

# **SOUTH PACIFIC REGIONAL TRADE AND ECONOMIC COOPERATION AGREEMENT**

The Governments of Australia, the Cook Islands, Fiji, Kiribati, Nauru, New Zealand, Niue, Papua New Guinea, Solomon Islands, Tonga, Tuvalu and Western Samoa, being members of the South Pacific Forum (hereinafter referred to as "the Forum"):

MINDFUL of the close historic, economic, political and geographic links that bind the members of the Forum;

RECOGNISING the special relationship and commitment of Australia and New Zealand to Forum Island countries;

BEARING in mind the desire to strengthen economic cooperation within the South Pacific;

ACKNOWLEDGING the Forum's commitment to the promotion of sustained economic development of the island countries in the region;

AWARE of the crucial and vital role that trade plays in the economic development of the Forum Island countries;

HAVING REGARD to the greater dependence of Forum Island countries vis-à-vis other countries on the Australian and New Zealand markets;

RECOGNISING the desirability of broadening the already extensive duty-free treatment accorded by Australia and New Zealand to products of the Forum Island countries;

TAKING into account the limited industrial potential of Forum Island countries vis-à-vis other developing countries;

## **Article I. Definitions**

In this Agreement :

"Director" means the Director of the South Pacific Bureau for Economic Co-operation; "Forum Island countries" means the Cook Islands, Fiji, Kiribati, Nauru, Niue, Papua New Guinea, Solomon Islands, Tonga, Tuvalu, Western Samoa and the countries of acceding Parties; and

"Smaller Forum Island countries" means the Cook Islands, Kiribati, Niue, Tonga, Tuvalu, Western Samoa, and such other countries, the Governments of which are Parties, as the Governments of Forum Island countries may jointly determine.

## **Article II. Objectives**

The objectives of this Agreement are :

- (a) to achieve progressively in favour of Forum Island countries duty free and unrestricted access to the markets of Australia and New Zealand over as wide a range of products as possible;
- (b) to accelerate the development of the Forum Island countries in particular through the expansion and diversification of their exports to Australia and New Zealand;
- (c) to promote and facilitate this expansion and diversification through the elimination of trade barriers;
- (d) to foster the growth and expansion of exports of Forum Island countries through the promotion of investment in those countries;
- (e) to promote greater penetration by exports from Forum Island countries into the Australian and New Zealand markets through such measures as co-operation in the marketing and promotion of goods from Forum Island countries; and
- (f) to promote and facilitate economic co-operation, including commercial, industrial, agricultural and technical co-operation.

## **Article III. Schedules of Concessions**

1. Subject to the provisions of this Agreement the Government of Australia shall:

(a) permit the duty free and unrestricted entry of goods listed in Schedule 1 to this Agreement that originate in and are imported from Forum Island countries;

(b) permit the entry of goods listed in Schedule 2 to this Agreement that originate in and are imported from Forum Island countries, subject to the duties and quantitative limits specified in that Schedule. 2. Subject to the provisions of this Agreement the Government of New Zealand shall permit the duty free and unrestricted entry of all goods wholly obtained or partly manufactured in the territory of a Forum Island country, except those goods listed in Schedule 3 to this Agreement which shall be subject to such treatment as may be specified therein.

3. The Schedules to this Agreement shall be an integral part of this Agreement.

## **Article IV. Amendment to Schedules**

1. A Government of a Forum Island country may at any time propose in writing to the Director the amendment of a Schedule to this Agreement.

2. On receipt of such a proposal the Director shall advise all Parties of the proposed amendment and if requested by the Government of any Forum Island country, shall arrange consultations between the Party to which the Schedule applies and interested Governments of Forum Island countries.

3. Following the consultations referred to in paragraph 2 of this Article the Party to which the Schedule applies shall, within a reasonable period, notify the Director of the outcome of consultations. The Director shall thereupon notify all Parties of this outcome including any amendment to the Schedule and the date of its entry into effect.

