FREE TRADE AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SERBIA AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA

PREAMBLE

The Government of the Republic of Serbia (hereinafter referred to as "Serbia"), on one part, and the Government of the Peopleâs Republic of China (hereinafter referred to as "China"), on the other part, hereinafter individually referred to as a "Party" or collectively referred to as "the Parties";

RECALLING the Agreement on Trade and Economic Cooperation between the Government of Federal Republic of Yugoslavia and the Government of the People's Republic of China signed in 1996 with the objective of strengthening cooperation and developing trade and economic relation;

COMMITTED to deepening close and lasting relations through the free trade agreement with a view to bring economic and social benefits, to create new opportunities for employment and to improve the living standards of their peoples;

REAFFIRMING their commitment to carry out comprehensive cooperation under the Belt and Road Initiative and jointly forging a community of shared future;

REAFFIRMING their commitment to pursue the objective of sustainable development;

COMMITTED to the promotion of prosperity, democracy, social progress and to uphold freedom, equality, justice and the rule of law, reaffirming their commitment to the Charter of the United Nations and fundamental norms of international relations;

DETERMINED to promote and further strengthen the multilateral trading system, building on their respective rights and obligations under the Marrakesh Agreement establishing the World Trade Organization (hereinafter referred to as "the WTO");

CONSIDERING that no provision of this Agreement may be interpreted as exempting the Parties from their obligations under other international agreements, especially the Marrakesh Agreement establishing the WTO and the other agreements negotiated thereunder;

DECLARING their readiness to examine the possibility of developing and deepening their economic relations in order to extend them to fields not covered by this Agreement;

CONVINCED that this Agreement will enhance the competitiveness of their firms in global markets and create conditions encouraging economic, trade and investment relations between them;

HAVE DECIDED, in pursuit of the above, to conclude the following Agreement:

Chapter 1. GENERAL PROVISIONS

Article 1. Objectives

1. The Parties shall establish a free trade area by means of this Agreement, with a view to spurring prosperity and sustainable development.

2. The objectives of this Agreement, which is based on trade relations between market economies, are:

(a) to achieve the liberalization of trade in goods, in conformity with Article XXIV of the General Agreement on Tariffs and Trade (hereinafter referred to as "the GATT 1994");

(b) to mutually increase investment opportunities between the Parties, and to gradually develop an environment conducive to enhanced trade in services;

(c) to provide fair conditions of competition for trade between the Parties and to ensure adequate and effective protection of intellectual property rights;

(d) to gradually achieve further understanding of the government procurement of the Parties;

(e) to develop international trade in such a way as to contribute to the objective of sustainable development and to ensure that this objective is integrated and reflected in the Partiesâ trade relationship; and

(f) to contribute in this way to the harmonious development and expansion of world trade.

Article 2. Territorial Application

Without prejudice to Chapter 3 and related Annexes, this Agreement shall apply:

(a) With respect to Serbia, the territory of the Republic of Serbia, including land territory, internal waters and territorial airspace, in accordance with international law and its domestic law;

(b) With respect to China, the entire customs territory of the Peopleâs Republic of China, including land territory, territorial airspace, internal waters, territorial sea as well as their bed and subsoil, and any area beyond its territorial sea within which it may exercise sovereign rights and/or jurisdiction in accordance with international law and its domestic law.

Article 3. Central, Regional and Local Government

Each Party shall ensure the observance of all obligations and commitments under this Agreement by its respective central, regional and local governments and authorities, and by non-governmental bodies in the exercise of governmental powers delegated to them by central, regional and local governments or authorities.

Article 4. Transparency

1. The Parties shall publish or otherwise make publicly available their laws, regulations, judicial decisions, administrative rulings of general application and their respective international agreements that may affect the operation of this Agreement.

2. The Parties shall promptly respond to specific questions and provide, upon request, information to each other on matters referred to in paragraph 1. They are not required to disclose confidential information.

3. The contact points established in Article 71 (Contact Points) shall facilitate communications between the Parties on matters covered in this Agreement. Upon request of the other Party, the contact point shall identify the office or official responsible for the matter and assist, as necessary, in facilitating communication with the responding Party.

Chapter 2. TRADE IN GOODS

Article 5. Scope

Except as otherwise provided in this Agreement, this Chapter shall apply to trade in goods between the Parties.

Article 6. National Treatment

Each Party shall accord National Treatment to the goods of the other Party, in accordance with Article III of the GATT 1994, including its interpretative notes. To that end, Article I of the GATT 1994 and its interpretative notes are incorporated into and form an integral part of this Agreement, mutatis mutandis.

Article 7. Elimination of Customs Duties

1. Except as otherwise provided in this Agreement, neither Party shall increase any existing customs duty or adopt any new customs duty on an originating good of the other Party.

2. Except as otherwise provided in this Agreement, each Party shall reduce or eliminate its customs duties on originating goods of the other Party in accordance with the Chapter 3 (Rules of Origin and Implementation Procedures), in accordance

with its Schedule in Annex 1 (Schedule of Tariff Commitments).

3. Customs duty includes any duty or charge of any kind imposed in connection with the importation of a good, but does not include:

(a) any charge equivalent to an internal tax imposed consistently with Article UL.2 of GATT 1994;

(b) any anti-dumping or countervailing duty applied consistently with the provisions of Article VI of GATT 1994, the WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, or the WTO Agreement on Subsidies and Countervailing Measures, any duty applied consistently with Article XIX of GATT 1994 and WTO Agreement on Safeguards; and

(c) any fee or other charge in connection with importation commensurate with the cost of services rendered.

Article 8. Base Rate

1. For each product the base rate of customs duties, to which the successive reductions set out in Annex 1 (Schedule of Tariff Commitments) is to be applied for imports between the Parties, shall be the most-favoured-nation (hereinafter referred to as âMFNâ) customs duty rate applied by each Party on January 1, 2022.

2. If at any moment a Party reduces its applied MFN customs duty rate after the entry into force of this Agreement, that duty rate shall apply as regards trade covered by this Agreement if and for as long as it is lower than the customs duty rate calculated in accordance with its Schedule to Annex 1 (Schedule of Tariff Commitments).

Article 9. Quantitative Restrictions

The rights and obligations of the Parties in respect of quantitative restrictions, shall be governed by Article XI of the GATT 1994, which is hereby incorporated into and made part of this Agreement.

Article 10. Sanitary and Phytosanitary Measures

1. The rights and obligations of the Parties in respect of sanitary and phytosanitary measures shall be governed by the WTO Agreement on the Application of Sanitary and Phytosanitary Measures.

2. The Parties shall exchange names and information of contact points with sanitary and phytosanitary expertise and competent authorities in order to facilitate communication and the exchange of information.

Article 11. Technical Regulations

1. The rights and obligations of the Parties in respect of technical regulations, standards and conformity assessment procedures shall be governed by the WTO Agreement on Technical Barriers to Trade.

2. The Parties shall strengthen their co-operation in the field of technical regulations, standards and conformity assessment procedures, with a view to increasing the mutual understanding of their respective systems and facilitating access to their respective markets.

Article 12. State Trading Enterprises

The rights and obligations of the Parties in respect of state trading enterprises shall be governed by Article XVII of the GATT 1994, its interpretative notes, and the Understanding on the Interpretation of Article XVII of the GATT 1994, which are hereby incorporated into and made part of this Agreement, mutatis mutandis.

Article 13. Subsidies and Countervailing Measures

1. The rights and obligations of the Parties relating to subsidies and countervailing measures shall be governed by Articles VI and XVI of the GATT 1994 and the WTO Agreement on Subsidies and Countervailing Measures, except as provided for in paragraph 2.

2. Before one of the Parties, as the case may be, initiates an investigation to determine the existence, degree and effect of any alleged subsidy in the other Party, as provided for in Article 11 of the WTO Agreement on Subsidies and Countervailing Measures, the Party considering initiating an investigation shall notify in writing the Party whose goods are subject to

investigation as soon as possible and allow for consultation with a view to finding a mutually acceptable solution. The consultations shall take place if either Party so requests within 15 days from the receipt of the notification.

Article 14. Anti-dumping

1. The rights and obligations of the Parties in respect of antidumping measures shall be governed by Article VI of the GATT 1994 and the WTO Agreement on Implementation of Article VI of the GATT 1994. The Parties agree not to take such measures in an arbitrary or protectionist manner.

2. As soon as possible following the acceptance of a properly documented application from an industry in one Party for the initiation of an antidumping investigation in respect of goods from the other Party and before proceeding to initiate such investigation, that Party shall notify the other Party.

3. Both Parties confirm that there shall be no practice between the two Parties to use a methodology based on surrogate value of a third country, including the use of surrogate price or surrogate cost in determining normal value and export price when determining dumping margin during an anti-dumping procedure.

Article 15. Global Safeguard Measures

The rights and obligations of the Parties in respect of global safeguards shall be governed by Article XIX of GATT 1994 and the WTO Agreement on Safeguards.

