

Report of
**THE TOKELAU
INTERNATIONAL
TRUST FUND**
For the year ended 30 June 2014



“...to contribute to the long-term financial viability of Tokelau...”
Trust Deed, Clause 2



CONTENTS

| | |
|---|----|
| Introduction | 2 |
| Board Report | 3 |
| Board Membership | 3 |
| Financial Statements for the Year Ended 30 June 2014 | 4 |
| Report of the Auditor for the Year Ended 30 June 2014 | 14 |
| Deed Concerning the Tokelau International Trust Fund | 17 |

INTRODUCTION

This report of the Tokelau International Trust Fund covers the financial reporting period ending 30 June 2014.

The last report of The Fund was for the period ending 30 June 2013.

As set out in the Trust Deed, there could be no distribution from The Fund before 1 July 2009. Within the following five year period, being the financial years ending 30 June 2010 to 2014, no distributions were to be made except with the approval of the Trust Board. The procedure for a distribution during that period required the General Fono to make a special request to the Trust Board under clause 13.8 of the Deed. The Trust Board did not receive any request for a special distribution during the year here reported on.

The Government of Tokelau Trustee is the Ulu of Tokelau (titular head), a position which rotates among the Faipule of the three atolls of Tokelau on an annual basis. Therefore the Tokelau representative on the Trust Board changes on an annual basis in accordance with this protocol. The New Zealand Government Trustee is appointed by the Government of New Zealand.

BOARD REPORT

Prepared in accordance with clause 17 of the Deed concerning the Tokelau International Trust Fund 2004.

The Trustees of the Tokelau International Trust Fund are pleased to report on the activities and management of The Fund, and to present the financial statements of The Fund.

The report of the Auditor is attached. There is no report of an Advisory Committee, because it has not yet been necessary to establish such a committee. The Trust Board has continued to receive advice on investment options and strategies from the Fund Secretariat acting in consultation with the Finance Division, MFAT.

The Fund was established in 2000 and, in accordance with clause 9 of the Trust Deed, ended its first financial year on 30 June 2005. The current financial year being reported on represents the 10th year since inception. The process of regular distributions from earnings will begin next year.

This past year has again been a satisfactory one for The Fund. Through a decision by the Trust Board, The Fund continues to restrict its investments, for the immediate future, to bank term deposits. This policy is expected to be revisited in depth in the coming year.

Further direction on investment and distribution options are being solicited from the Government of Tokelau in terms of its future plans for The Fund.

The Fund has again been generously supported by capital contributions from the Government of Australia and the Government of Tokelau. We gratefully acknowledge here these contributions to the long-term wellbeing of Tokelau.

A H Angelo
Chairman
Wellington

30 October 2014

BOARD OF TRUSTEES

Prof. Tony Angelo, Chairman, appointed jointly by the Governments of New Zealand and Tokelau
28 May 2014 to 30 June 2014

Mr Salesio Lui, Ulu o Tokelau, appointed by the Government of Tokelau
1 July 2013 to 25 February 2014

Mr Kuresa Nasau, Ulu o Tokelau, appointed by the Government of Tokelau
25 February 2014 to 30 June 2014

Mr Craig Hawke, Deputy Secretary, International Development Group, Ministry of Foreign Affairs and Trade, appointed by the Government of New Zealand
1 July 2013 to 30 June 2014

FUND SECRETARIAT

Mr Alan Shaw, Wellington

AUDITORS

Auditor-General, Office of the Auditor-General, New Zealand

**STATEMENT OF COMPREHENSIVE INCOME
 FOR THE YEAR ENDED 30 JUNE 2014**

| | Notes | 2014 | 2013 |
|-----------------------------------|--------------|-------------|-------------|
| | | \$'000 | \$'000 |
| Income | | | |
| Contributions | 2 | 541 | 320 |
| Interest Income | | 3,713 | 3,758 |
| Total Income | | <hr/> 4,254 | <hr/> 4,078 |
| | | | |
| Less Expenditure | 3 | 16 | 0 |
| TOTAL COMPREHENSIVE INCOME | | <hr/> 4,238 | <hr/> 4,078 |

**STATEMENT OF CHANGES IN FUND BALANCE
 FOR THE YEAR ENDED 30 JUNE 2014**

| | 2014 | 2013 |
|--|--------------|--------------|
| | \$'000 | \$'000 |
| Fund Balance at beginning of the year | 74,264 | 70,186 |
| Total Comprehensive Income | 4,238 | 4,078 |
| Total Comprehensive Income | <hr/> 4,238 | <hr/> 4,078 |
| | | |
| Fund Balance at end of the year | <hr/> 78,502 | <hr/> 74,264 |

The accompanying notes form part of these financial statements.

