Free Trade Agreement between the Government of the United Mexican States and the Government of the Republic of Nicaragua

The Government of the Republic of Nicaragua and the Government of the United Mexican States,

Determined to:

To strengthen the special bonds of friendship, solidarity and cooperation between their peoples;

Accelerating and encourage the revitalization of American integration schemes;

To achieve a better balance in trade relations between their countries, taking into account their levels of economic development;

To contribute to the harmonious development and expansion of world trade and the expansion of international cooperation;

Create a wider market and insurance to produced goods or services supplied in their territories;

Reducing distortions in their reciprocal trade;

Establish clear rules and mutual benefits for their commercial exchanges;

Ensure a predictable trading environment for business planning and investment;

Develop their respective rights and obligations under the Marrakesh Agreement Establishing the World Trade Organization (WTO) Agreement and other bilateral and multilateral instruments of cooperation and integration;

Strengthen the competitiveness of their enterprises in global markets;

Encourage innovation and creativity through the protection of intellectual property rights;

The creation of new employment opportunities, improving working conditions and living standards in their respective territories;

Protecting fundamental rights of workers;

The foregoing engage in a manner consistent with the protection and conservation of the environment;

Strengthen the development and implementation of laws and regulations on the environment;

Promote sustainable development;

Preserving its ability to safeguard the public welfare; and

Promoting the active participation of the various economic operators, in particular the private sector, in efforts to strengthen economic relations between the parties and to develop and to maximize the opportunities for its joint presence in international markets;

This held Free Trade Agreement

In accordance with the provisions of the WTO Agreement.

Chapter I. Initial Provisions

Article 1-01. Establishment of the Free Trade Area

The parties establish a free trade area in accordance with Article XXIV of the General Agreement on Tariffs and Trade 1994 (GATT 1994) and article V of the General Agreement on Trade in Services.

Article 1-02. Objectives

1. The objectives of this Treaty, specifically developed through its Principles and Rules, including the national treatment and most favoured nation treatment and transparency, are the following:

a) Encourage expansion and diversification of trade between the parties;

b) Eliminate barriers to trade and facilitate the movement of goods and services between the parties;

c) Promote conditions of fair competition in the trade between the parties;

d) Substantially increase investment opportunities in the territories of the Parties;

e) Protect and enforce adequate and effective protection of intellectual property rights in the territory of each party;

f) Establish guidelines for further cooperation between the parties, as well as at the regional and multilateral cooperation to expand and enhance the benefits of this Treaty; and

g) Create effective procedures for the implementation and application of this Treaty, for its joint administration and for the resolution of disputes.

2. The Parties shall interpret and apply the provisions of this Treaty in the light of the objectives set out in paragraph 1 and in accordance with applicable rules of international law.

Article 1-03. Relationship with other International Treaties and Agreements

1. The Parties confirm their rights and obligations existing between them under the WTO Agreement and other treaties and agreements to which they are party.

2. In the event of any inconsistency between the provisions of the treaties and agreements referred to in paragraph 1 and the provisions of this Treaty, the latter shall prevail to the extent of the inconsistency.

Article 1-04. Observance of the Treaty

Each Party shall ensure, in accordance with its constitutional rules, the implementation of the provisions of this Treaty in its territory at the federal or central, regional and state or municipal respectively, except where otherwise provided in this Treaty.

Article 1-05. Succession

Any reference to any other treaty or international agreement shall be made on the same terms for a treaty or a successor agreement to which the parties are party.

Chapter II. General Definitions

Article 2-01. Definitions of General Application

For the purposes of this Agreement, unless otherwise provided, the following definitions shall apply:

customs tariff: any tax or tariff import duty and any other charge of any kind imposed in connection with the importation of goods, including any form of surtax or surcharge on imports, except:

a) Any charge equivalent to an internal tax established in accordance with article 111: 2 of the GATT 1994 with respect to similar goods, direct competitors or replacement of the party or in respect of goods from which has been manufactured or produced in whole or in part the imported goods;

b) Any compensatory quota applied in accordance with the domestic law of the party and is not inconsistent with the provisions of chapter IX (unfair practices of international trade);

c) Any duty or other charge in connection with importation commensurate with the cost of services rendered; and

d) Any premium offered or collected on imported goods, arising out of any tendering system in respect of the administration of quantitative import restrictions or preference or aranceles-cuota tariff quotas;

Goods of a Party: means domestic products as understood in GATT 1994 or goods such as the parties may agree and includes originating goods. a good of a Party may include materials of other countries;

Originating good: means good which complies with the rules of origin set out in chapter IV (rules of origin);

Customs valuation code: means the Agreement on Implementation of article VII of the General Agreement on Tariffs and Trade 1994, including its interpretative notes;

Commission: the Administering Commission established under article 19-01; share: compensatory duty and quota anti-dumping or countervailing duty according to the legislation of each party;

Days: means normal or calendar days;

Enterprise: means constituted a legal person or organized under the applicable law, whether or not for profit and whether privately-owned or governmental and other organizations or economic units which are duly constituted or otherwise organized under the applicable law, including branches, foundations, companies, trusts, shares, firms, sole proprietorship enterprise co-investments or other associations;

State enterprise: means an enterprise that is owned by a party or under its control through participation in the capital;

Enterprise of a party: means an enterprise constituted or organized under the law of a party;

Fraction tariff: the breakdown of a code of tariff classification of the harmonized system for more than six digits;

Measure: means any law, regulation, provision or administrative practice; national means a natural person who has the nationality of a Party according to its applicable law. the term also extends to persons who, in accordance with the legislation of that Party, having the character of permanent residents in the territory of the same;

Party: any State with respect to which this Treaty has entered into force;

Exporting Party: the Party from whose territory is exported goods or services;

Importing Party: the party into whose territory is imported goods or services;

Heading: a code of tariff classification of the Harmonized System at the 4-digit level;

Person: means a natural person or an enterprise;

Party: means a person of a national or an enterprise of a party;

Programme of tariff relief: the one established in article 3-04;

Secretariat: the Secretariat established under article 19-02;

Harmonized System (HS): means the Harmonized Commodity Description and Coding System of goods, including its general rules of classification and its explanatory notes;

Subheading: a code of tariff classification six-digit HS level; territory means: for each Party, as defined in the annex to this Article.

Annex to Article 2-01. Country-specific definitions

For purposes of this Treaty, unless otherwise specified:

Territory:

a) With respect to Mexico:

i) The States of the Federation and the Federal District;

ii) The islands and cays, including the reefs in adjacent seas;

iii) The islands of Guadalupe revillagigedo and situated in the Pacific Ocean;

iv) the continental shelf and the submarine sockets of islands, cays and reefs;

v) The waters of the territorial seas, in the extension and terms set by international law, and inland waters;

vi) The space on the national territory to the extent and modalities that establishes the International Law; and

vii) Any areas beyond the territorial seas of Mexico within which it may exercise rights with respect to the seabed and subsoil and the natural resources therein, in accordance with international law, including the United Nations Convention on the Law of the Sea, as well as with its domestic law; and

b) In Nicaragua, the Land, Sea and Air Space under its sovereignty, marine and submarine areas over which the Republic of Nicaragua exercises sovereign rights and jurisdiction in accordance with its legislation and international law.

Chapter III. National Treatment and Market Access for Goods

Section A. Scope and Definitions

Article 3-01. Definitions

For purposes of this chapter:

Consumed:

a) Actually consumed; or

b) Processed or manufactured so as to result in a substantial change in value, form or use of the good or good in the production of another;

Non-commercial samples: the commercial samples are marked, broken, perforated or treated so that the disqualifying for sale or for any use that is not a significant sample; and

Performance requirement means a requirement to:

a) Specific export volume or percentage of goods or services;

b) Replace goods or services imported goods or services of the party granting the waiver of customs duties;

c) Where a person benefiting from a waiver of customs duties other purchase goods or services in the territory of the party or granting a accord preference to domestically produced goods or services;

d) Where a person benefiting from a waiver of customs duties produce goods or provide services in the territory of the party which accords with a given level or percentage of domestic content; or

e) In any way relate to the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows.

Article 3-02. Scope

This chapter applies to trade in goods between the parties except as otherwise provided in this Treaty.

Section B. National Treatment National Treatment

Article 3-03. National Treatment

1. Each Party shall accord to the National Treatment goods of the other Party in accordance with article III of the GATT 1994, including its interpretative notes. to this end article III of the GATT 1994 and its interpretative notes are incorporated into this Agreement and form an integral part thereof.

2. The provisions of paragraph 1 regarding National Treatment means with respect to a State or municipality, treatment no less favourable than the most favourable treatment accorded by such State or municipality to any similar goods, direct competitors or substitutes, as the case may be, of the Party of which they are members.

3. Paragraphs 1 and 2 do not apply to the measures set out in the annex to article 3-03 and 3-09.

Section C. Tariffs

Article 3-04. Tariff Relief

1. Except as otherwise provided in this Agreement, no Party may increase any existing customs duties, or adopt any new customs duties, on originating goods. (1) (2)

2. Except as otherwise provided in this Treaty, each Party shall progressively eliminate its customs duties on goods originating as set out in the Annex to this article.

3. At the request of either party shall consult the parties to consider accelerating the elimination of customs duties set out in the schedule of tariff relief. once approved by the parties in accordance with its applicable legal procedures, the Agreement on the accelerated elimination of customs duties on a good that is reached between the parties, shall prevail over any customs tariff or period of relief identified in accordance with the schedule of relief that tariff for good.

4. Except as otherwise provided, this treaty incorporates the tariff preferences previously negotiated between the parties pursuant to the First Protocol amending the partial agreement concluded between Mexico and Nicaragua, as reflected in the manner in the schedule of tariff relief. from the entry Entry into Force of this Treaty shall be without effect preferences granted or negotiated between the parties in the framework of the First Protocol amending the partial agreement concluded between Mexico and Nicaragua.

5. Each Party may adopt or maintain measures to allocate the import share of imports under the volumes set through tariffs (tariff-quota) according to the schedule of tariff relief, provided that such measures do not have restrictive trade effects on imports additional to those caused by the imposition of the tariff rate quota.

6. At the written request of any Party, a party applying or intending to apply measures on imports in accordance with paragraph 5 shall consult to review the administration of those measures.

(1) Paragraph 1 does not prohibit a Party from increasing a customs duty to a level no higher than that set out in the Tariff Discharge Schedule to this Agreement where such customs duty has previously been unilaterally reduced to any level lower than that set out in the Tariff Discharge Schedule.

(2) Paragraphs 1 and 2 are not intended to prevent any Party from increasing a customs duty where such an increase is authorized by any provision of a WTO dispute settlement proceeding between the Parties.

Article 3-05. Restrictions on Duty Drawback on Exported Goods and on Duty Deferral Programs

1. For purposes of this Article, the following definitions shall apply:

customs duties: the customs duties that would be applicable to a good that is imported for consumption in the customs territory of a Party if the good were not exported to the territory of another Party;

fungible goods: "fungible goods" as defined in Chapter VI (Rules of Origin);

identical or like goods: goods that are alike in all respects, including physical characteristics, quality and goodwill, as well as goods that, although not alike in all respects, have similar characteristics and composition, enabling them to perform the same functions and to be commercially interchangeable; and

material: "material" as defined in Chapter VI (Rules of Origin).

No Party may refund the amount of customs duties paid, or exempt or reduce the amount of customs duties owed, on a good imported into its territory by an amount that exceeds the total customs duties paid or owed on that quantity of that imported good, with due allowance for waste, that is:

a. used as a material in the production of another good subsequently exported to the territory of the other Party; or

b. replaced by an identical or similar good used as a material in the production of another good subsequently exported to the territory of the other Party.

No Party may, on condition of export, refund, waive or reduce:

a. countervailing duties applied in accordance with the legislation of each Party;

b. premiums offered or collected on imported goods arising from any tendering system relating to the application of quantitative import restrictions, tariff-rate quotas, or tariff preference quotas; or

c. customs duties paid or owed on a good imported into its territory and replaced by an identical or similar good that is subsequently exported to the territory of the other Party.

4. Except as otherwise provided in this Article, on or after July 1, 2005, and in the circumstances set out in paragraph 6, a Party may not refund the amount of customs duties paid, or waive or reduce the amount of customs duties owed, with respect to a good imported into its territory, provided that the good is:

a. used as a material in the production of an originating good subsequently exported to the territory of the other Party; or

b. replaced by an identical or similar good used as a material in the production of an originating good subsequently exported to the territory of the other Party.

5. under the tariff deferral program and any of the conditions set out in subparagraphs (a) and (b) of paragraph 4 are met, the Party from whose territory the good was exported shall

a. determine the amount of customs duties as if the exported good had been destined for domestic consumption; and

b. within 60 days of the date of exportation, collect the amount of customs duties as if the exported good had been destined for domestic consumption.

6. Paragraphs 4 and 5 apply:

a. from the time Nicaragua applies to a non-Party provisions similar to those contained in those paragraphs; or

b. to a good imported into the territory of a Party that satisfies the conditions in paragraph 4(a) and (b). In this case, drawback of customs duties shall be suspended for three years where it is demonstrated that the drawback, exemption, or reduction of customs duties simultaneously

i) creates a significant distortion of the tariff treatment applied by the Party granting the duty drawback, exemption, or tariff reduction in favor of the export of goods from the territory of that Party; and

ii) causes injury to the domestic production of identical or similar goods, or direct competitors of the other Party.

7. For purposes of paragraph 6, there is a significant distortion of the tariff treatment applied by the Party granting the refund, exemption or reduction of customs duties in favor of the export of goods of the territory of that Party where:

a. the amount of customs duties refunded, exempted or reduced on goods imported into the territory of that Party that meet the conditions set out in subparagraphs (a) and (b) of paragraph 4 and for which there is production in the territory of the Parties exceeds 5% of the total value of imports in any one year of originating goods classified in a tariff item of the Party to whose territory those originating goods are exported; or

b. a Party refunds, exempts, or reduces customs duties on goods or materials originating in the territory of a non-Party on the importation of which it maintains quantitative restrictions and those goods or materials are subsequently exported to the other Party and used in the production of goods subsequently exported to the other Party.

8. For purposes of paragraph 6, for the determination of injury:

a. injury means a significant impairment of domestic production; and

b. domestic production means the producer or producers of identical or similar goods, or direct competitors operating within the territory of a Party and constituting a significant proportion exceeding 35% of the total domestic production of those goods.

9. Paragraphs 3, 4 and 5 do not apply to:

a. a good that is imported under bond or guarantee to be transported and exported to the territory of the other Party;

b. a good that is exported to the territory of the other Party in the same condition in which it was imported into the territory of the Party from which it is exported. Processes such as testing, cleaning, repackaging, inspection or preservation of the

good in the same condition shall not be considered as changes in the condition of the good. When a good has been commingled with fungible goods and exported in the same condition, its origin, for purposes of this paragraph, may be determined on the basis of the inventory methods set out in Chapter VI (Rules of Origin);

c. a good imported into the territory of a Party, which is subsequently deemed to be exported from its territory or used as a material in the production of another good that is subsequently deemed to be exported to the territory of the other Party, or replaced by an identical or similar good used as a material in the production of another good that is subsequently deemed to be exported to the territory of the other Party, by reason of:

i) its shipment to a store free of customs duties; or

ii) its shipment to stores on board vessels or as supplies for vessels or aircraft;

d. the refund by a Party of customs duties paid on a specific good imported into its territory and subsequently exported to the territory of the other Party, where such refund is granted on the grounds that the good does not correspond to the samples or specifications of the subject good, or by reason of the shipment of that good without the consent of the consignee; or

e. an originating good imported into the territory of a Party that is subsequently exported to the territory of the other Party, or used as a material in the production of another good subsequently exported to the territory of the other Party, or replaced by an identical or similar good used as a material in the production of another good subsequently exported to the territory of the other Party.