Article 16. Bilateral Safeguard Measures

1. Where, as a result of the reduction or elimination of a customs duty under this Agreement, any product originating in a Party is being imported into the territory of other Party in such increased quantities, in absolute terms or relative to domestic production, and under such conditions as to constitute a substantial cause of serious injury or threat thereof to the domestic industry of like or directly competitive products in the territory of the importing Party, the importing Party may take bilateral safeguard measures to the minimum extent necessary to remedy or prevent the injury, subject to the provisions of paragraphs 2 to 12 during the transition period only.

2. Bilateral safeguard measures shall only be taken upon clear evidence that increased imports have caused or are threatening to cause serious injury pursuant to an investigation in accordance with the procedures laid down in the WTO Agreement on Safeguards.

3. If the conditions set out in paragraph 1 are met, the importing Party may take measures consisting in:

(a) suspending the further reduction of any rate of duty provided for under this Agreement for the product; or

(b) increasing the rate of customs duty for the product to a level not to exceed the lesser of:

(i) the MEN rate of duty applied at the time the action is taken; or

(ii) the MFN rate of duty applied on the day immediately preceding the date of the entry into force of this Agreement.

4. A Party shall immediately deliver written notice to the other Party upon: (a) initiating a bilateral safeguard investigation; (b) taking a provisional safeguard measure according to paragraph 10;

(c) making a finding of serious injury or threat thereof caused by increased imports;

(d) taking a decision to apply or extend a safeguard measure; and (e) taking a decision to modify a measure previously undertaken.

5. In making the notification referred to in paragraphs 4 (b) to (e), the Party proposing to apply or extend a bilateral safeguard measure shall provide the other

Party with all pertinent information, which shall include evidence of serious injury or threat thereof caused by the increased imports, precise description of the good involved and the proposed measure, proposed date of introduction and expected duration; the Party proposing to apply a measure shall also provide any additional information which the other Party considers pertinent.

6. A Party proposing to apply or extend a bilateral safeguard measure shall provide adequate opportunity for prior consultations with the other Party as far in advance of taking any such measure as practicable, with a view to reviewing the

information arising from the investigation, exchanging views on the measure and reaching an agreement on compensation set out in paragraph 11. The Parties shall in such consultations review, inter alia, the information provided under paragraph 5, to determine:

(a) compliance with the other provisions of this Article; (b) whether any proposed measure should be taken; and

(c) the appropriateness of the proposed measure, including consideration of alternative measures.

7. Bilateral safeguard measures shall be taken for a period not exceeding two years. In very exceptional circumstances, measures may be taken up to a total maximum period of three years. No bilateral safeguard measure shall be applied to the import of a product which has previously been subject to such a measure.

8. No bilateral safeguard measure shall be taken against a particular product while a global safeguard measure in respect of that product is in place; in the event that a global safeguard measure is taken in respect of a particular product, any existing bilateral safeguard measure which is taken against that product shall be terminated.

9. Upon the termination of the bilateral safeguard measure, the rate of customs duty shall be the rate which would have been in effect but for the measure.

10. In critical circumstances, where delay would cause damage which would be difficult to repair, a Party may take a provisional bilateral safeguard measure pursuant to a preliminary determination that there is clear evidence that increased imports constitute a substantial cause of serious injury, or threat thereof, to the domestic industry. Any provisional measure shall be terminated within 200 days at the latest. The period of application of any such provisional measure shall be counted as part of the duration of the measure set out in paragraph 7 and any extension thereof. Any tariff increases shall be promptly refunded if the investigation described in paragraph 2 does not result in a finding that the conditions of paragraph 1 are met.

11. The Party proposing to apply a measure described in paragraph 3 shall provide to the other Party a mutually agreed adequate means of trade liberalizing compensation in the form of concessions having substantially equivalent trade effects or equivalent to the value of the additional duties expected to result from the measure. If the Parties are unable to agree on compensation within 30 days in the consultations referred to in paragraph 6, the Party against whose originating goods the measure is applied may take action having trade effects substantially equivalent to the measure applied under this Article. This action shall be applied only for the minimum period necessary to achieve the substantially equivalent effects, and in any case shall be terminated no later than the date of the termination of the bilateral safeguard measure. The right for action referred to in this paragraph shall not be exercised for the first eighteen months that a bilateral safeguard measure is in effect, provided that the safeguard measure has been taken as a result of an absolute increase in imports and that such a measure conforms to the provisions of this Agreement.

12. For the purposes of this Article, âtransition periodâ means the five-year period beginning on the date of entry into force of this Agreement, except that in the case of a product where the liberalization process lasts five or more years, the transition period shall last until such product reaches zero tariff according to the Schedule as set out in Annex 1 (Schedule of Tariff Commitment) plus two years.

Article 17. General Exceptions

The rights and obligations of the Parties in respect of general exceptions shall be governed by Article XX of the GATT 1994, which is hereby incorporated into and made part of this Agreement, mutatis mutandis.

Article 18. Security Exceptions

The rights and obligations of the Parties in respect of security exceptions shall be governed by Article XXI of the GATT 1994, which is hereby incorporated into and made part of this Agreement, mutatis mutandis.

Article 19. Measures to Safeguard the Balance of Payments

Where any Party is in a serious balance of payments and external financial difficulties, or under threat thereof, it may, in accordance with Article XII of the GATT 1994 and the Understanding on the Balance-of-Payments Provisions of the GATT 1994, adopt restrictive import measures. Such restrictive measures shall be consistent with the Articles of Agreement of the International Monetary Fund.

Article 20. Disclosure of Information

Nothing in this Agreement shall be construed to require a Party to furnish or allow access to confidential information, the disclosure of which would impede law

enforcement, or otherwise be contrary to the public interest, or which would prejudice the legitimate commercial interests of particular enterprises, public or private.

Article 21. Confidentiality

Unless otherwise provided in this Agreement, where a Party provides information to another Party in accordance with this Agreement and designates the information as confidential, the other Party shall, subject to its laws and regulations, maintain the confidentiality of the information.

Chapter 3. RULES OF ORIGIN AND IMPLEMENTATION PROCEDURES

Section I. RULES OF ORIGIN

Article 22. Definitions

For the purposes of this Chapter:

(a) "Harmonized System" means the current version of the Harmonized Commodity Description and Coding System defined by the International Convention on the Harmonized Commodity Description and Coding System of 14 June 1983;

(b) "consignment" means products which are sent simultaneously from one exporter to one consignee.

(c) "customs value" means the value as determined in accordance with the Agreement on implementation of Article VII of the General Agreement on Tariffs and Trade 1994 (WTO Agreement on Customs Valuation);

(d) "ex-works price" means the price paid for the product ex works to the manufacturer in the Party in whose undertaking the last working or processing is carried out, provided that the price includes the value of all the materials used and all other costs related to its production, minus any internal taxes which are, or may be, repaid when the product obtained is exported. Where the last working or processing has been subcontracted to a manufacturer, the term 'manufacturer' refers to the enterprise that has employed the subcontractor;

Where the actual price paid does not reflect all costs related to the manufacturing of the product which are actually incurred in the Party, the ex-works price means the sum of all those costs, minus any internal taxes which are, or may be, repaid when the product obtained is exported;

(e) "goods" means both material and product; (f) âproductionâ means any kind of working or processing, including assembly;

(g) "product" means the product being manufactured, even if it is intended for later use in another manufacturing operation;

(h) "material" means any ingredient, raw material, component or part, etc., used in the manufacture of the product;

(i) "non-originating material" means material that is not considered as originating in a Party in accordance with these Rules or material of unknown origin;

(j) "authorized body" means any body designated under domestic legislation of a Party or by the governmental authority of a Party to issue a Certificate of Origin.

Article 23. Originating Goods

For the purposes of this Agreement, the following goods shall be considered as originating in a Party, if they are:

(a) wholly obtained or produced in such Party, as provided for in Article 24 (Wholly Obtained Goods) of this Chapter;

(b) produced in a Party exclusively from originating materials; or

(c) produced from non-originating materials in a Party, provided that the goods conform to a regional value content of no less than 40%, except for the goods listed in the Annex 2 (List of Product Specific Rules) which must comply with the requirements specified therein.

Article 24. Wholly Obtained Goods

The following shall be considered as wholly obtained In a Party:

(a) mineral products extracted from its soil or from Its seabed;

(b) plants, including aquatic plants, and vegetable products grown or harvested there;

(c) live animals born and raised there and products obtained from such animals; (d) products obtained by hunting or fishing conducted there;

(e) products of aquaculture where the fish, crustaceans, molluscs and other aquatic invertebrates are born or raised there from eggs, larvae, fry or fingerlings;

(f) products of sea fishing and other products taken from the territorial sea or the Exclusive Economic Zone of a Party by vessels registered with that Party and flying the flag of that Party;

(g) products of sea fishing and other products taken from the high sea by vessels registered with a Party and flying the flag of that Party;

(h) products processed or made on board factory ships registered with a Party and flying the flag of that Party, exclusively from products referred to in subparagraphs (f) and (g);

(i) waste and scrap resulting from manufacturing operations conducted there which fit only for the recovery of raw materials;

(j) products extracted from the seabed and subsoil outside the territorial water of a Party, provided that the Party has the right to exploit such seabed or subsoil under domestic legislation in accordance with international law;

(k) goods produced there exclusively from the products specified in points (a) to (i).

