



**Memorandum of Understanding**

**between**

**The Minister of the New Zealand Customs Service**

**and**

**The Minister for Trade and Export Growth**

(Disclosure of information other than under information  
matching or direct access agreement:  
Section 316, Customs and Excise Act 2018)

# PART 1: INTRODUCTION

## 1 Parties

1.1 The parties to this Memorandum of Understanding (**MoU**) are:

1.1.1 The Minister of the New Zealand Customs Service; and

1.1.2 The Minister for Trade and Export Growth.

## 2 Purpose of the MOU

2.1 Section 316 of the Customs and Excise Act 2018 (**the Act**) facilitates the disclosure of information by the Chief Executive of the New Zealand Customs Service (**Customs**) to the Chief Executive of another government agency for certain purposes. By entering into this MoU pursuant to section 316 of the Act, Customs is performing a statutory function under the Act.

2.2 New Zealand Trade and Enterprise (**NZTE**) is a Crown Entity established under the New Zealand Trade and Enterprise Act 2003 (**the NZTE Act**). The functions of NZTE are set out in section 9 of the NZTE Act and can be summarised as helping New Zealand businesses to grow internationally by:

2.2.1 making knowledge, resources and connections available to New Zealand businesses, Maori entities and coalitions;

2.2.2 connecting New Zealand businesses with the right partners and investors for growth internationally;

2.2.3 connecting global investors and companies with opportunities in New Zealand; and

2.2.4 elevating New Zealand's business reputation in international markets..

2.3 NZTE wishes Customs to share certain Category 1 information with it in order to assist NZTE in carrying out its statutory functions, and its responsibilities as co-lead of the New Zealand's Trade Recovery Strategy as outlined in section 5 of this MoU.

2.4 The objectives of this MoU are to set out the detail regarding:

2.3.1 The particular type or class of information to be disclosed; and

2.3.2 The particular purpose or purposes for which the information is accessed; and

2.3.3 The particular function being, or to be, carried out by NZTE for which the information is required; and

2.3.4 How the information is to be used by NZTE to assist with the carrying out of those functions; and

2.3.5 The form in which the information is to be disclosed; and

2.3.6 The positions or designations of the persons in NZTE to whom the information may be disclosed; and

- 2.3.7 The safeguards that are applied for protecting personal information, or commercially sensitive information that is disclosed; and
  - 2.3.8 The requirements relating to storage and disposal of the disclosed information; and
  - 2.3.9 The circumstances (if any) in which the information may be disclosed by NZTE to another agency, and how that disclosure may be made; and
  - 2.3.10 The requirements for reviewing the MoU.
- 2.4 This MoU also contains a schedule of annexes. These annexes detail the specific outcomes sought and agreed to between NZTE and Customs as well as detail technical aspects regarding access to Customs' information that are required to fulfil the requirements of this MoU.

### 3 Definitions

- 3.1 Terms relevant to this MoU are defined as follows:

Term	Definition
Designated Person	Any NZTE employee designated as authorised to whom the information may be disclosed. These employees are listed in Annex 3 by reference to role title.

- 3.2 All other definitions in this MoU have the meaning defined in the At unless otherwise noted.

### 4 Particular type or class of information that may be disclosed

- 4.1 The information to be disclosed under this MoU relates to:
- 4.1.1 New Zealand companies exporting goods from New Zealand to international destinations;
  - 4.1.2 the nature and values of those exports; and
  - 4.1.3 the destination countries for those exports.
- The information sought by NZTE will not contain "personal information" for the purposes of the Privacy Act 1993.
- 4.2 This information is Category 1 information under section 304 of the Act. The data has been classified by Customs as being In Confidence with the caveat of Commercially Sensitive.

### 5 Particular purpose(s) for which information is accessed

- 5.1 On June 8 2020, the Minister for Trade and Export Growth launched New Zealand's Trade Recovery Strategy (**Strategy**). This programme of work involves multiple agencies to support the export leg of New Zealand's economic recovery in the wake

of COVID-19. The Strategy is being lead by the Ministry of Foreign Affairs and Trade and NZTE.

- 5.2 As co-lead of the Strategy, NZTE requires access to the information specified in clause 4 for the purposes of carrying out its role as a co-lead of the Strategy and to ensure that NZTE services are being effectively allocated to New Zealand exporting businesses.
- 5.2 Customs will undertake a regular audit to ensure that NZTE is adhering to the provisions of this MoU, in particular regarding the use of the information.

