AGREEMENT BETWEEN THE GOVERNMENT OF NEW ZEALAND AND THE GOVERNMENT OF THE UNITED ARAB EMIRATES ON THE PROMOTION AND PROTECTION OF INVESTMENTS

The Government of New Zealand

and the Government of the United Arab Emirates (hereinafter referred to as "the Parties" and each a "Party"),

RECOGNISING the growing importance of foreign investments in creating, maintaining, and enhancing sustainable economic growth and prosperity for both Parties;

ACKNOWLEDGING each Party's right to protect its security, safety, and environment within its territory;

RECOGNISING that this Agreement shall not apply to the pre-establishment phase of the investment; and

RECOGNISING that these objectives can be achieved without relaxing health, safety, and environmental measures of general application;

Have agreed as follows:

Section A. DEFINITIONS

For the purposes of this Agreement:

covered investment means, with respect to a Party, an investment:

(a) in its territory;

(b) by an investor of the other Party; and

(c) existing on the date of entry into force of this Agreement, or made, acquired or expanded thereafter;

enterprise means any legal person or any other entity duly constituted or organised under the applicable law, whether or not for profit, and whether privately or governmentally owned or controlled, including any corporation, trust, partnership, sole proprietorship, joint venture, association, organisation or company;

enterprise of a Party means an enterprise that is constituted or organised under the law of a Party and carries out business activities in the territory of that Party;

existing measures means measures that are in effect on the date of the entry into force of this Agreement;

freely usable currency means "freely usable currency" as defined under the Articles of Agreement of the International Monetary Fund, done at Bretton Woods on 22 July 1944;

investment means every kind of asset, made in accordance with the law of the Party in whose territory the investment is made, that an investor owns or controls, directly or indirectly, that has the characteristics of an investment, such as the commitment of capital or other resources, the expectation of gain or profit, or the assumption of risk. Forms that an investment may take include:

(a) an enterprise;

(b) shares, stock, and other forms of equity participation in an enterprise;

(c) bonds, debentures, other forms of debt (1), and loans (2);

(d) futures, options, and other derivatives;

(e) rights under a contract, including turnkey, construction, management, production, or revenue-sharing contracts;

(f) claims to money or to any performance under contract having a financial value;

(g) intellectual property rights and goodwill;

(h) concessions, licenses, authorisations, permits, and similar rights conferred by law, excluding those for the exploration and exploitation of natural resources; and

(i) any other movable and immovable property and any related property rights, such as leases, mortgages, liens, and pledges.

For greater certainty, investment shall not include the following:

(a) claims to money that arise solely from commercial contracts for the sale of goods or services by a natural person or enterprise in the territory of a Party to a natural person or enterprise in the territory of the other Party;

(b) the extension of credit, including bank loans, in connection with a commercial transaction, such as trade financing; and

(c) an order or judgement entered in a judicial or administrative action or an arbitral proceeding.

investor of a Party means a Party, or a national or an enterprise of a Party, that has made an investment in the territory of the other Party;

local government, in the case of the United Arab Emirates, means the government of each Emirate constituting the United Arab Emirates and, in the case of New Zealand, does not apply;

measures include laws, regulations, rules, procedures, decisions or administrative actions;

national means:

(a) for New Zealand, a national or permanent resident of New Zealand in accordance with its laws; and

(b) for the United Arab Emirates, a national of the United Arab Emirates in accordance with its laws and regulations.

services 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;

territory means:

(a) for New Zealand, the territory of New Zealand and the exclusive economic zone, seabed and subsoil over which it exercises sovereign rights with respect to natural resources in accordance with international law, but does not include Tokelau.

(b) for the United Arab Emirates, the territory of the United Arab Emirates which is under its sovereignty, as well as the areas outside the territorial waters, the airspace, and the submarine areas over which the United Arab Emirates exercises, in accordance with international law and the law of the United Arab Emirates, sovereign rights or jurisdiction in connection with the exploration or the exploitation of natural resources.

WTO Agreement means the Marrakesh Agreement establishing the World Trade Organization, done at Marrakesh, April 15, 1994; and

CEPA means the UAE-New Zealand Comprehensive Economic Partnership Agreement.

(1) Some forms of debt, such as bonds, debentures, and long-term notes, are more likely to have the characteristics of an investment, while other forms of debt, such as claims to payment that are due immediately and result from the sale of goods or services, are less likely to have such characteristics.

(2) A loan issued by a Party to another Party is not an investment.

Section B. INVESTMENT PROMOTION AND PROTECTION

Article 1. Scope and Coverage

1. This Agreement shall apply to measures adopted or maintained by a Party relating to:

(a) investors of the other Party; and

(b) covered investments.

2. This Agreement shall not apply to:

(a) government procurement;

(b) subsidies or grants provided by a Party;

(c) services supplied in the exercise of governmental authority by the relevant body or authority of a Party within the territory of that Party;

(d) any measure regarding taxation, including measures taken to enforce taxation obligations; and

(e) measures adopted or maintained by a Party within the scope of CEPA Chapter 9 (Trade in Services).

3. For greater certainty, this Agreement does not bind either Party in relation to any act or fact that took place, or any situation that ceased to exist, before the date of entry into force of this Agreement.

Article 2. Treatment of Investors and Investments

1. Each Party should, in its territory, endeavour to encourage the creation of favorable conditions for investments by investors of the other Party and admit such investments subject to, and in accordance with, its applicable law.

2. Each Party shall, in its territory, accord to covered investments of the other Party and to the other Party?s investors with respect to their covered investments, fair and equitable treatment and full protection and security, in accordance with paragraphs 3 through 6 and applicable customary international law principles.