10. The Party that refunds, exempts or reduces customs duties shall, on request of the other Party, provide such information as it requires to verify the existence of the conditions set out in paragraph 6, including statistical information relating to imports on which it grants refunds, exemptions or reductions of customs duties in respect of a good exported to the territory of another Party.

11. As a condition for excluding from the calculation of the percentage referred to in paragraph 9(a), refunds, exemptions or reductions of customs duties granted on a good that meets the conditions of paragraph 4(a) and (b), the Party refunding, exempting or reducing such customs duties shall demonstrate that there is no production in the free trade area of a good identical or similar to that good.

12. For purposes of paragraph 11, on request of the Party refunding, exempting or reducing customs duties on a good, the other Party shall, to the extent possible, provide relevant and available information on that good.

13. Each Party shall establish clear and strict procedures for the application of paragraphs 4 and 5, in accordance with the following:

a. the Party that decides to initiate an investigation to implement paragraphs 4 and 5 shall publish the initiation of the investigation in the appropriate official organs of dissemination and shall notify the exporting Party in writing on the day following publication;

b. for purposes of determining significant distortion and injury under paragraph 6(b)(i) and (ii), the competent authorities shall evaluate all factors of an objective and quantifiable nature;

c. in determining the application of paragraphs 4 and 5, a direct causal link shall also be demonstrated between the reimbursement, exemption or reduction, and the distortion and injury to the domestic production of identical or similar goods, or direct competitors;

d. if as a result of this investigation the competent authority determines, on the basis of objective evidence, that the conditions set forth in this Article are met, the importing Party may initiate consultations with the other Party;

e. the consultation procedure shall not oblige the Parties to disclose information that has been provided on a confidential basis, the disclosure of which could impede compliance with the laws of the Party regulating the matter or could cause injury to the other Party.

f. the period of prior consultations shall begin on the day following receipt by the exporting Party of the notification of the request for the initiation of consultations. The period of prior consultations shall be 45 days, unless the Parties agree on a shorter period;

g. the notification referred to in subparagraph f) shall be made through the competent authority and shall contain sufficient background information to support the application of paragraphs 4 and 5, including:

(i) the names and addresses of the domestic producers of identical or similar goods, or direct competitors representative of

the domestic production, their share in the domestic production of that good, and the reasons that lead them to claim that they are representative of that sector;

ii) a clear and complete description of the good subject to the proceeding, the tariff subheading under which it is classified and the tariff treatment in force, as well as the description of the identical or similar good, or direct competitor;

iii) import data for each of the three most recent calendar years that provide the basis that such good is being imported in increasing quantities, either in absolute terms or relative to domestic production;

iv) data on the total domestic production of the identical or similar good, or direct competitor for the last three most recent years; and

v) data demonstrating injury caused by imports of the good in question, in accordance with subparagraphs (b) and (c);

h. the application of paragraphs 4 and 5 may only be adopted after the conclusion of the prior consultation period;

i. during the consultation period the exporting Party shall make any comments it deems relevant; and

j. the exporting Party shall apply paragraphs 4 and 5 at the conclusion of the consultation period under subparagraph f) if any of the circumstances set out in paragraph 6 are found to exist.

14. The Parties shall consult annually on the implementation of this Article.

Article 3-06. Temporary Admission of Goods

1. Each Party shall allow the temporary importation without payment of customs tariff to:

a) Professional equipment necessary for carrying out the activity, trade or profession of a business person;

b) Equipment for the press or for transmission to air of radio or television broadcasting and cinematographic equipment;

c) For sports purposes and goods intended for display or demonstration, including components and accessories, ancillary apparatus; and

d) Commercial Samples and Advertising films,

Imported from the territory of the other party, regardless of their origin and that in the territory of the Party are available similar goods, direct competitors or substitutes.

2. Except as otherwise provided in this Treaty, the parties may subject the Temporary Importation without payment of customs tariff, of a good of the type indicated in subparagraphs (a), (b) or (c) of paragraph 1 to one of the following conditions, which may be taken without additional conditions:

a) If the good is imported by a national or resident of the other party;

b) Where the good is used exclusively by the visitor or person under the personal supervision in the performance of its activity, trade or profession;

c) Where the good is not sale, lease or in any other way transfer while in its territory under the Temporary Importation procedure;

d) That the good to be accompanied by a bond or guarantee not exceeding 110 percent of the charges that would otherwise due, where appropriate, on entry or final importation, or by another form of guarantee reimbursable at the time of exportation of goods, except that it may require bond or security of customs duties on an originating good;

e) Where the good be capable of identification by any reasonable method established by the Customs Authority;

f) The good to be exported on the departure of that person within the period applicable to the purpose of the temporary admission;

g) The goods are imported in quantities not greater than reasonable according to the intended to use it;

h) Where the good does not undergo modification or processing during the term of import except normal wear authorized by the use of the good; and

i) The good that complies with sanitary and phytosanitary measures taken pursuant to Chapter V (sanitary and

phytosanitary measures) and measures related to standardization applicable adopted in accordance with chapter XIV (measures related to standardization).

3. Except as otherwise provided in this Treaty, the parties may subject the Temporary Importation without payment of customs tariff, of a good of the type indicated in paragraph (d) of paragraph 1, any of the following conditions, which may be taken without additional conditions:

a) If the good is imported only for purposes of lifting of orders for goods or services provided from the territory of the other party or from another country that is not a party;

b) Where the good is not sale, lease or in any other form, and are used only for demonstration or exhibition while in its territory;

c) That the good to be accompanied by a bond or guarantee not exceeding 110 percent of the charges that would otherwise due, where appropriate, on entry or final importation, or by another form of guarantee reimbursable at the time of exportation of goods, except that it may require bond or security of customs duties on an originating good;

d) Where the good be capable of identification by any reasonable method established by the Customs Authority;

e) When the good is exported within a period reasonably corresponding to the purpose of the temporary admission;

f) The goods are imported in quantities not greater a reasonable in accordance with its intended use;

g) Where the good does not undergo modification or processing during the term of import except normal wear authorized by the use of the good; and

h) The good that complies with sanitary and phytosanitary measures taken pursuant to Chapter V (sanitary and phytosanitary measures) and measures related to standardization applicable adopted in accordance with chapter XIV (measures related to standardization).

4. Where a good imported temporarily fails to comply with any of the conditions that imposes a Party under paragraphs 2 and 3, that party may apply the customs duty and any other charge payable on entry or final importation of the same.

Article 3-07. Import Free of Customs Tariff for Commercial Samples Void

Each Party shall authorize the free importation of customs tariff to non-commercial samples from the territory of the other party.

Article 3-08. Exemption from Customs Tariffs

1. No Party may adopt any new waiver of customs duties when the exemption is explicitly or implicitly the fulfillment of a performance requirement.

2. From 1 July 2007, neither party may condition, explicitly or implicitly, any exemption from customs duties in force on the fulfilment of a performance requirement.

3. If a Party can demonstrate that an exemption or a combination of waivers of customs duties that the other party has given to commercial goods for use by a designated person has an adverse effect on:

a) Its economy;

b) The commercial interests of a person of that Party; or

c) The commercial interests of an enterprise that is owned or controlled by a person of that Party, productive whose premises are located in the territory of the party granting the waiver;

The Party granting the waiver shall do so or make available to any importer.

Section D. Non-tariff Measures

Article 3-09. Restrictions on the Importation and Exportation.

1. Except as otherwise provided in this Treaty, neither party may adopt or maintain any prohibition or restriction on the importation of any good of the other party or on the exportation for sale or export of any good destined for the Territory of

the other party, except as provided in article XI of the GATT 1994, including its interpretative notes. to this end article XI of GATT 1994 and its interpretative notes are incorporated into this Agreement and form an integral part thereof.

2. The parties understand that in any circumstances in which any other form of restriction is prohibited, the rights and obligations of GATT 1994 as incorporated in paragraph 1 prohibits the requirements of export and import price, except as permitted by the application of sanctions and assessed countervailing commitments.

3. In cases where a party adopts or maintains a prohibition or restriction on the importation or exportation of goods or to a country that is not a party, nothing in this Treaty shall be construed as to prevent:

a) Limiting or prohibiting the importation of the goods in the country that is not a party, from the territory of the other party; or

b) As a condition requiring of such export of goods of the Party to the territory of the other party that they are re-exported to the country that is not a party, directly or indirectly, without being consumed in the territory of the other party.

4. In the event that a party adopts or maintains a prohibition or restriction on the importation of a good from a country that is not a party, at the request of either party The Parties shall consult with a view to avoiding undue interference with or distortion pricing mechanisms, marketing and distribution in the other party.

5. Paragraphs 1 through 4 shall not apply to the measures set out in the annex to article 3-03 and 3-09.

Article 3-10. Export Taxes

1. Except as provided in this article No Party shall adopt or maintain excise duty or charge on the export of any good to the territory of the other party, unless they are adopted or maintained on such good when destined for domestic consumption.

2. Each Party shall adopt or maintain a tax, tax or other charge on the export of goods basic foodstuffs listed in paragraph 3, on their ingredients or on the goods which are derived from such foodstuffs, if such taxes, levies or charge is used:

a) If the benefits of a domestic food assistance including those foods are received only by domestic consumers; or

b) To ensure the availability of sufficient quantities of basic foodstuff to domestic consumers or of sufficient quantities of its ingredients or of the goods from which such basic foodstuffs goods related to a domestic processing industry, when the domestic price of such basic foodstuff is held below the world price as part of a governmental stabilization, provided that such taxes, taxes or charges:

i) Do not have the effect of increasing the protection afforded to such domestic industry; and

ii) Support only for the period necessary to maintain the integrity of the Stabilization Plan.

3. For the purposes of paragraph 2, goods basic foodstuffs shall mean:

Vegetable oil

Rice

Canned tuna

White sugar

Brown sugar

Beef steak or pulp

Soluble coffee

Roasted coffee

Chicken meat

Ground beef

Beer

Packaged chili

Chocolate powder

Chicken concentrate

Fish fillet

Bean

Popular sweet cookies

Crackers

Jellies

Corn flour

Wheat flour

Beef liver

Oat flakes Egg

Cooked ham

Milk

condensed milk

Powdered milk

Powdered milk for children

Evaporated milk

Pasteurized milk

Corn

Vegetable shortening

Margarine

Corn dough

White bread

Boxed bread

Soup pasta

Tomato puree

Cheese

Bottled soft drinks

Bone-in slices

Salt

Canned sardines

Corn tortilla

4. Notwithstanding paragraph 1, each Party may adopt or maintain levy a tax or charge on the export of any goods to the territory of the other party, if such taxes or levies a charge applied temporarily alleviate critical desabasto for good that foodstuff. For purposes of this paragraph, temporarily means up to one year or a longer period agreed by the parties.

Article 3-11. Customs Processing Fees

Neither party shall increase any customs duty or in respect of the service provided by the customs duties on goods originating and eliminate such duties on goods originating from 1 July 2005.

Article 3-12. Country of Origin Marking

The Annex to this article applies to measures relating to the country of origin marking.

Article 3-13. Distinctive Product

The Annex to this article applies to products specified therein.

Section E. Publication and Notification

Article 3-14. Publication and Notification

1. Each Party shall promptly publish and notify the laws, regulations, administrative regulations and procedures of general application that has entered into force and relating to the classification or the valuation of goods to Customs valuation, the rates of customs duties, taxes or charges or to other measures, prohibitions or restrictions on imports or exports, or to the transfer of payments relating to, or the sale, distribution, transport, insurance, storage, inspection, the submission, processing, mixing or any other use of such goods to enable Governments and traders or interested persons of the other party are aware of them. each Party shall also publish international agreements relating to trade policy which are in force between the Government or a government authority that party and the Government or a government authority of the other party.

2. To the extent possible, each Party shall publish in advance any measure referred to in paragraph 1 that it proposes to adopt interested persons and provide a reasonable opportunity to comment on such proposed measures.

3. No party shall apply before its official publication any measure of general nature adopted by the party which has the effect of increasing a customs duty or other charge on the importation of goods of the other party, or imposing a new measure, or more burdensome restrictions or prohibitions on the importation of goods of the other party or on the transfer of funds related to them.

4. The provisions of this article shall not require any party to disclose confidential information the disclosure of which would impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of particular public or private enterprises.

5. Each Party shall identify in terms of tariff items and nomenclature for them in accordance with its respective tariff measures, restrictions or prohibitions on the importation or exportation of goods for reasons of national security, public health, preservation of flora and fauna, the environment, health, fitopecuaria standards, labels, international commitments, requirements of public order or any other rules.

Section F. Provisions on Textile Goods

Article 3-15. Levels of Flexibility to Temporary Goods Classified In Chapters 61 and 62 of the Harmonized System.

1. Each Party shall accord to goods classified in Chapters 61 and 62 of the Harmonized System, produced in the territory of the other party and imported into its territory in accordance with the provisions of paragraph 2, the preferential tariff treatment set out in the schedule of tariff relief for goods originating in accordance with the amounts and periods set out below:

a) For the period from 1 July 1998 to 30 June 1999 United States dollars ($125,000);

b) For the period from 1 July 1999 to 30 June 2000, $145,000;

c) For the period from 1 July 2000 to 30 June 2001, $165,000;

d) For the period from 1 July 2001 to 30 June 2002, $170,000; and

e) For the period from 1 July 2002 to 30 June 2003, $175,000.

2. For the purposes of this article, the goods classified in Chapters 61 and 62 of the harmonized system shall comply with

the following requirements:

a) Those goods classified in chapter 61 of the Harmonized System, a change to heading 61.01 through 61.17 from any other chapter, provided that the good is cut (or fabric), to form and sewn or otherwise assembled in the territory of the exporting Party; and

b) Those goods classified in Chapter 62 of the Harmonized System, a change to heading 62.01 through 62.17 from any other chapter, provided that the good is cut to shape) (or fabric, and sewn or otherwise assembled in the territory of the exporting Party.

3. The total annual amounts specified in paragraph 1 may not be allocated to goods classified in a particular heading in an amount not exceeding 25 per cent of the total annual.

4. From 1 July 2003, each Party shall only grant preferential tariff treatment to goods originating in the classified Chapters 61 and 62 of the Harmonized System.

5. In respect of imports of goods exceeding the amounts specified in paragraph 1, each party granted only the preferential tariff treatment set out in the schedule of tariff relief compliance with the established rule of origin in the annex to article 6-03.

