OFFICIAL

Wai 2357, #A28
Wai 2358, #A28

AGREEMENT BETWEEN NEW ZEALAND AND SINGAPORE ON A CLOSER ECONOMIC PARTNERSHIP

PREAMBLE

New Zealand and *Singapore* ("the Parties"),

Conscious of their longstanding friendship and growing trade and investment relationship;

Conscious that open, transparent and competitive markets are the key drivers of economic efficiency, innovation, wealth creation and consumer welfare;

Recognising the importance of ongoing liberalisation of trade in goods and services at the multilateral level;

Aware of the growing importance of trade and investment for the economies of the Asia-Pacific region;

Confirming their rights, obligations and undertakings under the Marrakesh Agreement Establishing the World Trade Organisation, and other multilateral, regional and bilateral agreements and arrangements;

Confirming their commitment to achieving the Asia-Pacific Economic Cooperation (APEC) goals of free and open trade and investment;

Recognising their commitment to securing trade liberalisation and an outward-looking approach to trade and investment;

Confirming their shared commitment to trade facilitation through removing or reducing technical, sanitary and phytosanitary barriers to the movement of goods between New Zealand and Singapore;

Desiring to encourage greater international alignment of standards and regulations;

Mindful that liberalised trade in goods and services will assist the expansion of trade and investment flows, raise the standard of living, and create new employment opportunities in their respective territories;

Recognising their right to regulate, and to introduce new regulations on the supply of services and on investment in order to meet national policy objectives;

Conscious that a clearly established and secure framework of rules for trade in goods and services and for investment will provide confidence to their businesses to take investment and planning decisions, lead to a more effective use of resources, and increase capacity to contribute to economic development and prosperity through international exchanges and the promotion of closer links with other economies, especially in the APEC region;

Recognising the need for good corporate governance and a predictable, transparent and consistent business environment, so that businesses can conduct transactions freely, use resources efficiently and effectively and obtain rewards for innovation;

Have agreed as follows:

RECEIVED
Waitangi Tribunal
16 Mar 2012
Ministry of Justice
WELLINGTON

PART 1

Objectives and General Definitions

Article 1

Objectives

The objectives of New Zealand and Singapore in concluding this Agreement are:

(a) to strengthen their bilateral relationship through the establishment of a closer economic partnership;

(b) to liberalise bilateral trade in goods and services and to establish a framework conducive to bilateral investments;

(c) to support the wider liberalisation process in APEC and in particular the efforts of all APEC economies to meet the Bogor goals of free and open trade and investment by 2010 at the latest for industrialised economies and 2020 at the latest for developing economies;

(d) to support the World Trade Organisation (WTO) in its efforts to create a predictable, freer and more open global trading environment;

(e) to improve the efficiency and competitiveness of their goods and services sectors and expand trade and investment between each other;

(f) to establish a framework of transparent rules to govern trade and investment between them; and

(g) to accord fair and equitable treatment and protection to bilateral investments.

Article 2

General Definitions

For the purposes of this Agreement:

(a) "days" means calendar days, including weekends and holidays;

(b) "goods" and "products" shall be understood to have the same meaning, unless the context otherwise requires.

PART 2

Competition

Article 3

Competition

1. The Parties recognise the strategic importance of creating and maintaining open and competitive markets which maximise total welfare. The Parties shall endeavour to implement the APEC Principles to Enhance Competition and Regulatory Reform with a view to protecting the

competitive process rather than competitors and ensuring that the design of regulation recognises options that minimise distortions to competition.

2. Each Party shall endeavour to ensure that under this Agreement impediments to trade and investment shall be reduced or removed through:

(a) application of fair competition principles to economic activities, including private and public business activities;

(b) application of competition and regulatory principles in a manner that does not discriminate between or among economic entities in like circumstances;

(c) reduction of transaction and compliance costs for business; and

(d) promotion of effective regulatory coordination across borders.

3. The Parties agree that they shall effectively protect the competitive process across their economies as follows:

(a) they shall endeavour to consult and cooperate in the development of any new competition measures, whether these are specific or of general application;

(b) where there are regulatory authorities responsible for competition, they shall be adequately resourced to carry out their functions, including effective non-discriminatory enforcement;

(c) where there are regulatory authorities responsible for competition, they shall endeavour to exchange information and explore the scope for further cooperation between them, with particular emphasis on transactions or conduct in one that has competition effects in the other's market, or in both Parties' markets.

PART 3

Trade in Goods

Article 4

Tariffs

Each Party shall eliminate all tariffs on goods originating in the other Party as of the date of entry into force of this Agreement. All tariffs on goods originating in either Party shall remain free after that date.

Article 5

Rules of Origin[1]

1. Goods exported from one Party to the other Party, or which entered the commerce of Australia only for the purpose of unloading and reloading, shall be treated as goods originating in the first Party if these goods are:

(a) wholly produced or obtained in that Party;

[1] This Article shall be read in conjunction with the Explanatory Notes contained in Annex 1.

or

(b) partly manufactured in that Party, subject to the following conditions:

( ) the last process of manufacture of the goods was performed in the territory of that Party; and

either

( ) the expenditure on one or more of the items set out below is not less than 40 per cent of the factory or works cost of such goods in their finished state:

(a) materials, including inner containers, that originate in one or both Parties; or
(b) costs referred to in paragraph 2 incurred in one or both Parties; or
(c) partly on such materials, including inner containers, and partly on costs referred to in paragraph 2 incurred in one or both Parties;

or

( ) where the goods do not contain any other qualifying area content, the expenditure on quality control checking and testing procedures is not less than 50 per cent of the factory or works cost of the goods in their finished state.

2. The costs referred in paragraph 1(b)(ii)(b) and (c) shall be the sum of costs of materials (excluding customs, excise or other duties), in the form in which they are received at the factory or works, as well as labour and overheads. It shall not include any profit or marketing cost elements of the goods in their finished state. The process of packaging by itself shall not confer origin.

3. Where a Party considers that, in relation to particular goods partly manufactured in its territory, the application of paragraph 1(b)(ii) and (iii) is inappropriate, then that Party may request in writing consultation with the other Party to determine a suitable proportion of the factory or works cost or quality control checking and testing procedures cost different from that provided in paragraph 1(b)(ii) and (iii). The Parties shall consult promptly and may mutually determine for such goods a proportion of the factory or works cost or quality control checking and testing procedures cost different from that provided in paragraph 1(b)(ii) and (iii).

4. Both Customs administrations shall require certification from the manufacturer for the importation of a good into their respective territories for which an importer claims preferential treatment. For the importation of a good into Singapore, certification shall be required in a prescribed form.

5. Verification of importers' declarations:

( ) where an importing Party has reasonable grounds to believe that any importer of a good from the exporting Party has failed to submit adequate, true and accurate particulars relating to the claim for tariff preferences under Part 3, it may either deny such preferential access, or request the exporting Party to verify the claim of tariff preference made by the importer;

( ) where a request has been made to the exporting Party to verify a claim of tariff preference made by the importer, the exporting Party shall endeavour to take all necessary measures to confirm any such particulars declared in the clearance of those goods by the importer;

( ) if such a verification is unsatisfactory or when the exporting Party is unable to provide the verification, the importing Party may, upon informing the exporting Party and with the knowledge of the importer concerned and with the consent of the exporter or supplier or manufacturer concerned, visit the exporter or supplier or manufacturer concerned for the purpose of verifying the preference claim. If no consent is given by the exporter or supplier or manufacturer concerned, the importing Party may disallow the tariff preference that may be available under this Part;

( ) if the verification provided by the exporting Party or carried out by the importing Party with the exporter or supplier or manufacturer concerned:

( ) shows inadequate evidence of entitlement, the importing Party may disallow the tariff preference that may be available under this Part;

or

( ) substantiates the claim, the importing Party shall allow preferential entry.

6. During the biennial reviews of the operation of this Agreement provided for in Article 68, and earlier if so agreed, the Parties undertake to review these rules of origin, including the requirements necessary for goods to benefit from this Agreement, with a view to improving bilateral trade flows.

Article 6

Non-Tariff Measures

1. Except as otherwise provided for in this Agreement, neither Party shall adopt or maintain any prohibition or restriction on the importation of any good of the other Party or on the export or sale for export of any good destined for the territory of the other Party.

2. The Parties agree that procedures, fees and formalities imposed in connection with import and export shall be imposed in a manner consistent with their WTO obligations.

Article 7

Subsidies[2]

1. The Parties agree to prohibit export subsidies[3] on all goods including agricultural products.

2. If either Party grants or maintains any subsidy which operates to increase exports of any product from, or to reduce imports of any product into, its territory, it shall notify the other Party of the extent and nature of the subsidisation, of the estimated effect of the subsidisation on the quantity of the affected product or products imported into or exported from its territory and of the circumstances making the subsidisation necessary. In any case in which it is determined that serious prejudice to the interests of the other Party is caused or threatened by any subsidisation, the Party granting the subsidy shall, upon request, discuss with the other Party the possibility of limiting the subsidisation. This paragraph shall be applied in conjunction with the relevant applicable provisions of the General Agreement on Tariffs and Trade 1994 (GATT 1994) and the WTO Agreement on Subsidies and Countervailing Measures (WTO SCM Agreement).

3. The Parties reaffirm their commitment to abide by the provisions of the WTO SCM Agreement in respect of actionable subsidies.[4]

4. Each Party shall seek to avoid causing adverse effects to the interests of the other Party in terms of Article 5 of the WTO SCM Agreement.

Article 8

Safeguard Measures

Neither Party shall take safeguard measures[5] against goods originating in the other Party from the date of entry into force of this Agreement.

[2] For the purposes of this Agreement, a subsidy is as defined in Article 1.1 of the ATO Agreement on Subsidies and Countervailing Measures.

[3] "Export Subsidies" means subsidies as defined by Article 3 of the WTO Agreement on Subsidies and Countervailing Measures with the additional provision that, for the purposes of this Agreement, that definition extends also to all agricultural products.

