CHAPTER ONE

INITIAL PROVISIONS

Article 1.1
Malaysia-New Zealand Free Trade Agreement

This Agreement establishes a free trade agreement between the Parties, consistent with Article XXIV of GATT 1994 and Article V of GATS, based upon the principles of common interest and cooperation and the goals of free and open trade and investment.

Article 1.2
Objectives

1. The objectives of this Agreement are:

    (a) to strengthen trade and economic partnerships between the Parties;

    (b) to liberalise trade in goods and services and establish a framework conducive for investment;

    (c) to establish a framework to enhance socio-economic cooperation, by way of exchange of information, skills and technology in fields as agreed in this Agreement;

    (d) to improve the efficiency and competitiveness of their goods and services sectors by promoting conditions for competition cooperation, for innovation and for mutually beneficial business collaboration; and

    (e) to facilitate trade and investment by establishing transparent rules and seeking to minimise transaction costs.

Article 1.3
Definitions of General Application

For the purposes of this Agreement, unless otherwise specified:

(a) **Agreement** means the Malaysia – New Zealand Free Trade Agreement;

(b) **APEC** means the Asia – Pacific Economic Cooperation;

(c) **Customs Administration** means:

(i) in relation to Malaysia, the Royal Malaysian Customs, and

(ii) in relation to New Zealand, the New Zealand Customs Service;

(d) **Customs duty** includes any duty or charges of any kind imposed in connection with the importation of a good, and any surtaxes or surcharges imposed in connection with such importation, but does not include:

(i) charges equivalent to an internal tax imposed consistently with GATT 1994, including excise duties and goods and services tax;

(ii) any anti-dumping or countervailing duty applied consistently with Article VI of GATT 1994, the WTO *Agreement on Implementation of Article VI of GATT 1994*, and the WTO *Agreement on Subsidies and Countervailing Measures*; and

(iii) fees or other charges that:

(1) are limited in amount to the approximate cost of services rendered; and

(2) do not represent an indirect protection to domestic goods or a taxation on imports or exports for fiscal purposes.

(e) **Customs Valuation Agreement** means the WTO *Agreement on Implementation of Article VII of GATT 1994*;

(f) **Days** means calendar days, including weekends and holidays;

(g) **Enterprise** means any entity constituted or organised under applicable laws, whether or not for profit, and whether privately-owned or governmentally-owned or controlled, including any corporation, trust, partnership, sole proprietorship, joint venture, association, or similar organisation, and a branch of an enterprise.

(h) **Enterprise of a Party** means an enterprise constituted or organised under the law of a Party;

(i) **GATS** means the WTO *General Agreement on Trade in Services*;

(j) **GATT 1994** means the WTO *General Agreement on Tariffs and Trade 1994*;

(k) **Harmonized Commodity Description and Coding System** or **HS** or **HS Code** means the Harmonized Commodity Description and Coding System established by the *International Convention on the Harmonized Description and Coding System* signed at Brussels on 14 June 1983, as amended;

(l) **Joint Commission** means the Malaysia – New Zealand Free Trade Agreement Joint Commission established under Article 15.1 (Joint Commission)*;*

(m) **Measure** includes any law, regulation, procedure, requirement or practice;

(n) **Originating** means qualifying under the rules of origin set out in Chapter 3 (Rules of Origin);

(o) **Preferential tariff treatment or preferential tariff rate** means the rate of Customs duty applicable to an originating good of the exporting Party in accordance with each Party's Schedule in Annex 1 (Schedules of Tariff Commitments);

(p) **Territory** means:

(i) with respect to Malaysia,

(1) the territories of the Federation of Malaysia;

(2) the territorial waters of Malaysia and the seabed and subsoil of the territorial waters, and the airspace above such areas over which Malaysia has sovereignty; and

(3) any area extending beyond the limits of the territorial waters of Malaysia, and the seabed and subsoil of any such area, which has been or may hereafter be designated under the laws of Malaysia and in accordance with international law as an area over which Malaysia has sovereign rights or jurisdiction for the purposes of exploring and exploiting the natural resources, whether living or non-living; and

(ii) with respect to 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;

(q) **WTO** means the World Trade Organization;

(r) **WTO Agreement** means the *Marrakesh Agreement Establishing the World Trade Organization*, done on April 15, 1994;

(s) **WTO TRIPS Agreement** means the WTO *Agreement on Trade-Related Aspects of Intellectual Property Rights*.