**STATEMENT OF FINANCIAL POSITION
AS AT 30 JUNE 2014**

| | Notes | 2014 | 2013 |
|---------------------------------------|--------------|---------------|---------------|
| | | \$'000 | \$'000 |
| Fund Balance | | 78,502 | 74,264 |
| <hr/> | | | |
| Represented by: | | | |
| <i>Current Assets</i> | | | |
| Investments maturing within 12 months | 4 | 34,460 | 58,271 |
| <hr/> | | | |
| <i>Total current assets</i> | | 34,460 | 58,271 |
| <i>Non Current Assets</i> | | | |
| Investments maturing after 12 months | 4 | 44,047 | 15,993 |
| <hr/> | | | |
| Total assets | | 78,507 | 74,264 |
| <i>Current Liabilities</i> | | | |
| Provision for Audit Fees | | 5 | 0 |
| <hr/> | | | |
| Net assets | | 78,502 | 74,264 |
| <hr/> <hr/> | | | |

The accompanying notes form part of these financial statements.

**STATEMENT OF CASH FLOWS
FOR THE YEAR ENDED 30 JUNE 2014**

| | Notes | 2014 | 2013 |
|---|--------------|-------------|-------------|
| | | \$'000 | \$'000 |
| Cash flows from operating activities | | | |
| Cash was provided from: | | | |
| Contributions | | 541 | 320 |
| Interest received | | 2,290 | 5,789 |
| | | | |
| Cash was disbursed to: | | | |
| Payments to suppliers | | 11 | 0 |
| | | 2,820 | 6,109 |
| Cash flows from investing activities | | | |
| Cash was received from: | | | |
| Maturing investments | | 57,109 | 17,442 |
| Cash was applied to: | | | |
| Purchase of investments | | 59,929 | 23,551 |
| | | (2,820) | (6,109) |
| | | | |
| Net increase in cash held | | 0 | 0 |
| Add opening cash | | 0 | 0 |
| Closing cash balance | | 0 | 0 |

The accompanying notes form part of these financial statements.

STATEMENT OF ACCOUNTING POLICIES

Note 1 Statement of Accounting Policies

These financial statements have been prepared in accordance with International Financial Reporting Standards (“IFRS”). The Fund has applied all IFRS that were issued as at balance date but were not yet effective.

Reporting Entity

The Tokelau International Trust Fund (“The Fund”) was established by the Governments of New Zealand and Tokelau in 2000 and was formally executed on 10 November 2004. These are the financial statements of The Fund prepared pursuant to clause 15 of the Trust Deed concerning the Tokelau International Trust Fund.

Measurement Basis

The financial statements have been prepared in accordance with generally accepted accounting principles. The measurement basis is that of historical cost. Accrual accounting is used to match expenses and revenue.

The financial statements are presented in New Zealand dollars. The functional currency of The Fund is New Zealand dollars.

Foreign currency transactions are recorded at the rate of exchange ruling at the date of the transaction. At balance date foreign monetary assets and liabilities are translated at appropriate closing exchange rates and gains or losses due to currency fluctuations on these items are included in the Statement of Comprehensive Income.

Revenue

The purpose of The Trust is to obtain contributions and earn interest.

Interest income is recognised using the effective interest method.

Contributions, including government grants, are made to The Fund to build up capital in The Fund for use in future indeterminate periods.

It is appropriate to recognise contributions upon receipt as no basis exists for allocation to periods other than the year in which the contributions are received.

Contributions from the Government of Tokelau are recognised as revenue as these transactions are considered to be ordinary inflows of The Fund and are not contributions from the Government of Tokelau in its role as an equity participant.

Distribution of Funds

The Trust Deed specifies that there shall be no distribution of The Fund before the end of the 5th financial year of the Fund. The period ended 30 June 2005 is stated in The Trust Deed to be the first financial year of The Fund.

There is to be no distribution of The Fund in the 6th to 10th financial years of The Fund unless the Board of Trustees, at the special request of the Government of Tokelau, otherwise decides.

Equity and Capital Maintenance

The Fund was established to provide the Government of Tokelau with an additional source of revenue for recurrent budgetary and development expenditure.

The Fund consists of initial contributions from the Governments of New Zealand and Tokelau, additional contributions from the Governments of New Zealand and Tokelau and other parties and returns from the ongoing operations of The Fund.

The Board of Trustees of The Fund is required to maintain the real value of the capital of The Fund.

Any distributions available in any financial year, but not distributed, are treated as contributions to The Fund by the Government of Tokelau in the following financial year.

The “Real Value” of the Fund is calculated by adjusting the value of contributions made to current prices in line with movements in the New Zealand Consumer Price Index.