[4] “Actionable subsidies” are subsidies referred to as such in the relevant provisions of the WTO SCM Agreement.

[5] “Safeguard measures” means those measures falling within the ambit of the WTO Agreement on Safeguards.

Article 9

Anti-Dumping

1. Both Parties are Members of the WTO Agreement on Implementation of Article VI of the GATT 1994 (WTO Anti-Dumping Agreement). For the purposes of trade between the Parties, the following changes are agreed in terms of implementation of the WTO Anti-Dumping Agreement in order to bring greater discipline to anti-dumping investigations and to minimise the opportunities to use anti-dumping in an arbitrary or protectionist manner:

(a) the de minimis dumping margin of 2 per cent expressed as a percentage of the export price below which no anti-dumping duties can be imposed provided for in Article 5.8 of the WTO Anti-Dumping Agreement is raised to 5 per cent;

(b) the new de minimis margin of 5 per cent established in sub-paragraph (a) is applied not only in new cases but also in refund and review cases;

(c) the maximum volume of dumped imports from the exporting Party which shall normally be regarded as negligible under Article 5.8 of the WTO Anti-Dumping Agreement is increased from 3 per cent to 5 per cent of imports of the like product in the importing Party. Existing cumulation provisions under Article 5.8 continue to apply;

(d) the time frame to be used for determining the volume of dumped imports under the preceding sub-paragraphs shall be representative of the imports of both dumped and non-dumped goods for a reasonable period. Such reasonable period shall normally be at least 12 months;

(e) the period for review and/or termination of anti-dumping duties provided for in Article 11.3 of the WTO Anti-Dumping Agreement is reduced from five years to three years.

2. Notification procedures shall be as follows:

(a) immediately following the acceptance of a properly documented application from an industry in one Party for the initiation of an anti-dumping investigation in respect of goods from the other Party, the Party that has accepted the properly documented application shall immediately inform the other Party;

(b) where a Party considers that in accordance with Article 5 of the WTO Anti-Dumping Agreement there is sufficient evidence to justify the initiation of an anti-dumping investigation, it shall give written notice to the other Party in accordance with Article 12.1 of that Agreement, and observe the requirements of Article 17.2 of that Agreement concerning consultations.

PART 4

Customs Procedures

Article 10

Scope

This Part shall apply to customs procedures required for clearance of goods traded between the two Parties, in accordance with their national laws, rules and regulations.

Article 11

General Provisions

1. The Parties recognise that the objectives of this Agreement may be promoted by the simplification of customs procedures for their bilateral trade.

2. Customs procedures of both Parties shall conform where possible with the standards and recommended practices of the World Customs Organisation.

3. The Customs administrations of both Parties shall actively work together to develop mutually beneficial solutions to minimise risks and to maximise opportunities for facilitating customs clearances. In this regard, the Customs administrations shall consider negotiating an arrangement on detailed areas of future co-operation within 1 year from the date of entry into force of this Agreement.

4. The Customs administrations of both Parties shall periodically review customs procedures with a view to their further simplification.

Article 12

Paperless Trading

With a view to implementing the APEC Blueprint for Action on Electronic Commerce, in particular the Paperless Trading Initiative, the Customs administrations of both Parties shall have in place by the date of entry into force of this Agreement an electronic environment that supports electronic business applications between each Customs administration and its trading community.

Article 13

Risk Management

1. In order to facilitate the clearance of low risk transactions, the Parties agree that customs compliance activities should be focused on high risk goods and travellers. Accordingly, each Party undertakes that compliance activities at the time of entry shall not normally exceed 10 per cent of total customs transactions.

2. The Parties shall not use a threshold value of goods as a sole basis for the selection of goods for customs inspection.

PART 5

Services

Article 14

General Undertaking

The Parties undertake to expand trade in services on a mutually advantageous basis, under conditions of transparency and progressive liberalisation through successive reviews, with the aim of securing an overall balance of rights and obligations, while recognising the rights of both Parties to regulate, and to introduce new regulations, giving due respect to national policy objectives including where these reflect local circumstances.

Article 15

Scope

1. This Part shall apply to measures by Parties affecting trade in services.

2. New services, including new financial services, shall be considered for possible incorporation into this Agreement at future reviews held in accordance with Article 68, or at the request of either Party immediately. The supply of services which are not technically or technologically feasible when this Agreement comes into force shall, when they become feasible, also be considered for possible incorporation at future reviews or at the request of either Party immediately.

3. In financial services, notwithstanding any other provisions of this Agreement, a Party shall not be prevented from taking measures for prudential reasons, including for the protection of investors, depositors, policy holders or persons to whom a fiduciary duty is owed by a financial service supplier or to ensure the integrity and stability of the financial system. Where such measures do not conform with the provisions of this Agreement, they shall not be used as a means of avoiding that Party's commitments or obligations hereunder.

4. Government procurement of services shall be governed by Part 8.

Article 16

Definitions

For the purposes of this Agreement:

(a) "measure" means any measure by a Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action or any other form;

(b) "supply of a service" includes the production, distribution, marketing, sale and delivery of a service;

(c) "measures by Parties affecting trade in services" include measures in respect of

(i) the purchase, payment or use of a service;

(ii) the access to and use of, in connection with the supply of a service, services which are required by those Parties to be offered to the public generally;

(iii) the presence, including commercial presence, of persons of a Party for the supply of a service in the territory of the other Party;

(d) "commercial presence" means any type of business or professional establishment, including through

(i) the constitution, acquisition or maintenance of a legal person; or

(ii) the creation or maintenance of a branch or a representative office; within the territory of a Party for the purpose of supplying a service;

(e) "sector" of a service means,

(i) with reference to a specific commitment, one or more, or all, subsectors of that service, as specified in a Party's schedule of commitments;

(ii) otherwise, the whole of that service sector, including all of its subsectors;

(f) "service supplier" means any person that supplies a service;[6]

(g) "service consumer" means any person that receives or uses a service;

(h) "service of the other Party" means a service which is supplied

(i) from or in the territory of the other Party, or in the case of maritime transport, by a vessel registered under the laws of the other Party, or by a person of that other Party which supplies the service through the operation of a vessel and/or its use in whole or in part; or

(ii) in the case of the supply of a service through commercial presence or through the presence of natural persons, by a service supplier of the other Party;

(i) "person" means either a natural person or a legal person;

(j) "natural person of the other Party" means a natural person who resides in the territory of that other Party or elsewhere and who under the law of that other Party:

(i) is a national of that other Party; or

(ii) has the right of permanent residence in that other Party, in the case of a Party which accords substantially the same treatment to its permanent residents as it does to its nationals in respect of measures affecting trade in services, provided that that Party is not obligated to accord to such permanent residents treatment more favourable than would be accorded by the other Party to such permanent residents;

(k) "legal person" means any legal entity duly constituted or otherwise organised under applicable law, whether for profit or otherwise, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, joint venture, sole proprietorship or association;

[6] Where the service is not supplied directly by a legal person but through other forms of commercial presence such as a branch or a representative office, the service supplier (i.e. the legal person) shall, nonetheless, through such presence be accorded the treatment provided for service suppliers under the Agreement. Such treatment shall be extended to the presence through which the service is supplied and need not be extended to any other parts of the supplier located outside the territory where the service is supplied.

(l) "monopoly supplier of a service" means any person, public or private, which in the relevant market of the territory of a Party is authorised or established formally or in effect by that Party as the sole supplier of that service;

(m) a "financial service supplier" means any natural or legal person of a Party wishing to supply or supplying financial services but the term "financial service supplier" does not include a public entity. "Public entity" means:

(i) a government, central bank or a monetary authority of a Party or an entity owned or controlled by a Party that is principally engaged in carrying out governmental functions or activities for governmental purposes, not including an entity principally engaged in supplying financial services on commercial terms; or

(ii) a private entity, performing functions normally performed by a central bank or monetary authority when exercising those functions;

(n) "trade in services" means the supply of a service:

(i) from the territory of one Party into the territory of the other Party ("cross border mode");

(ii) in the territory of one Party to the service consumer of the other Party ("consumption abroad mode");

(iii) by a service supplier of one Party, through commercial presence in the territory of the other Party ("commercial presence mode");

(iv) by a service supplier of one Party, through presence of natural persons of that Party in the territory of the other Party ("presence of natural persons mode");

(o) "measures by Parties" means measures taken by:

(i) central, regional or local governments and authorities; and

(ii) non-governmental bodies in the exercise of powers delegated by central, regional or local governments or authorities;

(p) "services" includes any service in any sector except services supplied in the exercise of governmental authority;

(q) "a service supplied in the exercise of governmental authority" means any service which is supplied neither on a commercial basis nor in competition with one or more services suppliers;

(r) in the case of financial services, "services supplied in the exercise of governmental authority" means the following:

(i) activities conducted by a central bank or monetary authority or by any other public entity in pursuit of monetary or exchange rate policies;

(ii) activities forming part of a statutory system of social security or public retirement plans; and

(iii) other activities conducted by a public entity for the account or with the guarantee or using the financial resources of the Government.

If a Party allows any of the activities referred to in sub-paragraphs (ii) or (iii) of this paragraph to be conducted by its financial service suppliers in competition with a public entity or a financial service supplier, "services" shall include such activities;

(s) "new financial services" means a service of a financial nature, including services related to existing and new products or the manner in which a product is delivered, that is not supplied by any financial service supplier in the territory of one Party but is supplied in the territory of the other Party.