4. The Party to which a Schedule applies may amend it in order to provide improved concessionary treatment in respect of the importation of goods to which the rules of origin in Article V apply. Such amendments and date on which they shall take effect shall be notified to the Director by the Government to which the Schedule applies. The Director shall thereupon notify all Parties of the amendments to the Schedule and of the date of their entry into effect.

## **Article V. Rules of Origin**

1. Goods shall be treated by the Government of Australia as originating in the territory of a Forum Island country if these goods are:

(a) the unmanufactured raw products of a Forum Island country; or

(b) manufactured goods, in relation to which:

(i) the process last performed in manufacture of the goods was performed in a Forum Island country; and

(ii) not less than 50% of the factory or works cost of the goods is represented by the value of labour or materials or both of:

(a) a Forum Island country; or

(b) a Forum Island country and one or more other Forum Island countries; or

(c) one or more Forum Island countries and Australia

2. The following shall be the classes of goods entitled to be entered under the New Zealand tariff at the rates and exemptions provided for Forum Island countries, namely:

(a) the following goods wholly obtained in the territory of any of the Forum Island countries:

(i) mineral products extracted from its soil or from its seabed;

(ii) vegetable products harvested there;

(iii) live animals born and raised there;

(iv) products obtained there from live animals;

(v) products obtained by hunting or fishing conducted there;

(vi) products of sea fishing and other products taken from the sea by its vessels;

(vii) products made on board its factory ships exclusively from the products referred to in subparagraph (a)(vi) of this paragraph;

(viii) used articles collected there fit only for the recovery of raw materials;

(ix) waste and scrap resulting from manufacturing operations conducted there; and

(x) products obtained there exclusively from products specified in sub-paragraphs (a) (i) to (ix) of this paragraph

(b) Goods partly manufactured in the territory of a Forum Island country subject to the following conditions :

(i) that the process last performed in the manufacture of the goods was performed in the territory of a Forum Island country; and

(ii) that in respect of the goods, the expenditure:

(a) in material that is the origin of one or more Forum Island countries or of New Zealand;

(b) in other items of factory or works cost (as defined in the New Zealand Customs Regulations) incurred in one or more Forum Island countries or in New Zealand; or

(c) partly in such material and partly in such other items as aforesaid is not less than 50% of the factory or works cost of the

goods in their finished state.

3. (a) In special circumstances either the Government of Australia or the Government of New Zealand may determine that the expenditure referred to in paragraph 1(b)(ii) of this Article in the case of the Government of Australia, or paragraph 2(b)(ii) of this Article in the case of the Government of New Zealand may be less than 50% of the factory or works cost of the goods in their finished state for particular goods or classes of goods. Any such determination may be applied to all such goods originating from the Forum Island countries or restricted to goods from individual Forum Island countries.

(b) In making a determination under this paragraph of the rules of origin, the Government of Australia and the Government of New Zealand shall take account, inter alia, of the special problems of the Smaller Forum Island countries and the area content derived from all Forum countries.

4. A Government of a Forum Island country may request the Government of Australia or the Government of New Zealand to make a determination pursuant to paragraph 3 of this Article. The requesting Government shall notify the Director of its request who shall thereupon inform all the Parties. The Government requested to make a determination shall notify the Director of the outcome of the request within 3 months of receipt of that request. The Director shall thereupon notify all the Parties of that outcome.

## **Article VI. General Exceptions, Revenue Duties Dumped and Subsidised Goods**

### General Exceptions

1. Provided that such measures are not used as a means of arbitrary or unjustifiable discrimination or as a disguised restriction on trade, nothing in this Agreement shall preclude the adoption or enforcement by the Government of Australia or the Government of New Zealand of measures:

(a) necessary for the protection of its essential security interests;

(b) necessary to protect public morals and the prevention of disorder or crime;

(c) necessary to protect human, animal or plant

(d) necessary to protect industrial property life or health; rights, copyrights, or to prevent unfair, deceptive or misleading practices;

(e) necessary to secure compliance with laws or regulations relating to customs enforcement, to tax avoidance and evasion and to foreign exchange control or for the application of standards or of regulations for the classification, grading or marketing of goods, or to the operation of recognised commodity marketing boards;

(f) relating to trade in gold and silver; or

(g) relating to obligations entered into in the context of multilateral or bilateral commodity agreements whilst taking account of any special needs and interests of Forum Island countries.

