AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF NEW ZEALAND CONCERNING A FRAMEWORK OF PRINCIPLES AND PROCEDURES FOR CONSULTATIONS REGARDING TRADE AND INVESTMENT RELATIONS

The Government of the United States of America and the Government of New Zealand (individually a "Party" and collectively the "Parties"):

Desiring to enhance the friendship and spirit of cooperation between both Parties;

Desiring to develop further and strengthen trade and economic relations between both Parties;

Taking into account both Parties' membership in the General Agreement on Tariffs and Trade (hereinafter, together with its associated agreements, understandings and other instruments, referred to as "the GATT") and noting that this Agreement is without prejudice to the rights and obligations of the Parties under the GATT;

Taking into account their commitment to the successful completion and implementation of the Uruguay Round of Multilateral Trade Negotiations;

Recognizing the importance of promoting a more liberal and predictable environment for international trade and investment;

Recognizing the benefits to each Party resulting from increased international trade and investment and that protectionism and other measures distorting trade and investment flows would deprive the Parties of such benefits;

Recognizing the essential role of private investment, both domestic and foreign, in furthering growth, creating jobs, expanding trade, improving technology, and enhancing economic development;

Recognizing that foreign direct investment confers positive benefits on each Party;

Recognizing the continuing importance of trade in agricultural and other goods;

Recognizing the increasing importance of services in their economies and in bilateral and international trade;

Taking into account the need to eliminate non-tariff barriers in order to facilitate greater access to the markets of both Parties and to avoid the establishment of new barriers to trade and investment;

Recognizing the importance of providing adequate and effective protection and enforcement of intellectual property rights, and taking account of their commitments undertaken and to be undertaken in the GATT, and in intellectual property rights conventions to which they are both Parties;

Noting the common objective of both Parties to improve the welfare of the work force and provide for better terms and conditions of employment;

Recognizing the desirability of resolving trade and investment problems as expeditiously as possible; and,

Considering that it would be in their mutual interest to establish a bilateral mechanism between the Parties for encouraging the liberalization of trade and investment between them, as well as for consulting on bilateral trade and investment issues;

To this end, the Parties agree as follows:

Article 1.

The Parties shall establish a United States-New Zealand Council on Trade and Investment (hereinafter referred to as "the

Council").

Article 2.

The Council shall be composed of representatives of both Parties. The United States of America's side will be chaired by the Office of the United States Trade Representative, and the New Zealand side will be chaired by the Ministry of External Relations and Trade.

Article 3.

The Council shall meet at least once every twelve months, unless otherwise agreed by the Parties. When agreed to be necessary, meetings of the Council may be held at the Cabinet or sub-Cabinet level.

Article 4.

The Parties may seek the advice of the private sector in their respective countries on matters related to issues discussed or work undertaken by the Council. Private sector representatives may be asked to participate in Council meetings whenever both Parties agree that it is appropriate.

Article 5.

The objectives of the Council are as follows:

1. To monitor and review trade and investment relations and to identify opportunities for expanding such trade and investment relations;

2. To hold consultations on specific trade and investment matters of interest to the Parties and to negotiate agreements as and where appropriate;

3. To identify and work towards the removal of distortions to trade and investment flows.

Article 6.

1. Either Party may at any time request consultations on any trade or investment matter of interest to it. Requests for consultations shall be accompanied by written explanation of the subject to be discussed and consultations shall be held within 30 days of the request, unless the requesting Party agrees to a later date. Each Party shall make every endeavor to provide adequate advance notice and an opportunity for consultations before taking actions that would affect adversely the trade or investment interests of the other Party to the extent permissible under their respective domestic laws.

2. Consultations shall normally take place in the first instance in the country of the Party whose measure or practice has prompted the request for consultations or in any other circumstances at a location to be mutually agreed.

3. This Article shall be without prejudice to the rights and obligations of either Party under the GATT or under any other instruments (including any instruments emerging from the GATT Uruguay Round) to which both Parties are or may during the period of effectiveness of this Agreement become contracting parties.

4. Every effort shall be made in consultations requested under this Article to resolve any differences between the Parties at the working level. At any time, either Party may request that the differences be reviewed and resolution attempted at a higher level.

5. If resolution is not reached within 30 days following the first meeting, either Party may refer the dispute to any applicable dispute resolution procedures under the GATT or any other instruments to which both are or may become Parties. If a dispute is referred to the GATT, consultations under this Agreement shall be considered to have constituted consultations under Article XXIII:l of the GATT or any preliminary bilateral consultations required as part of any GATT dispute settlement procedures. Where a dispute is so referred to the GATT, the Parties shall notify the GATT Council or other appropriate GATT body that the consultations have been held.

Article 7.

1. The Council will at its first session consider those subjects included in the "Immediate Action Agenda" attached as an Annex to this Agreement.

2. The Agenda for subsequent meetings of the Council shall comprise those subjects included in the "Immediate Action Agenda" and any additional issues affecting the trade and investment interests of the Parties that are submitted by either Party for inclusion in the Agenda. 3. The Council may establish joint working groups to facilitate the work of the Council.

Article 8.

This Agreement shall not apply to Tokelau unless the Parties have exchanged notes agreeing to the terms on which it shall so apply.

Article 9.

This Agreement shall enter into force on the date of its signature by both Parties.

Article 10.

1. This Agreement shall remain in force unless terminated by mutual consent of the Parties or by either Party upon six months written notice to the other Party.

2. In the event that the Parties decide by mutual consent to amend the Agreement, such amendments may be done by an exchange of letters. 3. The Parties agree to prepare a mutually acceptable record of any agreements recorded between them concerning any specific trade or investment issues.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement. Done in duplicate at Washington, D.C. this second day of October 1992.

For the Government of the United States of America

For the Government of New Zealand

Annex. IMMEDIATE ACTION AGENDA

In relation to the Agreement Between the Government of the United States of America and the Government of New Zealand concerning a Framework of Principles and Procedures for Consultations Regarding Trade and Investment Relations, the United States and New Zealand Governments confirm the following:

1. They are prepared to commence the work of the Council within 120 days of the signing of the above-mentioned Agreement with an "Immediate Action Agenda" composed of the following topics:

- Conclusion and implementation of the GATT Uruguay Round;

- Market Access (including, inter alia, tariff and non -tariff measures) issues;

- Countervailing duty and anti-dumping issues;

- Services issues;

- Intellectual property rights issues;

- Subsidy issues;

- Investment screening practices;

- Multilateral and regional trade issues of mutual interest.

2. The inclusion of topics on this II Immediate Action Agenda II does not limit the ability of either Party to raise for consultations under Article 6 of the Agreement any other issue relating to trade or investment which might arise in the near term and require immediate bilateral consultations, nor prejudice the raising of new issues in the future.

For the Government of the United States of America

For the Government of New Zealand