## **6 Particular function being carried out for which information is required**

- 6.1 The information will be disclosed to NZTE to assist in the performance of its functions as:
  - 6.1.1 the New Zealand Government agency tasked with helping New Zealand businesses to grow internationally; and
  - 6.1.2 the Strategy co-lead who is responsible for ensuring that the Strategy best addresses the needs of the exporting community. .

## **7 How the information will assist in the carrying out of the particular function**

- 7.1 The information supplied by Customs will enable NZTE to carry out the function outlined in section 6 by enabling NZTE to:
  - 7.1.1 understand New Zealand's export profile in key markets;
  - 7.1.2 identify New Zealand businesses that represent New Zealand's major international trade flow;
  - 7.1.3 be proactive about resolving export issues for New Zealand businesses; and
  - 7.1.4 ensure exporters are receiving the most relevant support from NZTE and the wider New Zealand government agency network (both offshore and domestically).

## **8 The form in which the information will be disclosed**

- 8.1 Customs will provide the information to NZTE using an approved secure method of transmission as detailed in Annex 2.
- 8.2 Access to data received by NZTE will be restricted to Authorised Persons as set out in Annex 1 and maintained on a secure server.

## **9 Positions or designations of persons to whom information may be disclosed**

- 9.1 The disclosure of information will be limited to Authorised Persons working directly on the functions specified in clause 6 of this MOU, where access is required to carry out that function.

- 9.2 NZTE will ensure that Customs is informed of any changes of personnel designated as Authorised Persons holding the positions as specified in Annex 1.

## **10 Safeguards to be applied for protecting particular information**

- 10.1 The security and privacy safeguards to be applied are annexed to this MoU. Under section 316 of the Act, before entering a written agreement the Ministers must be satisfied that there are adequate safeguards to protect the privacy of individuals, including that the proposed compliance and audit requirements for the use, disclosure and retention of the information are sufficient. Accordingly, the Ministers acknowledge the following:

### ***Security***

- 10.2 Customs and NZTE will take reasonable steps to maintain the security of information disclosed under this MoU, by protecting it against risks such as unauthorised access, collection, use, disclosure and disposal.
- 10.3 Customs and NZTE will at all times follow the Technical Standards Report included in Annex 2 of this MoU and utilise an agreed secure transmission method. The requirements specific to this MoU are detailed in Annex 2 to this MoU.

### ***Privacy***

- 10.4 As there will be no disclosure of personal information (as defined under the Privacy Act 1993), there is no requirement to safeguard the privacy of individuals.

## **11 Requirements relating to the storage and disposal of disclosed information**

- 11.1 All information disclosed pursuant to this MoU (including any copies made) will be handled and stored strictly in accordance with any security endorsement or caveat including any Government Security Classification, and the requirements set out in the PSR and NZISM.
- 11.2 The information being disclosed to NZTE has been classified as In Confidence with the caveat of Commercially Sensitive.
- 11.3 Any information that is copied pursuant to this MoU will be retained by NZTE for as long as required for the purposes it was obtained pursuant to this MoU.
- 11.4 Subject to its obligations under the Public Records Act 2005 and any applicable disposal authorities under that Act, NZTE will securely dispose of the information obtained pursuant to this MoU (including any copies) once it is no longer required for the purposes it was obtained.

## **12 Disclosure by NZTE to any other agency**

- 12.1 Information disclosed in accordance with this MoU may only be disclosed by NZTE to another agency in accordance with the Official Information Act 1982, Privacy Act 1993; the NZTE Act; and the Crown Entities Act 2004 and all caveats that have been placed on the information by the agency with whom the information originated.
- 12.2 Information disclosed in accordance with this MoU may only be disclosed by NZTE to an overseas authority in accordance with section 318 of the Act.



## **13 Commencement, review and termination**

- 13.1 This MoU and associated annexes shall come into effect on the date that it is signed by both signatories. It remains in effect unless otherwise notified and agreed to by both NZTE and Customs.
- 13.2 NZTE and Customs shall complete the first review of this MoU within the first 12 months after the date that it is signed. NZTE and Customs will complete further reviews as deemed necessary by either agency but at an interval of no more than two years.
- 13.3 Where a review is completed, it will be done with a view to making any changes necessary to enhance the effectiveness of the information disclosure process in light of the intended use of the information.
- 13.4 NZTE and Customs shall co-operate with each other in any review and will use their reasonable endeavours to make available the necessary resources, facilities and information to facilitate each joint review.
- 13.5 Each agency has the right to initiate a review at any time on providing 30 days' notice in writing.
- 13.6 All notices of review shall be in writing and sent to the agency contacts detailed in Annex 1 of this MoU.
- 13.7 This MoU may be terminated at any time by either NZTE or Customs by providing formal notice in writing to the appropriate person in the other agency. The termination will take effect immediately following the next data transfer that occurs after the notice is received by the other agency.