3. A Party breaches the obligation of fair and equitable treatment referenced in paragraph 2 if a measure or series of measures constitutes:

(a) denial of justice in criminal, civil, or administrative proceedings;

(b) fundamental breach of due process in judicial and administrative proceedings;

(c) manifest arbitrariness; or

(d) targeted discrimination on manifestly wrongful grounds, such as gender, race, or religious belief.

4. For greater certainty, "full protection and security" does not require, in any case, treatment in addition to or beyond that which is required by applicable customary international law regarding the treatment of aliens.

5. For greater certainty, a breach of another provision of this Agreement, or of any other international agreement, does not constitute a breach of this Article.

6. For greater certainty, the mere fact that a Party takes or fails to take an action that may be inconsistent with an investor?s expectations does not constitute a breach of this Article, even if there is loss or damage to the investor or the covered investment as a result.

Article 3. National Treatment

1. Each Party shall accord to investors of the other Party treatment no less favourable than that it accords, in like circumstances, to its own investors with respect to the management, maintenance, use, enjoyment, or disposal of investments in its territory.

2. Each Party shall accord to covered investments treatment no less favourable than that it accords, in like circumstances, to investments in its territory of its own investors with respect to the management, maintenance, use, enjoyment, or disposal of investments.

3. The standard of national treatment as provided for in paragraphs 1 and 2 of this Article means, with respect to a local

government (3), treatment no less favourable than the most favourable treatment accorded in like circumstances by that local government to investors, and to investments of investors, of the Party of which it forms a part.

4. For greater certainty, whether treatment is accorded in "like circumstances" depends on the totality of the circumstances, including whether the relevant treatment distinguishes between investors or investments on the basis of legitimate public policy objectives.

(3) For greater certainty, in accordance with Section A (Definitions), Article 3 does not apply to New Zealand local government measures.

Article 4. Most-Favoured-Nation Treatment

1. Each Party shall accord to investors of the other Party treatment no less favourable than that it accords, in like circumstances, to investors of any non-Party with respect to the management, maintenance, use, enjoyment, or disposal of investments in its territory.

2. Each Party shall accord to covered investments treatment no less favourable than that it accords, in like circumstances, to investments in its territory of investors of any non-Party with respect to the management, maintenance, use, enjoyment, or disposal of investments.

3. For greater certainty, the treatment referred to in this Article does not encompass definitions provided for in other international treaties or any investor-state dispute settlement procedures or mechanisms.

4. For greater certainty, substantive obligations in other international investment treaties and other trade agreements do not in themselves constitute "treatment" and thus cannot give rise to a breach of this Article, absent measures adopted or maintained by a Party pursuant to those obligations.

5. Nothing in this Agreement shall be construed to oblige a Party to extend to the investors of the other Party, or to their covered investments, the benefits of any treatment resulting from:

(a) any bilateral or multilateral international agreement for the promotion and protection of investments which was signed prior to the date of entry into force of this Agreement;

(b) any existing or future customs union, free trade area agreement, common market, economic union, or similar international agreements to which either Party is a party or may become a party; or

(c) any existing or future bilateral or multilateral agreement concerning intellectual property. (4)

6. For greater certainty, whether treatment is accorded in "like circumstances" depends on the totality of the circumstances, including whether the relevant treatment distinguishes between investors or investments on the basis of legitimate public policy objectives.

(4) For greater certainty, the terms "existing" agreements and agreements "signed prior to the date of entry into force of this Agreement" include any future amendments or supplemental agreements.

Article 5. Losses and Compensation

1. Each Party shall accord to investors of the other Party that have suffered loss or damage relating to their covered investments in the territory of the former Party due to war or other armed conflicts, revolution, a state of national emergency, revolt, insurrection, riot, or other such similar activity in the territory of that former Party, treatment, as regards restitution, indemnification, compensation or any other settlement, that is no less favourable than that which it accords to its own investors or investors of a non-Party.

2. Without prejudice to paragraph 1, if an investor suffers a loss in the territory of the other Party resulting from:

(a) requisitioning of its covered investment or part thereof by the Party's forces or authorities; or

(b) destruction of its covered investment or part thereof by the Party's forces or authorities, which was not caused in combat action or was not required by the necessity of the situation, the other Party shall provide the investor with restitution or adequate compensation for such loss.

3. Any payment under this Article shall be effectively realisable, freely transferable, and freely convertible at the market

exchange rate into freely usable currencies.

Article 6. Expropriation and Compensation (5)

1. A Party shall not expropriate or nationalise a covered investment either directly or indirectly through measures having an effect equivalent to expropriation or nationalisation (hereinafter referred to as "expropriation"), except:

(a) for a public purpose;

(b) when made in accordance with the due process of law of the Party;

(c) in a non-discriminatory manner; and

(d) when accompanied by compensation, in accordance with paragraph 2.

2. The compensation shall:

(a) be paid without delay and in a freely usable currency;

(b) be equivalent to the fair market value of the expropriated investment immediately before the expropriation took place;

(c) not reflect any change in value occurring because the intended expropriation had become known earlier;

(d) be fully realisable and freely transferable; and

(e) include interest, at a commercially reasonable rate for that currency, accrued from the date of expropriation until the date of payment of compensation.

3. The investors affected shall have a right, under the law of the Party making the expropriation, to prompt review, by a judicial or other independent authority of that Party, of the legality of the expropriation and of the valuation of their investment, in accordance with the principles set out in this Article.

(5) This Article shall be interpreted in accordance with Annex A (Expropriation).