Article 25. Regional Value Content (RVC)

1. For the purpose of sub-paragraph (c) of Article 23 (Originating Goods) of this Chapter, the Regional Value Content (RVC) criterion shall be calculated as follows:

RVC = Ex-works price - VNM / Ex-works prince x 100%

where: RVC is the regional value content, expressed as a percentage; and

VNM is the value of the non-originating materials.

2. VNM shall be determined on the basis of the customs value at the time of importation of the non-originating materials, including materials of undetermined origin. If such value is unknown and cannot be ascertained, the first ascertainable price paid or payable for the materials in an exporting Party shall be applied.

3. If a product which has acquired originating status in a Party in accordance with paragraph 1 of this Article is further processed in that Party and used as materials in the manufacture of another product, no account shall be taken of the non-originating components of those materials in the determination of the originating status of the product.

Article 26. De Minimis

A product that does not meet tariff classification change requirements, pursuant to Annex 2 (List of Product Specific Rules), shall nonetheless be considered to be an originating product, provided that:

(a) the value of all non-originating materials, determined pursuant to Article 25 (Regional Value Content) of this Chapter, including materials of undetermined origin, that do not meet the tariff classification change requirement does not exceed 10% of the ex-works price of the given product; and

(b) the goods meet all the other applicable criteria of this Chapter.

Article 27. Minimal Operations or Processes

1. Without prejudice to paragraph 2 of this Article, the following operations shall be considered to be insufficient working or

processing to confer the status of an originating product, whether or not the requirements of sub-paragraph (c) of Article 23 (Originating Goods) of this Chapter are satisfied:

(a) preserving operations that are necessary to ensure that a good retains its condition during storage and (or) transportation;

(b) operations to prepare the goods for sale and (or) transportation (splitting up of consignments, forming of consignments, sorting, repacking), disassembly and assembly of packages;

(c) washing, cleaning, removal of dust, oil, paint or other coverings;

(d) ironing or pressing of textiles (any type of fibre and yarn, woven fabrics of all types of fibres and yarn and articles thereof);

(e) painting, polishing, varnishing, coating, impregnating with oil or other substances;

(f) husking, partial or total bleaching, polishing or glazing of cereals and rice;

(g) freezing, defrosting;

(h) operations of colouring, dissolving or blending sugar, including blending with other materials, or forming sugar lumps;

(i) peeling, removing seeds, stones, shells or cutting of fruits, nuts and vegetables;

(j) sharpening, simple grinding or simple cutting;

(k) sifting, screening, sorting, classifying, grading, matching, making-up of sets of articles;

(l) simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple packaging operations;

(m) simple operations of assembly or disassembly of goods into parts;

(n) engraving, affixing or printing trademarks, logos, labels and other like distinguishing signs on goods or their packaging;

(o) mixing of goods which does not lead to a sufficient difference of good from the original components;

(p) slaughter of animals; 14

(q) cutting of meat, fish; or

(r) a combination of two or more operations specified above.

2. All the operations carried out in the exporting Party on a given product shall be taken into account when determining whether the working or processing undergone by that product is to be regarded as insufficient within the meaning of paragraph 1 of this Article.

3. For the purposes of paragraph 1 of this Article "simple operations" shall mean operations which do not require special knowledge (skills), or machines, apparatus and equipment specially designed for those operations.

Article 28. Cumulation of Origin

1. The goods originating in a Party which are used as materials in the manufacture of goods in another Party shall be considered as originating in such Party where the last operations other than those referred to in paragraph 1 of Article 27 (Minimal Operations or Processes) of this Chapter have been carried out.

2. Products originating in a Party, which do not undergo any working or processing in the exporting Party, shall retain its origin if they are exported to the other Party.

Article 29. Unit of Qualification

The unit of qualification for the application of this Chapter shall be the particular product which is considered to be the basic unit when determining classification using the nomenclature of the Harmonised System. It follows that:

(a) when a product composed of a group or assembly of articles is classified under the terms of the Harmonised System in a single heading or subheading, the whole constitutes the unit of qualification;

(b) when a consignment consists of a number of identical products classified under the same heading or subheading of the Harmonised System, each individual item shall be taken into account when applying this Chapter.

Article 30. Accessories, Spare Parts and Tools

1. Accessories, spare parts, or tools presented and classified with the good shall be considered as part of the good, provided that:

(a) they are invoiced together with the good; and

(b) their quantities and values are commercially customary for the good.

2. Where a good is subject to change in tariff classification criterion set out in Annex 2 (List of Product Specific Rules) of this Agreement, accessories, spare parts, or tools described in paragraph 1 of this Article shall be disregarded when determining the origin of the goods.

3. Where a good is subject to a regional value content requirement, the value of the accessories, spare parts or tools described in paragraph 1 of this Article shall be taken into account as originating materials or non-originating materials, as the case may be, in calculating the regional value content of the goods.

Article 31. Packing, Packages and Containers

1. Containers and packing materials used for the transport of goods shall not be taken into account in determining the origin of the goods.

2. The origin of the packaging materials and containers in which goods are packaged for retail sale shall be disregarded in determining the origin of the goods, provided that the packaging materials and containers are classified with the goods.

3. Notwithstanding paragraph 2 of this Article, where goods are subject to a regional value content requirement, the value of the packaging materials and containers used for retail sale shall be taken into account as originating materials or non-originating materials, as the case may be, in calculating the regional value content of the goods.

Article 32. Neutral Elements

When determining whether a product is an originating product, the origin of neutral elements used in the production, testing or inspection of the product but not physically incorporated into the product by themselves, shall not be taken into account. Such neutral elements include, but are not limited to the following:

(a) fuel, energy, catalysts and solvents;

(b) equipment, devices and supplies used for testing or inspecting the products; (c) gloves, glasses, footwear, clothing, safety equipment and supplies;

(d) tools, dies and moulds;

(e) spare parts and materials used in the maintenance of equipment and buildings; and

(f) lubricants, greases, compounding materials and other materials used in production or used to operate equipment and buildings.

Article 33. Sets

Goods classified as set in accordance with the General Rule 3 for the Interpretation of the Harmonised System, shall be regarded as originating if all the components included in the set considered as originating materials. Nevertheless, when a set is composed of originating and non-originating products, the set as a whole shall be regarded as originating, provided that the value of non-originating products as determined in accordance with Article 25 (Regional Value Content) of this Chapter, does not exceed 15% of the ex-works price of the set.

Article 34. Principle of Territoriality

The conditions for acquiring originating status of the product set out in Article 23 (Originating Goods) and Article 32 (Neutral Elements) of this Chapter shall be fulfilled without any interruption in a Party.

Article 35. Direct Transport

1. Preferential tariff treatment provided for in this Agreement shall be applied to goods which satisfy the requirements of this Chapter and are directly transported between the Parties.

2. Notwithstanding paragraph 1 of this Article, the following shall be considered as transported directly from the exporting Party to the importing Party:

(a) goods that are transported without passing through a non-Party; and

(b) goods whose transport involves transit through one or more non-Parties with or without trans-shipment or temporary storage in such non-Parties, provided that:

(i) the transit is justified by geographical reasons or by consideration related exclusively to transport requirements;

(ii) the goods do not enter into trade or consumption there; and

(iii) the goods do not undergo subsequent production or any operation there other than unloading, reloading, splitting-up of consignments or any other operation necessary to preserve them in good condition, provided that the goods remain under customs control during transit through non-Parties.

3. Compliance with the provisions set out in paragraph 2 of this Article shall be evidenced by presenting the customs authorities of the importing Party either with customs documents of the non-Parties, or with any other documents to the satisfaction of the customs authorities of the importing Party.

Section II. IMPLEMENTATION PROCEDURES

Article 36. Proof of Origin

1. In order to confirm the originating status of goods for obtaining free trade regime under this Agreement, either of the following proof of origin shall be submitted to the customs authority of the importing Party:

(a) Certificate of Origin as referred to in Article 37 (Certificate of Origin) of this Chapter; or

(b) Origin Declaration made out by an Approved Exporter as referred to in Article 38 (Origin Declaration by Approved Exporter) of this Chapter.

2. For the purposes of paragraph 1 of this Article, the Parties may agree to establish a system that allows proofs of origin listed in subparagraph (a) and (b) of paragraph 1 of this Article to be issued electronically and/or submitted electronically.

