New Zealand should use Digital Economy Partnership Agreement negotiations with Chile and Singapore to set a new gold standard for digital trade, by including new and better rules, principles, and frameworks for cooperation on data flows, digital intellectual property, Internet-based services, open data frameworks, and electronic labeling, invoicing, and signatures.

New Zealand should use Digital Economy Partnership Agreement (DEPA) negotiations with Chile and Singapore to set a new gold standard for digital trade, by including new rules, principles, and frameworks for cooperation on data flows, regulatory and law enforcement access to data, digital intellectual property enforcement, encryption, Internet-based services, “open data” frameworks, and electronic labeling, invoicing, and signatures. The central premise of New Zealand’s effort to negotiate DEPAs should be a recognition that data and data-driven innovation, and by extension, digital trade, are a force for good. Across society, data innovation—the use of data to create value—is creating more productive and innovative economies, transparent and responsive governments, and better social outcomes (improved health care, safer and smarter cities, etc.). But to maximize the innovative and productivity benefits of data, countries need to put in place the rules for an open, rules-based global digital trading system. Some issues will require prescriptive rules to support digital trade and to prohibit existing and potential barriers to digital trade. Others will require a focus on common principles and references to existing and emerging international best practices in order to create interoperable systems for data governance that support data flows and digital trade. Many recommendations do not
relate to specific barriers in either Chile or Singapore, but in other markets. However, by pushing for an agreement that addresses these issues, New Zealand and its partners send a clear signal to these trading partners. New Zealand needs to keep pushing for new rules as the potential benefits of an open, innovative, and rules-based global digital economy are at risk as a diverse range of countries—especially China, India, Indonesia, and Russia—enact ever more extensive barriers to data flows and digital trade.

As a relatively small, trade-dependent economy, New Zealand needs to deepen and extend its regional and global ambitions in digital trade if it wants to create the space for its firms to thrive in the global digital economy. New Zealand (along with Chile and Singapore) needs to use digital trade policy to build the economies of scale that are critical to the success of data-driven firms. One reason China and the United States have had considerable success in the digital economy is that their large internal markets allow local firms to achieve economies of scale. Recognizing this, the European Union (EU) is now striving to internally harmonize its own laws and regulations, even while inadvertently erecting new barriers. To achieve similar scale and integration, New Zealand and likeminded partners must pursue an even more ambitious digital trade framework. Failure to seize the initiative with an ambitious DEPA will hold back New Zealand’s digital competitiveness. New Zealand’s firms already face considerable barriers trying to engage in digital trade with China, India, and many other countries. These difficulties will only grow if new rules do not curb such barriers.

Obviously, the global digital economy already owes policymakers from New Zealand and its partners in the Trans-Pacific Strategic Economic Partnership (known as the P4) a debt of gratitude for putting in motion the initiative which eventually culminated with the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), an ultimately positive development for digital trade protections. However, more needs to be done to achieve a larger, more seamless digital market for New Zealand firms. An ambitious DEPA would also send a clear signal to other trade partners as to where the gold standard lies in terms of new and better rules for a truly open, competitive, innovative, and rules-based global digital economy. Part of the challenge for New Zealand and its efforts for DEPA lies in looking ahead to address the challenges and opportunities as the next wave of information communication technology (ICT)-based innovations emerge.

In using DEPA to set a new gold standard for digital trade, New Zealand should maintain its pragmatic approach to working with an initially small group of members to set an initially high bar in terms of new rules, before opening it up for others to join, but to vet potential partners based on their willingness to work towards the same level of ambition. This is far preferable to the two alternative approaches that define Internet policy—universalism and Balkanism. These opposing approaches are why there has been little substantive progress in creating a framework for resolving the many conflicts over Internet policy as countries try to enforce their views on the rest of the world. Universalism fails because it attempts to apply a particular nation’s worldview, such as promoting democracy and freedom of expression (as in the case of the United States), or a certain view of privacy (as in the case of the European Union). Meanwhile, Balkanism stems from an unyielding desire to maintain political control (as in the case of nations such as China and Russia). The DEPA and World Trade Organization
(WTO) negotiations on e-commerce provide a better alternative in that they represent a realistic effort to achieve an ambitious agreement between a sub-group of countries that together recognize the value of an open, rules-based, and innovative global digital economy.

The following submission details the policy principles and rules that ITIF recommends for New Zealand's upcoming talks with Chile and Singapore. These recommendations exclude some of the obvious digital trade policies that New Zealand has already enacted, such as the prohibition of duties on digital products, on the grounds that they do not warrant further debate in a nation with an already-advanced digital trade policy.