Article 7. Transfers (6)

1. Each Party shall permit all transfers relating to a covered investment to be made freely and without delay into and out of its territory. Such transfers include:

(a) contributions to capital, including the initial contribution and additional amounts to maintain or increase the covered investment;

(b) profits, dividends, interest, capital gains, royalties, management fees, technical assistance fees, other fees, and other current incomes accruing from covered investments;

(c) proceeds from the sale or liquidation of all or any part of the covered investment;

(d) payments made under a contract entered into by the investor, or the covered investment, including payments made pursuant to a loan agreement;

(e) payments made in accordance with Articles 5 and 6; and

(f) payments arising out of a dispute.

2. Each Party shall permit transfers relating to a covered investment to be made in a freely usable currency at the market rate of exchange prevailing at the time of transfer.

3. Notwithstanding paragraphs 1 and 2, a Party may prevent or delay a transfer through the equitable, non-discriminatory, and good faith application of its law relating to:

(a) the payment of taxes and dues;

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

(b) issuing, trading, or dealing in securities, futures, options, or derivatives;

(c) criminal or penal offenses;

(d) financial reporting or record keeping of transfers when necessary to assist law enforcement or financial regulatory authorities; or

(e) ensuring compliance with an order or judgment in judicial or administrative proceedings.

(6) For greater certainty, Annex B (Temporary Safeguard Measures) shall apply to Article 7 (Transfers).

Article 8. Subrogation

1. If a Party, or its designated agency, makes a payment to an investor of that Party under a guarantee, a contract of insurance, or other form of indemnity against non-commercial risks it has entered into in respect of a covered investment in the territory of the other Party, the other Party shall recognise:

(a) the assignment, to the former Party or its designated agency, of any right or claim of the investor in respect of such investment that formed the basis of such payment; and

(b) the right of the former Party or its designated agency to exercise by virtue of subrogation such right or claim to the same extent as the original right or claim of the investor.

2. For greater certainty, the Party or its designated agency shall be entitled in all circumstances to:

(a) the same treatment in respect of the rights and claims acquired by it by virtue of the assignment referred to in paragraph 1; and

(b) the same payments due pursuant to those rights and claims, as the investor referred to in paragraph 1 was entitled to receive by virtue of this Agreement in respect of the covered investment.

3. If a Party or a designated agency has made a payment to its investor and has taken over the rights and claims of the investor under paragraph 1, that investor shall not, unless authorized in writing by the Party or its designated agency, act on behalf of the Party or its designated agency making the payment, pursue those rights and claims against the other Party.

Article 9. Performance Requirements

1. A Party shall not, in connection with the management, maintenance, use, enjoyment, or disposal of a covered investment, impose or enforce requirements, or enforce a commitment or undertaking:

(a) to export a given level or percentage of a good or service;

(b) to achieve a given level or percentage of domestic content;

(c) to purchase, use, or accord a preference to a good produced, or service provided, in its territory or to purchase a good or service from a person in its territory;

(d) to relate the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with that investment;

(e) to restrict sales of goods in its territory that such investments produce by relating such sales to the volume or value of its exports or foreign exchange earnings;

(f) to transfer a particular technology, a production process, or other proprietary knowledge to a person in its territory; or

(g) to supply exclusively from the territory of the Party the goods that such investments produce to a specific regional market or to the world market.

2. No Party shall condition the receipt or continued receipt of an advantage, in connection with the management, maintenance, use, enjoyment, or disposal of an investment in its territory of an investor of the other Party, on compliance with any of the following requirements:

(a) to achieve a given level or percentage of domestic content;

(b) to purchase, use or accord a preference to a good produced or service provided in its territory, or to purchase a good or service from a person in its territory;

(c) to relate the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with that investment; or

(d) to restrict sales of goods in its territory that such investments produce by relating such sales to the volume or value of its exports or foreign exchange earnings.

3. Nothing in Paragraph 2 shall be construed to prevent a Party from conditioning the receipt or continued receipt of an advantage, in connection with an investment in its territory of an investor of the other Party, on compliance with a requirement to locate production, supply a service, train or employ workers, construct or expand particular facilities, or carry out research and development, in its territory.

4. (a) Paragraph 1(f) shall not apply:

i. if a Party authorises use of an intellectual property right in accordance with Article 31 or Article 31bis of the TRIPS Agreement, (7) or to measures requiring the disclosure of proprietary information that fall within the scope of, and are consistent with, Article 39 of the TRIPS Agreement; or

ii. if the requirement is imposed or enforced by a court, administrative tribunal, or competition authority to remedy a practice determined after judicial or administrative process to be anti-competitive under the Party?s competition laws and regulations. (8)

(b) Paragraphs 1(a) to (c), 2(a) and (b) shall not apply to qualification requirements for goods with respect to export promotion and foreign aid programmes.

(c) Paragraph 2(a) and (b) shall not apply to requirements imposed by an importing Party relating to the content of goods necessary to qualify for preferential tariffs or preferential quotas.

5. For greater certainty, paragraphs 1 and 2 shall not apply to any requirement other than those set out in those paragraphs.

6. For greater certainty, this Article does not preclude the enforcement of any commitment, undertaking, or requirement between private parties, if a Party did not impose or require the commitment, undertaking, or requirement.

(7) This includes any waiver or amendment to the TRIPS Agreement implementing paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health (WT/MIN(01)/DEC/2) adopted at Doha on 14 November 2001.

(8) The Parties recognise that a patent does not necessarily confer market power.

Article 10. Denial of Benefits

1. A Party may deny the benefits of this Agreement to an investor of the other Party and to investments of such investor if the investor is owned or controlled by legal entities or natural persons of a third party:

(a) with whom the denying Party does not maintain diplomatic relations; or

(b) with respect to whom the denying Party adopts or maintains prohibitive measures or measures that would be violated or circumvented if the benefits of this Agreement were accorded to the investor or its investments.