### Revenue Duties

2. Nothing in this Agreement shall preclude the imposition by the Government of Australia of

(a) sales taxes; or

(b) revenue duties which are levied equally on both imports and domestic products

3. Nothing in this Agreement shall preclude the Government of New Zealand from imposing at any time on the importation of any product, a charge equivalent to an internal tax imposed consistently in respect of the like domestic products or in respect of an article from which the imported product has been manufactured or produced in whole or in part.

### Dumped and Subsidised Goods:

4. (a) Nothing in this Agreement shall preclude the Government of Australia or the Government of New Zealand from taking action in accordance with their respective national legislation relating to dumped or subsidised goods.

(b) Before the Government of Australia or the Government of New Zealand takes action in accordance with sub-paragraph (a) of this paragraph it shall notify in writing, and if requested consult with, the Party or Parties from whose territory the goods are being exported. For the purposes of this paragraph consultations shall be deemed to have commenced on the day on which the notification was made.

(c) If a mutually satisfactory solution of the matter is not reached within a period of 60 days from the commencement of the consultations referred to in sub-paragraph (b) of this paragraph, the Party into the territory of which the goods are being imported may, after giving notice to the Party from the territory of which the goods are being exported, levy dumping or countervailing duties on the goods.

(d) Notwithstanding the provisions of sub-paragraph (b) of this paragraph the Government of Australia or the Government of New Zealand may take action under sub-paragraph (a) of this paragraph provisionally without prior consultation where, in its opinion, the circumstances are so critical that delay would cause injury to a domestic industry which would be difficult to repair. A Party taking provisional action under this sub paragraph shall immediately provide written advice of the action taken to the Director who shall notify the other Party or Parties concerned. The Parties shall then enter into consultations as soon as possible.

