocketWerkz).

A KEY DISTINCTION: DIGITALLY-ENABLED TRADE VERSUS DIGITAL EXPORTS

In our submission last year to the Foreign Affairs, Defence and Trade Committee's consultation on the impact of NTBs on tech exports, we detailed a key distinction which we would again like to highlight before addressing the questions asked in this current consultation.

Namely, that trade agreements containing digital clauses – such as those that focus on using digital means to support trade with e-invoicing and logistics – are not the same as digital exports.

New Zealand exporters of physical products such as dairy can use digital tools such as digital logistics or e-invoices to export efficiently. This is "digitally-enabled trade" and is crucial to New Zealand – it can deliver important benefits for supply chain integrity and cost savings for goods exporters.

However, digitally-enabled trade is not the same as "digital exports" or "tech exports" – those are a very different kind of trade, and need to be considered, and supported, in different ways.

New Zealand has already negotiated some useful trade agreements to support digitally-enabled trade – for example, in the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) or the ASEAN Australia New Zealand Free Trade Agreement

(AANZFTA), and some useful building blocks for developing rules for digital trade, such as the Digital Economy Partnership Agreement (DEPA). But concrete rules to support “digital trade” are largely lacking – what is needed now is a new focus on how to boost “digital trade” into global markets.

QUESTION 1: WHAT TYPES OF NTBs ARE EXPORTERS FACING THAT THIS ARRANGEMENT COULD HELP ADDRESS?

For digital exporters, *all* barriers are NTBs. And while physical high-tech exporters can face tariffs, they also face a range of NTBs.

These NTBs for tech exporters essentially fall into one of four categories: talent; intellectual property; establishing a presence and repatriation of funds; and digital rules, regulations and legislation.

(1) Talent

- For B2B digital exports, firms often need to send tech talent offshore for implementation, integration and support of products in-market. This can be blocked by expensive, opaque or restrictive visas and other regulations in foreign markets.
- The inability to freely move talent can create NTBs for New Zealand tech firms.

(2) Intellectual Property

- In some countries there is a risk of exploitation of IP. While this is becoming less of a problem as we move more and more to exporting software as a service where the code stays in NZ.
- However, digital exports can still face a patchwork of different approaches on IP, or inadequate protections and enforcement in some markets. That erodes value and opportunities.

(3) Establishing a local presence and repatriation of funds

- Some tech exporters will need to establish offices and teams in the countries to which they export to support their tech.
- In some cases rules around data localisation may drive this need for a local presence.
- In certain countries, it can be complex and financially costly to establish a presence and to repatriate funds back to New Zealand, making it hard for tech exporters to reinvest in other markets and maintain their growth.

(4) Digital rules, regulations and legislation

- Governments are increasingly regulating things such as privacy, biometrics, flows and control of data (sometimes called data sovereignty), artificial intelligence, certification of code, and access to markets (e.g. through issuing licences).

- While many of these are legitimate areas to regulate, the regulations can be overly restrictive, fragmented and rapidly changing. Standards can also vary significantly across markets.
- In other cases, the approaches our trading partners use are clearly driven by economic protectionism, or by what we might not consider “legitimate” reasons, e.g. societal control.
- If New Zealand gets out of sync with these foreign regulations and standards, our tech exporters will face multiple problems around compliance. This will necessitate retooling products for multiple markets.
- There is a strong case for New Zealand to try to influence these foreign regulations and standards to create the most coherent operating environment we can.
- At the same time, influencing foreign regulations and standards, and preparing New Zealand tech exporters locally to meet them, may create some advantages, such as becoming an early mover in certifications or standards.
- Platforms can create opportunities for New Zealand exporters, but they can also operate by their own rules, including such aspects as access to data on transactions and customers, dispute resolution and algorithms. This can make it hard for New Zealand tech exporters (e.g. in the gaming sector) to develop and deploy export strategies.
- Finally, we note that the expiration of the temporary agreement to forgo applying tariffs (also called Customs duties) on digital products transmitted electronically would have a serious negative impact on New Zealand’s tech and entertainment sectors.

QUESTION 2: WHAT COUNTRIES SHOULD NEW ZEALAND WORK WITH?

New Zealand should be prepared to work with all countries on this initiative, but in particular those nations that show a willingness to engage with us.

QUESTION 3: WHAT OTHER ISSUES DO YOU THINK NEW ZEALAND SHOULD FOCUS ON IN THIS ARRANGEMENT?

- We support a multi-pronged NTB strategy for digital/tech trade. We would like the proposed plurilateral agreement, to cover such key areas as AI rules, data/privacy rules, standards development and platform/competition regulation. In these instances, digital should be approached similarly to more traditional trade – small but influential, always involved, and bringing creative solutions to the table.
- New Zealand should continue to negotiate more and/or better in developing binding trade rules through trade agreements, with a wider range of trading partners. We should try to reduce the “digital noodle bowl” of overlapping, fragmented and divergent trade rules for digital.
- New Zealand should continue to work to achieve a permanent WTO Moratorium on duties on digital products transmitted electronically: the “e-commerce moratorium”.

- Staff in MFAT and other relevant agencies should be equipped and fully resourced to tackle digital NTBs as they arise, as they already do for non-digital NTBs.

QUESTION 4: DO WE HAVE PERMISSION TO CONTACT YOU IN THE FUTURE IF WE CONDUCT ADDITIONAL CONSULTATION RELATED TO THIS ARRANGEMENT?

Yes. Please do.

CONCLUSION

NZTech thanks the Ministry for the opportunity to make this submission.

We would be happy to help further in any way we can on this important issue for New Zealand's tech community.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Graeme Muller', with a stylized, cursive script.

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