2. Notwithstanding any other provision of this Agreement, the benefits of this Agreement shall not be available to an investor of a Party and investments of such an investor if:

(a) the investor is owned or controlled by legal entities or natural persons of the Party in whose territory the investment has been made; or

(b) the investor has acquired the nationality of a Party for the purpose of obtaining benefits under this Agreement that would not otherwise be available to the investor.

Article 11. Special Formalities and Information Requirements

1. Nothing in Article 3 shall be construed to prevent a Party from adopting or maintaining a measure that prescribes special formalities in connection with covered investments, such as a requirement that covered investments be legally constituted

or registered under the requirements of its legislation, provided that such formalities do not materially impair the protections afforded by the Party to investors of the other Party and to covered investments pursuant to this Agreement and are not used as means of avoiding the Party's commitments or obligations under this Agreement.

2. Notwithstanding Article 3 and Article 4, a Party may require, in accordance with its laws and regulations, an investor of the other Party or its covered investment to provide information concerning that investment solely for informational or statistical purposes. The Party shall protect such information that is confidential from any disclosure that would prejudice the competitive position of the investor or its covered investment. Nothing in this paragraph shall be construed to prevent a Party from otherwise obtaining or disclosing information in connection with the equitable, non discriminatory and good faith application of its laws and regulations.

Article 12. Non-Conforming Measures

1. Article 3, Article 4, Article 9, and Article 15 shall not apply to:

(a) any existing non-conforming measures that are maintained by a Party;

(b) the continuation or prompt renewal of any non-conforming measure referred to in subparagraph (a); or

(c) an amendment to any non-conforming measure referred to in subparagraph (a), to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Article 3, Article 4, Article 9, or Article 15.

2. Article 3, Article 4, Article 9, and Article 15 shall not apply to any measure that a Party adopts or maintains with respect to sectors, subsectors or activities as set out by that Party in its Schedule to Annex D, where applicable.

3. For greater certainty, the Parties confirm their understanding that any requirement for nationality or residency of senior management or board of directors shall not be regarded as inconsistent with Article 3 and Article 4.

4. Article 3 shall not apply to any measure that falls within an exception to, or derogation from, the obligations which are imposed by Article 3 of the TRIPS Agreement.

5. Article 4 shall not apply to any measure that falls within Article 5 of the TRIPS Agreement, or an exception to, or derogation from, the obligations which are imposed by Article 4 of the TRIPS Agreement.

Article 13. General Exceptions

1. Nothing in this Agreement shall be construed to prevent a Party from adopting, maintaining, or enforcing measures, including environmental measures, that are necessary to:

(a) protect human, animal, or plant life or health;

(b) protect public morals or maintain public order;

(c) the protection of national treasures of artistic, historical, or archaeological value;

(d) the conservation of living or non-living exhaustible natural resources provided that such measures are made effective in conjunction with restrictions on domestic production or consumption; or

(e) secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement including those relating to:

(i) the prevention of deceptive and fraudulent practices or to deal with the effects of a default on contracts;

(ii) the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts;

(iii) safety.

2. For the purposes of this Agreement, subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between the Parties where like conditions prevail, or a disguised restriction on trade in goods or services and investment, nothing in this Agreement shall be construed to prevent the adoption or enforcement by a Party of measures necessary to protect national works or specific sites of historical or archaeological value, or to support creative arts (9) of national value.

3. Nothing in this Agreement shall prevent the Parties from adopting or maintaining measures for prudential reasons, including for:

(a) the protection of investors, depositors, policy holders, policy claimants, as well as financial market participants, or persons to whom a fiduciary duty is owed by a financial institution;

(b) the maintenance of the safety, soundness, integrity, or financial responsibility of financial institutions; and

(c) ensuring the integrity and stability of the Party's financial system.

Such measures shall be taken in good faith and shall not be used as means of avoiding a Party's commitments or obligations under this Agreement.

4. Nothing in this Agreement shall be construed:

(a) to require a Party to furnish or allow access to any information, the disclosure of which it determines to be contrary to its essential security interests; or

(b) to preclude a Party from applying measures that it considers necessary for the fulfilment of its obligations under the United Nations Charter with respect to the maintenance or restoration of international peace or security, or for the protection of its own essential security interests, or in order to carry out obligations it has accepted for the purposes of maintaining international security.

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

Article 14. Tiriti O Waitangi / 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, trade in services, and investment, nothing in this Agreement shall preclude the adoption by New Zealand of measures it deems necessary to accord more favourable treatment to Māori in respect of matters covered by this Agreement, including in fulfilment of its obligations under te Tiriti o Waitangi / the Treaty of Waitangi.

2. The Parties agree that the interpretation of te Tiriti o Waitangi / 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. Article 16 shall otherwise apply to this Article. A panel established under Article 16 may be requested by the other Party to determine only whether any measure (referred to in paragraph 1) is inconsistent with its rights under this Agreement.

Article 15. Senior Management and Board of Directors

1. Neither Party may require that an enterprise of that Party that is a covered investment appoint to a senior management position, or an executive, a person of any particular nationality.

2. A Party may require that a majority of the boards of directors, or any committee thereof, of an enterprise of that Party that is a covered investment, be of a particular nationality or resident in the territory of the Party, provided that the requirement does not materially impair the ability of the investor to exercise control over its investment.

Section C. SETTLEMENT OF DISPUTE BETWEEN THE PARTIES

Article 16. Dispute Settlement

1. Each Party shall afford adequate opportunity for consultation, through diplomatic channels, regarding any dispute with the other Party concerning the interpretation or application of this Agreement.