Chapter IV. Agriculture

Article 4-01. Definitions

For purposes of this chapter:

Agricultural product means a product described in any of the following chapters, headings or subheadings of the Harmonized System:

(descriptions are provided for purposes of reference)

a) Chapters 1 to 24 (except fish and fish products); and

b) Heading or subheading / Description

2905.43 Mannitol.

2905.44 Sorbitol.

2918.14 Citric acid.

2918.15 Salts and esters of citric acid.

2936.27 Vitamin C and derivatives thereof.

33.01 Essential oils.

35.01 to 35.05 Albuminoidal substances, modified starches and starch products.

3809.10 Finishing agents and finishing agents.

3823.60 Sorbitol n.e.c.

41.01 to 41.03 Raw hides and skins.

43.01 Raw furskins.

50.01 to 50.03 Raw silk and silk waste.

51.01 to 51.03 Wool and fur.

52.01 to 52.03 Cotton, raw cotton, cotton waste and carded or combed cotton.

53.01 Flax, raw.

53.02 Hemp, raw.

fish and fish products: fish or crustaceans, molluscs or any other aquatic invertebrates, marine mammals and their derivatives, described in any of the following chapters, headings or subheadings of the Harmonized System:

(Descriptions are provided for reference purposes).

Chapter, heading or subheading / Description

03 Fish and crustaceans, mollusks and other aquatic invertebrates.

05.07 Ivory, tortoise shell, marine mammals, horns, antlers, hooves, hoofs, claws, claws and beaks, and products thereof.

05.08 Coral and similar products.

05.09 Natural sponges of animal origin.

05.11 Products of fish or crustaceans, mollusks or any other marine invertebrate; dead animals of Chapter 3.

15.04 Fats or oils and their fractions, of fish or marine mammals.

16.03 Extracts and juices other than of meat.

16.04 Prepared or preserved fish.

16.05 Prepared or preserved crustaceans or mollusks and other marine invertebrates.

2301.20 Flours, meals, pellets of fish.

Export subsidies:

a) The provision by Governments or by government agencies, to an enterprise and a branch of production, to producers of an agricultural product to a cooperative or other association of such producers, or to a marketing board of direct subsidies, including payments in kind, contingent upon export performance;

b) The sale or export for disposal by Governments or their agencies of non-commercial stocks of agricultural products at a price lower than the comparable price charged to buyers in the domestic market of a like product;

c) Payments on the export of agricultural commodities financed by virtue of governmental measures, whether or not a charge on the public accounts, including payments financed from the proceeds of a levy imposed on the agricultural product concerned or to an agricultural product from which the exported product is derived;

d) The award of subsidies to reduce the costs of marketing exports of agricultural products (except the easy availability of promotion and advice on exports), including the costs of handling, processing and other processing costs and the costs of international transport and freight;

e) The costs of the internal transport and freight charges on export shipments, established or imposed by Governments on terms more favourable than for domestic shipments; and

f) Agricultural subsidies contingent on their incorporation in exported products; and

Tariff rate on the excess of: the tariff rate quota applies to the amounts exceeding the quantity specified in a tariff-quota.

Article 4-02. Scope

1. This section applies to measures relating to the Agricultural Trade adopted or maintained by any party.

2. In the event of any inconsistency between this chapter and any other provision of this Treaty, this chapter shall prevail to the extent of the inconsistency.

Article 4-03. International Obligations

A party, before taking a measure pursuant to an intergovernmental agreement on goods based on article XX (g) of the GATT 1994 and that may affect trade in agricultural products between the parties shall consult with the other party for avoiding nullification or impairment of a concession granted by that party in its schedule of tariff relief of this Treaty.

Article 4-04. Access to Markets

1. The parties agree to facilitate access to their respective markets through the reduction or elimination of barriers to trade in agricultural products, and undertake not to establish new obstacles to trade between them.

Quantitative restrictions and tariffs.

2. The Parties shall waive the rights granted under article XI: 2 (c) of the GATT 1994 and those rights as incorporated by article 3-09, with respect to any measure adopted or maintained on imports of agricultural products.

3. Notwithstanding any other provision of this Treaty, for the products contained in annex 1 to this article either party may maintain or adopt customs duties on the importation of those products, in accordance with its rights and obligations under the WTO Agreement.

4. Once a year after the Entry into Force of this Treaty, the Parties shall review, through the Committee on agricultural trade established under article 4-08; gradually eliminate tariffs on imports of agricultural products contained in annex 1 to this article.

5. Access of products set out in annex 2 to this article shall be governed in accordance with this annex.

6. A Party may not apply to agricultural products of the other party a tariff rate on the excess above the quota, as provided in the schedule of tariff relief agreed between the parties.

Restrictions on the return of tariffs on products exported where identical or similar conditions.

7. From the date of Entry into Force of this Treaty, no party may refund the amount of customs duties paid or waive or reduce the amount of customs duties owed in connection with any agricultural product imported into its territory that is:

a) Agricultural product substituted by an identical or similar subsequently exported to the territory of the other party; or

b) Substituted by an identical or similar product used as a material in the production of another good subsequently exported to the territory of the other party.

Article 4-05. Domestic Support

1. The Parties recognize that domestic support measures may be of crucial importance to their agricultural sectors, but may also affect distort trade and production. they recognise that may arise commitments on reduction of domestic agricultural support for multilateral negotiations within the framework of the WTO. thus if a Party decides to support its agricultural producers, shall endeavour to move towards domestic support policy that:

a) Have minimal or no trade distorting effects on trade or production; or

b) Are exempt from any domestic support reduction commitments that may be negotiated under the WTO.

2. The Parties also recognise that either party may modify its domestic support measures, including those that may be subject to reduction commitments, in accordance with its rights and obligations under the WTO Agreement.

Article 4-06. Export Subsidies

1. The parties share the objective of the multilateral elimination of export subsidies for agricultural goods and shall cooperate in an effort to achieve an agreement in the WTO framework.

2. Chapter IX (subject to unfair practices of international trade), from the Entry into Force of this Treaty, the parties may increase grants the above 7 per cent of the FOB value of exports.

3. From the date of tariffs on agricultural products originating reach zero-tariff relief under the programme, and in any case no later than 1 July 2007, the parties may maintain export subsidies on agricultural products in the reciprocal trade.

4. Notwithstanding the above, from the Entry into Force of this Treaty, the parties may maintain in their reciprocal trade export subsidies on agricultural products included in article 5 of the decree of export promotion 37-91 Number of Nicaragua and subject to tariff-quota according to the schedule of tariff relief.

Article 4-07. Technical Standards and Agricultural Marketing

1. Trade in agricultural products between the parties shall be subject to the provisions of chapter XIV (measures related to standardization).

2. The parties establish a committee on technical standards and agricultural marketing, comprising representatives of each, which shall meet annually or as otherwise agreed. the Committee shall review the operation of classification standards and quality agricultural affecting trade between the parties, and shall resolve issues that may arise regarding the operation of the standards. this committee will bring their activities to the Committee on agricultural trade established under article 4-08.

3. A Party shall accord to agricultural products imported from the other party a treatment no less favourable than that accorded to its agricultural products in the application of standards or marketing of agricultural techniques in aspects of packaging, degree, quality and size.

Article 4-08. Committee on Agricultural Trade

1. The parties establish a committee on agricultural trade, comprising representatives of each party.

2. The functions of the Committee shall include:

a) The monitoring and promoting cooperation on the implementation and administration of this chapter;

b) The establishment of a forum for the parties to consult on issues related to this chapter; that is conducted at least once a year and as the parties agree.

c) The submission of a report annually to the Commission on the implementation of this chapter; and

d) On a particular and expeditious possible mechanisms to include in the programme of tariff relief tariff subheading 0901.21, products falling within (and 0901.22 0901.90 orcoffee roasted) and submit to the Commission for its consideration.

Chapter V. Sanitary and Phytosanitary Measures

Article 5-01. Definitions

food additive: any substance that by itself is not normally consumed as food, nor used as a basic ingredient in food, whether or not it has nutritional value, and whose addition to food at the production, manufacturing, processing, preparation, treatment, packaging, packing, transport or storage stage, results directly or indirectly, by itself or its by-products, in a component of the food or affects its characteristics. This definition does not include contaminants or substances added to the food to maintain or improve nutritional qualities;

food: any processed, semi-processed or raw substance intended for human consumption, including beverages, chewing gum and any other substances used in its manufacture, preparation or treatment, as well as balanced substances intended for animal consumption (animal feed); but does not include cosmetics, tobacco or substances used solely as drugs;

animal: any vertebrate or invertebrate species, including aquatic and wild fauna;

harmonization: the establishment, recognition and application of common sanitary and phytosanitary measures by the Parties;

good: food, animals, plants, their products and by-products;

contaminant: any living substance or organism not intentionally added to food, which is present in such food as a result of the production (including operations carried out in agriculture, animal husbandry and veterinary medicine), manufacture, processing, preparation, treatment, packing, packaging, transport or storage of such food or as a result of environmental contamination;

disease: the infection, clinical or not, caused by one or more etiological agents of the diseases listed in the International Animal Health Code of the Office International des Epizooties;

risk assessment:

a. the likelihood of entry, establishment and spread of a disease or pest and the potential biological, agronomic and economic consequences; or

b. the likelihood of adverse effects on human, animal or plant life or health arising from the presence of food additives, contaminants, toxins or disease-causing organisms in a commodity;

food safety: the quality that ensures that food presents no risk to human or animal health;

scientific information: data or information derived from the use of scientific principles and methods;

sanitary or phytosanitary measure: a measure that a Party establishes, adopts, maintains or applies in its territory to:

a. protect life, human and animal health, as well as plant health from risks arising from the introduction, establishment or spread of a pest or disease; b. protect life, human and animal health, as well as plant health from risks arising from the introduction, establishment or spread of a pest or disease;

b. protect life, human and animal health, as well as plant health from risks resulting from the presence of a food additive, contaminant, toxin or pathogenic organism in a commodity;

c. to protect human life and health from risks arising from an organism causing a pest or disease carried by an animal, plant or a derivative thereof; or

d. to prevent or limit other damage from the introduction, establishment and spread of a pest or disease.

Sanitary and phytosanitary measures comprise all relevant laws, regulations, requirements and procedures, including criteria relating to the final good; process or production methods directly related to the good; testing, inspection, certification or approval procedures; relevant statistical methods; sampling procedures; risk assessment methods; packaging and labeling requirements directly related to food safety; and quarantine regimes, such as relevant requirements associated with the transport of animals or plants, or with the material necessary for their survival during transport;

appropriate level of sanitary or phytosanitary protection: the level of protection to life, human and animal health, and plant health that a Party considers appropriate;

international standards, guidelines or recommendations:

a. in relation to food safety, those of the Codex Alimentarius Commission, including those related to decomposition of products, elaborated by the Codex Alimentarius Committee on Fish and Fishery Products; with food additives, contaminants, hygienic practices, and methods of analysis and sampling;

b. in relation to animal health and zoonoses, those elaborated under the auspices of the Office International Epizootics;

c. in relation to plant health, those established under the auspices of the Secretariat of the International Plant Protection Convention; or

d. those established by other organizations

pest: a species, strain or biotype of plant, animal or pathogenic agent harmful or potentially harmful to plants, animals or their products;

pesticide: a substance intended to prevent, destroy, attract, repel or control any pest, including unwanted species of plants or animals, during the production, storage, transport, distribution and processing of food, plants and their products or animal feed, or which may be administered to animals to control ectoparasites. It also includes substances intended for use as plant growth regulators, defoliants, desiccants, fruit density reduction agents or sprout inhibitors and substances applied to crops before or after harvest to protect the product against deterioration during storage and transport. The term does not normally include fertilizers, nutrients of plant or animal origin, food additives or animal drugs;

approval procedure: a registration, certification, notification or other mandatory administrative procedure to approve the use of a food additive or establish a tolerance for a contaminant for defined purposes or under agreed conditions in a food, beverage or feedstuff prior to permitting its use or marketing when any of these contain the food additive or contaminant;

control or inspection procedure: a procedure used, directly or indirectly, to determine compliance with a sanitary or phytosanitary measure, including sampling, testing, inspection, verification, monitoring, auditing, conformity assessment, accreditation or other procedures involving physical examination of a good, the packaging of the good, or equipment or facilities directly related to the production, marketing or use of a good, but does not mean an approval procedure;

pesticide residue: a substance present in food, plant and plant products, or animal feedstuffs as a result of the use of a pesticide. The term includes any derivatives of a pesticide, such as conversion products, metabolites and reaction products and impurities considered to be of toxicological significance,

transport: the means of mobilization, the form of packaging and the mode of carriage, established in a sanitary or phytosanitary measure;

plant: living plants and parts thereof, including seeds and germplasm;

area of low pest or disease prevalence: an area designated by the competent authorities, which may include the whole of a country, part of a country, or the whole or parts of several countries, in which a given pest or disease is present to only a low degree, and which is subject to effective pest or disease surveillance and control or eradication measures; and

pest- or disease-free area: an area designated by the competent authorities, which may include the whole of a country, part of a country, or the whole or parts of several countries, in which a given pest or disease does not occur. A pest- or disease-free area may surround, be surrounded by, or be adjacent to an area-either within a part of a country or in a geographical region that may comprise all or parts of several countries-in which a specific pest or disease is known to occur but which is subject to regional control measures, such as the establishment of protection, surveillance and buffer zones that isolate or eradicate the pest or disease in question.

Article 5-02. Scope

In order to establish a framework of rules and disciplines that guide the development, adoption and implementation of sanitary and phytosanitary measures, nothing in this chapter applies to any measure of such a nature that may directly or indirectly affect trade between the parties.

Article 5-03. Fundamental Rights and Obligations

Sanitary and phytosanitary measures.

1. Each Party may establish; adopt, maintain or apply any sanitary or phytosanitary measure, including those relating to food safety and on the importation of any good from the territory of the other party, when does not comply with the applicable requirements, or does not meet the approval procedures, as well as those representing a higher level of protection than that which would be achieved by a measure based on international standards, guidelines or recommendations, provided that it is based on scientific principles.

Scientific principles.

2. Each Party shall ensure that any sanitary or phytosanitary measure that it maintains or establishes shall apply:

a) It is based on scientific principles taking into account, where appropriate, the relevant factors such as the different geographic conditions and technology;

b) Be maintained only where there is a scientific basis to support; and

c) Based on a risk evaluation to the appropriate circumstances.

Non-discriminatory treatment.

3. Each Party shall ensure that a sanitary or phytosanitary measure adopted, enforced, or maintained, not arbitrarily or unjustifiably discriminate between its goods and similar to the other party, or between goods of the other party and similar goods of another country, when conditions exist sanitary or phytosanitary identical or similar.

Disguised restrictions and unnecessary obstacles.

4. Neither party shall adopt or maintain apply sanitary and phytosanitary measures which constitute a disguised restriction on trade between the parties; or with a view to or with the effect of creating unnecessary obstacles to the same. in this context, they shall ensure that their sanitary and phytosanitary measures are implemented to the extent necessary to achieve its appropriate level of protection, taking into account the technical feasibility, economic and scientific principles.

Right to determine the level of protection.

5. Notwithstanding any other provision of this chapter each party may fix its appropriate level of sanitary or phytosanitary protection in accordance with article 5-06.