Investment Policy

The Trust Deed requires the Board of Trustees to invest its resources in a prudent manner in order to safeguard The Fund’s resources. For the first 5 financial years the resources of The Fund must be invested in term deposits in New Zealand registered banks or New Zealand Government Bonds or both. After the 5th financial year, The Board of Trustees must appoint a Fund Manager and a Fund Monitor if it decides to invest the resources of The Fund other than in term deposits in New Zealand registered banks or New Zealand Government Bonds.

Cash and Cash Equivalents

Cash and cash equivalents are those deposits held for the purpose of meeting short-term cash commitments rather than for investment. As all of The Fund’s resources are held for investment purposes, none of the deposits are classified as cash or cash equivalents irrespective of their term.

Debtors and other receivables

Debtors and other receivables are initially measured at fair value and subsequently measured at amortised cost using the effective interest method less any provision for impairment. Contributions receivable are included within the debtors and other receivables classification.

Financial Assets

The Board of Trustees determines the classification of The Fund’s investments at initial recognition and re-evaluates this designation at every reporting date.

The Fund classifies its term deposits as held-to-maturity investments. Held to maturity investments are assets with fixed or determinate payments and fixed maturities that The Fund has the positive intention and ability to hold to maturity.

The investments are initially measured at fair value plus transaction costs.

After initial recognition they are measured at amortised cost using the effective interest method. Gains and losses when the asset is impaired or derecognised are recognised in the statement of comprehensive income.

Financial assets are derecognised when the rights to receive cash flows from the financial assets have expired.

Impairment of Financial Assets

At each balance date the Board of Trustees assesses whether there is any objective evidence that a financial asset or group of financial assets is impaired. Any impairment losses are recognised in the statement of comprehensive income.

Related Party Transactions

The Trust Deed specifies that administrative costs incurred through meetings of the Board of Trustees be met by the employers of the individual Board members. There are no fees or reimbursements of costs or payments of a similar nature made to, or on behalf of, the Trustees in their role as Trustees. Accordingly, there are no costs to disclose.

Commitments

Future expenses and liabilities to be incurred on contracts that have been entered into at balance date are disclosed as commitments to the extent that there are equally unperformed obligations.

Contingent Liabilities

Contingent liabilities are disclosed at the point at which the contingency is evident.

Changes in accounting policies

There have been no changes in accounting policies during the financial year.

| Note 2 Contributions | 2014 | 2013 |
|-----------------------------|---------------|---------------|
| | \$'000 | \$'000 |
| Government of Tokelau | 125 | 100 |
| Government of Australia | 416 | 220 |
| | 541 | 320 |

Note 3 Expenditure

The Board of Trustees has set a budget for the current and subsequent financial year administrative costs of the Trust at an estimated annual cost of up to \$25,000. This provides for administration costs and audit fees and is met by additional contributions provided by the Government of Tokelau. For the year ended 30 June 2014 the additional contribution of \$25,000 from the Government of Tokelau was partly utilised for administration costs of \$11,000 and audit fees of \$5,000.

| Note 4 Investments | 2014 | 2013 |
|---------------------------|---------------|---------------|
| | \$'000 | \$'000 |

| | | | |
|--|------------------------------------|---------------|---------------|
| | <i>Maturing Within 12 Months</i> | | |
| | On call investments | 417 | 720 |
| | Term deposits | 34,043 | 57,551 |
| | Total current investments | 34,460 | 58,271 |
| | | | |
| | <i>Maturing After 12 Months</i> | | |
| | Term deposits | 44,047 | 15,993 |
| | Total long term investments | 44,047 | 15,993 |

The maturity dates and weighted average effective interest rates for term deposits are as follows;

| | 2014 | 2013 |
|---|---------------|---------------|
| | \$'000 | \$'000 |
| Term deposits with maturities up to 6 months | 17,880 | 21,085 |
| Term deposits with maturities greater than 6 months and less than 12 months | 16,163 | 36,466 |
| Term deposits with maturities greater than 12 months | 44,047 | 15,993 |
| | | |
| Weighted average effective interest rate | 4.69% | 5.22% |

As at 30 June 2014 the average term is 18.6 months (30 June 2013; 19.4 months)

Term deposit investments at 30 June 2014 are invested at fixed rates ranging from 4.05% per annum to 5.00% per annum. (30 June 2013; 4.12% to 6.95%)

a) Foreign currency risk; The Fund has no foreign currency risk as it has no foreign currency assets, liabilities or obligations and its operations do not rely upon future revenues denominated in foreign currency.

b) Credit risk; Credit risk is the risk of financial loss to the Fund should debtors to financial instruments fail to meet their contractual obligations, and arise principally from the Funds term deposits. The Fund has minimised any such credit risk by restricting its investments to term deposits with New Zealand registered banks.