## **Article VII. Variation or Suspension of Obligations**

## Australia

1. The Government of Australia may vary the treatment accorded goods listed in Schedules 1 and 2 to this Agreement.
2. Before taking action pursuant to paragraph 1 of this Article the Government of Australia shall give notice in writing to the Director who shall inform the Parties of the action proposed. The Government of Australia shall afford those Governments of Forum Island countries, which have an interest as exporters of the product concerned an opportunity to consult with respect to the proposed action. Such consultations shall be held within a period of 90 days of the receipt by the Director of the notification by the Government of Australia of the proposed action.
3. In varying the treatment accorded goods listed in Schedules 1 and 2 the Government of Australia shall apply the following procedures: (a) for goods listed in Schedule 1 the Government of Australia may, after consulting with the Governments of Forum Island countries in accordance with paragraph 2 of this Article with respect to the level of imports of those goods which shall continue to receive duty free access, transfer those goods from Schedule 1 to Schedule 2 with an indication of the duty and/or quantitative limit of imports that it has determined with respect to those goods; or (b) for goods listed in Schedule 2 which are being imported into Australia from any Forum Island country in such quantities or under such conditions as to cause or threaten serious injury to a domestic industry producing like or directly competitive goods the Government of Australia may request in writing the Party or Parties of the country from which the goods are being exported to consult with it on measures to reduce or prevent that injury. For the purpose of this sub-paragraph consultations shall be deemed to have commenced on the day on which the request was made.
4. If a mutually satisfactory solution of the matter is not reached within a period of 90 days from the commencement of the consultations referred to in paragraph 3(b) of this Article, the Government of Australia may either remove the goods in question from Schedule 2 or increase the duties and/or reduce the quantitative limits specified in that Schedule with respect to those goods. Before taking this action, the Government of Australia shall ensure that (a) an enquiry has been held by an Australian assistance advisory body; and (b) all the Governments of Forum Island countries are given notice of the terms of the enquiry.
5. The Government of Australia shall advise the Director of its decision on the matter upon which the Director shall advise all the Parties.
6. Notwithstanding the provisions of paragraph 2 of this Article the Government of Australia may take the action referred to in paragraphs 1 and 4 of this Article without prior consultation where, in its opinion, the circumstances are so critical that delay would cause severe difficulty before consultations provided for in paragraphs 2 and 3 of this Article could be held. In taking provisional action under this paragraph the Government of Australia shall provide urgent written advice of the action taken to the Director who shall notify the other Parties.
7. Any action taken under the provisions of paragraph 6 of this Article shall cease to have effect 90 days after the implementation of the action, unless, within that period, the Government of Australia has afforded the Governments of interested Forum Island countries the opportunity to consult with it on the matter and has: (a) undertaken to hold an enquiry by an Australian assistance advisory body; and (b) informed the Governments of the Forum Island countries of the terms of the enquiry New Zealand
8. If, as a result of the application of this Agreement, goods are being imported into New Zealand in such quantities or under such conditions as to cause or threaten serious injury to domestic producers of like or directly competitive goods, the Government of New Zealand may in respect of such goods, suspend its obligations to the extent and for such time as may be necessary to prevent or remedy such injury, bearing in mind the objectives of this Agreement.
9. Before taking action pursuant to paragraph 8 of this Article the Government of New Zealand shall give notice in writing to the Director who shall inform the other Parties of the action proposed. The Government of New Zealand shall afford those Governments of Forum Island countries which have an interest as exporters of the product concerned an opportunity to consult with respect to the proposed action. Such consultations shall be held within a period of 90 days of the receipt by the Director of the notification by the Government of New Zealand of the proposed action.
10. (a) If a mutually satisfactory solution is reached through the application of the procedures provided for in paragraph 9 of this Article the Director shall notify the Parties of any decision to modify Schedule 3 to this Agreement and the date on which that modification shall take effect. (b) If a mutually satisfactory solution of the matter is not reached following the application of the procedures provided for in paragraph 9 of this Article the Government of New Zealand shall advise the Director of the action it proposes to take and the date from which such action shall take effect. The Director shall notify the Parties of any modification of Schedule 3 and the date on which that modification shall take effect.
11. Notwithstanding the provisions of paragraph 9 of this Article the Government of New Zealand may take the action referred to in paragraph 8 of this Article without prior consultation where, in its opinion, the circumstances are so critical that delay would cause injury to a domestic industry which would be difficult to repair. If provisional action is taken under this paragraph the Government of New Zealand shall provide urgent written advice of the action taken to the Director who shall notify the Parties.
12. Any action taken under the provisions of paragraph 11 of this Article shall cease to have effect 90 days after the implementation of the action unless, within that period, the Government of New Zealand has afforded the Governments of interested Forum Island countries the opportunity to consult with it on the matter.