Support in other agencies.

6. Each Party shall ensure that any agency that support for the development and implementation of a sanitary or phytosanitary measure to act in a manner consistent with this chapter.

Article 5-04. International Standards and Standardisation Bodies

1. Each Party shall use as a reference framework for its sanitary and phytosanitary measures, the international standards,

guidelines or recommendations, except when they do not constitute an effective or appropriate means to protect the life, health, human and animal and plant health, due to climatic factors, such as geographical or technological or scientifically justified reasons or because it is not the appropriate level of sanitary or phytosanitary protection.

2. The sanitary or phytosanitary measure of a Party that conforms to an international standard shall be presumed to be consistent with paragraphs 1 to 5 of Article 5-03.

3. Without prejudice to paragraph 1, each Party may adopt or maintain measures stricter than those provided for in the international standards, guidelines or recommendations, provided that it is based on scientific principles in order to achieve the appropriate level of sanitary and phytosanitary protection.

4. If a party has reason to believe that a sanitary or phytosanitary measure of another party is or may adversely affect its exports and the measure is not based on relevant international standards, guidelines or recommendations, may request to be informed of the reasons for the measure; and the other party shall do so in writing within a period of no more than 30 days.

5. Each Party shall, to the greatest extent possible, in the pertinent international standardization organizations, including the Codex Alimentarius Commission), the Office of Epizootics International and the International Convention for the protection of plants, with the aim of promoting the development and periodic review of international standards, guidelines and recommendations.

Article 5-05. Equivalence

1. Without reducing the level of protection to human life, health, animal and plant health established in its legislation and with a view to facilitating trade in goods, the parties will be equivalent to the maximum extent possible their respective sanitary or phytosanitary measures, taking into account the guidelines and recommendations of international standardization.

2. The importing Party shall accept the sanitary or phytosanitary measure adopted, enforced, or maintained by an exporting Party as equivalent to its own it objectively'proving where scientific information and risk assessment methods based on international standards agreed by them, that such measure achieves the appropriate level of sanitary or phytosanitary protection required by the importing Party.

3. Each Party shall accept the results of the sanitary and phytosanitary control procedures carried out in the territory of the other Party, provided that they offer satisfactory guarantees that the good complies with the sanitary or phytosanitary measures that are established, adopt or maintain applied in the territory of that Party.

4. In accordance with paragraph 3 shall be made available to the importing Party requesting access to carry out the procedures for control or inspection.

5. To develop a sanitary or phytosanitary measure, each Party shall consider the sanitary or phytosanitary measures relevant existing or proposed by the other party with the aim of harmonizing them.

6. At the request of a party, the parties shall enter into consultations to the recognition of equivalence of sanitary or phytosanitary measures based on specific international standards, guidelines or recommendations.

Article 5-06. Risk Assessment and Appropriate Level of Sanitary and Phytosanitary Protection

1. The Parties shall ensure that their sanitary and phytosanitary measures are based on an appropriate evaluation to the circumstances of the risks for life, human and animal health, as well as for the preservation of health in plants, taking into account the risk assessment techniques developed by the relevant standardization organizations agreed by the parties.

2. In conducting a risk assessment on a good, including risks, food additives and contaminants, the Parties shall take into account the following factors:

a) The available scientific and technical information;

b) The existence of pests and diseases to be taken into account, including the existence of free or areas of low pest and disease prevalence recognized by the parties;

c) The epidemiology of the diseases and pest risk;

d) The critical control points in production processes, handling, packaging, packaging and transport;

e) The ecological and other environmental conditions to be considered;

f) The relevant methods of sampling and testing; and

g) The applicable quarantine measures and treatments that meet the importing country

As regards risk mitigation.

3. In addition to paragraph 2, in establishing the appropriate level of sanitary and phytosanitary protection, Parties shall take into account the risk associated with the introduction, establishment and spread of a pest or disease; and in assessing risk shall also take into account, where relevant, the following economic factors:

a) The loss of production or sales in the event of entry, or dissemination of a disease or pest;

b) Costs of control or eradication of the disease or pest in its territory; and

c) The cost-effectiveness of alternative approaches to limit the risk.

4. Without prejudice to paragraphs 2 and 3 and subparagraph (c) of paragraph 2 of article 5-03, when a party to conduct an assessment of risk, and concludes that the scientific evidence or other information is insufficient to complete the evaluation, may adopt a sanitary or phytosanitary measure on a provisional basis, provided that the based on relevant information available. once that party receives information sufficient to complete the assessment of risk, the Parties shall agree on a deadline for the completion of the same and, where appropriate, revise the provisional sanitary or phytosanitary measure.

Article 5-07. Adaptation to Regional Conditions and Recognition of Pest or Disease Free Areas and Areas of Low Pest or Disease Prevalence

1. Each Party shall adapt its sanitary or phytosanitary measures connected with the introduction or spread of a disease or pest, to the sanitary or phytosanitary characteristics of the area where a good subject to such measure is produced and the area in its territory to which the good is intended, taking into account any relevant status, including those relating to transportation between these areas. in assessing sanitary or phytosanitary characteristics of an area, the Parties shall take into account, inter alia, the prevalence of pests or diseases; the existence of specific eradication or control programs, and the criteria and guidelines developed by relevant organizations and agreed by the parties.

2. The Parties shall accord in particular the concepts of disease-free areas and areas of low or pest disease prevalence. the determination of such areas shall be based on factors such as geographical situation, ecosystems, epidemiological surveillance and the effectiveness of sanitary or phytosanitary controls.

3. The parties declare a zone free from a given disease or pest in its territory, it shall demonstrate scientific information to the other party and that grant such status shall be regarded as such, based on the protection measures adopted by the authorities responsible for sanitary and phytosanitary services.

4. The party interested in obtaining recognition of a zone free of pests or diseases and making the request shall provide the relevant scientific and technical information to the other party.

5. The party receiving the request for recognition referred to in paragraph 4 shall act in a period agreed by the parties, which may carry out verifications in the territory of the exporting Party for inspection, testing and other relevant procedures. in case of non-acceptance, bring written technical and scientific substantiation of its decision.

6. The Parties shall establish agreements on specific requirements which allows a good produced in an area of low disease or pest prevalence be imported if the appropriate level of sanitary or phytosanitary protection.

Article 5-08. Control Procedures, Inspection and Approval

1. Each Party shall initiate and complete any control or inspection procedure as expeditiously as possible and shall notify WHO so requires, the expected duration of the procedure.

2. Each Party shall ensure that its competent authority:

a) Upon receipt of a request, consider promptly make the documentation is complete and informs the applicant in a precise and complete, on any deficiency;

b) As soon as practicable the applicant to transmit the results of the procedure in a complete and precise so that it may take any necessary corrective action;

c) This application where the deficiencies, follow the procedure as far as practicable, if the applicant so requests, in accordance with the deadlines and report, at the request of the applicant, on the status of the application and the reasons for any delay;

d) What is necessary to limit the information the applicant is due, for conducting the procedure;

e) Accord or reserved for confidential information relating to the conduct of the proceedings for a good of the other party;

f) To protect the legitimate commercial interests of the applicant in accordance with the legislation in force in each party;

g) What is necessary to limit any requirement regarding individual samples or specimens of a good;

h) For conducting the procedure is not a law on a good of the other party, in excess of the recovery of their property;

i) Select adequately the location of facilities at which shall carry out the procedure as well as samples of goods that do not cause unnecessary inconvenience to an applicant or his representative;

j) A mechanism to review complaints concerning the operation of the procedure and to take corrective action when a complaint is justified; and

k) When amending the specifications of a good after their control and inspection, under the rules governing the procedure prescribed for the good modified shall be limited to that necessary to determine whether there is assurance that due the good remains under the regulations concerned.

3. Each Party shall apply to its approval procedures of the relevant provisions of paragraph 2.

4. If the importing party is required to carry out a control or inspection procedure at the stage of production, the exporting Party shall, at the request of the importing Party, reasonable measures available to facilitate access to it in its territory and shall provide the necessary assistance to the importing Party for the performance of control or inspection procedure.

5. To ensure food safety, each party may establish in its approval procedures and regulations, in accordance with their authorization requirements for the use of a food additive or establishment of a tolerance for a pollutant in the same, before granting access to its market. where it requires the Party may adopt a rule, relevant international guidelines or recommendations as the basis for granting access to those goods, pending a final determination.

Article 5-09. Provision of Information, Notification and Publication

1. Each Party shall propose to the adoption or modification of a sanitary or phytosanitary measure in its territory, and provided that it may have an impact on the trade of the other party:

a) Publish a notice and notify the other party in writing at least sixty days in advance of its intention to adopt or modify this measure that is not a law, and publish and make available to the other party the full text of the proposed measure, where feasible; and identify the provisions that are not substantially of the relevant international standards, guidelines or recommendations so as to enable interested persons to become acquainted with the proposed;

b) This shall identify the goods to which such measure shall apply, and include a description of the objective and the reasons for it; and

c) A copy of the proposed measure to any applicant and without discrimination as will enable the Party and other interested persons to make comments in writing and, upon request, discuss and take into account the results of such discussions.

2. Where a Party considers it necessary to address an emerging problem relating to sanitary or phytosanitary protection, it may omit any step set out in paragraph 1, provided that, once adopted a sanitary or phytosanitary measure:

a) Immediately notify the other Party in accordance with the requirements set out in subparagraph 1 (b), including a brief description of the emergency; and

b) Re-delivered a copy of the measure to any interested party or persons upon request and without discrimination as to enable the Party and other interested persons to make comments in writing and, upon request, discuss and take into account the results of such discussions.

3. Each Party, except where necessary to address an emerging problem referred to in paragraph 2, shall determine a

reasonable period between the publication of a sanitary or phytosanitary measure and the date of Entry into Force of the same with the aim of allowing time for interested persons to adapt to the measure.

4. Where an importing party denies entry into its territory to a good of the exporting Party, because it does not comply with a sanitary or phytosanitary measure notified in writing within a period of not more than seven days, an explanation, in identifying the measure concerned as well as the reasons that the good does not comply with such a measure.

5. Each Party shall designate an authority responsible for the implementation in its territory of the notification provisions of this article, within a period of no more than 30 days after the Entry into Force of this Treaty.

Article 5-10. Information Centres

1. Each Party shall ensure that there is at least an information centre within its territory able to answer questions and all reasonable requests of the Party and other interested persons and provide the relevant documentation in relation to:

a) Any proposed sanitary or phytosanitary measure adopted or maintained in its territory, including the procedures for control or inspection and approval procedures of production and quarantine, regimes and procedures relating to the maximum levels of pesticide;

b) Risk assessment processes and the factors it takes into consideration in conducting the assessment and in establishing its appropriate level of sanitary or phytosanitary protection; and

c) The membership and participation in bodies and sanitary and phytosanitary systems international and regional and bilateral and multilateral agreements within the scope of this chapter and the provisions of those systems and arrangements, agencies, and the location of notices published pursuant to this chapter, or where such information can be obtained.

2. Where a Party designates more of an Information Centre, shall notify the other Party on the scope of responsibility of each such centres.

3. Each Party shall ensure that, in accordance with the provisions of this chapter, when the other party or interested persons request copies of documents, they shall provide the same price for its domestic sales, plus cost of shipment.

Article 5-11. Limitations on the Provision of Information

Further to article 21-03, nothing in this chapter shall be construed as requiring a party to furnish any confidential information the disclosure of which would prejudice legitimate commercial interests of a company.

Article 5-12. Committee on Sanitary and Phytosanitary Measures.

1. The parties establish a Committee on Sanitary and Phytosanitary Measures, comprising representatives of each, with responsibility for sanitary and phytosanitary matters. the deadline for installation shall be no more than 90 days from the date of entry into force of this Treaty.

The Committee shall monitor the implementation of the provisions of this chapter, the expeditious achievement of its objectives and make specific recommendations on sanitary and phytosanitary issues.

2. The Committee shall:

a) Establish modalities it considers appropriate for the coordination and resolve matters referred to it;

b) To facilitate the agricultural trade between the parties; promoting the improvement of sanitary and phytosanitary conditions in the territories of the Parties;

c) Promote activities identified by the parties in accordance with article 5-04, 505, 5-06 5-07 5-15; and

d) Facilitate consultations on specific matters on sanitary and phytosanitary measures;

e) Establish working groups on animal health, plant and animal health and food safety, and shall determine its mandates, objectives and action lines; and

f) It shall meet once a year, except as otherwise agreed and report annually to the Commission on the implementation of this chapter.

Article 5-13. Technical Cooperation

1. The Parties shall:

a) To facilitate the provision of technical advice, information and assistance on mutually agreed terms and conditions to strengthen their sanitary and phytosanitary measures and their related activities including the investigation process, technology, infrastructure and the establishment of regulatory national bodies. Such assistance may include loans, grants and funds for the acquisition of technical skill training and equipment that will facilitate adjustment and implementation of a sanitary or phytosanitary measure of a party; and

b) Provide information on its technical assistance programmes relating to sanitary or phytosanitary measures in areas of particular interest.

2. The costs of technical assistance activities shall be subject to the availability of funds and priorities for each Party. the expenses arising from the procedures of control or inspection and approval shall be borne by the parties concerned.

Article 5-14. Technical Consultations

1. A Party may request consultations with the other Party regarding any matter relating to this chapter.

2. When a Party requests consultations regarding the implementation of this chapter on a sanitary or phytosanitary measure of the other party and so notifies the Committee on Sanitary and Phytosanitary Measures, it may facilitate consultations. if it does not consider the matter himself, transmit it to an ad hoc working group or another forum, for advice or technical recommendation not mandatory.

3. Each Party may use the good offices of the pertinent international standardization organizations, including those referred to in article 5-04, for advice and assistance on sanitary and phytosanitary matters within the framework of their respective mandates.

Article 5-15. Dispute Settlement

1. Where a Party considers that a sanitary or phytosanitary measure of another party is interpreted or applied in a manner inconsistent with the provisions of this Chapter shall have the burden of proving the inconsistency.

2. Where the parties have had recourse to consultations under paragraphs 1 and 2 of article 5-14, they shall be those provided for in article 20-05, if the parties so agree.