Article 17

Market Access

1. With respect to market access through the modes of supply identified in Article 16(n), each Party shall accord services and service suppliers of the other Party treatment no less favourable than that provided for under the terms, limitations and conditions agreed and specified in its schedule of commitments.[7]

2. In sectors where market-access commitments are undertaken, the measures which a Party shall not maintain or adopt either on the basis of a regional sub-division or on the basis of its entire territory, unless otherwise specified in its schedule of commitments, are defined as:

(a) limitations on the number of service suppliers whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirements of an economic needs test;

(b) limitations on the total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;

(c) limitations on the total number of service operations or on the total quantity of service output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test;[8]

(d) limitations on the total number of natural persons that may be employed in a particular service sector or that a service supplier may employ and who are necessary for, and directly related to, the supply of a specific service in the form of numerical quotas or the requirement of an economic needs test;

(e) measures which restrict or require specific types of legal entity or joint venture through which a service supplier may supply a service; and

(f) limitations on the participation of foreign capital in terms of maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment.

Article 18

[7] If a Party undertakes a market-access commitment in relation to the supply of a service through the mode of supply referred to in Article 16(n)(i) and if the cross-border movement of capital is an essential part of the service itself, that Party is thereby committed to allow such movement of capital. If a Party undertakes a market-access commitment in relation to the supply of a service through the mode of supply referred to in Article 16(n)(iii), it is thereby committed to allow related transfers of capital into its territory.

[8] Paragraph 2(c) does not cover measures of a Party which limit inputs for the supply of services.

National Treatment

1. In the sectors in its schedule of commitments, and subject to any conditions and qualifications set out therein, each Party shall accord to services and service suppliers of the other Party, in respect of all measures affecting the supply of services, treatment no less favourable than that it accords to its own like services and service suppliers.

2. A Party may meet the requirement in paragraph 1 by according to services and service suppliers of the other Party either formally identical treatment or formally different treatment to that it accords to its own like services and service suppliers.

3. Formally identical or formally different treatment shall be considered to be less favourable if it modifies the conditions of competition in favour of services or service suppliers of one Party compared to the like service or service suppliers of the other Party.

4. Specific commitments assumed under this Article shall not be construed to require either Party to compensate for any inherent competitive disadvantages which result from the foreign character of the relevant services or service suppliers.

Article 19

Additional Commitments

The Parties may negotiate commitments with respect to measures affecting trade in services not subject to scheduling under Articles 17 and 18, including those regarding qualifications, standards or licensing matters. Such commitments shall be entered in a Party's schedule of commitments.

Article 20

Specific Commitments

1. Each Party has set out an initial schedule of the specific commitments it undertakes in accordance with the objective of liberalisation of trade in most services by the date of entry into force of this Agreement.

2. Each Party's schedule of commitments shall clearly specify:

(a) the sectors/subsectors in which commitments are undertaken;

(b) any terms, limitations and conditions on market access;

(c) any conditions and qualifications on national treatment; and

(d) any additional commitments.

3. The schedules of commitments shall be annexed to this Agreement as Annex 2 and shall form an integral part thereof.

4. As part of the reviews of this Agreement provided for in Article 68, the Parties undertake to review their schedules of commitments at least every two years, but earlier if so agreed, and progressively to expand these initial commitments as well as expand market access and/or national treatment between them in accordance with the APEC objective of free and open trade in services by 2010. The first review shall include telecommunications, postal services, credit reporting services and disaster insurance.

5. Trade in a particular number of services sectors and measures affecting trade in services may not be fully liberalised by 1 January 2010 notwithstanding paragraph 4. When it appears this shall be the case, the Parties agree to meet no later than 1 January 2008 to identify a list of such services sectors and measures. This list shall be set out in an exchange of letters between the Parties. The Parties shall consult on a mutually acceptable solution for these sectors and measures and such consultations shall continue for as long as it takes to achieve that solution. The solution may include agreement on a longer timeframe for liberalisation. This provision shall continue to apply after 1 January 2010.

6. The reviews referred to in paragraph 4 shall also examine limitations on market access and/or national treatment entered in the Parties' schedules of commitments in accordance with the objective identified in that paragraph.

7. A Party may, upon reasonable notice of at least three months, propose a modification of a commitment in its schedule of commitments by written notification to the other Party. In proposing such a modification, the Party concerned shall also propose a means by which the overall level of commitments undertaken by that Party under the Agreement shall be maintained. On receiving such written notification, the other Party may request consultations regarding the proposed modification aimed at ensuring an overall balance of benefits under the Agreement is maintained, and if such consultations fail to achieve a satisfactory solution, the matter shall be dealt with in accordance with Part 10.

Article 21

Domestic Regulation

1. In sectors where specific commitments are undertaken, each Party shall ensure that all measures of general application affecting trade in services are administered in a reasonable, objective and impartial manner.

2. The Parties shall jointly review the results of the negotiations on disciplines for certain regulations, including qualification requirements and procedures, technical standards and licensing requirements, pursuant to Article VI.4 of the General Agreement on Trade in Services (GATS) with a view to their incorporation into this Agreement. The Parties note that such disciplines aim to ensure that such requirements are, inter alia:

(a) based on objective and transparent criteria, such as competence and the ability to supply the service;

(b) not more burdensome than necessary to ensure the quality of the service;

(c) in the case of licensing procedures, not in themselves a restriction on the supply of the service.

3. Until the incorporation of disciplines developed pursuant to paragraph 2, in sectors where a Party has undertaken specific commitments, and subject to any terms, limitations, conditions or qualifications set out therein, a Party shall not apply licensing and qualification requirements and technical standards that nullify or impair such specific commitments in a manner which:

(a) does not comply with the criteria outlined in paragraphs 2(a), (b) or (c); and

(b) could not reasonably have been expected of that Party at the time the specific commitments in those sectors were made.

4. Whenever a domestic regulation is prepared, adopted and applied in accordance with international standards applied by both Parties, it shall be rebuttably presumed to comply with the provisions of this Article.

Article 22

Professional Qualifications and Registration

1. With a view to ensuring that measures relating to professional[9] qualification and registration requirements and procedures do not constitute unnecessary barriers to trade in services between them, the Parties agree to have identified by the date of entry into force of this Agreement priority areas to address with respect to the recognition of professional qualifications or registration. In identifying initial priority areas, the Parties agree to focus on sectors where specific commitments have been undertaken, and subject to the terms, limitations, conditions, or qualifications set out therein. Thereafter the Parties shall endeavour to consider sectors where no specific commitments have been undertaken.

2. The Parties agree to facilitate the establishment of dialogue between experts in these priority areas with a view to the achievement of early outcomes on recognition of professional qualifications or registration in these areas.

3. Such recognition may be achieved through recognition of regulatory outcomes, recognition of professional qualifications awarded by one Party as a means of complying with the regulatory requirements of the other Party (whether accorded unilaterally or by mutual arrangement) or by other recognition arrangements which might be agreed between the Parties.

4. The priority areas for further work on professional recognition requirements and the recognition outcomes achieved on initial priorities shall be reviewed as part of the reviews of this Agreement provided for in Article 68 and shall take place at least every two years.

[9] Illustrative list of professions:

Professions include, but not limited to:

Lawyers, legal executives, conveyancers; accountants, auditors, book keepers, tax agents; architects; landscape architects; engineers; doctors; dentists, dental technicians; veterinarians and veterinary nurses; midwives, nurses, physiotherapists and paramedical personnel, including acupuncturists, chiropractors, homeopaths, medical laboratory scientists and technicians, nutritionists, optometrists and dispensing opticians, pharmacists, psychologists, occupational therapists, radiographers, speech therapists; information technology designers, programmers, analysts and technicians; statisticians, surveyors, geologists, geophysicists, cartographers; management consultants; scientific and technical consultants and researchers; educationalists, at the following levels: preschool, primary, secondary, tertiary, adult and other; environmental services consultants; financial services consultants, actuaries and economists; hospital and residential health facility managers and consultants; airline pilots.

Neither Party is precluded from raising any service supplier's occupation under this Article.

Article 23

Subsidies

1. Except as provided for in this Article, subsidies related to trade in services shall not be covered under this Part.

2. The Parties shall review the issue of disciplines on subsidies related to trade in services in the context of the reviews of this Agreement provided for in Article 68. They shall pay particular attention to any disciplines agreed under Article XV of GATS with a view to their incorporation into this Agreement.

3. The Parties shall consult on appropriate steps in regard to subsidies related to trade in services where any subsidies issues arise in bilateral services trade under this Agreement.

Article 24

Monopolies

In sectors where specific commitments have been made, each Party shall ensure that its commitments relating to market access and national treatment pursuant to Articles 17 and 18 are not adversely affected by the actions of a monopoly supplier of a service in its territory.

Article 25

Extension of Benefits

A service supplier of a non-Party that is a legal person constituted under the laws of a Party shall be entitled to treatment granted under this Part provided that it engages in substantive business operations in the territory of one or both Parties.

PART 6

Investment

Article 26

Scope and Coverage

1. This Part shall apply to all investments in goods and services.

2. Articles 28, 29 and 30 shall not apply to any measures affecting investments adopted or maintained pursuant to Part 5 to the extent that they relate to the supply of any specific service through commercial presence as defined in Article 16(n), whether or not they are covered by Annex 2.

Article 27

Definitions

For the purposes of this Agreement :

1. "Investments" include but are not limited to the following:

(a) movable and immovable property and other property rights such as mortgages, liens or pledges;

(b) shares, stocks, debentures, bank bills, deposits, securities, and similar interests in companies or enterprises (whether incorporated or unincorporated);

(c) claims to money or to any performance under contract having an economic value;

(d) intellectual property rights and goodwill;

(e) business concessions conferred by law or under contract, including any concession to search for, cultivate, extract or exploit natural resources;

(f) derivative instruments.

2. "Proceeds from investment" include but are not limited to the following:

(a) profits, capital gains, dividends, royalties, interest and other current income accruing from an investment;

(b) the proceeds from the liquidation of an investment;

(c) loan payments in connection with an investment;

(d) royalties, license fees, payments in respect of technical assistance, service and management fees;

(e) payments in connection with contracts involving the presence of an investor's property in the territory of the other Party and payment in connection with contracts where remuneration depends substantially on the production, revenues or profits of an enterprise;

(f) earnings of investors of a Party who work in connection with an investment in the territory of the other Party.