## **14 Confidentiality**

- 14.1 Subject to both parties' obligations under the Privacy Act and/or Official Information Act 1982:
  - 14.1.1 neither NZTE nor Customs will release any information arising from this MoU to the media or any member of the public without first obtaining an agreement to do so from the other party; and
  - 14.1.2 if there is a matter of concern arising from this MoU, neither NZTE nor Customs will discuss the matter in public without first engaging in a full discussion between the parties.

## **15 Signatories**

- 15.1 The MoU shall be signed off by the Minister of Customs and the Minister for Trade and Export Growth.
- 15.2 The annexes shall be signed off in the first instance by the Minister of Customs and the Minister for Trade and Export Growth.

## **16 Department Representatives**

- 16.1 NZTE and Customs will each appoint a representative to oversee the operation of the information disclosure process, and will ensure that the person is familiar with the requirements of this MoU and the Privacy Act 1993. The contact details are contained in Annex 1 to this MoU.
- 16.2 In the first instance issues should be referred to NZTE through the General Manager Strategy People and Partners for clarification and resolution.
- 16.3 All notices and communication between NZTE and Customs and under this MoU shall be sent to the representatives at the addresses set out in Annex 1.

## 17 Variations

- 17.1 Any variation to this MoU must be made in writing and must be executed by the Minister of Customs and the Minister for Trade and Export Growth.
- 17.2 The agency who seeks a variation to this MoU shall, where appropriate, forward a copy of any such variation to the Privacy Commissioner.
- 17.3 Any variation to an annex to this MoU must be made in writing and must be executed by the Chief Executives or their designated representatives.

**IN WITNESS WHEREOF** the Parties have executed this Memorandum of Understanding



Signature of Minister for Trade and Export Growth for and on behalf of the Minister for Economic and Regional Development

Date:

26/11/20

In the presence of:

Signed by:



Signature of Minister of Customs

Date:

24/11/2020

In the presence of: Otene Tulia

Signed by:



## ANNEXES

Schedule of annexes to this MoU

Annex 1	Departmental Representatives to act as contact persons
Annex 2	Technical Standards Report (TSR)





## Annex 1 – Departmental representatives and contact details

### New Zealand Customs Service

<i>Role</i>	<i>Contact Details</i>
Manager, Trade Policy	David.Negri@customs.govt.nz

### NZTE

<i>Role</i>	<i>Contact Details</i>
General Manager, Strategy, People and Partners (for general MOU queries)	Tim.green@nzte.govt.nz
Director, Business Assurance (for audit queries)	Mark.langdon@nzte.govt.nz

## Annex 2: Technical Standards Report (TSR)

### Introduction

1. This schedule to the MoU specifies the details of the information to be provided by Customs to NZTE:

### The Information

2. The dataset to be sent is:

Company Name	Legal name of company as registered with Customs
GST No	As registered with Customs
NZBN	As Registered with Customs
Harmonised System Code	The first 10 digits of the Tariff Code
Value of exports	Aggregated dollar value of exports (in NZD) for the time period of the report.
Destination Country	The country code the goods are destined for.

3. Dataset will consist of:
  - 3.1 Shipments to all global destination markets,
  - 3.2 shipments "sold" and shipments exported "on consignment",
  - 3.3 entries where the latest version is cleared or adjusted cleared, and
  - 3.4 entries for which the date cleared falls within the required time period. Note this is different from the date of export.
4. Dataset will exclude:
  - 4.1 Exporters whose aggregate total exports to all destinations are under 100,000 NZD per year,
  - 4.2 sole traders, and
  - 4.3 entry lines where the tariff code chapter is:
    - 4.3.197 (Works of art, collectors pieces, and antiques),
    - 4.3.298 (Miscellaneous New Zealand provisions), and
    - 4.3.399 (Excise tariffs)

### Information Accuracy:

5. The information captured in trade entries has been submitted by external parties. Whilst Customs endeavours to make sure this data is as accurate and correct as possible, it cannot guarantee this.