Chapter VI. Rules of Origin

Article 6-01. Definitions

For the purposes of this chapter, the following definitions shall apply:

good: a commodity, product, article or material;

fungible goods: goods that are interchangeable for commercial purposes, whose properties are essentially identical and which it is impractical to differentiate by simple visual examination;

identical or similar goods: "identical goods" and "similar goods", respectively, as defined in the Customs Valuation Code;

goods wholly obtained or produced entirely in the territory of one or both Parties:

a. minerals extracted in the territory of one or both Parties;

b. vegetables harvested in the territory of one or both Parties;

c. live animals, born and bred in the territory of one or both Parties;

d. goods obtained from hunting or fishing in the territory of one or both Parties;

e. fish, crustaceans and other species obtained from the sea by vessels registered or recorded by a Party and flying the flag of that Party;

f. goods produced on board factory ships from the goods identified in subparagraph e), provided that such factory ships are registered or recorded by a Party and are flying the flag of that Party;

g.. goods obtained by a Party or a person of a Party from the seabed or subsoil outside the territorial waters, provided that the Party has rights to exploit that seabed or subsoil;

h. wastes and residues derived from:

(i) production in the territory of one or both of the Parties; or

ii) used goods, collected in the territory of one or both Parties, provided that such goods serve only for the recovery of raw materials; and

i. goods produced in the territory of one or both Parties exclusively from the goods referred to in subparagraphs a) through h) or their derivatives, at any stage of production;

containers and packing materials for shipment: goods that are used to protect a good during transportation, other than containers and materials for retail sale;

shipping and repacking costs: costs incurred in repacking and transporting a good outside the territory where the producer or exporter of the good is located;

sales promotion, marketing and after-sales service costs: the following costs related to sales promotion, marketing and after-sales services:

a. sales promotion and marketing; media advertising; advertising and market research; promotional and demonstration materials; exhibited goods; sales promotion conferences; trade shows and conventions; banners; marketing exhibitions; free samples; sales, marketing and after-sales service publications such as goods brochures, catalogs, technical publications, price lists, service manuals and sales support information; establishment and protection of logos and trademarks; sponsorships; restocking charges for wholesale and retail sales; and representation expenses;

b. marketing, sales or goods incentives; and wholesaler, retailer and consumer rebates;

c. for sales promotion, marketing and after-sales service personnel: salaries and wages; sales commissions; bonuses; medical, insurance and pension benefits; travel, lodging and subsistence expenses; and membership and professional fees;

d. hiring and training of sales promotion, marketing and after-sales service personnel; and training of the client's employees after the sale;

e. insurance premiums for liability insurance on the property;

f. office equipment for sales promotion, marketing and after-sales services;

g. telephone, mail and other means of communication for sales promotion, marketing and after-sales services; h. rents and depreciation;

h. rent and depreciation of sales promotion, marketing and after-sales service offices and distribution centers;

i. property insurance premiums, taxes, utility costs, and repair and maintenance costs of the offices and distribution centers; and

j. payments by the producer to others for warranty repairs;

net cost: total cost less the costs of sales promotion, marketing and after-sales services; royalties; shipping and repacking; as well as ineligible interest costs, as set forth in the annex to Article 6-04;

ineligible interest costs: interest paid by a producer on its financial obligations that exceeds 10 percentage points above the highest interest rate on debt obligations issued by the federal or central government, as the case may be, of the Party in which the producer is located, in accordance with the provisions of the annex to Article 6-04;

total cost: the sum of the following elements in accordance with the provisions of the annex to article 6-04:

a. the costs or value of direct manufacturing materials used in the production of the good;

b. the costs of direct labor used in the production of the good; and

c. an amount for direct and indirect costs and expenses of manufacturing the good, reasonably allocable to the good, except

for the following items:

(i) the costs and expenses of a service provided by the producer of a good to another person, when the service does not relate to the good;

ii) costs and losses resulting from the sale of a part of the business of the producer of the good, which constitutes a discontinued operation;

iii) costs related to the cumulative effect of changes in the application of generally accepted accounting principles;

iv) costs or losses resulting from the sale of a capital asset of the producer;

(v) costs and expenses related to acts of God or force majeure; and

(vi) profits earned by the producer of the good, whether retained by that producer or paid to others as dividends and taxes paid on those profits, including capital gains taxes;

direct manufacturing costs and expenses: those incurred in a period, directly related to the good, other than the costs or value of direct materials and direct labor costs;

indirect manufacturing costs and expenses: those incurred in a period, other than direct manufacturing costs and expenses, direct labor costs and direct material costs or value;

F.O.B.: free on board;

place where the producer is located: in relation to a good, the production plant of that good;

material: a good used in the production of another good;

self-produced material: a material produced by the producer of a good and used in the production of that good;

fungible materials: materials that are interchangeable for commercial purposes and whose properties are essentially identical;

indirect material: a material used in the production, testing or inspection of a good, but not physically incorporated in the good; or a material that is used in the maintenance of buildings or operation of equipment related to the production of a good, including:

a. fuel and power;

b. tools, dies and molds;

c. spare or replacement parts and materials used in the maintenance of equipment and buildings;

d. lubricants, greases, composites and other materials used in the production or operation of equipment or buildings;

e. gloves, goggles, footwear, clothing, safety equipment and attachments;

f. equipment, apparatus and attachments used for the verification or inspection of the goods;

g. catalysts and solvents; or

h. any other material that is not incorporated in the good, but whose use in the production of the good can be reasonably demonstrated to be part of that production;

intermediate material: a self-produced material designated in accordance with Article 6-07;

related person: a person who is related to another person, as follows:

a. one of them holds positions of responsibility or management in an enterprise of the other;

b. they are legally recognized as partners in business;

c. they are in the relationship of employer and employee;

d. one person has, directly or indirectly, ownership, control or possession of 25% or more of the outstanding and voting shares or securities of both;

e. one of them directly or indirectly controls the other;

f. both persons are directly or indirectly controlled by a third person;

g. together they directly or indirectly control a third person; or

h. are from the same family (children, siblings, parents, grandparents or spouses);

generally accepted accounting principles: the consensus recognized to the substantial support authorized in the territory of a Party, with respect to the recording of revenues, expenses, costs, assets and liabilities; disclosure of information; and preparation of financial statements. These standards may be broad guidelines of general application, as well as detailed practical rules and procedures;

production: the growing, raising, extracting, harvesting, fishing, hunting, manufacturing, processing, or assembling of a good;

producer: a person who cultivates, raises, extracts, harvests, fishes, hunts, manufactures, processes or assembles a good;
producer: a person who cultivates, raises, extracts, harvests, fishes, hunts, manufactures, processes or assembles a good;

royalties: payments made for the exploitation of intellectual property rights;

used: employed or consumed in the production of goods;

transaction value of a good: the price actually paid or payable for a good related to the transaction of the producer of the good in accordance with the principles of Article 1 of the Customs Valuation Code, adjusted in accordance with the principles of Article 8.1, 8.3 and 8.4 thereof, without considering that the good is sold for export. For the purposes of this definition, the seller referred to in the Customs Valuation Code shall be the producer of the good; and

transaction value of a material: the price actually paid or payable for a transaction-related material by the producer of the good in accordance with the principles of Article 1 of the Customs Valuation Code, adjusted in accordance with the principles of Article 8.1, 8.3 and 8.4 thereof, without regard to whether the material is sold for export. For the purposes of this definition, the seller referred to in the Customs Valuation Code shall be the supplier of the material and the buyer referred to in the Customs Valuation Code shall be the producer of the good.

Article 6-02. Implementation Tools

For purposes of this chapter:

a) The basis for tariff classification is the Harmonized System;

b) The determination of the transaction value of a good or a material shall be made in accordance with the principles of the Customs Valuation Code; and

c) All costs referred to in this chapter shall be recorded and maintained in accordance with generally accepted accounting principles applicable in the territory of the Party where the good is produced.

Article 6-03. Originating Goods

1. A good shall be originating if:

a) Is wholly obtained or produced entirely in the territory of one or both parties, according to the definition in article 6-01;

b) Is produced in the territory of one or both parties exclusively from materials that qualify as originating under this chapter;

c) Is produced in the territory of one or both parties using non-originating materials that conform to a change in tariff classification and other requirements as specified in the annex to this article, and the good complies with the other applicable provisions of this chapter;

d) Is produced in the territory of one or both parties using non-originating materials that conform to a change in tariff classification and other requirements, and the good satisfies a regional value content, as specified in the annex to this article and with the other applicable provisions of this chapter;

e) Is produced in the territory of one or both parties and complies with a regional value content, as specified in the annex to this article, and meets the other applicable provisions of this chapter; or

f) Except for the goods covered in Chapters 61 to 63 of the Harmonized System; the good is produced in the territory of one or both of the Parties but one or more of the non-originating materials used in the production of the good does not satisfy a change in tariff classification because:

i) The good was imported into the territory of a party without assembling or desensamblado but has been classified as an assembled good pursuant to rule 2 (a) of the general rules for the interpretation of the Harmonized System; or

ii) The heading for the good is the same for both the good and for parts and that its heading is not divided into subheadings subheading or is the same for both the good and for its parts;

Provided that the regional value content of the good determined in accordance with article 6-04, is not less than, unless otherwise specified in articles 6 and 15 620, or to 50 per cent is used where the transaction value method or the 41.66 per cent where the net cost method used, and the good complies with the other applicable provisions of this chapter.

2. For purposes of this chapter, the production of a good from non-originating materials that conform to a change in tariff classification and other requirements as specified in the annex to this article shall be done entirely in the territory of one or both of the parties and each of the regional value content of a good shall be met entirely in the territory of one or both parties.

Article 6-04. Regional Value Content

1. Except as provided in paragraph 5, each Party shall provide that the regional value content of a good, shall be calculated at the choice of the exporter or the producer of the good in accordance with the transaction value method set out in paragraph 2 or the net cost method set out in paragraph 4.

2. For the purposes of calculating the regional value content of a good on the basis of the transaction value method shall apply to the following formula:

$$VCR = \frac{VT-VMN}{VT} \times 100$$

Where:

VCR: regional value content expressed as a percentage.

VT: the transaction value of the good f.o.b adjusted on the basis, except as provided in paragraph

VMN: the value of the non-originating materials used by the producer in the production of the good; determined in accordance with article 6-05.

3. For purposes of paragraph 2, when the producer of the good does not export directly, the transaction value shall be adjusted to the point at which the buyer receives the good within the territory where the producer is located.

4. For the purposes of calculating the regional value content of a good on the basis of the net cost method is applied to the following formula:

$$VCR = \frac{CN - VMN}{CN} \times 100$$

Where:

VCR: regional value content expressed as a percentage.

CN: net cost of the good.

VMN: the value of the non-originating materials used by the producer in the production of the good; determined in accordance with article 6-05.

5. Each Party shall provide that an exporter or producer calculate the regional value content of a good solely on the basis of the net cost method set out in paragraph 4, when:

a) No transaction value because the good is not a sale;

b) The transaction value of a good cannot be determined by any restrictions on the use of the assignment or good by the

buyer except that:

i) Imposed or required by law or by the authorities of the Party in which the buyer of the good is located;

ii) Limit the geographical territory where the goods may be resold; or

iii) Not substantially affect the value of the good;

c) The sale price or any condition or consideration of whose value cannot be determined in relation to the good;

d) Will accrue directly or indirectly to the seller any share of the proceeds of the sale of or any subsequent assignment or use of the good by the buyer, unless an appropriate adjustment can be made in accordance with article 8 of the Customs Valuation Code;

e) The buyer and seller are related persons and the relationship between them influences the price, except as provided in Article 1.2 of the Customs Valuation Code;

f) The good is sold by the producer to a related person and the sales volume in units of a number of identical or similar goods sold to related persons during the six-month period immediately preceding the month in which the good is sold by the producer, exceeds 85 per cent of the producer's total sales of such goods during that period;

g) The exporter or producer chooses to accumulate the regional value content of the good in accordance with article 6-08;

h) The either:

i) Either a motor vehicle falling under heading 87.01 or 87.02, subheading 8703.21 through 8703.90, or the heading 87.04 87.05 or 87.06; or

ii) Is identified in annex 1 to article 6 and 15 or in Annex 2 to the arts and is for use in a motor vehicle falling within heading 87.01 or 87.02, subheading 8703.21 through 8703.90, or the heading 87.04 87.05 or 87.06; or

i) An intermediate material is subject to a regional value content.

Article 6-05. Value of the Materials

1. The value of a material:

a) It shall be the transaction value of the material; or

b) In the event that there is no transaction value or the transaction value of the material cannot be determined according to the principles of article 1 of the Customs Valuation Code shall be calculated in accordance with the principles of articles 2 to 7 of this Code.

2. When they are not classified in subparagraphs (a) or (b) of paragraph 1, the value of a material shall include:

a) The freight and insurance costs, packing and all other costs incurred

In transporting the material importation to the port in the Party where the producer of the good is located, except as provided in paragraph 3; and

b) The cost of waste and scrap resulting from the use of the material in the production of the good, minus any recovery of these costs, provided the recovery does not exceed 30% of the value of the material determined in accordance with paragraph 1.

3. When the producer of a good acquires non-originating materials within the territory of the party where it is located, the value of a material shall not include freight and insurance costs, packing and all other costs incurred in transporting the material from the warehouse of the supplier to the place where the producer is located.

4. For purposes of calculating the regional value content under article 6-04, except as provided in paragraph 2 of Article 6 and 15, for a motor vehicle identified in paragraph 3 of Article 6 and 15, or a component identified in annex 2 to the arts, the value of the non-originating materials used by the producer in the production of a good shall not include the value of non-originating materials used by:

a) Another producer in the production of an originating material that is acquired and used by the producer of the good in the production of that good; or

b) The producer of the good in the production of an originating intermediate material.

Article 6-06. De Minimis

1. A good originating shall be considered if the value of all the non-originating materials used in the production of the good that do not satisfy the applicable change in tariff classification established in the annex to article 6-03 does not exceed 7 percent of the transaction value of the good adjusted on the basis indicated in paragraph 2 or 3 as the case may be, article 6-04 or, in the cases referred to in subparagraphs (a) to (e) of paragraph 5 of Article 6-04, if the value of all the non-originating materials referred to above does not exceed 7 percent of the total cost of the good.

2. If the good is subject to a regional value content, the value of such non-originating materials shall be taken into account in calculating the regional value content of the good and the good must satisfy all other applicable requirements of this chapter.

3. A good that is subject to a regional value content established in the annex to article 6-03 does not meet, if the value of all the non-originating materials does not exceed 7 percent of the transaction value of the good adjusted on the basis indicated in paragraph 2 or 3 as the case may be, article 604, or in the cases referred to in subparagraphs (a) to (e) of paragraph 5 of Article 6-04, if the value of all the non-originating materials referred to above does not exceed 7 percent of the total cost of the good.

4. Paragraph 1 does not apply to:

a) Goods covered in Chapters 50 to 63 of the Harmonized System; or

b) A non-originating material used in the production of goods falling within chapters 01 to 24 of the Harmonized System unless the non-originating material is included in a different subheading than the good for which the origin is being determined under this article.

5. A good falling within 50 chapters to 63 of the harmonized system that is not because originating fibres or yarns used in the production of the material that determines the tariff classification of the good do not meet the change in tariff classification set out in the annex to article 6-03, shall be considered as originating if the total weight of fibers or yarns in material that does not exceed 7 percent of the total weight of that material.

Article 6-07. Intermediate Material

1. For purposes of calculating the regional value content under article 6-04, the producer of a good may designate as an intermediate material, except the elements listed in Annex 2 to the arts and the goods falling within heading 87.06, intended for use in a motor vehicles covered under paragraph 3 of Article 6 and 15, of his own manufacture any material that is used in the production of a good provided that such material satisfies the requirements in article 6-03.

2. Where an intermediate material is subject to a regional value content in accordance with the annex to article 6-03, it shall be calculated on the basis of the net cost method set out in article 6 -

3. For purposes of calculating the regional value content of the good or the value of an intermediate material shall be the total cost that can reasonably be allocated to that intermediate material in accordance with the annex to article 6-04.

