

No. 22079

**NEW ZEALAND
and
UNITED STATES OF AMERICA**

Exchange of letters constituting an agreement concerning the provisional application of the rights and obligations of the Agreement on interpretation and application of articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade (with attachment). Wellington and Washington, 16 September 1981

Authentic text: English.

Registered by New Zealand on 26 July 1983.

**NOUVELLE-ZÉLANDE
et
ÉTATS-UNIS D'AMÉRIQUE**

Échange de lettres constituant un accord relatif à l'application provisoire entre les Parties des dispositions de l'Accord sur l'interprétation et l'application des articles VI, XVI et XXIII de l'Accord général sur les tarifs douaniers et le commerce (avec pièce jointe). Wellington et Washington, 16 septembre 1981

Texte authentique : anglais.

Enregistré par la Nouvelle-Zélande le 26 juillet 1983.

EXCHANGE OF LETTERS CONSTITUTING AN AGREEMENT¹
BETWEEN THE GOVERNMENT OF NEW ZEALAND AND
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
CONCERNING THE PROVISIONAL APPLICATION OF THE
RIGHTS AND OBLIGATIONS OF THE AGREEMENT ON
INTERPRETATION AND APPLICATION OF ARTICLES VI, XVI
AND XXIII² OF THE GENERAL AGREEMENT ON TARIFFS
AND TRADE³

I

MINISTER OF FOREIGN AFFAIRS
PARLIAMENT HOUSE
WELLINGTON, NEW ZEALAND

16 September 1981

My dear Ambassador,

With reference to bilateral discussions between representatives of the United States Government and the Government of New Zealand concerning New Zealand's acceptance of the Agreement on Interpretation and Application of Articles VI, XVI and XXIII² of the General Agreement on Tariffs and Trade³ (the Code) and regarding the basis on which each Government shall apply provisionally to the other the benefits of the Code, I have the honour to inform you of the following undertakings by my Government.

The Government of New Zealand accepted the Code on 15 September 1981.

As the United States Government is aware, the Government of New Zealand currently operates a number of export incentive schemes which fall within the purview of certain items of the Code's "Illustrative List". These schemes and references to the applicable items of the "Illustrative List" are listed in the attachment to this letter. The United States Government is also aware that these schemes were introduced in recent years as part of an integrated strategy to achieve a more outward-looking economy with a greater role in world trade and that these schemes are not intended to be a permanent feature of economic policy.

On accepting the Code, New Zealand sought the agreement of other Code signatories to a reservation to the provisions of Article 19 (5) (a) concerning the immediate compatibility of domestic legislation relating to those schemes which are not described in paragraph (c) of the Code's "Illustrative List". In the reservation, New Zealand undertakes to examine methods of bringing these schemes into conformity with the Code within a reasonable period of time, without prejudice to the rights of other signatories under the General Agreement or the Code. New Zealand accepts without reservation all other obligations and provisions of the Agreement.

¹ Came into force on 16 September 1981 by the exchange of the said letters.

² United Nations, *Treaty Series*, vol. 1186, p. 204.

³ *Ibid.*, vol. 55, p. 187.

From the date of New Zealand's acceptance of the Code, New Zealand undertakes not to introduce any new export incentive schemes, the use of which is proscribed by the Code. New Zealand shall also not modify any existing schemes to permit new sectors or products to qualify for benefits to exporters proscribed by the Code. It should, however, be noted that some existing schemes permit new companies or products to receive incentives upon fulfilling existing criteria.

Furthermore, New Zealand undertakes not to modify existing export incentive schemes to increase the value of benefits available. In this connection, the "value of benefits" means the rate of subsidisation expressed *inter alia* as a flat amount or as a percentage. It should, however, be noted that under certain programmes, goods or producers can "graduate" from one "rate band" to another. The rate structure and the amount of benefits realised thereunder, however, will not be changed.

The Government of New Zealand in the context of its economic strategy is not in a position to state when it may be able to conform its incentive schemes to the Code. It recognises that the United States Government's provisional application of the benefits of the Code is however based on the United States Government's expectation that the Government of New Zealand shall bring its schemes (which are listed in the attachment hereto) into conformity with the Code no later than the date of their expiration under existing legislation.

The Government of New Zealand agrees that all rights and obligations of the Code shall apply as between New Zealand and the United States, subject to the reservation to Article 19 (5) (a) referred to above, and subject to the right of the United States Government to terminate such application between our two governments if New Zealand is not in a position to fulfill the undertakings in this letter or if the expectation of the United States Government referred to above is not realised. Our two governments shall consult prior to any such termination of the application of the Code. The Government of New Zealand shall apply the Code to the United States on a provisional basis as long as the United States is applying the Code to New Zealand on the same basis.

Yours sincerely,

[Signed — Signé]¹

For the Government of New Zealand

H. E. Ambassador William E. Brock
United States Trade Representative
Washington, D.C.

¹ Signed by Brian Talboys — Signé par Brian Talboys.

ATTACHMENT

<i>Illustrative List paragraph</i>	<i>New Zealand export incentive schemes</i>	<i>Date current legislation expires</i>
(e)	1. Export performance taxation incentive—tax rebate scheme	3/31/85
(e)/(a)	2. Export market development taxation incentive—tax rebate or refund	3/31/85
(l)	3. Export programme grants scheme—direct grants	3/31/85
(f)	4. Export manufacturing investment allowance—income tax deduction	3/31/85
(e)	5. Increased exports taxation incentive—income tax deduction—replaced by 1	3/31/83
(f)	6. New markets increased exports taxation—replaced by 1	3/31/83
(l)	7. New market development grant—replaced by 3—grants for market development	3/31/83

NOTE:

The methods of calculating the benefit under each of these schemes are being communicated separately to the United States Government.

II

THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON

September 16, 1981

Dear Mr. Minister:

Having regard to your letter of September 16, 1981, I have the honor to inform you that the United States Government agrees that all rights and obligations of the Agreement on the Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade will apply as between the United States and New Zealand subject to the reservation on the part of New Zealand referred to in your letter and subject to the right of the United States Government to terminate such application between our two governments if the Government of New Zealand is not in a position to fulfill the undertakings in your letter or if the expectations of the United States Government are not realized regarding the dates when the export incentives schemes of New Zealand will be brought into conformity with the Agreement. The United States Government agrees to consult with the Government of New Zealand prior to any termination of the application of the Agreement to New Zealand.

Furthermore, the United States will inform the Director General of the GATT, as depositary of the Agreement, that until such time as the United States Government otherwise notifies the Director General to the Contracting Parties to the GATT the United States Government will provisionally apply to New Zealand all rights and obligations of the Agreement on the Interpretation

and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade.

Very truly yours,

[Signed — Signé]

WILLIAM E. BROCK

Rt Hon. B. E. Talboys
Minister of Overseas Trade
Parliament Buildings
Wellington, New Zealand