Article 37. Certificate of Origin

1. A Certificate of Origin shall be issued by the authorized body of the exporting Party.

2. The Certificate of Origin shall be issued before or at the time of exportation whenever the products to be exported can be considered originating in that Party subject to the provisions of this Chapter. The exporter, producer or their authorized representative, in accordance with the domestic legislation, shall submit a written application for the Certificate of Origin together with appropriate supporting documents proving that the products to be exported qualify for the issuance of a Certificate of Origin.

3. The Certificate of Origin, specimen of which is set out in Annex 3 (Certificate of Origin) of this Agreement shall be completed in English and duly signed and stamped. A Certificate of Origin shall be valid only within one year from the date of its issuance.

4. In exceptional cases where a Certificate of Origin has not been issued before or at the time of exportation, the Certificate of Origin may be issued retrospectively within one year from the date of shipment, bearing the remark âISSUED RETROSPECTIVELYâ, and remain valid for one year from the date of shipment.

5. For cases of theft, loss or accidental destruction of a Certificate of Origin, the exporter or producer may make a written request to the authorized bodies of the exporting Party for issuing a certified copy, provided that the original copy previously issued has been verified not to be used. The certified copy shall be marked with "DUPLICATE" together with the reference number and the date of issuance of the original Certificate of Origin. The certified copy shall be valid during the term of validity of the original Certificate of Origin.

6. Certificates of Origin which are submitted to the customs authority of the importing Party after the validity may be accepted when failure to observe the time limit is due to force majeure.

Article 38. Origin Declaration by Approved Exporter

1. An Origin Declaration as referred to in point (b) of Article 36 (Proof of Origin) of this Chapter may be made out by an Approved Exporter in accordance with the text as provided in Annex 4 (Origin Declaration) of this Agreement (version in English). The status of Approved Exporter shall be granted and administered by the exporting Party in accordance with its domestic legislation.

2. An Origin Declaration may be made out if the products can be considered as originating in a Party and fulfil the other requirements of this Chapter.

3. The Approved Exporter making out an Origin Declaration shall be prepared to submit at any time, at the request of the customs authorities of the exporting Party, all appropriate documents proving the originating status of the products concerned as well as the fulfillment of the other requirements of this Chapter.

4. An Origin Declaration shall be made out by the Approved Exporter by typing, stamping or printing on the invoice, the delivery note or another commercial document, as deemed valid by the customs authority of the importing Party, which describe the goods concerned in such a detail so as to render it identifiable. Origin Declaration shall bear the authorization number of the Approved Exporter, the name and the original signature of the person signing the declaration of origin in manuscript. An Origin Declaration may be made out by the Approved Exporter retrospectively within one year from the date of shipment.

5. An Origin Declaration shall be valid only within one year from the date of the issuance of the invoice or other commercial documents.

Article 39. Electronic System to Exchange Origin Data

The Parties will endeavour to develop an electronic system to exchange origin data to ensure the effective and efficient implementation of this Chapter.

Article 40. Preservation of Origin Documents

1. Each Party shall require its producers, exporters and importers to preserve documents related to the origin of the products as well as the fulfillment of the other requirements of this Chapter for at least three years.

2. Each Party shall require that its authorized bodies preserve copies of Certificates of Origin and other documentary evidence of origin for at least three years.

3. Exporters and importers benefiting from this Agreement shall, within the framework of this Agreement and subject to domestic legislation of the exporting Party and importing Party respectively, comply with the requirements of that Party and submit, at their request, supporting documents regarding the fulfillment of the requirements of this Chapter.

Article 41. Requirements Regarding Importation

1. Each Party shall grant preferential tariff treatment in accordance with this Agreement to originating products imported from the other Party on the basis of a proof of origin as defined in Article 36 (Proof of Origin) of this Chapter.

2. In order to obtain preferential tariff treatment, the importer shall, in accordance with the procedures applicable in the importing Party, request preferential tariff treatment at the time of importation of an originating product and submit the proof of origin as defined in Article 36 (Proof of Origin), as well as other documentary evidence upon requirements of the customs authorities of the importing Party.

3. For the purpose of paragraph 2 of this Article, a proof of origin shall be submitted to the customs authorities of the importing Party within 12 months from the date of issuance.

4. If the importer is not in possession of a proof of origin at the time of importation, the importer may, in accordance with the domestic legislation of the importing Party, make a claim for preferential tariff treatment at the time of importation and present the proof of origin and, if required, other documentation relating to the importation within a period as specified in the legislation of the importing Party. The customs authorities of the importing Party shall complete the import formalities in

accordance with the domestic legislation.

Article 42. Discrepancies and Minor Errors

1. The discovery of slight discrepancies between the statements made in the proof of origin and those made in the documents submitted to the customs authority for the purpose of carrying out the formalities for importing the products shall not ipso facto render the proof of origin null and void if it is duly established that that document does correspond to the products submitted.

2. Minor errors such as typing errors on a proof of origin shall not cause the documents referred to in paragraph 1 of this Article to be rejected if those errors are not such as to create doubts concerning the correctness of the statements made in those documents.

Article 43. Notification and Cooperation

1. The Parties shall provide each other with samples of Certificates of Origin including the information on the security features, specimen impressions of stamps used by the authorized bodies for the issue of Certificates of Origin, the models of the authorization numbers granted to approved exporters and the addresses of the customs authorities responsible for verification of origin.

2. In order to ensure the proper application of this Chapter, the Parties shall assist each other, through the customs authorities, in checking the authenticity of the Certificates of Origin and the Origin Declarations and the correctness of the information given in those documents.

Article 44. Verification of Origin

1. To ensure the effective application of this Chapter, the Parties shall assist each other to carry out verification on the authenticity of the proof of origin, the correctness of the information given therein, the originating status of the products concerned, and the fulfillment of any other requirements under this Chapter.

2. The customs authority of the exporting Party shall carry out verifications referred to in paragraph 1 of this Article upon request of the customs authority of the importing Party.

3. The importing Party shall submit the verification request to the exporting Party within three years from the completion or issuance of the proof of origin. The exporting Party is not obliged to conduct verifications based on verification requests received after that deadline.

4. The verification request shall include a copy of the proof of origin and, if appropriate, any other document or information giving reason to believe that the proof of origin is invalid. The reasons for the request shall be specified.

5. The customs authorities of the importing Party may, in accordance with their domestic legislation, suspend preferential tariff treatment or require payment of a deposit equivalent to the full amount of duties on a product covered by a proof of origin until the verification procedure has been accomplished.

6. The customs authority of the exporting Party may request evidence, carry out inspections at exporter's or producer's premises, check the exporter's and the producer's accounts and take other appropriate measures to verify compliance with this Chapter.

7. The requested Party shall notify the requesting Party of the results and findings of the verification within six months from the date of the verification request, unless the Parties agree upon another time frame on justified grounds. If the requesting Party receives no reply within six months or another time frame as agreed upon by the Parties, or if the reply does not state clearly whether the proof of origin is valid or whether a product is an originating product, the requesting Party may deny preferential tariff treatment to the product covered by the proof of origin concerned.

Article 45. Denial of Preferential Tariff Treatment

Except as otherwise provided in this Chapter, the importing Party may deny claim for preferential tariff treatment, if:

(a) the goods do not meet the requirements of this Chapter;

(b) the importer, exporter or producer fails to comply with the relevant requirements of this Chapter;

(c) the proof of origin does not meet the requirements of this Chapter; or

(d) in a case stipulated in paragraph 7 of Article 44 (Verification of Origin) of this Chapter.

Article 46. Confidentiality

Subject to the domestic legislation of each Party, all information which is specified by a Party as confidential or provided on a confidential basis shall not be disclosed without the explicit permission of the person or authority providing it.

Article 47. Sub-Committee on Rules of Origin

In accordance with paragraph 3 of Article 70 (The Joint Committee) of the Agreement, the Sub-Committee on Rules of Origin shall be setup, charged with carrying out administrative cooperation with a view to the correct and uniform application of this Chapter.

Chapter 4. CUSTOMS PROCEDURES AND TRADE FACILITATION

Article 48. Customs Procedures and Trade Facilitation

The Parties, with the aim to facilitate trade between them, shall:

(a) simplify, to the greatest extent possible, customs and border-related procedures for trade in goods and related services;

(b) promote co-operation between them in order to enhance their participation in the development and implementation of international conventions and recommendations on trade facilitation; and

(c) co-operate on trade facilitation within the framework of the Joint Committee.

Article 49. General Principles

The Parties, aiming to serve the interests of their respective business communities and to create a trading environment allowing them to benefit from the opportunities offered by the Agreement, agree that in particular the following principles are the basis for the development and administration of trade facilitation measures by their customs authorities and competent authorities of trade-related affairs:

(a) transparency, efficiency, simplification, harmonization and consistency of customs and other border-related procedures;

(b) consistent, impartial, predictable and reasonable administration of laws, regulations and administrative rules relevant to international trade in goods;

(c) promotion of international standards;

(d) consistency with multilateral instruments;

(e) best possible use of information technology;

(f) high standards of public service;

(g) customs and other border controls based on risk management;

(h) cooperation within each Party among customs and other border authorities; and

(i) consultations between the Parties and their respective business communities.