2. Any dispute between the Parties as to the interpretation or application of this Agreement, not satisfactorily resolved through consultation in accordance with paragraph 1 within a period of six months from notification of the dispute, shall

upon request by either Party be referred for decision to an arbitration panel.

3. Unless otherwise provided for in this Article, or in the absence of an agreement between the Parties to the contrary, the UNCITRAL Arbitration Rules shall apply to the proceedings of the arbitration board. However, these rules may be modified by the Parties or modified by the arbitrators appointed pursuant to paragraph 4, provided that both Parties agree to the modification. The arbitration panel may, for its part, determine its own rules and procedures.

4. Within sixty days from the date of receipt by either Party from the other Party of a notification requesting arbitration of a dispute, each disputing Party shall appoint an arbitrator. The two arbitrators shall select a third arbitrator who, upon approval by both Parties, shall be appointed as the Chairperson, provided that the third arbitrator shall not be a national of either Party. The Chairperson shall be appointed within sixty days from the date of appointment of the other two arbitrators. No arbitrator may be a national of a State not having diplomatic relations with both Parties. The UNCITRAL Arbitration Rules applicable to appointing members of three-member panels shall apply mutatis mutandis to other matters relating to the appointment of the arbitrators of the arbitration panel provided that the appointing authority referenced in those rules shall be the Secretary-General of the Permanent Court of Arbitration. If the Secretary-General of the Permanent Court of Arbitration is a national of either Party, a national of a State not having diplomatic relations with both Parties, or otherwise prevented from discharging the said function, the Deputy Secretary-General of the Permanent Court of Arbitration shall be invited to make the appointment.

5. Unless otherwise agreed by the Parties, all submissions of documents shall be made, and all hearings shall be completed, within a period of 180 days from the date of appointment of the third arbitrator. The arbitration panel shall decide the dispute by a majority of votes in accordance with this Agreement and the rules of international law applicable to the subject matter within 60 days from the date of the final submissions of documents or the date of the closing of the hearings, whichever is the latter. Such a decision shall be final and binding.

6. Each Party shall bear the cost of the arbitrator of its choice and its representation in the arbitral proceedings. The cost of the Chairperson of the arbitration panel in discharging their duties and the remaining costs of the arbitration board shall be borne equally by the Parties.

7. Subject to the rights of the Parties provided for in this section to choose a national as an arbitrator, all arbitrators referred to under this Article may not be nationals of states not having diplomatic relations with both Parties.

Article 17. Choice of Forum

In the event of a dispute concerning the interpretation or application of a commitment that falls under this Agreement and any other agreement to which both Parties are party to, the complaining Party shall only have recourse to take a dispute under the dispute settlement provisions of one agreement.

Section E. GENERAL PROVISIONS

Article 18. Joint Committee on Investment

1. The Parties hereby establish a Joint Committee on Investments (hereinafter referred to as "the Committee"), composed of representatives of each Party and headed by the United Arab Emirates Ministry of Finance and the Ministry of Investment and for New Zealand the Ministry of Foreign Affairs and Trade.

2. Unless otherwise agreed by the Parties, the Committee shall meet every two years or on the request of either Party at any time as requested.

3. The functions of the Committee may include the following:

(a) a general review of this Agreement with a view to furthering its objectives;

(b) to discuss and review the implementation and operation of this Agreement;

(c) to review the non-conforming measures maintained, amended, or modified for the purpose of contributing to the reduction or elimination of such non-conforming measures;

(d) to exchange information on and to discuss investment-related matters within the scope of this Agreement that relate to the improvement of the investment environment;

(e) to review the possibility of further facilitation of investment between the Parties;

(f) evaluation of the results obtained from the application of this Agreement and consideration of any other issues or matters related to the implementation of this Agreement, including dispute prevention, solving problems and obstacles, and dispute resolution before its progression to arbitration; and

(g) to exchange information on both Parties' legislation, regulations and procedures regarding investment opportunities.

4. The Committee may, as necessary, make appropriate recommendations for the effective operation of this Agreement.

5. The Committee may, upon mutual agreement of the Parties, invite representatives of relevant non-government entities with the necessary expertise relevant to the function of the Committee and hold joint meetings with the private sector.

6. The Committee may establish sub-committees and delegate specific tasks to such sub-committees.

Article 19. Amendment

Subject to Article 18, upon the request of either Party, the Parties shall discuss and consult in good faith and may agree upon any amendments to this Agreement in writing. Any such amendments shall enter into force in accordance with the procedure necessary for the entry into force of this Agreement and shall constitute an integral part of this Agreement.

Article 20. Final Provisions

1. The Parties shall notify each other, in writing through diplomatic channels, of the completion of their respective internal procedures necessary for the entry into force of this Agreement. This Agreement shall enter into force on the date of the latter notification. This Agreement shall remain in force for a period of ten years after its entry into force and shall continue to be in force thereafter unless replaced by the mutual agreement of the Parties or terminated as provided for in paragraph 2.

2. A Party may terminate this Agreement at the end of the initial ten-year period or at any time thereafter by giving a one-year's advance written notice of termination to the other Party through diplomatic channels. Such termination shall become effective twelve months after the date of receipt of such notice of termination by the other Party.

3. In respect of investments made prior to the date of termination of this Agreement, the provisions of this Agreement shall continue to be effective for a period of 10 years from the date of termination of this Agreement.

4. The Annexes and Footnotes to this Agreement shall constitute an integral part of this Agreement.

Done at Abu Dhabi, this day of January 2025, in the Arabic and English languages, all texts being equally authentic. In case of divergence between these texts, the English text shall prevail.