c) Liquidity risk; Liquidity risk is the risk that the Fund will be able to meet its financial obligations as they fall due. The Fund maintains a spread of maturity dates for all investments both short and long term.

d) Interest rate risk; The Funds exposure to changes in market interest rates is restricted to interest rates applicable when investing new or maturing funds and the difference between such rates and the annual movement in the New Zealand Consumers Price Index. Particular movements in such rates will impact only on the balance of funds available for distribution in future years.

e) Fair values; The Funds investments, as detailed above, are restricted to term deposits with varying terms, interest rates and maturity dates. These term deposits are classified as held-to-maturity investments. As they are considered to be non transferable, their fair value is assessed as equivalent to the value at which they are stated.

Note 5 Distribution of Funds

The Trust Deed differentiates between 'income' and 'capital' whereby such funds that are necessary to maintain the real value of the Fund are reinvested within the Fund. Any balance remaining may be considered available for distribution in accordance with the Trust Deed.

In accordance with The Trust Deed, no distribution of funds is available in the year being reported on unless specifically requested by the Government of Tokelau. During the current financial year all interest earned has been reinvested as capital and is not available for distribution in either this or future years.

| Capital Cash Statement | Notes | 2014 \$'000 | 2013 \$'000 |
|-------------------------------|--------------|------------------------|------------------------|
| Capital Funds | | | |
| Opening Balance | | 74,264 | 70,186 |
| Contributions | 2 | 541 | 320 |
| Transfer from Income | | 3,697 | 3,758 |
| Total Capital | | 78,502 | 74,264 |

| Income Cash Statement | Notes | 2014 \$'000 | 2013 \$'000 |
|------------------------------|--------------|------------------------|------------------------|
| Income Funds | | | |
| Interest Income | | 3,713 | 3,758 |
| Expenditure | 3 | 16 | 0 |
| Available For Distribution | 5 | 0 | 0 |
| Transfer To Capital | | (3,697) | (3,758) |
| Closing Balance | | 0 | 0 |

Maintenance of The Fund's "Real Value"

| Contributions | Amount \$'000 | Date | NZ CPI at contribution date* | NZ CPI at balance date* | Current "Real Value" \$'000 |
|--|--------------------------|---------------|---|--|--|
| Value of Investments at start of the year. | 74,264 | June 2013 | 1176 | 1195 | 75,464 |
| Contributions during the year | 125 | December 2013 | 1187 | 1195 | 126 |
| | 416 | May 2014 | 1192 | 1195 | 417 |
| Total "Real Value" | | | | | 76,007 |
| Value of Fund's Investments | | | | | 78,507 |

* Quarterly New Zealand CPI Data from Statistics New Zealand (www.stats.govt.nz)

Note 6 Statement of Commitments

The Fund has no commitments as at 30 June 2014 (30 June 2013: nil)

Note 7 Statement of Contingent Liabilities

The Fund has no contingent liabilities as at 30 June 2014 (30 June 2013: nil)



**INDEPENDENT AUDITOR'S REPORT
TO THE READERS OF
THE TOKELAU INTERNATIONAL TRUST FUND'S
FINANCIAL STATEMENTS
FOR THE YEAR ENDED 30 JUNE 2014**

I have agreed to be the auditor of the Tokelau International Trust Fund (the Trust) pursuant to section 19 of the Public Audit Act 2001. The audit has been carried out using my staff and resources.

I have audited the financial statements of the Trust on pages 4 to 13, that comprise the statement of financial position as at 30 June 2014, the statement of comprehensive income, statement of changes in fund balance and statement of cash flows for the year ended on that date and the notes to the financial statements that include accounting policies and other explanatory information.

Opinion

In my opinion:

- the financial statements of the Trust on pages 4 to 13:
 - comply with internationally recognised standards of generally accepted accounting practice; and
 - fairly reflect the Trust's:
 - financial position as at 30 June 2014; and
 - financial performance and cash flows for the year ended on that date.
- based on our examination, proper accounting records have been kept by the Trust and the financial affairs have been conducted in accordance with the Trust Deed dated 10 November 2004..

The audit was completed on 21 October 2014. This is the date at which our opinion is expressed.

The basis of my opinion is explained below. In addition, I outline the responsibilities of the Trustees and my responsibilities, and I explain my independence.

Basis of opinion

I carried out my audit in accordance with the Auditor-General's Auditing Standards, which incorporate the International Standards on Auditing (New Zealand). Those standards require that I comply with ethical requirements and plan and carry out my audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

Material misstatements are differences or omissions of amounts and disclosures that, in my judgement, are likely to influence readers' overall understanding of the financial statements. If I had found material misstatements that were not corrected, I would have referred to them in my opinion.