Article 50. Transparency

1. Each Party shall promptly make available and update, as far as practicable in English, the following through Internet:

(a) all laws, regulations, administrative rules of general application relevant to trade in goods;

(b) a description of its importation, exportation and transit procedures, including review and appeal procedures, that informs interested persons of the practical steps needed to import, export or transit of the goods;

(c) the forms and documents required for importation, exportation, or transit through the customs territory of that Party; and

(d) contact information on enquiry points.

2. Each Party shall establish enquiry points for customs and other border-related matters relevant to trade in goods, which may be contacted in English via the Internet. The Parties shall not require the payment of a fee for answering such enquiries.

3. Each Party shall consult its business community on its needs with regard to the development and implementation of trade facilitation measures, giving particular attention to the interests of small and medium-sized enterprises.

4. Each Party shall to the extent practicable and in a manner consistent with its domestic law and legal system, publish in advance, and on the Internet, any proposed laws and regulations relevant to international trade, with a view to affording interested persons an opportunity to comment on them.

5. Each Party shall ensure that a reasonable interval is provided between the publication of laws and regulations relevant to international trade and their entry into force.

Article 51. Simplification of International Trade Procedures

1. The Parties shall apply customs and border procedures related to bilateral trade that are simple, reasonable and impartial.

2. The Parties shall limit controls, formalities and the number of documents required in the context of trade in goods between the Parties to those necessary and appropriate to ensure compliance with legal requirements and thereby simplify to the greatest extent possible the respective procedures. With a view to minimising the incidence and complexity of import, export and transit formalities and to decreasing and simplifying import, export and transit documentation requirements, each Party shall ensure that such formalities and documentation requirements:

(a) are applied with a view to a rapid clearance and release of goods;

(b) are applied in a manner that aims at reducing the time and cost of compliance; and

(c) are the least trade restrictive measure chosen.

3. The importing Party shall not require an original or a copy of the export declaration from the importer unless it is through the channel of bilateral customs mutual administrative assistance and on certain conditions.

4. The Parties shall use efficient customs and trade-related procedures, with a view to reducing costs and unnecessary delays in trade between them, based, as appropriate, on international standards, in particular the standards, guidelines and recommendations of the World Customs Organization (WCO) including the principles of the Revised International Convention on the Simplification and Harmonization of Customs Procedures (Revised Kyoto Convention), the Codex Alimentarius Commission (CAC), the World Organization for Animal Health (WOAH), the United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT), the International Organization for Standardization (ISO), the International Electrotechnical Commission (IEC), the International Telecommunication Union (ITU) and the relevant international and regional organizations operating within the framework of the International Plant Protection Convention (IPPC).

5. Each Party shall adopt or maintain procedures that:

(a) provide for advance electronic submission and processing of information before the physical arrival of goods in order to expedite their clearance, if the information technology conditions are met;

(b) allow importers to obtain the release of goods prior to meeting all import requirements of that Party if the importer provides sufficient guarantees and where it is decided that neither further examination, physical inspection nor any other submission is required;

(c) provide for the possibility of electronic payment for duties, taxes, fees and charges collected by customs and other related border authorities; and

(d) allow goods intended for import to be moved within the customs territory of the Party under customs control from the customs supervision place of entry to another customs supervision place from where the goods would then be cleared or released.

Article 52. Competent Customs Offices

1. Each Party shall designate the customs offices at which goods may be presented or cleared. In determining the competence and location of these offices and their hours of business, the factors to be taken into account shall include in particular the requirements of trade.

2. Each Party shall, subject to the availability of resources, perform customs controls and procedures outside the designated business hours or outside the premises of the competent customs offices if so requested by a trader for a valid reason. Any related fee or charge shall be limited to the approximate cost of the services rendered.

Article 53. Risk Management

1. Each Party shall determine which persons, goods, or means of transport are to be examined and the extent of the examination, based on risk management.

2. In identifying and addressing risks related to the entry, exit, transit, transfer or end-use of goods moved between the customs territories of the Parties, or to the presence of goods that are not in free circulation, the Parties shall systematically apply objective risk management procedures and practices.

3. Each Party's border procedures related to customs controls and international trade, including its documentary examinations, physical examinations or post-audit examinations, shall be on a scientific basis and not be more onerous than necessary to limit its exposure to the risks referred to in paragraph 2.

Article 54. Advance Rulings

1. The customs authority of each Party shall issue, free of charge, a binding, written advance ruling, in a reasonable, time-bound manner, prior to the importation of a good into its customs territory, at the written request containing all necessary information, on an application of the exporter, importer, or any person with a justifiable cause or a representative thereof (1), with respect to:

(a) origin of a good;

(b) tariff classification of a good; and

(c) such other matters as the Parties may agree.

2. A Party that declines to issue an advance ruling shall promptly notify the applicant in writing, setting forth the basis for its decision to decline to issue the advance ruling.

3. Each Party shall provide that an advance ruling shall be valid from the date it is issued, or another date specified in the advance ruling, provided that the laws, regulations, administrative rules, and the facts or circumstances, on which the advance ruling is based remain unchanged.

4. The customs authority of the importing Party may revoke or invalidate an advance ruling, on certain conditions in accordance with its domestic laws and regulations.

5. Each Party shall endeavour to make information on advance rulings, which it considers to be of significant interest to other traders, publicly available, taking into account the need to protect confidential information.

(1) An applicant for an advance ruling from China shall be registered with China Customs.

Article 55. Authorized Economic Operator System

The rights and obligations of the Parties in respect of the Authorized Economic Operators System shall be governed by the Agreement between the Government of the Republic of Serbia and the Government of the Peopleâs Republic of China regarding mutual recognition of the AEO programme of the Customs Administration of the Ministry of Finance of the Republic of Serbia and the enterprise credit management programme of the General Administration of Customs of the Peopleâs Republic of China.

Article 56. Customs Brokers

The customs systems and procedures of each Party shall enable exporters and importers to submit their customs declaration without requiring recourse to customs brokers.

Article 57. Fees and Charges

1. Each Party shall ensure, in accordance with paragraph 1 of Article VII of the GATT 1994, that all fees and charges of whatever character (other than customs duties, charges equivalent to an internal tax or other internal charge applied consistently with paragraph 2 of Article HI of the GATT 1994, and anti-dumping and countervailing duties) imposed on or in connection with import or export are limited in amount to the approximate cost of services rendered and do not represent an indirect protection to domestic goods or a taxation on imports or exports for fiscal purposes.

2. Each Party shall publish information on fees and charges. The Parties shall endeavor to publish this information on the Internet. Such information may include the type of the fee or charge, the fees and charges that will be applied and the way they are calculated.

3. Upon request, a Party shall provide information on fees and charges applicable to imports of goods into that Party.

Article 58. Penalties

Each Party shall adopt or maintain measures that allow for the imposition of administrative penalties and, where appropriate, criminal sanctions for violations of its customs laws and regulations, including those governing tariff classification, customs valuation, rules of origin, and claims for preferential tariff treatment under this Agreement.

Article 59. Temporary Admission of Goods

1. Each Party shall allow temporary admission of goods in accordance with international standards that the Party committed and the Partyâs domestic laws and regulations.

2. For the purposes of this Article, âtemporary admissionâ means customs procedures under which certain goods may be brought into a customs territory conditionally relieved from payment of customs duties. Such goods must be imported for a specific purpose, and must be intended for re-exportation within a specified period and without having undergone any change except normal depreciation due to the use made of them.

Article 60. Inward and Outward Processing

1. Each Party shall allow temporary importation and exportation for inward processing and outward processing of goods in accordance with international standards that the Party committed and the Partyâs domestic laws and regulations.

2. For the purposes of this Article:

(a) "inward processing" means customs procedures under which certain goods can be brought into a customs territory conditionally relieved from payment of customs duties on the basis that such goods are intended for manufacturing, processing or repair and subsequent exportation, and

(b) "outward processing" means customs procedures under which certain goods, which are in free circulation in a customs territory, may be temporarily exported for manufacturing, processing or repair abroad and then re-imported with total or partial exemption from customs duties.

Article 61. Border Agency Cooperation

Each Party shall ensure that its authorities and agencies involved in border and other import and export controls cooperate and coordinate their procedures in order to facilitate trade.

Article 62. Review and Appeal

Each Party shall, in accordance with its laws and regulations, provide that the importer, exporter, or any other person affected by those administrative determinations or decisions concerning customs issues, have access to:

(a) a level of administrative review of determinations or decisions by its customs administration, independent of the official or office responsible for the decision under review; and

(b) judicial review of the administrative determinations or decisions subject to its laws and regulations.

Article 63. Confidentiality

All information provided in relation with the importation, exportation, advance rulings or transit of goods shall be treated as confidential by the Parties and shall be covered by the obligation of professional secrecy, in accordance with the respective laws of each Party. Such information shall not be disclosed by the authorities of a Party without the express permission of the person or authority providing it.