3. "Investor" means:

(a) a natural person who resides in the territory of the other Party or elsewhere and who under the law of that other Party:

(i) is a national of that other Party; or

(ii) has the right of permanent residence in that other Party, in the case of a Party which accords substantially the same treatment to its permanent residents as it does to its nationals in respect of measures affecting investments, provided that that Party is not obligated to accord to such permanent residents more favourable treatment than would be accorded by the other Party to such permanent residents;

or

(b) any company, firm, association or body, with or without legal personality, whether or not incorporated, established or registered under the applicable laws in force in a Party;

making or having made an investment in the other Party's territory.

Article 28

Most Favoured Nation Status

Except as otherwise provided for in this Agreement, each Party shall accord to investors and investments of the other Party, in relation to the establishment, acquisition, expansion, management, conduct, operation, liquidation, sale, transfer (or other disposition), protection and expropriation (including any compensation) of investments, treatment that is no less favourable than that it accords in like situations to investors and investments from any other State or separate customs territory which is not party to this Agreement.

Article 29

National Treatment

Except as otherwise provided for in this Agreement, each Party shall accord to investors and investments of the other Party in relation to the establishment, acquisition, expansion, management, conduct, operation, liquidation, sale, transfer (or other disposition), protection and expropriation (including any compensation) of investments, treatment that is no less favourable than that it accords in like situations to its own investors and investments.

Article 30

Standard of Treatment

Each Party shall accord to investors and investments of the other Party the better of the treatment required by Articles 28 and 29.

Article 31

Repatriation and Convertibility

1. Each Party shall allow investors of the other Party, on a non-discriminatory basis, to transfer and repatriate freely and without undue delay their investments and proceeds from investment. Each Party shall permit transfers to be made in a freely usable currency at the market rate of exchange prevailing on the date of transfer with respect to spot transactions in the currency to be transferred.

2. Notwithstanding paragraph 1, a Party may prevent a transfer through the equitable, non-discriminatory and good faith application of its laws relating to:

(a) bankruptcy, insolvency or the protection of the rights of creditors;

(b) issuing, trading or dealing in securities;

(c) criminal or penal offences, and the recovery of proceeds of crime;

(d) reports of transfers of currency or other monetary instruments; or

(e) ensuring the satisfaction of judgments in adjudicatory proceedings.

Article 32

Limitations

1. Articles 28, 29 and 30 shall not apply to:

(a) any limitation that is listed by a Party in Annex 3;

(b) an amendment to a limitation covered by paragraph (a) to the extent that the amendment does not decrease the conformity of the limitation with Articles 28, 29 and 30;

(c) any new limitation adopted by a Party, and incorporated into Annex 3, which does not affect the overall level of commitments of that Party under this Part; to the extent that such limitations are inconsistent with those Articles.

2. As part of the reviews of this Agreement provided for in Article 68, the Parties undertake to review at least every two years the status of the limitations set out in Annex 3 with a view to reducing the limitations or removing them.

3. A Party may, at any time, either upon the request of the other Party or unilaterally, remove in whole or in part limitations set out in Annex 3 by written notification to the other Party.

4. A Party may, at any time, incorporate a new limitation into Annex 3 in accordance with paragraph 1(c) of this Article by written notification to the other Party. On receiving such written notification, the other Party may request consultations regarding the limitation. On receiving the request for consultations, the Party incorporating the new limitation shall enter into consultations with the other Party.

Article 33

Subrogation

1. In the event that either Party (or any agency, institution, statutory body or corporation designated by it) as a result of an indemnity it has given in respect of an investment or any part thereof makes payment to its own investors in respect of any of their claims under this Part, the other Party acknowledges that the former Party (or any agency, institution, statutory body or corporation designated by it) is entitled by virtue of subrogation to exercise the rights and assert the claims of its own investors. The subrogated rights or claims shall not be greater than the original rights or claims of such investors.

2. Any payment made by one Party (or any agency, institution, statutory body or corporation designated by it) to its investors shall not affect the right of such investors to make their claims against the other Party in accordance with Article 34, in cases where the former Party elects not to exercise its subrogated rights or claims.

Article 34

Investment Disputes

1. Any legal dispute between an investor of one Party and the other Party arising directly out of an investment by that investor in the territory of that other Party shall, as far as possible, be settled amicably through negotiations between the investor and that other Party.

2. If the dispute cannot be resolved as provided for in paragraph 1 within 6 months from the date of request for negotiations then, unless the parties to the dispute agree otherwise, it shall, upon the request of either such party, be submitted to conciliation or arbitration by the International Centre for Settlement of Investment Disputes established by the Convention on the Settlement of Investment Disputes between the States and Nationals of Other States done at Washington on 18 March, 1965, provided that the other party does not withhold its consent under Article 25 of that Convention.

PART 7

Technical, Sanitary and Phytosanitary Regulations and Standards

Article 35

Scope

1. Consistent with the objectives set out in Article 1 and the provisions of this Part, and reflecting the level of confidence that each Party has in the other Party's regulatory outcomes and conformity assessment systems, each Party shall implement the principles of mutual recognition, unilateral recognition or harmonisation that provide the most appropriate or cost-efficient approach to the removal or reduction of technical, sanitary and phytosanitary barriers (hereinafter referred to as "regulatory barriers") to the movement of goods between New Zealand and Singapore for products and/or assessments of manufacturers of products specified in the Product Chapters of Annex 4 on Technical, Sanitary and Phytosanitary Regulations and Standards.

2. "Mutual recognition" means that each Party, on the basis that it is accorded reciprocal treatment by the other Party:

(a) accepts the mandatory requirements of the other Party as producing outcomes equivalent to those produced by its own corresponding mandatory requirements i.e. mutual recognition of equivalence of mandatory requirements;

(b) accepts the results of conformity assessment activities of the other Party to demonstrate conformity of products and/or manufacturers with its mandatory requirements when the conformity assessment activities are undertaken by conformity assessment bodies designated by the other Party in accordance with this Part i.e. mutual recognition of conformity assessment; or

(c) accepts the standards of the other Party as equivalent to its own corresponding standards i.e. mutual recognition of equivalence of standards.

3. "Unilateral recognition" means that a Party on its own accord without requiring reciprocal treatment from the other Party:

(a) accepts the mandatory requirements of the other Party as producing outcomes equivalent to those produced by its own corresponding mandatory requirements;

(b) accepts the conformity assessment results of the other Party to demonstrate conformity of products and/or manufacturers with its mandatory requirements; or

(c) accepts the standards of the other Party as equivalent to its own corresponding standards. The Product Chapters may provide for unilateral recognition of products and/or assessments of manufacturers of products which are in compliance with the exporting Party's mandatory requirements and are intended by that Party for export only and not for domestic supply or use.

4. “Harmonisation” means that each Party harmonises its standards and technical regulations with relevant international standards where they exist.

Article 36

Definitions

All general terms concerning standards and conformity assessment used in this Part shall have the meaning given in the definitions contained in the International Organisation for Standardisation/International Electrotechnical Commission (ISO/IEC) Guide 2:1996 “General terms and their definitions concerning standardisation and related activities” published by the ISO and IEC, unless the context otherwise requires. In addition, for the purpose of this Part and Annex 4, unless a more specific meaning is given in a Product Chapter:

(a) "accept" means the use of the results of conformity assessment activities as a basis for regulatory actions such as approvals, licences, registrations and post-market assessments of conformity;

(b) “acceptance” has an equivalent meaning to “accept”;

(c) "certification body" means a body, including product or quality systems certification bodies, that may be designated by one Party in accordance with this Part to conduct certification on compliance with the other Party's standards and/or specifications to meet relevant mandatory requirements;

(d) “conformity assessment” means any activity concerned with determining directly or indirectly that standards and/or specifications to meet relevant mandatory requirements are fulfilled;

(e) "conformity assessment body" means a body that conducts conformity assessment activities and includes test facilities and certification bodies;

(f) "designating authority” means a body as specified under this Part, established in the territory of a Party with the necessary authority to designate, monitor, suspend or withdraw designation of conformity assessment bodies within its jurisdiction, unless the Parties agree otherwise to designate conformity assessment bodies within a non-Party;

(g) "designation" means the authorisation by a designating authority of a conformity assessment body to undertake specified conformity assessment activities;

(h) “designate” has an equivalent meaning to “designation”;

(i) "mandatory requirements" means the legislative, regulatory and administrative requirements of either Party that are the subject of this Part;

(j) "regulatory authority" means an entity that exercises a legal right to control the import, use or supply of products within a Party’s territory and may take enforcement action to ensure that products marketed within its territory comply with that Party’s mandatory requirements including assessments of manufacturers of products;

(k) “Product Chapter” is a chapter of Annex 4 to this Agreement, which specifies the implementation arrangements in respect of a specific product sector;

(l) “specifications” means detailed descriptions of requirements other than specified standards;

(m) "stipulated requirements" means the criteria set out in a Product Chapter for the designation of conformity assessment bodies;

(n) “supply” includes all forms of supply, whether or not for a consideration, and includes but is not limited to:

(i) any transfer of the whole property in any product;

(ii) any transfer of possession of any product, whether or not under an agreement for sale;

(iii) any transfer by way of a gift of a product made in the course or furtherance of any business;

(iv) any transfer by way of a gift to an actual or potential customer of any business of an industrial or commercial sample in a form not ordinarily available for supply to the public;

(v) any transfer by way of barter and exchange;

(vi) any transfer by way of distribution, wholesale, retail, lease, hire or hire-purchase;

(o) "test facility" means a facility, including independent laboratories, manufacturers’ own test facilities or government testing bodies, that may be designated by one Party’s designating authority in accordance with this Part to undertake tests on compliance with the other Party's standards and/or specifications to meet mandatory requirements.