An audit involves carrying out procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on my judgement, including my assessment of risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, I consider internal control relevant to the preparation of the Trust's financial statements that fairly reflect the matters to which they relate. I consider internal control in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Trust's internal control.

An audit also involves evaluating:

- the appropriateness of accounting policies used and whether they have been consistently applied;
- the reasonableness of the significant accounting estimates and judgements made by the Trustees;
- the adequacy of all disclosures in the financial statements; and
- the overall presentation of the financial statements.

I did not examine every transaction, nor do I guarantee complete accuracy of the financial statements. Also, I did not evaluate the security and controls over the electronic publication of the financial statements.

I have obtained all the information and explanations I have required, and I believe I have obtained sufficient and appropriate audit evidence to provide a basis for my audit opinion.

Responsibilities of the Trustees

The Trustees are responsible for preparing financial statements that:

- comply with internationally recognised standards of generally accepted accounting practice; and
- fairly reflect the Trust's financial position, financial performance and cash flows.

The Trustees are also responsible for such internal control as they determine is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error. The Trustees are also responsible for the publication of the financial statements, whether in printed or electronic form.

The Trustees responsibilities arise from clause 15 of the Trust deed.

Responsibilities of the Auditor

I have agreed to be the auditor of the Trust pursuant to section 19 of the Public Audit Act 2001 and accordingly, under section 15 of that Act and clause 16 of the Trust Deed, I am responsible for expressing an independent opinion on the financial statements and reporting that opinion to you.

Independence

When carrying out the audit, I followed my independence requirements, which incorporate the independence requirements of the External Reporting Board.

As an Officer of the New Zealand Parliament, I am constitutionally and operationally independent of the Government of Tokelau. Other than the audit of the Government of Tokelau and the audit of the Trust, I have no relationship with or interests in the Trust.



Lyn Provost
Auditor-General
Wellington
New Zealand

DEED CONCERNING THE TOKELAU INTERNATIONAL TRUST FUND

WHEREAS

Tokelau is one of the world's smallest non-self-governing territories and has few financial reserves and minimal revenue generating capacity;

In order to progress towards full self-government and its future with confidence, Tokelau needs assistance to overcome special difficulties of remoteness and lack of natural resources;

The ability to make long-term provision for intergenerational wellbeing and support is of key importance to the people of Tokelau;

The Government of New Zealand and the Government of Tokelau (the General Fono in the exercise of its executive powers) wish to contribute to the long-term financial viability of Tokelau and to improve the quality of life of the people living in the villages of Tokelau, by providing the Government of Tokelau with an additional source of revenue for recurrent budgetary and development expenditure;

AND WHEREAS

In 2000 the Governments of New Zealand and Tokelau established a trust fund for Tokelau and vested their initial contributions in the Administrator of Tokelau and the Ulu o Tokelau as trustees of the fund;

[...]

The Governments of New Zealand and Tokelau contribute to the fund from time to time, and wish to promote the fund to other donors;

At its February 2003 session, the General Fono made the Tokelau Trust Fund Rules 2003, providing for the fund in Tokelau law in anticipation of a Deed for the fund;

At its January 2004 session, the General Fono endorsed a proposal by the Administrator to formalise the rules of the fund by Deed under New Zealand law;

The fund may, at such future time as Tokelau has the capacity to enter into treaties on its own behalf be governed by treaty;

THE GOVERNMENTS OF NEW ZEALAND AND TOKELAU AGREE AS FOLLOWS:

PART I: THE TOKELAU INTERNATIONAL TRUST FUND

1. The Tokelau International Trust Fund

The trust fund established by agreement of the Governments of New Zealand and Tokelau ("the Parties") in 2000 shall be known as the Tokelau International Trust Fund ("the Fund"), and shall be governed by this Deed.

2. Purpose of the Fund

The purpose of the Fund is to contribute to the long-term financial viability of Tokelau and to improve the quality of life of the people living in the villages of Tokelau, by providing the Government of Tokelau with an additional source of revenue for recurrent budgetary and development expenditure, and in particular to:

- (i) assist the Government of Tokelau to achieve greater financial autonomy in the management of its budget;
- (ii) enable the Government of Tokelau to maintain and if possible improve existing levels of social infrastructure and services;
- (iii) enhance the capacity of the Government of Tokelau to receive and effectively utilise external assistance;

- (iv) enable the Government of Tokelau to meet long-term maintenance and operating costs of social and economic infrastructure and services; and
- (v) assist the Government of Tokelau to develop the economy of Tokelau.