Article 64. Cooperation and Consultation

1. The Parties may identify, and submit to the Joint Committee for consideration, additional measures with a view to facilitating trade between them.

2. The Parties shall promote international cooperation in relevant multilateral fora on trade facilitation. The Parties shall review relevant international initiatives in order to identify, and may submit to the Joint Committee for consideration, further areas where joint action could contribute to their common objectives.

3. The customs authorities of the Parties shall provide mutual administrative cooperation to ensure the proper application of customs law, the review of customs procedures, the prevention, investigation, and combating of customs offenses as to achieve a satisfactory balance between effective control and facilitation.

4. The customs authorities of the Parties shall push forward cooperation based on âSmart Customs, Smart Borders, and Smart Comnectivityâ in order to enhance mutual trust and promote trade facilitation to achieve a high level connectivity between the Parties.

5. Either Party may request consultations on matters arising from the operation or implementation of this Chapter. Such consultation shall be conducted through the relevant contact points of the respective customs authority. Information on the contact points shall be provided to the other Party and any amendment of the said information shall be notified promptly.

Chapter 5. PROTECTION OF INTELLECTUAL PROPERTY

Article 65. Protection of Intellectual Property

1. For the purpose of this Agreement the intellectual property shall mean intellectual property as defined in Article 1 of Agreement on Trade-Related Aspects of Intellectual Property Rights (hereinafter referred to as "TRIPS Agreement").

2. The Parties recognize the importance of protection of intellectual property rights, and shall ensure an adequate and effective implementation of the international treaties dealing with intellectual property to which they are parties. The Parties which are party to the TRIPS Agreement reaffirm their obligations set out therein. The Parties which are not party to the TRIPS Agreement shall follow the principles of the TRIPS Agreement.

3. Each Party shall accord to the nationals of the other Party treatment no less favourable than that it accords to its own nationals with regard to the protection of intellectual property subject to the provisions and exceptions provided in Article 3 and Article 5 of the TRIPS Agreement.

4. Each Party shall accord to the nationals of the other Party treatment no less favourable than that it accords to the nationals of any other country with regard to the protection of intellectual property in accordance with the provisions of the TRIPS Agreement in particular Articles 4 and 5 thereof.

5. The Parties shall endeavor to ensure in their respective laws and regulations provisions for enforcement of intellectual property rights at the same level as provided for in Articles 41 through 50 of the TRIPS Agreement, so as to permit effective action against any act of infringement of intellectual property rights covered by this Agreement.

6. The Parties shall co-operate in matters of intellectual property. Upon request of a Party, they shall hold consultations of experts on these matters, in particular with respect to activities, relating the existing or to future international conventions on the harmonization, administration and vindication of intellectual property rights and on activities in international organizations, such as the WTO, World Intellectual Property Organization (WIPO), as well as concerning the relations of the Parties with third parties with respect to the intellectual property matters.

7. If problems in the area of intellectual property protection affecting trading conditions were to occur, urgent technical consultations shall take place in the Joint Committee at the request of a Party, with a view to reaching mutually satisfactory

solutions. Technical consultations may be conducted via any means mutually agreed by the Parties.

Chapter 6. INVESTMENT AND SERVICES

Article 66. Investment Promotion

The Parties recognize the importance of promoting crossborder investment and technology flows as a means for achieving economic growth and development. Cooperation in this respect may include:

(a) identifying investment opportunities;

(b) exchange of information on measures to promote investment abroad;

(c) exchange of information on investment regulations;

(d) assistance of investors to understand the investment regulations and the investment environment in both Parties; and

(e) the furthering of a legal environment conducive to increased investment flows.

Article 67. Facilitation of Investment

1. Subject to its laws and regulations, each Party shall facilitate investments from the other Party through, among others:

(a) improving transparency and efficiency of their domestic investment environment;

(b) creating the necessary environment for all forms of investment;

(c) simplifying availability of information on procedures for investment applications and approvals;

(d) promoting the dissemination of investment information, including, but not limited to, investment rules, regulations, policies and procedures; and

(e) enhancing one-stop investment arrangement in the respective host Parties to provide assistance and advisory services to the business sectors including facilitation of operating licenses and permits.

2. Subject to the domestic laws and regulations, the Party shall make available the measures prescribing the formalities of establishing an investment to investors and their investments of the other Party. The Party shall protect any confidential business information from any disclosure that would prejudice the competitive position of the investor or the investment. Nothing in this paragraph shall be construed to prevent a Party from otherwise obtaining or disclosing information in connection with the equitable and good faith application of its domestic law.

Article 68. Trade In Services

1. The Parties shall aim at achieving gradual liberalization and the opening of their markets for trade in services in accordance with the provisions of the General Agreement on Trade in Services (hereinafter referred to as "the GATS"), taking into account ongoing work under the auspices of the WTO.

2. If a Party grants to a third party, after the entry into force of this Agreement, additional benefits with regard to the access to its services markets, it shall afford adequate opportunities for negotiations with a view to extending these benefits to the other Party on a reciprocal basis.

3. The Parties undertake to keep under review paragraphs 1 and 2 with a view to establishing an agreement liberalizing trade in services between them in accordance with Article V of the GATS.

Article 69. Non-Application of Dispute Settlement

No Parties shall have recourse to Chapter 9 (Dispute Settlement) for any issue arising from or relating to this Chapter.

Chapter 7. INSTITUTIONAL PROVISIONS

Article 70. The Joint Committee

1. The Parties hereby establish the Serbia-China FTA Joint Committee. It shall be composed of representatives of the Parties, which shall be headed by senior officials delegated by them for this purpose.

2. The Joint Committee shall:

(a) supervise and review the implementation of this Agreement, inter alia by means of a comprehensive review of the application of the provisions of this Agreement, with due regard to any specific reviews stipulated in this Agreement;

(b) keep under review the possibility of further removal of barriers to trade and other restrictive measures concerning trade between the Parties;

(c) oversee the further development of this Agreement;

(d) supervise the work of all sub-committees and working groups established under this Agreement;

(e) endeavour to resolve disputes that may arise regarding the interpretation or application of this Agreement; and

(f) consider any other matter that may affect the operation of this Agreement (2).

3. The Joint Committee may decide to set up such sub-committees and working groups as it considers necessary to assist it in accomplishing its tasks. Except where otherwise provided for in this Agreement, the sub-committees and working groups shall work under a mandate established by the Joint Committee.

4. The Joint Committee shall take decisions as provided for in this Agreement, and may make recommendations, by consensus.

5. The Joint Committee shall meet within one year of the entry into force of this Agreement. Thereafter, it shall meet whenever necessary upon mutual agreement but normally every two years. Its meetings shall be chaired jointly. The Joint Committee shall establish its rules of procedure.

6. Each Party may request at any time, through a notice in writing to the other Party, that a special meeting of the Joint Committee be held. Such a meeting shall take place within 30 days of receipt of the request, unless the Parties agree otherwise.

7. The Joint Committee shall, in accordance with Article 90 (Amendments) consider proposals for any amendments to this Agreement submitted by a Party and recommend to the Parties amendments for adoption.

(2) Both Parties agree to cooperate in health and traditional Chinese medicine under this Agreement as set out in Annex 6 (Health Cooperation/TCM Cooperation).

Article 71. Contact Points

For the purpose of facilitating communication between the Parties on any matter covered by this Agreement, the Parties shall designate and duly update the administrative entities responsible for foreign trade to serve as contact points.

Chapter 8. COMPETITION

Article 72. Rules of Competition Concerning Undertakings

1. Each Party understands that proscribing anticompetitive business conduct and implementing competition policies contribute to preventing the benefits of trade and investment liberalization from being undermined and to promoting economic efficiencies, fair competition and consumer welfare.

The Parties agree that anti-competitive business practices means business conduct or transactions that adversely affect competition in the territory of a Party, such as:

(a) all agreements between undertakings, decisions by associations of undertakings and concerted practices which have as their object or effect the prevention, restriction or distortion of competition;

(b) abuse by one or more undertakings of a dominant position in the territory of a Party as a whole or in a part thereof; and

(c) concentrations between undertakings, which significantly restrict, distort or prevent competition in the territory of a Party, and especially if that restriction, distortion or prevention is the result of creating or strengthening of a dominant

position.

2. The provisions of paragraph 1 shall apply to the activities of public undertakings and undertakings for which the Parties grant special or exclusive rights, in so far as the application of these provisions does not prevent the performance, in law or in fact, of the particular public tasks assigned to them.

3. The provisions of paragraphs 1 and 2 shall not be construed to create any direct obligations for undertakings.

4. No Party shall have recourse to dispute settlement under Chapter 9 (Dispute Settlement) for any matter arising under this Article.

5. All the terms and definitions used in this Article, as well as any references to procedure, shall be construed in accordance with the relevant national laws and regulations of the Parties.