For the Government of New Zealand

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Hon Todd McClay

Minister for Trade

For the Government of the United Arab Emirates

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H.E. Dr. Thani bin Ahmed Al Zeyoudi

Minister of State for Foreign Trade

ANNEXES

ANNEX A. Expropriation

The Parties confirm their shared understanding that:

1. An action or a series of actions by a Party cannot constitute an expropriation unless it interferes with a tangible or intangible property right or property interest in an investment.

2. Expropriation may be direct or indirect:

(a) direct expropriation occurs when an investment is nationalized or otherwise directly expropriated through formal transfer of title or outright seizure; and

(b) indirect expropriation occurs if a measure or series of measures of a Party has an effect equivalent to direct expropriation in that it substantially deprives the investor of the fundamental attributes of property in its investment, including the right to use, enjoy and dispose of its investment, without formal transfer of title or outright seizure.

3. The determination of whether a measure or series of measures of a Party, in a specific fact situation, constitutes an indirect expropriation requires a case-by-case, fact-based inquiry that takes into consideration, among other factors:

(a) the economic impact of the measure or series of measures, although the sole fact that a measure or series of measures of a Party has an adverse effect on the economic value of an investment does not establish that an indirect expropriation has occurred;

(b) the duration of the measure or series of measures of a Party;

(c) the extent to which the measure or series of measures interferes with distinct, reasonable investment-backed expectations (10); and

(d) the character of the measure or series of measures, notably their object, context, and intent.

4. For greater certainty, except in the rare circumstance when the impact of a measure or series of measures is so severe in light of its purpose that it appears manifestly excessive, non-discriminatory measures of a Party that are designed and applied to protect legitimate public welfare objectives, such as health, safety, and the environment, do not constitute indirect expropriations.

(10) For greater certainty, whether an investor?s investment-backed expectations are reasonable depends, to the extent relevant, on factors such as whether the government provided the investor with binding written assurances and the nature of governmental regulation or the potential for government regulation in the relevant sector.

ANNEX B. Temporary Safeguard Measures

1. A Party may adopt or maintain restrictive measures with regard to cross-border capital transactions as well as payments or transfers for transactions related to investments:

(a) in the event of serious balance-of-payments and the external financial difficulties or threat thereof; or

(b) in exceptional cases where movements of the capital cause or threaten to cause serious difficulties for macroeconomic management, in particular monetary and exchange rate policies.

2. Restrictive measures referred to in paragraph 1 shall:

(a) be applied in such a manner that the other Party is treated no less favourably than any non-Party;

(b) not exceed those necessary to deal with the circumstances set out in paragraph 1;

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

(d) avoid unnecessary damages to the commercial, economic and financial interests of the other Party; and

(e) not be confiscatory.

3. The Party which has adopted any measure under paragraph 1 shall notify the other Party, as soon as possible, as to the measures taken and the expected timetable for their removal.

4. The measures under paragraph 1 should be consistent with the Articles of Agreement of the International Monetary Fund.

ANNEX C. Foreign Investment Framework

1. The UAE has the right to approve or decline new investments in its territory subject to its laws and regulations. Such decisions shall not be subject to dispute settlement provisions under Article 16.

2. The UAE reserves the right to adopt or maintain any measure within the scope of the Cabinet Resolution No. (55) of 2021 and Federal Decree Law No. (32), of 2021 on Commercial Companies and any successor legislation. Those measures are applicable to investors of New Zealand and their investments, and those Ministerial Statements and Guidance Notes as statements of policy, shall not be subject to dispute settlement under Article 16.

3. A decision under New Zealand's Overseas Investment Act 2005 to grant consent, or decline to grant consent, to an overseas investment transaction that requires prior consent under that Act shall not be subject to the dispute settlement provisions under Article 16.

ANNEX D. Schedule of New Zealand

Explanatory note

A. The schedule of New Zealand set out, under Article 12, the entries for which New Zealand may maintain existing, or adopt new or more restrictive measures that do not conform with obligations imposed by:

(a) Article 3 (National Treatment);

(b) Article 4 (Most-Favoured-Nation Treatment);

(c) Article 9 (Performance Requirements); or

(d) Article 15 (Senior Management and Board of Directors).

B. In accordance with Article 12, the Articles of this Agreement specified in paragraph 1 do not apply to the activities described in each entry.

C. For greater certainty, juridical persons supplying financial services and constituted under the laws of New Zealand are subject to non-discriminatory limitations on juridical form. (11)

D. For greater certainty, the measures that New Zealand may take for prudential reasons in accordance with Article 13(3), provided they meet the requirements of that Article, include those governing:

(a) licensing, registration or authorisation as a financial institution or cross-border financial service supplier, and corresponding requirements;

(b) juridical form, including legal incorporation requirements for systemically important financial institutions and limitations on deposit-taking activities of branches of overseas banks, and corresponding requirements;

(c) requirements pertaining to directors and senior management of a financial institution or cross-border financial service supplier;

(d) capital, related party exposures, liquidity, disclosure and other risk management requirements;

(e) payment, clearance and settlement systems (including securities systems);

(f) anti-money laundering and countering financing of terrorism; and

(g) distress or failure of a financial institution or cross-border financial service supplier.

E. For greater certainty, New Zealand reaffirms its right to regulate within its territory to achieve legitimate policy objectives, such as the protection of human, animal or plant life or health, social services, public education, safety, the environment including climate change, public morals, social or consumer protection, animal welfare, privacy and data protection, or the promotion and protection of cultural diversity and the promotion and protection of the rights, interests, duties and responsibilities of Māori related to te Tiriti o Waitangi / the Treaty of Waitangi. The interpretation of te Tiriti o Waitangi / 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.