PART II: ADMINISTRATION

3. Board

- (1) There shall be a Board of Trustees of the Fund.
- (2) The Trustees shall be:
 - (i) one Trustee jointly appointed by the Parties, who shall be the Chairperson of the Board;
 - (ii) one Trustee appointed by the Government of New Zealand;
 - (iii) one Trustee appointed by the Government of Tokelau.
- (3) The Parties or a Party shall appoint an alternate Trustee to participate in any meeting of the Board when a substantive Trustee appointed by the Parties or that Party is for any reason temporarily unable to attend.
- (4) The functions of the Board shall include –
 - (i) The operation, supervision, and management of the Fund; and
 - (ii) The investment and distribution of resources of the Fund.
- (5) Trustees shall serve as such without payment of remuneration.
- (6) Trustees' expenses shall be paid by the appointing Party, and in the case of the Chairperson shall be paid by the Parties in equal shares.
- (7) A Trustee shall not be liable for the consequence of any act or omission or for any loss unless the consequence or loss is attributable to that Trustee's dishonesty or to the wilful commission by that Trustee of a breach of trust. A Trustee is not bound to take any proceedings against a co-Trustee for any breach or alleged breach of trust.
- (8) The Board shall meet in person or by teleconference as necessary and

at least twice a year, and reasonable notice shall be given of meetings.

- (9) Except where otherwise provided in this Deed, questions before the Board shall be decided by a majority of votes of the Trustees, or alternates of absent Trustees.
- (10) The Board shall otherwise establish its own rules of procedure.

4. Secretariat

- (1) The Board shall, in consultation with the Government of Tokelau, establish a Fund Secretariat, which shall consist of a Secretary/Treasurer and such other officers as the Board thinks fit.
- (2) The Secretariat shall have such secretarial functions as the Board may determine from time to time.

5. Advisory Committee

- (1) The Board may appoint an Advisory Committee to advise the Government of Tokelau on the progress of the economy of Tokelau and on the social and economic effects of the Fund on Tokelau.
- (2) The Advisory Committee shall submit to the Government of Tokelau and to the Board an interim report after the first six months and, thereafter, an annual report on the progress of the economy of Tokelau and on the social and economic effects of the Fund on Tokelau.
- (3) The Advisory Committee shall, in the performance of its functions, consider and advise on Tokelau's national budgets and estimates, annual accounts, and finances, having regard, amongst other things, to the size of the Fund's capital and the returns available from it.
- (4) The Advisory Committee shall consist of two members, or such other number as may be decided by the Board. The members of the Advisory Committee shall be appointed by unanimous decision of the Board for such term and on such conditions as the Board may decide, and shall be paid such remuneration

and expenses out of the Fund as the Board may approve.

PART III: RESOURCES OF THE FUND

6. Resources

- (1) The resources of the Fund shall consist of:
 - (i) The amounts settled by the Parties as their initial contributions to the Fund;
 - (ii) Additional contributions under Clause 7; and
 - (iii) Returns derived from the operations of or money otherwise accruing to the Fund.
- (2) The resources of the Fund shall be held in trust and administered by the Board and used only for the purpose of the Fund and in accordance with this Deed.

7. Additional contributions

- (1) The Board may accept additional contributions from the Parties and other contributors, in the form of direct cash grants in freely convertible currencies.
- (2) The Board may refuse a contribution if it considers that it would not be in the interests of the Fund or of Tokelau to accept it.
- (3) Contributions shall be made for the purpose of the Fund without further restriction as to use, and shall not be refunded to contributors.

PART IV: OPERATION OF THE FUND

8. Administrative budget

The Board shall approve an annual administrative budget by 1 July each year.

9. Financial year

- (1) The financial year of the Fund shall end on 30 June in each year.
- (2) The first financial year of the Fund shall be deemed to end on 30 June 2005.

10. Investment

- (1) In the first to fifth financial years of the Fund, the Board shall invest all the resources of the Fund in term deposits in New Zealand registered banks or New Zealand Government bonds, or both.
- (2) Thereafter, the Board may by unanimous vote decide to invest resources of the Fund other than in term deposits in New Zealand registered banks or New Zealand Government bonds.
- (3) The Board shall not borrow, and shall not mortgage, charge, or pledge any of the assets of the Fund.

11. Fund Managers and Fund Monitor

- (1) After the fifth financial year of the Fund, the Board shall, if it decides to invest the resources of the Fund other than in term deposits in New Zealand registered banks or New Zealand Government bonds, appoint one or more Fund Managers and a Fund Monitor on such terms and conditions as it determines.
- (2) The Board shall establish investment guidelines for the Fund Managers, which shall provide among other things that the resources of the Fund are to be invested in a prudent manner, for the purpose of the Fund, and in accordance with this Deed.
- (3) The Board may delegate to the Fund Managers responsibility for the day-to-day administration of the Fund.
- (4) The Fund Managers shall provide such reports on the value and disposition of the resources of the Fund, such reviews of its performance, and such advice on it as are required by the Board.
- (5) The remuneration and expenses of the Fund Managers and the Fund Monitor in carrying out their duties under this Deed shall be met from the Fund.
- (6) The Fund Monitor shall regularly review the investment performance of Fund Managers against that of other fund managers of like funds.