Article 37

Establishment of a Work Programme

1. In addition to the Product Chapter on electrical and electronic equipment, the Parties shall:

(a) identify and agree on other priority sectors within a period of 6 months from the date of entry into force of this Agreement with a view to removing or reducing regulatory barriers to the movement of goods between the Parties;

(b) decide which of the principles relating to mutual recognition, unilateral recognition and harmonisation provides the most cost-efficient approach to the removal or reduction of regulatory barriers in the agreed priority sectors; and

(c) establish a work programme to implement the agreed principle.

2. The Parties shall adopt additional Product Chapters following the conclusion of the above process.

Article 38

Mechanisms for Joint Review

As part of the reviews of this Agreement provided for in Article 68, the Parties shall review, at least every 2 years, the implementation of this Part for the purpose of:

(a) building confidence in the technical competence of each Party's regulatory systems and expediting the examination of differences in regulatory requirements and outcomes between the Parties;

(b) facilitating the extension of this Part by inter alia:

(i) adding new Product Chapters; and/or

(ii) increasing the scope of existing Product Chapters with the view to establishing mutual recognition of equivalence of mandatory requirements in the Product Chapters; and

(c) resolving any questions or disputes relating to the implementation of this Part. If the Parties fail to achieve a mutually satisfactory solution, the matter may be resolved in accordance with Part 10.

Article 39

Origin

For the avoidance of doubt, this Part applies to products and/or assessments of manufacturers of products of the Parties as specified in the Product Chapters regardless of the origin of those products.

Article 40

Mutual Recognition of Equivalence of Mandatory Requirements

Coverage

1. This Article shall apply to products, and laws and regulations relating to products, as may be covered in the Product Chapters.

Applicability

2. Under this Article, mutual recognition shall affect certain laws relating to the products of the Party where the products are intended for supply. Such laws may, unless otherwise provided in the Product Chapters, include:

(a) requirements relating to production, composition, quality or performance of a product;

(b) requirements that a product satisfy certain standards relating to presentation such as packaging, labelling, date or age stamping; and

(c) requirements that products be inspected, passed or similarly dealt with.

3. The laws and requirements of each Party, including but not limited to those that would prevent or restrict or would have the effect of preventing or restricting the supply or use of a product, and how they shall be affected by mutual recognition shall be specified in the relevant Product Chapters.

4. The requirements covered in this Article are not intended to affect the operation of any laws to the extent that these laws regulate:

(a) the manner of the supply of products or the manner in which the sellers conduct or are required to conduct their business, so long as those laws apply equally to products produced in or imported into the Parties. These include:

(i) the contractual aspects of the supply of the products;

(ii) the registration of sellers;

(iii) the requirements for business franchise licences;

(iv) the persons to whom products may or may not be supplied; and

(v) the circumstances in which the products may or may not be supplied;

(b) the transportation, storage or handling of products so long as those laws apply equally to products produced in or imported under the laws of the Parties and so long as they are directed at matters affecting, inter alia, human health or safety, animal or plant life or health, or the environment;

or

(c) the inspection of products so long as such inspection is not a prerequisite to the supply of products and the laws apply equally to products produced in or imported under the laws of the Parties and so long as they are directed at matters affecting, inter alia, human health or safety, animal or plant life or health, or the environment.

5. This Article shall not affect the operation of any laws or regulations prohibiting or restricting the importation of products into one Party from the other Party.

Article 41

Mutual Recognition of Conformity Assessment

Coverage

1. This Article shall apply to products and/or assessments of manufacturers of products, and their mandatory requirements as may be specified in the Product Chapters.

General Obligations

2. Each Party recognises that the conformity assessment bodies designated by the other Party in accordance with this Article are competent to undertake the conformity assessment activities necessary to demonstrate compliance with its mandatory requirements.

3. New Zealand shall accept the results of conformity assessment activities to demonstrate conformity of products and/or manufacturers with its mandatory requirements when the conformity assessment activities are undertaken by conformity assessment bodies designated by Singapore's designating authorities in accordance with this Article.

4. Singapore shall accept the results of conformity assessment activities to demonstrate conformity of products and/or manufacturers with its mandatory requirements when the conformity

assessment activities are undertaken by conformity assessment bodies designated by New Zealand's designating authorities in accordance with this Article.

5. This Article shall not require mutual acceptance of the mandatory requirements of each Party, or mutual recognition of the equivalence of such mandatory requirements. The Parties shall, however, give consideration to increasing the degree of harmonisation or equivalence of their mandatory requirements, where appropriate and where consistent with good regulatory practice. Where both Parties agree that the mandatory requirements are harmonised or established as equivalent, the results of conformity assessment that demonstrate compliance with the exporting Party's mandatory requirements shall be accepted as demonstrating compliance with the importing Party's mandatory requirements without the need for further conformity assessment by the importing Party to demonstrate compliance with its own mandatory requirements.

6. Each Party shall, consistent with the relevant provisions of the WTO Agreement on Technical Barriers to Trade and the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, use international standards, or the relevant parts of international standards, as a basis for its mandatory requirements where relevant international standards exist or their completion is imminent, except when such international standards or their relevant parts are ineffective or inappropriate.

Designating Authorities

7. The Parties shall ensure that their designating authorities have the necessary authority to designate, monitor, suspend, remove suspension and withdraw designation of the conformity assessment bodies within their respective jurisdictions.

8. Designating authorities shall consult, as necessary, with their counterparts of the other Party to ensure the maintenance of confidence in conformity assessment processes and procedures. This consultation may include joint participation in audits related to conformity assessment activities or other assessments of designated conformity assessment bodies, where such participation is appropriate, technically possible and within reasonable cost.

Designation of Conformity Assessment Bodies

9. In designating conformity assessment bodies, designating authorities shall observe the relevant stipulated requirements.

10. Designating authorities shall specify the scope of the conformity assessment activities for which a conformity assessment body has been designated.

11. Each Party shall give the other Party advance notice of at least 7 days, or such other time period as may be specified in the relevant Product Chapter, of any changes, including suspensions, to their list of designated conformity assessment bodies.

12. The results of conformity assessment activities undertaken by a designated conformity assessment body shall be valid for acceptance for the purposes of paragraphs 3 and 4 of this Article from the date its designation takes effect.

13. Designating authorities shall ensure that the conformity assessment bodies that they designate maintain the necessary technical competence to demonstrate the conformity of a product with the standards and/or specifications to meet mandatory requirements. Conformity assessment bodies of a non-Party shall be acceptable for designation by the Parties where there are no conformity assessment bodies designated in the territory of a Party and the other Party agrees to such designation.

14. Designating authorities shall exchange information concerning the procedures used to ensure that the designated conformity assessment bodies are technically competent and comply with the relevant stipulated requirements.

15. Designating authorities shall ensure that the conformity assessment bodies they designate participate in appropriate proficiency-testing programmes and other comparative reviews such as non government-to-government mutual recognition agreements, so that confidence in their technical competence to undertake the required conformity assessment is maintained.

Suspension and Withdrawal of Conformity Assessment Bodies

16. Each Party shall have the right to challenge a designated conformity assessment body's technical competence and compliance with the relevant stipulated requirements. This right shall be exercised only in exceptional circumstances and where supported by relevant expert analysis or evidence. A Party shall exercise this right by notifying the other Party in writing. Such notification shall be accompanied by the supporting expert analysis or evidence.

17. Except in urgent circumstances, the Parties shall, prior to a challenge under paragraph 16, enter into consultations with a view to seeking a mutually satisfactory solution. In urgent circumstances, consultations shall take place immediately after the right of challenge has been exercised.

18. The consultations referred to in paragraph 17 shall be conducted expeditiously with a view to resolving all issues and seeking a mutually satisfactory solution within the time period specified in the relevant Product Chapter. If this is not achieved, the matter shall be resolved in accordance with the provisions of Part 10.

19. The Product Chapters may provide for additional procedures, such as verification and time limits, to be followed in relation to a challenge.

20. Unless the Parties decide otherwise, the designation of the challenged designated conformity assessment body shall be suspended by the relevant designating authority for the relevant scope of designation from the time its technical competence or compliance is challenged, until either:

(a) the challenging Party is satisfied as to the competence and compliance of the conformity assessment body; or

(b) the designation of that conformity assessment body has been withdrawn.

21. The results of conformity assessment activities undertaken by a designated conformity assessment body on or before the date of its suspension or withdrawal shall remain valid for acceptance for the purposes of paragraphs 3 and 4 unless otherwise agreed by the Parties.

22. Designating authorities shall compare methods used to verify that the designated conformity assessment bodies comply with the relevant stipulated requirements.

Article 42

Mutual Recognition of Equivalence of Standards

Where regulatory compliance is required and where there is equivalence of outcomes, each Party shall accept the standards of the other Party as equivalent to its own corresponding standards.

Article 43

Exchange of Information

1. The Parties shall exchange information concerning their mandatory requirements and conformity assessment procedures.

2. Each Party shall inform the other Party of any proposed changes to its mandatory requirements. Except where considerations of health, safety or environmental protection warrant more urgent action, each Party shall notify the other Party of the changes within the time period set out in the relevant Product Chapters or, if no time period is specified, at least 60 days before the changes enter into force.

3. The Parties may agree on the provision of other information for a specific sector in the Product Chapters.

Article 44

Preservation of Regulatory Authority

1. Each Party retains all authority under its laws to interpret and implement its mandatory requirements.

2. This Part shall not limit the authority of a Party to determine the level of protection it considers necessary for the protection of inter alia human health or safety, animal or plant life or health, or the environment.

3. This Part shall not limit the authority of a Party to take all appropriate measures whenever it ascertains that products may not conform with its mandatory requirements. Such measures may include withdrawing the products from the market, prohibiting their placement on the market, restricting their free movement, initiating a product recall, initiating legal proceedings or otherwise preventing the recurrence of such problems, including through a prohibition on imports. If a Party takes such measures, it shall notify the other Party within 15 days of taking the measures, giving its reasons.