(11) For example, partnerships and sole proprietorships are generally not acceptable juridical forms for authorised depository institutions in New Zealand. This headnote is not in itself intended to affect, or otherwise limit, a choice by a financial institution of the other Party between branches or subsidiaries.

Schedule of New Zealand

New Zealand reserves the right to adopt or maintain:

1. any measure with respect to:

(a) the provision of public law enforcement and correctional services; and

(b) the following, to the extent that they are social services established for a public purpose: child care; health; income security and insurance; public education; public housing; public training; public transport; public utilities; social security and insurance; and social welfare.

2. any measure with respect to water, including the allocation, collection, treatment, and distribution of drinking water. This does not apply to the wholesale trade and retail of bottled mineral, aerated, and natural water.

3. any measure solely as part of the act of devolving a service that is provided in the exercise of governmental authority at the date of entry into force of this Agreement.

4. any measures regarding the sale of any shares in any enterprise or any assets of that enterprise, where the New Zealand Government wholly owns or has effective control over that enterprise, to any person, including according more favourable treatment to New Zealand nationals.

5. any measure that requires the following investment activities to receive prior approval by the New Zealand Government under its overseas investment regime:

(a) acquisition or control by non-government sources of 25 per cent or more of any class of shares (12) or voting power (13) in a New Zealand entity where either the consideration for the transfer or the value of the assets exceeds NZ$200 million;

(b) commencement of business operations or acquisition of an existing business by non-government sources, including business assets, in New Zealand, where the total expenditures to be incurred in setting up or acquiring that business or those assets exceed NZ$200 million;

(c) acquisition or control by government sources of 25 per cent or more of any class of shares (14) or voting power (15) in a New Zealand entity where either the consideration for the transfer or the value of the assets exceeds NZ$100 million;

(d) commencement of business operations or acquisition of an existing business by government sources, including business assets, in New Zealand, where the total expenditures to be incurred in setting up or acquiring that business or those assets exceed NZ$100 million;

(e) acquisition or control, regardless of dollar value, of certain categories of land that are regarded as sensitive or require specific approval according to New Zealand's overseas investment legislation; and

(f) any transaction, regardless of dollar value, that would result in an overseas investment in fishing quota.

(12) For greater certainty, the term "shares" includes shares and other types of securities.

(13) For greater certainty, "voting power" includes the power to control the composition of 25 per cent or more of the governing body of the New Zealand entity.

(14) For greater certainty, the term "shares" includes shares and other types of securities.

(15) For greater certainty, "voting power" includes the power to control the composition of 25 per cent or more of the governing body of the New Zealand entity.

6. any measure that sets out the approval criteria to be applied to the categories of overseas investment that require approval under New Zealand's overseas investment regime.

7. any measure that accords differential treatment to a Party or non-party under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.

For greater certainty, this includes, in respect of agreements on the liberalisation of trade in goods or services or investment, any measures taken as part of a wider process of economic integration or trade liberalisation between the parties to such agreements (16).

(16) For the avoidance of doubt, this includes any measure adopted or maintained under any existing or future protocol to the agreements.

8. any measure that accords differential treatment to a Party or non-party under any international agreement in force or signed after the date of entry into force of this Agreement involving aviation, fisheries, and maritime matters.

9. any measure regarding the control, management, or use of:

(a) protected areas, being areas established under and subject to the control of legislation, including resources on land, interests in land or water, that are set up for heritage management purposes (both historic and natural heritage), public recreation, and scenery preservation; or

(b) species owned under enactments by the Crown or that are protected by or under an enactment.

10. any measure including nationality or residency measures in relation to:

(a) animal welfare; and

(b) the preservation of plant, animal and human life and health; including in particular: food safety of domestic and exported foods; animal feeds; food standards; biosecurity; biodiversity; or certification of the plant of animal health status of goods.

Nothing in this paragraph shall be construed to derogate from the obligations of the WTO TBT Agreement.

Nothing in this paragraph shall be construed to derogate from the obligations of the WTO SPS Agreement.

11. any measure made by or under an enactment in respect of the foreshore and seabed, internal waters as defined in international law (including the beds, subsoil and margins of such internal waters), territorial sea, the Exclusive Economic Zone, and the continental shelf, including for the issuance of maritime concessions in the continental shelf.

12. any measure with respect to the provision of fire prevention and firefighting services, excluding aerial firefighting services.

13. any measure with respect to:

(a) research and development services carried out by State funded tertiary institutions or by Crown Research Institutes when such research is conducted for a public purpose; and

(b) research and experimental development services on physical sciences, chemistry, biology, engineering, and technology, agricultural sciences, medical, pharmaceutical, and other natural sciences.

14. any measures in respect of:

(a) composition and purity testing and analysis services;

(b) technical inspection services;

(c) other technical testing and analysis services;

(d) geological, geophysical, and other scientific prospecting services; and

(e) drug testing services.

15. any measure to control the activities of foreign fishing, including fishing landing, first landing of fish processed at sea, and access to New Zealand ports (port privileges), consistent with the provisions of the United Nations Convention on the Law of the Sea 1982.

16. any measure in order to prohibit, regulate, manage or control the production, use, distribution, or retail of nuclear energy, including setting conditions for natural persons or juridical persons to do so.

17. any measure with respect to preferential co-production arrangements for film and television productions. Official co-production status, which may be granted to a co-production produced under these co-production instruments, confers national treatment on works covered by these instruments.

18. any measure with respect to the promotion of film and television production in New Zealand and the promotion of local content on public radio and television, and in films.