- (7) The Fund Monitor shall report to the Board —
 - (i) at least once a year within two weeks of the end of the financial year;
 - (ii) as requested by the Board or the Fund Secretariat; and
 - (iii) at other times as deemed appropriate by the Fund Monitor.
- (8) All reports of the Fund Monitor shall be made immediately available to the Board.

12. Re-investment and distribution policy

- (1) The Board shall establish, and revise from time to time, a re-investment and distribution policy.
- (2) The Board shall balance the provision of immediate additional revenue for recurrent expenditure against the need to maintain, so far as possible, the value of the Fund's capital at not less than the real value of the initial capital of the Fund as increased by the real value of additional contributions.
- (3) For the purposes of this Deed:

“re-investment” means the process by which Fund returns, whether in the form of income or capital appreciation, are added to and become part of the capital of the Fund;

“Fund returns” in any financial year means the returns accruing to the Fund in that year by way of income generated from the Fund resources and the capital appreciation of those resources;

“real value” shall be calculated by adjusting the value of contributions when made to current prices in line with movements in the New Zealand Consumer Price Index.

13. Re-investment and distribution

- (1) At the end of each financial year, the resources of the Fund (after the administration and other costs of the

Fund have been met) shall, in accordance with this Clause, be available for re-investment and for distribution to the Government of Tokelau during the following financial year as additional revenue for financing recurrent budgetary and development expenditure.

- (2) The Board shall ensure that an amount of the Fund returns in each financial year is re-invested at the end of that financial year as capital of the Fund, such amount being the amount necessary to maintain the opening balance of the Fund's capital for the following financial year at the real value of the initial capital of the Fund as increased by the real value of additional contributions.
- (3) To enable the Government of Tokelau to prepare its national budget and estimates for the following financial year, the Board shall inform the Government of Tokelau by 30 April each year of the forecast returns available for distribution in the following financial year.
- (4) For the purposes of this Deed, “returns available for distribution” means the amount remaining from the Fund returns after the administration and other costs of the Fund have been met, and after re-investment in accordance with paragraph 2.
- (5) Subject to paragraphs 7 and 8, the Board shall distribute to the Government of Tokelau each year the returns available for distribution, or such lesser amount as the Government of Tokelau may specify.
- (6) Returns available for distribution but not distributed under paragraph 5 shall be re-invested and shall be deemed to be additional contributions of the Government of Tokelau in accordance with Clause 7.
- (7) There shall be no distribution from the Fund to the Government of Tokelau before the end of the fifth financial year of the Fund.

- (8) There shall be no distribution from the Fund to the Government of Tokelau in the sixth to tenth financial years of the Fund unless the Board, at the special request of the Government of Tokelau, otherwise decides.

PART V: UNDERTAKINGS OF TOKELAU

14. Undertakings of Tokelau

- (1) The Government of Tokelau shall treat all money received by it from the Fund as public money of Tokelau and as such subject to appropriation and scrutiny by the General Fono.
- (2) The Government of Tokelau shall on request provide full information and documents to the Board and any Advisory Committee of and in relation to Tokelau's national budgets and estimates, the annual accounts, the report of the Auditor (including any information or documents which the Auditor would be entitled to demand), and financial, social, and economic data held by the Government of Tokelau.
- (3) The Government of Tokelau shall ensure that the financial statements of and reports relating to the Fund submitted to Tokelau under Clause 17 are promptly laid before the General Fono.
- (4) The Government of Tokelau shall use its best endeavours to make contributions to the Fund, in accordance with Clause 7, from its revenues from whatever source.
- (5) The Government of Tokelau shall ensure that legislation is enacted and maintained to give effect to its obligations under paragraphs 1 to 3.

PART VI: FINANCIAL STATEMENTS AND AUDIT

15. Financial statements

- (1) The Board and, if appointed, the Fund Managers shall keep all proper books and records of account of the assets, property, liabilities, income

and expenditure, and transactions of the Fund.

- (2) The Board and, if appointed, the Fund Managers shall prepare annual financial statements in accordance with generally accepted accounting practice, consisting at a minimum of a profit and loss account, statement of movement in equity, balance sheet, statement of commitments, statement of contingent liabilities, and statement of accounting policies, and shall produce these promptly to facilitate audit.