Article 45

Confidentiality

1. A Party shall not be required to disclose confidential proprietary information to the other Party except where such disclosure would be necessary for the other Party to demonstrate the technical competence of its designated conformity assessment bodies and conformity with the relevant stipulated requirements.

2. A Party shall, in accordance with its applicable laws, protect the confidentiality of any proprietary information disclosed to it in connection with conformity assessment activities and/or designation procedures.

PART 8

Government Procurement

Article 46

Establishment of a Single Market

1. The Parties agree to establish a single New Zealand/Singapore government procurement market, in order to maximise competitive opportunities for New Zealand/Singapore suppliers, and reduce costs of doing business for both government and industry.

2. This shall be achieved by the Parties:

(a) committing to implement the APEC Non-Binding Principles on Government Procurement relating to transparency, value for money, open and effective competition, fair dealing, accountability and due process, and non-discrimination;

(b) ensuring the opportunity exists for their suppliers to compete on an equal and transparent basis for government contracts;

(c) ensuring the non-application against their suppliers of preferential schemes and other forms of discrimination based on the place of origin of goods and services unless such schemes or forms of discrimination fall within Article 81;

(d) providing a mechanism for cooperation to work towards achieving the greatest possible consistency in contractual, technical and performance standards and specifications, and simplicity and consistency in the application of procurement policies, practices and procedures.

Article 47

Scope and Coverage

1. This Part applies to government procurement valued at above Special Drawing Rights (SDR) 50,000. The Parties shall consult and agree on a common basis for expressing this value threshold in their respective national currency equivalents as at the date of entry into force of this Agreement, and as at the date of reviews of the operation of this Agreement held in accordance with Article 68.

2. Government procurement of services is subject to a Party's schedule of commitments in Annex 2 and the terms, limitations, conditions or qualifications set out therein.[10]

3. Where government bodies require enterprises not covered under this Part to award contracts in accordance with particular requirements, Article 49 shall apply mutatis mutandis to such requirements.

[10] At the request of New Zealand, Singapore confirms that there shall be no discrimination in terms of government procurement of services in favour of corporate entities where the Singapore Government is the majority shareholder or has a special share as defined in Annex 2.

Article 48

Definitions

For the purposes of this Part:

(a) "designated bodies" means bodies designated in each of the Parties to investigate complaints about non-compliance with this Part; they may include an agency or office responsible to a Party, or a position located within such agency or office. The designated body for Singapore is the Ministry of Finance and the designated body for New Zealand is the Ministry of Economic Development;

(b) "goods and services" means but is not limited to goods alone, services alone or goods and related services. Computer software is defined as "goods" for this purpose. "Related services"' means but is not limited to services provided in conjunction with the supply of goods or construction activities (such as architectural design, engineering, project design, project management and related consultancy services);

(c) "Ministers responsible for procurement" means Ministers with portfolio responsibility for procurement policy where such direct responsibility exists. Otherwise the definition shall mean Ministers with portfolio responsibility for this Part;

(d) "procurement" means but is not limited to purchase, hire, lease, rental, exchange and competitive tendering and contracting (outsourcing) arrangements;

(e) "government procurement" means procurement by government bodies, that is departments and other bodies, including statutory authorities, which are controlled by the Parties and excludes procurement by any body corporate or other legal entity that has the power to contract, except where the Parties exercise their discretion to determine that this Part shall apply. In the case of regional or local governments or authorities, and in the case of procurement of services by non-governmental bodies in the exercise of powers delegated by central, regional or local governments or authorities, the Parties shall use their best endeavours to encourage wider application of this Part, consistent with good commercial practice, to procurement by all such governments, authorities and bodies;

(f) "New Zealand/Singapore suppliers" means service suppliers (determined in accordance with Part 5) or suppliers of goods wholly produced or obtained or partly manufactured in New Zealand or Singapore. Whether a good is wholly produced or obtained or partly manufactured in New Zealand or Singapore shall be determined in accordance with Article 5;

(g) "value for money" means the best available outcome for money spent in terms of the procuring agency's needs. The test of value for money requires relevant comparison of the whole of life costs and benefits relating directly to the procurement. "Whole of life costs and benefits" include fitness for purpose and other considerations of quality, performance, price, delivery, accessories and consumables, service support and disposal.

Article 49

General Principles

Except as provided otherwise in this Part, the Parties shall:

(a) at all times conduct their procurement activities in accordance with the spirit and intent of this Part;

(b) ensure that all government bodies within their territories comply with this Part;

(c) provide to services, goods and suppliers of the other Party equal opportunity and treatment no less favourable than that accorded to their own domestic services, goods and suppliers;

(d) promote opportunities for their suppliers to compete for government business on the basis of value for money and avoid purchasing practices which discriminate or are otherwise biased against, or have the effect of denying equal access or opportunity to, their services, goods and suppliers, while conforming with any commitments of the Parties under international government procurement agreements;

(e) use value for money as the primary determinant in all procurement decisions; and

(f) achieve maximum practicable simplicity and consistency in the application of procurement policies, practices and procedures.

Article 50

Valuation of Contracts

1. The following provisions shall apply in determining the value of contracts for purposes of implementing this Part.

2. Valuation shall take into account all forms of remuneration, including any premiums, fees, commissions and interest receivable.

3. The selection of a valuation method by a government body shall not be made, nor shall any procurement requirement be divided, with the intention of avoiding the application of this Part.

4. In cases where an intended procurement specifies the need for option clauses, the basis for valuation shall be the total value of the maximum permissible procurement, inclusive of optional purchases.

Article 51

Rules of Origin

A Party shall not apply rules of origin to goods or services imported or supplied from the other Party, for purposes of government procurement, which are different from the rules of origin applied in the normal course of trade and at the time of the transaction in question to imports or supplies of the same goods or services from that other Party.

Article 52

Procurement Procedures

1. Each Party shall ensure that the procurement procedures, including tendering and supplier invitation, registration of interest, prequalification, selection, negotiation and contract award procedures, of its government bodies are applied in a manner consistent with this Part, the APEC Non-Binding Principles on Government Procurement, and good commercial practice.

2. In cases of procurement by open call for tender, invitations to tender shall be advertised in a publicly accessible medium; and in cases of procurement by selective invitation to tender, prior calls to prequalify or register interest shall be advertised in a publicly accessible medium.

3. The Parties shall ensure that government bodies make readily available on request by New Zealand/Singapore suppliers information on contract awards, including the name of the supplier, the goods or services supplied and value of the contract award, unless the release of such information would impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of particular enterprises, public or private, or might prejudice fair competition between suppliers.

4. Government bodies shall, on request from an unsuccessful supplier which participated in the relevant tender, promptly provide pertinent information concerning reasons for the rejection of its tender, unless the release of such information would impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interest of particular enterprises, public or private, or might prejudice fair competition between suppliers.

5. Each Party shall also take appropriate steps to enhance transparency at all stages of their procurement procedures, and endeavour to provide the information specified in paragraphs 2 and 3 for all government bodies from a single point of access through a public medium, such as the Internet.

Article 53

Prohibition of Offsets

1. Government bodies shall not, in the qualification and selection of suppliers, goods and services, or in the evaluation of tenders and award of contracts, impose, seek or consider offsets in relation to government procurement from New Zealand or Singapore suppliers.

2. "Offsets in relation to government procurement" means measures used to encourage local development or improve the balance of payments accounts by requiring domestic content, licensing of technology, investment, counter-trade or similar requirements.

Article 54

Disputes between a Supplier and the Procuring Government Body

1. In the event of a complaint by a supplier that there has been a breach of this Part, each Party shall encourage the supplier to seek resolution of its complaint in consultation with the procuring government body. In such instances the procuring government body shall accord timely and impartial consideration to any such complaint.

2. Failing resolution through consultation between the supplier and the procuring government body, the complainant should seek the assistance of the designated body of the Party in whose territory the complainant is located. A complaint made informally may be processed informally if this is deemed appropriate by the designated body and the complainant.

3. Failing resolution, the designated body receiving the complaint shall formally raise it with the designated body of the other Party for investigation of any alleged breach of this Part and for a report by it in writing. The Parties agree to provide details and documentation to permit a full investigation of complaints. Confidentiality of all information shall be maintained.

4. If the response is satisfactory to the designated body which received the original complaint, then the complaint shall lapse.

5. If satisfactory resolution is not achieved, the designated body which received the original complaint may then refer the matter to the Minister responsible for procurement in the other Party for further investigation and decision.

6. In the event that a complaint cannot be resolved through the steps set out above within 30 days after the designated body receiving the original complaint has formally raised it with the designated body of the other Party, the provisions of Part 10 shall apply. A Party shall be entitled by subrogation to exercise the rights and assert the claims of its own supplier against the other Party. The subrogated rights or claims shall not be greater than the original rights or claims of that supplier.

Article 55

Exemptions

1. It is recognised by the Parties that, under certain circumstances, there may be a need for exemption from some of the requirements of this Part for certain government bodies, for certain classes of procurement, and for procurement undertaken in accordance with specific government policies.

2. Exemptions from some of the requirements of this Part may be sought by either Party for government bodies which meet the following criteria subject to consultation and agreement with the other Party:

(a) joint bodies with any other State or separate customs territory which is not party to this Agreement;

(b) bodies funded primarily from specific special levies on particular industries, or by community groups or from special grants or public donations.

It is not intended, however, that any government body shall be granted full exemption from the requirements of this Part. When considering applications for partial exemptions, the Parties shall exercise their authority with due diligence in accordance with the objectives of this Part.