## **Article VIII. Economic, Commercial and Technical Co-operation**

1. In furtherance of the objectives of this Agreement the Parties shall facilitate co-operation between their commercial and industrial organisations and firms, encourage administrative co-operation and take steps to simplify as far as practicable procedures and formalities affecting trade.
2. The Parties shall also take appropriate measures to encourage and facilitate the development of economic and technical co-operation between relevant organisations and firms of the countries concerned.
3. In addition, the Government of Australia and the Government of New Zealand shall consider appropriate forms of assistance within their bilateral and regional development assistance programmes in the South Pacific, in accordance with the developmental priorities of individual Forum Island countries. Within these priorities such assistance shall be considered in response to specific requests relating to measures and programmes in the fields of export development and trade promotion, industrial development and the development of agriculture, forestry and fisheries.
4. The Government of Australia and the Government of New Zealand shall also give appropriate support to approaches which may be made by the Governments of Forum Island countries, either individually or collectively, to United Nations, Commonwealth or other international technical assistance agencies for training, research or funding support. Export Development and Trade Promotion
5. The measures and programmes within the fields of export development and trade promotion referred to in paragraph 3 of this Article may include those which contribute to:
  - (a) the establishment or the improvement of the structure of organizations and firms in Forum Island countries which contribute to the development of those countries, with particular emphasis an staffing require ments, financial management and working methods;
  - (b) basic training, management training, and vocational training of technicians in fields related to the development and promotion of domestic and international trade;
  - (c) product research, processing, quality guarantee and control, packaging and presentation;
  - (d) the development of supportive infra structure, including transport and storage facilities, in order to facilitate the flow of exports from Forum Island countries;
  - (e) the development of effective marketing and promotion techniques, based on research, marketing studies and advertising;
  - (f) co-operation between relevant organizations and firms in the establishment of schemes to promote the transfer and application of technology, the development of research, and the training of personnel;
  - (g) the collection, analysis and dissemination of trade information and access, where appropriate, to existing or future information systems or bodies in Australia or New Zealand; and
  - (h) participation by the Forum Island countries in trade fairs and exhibitions. Industrial and Agricultural Development
6. The measures and programmes within the fields of industrial development and the development of agriculture, forestry and fisheries referred to in paragraph 3 of this Article, may include those which contribute to:
  - (a) investment in industries, including agro-based industries, with particular emphasis on those of a smaller or medium size;
  - (b) the transfer of resources from Australia and New Zealand to the Forum Island countries through joint ventures and (c) a greater degree of processing of raw other commercial arrangements; materials produced in and exported from, the Forum Island countries;
  - (d) scientific and technological co-operation and training directed towards the acquisition, adaptation and development by the Forum Island countries of skills essential to their industrial and agricultural development;
  - (e) improvement of transport and communications and other infrastructure associated with industrial and agricultural development; and
  - (f) closer cooperation, including the exchange of information, between firms and organizations contributing to the improvement and expansion of industrial and agricultural production.

## **Article IX. Provisions for Special Treatent for Smaller Forum Island Countries**

In implementing this Agreement the particular trade problems and interests of Smaller Forum Island countries shall be taken into account and special treatment and special measures may be provided by the Government of Australia and the Government of New Zealand to enable individual Smaller Forum Island countries to overcome the specific difficulties and obstacles resulting from the exceptional nature of their needs and characteristics and to take full advantage of the opportunities offered by the Agreement. This shall not be deemed to exclude the eligibility of other Forum Island countries to receive special treatment as provided for in the Agreement to enable them to overcome special problems.

## **Article X. Consultations**

1. In addition to the procedures for consultation provided for elsewhere in this Agreement a Party may at any time request

consultations on any matter related to the implementation of this Agreement.

2. Any such request shall be submitted in writing to the Director and shall be accompanied by a statement of the reasons for which the consultations are sought. 3. On receipt of a request for consultations the Director shall inform the parties accordingly and arrange for consultations between interested Parties.

## **Article XI. Institutional Arrangements**

1. For the purposes of this Agreement a Regional Committee on Trade is hereby established, which shall be composed of a representative from each Party.

2. The Committee shall have the following functions:

(a) to review the operation of this Agreement and to make necessary recommendations to the Forum;

(b) to consider any matter relating to the implementation of this Agreement;

(c) to review the Schedules; and (d) to report annually to the Forum through the Director.

3. Annual meetings shall be convened by the Director. Special meetings may be convened by the Director or by the Director at the request of the majority of the Parties. The Committee shall hold its first meeting not later than one year after the entry into force of this Agreement.

4. The Committee shall appoint a Chairman at its first meeting. The chairmanship shall rotate every year as decided by the Committee.

5. Decisions of the Committee shall be by consensus.

6. The Committee shall establish its own rules of procedures and may appoint sub-committees to assist in performing its functions.

7. The Director shall be responsible for the secretariat services for the Committee and other duties as specified in this Agreement.

## **Article XII. Bilateral Arrangements**

The provisions of this Agreement shall be without prejudice to bilateral commitments or arrangements which the Government of Australia and the Government of New Zealand have entered into with the Governments of the Forum Island countries, within the framework of special historical, constitutional or economic bilateral relationships.