19. any measure with respect to:

(a) the holding of shares in the cooperative dairy company arising from the amalgamation authorised under the Dairy Industry Restructuring Act 2001 or any successor body; and

(b) the disposition of assets of that company or its successor bodies.

20. any measure with respect to the export marketing of fresh kiwifruit to all markets other than Australia.

21. any measure with respect to:

(a) specifying the terms and conditions for the establishment and operation of any government endorsed allocation scheme for the rights to the distribution of export products falling within the HS Code categories covered by the Agreement on Agriculture to markets where tariff quotas, country-specific preferences, or other measures of similar effect are in force; and

(b) the allocation of distribution rights to wholesale trade service suppliers pursuant to the establishment or operation of such an allocation scheme.

This entry is not intended to have the effect of prohibiting all investment in the provision of wholesale trade and distribution services relating to goods in the HS Code covered by the Agreement on Agriculture. The entry applies in respect of investment to the extent that the services sectors specified in this entry are a subset of agricultural products subject to tariff quotas, country-specific preferences, or other measures of similar effect.

22. any measures necessary to give effect to the establishment or the implementation of mandatory marketing plans (also referred to as "export marketing strategies") for the export marketing of products derived from agriculture, beekeeping, horticulture, arboriculture, arable farming, and the farming of animals, where there is support within the relevant industry that a mandatory collective marketing plan should be adopted or activated. For the avoidance of doubt, mandatory marketing plans, in the context of this entry, exclude measures limiting the number of market participants or limiting the volume of exports.

23. any measure with respect to all services suppliers and investors for the supply of adoption services.

24. any measure with respect to gambling, betting, and prostitution services.

25. any measure in respect of:

(a) cultural heritage of national value; including ethnological, archaeological, historical, literary, artistic, scientific, or technological heritage, as well as collections that are documented, preserved and exhibited by museums,

galleries, libraries, archives and other heritage collecting institutions;

(b) public archives;

(c) library and museum services; and

(d) services for the preservation of historical or sacred sites or historical buildings.

26. any measure with respect to:

(a) provision of certain Port Services (pilotage, towing and tug assistance provisioning, fuelling and watering, garbage collecting and ballast waste disposal, port captains' services, navigation aids, emergency repair facilities, anchorage, other shore-based operational services essential to ship operations, including communications, water and electrical supplies). However, no measures shall be applied which deny international maritime transport suppliers reasonable and non-discriminatory access to the above port services;

(b) the carriage by sea of passengers or cargo between a port located in New Zealand and another port located in New Zealand and traffic originating and terminating in the same port in New Zealand (maritime cabotage);

(c) the establishment of registered companies for the purpose of operating a fleet under the New Zealand flag;

(d) the registration of vessels in New Zealand; and

(e) the regulation and entry of ships crews to New Zealand through the presence of natural person mode of supply.

27. any measure with respect to financial services as defined in GATS Annex on Financial Services that is not inconsistent with New Zealand's obligations under Articles XVI, XVII, and XVIII of GATS.

28. any taxation measure with respect to the sale, purchase or transfer of residential property (including interests that arise via leases, financing and profit sharing arrangements, and acquisition of interests in enterprises that own residential property). For greater certainty, residential property does not include non-residential commercial real estate.

29. any measure with respect to:

(a) compulsory social insurance for personal injury caused by accident, work related gradual process disease and infection, and treatment injury; and

(b) disaster insurance for residential property for replacement cover up to a defined statutory maximum.

30. any measures with respect to the establishment or operation of any unit trust, market or other facility established for the trade in, or allotment or management of, securities in the co-operative dairy company arising from the amalgamation authorised under the Dairy Industry Restructuring Act 2001 (or any successor body).

31. any measure that requires all companies to have one or more directors, of whom at least one must:

(a) live in New Zealand; or

(b) live in an "enforcement country" (17) and be a director of a company that is registered (except as the equivalent of an overseas company) in that enforcement country.

(17) "Enforcement country" means a country that has an agreement with New Zealand that allows for the recognition and enforcement in that country of New Zealand judgements imposing regulatory regime criminal fines.

32. any measure that provides a subsidy or grant to any entities that are controlled, or wholly or partially owned, by the government that may conduct financial operations, including measures taken in relation to the privatisation of such entities.

33. any measure that provides a subsidy or grant to an entity that is systemically important to the infrastructure of the financial market, including exchanges, clearing and settlement facilities; and market operators.

34. any measure with respect to the establishment or operation of exchanges, securities markets or futures markets. For greater certainty, this entry does not apply to financial institutions participating in, or seeking to participate in, any such exchange, securities market, or futures market.

35. any measure with respect to insurance and insurance-related services for industry marketing boards established under the following CPC codes:

(a) 01, except 01110 and 01340 (products of agriculture, horticulture and market gardening except wheat and kiwifruit); 02 (live animals and animal products); 211, except 21111, 21112, 21115, 21116 and 21119 (meat and meat products, except beef, sheep meat, poultry and offal); 213-216 (prepared and preserved vegetables, fruit juices and vegetable juices, prepared and preserved fruit and nuts, animal and vegetable oil and fats); 22 (dairy); 2399 (other food products); and 261, except 2613, 2614, 2615, 02961, 02962 and 02963 (natural textile fibres prepared for spinning, excluding wool).

36. any measure it deems necessary to protect or promote Māori rights, interests, duties and responsibilities in respect of trade enabled by electronic means, including in fulfilment of its obligations under te Tiriti o Waitangi / The Treaty of Waitangi, 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 services and investment. The Parties agree that the interpretation of te Tiriti o Waitangi / 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.