3. The following classes of procurement are exempt from the application of this Part:

(a) internal procurement by a government from its own bodies where no other supplier has been asked to tender. If, however, tenders are called or invited, the provisions of this Part shall apply whether or not a government body submits a tender;

(b) the procurement of proprietary items required to ensure machinery or equipment integrity, but only as they may relate to biased specifications. Where such items are available from a number of sources and/or tenders are called or invited, all provisions of this Part apply other than as they relate to biased specifications;

(c) the urgent procurement of goods and related services in the event of emergencies, such as natural disasters, or to meet the urgent requirements of United Nations peacekeeping or humanitarian operations;

(d) procurement of proprietary equipment of a work, health or safety nature specified in industrial agreements but only as they may relate to biased specifications. Where such items are available from a number of sources and/or tenders are called or invited, all provisions of this Part apply other than as they relate to biased specifications;

(e) defence procurement of a strategic nature and other procurement where national security is a consideration;

(f) procurement under development assistance programmes.

4. Either Party may seek to have additional classes of procurement exempted from this Part. Such exemptions shall be permitted only with the agreement of the other Party.

Article 56

Administration and Review

1. The designated bodies shall report jointly to the Ministers responsible for procurement on the implementation of this Part in preparation for the reviews provided for in Article 68.

2. A committee of senior officials responsible for government procurement policy of each Party may meet as appropriate to discuss policy issues, technical or other cooperation, and the reviews referred to in paragraph 1.

PART 9

Intellectual Property

Article 57

Intellectual Property

The Parties agree that the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights shall govern and apply to all intellectual property issues arising from this Agreement.

PART 10

Dispute Settlement

Article 58

Scope and Coverage

1. The rules and procedures of this Part shall apply with respect to the avoidance or settlement of disputes between the Parties concerning their rights and obligations under this Agreement, but are without prejudice to the rights of the Parties to have recourse to dispute settlement procedures available under other agreements to which they are party.

2. For the avoidance of doubt, the Parties agree that the provisions of this Agreement shall be interpreted in accordance with the general principles of international law and consistently with the objectives set out in Article 1.

Article 59

Consultations

1. Each Party shall accord adequate opportunity for consultations regarding any representations made by the other Party with respect to any matter affecting the implementation, interpretation or application of this Agreement. Any differences shall, as far as possible, be settled by consultation between the Parties.

2. Any Party which considers that any benefit accruing to it directly or indirectly under this Agreement is being nullified or impaired, or that the attainment of any objective of this Agreement is being impeded as a result of failure of the other Party to carry out its obligations under this Agreement or the existence of any other situation may, with a view to achieving satisfactory settlement of the matter, make representations or proposals to the other Party, which shall give due consideration to the representations or proposals made to it.

3. If a request for consultation is made, the Party to which the request is made shall reply to the request within 7 days after the date of its receipt and shall enter into consultations within a period of no more than 30 days after the date of receipt of the request, with a view to reaching a mutually satisfactory solution.

4. The Parties shall make every effort to reach a mutually satisfactory resolution of any matter through consultations. To this end, the Parties shall:

(a) provide sufficient information to enable a full examination of how the measure might affect the operation of the Agreement;

(b) treat any confidential or proprietary information exchanged in the course of consultations on the same basis as the Party providing the information.

Article 60

Good Offices, Conciliation or Mediation

1. The Parties may at any time agree to good offices, conciliation or mediation. They may begin at any time and be terminated at any time.

2. If the Parties agree, procedures for good offices, conciliation or mediation may continue while the dispute proceeds for resolution before an arbitral tribunal appointed under Article 61.

Article 61

Appointment of Arbitral Tribunals

1. If the consultations fail to settle a dispute within 60 days after the date of receipt of the request for consultations, the Party which made the request for consultations may make a written request to the other Party to appoint an arbitral tribunal. The request shall include a statement of the claim and the grounds on which it is based.

2. The arbitral tribunal shall consist of three members. Each Party shall appoint an arbitrator within 30 days of the receipt of the request, and the two arbitrators appointed shall designate by

common agreement the third arbitrator, who shall chair the tribunal. The latter shall not be a national of either of the Parties, nor have his or her usual place of residence in the territory of one of the Parties, nor be employed by either of them, nor have dealt with the case in any capacity.

3. If the chair of the tribunal has not been designated within 30 days of the appointment of the second arbitrator, the Director-General of the WTO shall at the request of either Party appoint the chair of the arbitral tribunal within a further one month's period.

4. If one of the Parties does not appoint an arbitrator within 30 days of the receipt of the request, the other Party may inform the Director-General of the WTO who shall appoint the chair of the arbitral tribunal within a further 30 days and the chair shall, upon appointment, request the Party which has not appointed an arbitrator to do so within 14 days. If after such period that Party has still not appointed an arbitrator, the chair shall inform the Director-General of the WTO who shall make this appointment within a further 30 days.

5. For the purposes of paragraphs 1, 2, 3 and 4, any person appointed as a member or chair of the arbitral tribunal by either Party or by the Director-General of the WTO must be a well-qualified governmental or non-governmental individual, and can include persons who have served on or presented a case to a WTO panel, served in the Secretariat of the WTO, taught or published on international trade law or policy, or served as a senior trade policy official of a Member of the WTO. The Parties recognise that the arbitral tribunal should be composed of individuals of relevant technical or legal expertise.

Article 62

Functions of Arbitral Tribunals

1. The function of an arbitral tribunal is to make an objective assessment of the dispute before it, including an examination of the facts of the case and the applicability of and conformity with this Agreement, and make such other findings and rulings necessary for the resolution of the dispute referred to it as it thinks fit. The findings and rulings of the arbitral tribunal shall be binding on the Parties.

2. The arbitral tribunal shall, apart from the matters set out in Article 63, regulate its own procedures in relation to the rights of Parties to be heard and its deliberations.

Article 63

Proceedings of Arbitral Tribunals

1. An arbitral tribunal shall meet in closed session. The Parties shall be present at the meetings only when invited by the arbitral tribunal to appear before it. The reports of the arbitral tribunal shall be drafted without the presence of the Parties in the light of the information provided and the statements made.

2. The arbitral tribunal shall have the right to seek information and technical advice from any individual or body which it deems appropriate. A Party shall respond promptly and fully to any request by an arbitral tribunal for such information as the arbitral tribunal considers necessary and appropriate.

3. The deliberations of an arbitral tribunal and the documents submitted to it shall be kept confidential. Nothing in this Article shall preclude a Party from disclosing statements of its own positions and its initial submission to the public. A Party shall treat as confidential information submitted by another Party to the arbitral tribunal which that Party has designated as confidential. Where a Party submits a confidential version of its written submissions to the arbitral tribunal, it shall

also, upon request of a Party, provide a non-confidential summary of the information contained in its submissions that could be disclosed to the public.

4. Before the first substantive meeting of the arbitral tribunal with the Parties, the Parties shall transmit to the arbitral tribunal written submissions in which they present the facts of their case and their arguments.

5. At its first substantive meeting with the Parties, the arbitral tribunal shall ask the Party which has brought the complaint to present its case. Subsequently, and still at the same meeting, the Party against which the complaint has been brought shall be asked to present its point of view.

6. Formal rebuttals shall be made at a second substantive meeting of the arbitral tribunal. The Party complained against shall have the right to take the floor first to be followed by the complaining Party. The Parties shall submit, prior to the meeting, written rebuttals to the arbitral tribunal.

7. The arbitral tribunal may at any time put questions to the Parties and ask them for explanations either in the course of a meeting with the Parties or in writing. The Parties shall make available to the arbitral tribunal a written version of their oral statements.

8. In the interests of full transparency, the presentations, rebuttals and statements referred to in paragraphs 4 to 7 shall be made in the presence of the Parties. Moreover, each Party's written submissions, including any comments on the descriptive part of the report and responses to questions put by the arbitral tribunal, shall be made available to the other Party.

9. The arbitral tribunal shall release to the Parties its findings and rulings in a report on the dispute referred to it within 60 days of its formation. In exceptional cases, the arbitral tribunal may take an additional 10 days to release its report containing its findings and rulings. Within this time period, the arbitral tribunal shall accord adequate opportunity to the Parties to review the report before its release.

Article 64

Termination of Proceedings

The Parties may agree to terminate the proceedings of an arbitral tribunal in the event that a mutually satisfactory solution to the dispute has been found.

Article 65

Implementation

1. The Party concerned shall comply with the arbitral tribunal's rulings or findings within a reasonable time period. The reasonable period of time shall be mutually determined by the Parties and shall not exceed 12 months from the date of the arbitral tribunal's report, unless the Party concerned advises the other Party that primary legislation shall be required, in which case the reasonable period of time shall not exceed 15 months from such date.

2. If the Party concerned fails to bring the measure found to be inconsistent with the Agreement into compliance therewith or otherwise comply with the arbitral tribunal's report within the reasonable period of time, that Party shall, if so requested, and not later than the expiry of the reasonable period of time, enter into negotiations with the Party having invoked the dispute settlement procedures with a view to reaching a mutually satisfactory resolution.

3. If no mutually satisfactory resolution has been reached within 20 days, the Party which has invoked the dispute settlement procedures may suspend the application of benefits of equivalent effect until such time as the Parties have reached agreement on a resolution of the dispute.

4. In considering what benefits to suspend pursuant to paragraph 3:

(i) the Party which has invoked the dispute settlement procedures should first seek to suspend benefits in the same sector or sectors as that affected by the measure or other matter that the arbitral tribunal has found to be inconsistent with this Agreement or to have caused nullification or impairment; and

(ii) the Party which has invoked the dispute settlement procedures may suspend benefits in other sectors if it considers that it is not practicable or effective to suspend benefits in the same sector.

Article 66

Expenses

Unless the arbitral tribunal decides otherwise because of the particular circumstances of the case, the expenses of the tribunal, including the remuneration of its members, shall be borne by the Parties in equal shares.