## **Article XIII. Amendment of the Agreement**

1. Without prejudice to the amendment of the Schedules of this Agreement which may be effected only in accordance with Articles IV and VII of this Agreement, this Agreement may be amended at any time by the unanimous agreement of all the Parties. The text of any amendment proposed by a Party shall be submitted to the Director who shall transmit it to the Parties.

2. If three or more Parties request a meeting to discuss the proposed amendment the Director shall call such a meeting.

## **Article XIV. Acceptance, Accession and Entry Into Force**

Acceptance and Accession

1. This Agreement shall be open for acceptance by signature subject to ratification or by accession by the Governments of Australia, the Cook Islands, Fiji, Kiribati, Nauru, New Zealand, Niue, Papua New Guinea, Solomon Islands, Tonga, Tuvalu and Western Samoa.

2. Any Government which from time to time becomes a member of the Forum may apply to become a Party by submitting a request for accession to this Agreement to the Director who shall notify all the Parties. A Government may accede to this Agreement after receipt of an invitation to do so issued by the Director with the approval of all the Parties.

3. Acceptance of or accession to this Agreement shall not be taken as extending the rights and obligations set forth in this Agreement to fully self-governing countries freely associated with the accepting or acceding Government, or to territories named by the accepting or acceding Government for whose international relations that Government is responsible.

4. Instruments signifying acceptance, or accession shall be deposited with the Director.

5. This Agreement shall enter into force when either the Government of Australia or the Government of New Zealand and the Government of a Forum Island country have accepted it. For each other Government it shall enter into force on the thirtieth day following the date of acceptance of, or accession to this Agreement by that Government.

6. The original of this Agreement shall be deposited with the Director who shall transmit to each Party a certified copy thereof and of each amendment thereto pursuant to Article XIII, and a notification of each acceptance thereof or accession thereto pursuant to this Article, and of each withdrawal therefrom pursuant to Article XV. 7. This Agreement shall be registered by the Director in accordance with the provisions of Article 102 of the Charter of the United Nations.

## Article XV. Withdrawal and Termination

1. If a Party wishes to withdraw from this Agreement, that Party shall give notice in writing of its wish to the Director, who shall thereupon inform the Parties. The Party giving notice shall cease to be a party to this Agreement 30 days from the date on which the Director receives the notice, unless:

(a) in the meantime the notifying Party has withdrawn its notice; in which event that Party shall continue to be a party to the Agreement; or

(b) the notifying Party is either the Government of Australia or the Government of New Zealand, in which event that Party shall cease to be a Party to this Agreement 180 days from the date on which the Director receives that Party's notice.

2. This Agreement shall terminate 180 days after the date on which the Director receives notification of withdrawal from this Agreement from: (a) the government of Australia and the government of New Zealand; or (b) all other Parties.

IN WITNESS WHEREOF the undersigned, duly authorised by their respective governments, have signed this agreement.

DONE at Tarawa, Kiribati. this 14th day of July One thousand nine hundred and eighty (1980)

For the Government of Australia,

signed by Rt Hon. J.M. Fraser, CH, MP Prime Minister

For the Government of Fiji,

not signed

For the Government of Nauru,

not signed

For the Government of Niue,

signed by Hon. Robert R. Rex, CMG, OBE, Premier

For the Government of Solomon Islands,

signed by Rt Hon. Peter Kenilorea, Prime Minister

For the Government of Cook Islands,

signed by Rt Hon. Dr T.R.A.H. Davis, Premier

For the Government of Kiribati, signed by H.E. Ieremia T. Tabai, CMG, Beretitenti of Kiribati

For the Government of New Zealand,

signed by Rt Hon. Robert D. Muldoon, CH, MP, Prime Minister

For the Government of Papua New Guinea, not signed

For the Government of Tonga, signed by H.R.H. Prince Fatafeti Tuipelehake, K.B.E., Prime Minister