16. Audit

- (1) At the end of each financial year the financial statements of the Fund shall be audited by an Auditor who has no connection with any Fund Manager of the Fund and who is appointed by the Board.
- (2) The Auditor shall be satisfied that the financial statements of the Fund have been properly prepared in accordance with internationally recognised standards of generally accepted accounting practice and shall either:
- (i) report that —
 - (I) the financial statements have been properly prepared in accordance with the books and records of the Fund; and
 - (II) the books and records of the Fund have been properly kept and contain information adequate for the purposes of the audit; and
 - (III) the financial statements of the Fund give a true and fair view of the Fund's operations and financial position; and
 - (IV) the financial affairs of the Fund have been properly conducted in accordance with this Deed; or

- (ii) notify the Board that the report cannot be completed as provided in subparagraph (i), and give the reasons for that.
- (3) The Auditor shall include in the audit report information on the performance of any Fund Managers in the investment of the Fund in accordance with the guidelines laid down by the Board, with particular comparative reference to the performance of managers of other funds of a similar size and nature.
- (4) The Auditor shall submit the report to the Board.
- (5) The cost of the audit shall be met from the Fund.

17. Annual reports

Within six months of the end of the financial year the Board shall publish and shall submit to each Party:

- (i) An Annual Report on the activities and management of the Fund, including the annual report of any Advisory Committee under paragraph 2 of Clause 5;
- (ii) The financial statements of the Fund for that year audited in accordance with Clause 16; and
- (iii) The report of the Auditor under Clause 16.

PART VII: GOVERNING OF FUND BY TREATY, TERMINATION, & VESTING

18. Governing of Fund by treaty

- (1) At such time as Tokelau has the capacity to enter into treaties on its own behalf the Parties shall, at the request of the Government of Tokelau and subject to their respective treaty-making procedures, take the steps necessary for the Fund to be governed by treaty.
- (2) The treaty shall be materially identical to this Deed, with such modifications as the Parties may jointly agree.
- (3) Upon the entry into force of the treaty, the Trustees shall vest the assets of the Fund in the Fund as a corporation, all

rights and obligations of the Trustees shall continue in accordance with their terms as rights and obligations of the Fund, this Deed shall terminate, and the Fund shall become governed by the treaty.

19. Termination and distribution of assets

- (1) The Parties may, at any time before the entry into force of a treaty under Clause 18, by unanimous decision terminate the operations of the Fund.
- (2) Upon termination of operations the Board shall immediately cease all activities of the Fund, except those incidental to the orderly realisation and conservation of its assets and the settlement of its obligations.
- (3) On final settlement of the obligations of the Fund and the distribution of its assets the Fund shall terminate. Until then the Fund shall remain in existence and all rights and obligations of the Board and the Parties consistent with the termination of the Fund's operations shall continue unimpaired.
- (4)
 - (i) No distribution of assets shall be made until all liabilities to creditors have been discharged.
 - (ii) Subsequently, the assets of the Fund shall be distributed to the Government of Tokelau.

20. Vesting

The assets of the Fund shall vest in the Government of Tokelau on 1 January 2080, if this Deed or the Fund has not terminated prior to that date.

PART VIII: MISCELLANEOUS PROVISIONS

21. Tax exemption

The Parties shall use their best endeavours to ensure that contributions to the Fund, the property and assets of the Fund, and distributions from the Fund are exempt from all direct taxation.

22. Review and evaluation

- (1) The Parties shall periodically, at such intervals as they deem appropriate, review the effectiveness of the Fund in accomplishing its purpose.
- (2) The first review shall take place not later than three years after the date of execution of this Deed.

23. Amendment

This Deed may be amended from time to time by deed executed by the Parties.

24. Arbitration

Any dispute between the Parties relating to the Fund (whether during the life of the Fund or on the termination of its operations) which cannot be resolved through consultation may, at the option of the Parties, be submitted to arbitration by an arbitrator, to be appointed by the Parties or, if they are unable to agree on an arbitrator within 30 days, by the Chief Justice of New Zealand. The decision of the arbitrator shall be final and binding on the Parties.

25. Governing law

This Deed shall be governed by the law of New Zealand.

IN WITNESS WHEREOF this Deed has been executed at Wellington this 10th day of November 2004.

**ON BEHALF OF HER MAJESTY
THE QUEEN IN RIGHT OF NEW
ZEALAND:**

Phillip Bruce Goff
Minister of Foreign Affairs and Trade

**ON BEHALF OF THE
GOVERNMENT OF TOKELAU:**

Pio Tetimuatoga Tuia Iosefo
Acting Ulu o Tokelau

IN THE PRESENCE OF:

Neil Douglas Walter
Administrator of Tokelau



Tokelau International Trust Board

Chair
PO Box 9451
Wellington
New Zealand

Secretary
PO Box 9451
Wellington
New Zealand