### **Transmission Method:**

6. The data will be transmitted in XML format.
7. The data will be exchanged using an agreed secure transfer method that adheres to the NZISM and PSR.
8. Firewall rules will be enacted to ensure that only specified NZTE servers can connect and pull the data from specified Customs servers.
9. A filename standard will be enforced and any file not meeting this standard will not be processed. The filename standard is:
  - 9.1 NZTEMonthlyExtract-en-nz\_YYYY-MM-DDTHHMMSSSSZ.xml, where
    - 9.1.1NZTEMonthlyExtract is the filename
    - 9.1.2-en-nz is mandatory output from the system (English and New Zealand)
    - 9.1.3\_ is a delimiter
    - 9.1.4YYYY-MM-DD is the date the file was produced
    - 9.1.5T is a delimiter
    - 9.1.6HHMMSSSS is the time the report was produced
    - 9.1.7Z is a delimiter
    - 9.1.8.xml is the file extension

### **Frequency of report**

10. The report will be created on a monthly basis on the 2<sup>nd</sup> day of the month. The first report will contain data for the 12 months July 2019 – June 2020. Data for succeeding monthly reports will provide data for the preceding month only.

### Annex 3: Designated Persons

#### Positions or designations of persons to whom information may be disclosed

Customs may disclose information under this MOU to the following positions or designations of persons at NZTE:

<b>Positions involved in Prospecting/Segmenting of data</b>	<i>General Manager, Customers Customer Director Customer Advisor Portfolio and Segmentation Advisor</i>
<b>Positions involved in Data analysis and business intelligence support for the Trade Recovery Strategy</b>	<i>Business Intelligence Manager Business Intelligence Analyst Data Scientist</i>
<b>Positions involved in Administration/technical maintenance of the Data</b>	<i>Director, Digital Operations, as well as any nominated members of the Digital Operations and Service Desk team, strictly as necessary for tasks of maintenance and administration of the dataset and its technical environment. Director, Legal Director, Business Assurance</i>

## Checklist: requirements under Section 316

<b>Purpose of agreement – confirm this is to:</b>	
<ul style="list-style-type: none"> <li>Facilitate the disclosure of information by the chief executive of Customs to the chief executive of a government agency where that disclosure—</li> </ul>	
<ul style="list-style-type: none"> <li>is to be on a regular basis; and</li> </ul>	
<ul style="list-style-type: none"> <li>is not facilitated by—               <ul style="list-style-type: none"> <li>an information matching agreement under <b>sections 306 to 310</b>; or</li> <li>a direct access agreement under <b>sections 312 to 315</b>.</li> </ul> </li> </ul>	
<b>Confirm that the Ministers are satisfied of the following:</b>	
<ul style="list-style-type: none"> <li>disclosure of the information is reasonable and practical; and               <ul style="list-style-type: none"> <li>there are adequate safeguards to protect the privacy of individuals, including that the proposed compliance and audit requirements for the use, disclosure, and retention of the information are sufficient; and</li> <li>the agreement will include appropriate procedures for the disclosure, and retention of the information.</li> </ul> </li> </ul>	
<b>Consultation with Privacy Commissioner</b>	
<ul style="list-style-type: none"> <li>Confirm that the Privacy Commissioner has been consulted</li> </ul>	
<ul style="list-style-type: none"> <li>Confirm that regard has been had to any comments received from Privacy Commissioner (i.e. they've been taken into account)</li> </ul>	
<b>Specific requirements – the following must be specified in the agreement</b>	
<ul style="list-style-type: none"> <li>the particular type or class of information to be disclosed; and</li> </ul>	
<ul style="list-style-type: none"> <li>the particular purpose or purposes for which the information is accessed; and</li> </ul>	
<ul style="list-style-type: none"> <li>(ba) the particular function being, or to be, carried out by the government agency for which the information is required; and</li> </ul>	
<ul style="list-style-type: none"> <li>how the information is to be used by the government agency to assist with the carrying out of those functions; and</li> </ul>	
<ul style="list-style-type: none"> <li>the form in which the information is to be disclosed; and</li> </ul>	
<ul style="list-style-type: none"> <li>the positions or designations of the persons in the government agency to whom the information may be disclosed; and</li> </ul>	
<ul style="list-style-type: none"> <li>the safeguards that are to be applied for protecting personal information, or commercially sensitive information, that is disclosed; and</li> </ul>	
<ul style="list-style-type: none"> <li>the requirements relating to storage and disposal of the disclosed information; and</li> </ul>	
<ul style="list-style-type: none"> <li>the circumstances (if any) in which the information may be disclosed by the agency to another agency, and how that disclosure may be made; and</li> </ul>	
<ul style="list-style-type: none"> <li>The requirements for reviewing the agreement (i.e. the date for renewal, positions who must be included in the process etc)</li> </ul>	