4. If a material designated as an intermediate material is subject to a regional value content, any other material of his own that manufacture is subject to a regional value content, used in the production of intermediate material that may itself be designated by the producer as an intermediate material.

5. Where there is a good referred to in paragraph 2 of Article 6 and 15 as an intermediate material, such designation shall only apply to the calculation of the net cost of the good; and the value of the non-originating materials shall be determined in accordance with paragraph 2 of Article 6 and 15.

Article 6-08. Cumulation

For purposes of determining whether a good is originating, an exporter or producer may accumulate its production with that of one or more producers in the territory of one or both parties, of materials that are incorporated into the good so that the production of the materials is considered as done by that exporter or producer provided that it complies with the provisions of article 6-03.

Article 6-09. Fungible Goods and Materials

1. For purposes of determining whether a good is originating, when used in the production of originating fungible and non-originating materials are physically combined in mixed or inventory, the origin of the materials may be determined by one of the inventory management methods set out in paragraph 3.

2. Where originating and non-originating fungible goods are physically combined in mixed or inventory, and prior to their exportation do not undergo any production process or any other operation in the territory of the Party in which they were physically mixed or combined, other than reloading unloading, or any other movement necessary to maintain the goods in good condition or to transport them to the territory of the other party, the origin of the good may be determined by one of the inventory management methods set out in paragraph 3.

3. The inventory management methods applicable for fungible goods or materials shall be:

a. "FIFO" (first-in-first-out) is the method of inventory management whereby the origin of the number of units of materials or consumables first received into inventory is considered to be the origin, in equal number of units, of the materials or consumables first removed from inventory;

b. "LIFO" (last-in-first-out) is the method of inventory management whereby the origin of the number of units of the materials or consumables last received into inventory is considered as the origin, in equal number of units, of the materials or consumables first removed from inventory; or

c. "averaging" is the method of inventory management whereby, except as provided in paragraph 4, the determination of whether materials or consumables are originating shall be made through the application of the following formula:

$$PMN = \frac{TMO}{TMOYN} \times 100$$

Where:

PMN: average of the fungible materials or goods originating.

TMO: total of units of the fungible materials or goods originating forming part of inventory prior to departure.

TMOYN: the total amount of units of the fungible materials or goods originating and non-originating forming part of the inventory prior to departure.

4. If the good is subject to a regional value content, the determination of the non-originating fungible materials shall be conducted through the application of the following formula:

$$PMN = \frac{TMN}{TMOYN} \times 100$$

where:

PMN: average of non-originating materials.

TMN: total value of non-originating consumables forming part of the pre-departure inventory.

TMOYN: total value of originating and non-originating consumables forming part of the pre-departure inventory.

5. Selected once one of the inventory management methods set out in paragraph 3, it shall be used through all the fiscal year or period.

Article 6-10. Sets or Assortments

1. The sets or assortments of goods that are classified pursuant to rule 3 of the general rules for the interpretation of the Harmonized System. as well as goods whose description according to the nomenclature of the Harmonized System is specifically that of a set or assortment, calificarán as originating, provided that each of the goods in the set or assortment complies with the rule of origin that has been established for each of the goods in this chapter.

2. Notwithstanding paragraph 1. a set or assortment of goods originating shall be considered if the value of all non-originating goods used in the training of the Set assortment or does not exceed 7 percent of the transaction value of the Set or assortment, adjusted on the basis indicated in paragraph 2 or 3 as the case may be, article 6-04, or in the cases referred to in subparagraphs (a) to (e) of paragraph 5 of Article 6-04, if the value of all the non-originating goods referred to above

does not exceed 7 percent of the total cost of the Set or assortment.

3. The provisions of this article shall prevail over the specific rules established in the annex to article 6-03.

Article 6-11. Indirect Materials

Indirect materials shall be treated as originating without taking into account the place of production and the value of such materials shall be the cost of the same place in the accounting records of the producer of the good.

Article 6-12. Spare Parts and Accessories, Tools or Alterations

1. The renovation or accessories, spare parts and tools with the good delivered as part of spare parts and accessories, tools or usual renovation good shall not be taken into account in determining whether all the non-originating materials used in the production of the good satisfy the applicable change in tariff classification established in the annex to article 6-03, provided that:

a) Renovation or accessories, spares and tools are not invoiced separately from the good regardless of whether they are separately itemized breakdown or in the invoice; and

b) The quantity and value of spares or the accessories, tools and alterations are customary for the good.

2. If the good is subject to a regional value content, the value of the renovation or accessories, spare parts and tools shall be taken into account as originating or non-originating materials as the case may be in calculating the regional value content of the good.

Article 6-13. Packages and Packing Materials for Retail Sale.

1. Containers and packaging materials in which a good is presented for retail sale, when classified with the good they contain, shall not be taken into account in deciding whether all non-originating materials used in the production of the good comply with the corresponding change in tariff classification set out in the Annex to Article 6-03.

2. Where the good is subject to a regional value content, the value of the retail containers and packaging materials shall be considered as originating or non-originating, as the case may be, in calculating the regional value content of the good.

Article 6-14. Packing Materials and Containers for Shipment

1. Containers and packing materials for the transport of goods shall not be taken into account in determining whether all the non-originating materials used in the production of the good satisfy the applicable change in tariff classification established in the annex to article 6-03.

2. If the good is subject to a regional value content, the value of the packaging materials for the transport of goods shall be considered as originating or non-originating, as the case may be in calculating the regional value content of the good and the value of such materials shall be responsible for the costs of the same place in the accounting records of the producer of the good.

Article 6-15. Goods of the Automotive Industry

1. For the purposes of this article, the following definitions shall apply:

chassis: the bottom plate of a motor vehicle;

class of motor vehicles: any of the following categories of motor vehicles:

a. motor vehicles covered by subheading 8701.20, Mexican tariff item 8702.10.03 or 8702.90.04 or, in the case of Nicaragua, subheading 8702.10 or 8702.90, when they are motor vehicles designed for the transport of 16 persons or more, or subheading 8704.10, 8704.22, 8704.23, 8704.32 or 8704.90 or heading 87.05 or 87.06;

b. motor vehicles of subheading 8701.10 or 8701.30 through 8701.90;

c. motor vehicles falling within Mexican tariff item 8702.10.01, 8702.10.02, 8702.90.01, 8702.90.02 or 8702.90.03 or, in the case of Nicaragua, subheading 8702.10 or 8702.90, when they are motor vehicles designed for the transport of fifteen persons or less, or subheading 8704.21 or 8704.31; or

d. motor vehicles falling within subheadings 8703.21 through 8703.90;

motor vehicle assembler: a producer of motor vehicles and any related persons or joint ventures in which the producer participates;

original equipment: material that is incorporated into a motor vehicle prior to the first transfer of title or consignment of the motor vehicle to a person other than a motor vehicle assembler. Such material is:

(a) a good covered by schedule 1 to this article; or

b. an assembly of automotive components, an automotive component or a material listed in Annex 2 to this Article;

model line: a group of motor vehicles having the same platform or the same model name;

model name: the word or group of words, letter or letters, number or numbers or similar designation assigned to a motor vehicle by a marketing division of a motor vehicle assembler to:

a. differentiate the motor vehicle from other motor vehicles using the same platform design;

b. associate the motor vehicle with other motor vehicles that use a different platform design; or

c. indicate a platform design;

platform: the primary assembly of a load-bearing structural assembly of a motor vehicle that determines the basic size of that vehicle and forms the structural base that supports the powertrain and serves to join the motor vehicle in various types of frames, such as body mount, dimensional frame, and unit body;

motor vehicle: goods of heading 87.01, 87.02, 87.03, 87.04, 87.05 or 87.06.

2. For purposes of calculating the regional value content, in accordance with the net cost method set forth in article 6-04, for:

a. goods that are motor vehicles included in Mexican tariff item 8702.10.01, 8702.10.02, 8702.90.01, 8702.90.02 or 8702.90.03 or, in the case of Nicaragua, in subheading 8702.10 or 8702.90, when they are motor vehicles designed for the transportation of fifteen persons or less, or in subheadings 8703.21 through 8703.90, 8704.21 or 8704.31; or

b. goods covered by Annex 1 to this article, when they are subject to a regional value content and are intended to be used as original equipment in the production of goods that are motor vehicles covered by Mexican tariff item 8702. 10.01, 8702.10.02, 8702.90.01, 8702.90.02 or 8702.90.03 or, in the case of Nicaragua, in subheading 8702.10 or 8702.90, when they are motor vehicles designed for the transport of fifteen persons or less, or in subheadings 8703.21 through 8703.90, 8704.21 or 8704.31;

the value of the non-originating materials used by the producer in the production of those goods shall be the sum of the values of the non-originating materials, determined in accordance with paragraphs 1 and 2 of Article 6-05, imported from non-Parties covered in Annex 1 to this Article and used in the production of those goods or in the production of any materials used in the production of those goods.

3. For purposes of calculating the regional value content, in accordance with the net cost method set out in article 6-04, for goods that are motor vehicles covered by heading 87.01, Mexican tariff item 8702.10.03 or 8702.90.04 or, in the case of Nicaragua, subheading 8702.10 or 8702.90, when they are motor vehicles designed for the transport of 16 persons or more, or subheading 8704. 10, 8704.22, 8704.23, 8704.32 or 8704.90 or heading 87.05 or 87.06, or for a component identified in annex 2 to this article to be used as original equipment in the production of the motor vehicles described in this paragraph, the value of the non-originating materials used by the producer in the production of the good shall be the sum of:

(a) for each material used by the producer of the good and listed in Annex 2 to this Article, whether or not produced by that producer, at the producer's option, and determined in accordance with Article 6-05 or paragraph 3 of Article 6-07, either of the following two values:

(i) the value of the non-originating material; or

(ii) the value of the non-originating materials used in the production of that material; and (b) the value of any other non-originating materials used in the production of that material.

(b) the value of any other non-originating material used by the producer of the good, which is not included in Annex 2 to this Article, determined in accordance with Article 6-05 or paragraph 3 of Article 6-07.

4. For purposes of calculating the regional value content of a motor vehicle identified in paragraph 2 or 3, the producer may average the calculation over its fiscal year or period using any of the following categories, either by taking as a basis all motor vehicles in that category or only motor vehicles in that category that are exported to the territory of the other Party:

a. the same model line in motor vehicles of the same class of vehicles produced in the same plant in the territory of a Party;

b. the same class of motor vehicles produced in the same plant in the territory of a Party; or

c. the same model line in motor vehicles produced in the territory of a Party.

5. For purposes of calculating the regional value content of one or all of the goods covered by a tariff classification listed in Annex 1 to this Article or of a component or material listed in Annex 2 to this Article that are produced in the same plant, the producer of the good may:

a. average its calculation:

(i) in the fiscal year or period of the producer of the motor vehicle to whom the good is sold;

ii) in any quarterly or monthly period; or

iii) in its own fiscal year or period, if the good is sold as a spare or replacement part;

b. to calculate the average referred to in subparagraph a) separately for any or all of the goods sold to one or more producers of motor vehicles; or

c. in respect of any calculation made under this paragraph, calculate separately the regional value content of the goods being exported to the territory of the other Party.

6. Notwithstanding the Annex to Article 6-03, the regional value content shall be:

a. for goods that are motor vehicles covered by heading 87.01, Mexican tariff item 8702.10.03 or 8702.90.04 or, in the case of Nicaragua, subheading 8702.10 or 8702.90, when they are motor vehicles designed for the transport of 16 persons or more, or subheading 8704. 10, 8704.22, 8704.23, 8704.32 or 8704.90 or heading 87.05 or 87.06, 35%, according to the net cost method, for a producer's fiscal year or period beginning on the date nearest July 1, 1998 through the fiscal year or period ending on the date nearest July 1, 2000; and

b. for the goods listed in Annex 1 to this article, subject to a regional value content and intended for use in the motor vehicles covered by paragraphs 2 and 3, except for goods of heading 84.07, 84.08 or subheading 8708. 40, when they are intended for use in the motor vehicles included in paragraphs 2 and 3, in which case the regional content defined in footnotes 4 and 32 of section B of the annex to article 6-03 shall apply, and except for heading 87.06, in which case the provisions of subparagraph (a) shall apply:

(i) 40%, under the net cost method, for a producer's fiscal year or period beginning on the earlier of July 1, 1998 through the fiscal year or period ending on the earlier of July 1, 2003; and

ii) 50%, under the net cost method, for the fiscal year or period of a producer beginning on the earlier of July 1, 2003 through the fiscal year or period of a producer ending on the earlier of July 1, 2008.

Article 6-16. Operations and Practices That Do Not Confer Origin

1. A good shall not be considered as originating only by:

a) With water dilution or another substance that does not materially alter the characteristics of the good;

b) Simple operations to ensure the preservation of goods during transportation or storage, such as air, refrigeration, removal of damaged parts, drying or addition of substances;

c) Sifting, screening, sorting, classifying, washing or cutting;

d) Packaging, repacking or packaging for retail sale;

e) The collection of goods to form or matching sets;

f) The implementation of marks or labels, similar distinctive signs;

g) Cleaning, including the removal of oxide fat, paint or other coverings; and

h) The simple collection of parts and components classified as a good pursuant to rule 2 (a) of the general rules for the interpretation of the Harmonized System. this shall not apply to goods that have been assembled and subsequently desensamblados for convenience of packaging, handling or transport.

2. A good shall not give rise to any activity or pricing practice in respect of which it can be demonstrated, on the basis of sufficient evidence, that its objective is to evade compliance with the provisions of this chapter.

3. The provisions of this article shall prevail over the specific rules established in the annex to article 6-03.

Article 6-17. Transhipment and Direct Consignment

1. A good shall not be considered as originating even if it has been produced in accordance with the requirements of article 6-03, if the production of the good undergoes further or any other operation outside the territories of the Parties other than reloading unloading, or any other movement necessary to preserve it in good condition or to transport it to the territory of the other party.

2. A good shall not lose its originating status when, while in transit through the territory of one or more non- parties with or without trans-shipment or temporary storage under the surveillance of the competent customs authority in those countries:

a) The transit is justified by reasons or by geographical considerations related to transport requirements;

b) It is not intended to use or trade, employment or transit countries; and

c) During transport and storage does not undergo operations other than packaging, handling, packaging or manipulation to ensure its preservation.

Article 6-18. Consultations and Amendments

1. The parties establish a Committee on Rules of Origin, comprising representatives of each, which shall meet at least twice a year and at the request of any party.

2. The Committee shall:

a) To ensure the effective implementation and administration of this chapter;

b) To agree on the interpretation and implementation and administration of this chapter;

c) Review annually, in relation to the costs of interests not admissible, the percentage points on the highest rate of interest obligations of debt issued by the federal or central, as appropriate; and

d) Address any other matter that may be agreed by the parties.

3. The Parties shall regularly consult and cooperate to ensure that this chapter is applied in an effective and uniform and in accordance with the spirit and objectives of this Treaty.

4. Any Party which considers that this chapter requires to be amended due to changes in production processes or other matters may submit a proposed modification to the Committee for its consideration and the rationale and studies that support. the Committee shall submit a report to the Commission to make appropriate recommendations to the parties.