Chapter 9. DISPUTE SETTLEMENT

Article 73. Scope and Coverage

Unless otherwise provided in this Agreement, wherever a Party considers that a measure of the other Party is inconsistent with the rights and obligations of this Agreement, the dispute settlement provisions of this Chapter shall apply.

Article 74. Choice of Forum

1. Where a dispute regarding any matter arises under this Agreement and under another free trade agreement to which both Parties are parties, including WTO Agreement, the complaining Party may select the forum in which to settle the dispute.

2. Once the complaining Party has requested a panel under an agreement referred to in paragraph 1, the forum selected shall be used to the exclusion of the others.

Article 75. Consultations

1. In case of any divergence with respect to the interpretation, implementation and application of this Agreement, the Parties shall make every attempt through cooperation and consultations to arrive at a mutually satisfactory solution.

2. Each Party may request in writing consultations with the other Party regarding any measure which is found to be inconsistent with the rights and obligations of this Agreement. The request for consultations shall set out the reasons for the request, including identification of the measure at issue and a brief summary of the legal basis for the complaint. The other Party shall reply to the request within 10 days after the date of its receipt.

3. The consultations shall take place in the Joint Committee if a Party so requests within 30 days from the receipt of the notification referred to in paragraph 2, with a view to finding a commonly acceptable solution. Consultations on urgent matters shall commence within 15 days from the receipt of the request for consultations. If the Party to which a request is made in accordance with paragraph 2 does not reply within 10 days or does not enter into consultations within 30 days after the receipt of the request, or within 15 days for urgent matters,the Party making the request is entitled to request the establishment of an arbitration panel in accordance with Article 77 (Establishment of Arbitration Panel).

4. The consultations shall be confidential and are without prejudice to the rights of either Party in any further proceedings.

Article 76. Good Offices, Conciliation or Mediation

1. Good offices, conciliation and mediation are procedures that are undertaken voluntarily if the Parties so agree. They may begin and be terminated at any time. They may continue while procedures of an arbitration panel established in accordance with this Chapter are in progress.

2. Proceedings involving good offices, conciliation and mediation shall be confidential and without prejudice to the Parties' rights in any other proceedings.

Article 77. Establishment of Arbitration Panel

1. Disputes between the Parties relating to the interpretation of rights and obligations under this Agreement, which have not

been settled through direct consultations or in the Joint Committee within 60 days , or 30 days in relation to urgent matters, from the date of the receipt of the request for consultations, may be referred to arbitration by the complaining Party by means of a written notification addressed to the Party complained against.

2.The request for arbitration shall identify the specific measure at issue and provide a brief summary of the legal basis of the complaint.

3. The arbitration panel shall comprise three members. Within 25 days of the receipt of the notification referred to in paragraph 1, each party shall appoint one member. The two members already appointed shall agree on the appointment of the third member within 30 days of the appointment of the second member. The third member shall not be a national of the Parties, nor permanently reside in the territory of any of the Parties. The member thus appointed shall be the Chair of the arbitration panel.

4. If any member of the arbitration panel has not been designated within 55 days after the receipt of the written request for arbitration in accordance with paragraph 1, at the request of any Party to the dispute, the Director General of the WTO is expected to designate a member within a further 30 days. In the event that the Director General of the WTO is a national of any Party or unable to perform this task, the Deputy Director General of the WTO who is not a national of any Party shall be requested to perform such task. If the Deputy Director General of the WTO is unable to perform this task as well, the President of the Permanent Court of Arbitration (PCA) shall be requested to perform this task.

All panelists shall:

(a) have expertise or experience in law, international trade or the resolution of disputes arising under international trade agreements and, if possible, have expertise in the matter covered by the dispute;

(b) be chosen strictly on the basis of objectivity, reliability, and sound judgement;

(c) be independent of and not be affiliated with or take instructions from any Party;

(d) comply with a code of conduct in conformity with the relevant rules established in the document WT/DSB/RC/1 of the WTO.

5. If a panelist appointed under this Article resigns or becomes unable to act, a successor panelist shall be appointed within 15 days in accordance with the selection procedure as prescribed for the appointment of the original panelist and the successor shall have all the powers and duties of the original panelist. The work of the arbitration panel shall be suspended during the appointment of the successor panelist.

Article 78. Functions of Arbitration Panel

1. The arbitration panel shall make an objective assessment of the dispute before it, including an examination of the facts of the case and the applicability of and conformity of this Agreement. The decision of the arbitration panel shall be final and binding upon the Parties to the dispute.

2. Where an arbitration panels concludes that a measure is inconsistent with this Agreement, it shall recommend that the responding Party bring the measure into conformity with this Agreement.

3. The arbitration panel shall make its decision based on the provisions of this Agreement applied and interpreted in accordance with the rules of interpretation of public international law.

4. The arbitration panel, in their findings and recommendations, cannot add to or diminish the rights and obligations provided in this Agreement.

Article 79. Rules of Procedure

1. Unless the Parties agree otherwise, the arbitration panel proceedings shall be conducted in accordance with the Rules of Procedure set out in Annex 5 (Rules of Procedure of Arbitration Panel). These Rules and any time frames specified in this Chapter may be amended by the Joint Committee.

2. Unless the Parties otherwise agree within 30 days from the date of receipt of the request for arbitration in accordance with paragraph 1, its terms of reference shall be:

"To examine, in the light of the relevant provisions of this Agreement, the matter referred to in the request for the establishment of an arbitration panel pursuant to Article 77 (Establishment of Arbitration Panel) and to make findings of law

and fact together with the reasons therefor, for the resolution of the dispute."

3. The arbitration panel shall strive to take its decisions by consensus. If it is unable to reach consensus, it may take its decisions by majority vote. Panelists may furnish separate opinions on matters not unanimously agreed. The arbitration panel may not disclose which members are associated with majority or minority opinions.

4. At the request of the either Party or on its own initiative, the arbitration panel may seek scientific information and technical advice from experts as it deems appropriate.

5. The expenses of the arbitration panel, including the remuneration of its members, shall be borne by the Parties to the dispute in equal shares.

Article 80. Suspension or Termination of Proceedings

1. The Parties may agree that the arbitration panel suspends its work at any time for a period not exceeding 12 months from the date of such agreement. If the work of the arbitration panel has been suspended for more than 12 months, the authority for establishment of the arbitration panel shall lapse unless the Parties agree otherwise.

2. The Parties may agree to terminate the proceedings of an arbitration panel.

Article 81. Report of Arbitration Panel

1. The report of the arbitration panel shall be drafted without the presence of the Parties in the light of the information provided and the statements made to the arbitration panel.

2. In order to enable the Parties to have an opportunity for review and comment, the arbitration panel shall present the Parties its initial report within 90 days of the tribunal's formation setting out its findings of facts and its determination as to whether a disputing Party has conformed with its obligations under this Agreement. In exceptional cases, if the arbitration panel considers it cannot release its initial report within 90 days, it shall inform the Parties in writing of the reasons for the delay together with an estimate of the period within which it will issue its report. Any delay shall not exceed a further period of 30 days, unless the Parties otherwise agree.

3. A Party may submit written comments to the arbitration panel within 10 days of receiving the initial report. After considering these written comments by the Parties and making any further examination it considers appropriate, the arbitration panel shall present the Parties its final report within 30 days of presentation of the initial report, unless the Parties otherwise agree. The final report of the arbitration panel shall be made available as a public document after the lapse of 10 days from the date of its release, subject to the protection of the confidential information, in accordance with the legislation of the Parties.

4. The arbitral report is final.

Article 82. Implementation of the Decision

1. The Party concerned shall promptly comply with the decision of the arbitration panel. If it is impracticable to comply immediately, the Parties shall endeavour to agree on a reasonable period of time to do so. In the absence of such agreement within days from the date of the award, either Party may, within 10 days from the expiration of such period, request the original arbitration panel to determine the length of the reasonable period of time. The ruling of the arbitration panel should be given within 30 days from the receipt of that request.

2. The Party concerned shall notify the other Party of the measure adopted in order to implement the award, as well as provide a detailed description of how the measure ensures compliance sufficient to allow the other Party to assess the measure.

Article 83. Compliance Review

1. Where the Parties disagree on the existence or consistency with this Agreement of measures taken to comply with the recommendations and rulings of the arbitration panel, such dispute shall be decided through recourse to the dispute settlement procedures under this Chapter, including wherever possible by resort to the original arbitration panel.

2. The arbitration panel shall convene as soon as possible after the delivery of the request and shall issue its report on the matter within 60 days of the date of delivery of the written notification.When the arbitration panel considers that it cannot

issue its report within this timeframe, it shall inform the Parties in writing of the reasons for the delay together with an estimate of the period within which it will issue its report. Any delay shall not exceed a further period of 30 days unless the Parties agree otherwise.

3. Articles concerning the procedure of arbitration panel in this Chapter shall apply mutatis mutandis to the procedure under this Article.