PART 11

General Provisions

Article 67

Application

1. Each Party is fully responsible for the observance of all provisions in this Agreement and shall take such reasonable measures as may be available to it to ensure their observance by regional and local governments and authorities, and, in respect of trade in services under Part 5, by non-governmental bodies (in the exercise of powers delegated by central, regional or local government or authorities) within its territory.

2. The provisions of Part 10 may be invoked in respect of measures affecting the observance of this Agreement taken by regional or local governments or authorities within the territory of a Party. When an arbitral tribunal appointed under Part 10 has ruled that a provision of this Agreement has not been observed, the responsible Party shall take such reasonable measures as may be available to it to ensure its observance. The provisions of Part 10 relating to the suspension of the application of benefits of equivalent effect shall apply in cases where it has not been possible to secure such observance.

3. This Article does not apply to Part 8 concerning Government Procurement.

Article 68

Review

1. In addition to the provisions for consultations elsewhere in this Agreement, Ministers in charge of trade negotiations of the Parties shall meet within a year of the date of entry into force of this Agreement and then biennially or otherwise as appropriate to review the operation of this Agreement.

2. The Parties shall undertake a general review of the operation of this Agreement in 2005.

Article 69

Transparency

1. Each Party shall promptly make public all laws, rules, regulations, judicial decisions and administrative rulings of general application pertaining to trade in goods, services, and investment; shall promptly make available administrative guidelines which significantly affect trade in services covered by its commitments; and shall endeavour to make available promptly administrative guidelines which significantly affect trade in goods and investment.

2. Each Party shall endeavour to provide opportunity for comment by the other Party on its proposed laws, rules, regulations and procedures affecting trade in goods and services and investments if it is of the view that any such proposed laws, rules, regulations and procedures are likely to affect the rights and obligations of either Party under this Agreement.

3. Each Party shall respond promptly to all requests by the other Party for specific information on any of its measures of general application. Each Party shall establish one or more enquiry points to provide specific information upon request on all such measures.

4. In view of the importance of transparency of domestic legislation and procedures affecting trade in goods and the supply of services and in investment to the operation of this Agreement, the Parties shall discuss any concerns which may arise in this area at the reviews referred to in Article 68, in order to address means of overcoming such concerns.

Article 70

Business Law

With a view to facilitating business through addressing issues of common interest in relation to business law, the Parties shall exchange information on their respective business laws as a first step in identifying issues for attention and consideration of an appropriate ongoing process for addressing these issues.

Article 71

General Exceptions

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 and services or investment, nothing in this Agreement shall preclude the adoption by any Party of measures in the exercise of its legislative, rule-making and regulatory powers:

(a) necessary to protect public order or morality, public safety, peace and good order and to prevent crime;

(b) necessary to protect human, animal or plant life or health;

(c) necessary to prevent unfair, deceptive or misleading practices or to deal with the effects of defaults on services contracts;

(d) necessary to protect national works, items or specific sites of historical or archaeological value, or to support creative arts[11] of national value;

(e) to conserve exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption;

(f) necessary to secure compliance with laws and regulations relating to customs enforcement, tax avoidance or evasion;

(g) in connection with the products of prison labour.

Article 72

Movement of Natural Persons

1. This Agreement applies to measures affecting natural persons who are service suppliers of a Party, and natural persons of a Party who are employed by a service supplier of a Party, in respect of the supply of a service.

2. This Agreement shall not apply to measures affecting natural persons seeking access to the employment market of a Party nor shall it apply to measures regarding citizenship, residence or employment on a permanent basis.

3. In accordance with Articles 17, 18, 19 and 20, the Parties may negotiate specific commitments applying to the movement of all categories of natural persons supplying services under this Agreement. Natural persons covered by a specific commitment shall be allowed to supply the service in accordance with the terms of that commitment.

4. This Agreement shall also not prevent a Party from applying measures to regulate the entry of natural persons of the other Party into, or their temporary stay in, its territory, including those measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across, its borders, provided that such measures are not applied in such a manner as to nullify or impair the benefits accruing to either Party under the terms of a specific commitment.[12]

[11] Illustrative list of "creative arts": the creative arts, including ngä toi Mäori (Mäori arts), comprise a range of art forms and disciplines including: dance, music, theatre, haka, waiata and other performing arts; visual arts, such as painting, sculpture, craft arts, whakairo (carving), raranga (weaving), tä moko; literature; film and video; language arts and new media. Cross-disciplinary arts activities that incorporate more than one art form are also included.

[12] The sole fact of requiring a visa for natural persons shall not be regarded as nullifying or impairing benefits under a specific commitment.

Article 73

Measures to Safeguard the Balance of Payments

1. In the event of serious balance of payments and external financial difficulties or threat thereof, a Party may adopt or maintain restrictions on trade in services on which it has undertaken specific commitments, including on payments or transfers for transactions related to such commitments. In the case of investments, a Party may adopt or maintain restrictions with regards to payments relating to the transfer of proceeds from investment.

2. The restrictions referred to in paragraph 1:

(a) shall be consistent with the Articles of Agreement of the International Monetary Fund;

(b) shall avoid unnecessary damage to the commercial, economic and financial interests of the other Party;

(c) shall not exceed those necessary to deal with the circumstances described in paragraph 1;

(d) shall be temporary and be phased out progressively as the situation specified in paragraph 1 improves; and

(e) shall be applied on a national treatment basis.

3. Any restrictions adopted or maintained under paragraph 1, or any changes therein, shall be promptly notified to the other Party within 14 days from the date such measures are taken.

4. The Party adopting any restrictions under paragraph 1 shall commence consultations with the other Party within 90 days from the date of notification in order to review the measures adopted by it.

5. In the case of trade in goods, where a Party is in serious balance of payments and external financial difficulties or under threat thereof, it may, in accordance with the GATT 1994 and the Understanding on the Balance-of-Payments Provisions of the GATT 1994, adopt restrictive import measures.

Article 74

Treaty of Waitangi

1. 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 and services or 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 fulfillment of its obligations under the Treaty of Waitangi.

2. The Parties agree that the interpretation of the Treaty of Waitangi, including as to the nature of the rights and obligations arising under it, shall not be subject to the dispute settlement provisions of this Agreement. Part 10 shall otherwise apply to this Article. An arbitral tribunal appointed under Article 61 may be requested by Singapore to determine only whether any measure (referred to in paragraph 1) is inconsistent with its rights under this Agreement.

Article 75

Critical Shortages

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 and services or investment, nothing in this Agreement shall preclude the adoption by Singapore of measures it deems necessary to prevent or relieve a critical shortage or threat thereof of any such imports deemed or defined as essential to Singapore under its domestic laws and regulations, and where the situation referred to gives rise, or is likely to give rise, to major difficulties for Singapore, provided that such measures shall, if Singapore deems fit, be discontinued as soon as the conditions giving rise to such measures have ceased to exist.

Article 76

Security

Nothing in this Agreement shall be construed:

(a) as preventing either Party from taking any action which it considers necessary for the protection of its essential security interests, including but not limited to action relating to traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment, and any action taken in time of war or other emergency in domestic or international relations;

or

(b) as preventing either Party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

Article 77

Disclosure of Information

Nothing in this Agreement shall be construed to require either Party to furnish or allow access to information the disclosure of which it considers:

(a) would be contrary to its essential security interests;

(b) is contrary to the public interest as determined by its laws;

(c) is contrary to any of its laws, including but not limited to those protecting personal privacy or the financial affairs and accounts of individual customers of financial institutions;

(d) would impede law enforcement; or

(e) would prejudice legitimate commercial interests of particular enterprises, public or private.

Article 78

Taxation

The provisions of this Agreement shall not apply to any taxation measure. "Taxation measure" means any measure imposing direct or indirect taxes including excise duties as defined by the domestic laws of the Parties so long as these duties are not used for the purpose of protecting the domestic industry of the Party imposing the duties.

Article 79

Association with the Agreement

1. This Agreement is open to accession or association, on terms to be agreed between the Parties, by any Member of the WTO, or by any other State or separate customs territory.

2. The terms of such accession or association shall take into account the circumstances of the Member of the WTO, State or separate customs territory, in particular with respect to timetables for liberalisation.

Article 80

Obligations under other International, Regional or Bilateral Agreements

Nothing in this Agreement shall be regarded as exempting either Party to this Agreement from its obligations under any international, regional or bilateral agreements to which it is a party and any inconsistency with the provisions of this Agreement shall be resolved in accordance with the general principles of international law.

Article 81

Preferences under other Agreements

1. Nothing in this Agreement shall be regarded as obliging a Party to extend to the other Party the benefit of any treatment, preference or privilege arising from any existing or any future customs union, free trade area, free trade arrangement, common market, monetary union or similar international agreement or other forms of bilateral or regional cooperation to which either of the Parties is or may become party; or as preventing the adoption of an agreement designed to lead to the formation or extension of such a union, area or arrangement or market.

2. Nothing in this Agreement shall be interpreted as obliging a Party to extend the benefit of any treatment, preference or privilege arising under this Agreement to legal or natural persons who otherwise only qualify for such benefit by virtue of a separate agreement or arrangement entered into by the other Party.

Article 82

Amendments

This Agreement may be amended by agreement in writing by the Parties and such amendments shall come into force on such date or dates as may be agreed between them.

Article 83

Annexes

The Annexes to this Agreement, including any Appendices thereto, shall be an integral part of this Agreement.

Article 84

Entry into Force, Duration and Termination

1. This Agreement shall be subject to ratification. Ratification shall be effected by an exchange of Notes between the Parties. The Agreement shall enter into force on the date specified in such exchange of Notes.

2. This Agreement may be terminated by either Party on giving 180 days' written notice to the other Party.

IN WITNESS whereof the undersigned, duly authorised, have signed this Agreement.

DONE in duplicate at Singapore this 14th day of November, 2000.

For Singapore:

_____
Mr Goh Chok Tong
Prime Minister

For New Zealand:

_____
Rt Hon Helen Clark
Prime Minister.