Article 6-19. Interpretation

For purposes of this chapter, in applying the customs valuation code to determine the origin of a good:

a) The principles of this Code shall apply to domestic transactions with such modifications as circumstances require, as would apply to international standards; and

b) The provisions of this chapter shall prevail over this Code in matters that may be incompatible.

Article 6-20. Transitional Provisions on Regional Value Content

1. For purposes of calculating regional value content of the goods which are subject to that requirement, a good produced in the territory of one or both parties shall comply with a regional value content of not less than:

a) 45 per cent under the transaction value method or 37.5 per cent under the net cost method, from 1 July 1998 to 30 June

2001;

b) 46 per cent under the transaction value method or 38.5 per cent under the net cost method, from 1 July 2001 to 30 June 2002; and

c) 47.5 per cent under the transaction value method or 40 per cent under the net cost method for the period 1 July 2002 to 30 June 2003.

2. From 1 July 2003, the percentage of regional content is set out in the annex to article 6-03.

3. The provisions of this article shall not apply for the purposes of calculating the regional value content of the goods referred to in articles 6 and 15.

Chapter VII. Customs Procedures

Article 7-01. Definitions

1. For purposes of this Chapter, the following definitions shall apply:

competent authority: the authority which, under the law of each Party, is responsible for the administration of its customs and tax laws and regulations;

identical goods: "identical goods", as defined in the Customs Valuation Code;

determination of origin ruling: a ruling issued as a result of a verification conducted pursuant to Article 7-07 that establishes whether a good qualifies as originating; and

preferential tariff treatment: the application of the tariff rate corresponding to an originating good under the Tariff Relief Program.

2. This chapter are incorporated into the definitions established in chapter IV (rules of origin).

Article 7-02. Statement and Certification of Origin

1. For purposes of this chapter, before the Entry into Force of this Treaty, the Parties shall develop a single form for the certificate or declaration of origin.

2. The certificate of origin referred to in paragraph 1 shall serve to certify that a good being exported from the territory of one party to the territory of the other party qualifies as originating.

3. Each Party shall provide its exporters that complete and sign a certificate of origin for the exportation of a good for which an importer may claim preferential tariff treatment.

4. Each Party shall provide that:

a) Where an exporter is not the producer of the good, complete and sign the certificate of origin on the basis of the declaration of origin referred to in paragraph 1; and

b) The declaration of origin that covers the good to be exported is filled out and signed by the producer of the good voluntarily provided to the exporter.

5. Each Party shall provide that a Certificate of Origin filled and signed by the exporter, cover:

a) A single importation of goods or one or more;

b) Several importations of identical goods within a period to be established by the

Exporter in the certificate of origin, which shall not exceed the period established in Paragraph 6.

6. Each Party shall provide that a certificate of origin is accepted by the competent authority of the importing party for one year from the date of its signature.

Article 7-03. Duties on Imports

1. Each Party shall require an importer claiming preferential tariff treatment for a good imported into its territory from the

territory of the other party that:

a) A written declaration in the importation document required by its laws, based on a valid certificate of origin, that the good qualifies as originating;

b) The certificate of origin in its possession at the time the declaration is made;

c) Provide a copy of the certificate of origin if requested by the competent authority; and

d) This declaration and a corrected pay the corresponding tariff, if it has reason to believe that the certificate of origin in its import declaration contains incorrect information. where the importer presents the declaration referred to above authorities initiate a review, shall not be punished.

2. Each Party shall provide that where the importer fails to comply with any of the requirements established in paragraph 1, shall deny preferential tariff treatment to goods imported from the territory of the other party for which preference is sought.

3. Each Party shall provide that where it has not been requested preferential tariff treatment for a good imported into its territory that is qualified as an originating good of the importer may apply for a refund of any excess duties paid in accordance with the legislation of each party, by not having been granted preferential tariff treatment to the good if the application is accompanied by:

a) A written declaration stating that the good qualified as originating at the time of importation;

b) A copy of the certificate of origin; and

c) Any other documentation relating to the importation of the goods as required by the competent authority.

Article 7-04. Duties on Exports

1. Each Party shall provide that its exporter or producer that has completed and signed a declaration or certificate of origin shall deliver a copy of the certificate of origin or declaration to its competent authority upon request.

2. Each Party shall provide that its exporter or producer that has completed and signed a declaration or certificate of origin and has reason to believe that the certificate or declaration contains incorrect information, and without delay notify in writing of any change that could affect the accuracy or validity of the Declaration or certificate of origin to all persons to whom the certificate or declaration was re-delivered and, in accordance with its laws, to its competent authority, in which case it shall not be liable for having submitted an incorrect certificate or declaration.

3. The competent authority of the exporting Party shall inform the competent authority of the importing Party the notification of the exporter or producer referred to in paragraph 2.

4. Each Party shall provide that the certificate of origin or false declaration made by its exporter or producer that a good to be exported to the territory of the other party qualifies as originating, shall have the same legal consequences, with such modifications as circumstances require that those that would apply to an importer that makes a false declarations or statements in contravention of its customs laws and regulations.

Article 7-05. Exceptions

Provided that they do not form part of one or more importations carried out or planned for the purpose of avoiding the certification requirements of articles 7-02 7-03 and shall not require a certificate of origin for the importation of goods in the following cases:

a) For commercial purposes of the importing goods whose customs value does not exceed 1,000 United States dollars ($) or the equivalent in national currency, but may require that the invoice contain a statement from the importer or exporter of the good qualifies as originating;

b) A non-commercial importation of goods whose customs value does not exceed US $1,000 or its equivalent in national currency; and

c) The importation of a good for which the importing Party has waived the requirement for a certificate of origin.

Article 7-06. Accounting Records

Each Party shall provide that:

a) The exporter or producer who filled and signed a declaration or certificate of origin retained for a minimum of five years after the date of signature or certificate of this Declaration, all records and documents related to the origin of the good, including those relating to:

i) The acquisition, costs, the value and payment for the good that is exported from its

ii) The acquisition, costs, the value and payment of all the materials used in the production of the good that is exported from its territory; and

iii) The production of the good in the form in which it was exported from its territory;

b) For purposes of the verification procedure laid down in article 7-07, the exporter or producer to provide the competent authority of the importing Party, the records and documents referred to in subparagraph (a). where the records and documents are not in the possession of the exporter or producer, it may request the producer or supplier of the materials the records and documents so that they are delivered through the competent authority of the verification; and

c) An importer claiming preferential tariff treatment for a good imported into its territory from the territory of the other party, retained for a minimum of five years from the date of importation, the certificate of origin and all other documentation relating to the importation required by the importing Party.

Article 7-07. Procedures to Verify the Origin

1. The importing Party may request the exporting Party information relating to the origin of the good through its competent authority.

2. In determining whether a good imported into its territory from the territory of the other party qualifies as originating, each Party may, through its competent authority to verify the origin of the good through:

a) Written questionnaires to exporters or producers in the territory of the other party; or

b) Verification visits to an exporter or producer in the territory of the other party to review the records and documents relating to the implementation of the rules of origin in accordance with article 7-06, and inspect the facilities used in the production of the good and, where appropriate, which are used in the production of the materials.

3. Nothing in paragraph 2 shall be without prejudice to the revision may make the importing Party on its own importers, exporters or producers.

4. The exporter or producer who receives a questionnaire pursuant to subparagraph 2 (a), shall respond to the questionnaire and return within 30 days from the date of its receipt. during this period the exporter or producer may request in writing to the importing Party for an extension, where appropriate, which may not exceed 30 days. this request shall not result in the denial of preferential tariff treatment.

5. In case the exporter or producer does not return the questionnaire or respond within the deadline, the importing Party may deny preferential tariff treatment upon resolution in terms of paragraph 11.

6. Prior to conducting a verification visit pursuant to subparagraph (b) of paragraph 2, the importing Party shall be bound, through its competent authority to notify in writing of its intention to conduct the visit. the notification shall be sent to the exporter or producer to be visited, the competent authority of the Party in whose territory the visit and, if so requested, to the embassy of that Party in the territory of the importing Party. the competent authority of the importing Party shall request the written consent of the exporter or producer who seeks to visit.

7. The notification referred to in paragraph 6 shall contain:

a) The identification of the competent authority making the notification;

b) The name of the exporter or producer to be visited;

c) The date and place of the proposed verification visit;

d) The object and scope of the proposed verification visit, with specific reference period and the good or goods subject to verification referred to in the certificate of origin; or

e) Personal data, the names and titles of the officials who shall carry out the verification visit; and

f) The legal authority for the verification visit.

8. Any modification of the information referred to in subparagraph (e) of paragraph 7 shall be notified in writing to the exporter or producer and the competent authority of the exporting Party before the verification visit. any modification of the information referred to in subparagraphs (a), (b), (c), (d) and (f) of paragraph 7 shall be notified pursuant to paragraph 6.

9. If within 30 days of receiving notification of the proposed verification visit according to paragraph 6, the exporter or producer has not given its written consent for the same, the importing Party may deny preferential tariff treatment to the good or goods that would have been the subject of the verification visit.

10. Each Party shall provide that where its competent authority receives a notification pursuant to paragraph 6 shall within 15 days following the date of receipt of the notification postpone the proposed verification visit for a period not exceeding 60 days from the date on which the notification was received, or for a longer period as may be agreed by the parties.

11. A Party shall not deny preferential tariff treatment based solely on the postponement of a verification visit pursuant to paragraph 10.

12. Each Party shall permit the exporter or producer whose goods are the subject of a verification visit to designate two observers to be present during the visit provided solely to intervene in that capacity. if there is no designate observers by the exporter or producer, this omission shall not result in the postponement of the visit.

13. Within 120 days after the conclusion of the verification, the competent authority shall provide a written decision to the exporter or producer whose good or goods have been the subject of the verification, in determining whether or not the good qualifies as originating, including findings of fact and the legal basis for the determination.

14. Where a verification by a party establishes that the exporter or producer has certified or certified more than once in a false or unfounded, that a good qualifies as originating, the importing party may suspend preferential tariff treatment to identical goods produced or exported by the same until such person proves that complies with the provisions in chapter IV (rules of origin).

15. Each Party shall maintain the confidentiality of the information collected in the process of verification of origin in accordance with its legislation.

Article 7-08. Review and Challenge

1. Each Party shall grant the same rights of appeal and review of determinations of origin and advance rulings referred to its importers, exporters or producers of the other party that:

a) Complete and sign a declaration or certificate of origin for a good that has been the subject of a determination of origin; or

b) Has received an advance ruling pursuant to article 7-10.

2. The rights referred to in paragraph 1 shall include access to at least one level of administrative review of the independent office or official responsible for the determination or ruling subject to review and access to a judicial or quasi-judicial review of the determination or decision taken at the final level of administrative review, in accordance with the legislation of each party.

Article 7-09. Sanctions

Each Party shall establish or maintain criminal, civil or administrative penalties for violations of its laws and regulations relating to the provisions of this chapter.

Article 7-10. Advance Rulings

1. Each Party shall provide that, through its competent authority shall grant expeditiously advance written rulings prior to the importation of a good into its territory. the advance rulings shall be issued to the importer or exporter or producer in the territory of the other Party on the basis of the facts and circumstances expressed by the same, in relation to the origin of the goods.

2. The advance rulings shall include:

a) If the non-originating materials used in the production of a good satisfy the applicable change in tariff classification set

out in the annex to article 603;

b) If the good complies with the regional value content established in chapter IV (rules of origin);

c) Whether the method applied by an exporter or producer in the territory of the other party, in accordance with the principles of the Customs Valuation Code, for calculating the transaction value of the good or of the materials used in the production of a good for which an advance ruling is requested, is suitable for determining whether the good complies with the regional value content under chapter IV (rules of origin);

d) Whether the method applied by an exporter or producer in the territory of the other party for the reasonable allocation of costs, in accordance with the annex to article 6-04 is suitable for determining whether the good complies with the regional value content under chapter IV (rules of origin);

e) If the country of origin marking or proposed for a good satisfies the requirements in article 3-12;

f) If the good as originating qualifies under chapter IV (rules of origin); and

g) Other matters as the parties may agree.

3. Each Party shall adopt or maintain procedures for the issuance of advance rulings prior publication thereof, including:

a) The information reasonably required to process an application;

b) The authority of its competent authority at any time to request additional information from the person requesting the advance ruling during the process of evaluating the application;

c) Within 120 days, to the competent authority issuing the advance ruling after it has obtained all necessary information from the requesting person; and

d) The obligation to provide full and reasoned founded to the applicant, the advance ruling.

4. Each Party shall apply the advance rulings on imports into its territory, from the date of issuance of the opinion, or on a later date indicated in the same except that the advance ruling was modified or revoked pursuant to paragraph 6.

5. Each Party shall provide to any person requesting an advance ruling the same treatment including the same interpretation and application of provisions of chapter IV (rules of origin) regarding a determination of origin which has provided to any other person to whom it issued an advance ruling when facts and circumstances are identical in all substantial aspects.

6. The advance ruling may be modified or revoked by the competent authority in the following cases:

a) Where it is based on an error:

i) In fact;

ii) In the tariff classification of the good or of the materials; or

iii) Compliance with the regional value content;

b) If it is not in accordance with an agreed interpretation between the parties or a modification with respect to article 3-12 or Chapter IV (rules of origin);

c) Where a change in the circumstances or facts that substantiate; or

d) In order to comply with a judicial or administrative decision.

7. Each Party shall provide that any modification or revocation of an advance ruling takes effect on the date on which it is issued or on a later date that there is established. and shall not be applied to importations of a good made before those dates, unless the person to whom it was issued has not acted in accordance with its terms and conditions.

8. Notwithstanding paragraph 7, the party that issued the advance ruling shall postpone the effective date of such modification or revocation for a period not exceeding 90 days where the person to which the advance ruling was issued in good faith has relied on that ruling.

9. Each Party shall provide that when considering the regional value content of a good for which it has issued an advance ruling, its competent authority evaluate whether:

a) The exporter or producer has complied with the terms and conditions of the advance ruling;

b) The exporter or producer operations are consistent with the material facts and circumstances underlying this Opinion; and

c) The supporting calculations and data used in the application of the method for calculating value or allocating substantial cost were correct in all aspects.

10. Each Party shall provide that where its competent authority determines that has not been complied with any of the requirements established in paragraph 9, the competent authority may revoke or modify the advance ruling as the circumstances warrant.

11. Each Party shall provide that where its competent authority determines that the advance ruling was based on incorrect information shall not penalize the person to whom it issued if it proves that it acted with reasonable care and good faith in stating the facts and circumstances on which the advance ruling.

12. Each Party shall provide that where it issues an advance ruling to a person that has omitted or falsely signified substantial facts or circumstances on which the advance ruling is based or has not acted in accordance with the terms and conditions of the competent authority to issue the advance ruling may apply such measures as the circumstances warrant.

13. The validity of an advance ruling shall be subject to the obligation of the holder of the same to inform the competent authority of any substantial change in the circumstances or facts on which it relied to issue the ruling.

14. Each Party shall maintain the confidentiality of the information collected in the process of issuing advance rulings in accordance with its legislation.