Article 84. Compensation and Suspension of Benefits

1. If the Party concerned fails to comply with the decision within a reasonable period of time and the Parties have not agreed on any compensation, the other Party may, until the decision has been properly implemented or the dispute has been otherwise resolved, and subject to a prior notification of 30 days, suspend the application of benefits granted under this Agreement, but only equivalent to those affected by the measure that the arbitration panel has found to violate this Agreement.

2. In considering what concessions and obligations to suspend, the complaining Party shall first seek to suspend concessions and obligations in the same sector or sectors as that affected by the measure that the arbitration panel has found to be inconsistent with this Agreement. If the complaining Party considers it is not ptacticable or effective to suspend concessions and obligations in the same sector or sectors, it may suspend concessions and obligations in other sectors. In such a case, the complaining Party shall include in its notification announcing the suspension of concessions or obligations the reasons for its decision.

3. In its notification announcing the suspension of concessions or obligations, the complaining Party shall indicate the concessions or obligations which it intends to suspend, the grounds for such suspension and when suspension will commence. Within 15 days from the receipt of that notification, the Party complained against may request the arbitration panel to rule on whether the concessions or obligations which the complaining Party intends to suspend are equivalent to those affected by the measure found to be inconsistent with this Agreement, and whether the proposed suspension is in accordance with paragraphs 1 and 2. The ruling of the arbitration panel shall be given within 60 days from the receipt of that request. Concessions or obligations shall not be suspended until the arbitration panel has issued its ruling.

4, Compensation and suspension of benefits shall be temporary measures and shall only be applied by the complaining Party until the measure found to be inconsistent with this Agreement has been withdrawn or amended so as to bring it into conformity with this Agreement, or until the Parties have resolved the dispute otherwise. To this end, if the Party complained against considers that it has eliminated the non-conformity that the arbitration panel has found, it may provide written notice to the complaining Party with a description of how non-conformity has been removed.

5. Any dispute regarding the implementation of the decision or the notified suspension shall be decided by the arbitration panel upon request of either Party before compensation can be sought or suspension of benefits can be applied. The arbitration panel may also rule on the conformity with the decision of any implementing measures adopted after the suspension of benefits and whether the suspension of benefits should be terminated or modified. The ruling of the arbitration panel under this paragraph shall normally be given within 45 days from the date of receipt of the request.

Article 85. Post Suspension

1. Without prejudice to the procedures in Article 84 (Compensation and Suspension of Benefits), if the Party complained against considers that it has eliminated the non-conformity that the arbitration panel has found, it may provide written notice to the complaining Party with a description of how non-conformity has been removed. If the complaining Party disagrees, it may refer the matter to the original arbitration panel within 60 days after receipt of such written notice. Otherwise, the complaining Party shall promptly stop the suspension of concessions or other obligations.

2. The arbitration panel shall issue its report within 60 days after the referral of the matter by the complaining Party pursuant to paragraph 1. If the arbitration panel concludes that the Party complained against has eliminated the non-conformity, the complaining Party shall promptly stop the suspension of concessions or other obligations.

Article 86. Private Rights42

Neither Party may provide for a right of action under its domestic law against the other Party on the ground that a measure of the other Party is inconsistent with this Agreement.

Chapter 10. FINAL PROVISIONS

Article 87. Fulfillment of Obligations

The Parties shall take any general or specific measures required to fulfil their obligations under this Agreement.

Article 88. Annexes

The Annexes to this Agreement are an integral part of this Agreement.

Article 89. Evolutionary Clause

The Parties will review this Agreement in light of further developments in international economic relations, inter alia in the framework of the WTO, and to examine in this context and in light of any relevant factor the possibility of further developing and deepening their co-operation under this Agreement and to extend it to interested areas at an appropriate time agreed by both Parties. The Joint Committee shall regularly examine this possibility and, where appropriate, make recommendations to the Parties, particularly with a view to opening up negotiations.

Article 90. Amendments

1. Each Party may submit proposals for amendments to this Agreement to the Joint Committee for consideration and approval.

2. Amendments to this Agreement shall, after approval by the Joint Committee, be submitted to the Parties for ratification, acceptance or approval in accordance with their respective legal requirements.

3. Unless otherwise agreed by the Parties, amendments shall enter into force on the first day of the third month following the date of notification of the latter Party that the respective legal requirements have been fulfilled.

Article 91. Relation to other International Agreements

1. The provisions of this Agreement shall be without prejudice to the rights and obligations of the Parties under the WTO Agreement and the other agreements negotiated thereunder, to which they are a party and any other international agreement to which they are a party.

2. This Agreement shall not preclude the maintenance or establishment of customs unions, free trade areas, arrangements for frontier trade and other preferential agreements insofar as they do not have the effect of altering the trade arrangements provided for in this Agreement.

3. When a Party enters into a customs union or free trade agreement with a third party it shall, upon request by the other Party, afford adequate opportunity for consultations with the requesting Party.

Article 92. Termination

1. Each Party may terminate this Agreement by notification, through diplomatic channels, to the other Party. This Agreement shall expire six months after the date on which such notification is sent.

2. Within 30 days of a notification under paragraph 1, either Party may request consultations with the view to making better preparations for the termination of the Agreement. Such consultations shall commence within 30 days of a Partyâs delivery of such request.

Article 93. Entry Into Force

This Agreement shall enter into force on the first day of the third month following the month of the receipt of the latter notification by which the Parties notify each other, through diplomatic channels, that their respective legal procedures necessary for the entry into force of this Agreement have been completed.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE at ……,…… in two originals, each in the Serbian, Chinese and English language, all texts being equally authentic. In case of divergence, the English text shall prevail.

For the Government of the Republic of Serbia

For the Government of the People's Republic of China

Annex 5. RULES OF PROCEDURE OF ARBITRATION PANEL

1. Definitions

For the purpose of this Agreement and Chapter on Dispute Settlement:

(a) "arbitration panel" means an arbitration panel established pursuant to Article 77 (Establishment of Arbitration Panel).

(b) "complaining Party" means a Party that requests the establishment of an arbitration panel under Article 77 (Establishment of Arbitration Panel).

(c) "responding Party" means a Party that has been complained against pursuant to Article 77 (Establishment of Arbitration Panel).

2. First Written Submissions

1. The complaining Party shall deliver its first written submission no later than 20 days after the last panelist is selected. The Party complained against shall deliver its first written submission no later than 30 days after the date of delivery of the complaining Party's first written submission.

2. A Party shall provide a copy of its written submission to the other Party and to each of the panelists. A copy of the document shall also be provided in electronic format.

3. Hearings

1. The Chair of the arbitration panel shall fix the date, time and location of the hearing in consultation with the Parties and the other panelists and notify the Parties of its decision. Unless either of the Parties disagrees, the arbitration panel may decide not to convene a hearing.

2. The arbitration panel may conduct its activities by any appropriate means, including telephone or computer links.

3. The arbitration panel may convene additional hearings if the Parties so agree. 4. All panelists shall be present at hearings.

5. The hearings of the arbitration panel shall in principle be held in closed session, in particular if confidential information is exchanged, unless both Parties agree otherwise.

6. Within 30 days after the date of the hearing, each Party may deliver a supplementary written submission responding to any matter that arose during the hearing. The supplementary written submission shall be delivered in accordance with paragraph 2 of Article 2 (First Written Submissions) of this Annex.

4. Questions In Writing

1. The arbitration panel may at any time during the proceedings address questions in writing to one or both Parties and set a time period for answering them.

2. A Party to whom the arbitration panel addresses written questions shall deliver a copy of any written reply to the other Party and to the arbitration panel. Each Party shall be given the opportunity to provide written comments on the reply of the other Party within 5 days after the date of delivery of such written reply.

5. Confidentiality

The Parties shall maintain the confidentiality of the arbitration panelâs hearings. Each Party shall treat as confidential the information submitted by the other Party to the arbitration panel which that Party has designated as confidential.

6. Ex Parte Contacts

1. The arbitration panel shall not meet or contact a Party in the absence of the other Party.

2. Neither Party may contact any panelist in relation to the dispute in the absence of the other Party or other panelist.

3. No panelist may discuss any aspect of the subject matter of the proceeding with a Party or both Parties in the absence of other panelists.

7. Role of Experts

1. Upon request of a Party or on its own initiative, the arbitration panel may seek information and technical advice from any person or body that it deems appropriate. Any information so obtained shall be submitted to the Parties for comments.

2. When the arbitration panel makes a request for a written report of an expert, any time period applicable to the arbitration panel proceeding shall be suspended for a period beginning on the date of delivery of the request and ending on the date the report is delivered to the arbitration panel.

8. Working Language

1. The working language of the dispute settlement proceedings shall be English.

2. Written submissions, documents, oral arguments or presentations at the hearings, initial and final reports of the arbitration panel, as well as all other written or oral communications between both Parties and the arbitration panel, shall be made or conducted in the working language.