For the Government of Tuvalu,

For the Government of Western Samoa, signed by

signed by Rt Hon. Toalipi Lauti, Hon. Letiu Tamatoa, Prime Minister Minister of Economic Affairs

## AMENDMENTS TO SPARTECA (April 1989)

A. Article III

Access conditions

Delete paragraph 1 and insert new paragraph as follows:

"1. Subject to the provisions of this Agreement the Government of Australia shall permit the duty free and unrestricted entry of all goods which originate in and are imported from Forum Island Countries, except those goods listed in Schedule A to this Agreement which shall be subject to such treatment as may be specified in the Australian Customs Act and the Australian Customs Tariff." Amend paragraph 2 by deleting the words "Schedule 3" and inserting the words "Schedule B"

#### B. Article V

Delete paragraph 1 and insert the following two paragraphs:

"1. Goods shall be treated by the Government of Australia as originating in the territory of a Forum Island Country if those goods are:

(a) the unmanufactured raw products of a Forum Island Country; or

(b) manufactured goods, in relation to which:

(i) the process last performed in the manufacture of the goods was performed in a Forum Island Country; and

(ii) not less than 50 percent of the factory or works costs of the goods is represented by the value of labour or materials, or both, of:

(a) a Forum Island Country; or

(b) a Forum Island Country and one or more other Forum Island Countries; or

(c) one or more Forum Island Countries and Australia; or

(d) one or more Forum Island Countries and New Zealand (subject to paragraph 2 of this Article); or

(e) one or more Forum Island Countries, Australia and New Zealand (subject to paragraph 2 of this Article).

2. Before the provisions of sub-paragraph (b)(ii)(d) or sub-paragraph (b)(ii)(e) of paragraph 1 of this Article can be applied, the following additional requirements must be complied with:

(a) not less than 25 percent of the factory or works costs of the goods is represented by the value of labour or materials, or both, or one or more Forum Island Countries;

and

(b) the products of New Zealand origin included in the goods consist of products traded free of duty and quantitative and other restrictions between Australia and New Zealand at the time of importation."

Renumber the existing paragraph 2 as paragraph 3. Delete existing sub-paragraph 2(b) and insert after renumbered sub-paragraph 3(a) the following new subparagraphs 3(b) and 3(c):

"(b) Goods partly manufactured in the territory of a Forum Island Country subject to the following conditions:

(i) that the process last performed in the manufacture of the goods was performed in the territory of a Forum Island Country; and

(ii) not less than 50 percent of the factory or works costs (as defined in the New Zealand Customs Regulations) of the goods in their finished state is represented by the value of labour or materials or both of:

(a) a Forum Island Country; or

(b) a Forum Island Country and one or more other Forum Island Countries; or

(c) one or more Forum Island Countries and New Zealand; or

(d) one or more Forum Island Countries and Australia (subject to paragraph (c) of this Article); or

(e) one or more Forum Island Countries, Australia and New Zealand (subject to paragraph (c) of this Article).

(c) Before the provisions of sub-paragraph (b)(ii)(d) or sub-paragraph (b)(ii)(e) of paragraph 3 can be applied, the following additional requirements must be complied with:



(i) not less than 25 percent of the factory or works costs of the goods is represented by the value of labour or materials, or both, or one or more Forum Island Countries;

and

(ii) the products of Australian origin included in the goods consist of products traded free of duty and quantitative restrictions between New Zealand and Australia at the time of importation."

Delete existing paragraph 3(a) and insert the following paragraph:

"4. (a) In special circumstances either the Government of Australia or the Government of New Zealand may determine that the expenditure referred to in paragraph 1(b)(ii) of this Article in the case of the Government of Australia or paragraph 3(b)(ii) of this Article in the case of the Government of New Zealand may be less than 50 percent of the factory or works costs of the goods in their finished state for particular goods or classes of goods. Any such determination may be applied to all such goods originating from the Forum Island Countries or restricted to goods from individual Forum Island Countries."

Renumber existing sub-paragraph 3(b) as sub-paragraph 4(b).

Renumber existing paragraph 4 as paragraph 5. In the renumbered paragraph 5 delete the words "paragraph 3" and insert "paragraph 4".

#### C. Article VI

Delete paragraph 1 and insert new paragraph as follows:

##### General exceptions

1. Provided that such measures are not used as a means of arbitrary or unjustifiable discrimination or as a disguised restriction on trade, nothing in this Agreement shall preclude the adoption or enforcement by the Government of Australia or the Government of New Zealand of measures:

(a) necessary for the protection of its essential security interests;

(b) necessary to protect public morals and the prevention of disorder or crime;

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

(d) necessary to protect industrial property rights, copyrights or prevent unfair, deceptive or misleading practices;

(e) necessary to secure compliance with laws or regulations relating to customs enforcement, to tax avoidance and evasion and to foreign exchange control or for the application of standards or of regulations for the classification, grading or marketing of goods, or to the operation of recognised commodity marketing boards;

(f) relating to goods the importation of which is prohibited by law;

(g) relating to trade in gold and silver; or

(h) relating to obligations entered into in the context of multilateral or bilateral commodity agreements whilst taking account of any special needs and interests of Forum Island countries."

#### D. Article VII

Delete paragraphs 1 to 7 of this Article and insert the following:

"Australia

1. If, as a result of the application of this Agreement, goods are being imported into Australia in such quantities or under such conditions as to cause or threaten to serious injury to domestic producers of like or directly competitive goods, the Government of Australia may, in respect of such goods, suspend its obligations to the extent and for such time as may be necessary to prevent or remedy such injury, bearing in mind the objectives of this Agreement.

2. Before taking action pursuant to paragraph 1 of this Article or to vary the treatment accorded goods listed in Schedule A, the Government of Australia shall apply the following procedures:

(a) The Government of Australia shall give notice in writing to the Director who shall inform the other Parties of the action proposed.

(b) The Government of Australia shall afford those Governments of Forum Island Countries which have an interest as exporters of the product concerned as opportunity to consult with respect to the proposed action. Such consultations shall be held within a period of 90 days of the receipt by the Director of the notification by the Government of Australia of the proposed action.

(c) If a mutually satisfactory solution is reached through the application of the procedures provided for in sub-paragraphs (a) and (b) of this paragraph, the Director shall notify the Parties of any decision to modify Schedule A to this Agreement and the date on which that modification shall take effect.

(d) If a mutually satisfactory solution is not reached within a period of 90 days from the commencement of the consultations referred to in sub-paragraph (b) of this paragraph, the Government of Australia shall advise the Director of its decision, upon which the Director shall advise all the Parties. Before taking this action, the Government of Australia shall ensure that:

(i) an inquiry has been held by an Australian assistance advisory body; and

(ii) all the Governments of Forum Island Countries are given prior notice of the terms of the inquiry.

3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, the Government of Australia may suspend its obligations in the manner referred to in paragraph 1 of this Article without prior consultation where, in its opinion, the circumstances are so critical that delay would cause severe difficulty before consultations provided for in sub-paragraph 2(b) of this Article could be held. In taking provisional action under this paragraph, the Government of Australia shall provide urgent written advice of the action taken to the Director who shall notify the other Parties.

4. Any action taken under the provisions of paragraph 3 of this Article shall cease to have effect 90 days after the implementation of the action, unless, within that period the Government of Australia has afforded the Governments of interested Forum Island Countries the opportunity to consult with it on the matter and has:

(i) undertaken to hold a prompt inquiry by an Australian assistance advisory body; and

(ii) informed the Governments of the Forum Island Countries of the terms of the inquiry."

Renumber the existing paragraphs 8 to 12 as paragraphs 5 to 9.

#### E. The Schedules

Delete present "Schedules 1 and 2" and insert "Schedule A - Australia".

Amend the title of present "Schedule 3" to read "Schedule B - New Zealand". [1] Signed for Australia 14 July 1980. Instrument of ratification deposited for Australia 31 May 1982.