Article 7-11. Committee on Customs Procedures

1. The parties establish a committee on customs procedures comprising representatives of each, which shall meet at least twice a year and at the request of either party.

2. The Committee shall:

a) Endeavour to agree on:

i) The interpretation, implementation and administration of this chapter;

ii) Tariff classification and valuation matters relating to determinations of origin;

iii) The procedures for issuing the request, revocation, modification, adoption and implementation of advance rulings;

(IV) Modifications to the certificate of origin or declaration referred to in article 7-02; and

v) Any other matter referred by a party; and

b) Considering proposals for administrative or operational modifications in customs matters that may affect the flow of trade between the parties.

3. The Parties shall establish and implement through their respective laws and regulations, criteria concerning interpretation, implementation and administration, are agreed by the Committee.

Chapter VIII. Safeguards

Article 8-01. Definitions

For the purposes of this chapter, the following definitions shall apply:

threat of serious injury: the clear imminence of serious injury, for which purpose all relevant factors of an objective and quantifiable nature having a bearing on the situation of a domestic industry shall be taken into consideration, with special attention to those indicated in Article 8-10. The determination of the existence of a threat of serious injury shall be based on facts and not on presumptions, conjectures or remote possibilities;

investigating authority: "investigating authority" as defined in Chapter IX (Unfair International Trade Practices);

directly competitive good: that which, not being identical or similar to that being compared, is essentially equivalent for

commercial purposes, because it is devoted to the same use and is interchangeable with it;

similar good: that which, although it does not coincide in all its characteristics with the good with which it is compared, has similar characteristics and composition, which allows it to fulfill the same functions and be commercially interchangeable with the one being compared;

serious injury: a general and significant impairment to a domestic industry;

bilateral measures: safeguard measures pursuant to Articles 8-03, 8-04 and other applicable provisions of this Chapter;

global measures: emergency measures on the importation of goods under Article XIX of GATT 1994 and the WTO Agreement on Safeguards;

tariff elimination period: the period of tariff elimination applicable to each good, as provided in the Tariff Elimination Program; and

domestic industry: all producers of the like or directly competitive products operating within the territory of a Party.

Article 8-02. Safeguards Regime

The parties may apply to imports of goods, made under this Treaty, a safeguards regime whose application shall be based on clear criteria, objectives, strict and temporality defined. the safeguards regime bilateral measures envisaged or global.

Section A. Bilateral Measures

Article 8-03. Conditions of Application

If as a result of the implementation of the programme of tariff relief, the importation of one of the parties by one or more goods originating in quantities and under such conditions that alone be a substantial cause of serious injury or threat of serious injury to the domestic industry of like or directly competitive goods, the importing Party may take bilateral measures, which shall be applied in accordance with the following rules:

a) Where this is strictly necessary to counteract the threat of serious injury or serious injury caused by imports from the other party of one or more goods originating in a Party may take bilateral measures within the period of tariff relief;

b) Bilateral measures shall be only temporary and tariff rate. the tariffs to be determined in no case may not exceed the level that is lower among the most-favoured-nation tariff for good that at the time the measure is taken bilateral and the most favoured nation tariff rate for that good on the day preceding the date of entry into force of the programme of tariff relief;

c) Bilateral measures shall be applied for a period of up to one year and may be extended once for a period equal and running, provided that it is demonstrated that the conditions for;

d) In justified cases, it may maintain the validity of a bilateral action by a third year applied when the party that determines that:

i) The domestic industry concerned has undertaken adjustment competitive; and

ii) Calls for a one-year extension.

In such cases, it is essential that increased tariff in the first year of application of the Bilateral measure is substantially reduces to initiate the second year of extension; and

e) Upon the termination of the bilateral action rate or the tariff rate shall be subject to the good that the measure bilateral on that date in accordance with the schedule of tariff relief.

Article 8-04. Compensation for Bilateral Measures

1. The party intending to apply a bilateral granted to the other party mutually agreed compensation in the form of additional tariff concessions, whose effects on trade of the exporting country equivalent to the impact of the measure adopted bilateral.

2. The Parties shall agree on the terms of the compensation referred to in paragraph 1 at the stage of prior consultations

under Article 8-14.

3. If the parties are unable to agree on compensation the party intending to take a bilateral measure is authorized to do so, the exporting party may impose trade tariff action having effects equivalent to those of the bilateral action taken.

Section B. Comprehensive Measures

Article 8-05. Rights Under the WTO

The parties maintain their rights and obligations under article XIX of GATT 1994 and the WTO Agreement on Safeguards, except those regarding compensation or retaliation and exclusion of a comprehensive measure, as incompatible with the provisions of this section, in relation to any measure that adopts a party.

Article 8-06. Criteria for the Adoption of a Comprehensive Measure

1. Where a Party decides to take a comprehensive measure may only apply to the other party where imports of a good, individually account for a substantial share of total imports and contribute importantly to the serious injury or threat of serious injury to the domestic industry of the importing Party.

2. For purposes of paragraph 1 shall take into account the following criteria:

a) Normally shall not be considered to be substantial imports of a good of the other Party, whichever is not included within the major suppliers, whose joint exports represent 80 per cent of total imports of the like or directly competitive good in the importing country; and

b) Normally shall not be considered as imports from the other party contribute importantly to the serious injury or threat of serious harm if its growth rate during the period in which the injurious surge, is substantially lower than the growth rate of total imports of the like or directly competitive good the party intending to adopt the measure, from all sources over the same period.

Article 8-07. Compensation for Comprehensive Measures

1. The party intending to apply a global measure granted to the other party mutually agreed compensation in the form of additional concessions, whose effects on trade of the exporting country equivalent to the impact of the global measure taken.

2. The Parties shall agree on the terms of the compensation referred to in paragraph 1 at the stage of prior consultations under Article 8-14.

3. If the parties are unable to agree on compensation the party intending to adopt the global measure shall be entitled to do so, the exporting party may impose measures having equivalent to the trade effects of the global measure taken.

Section C. Procedure

Article 8-08. Adoption Procedure

The party intending to take a bilateral or global in accordance with this Chapter, shall comply with the procedure laid down in this section.

Article 8-09. Research

1. In determining the origin of the application of a safeguard measure, the investigating authority of the importing Party shall carry out an investigation, which may be initiated ex officio or at the request of a party.

2. An investigation shall not be initiated that may lead to the adoption of a bilateral measure, if the investigating authority has determined that the request is supported by domestic producers whose collective output constitutes at least 35 per cent of the total production of the like or directly competitive good.

3. The investigation shall be to:

a) Assess the volume of imports and conditions of the good concerned;

b) To verify the existence of serious injury or threat of serious injury to the domestic industry; and

c) To verify the existence of a direct causal link between increased imports of the good and serious injury or threat of serious injury to the domestic industry.

4. The application of safeguard measures shall be in accordance with the provisions of the legislation of each party.

Article 8-10. Determination of Serious Injury or Threat of Serious Harm

For the purposes of verifying the existence of serious injury or threat of serious harm, the investigating authority shall evaluate the objective and quantifiable nature having a bearing on the domestic industry concerned, in particular the rate and the amount of increase in imports of the good concerned in absolute and relative terms; the share of the domestic market taken over by increased imports; changes in the level of domestic prices, sales, production, productivity utilisation, capacity, employment gains and losses.

Article 8-11. Effect of other Factors

Where factors other than an increased imports of originating a good or good of the other party, as the case may be, that simultaneously prejudicial to the domestic industry, the serious injury or threat of serious injury caused by those factors shall not be attributed to the concerned imports.

Article 8-12. Publication and Notification

The parties shall publish the decisions referred to in this chapter, in accordance with the annex to this article and shall notify in writing to the exporting Party on the day following its publication.

Article 8-13. Content of the Notification

To initiate an investigation, the investigating authority shall make the notification referred to in article 8-12, which shall contain the information to support and sufficient to justify the initiation of the same, including:

a) The name and address available to domestic producers of like or directly competitive goods of representative national production; participation in the domestic production of those goods and the reasons for which are considered to be representative of the sector;

b) The clear and comprehensive description of goods subject to the investigation, in the tariff items which are classified and the current tariff treatment, as well as the identification of the like or directly competitive goods;

c) The import data for each of the three years prior to the initiation of the investigation which constitute the basis for good that is imported in such increased quantities, either in absolute terms or relative to the domestic production of the like or directly competitive goods;

d) The data on total domestic production of the like or directly competitive goods, corresponding to the three years prior to the initiation of the proceeding;

e) The data show that imports are causing serious injury or threat of serious injury to the domestic industry concerned, an enumeration and description of the cause of serious injury or threat of serious harm, and a summary of the basis for the claim that the increased imports of such goods, in absolute terms or relative to the domestic production of the like or directly competitive goods, is the same;

f) Where the criteria and objective information demonstrating that it satisfies the conditions for the implementation of a comprehensive measure to the other Party under this chapter; and

g) The duration of the measure to be taken.

Article 8-14. Prior Consultations

1. The Party to initiate proceedings under this chapter, it shall notify in writing to the other party under the terms of Articles 8-12 and 8-13 and it shall at the same time, prior consultations pursuant to this chapter.

2. The importing Party shall provide adequate opportunity for prior consultations are held. the period of prior consultations shall begin on the day following the receipt by the exporting Party; the notice containing the request for such consultations.

3. The prior period consultations shall be 30 days unless the parties agree otherwise.

4. Safeguard measures shall only be taken upon completion of the period prior consultations.

Article 8-15. Confidential Information

1. The consultation procedure does not require a party to disclose that information is provided on a confidential basis, whose disclosure would infringe their laws governing the matter or prejudice legitimate commercial interests.

2. Without prejudice to the foregoing, the importing Party that intends to apply a measure shall provide a summary of the non-confidential information that is confidential.

Article 8-16. Observations of the Exporting Party

During the period prior consultations the exporting Party shall make comments it deems appropriate, in particular, on the origin of invoke the safeguard and safeguard measures.

Article 8-17. Extension

If the importing Party determines that the reasons that led to the application of the safeguard measure and the exporting Party shall notify its intention to renew at least 60 days before the expiry of its validity. the procedure for extension shall be conducted in accordance with the provisions laid down in this chapter to the adoption of safeguard measures.

Chapter IX. International Unfair Trade Practices

Article 9-01. Definitions

For the purposes of this chapter, the following definitions shall apply:

WTO agreements: the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 and the WTO Agreement on Subsidies and Countervailing Measures;

competent authority: the authority identified by each Party in Annex 1 to this Article;

investigating authority: the authority identified by each Party in Annex 2 to this Article;

injury: material injury to a domestic industry, threat of material injury to a domestic industry, or material retardation of the establishment of such an industry;

FOB: "FOB" as defined in Chapter VI (Rules of Origin);

interested parties: the producers, importers and exporters of the good subject to investigation, as well as domestic or foreign persons having a direct interest in the investigation in question and includes the government of the Party whose good is subject to an investigation. This interest shall be expressed in writing;

serious prejudice: "serious prejudice" as defined in the WTO Agreement on Subsidies and Countervailing Measures;

decision to initiate the investigation: the decision of the competent authority formally declaring the initiation of the investigation;

preliminary determination: the determination of the competent authority deciding whether or not to impose a provisional countervailing duty; and

final determination: the determination of the competent authority that decides whether or not to impose definitive countervailing duties.

Article 9-02. General Provisions

The parties reject any unfair practice of international trade (unfair practice), contrary to the provisions of this chapter.

Article 9-03. Export Subsidies

1. From the entry Entry into Force of this Treaty, the parties may increase grants the above 7 per cent of the FOB value of exports.

2. From the date of tariffs on agricultural products originating reach zero tariff relief under the programme, and in any case no later than 1 July 2007, the parties may maintain export subsidies on agricultural products in the reciprocal trade.

3. Notwithstanding the above, from the Entry into Force of this Treaty, the parties may maintain in their reciprocal trade export subsidies on agricultural products included in article 5 of the decree of export promotion 37-91 Number of Nicaragua and subject to aranceles-cuota according to the schedule of tariff relief.

Article 9-04. Rights and Obligations of the Parties Concerned

Each Party shall ensure that interested parties in the administrative investigation have the same rights and obligations, which shall be respected and observed, both in the course of the proceeding and the administrative authorities and contentious coming from final decisions.

Article 9-05. Countervailing Duties

The importing Party, in accordance with their national legislation, this Treaty and the WTO agreements, may establish and implement countervailing duties, when the investigating authority, through an objective examination based on positive evidence:

a) To determine the existence of imports:

i) In terms of dumping; or

ii) Goods that have been export subsidies;

b) Verify the existence of:

i) Harm; or

ii) Serious injury; and

c) Finds that the damage or injury as the case may be, are the direct result of importations of identical or similar goods of the other party under conditions of dumping or subsidization.

Article 9-06. Copies

The parties concerned in the investigation, to its costs, shall transmit to the other parties a copy of the public version of each of the reports and records to submit evidence to the investigating authority in the course of the investigation.

Article 9-07. Publication

1. The parties shall publish the decisions referred to in this chapter, in accordance with the annex to this article.

2. The resolutions to be published shall be the following:

a) The initiation of the investigation, preliminary and final;

b) Decisions declaring the completion of investigation:

i) In respect of commitments with the exporting party or with the exporters, as appropriate; and

ii) In respect of the commitments resulting from conciliation hearings.

Article 9-08. Content of Resolutions

Resolutions of the initiation of investigation, preliminary and final shall contain at least the following:

a) Identification of the investigating authority, as well as the date and place of issue resolution;

b) The name or the name and address of the applicant, as well as other domestic producers of identical or similar goods;

c) The indication of the imported goods subject to the proceeding and its tariff classification;

d) The elements and evidence used for the determination of the existence of dumping margin or the amount of allowance; the damage or serious injury and causal relationship;

e) The findings of fact and law that led to the competent authority to initiate an investigation or to impose a quota compensatory; and

f) The legal arguments, data, establish facts or circumstances and for the resolution concerned.

Article 9-09. Notifications and Deadlines

1. Each Party shall notify the relevant resolutions and directly to its importers and exporters of the other party who are known to the competent authority, the diplomatic mission of the exporting party accredited in the party who carry out the investigation and, where appropriate, the Government of the exporting Party. the parties also undertake to undertake actions to identify and locate stakeholders in the procedure to ensure equal parts and due process.

2. Once the importing Party is satisfied that there is sufficient evidence to justify the initiation of the investigation, it shall notify the exporting Party, before issuing the resolution of the initiation of investigation.

3. The notice of the initiation of the investigation shall be made within five working days following its publication.

4. The notice of the initiation of the investigation shall contain at least the following information:

a) The time and place for the submission of pleadings, tests and other documents; and

b) The name, address and telephone number of the office where it can obtain

Information, consultation and inspect the case file.

5. The notification shall be sent to the exporter a copy of:

a) The respective publication referred to in paragraph 3;

b) The notice of denunciation and the public version of its annexes; and

c) The questionnaires.

6. The importing Party shall grant to all concerned, becomes aware that a period of not less than 30 business days from the day following the publication of the initiation of the investigation, so that their right to express appear appropriate. within 30 days upon the request of the Party concerned, justified in writing, may be extended by up to a maximum period.

Article 9-10. Deadlines for Provisional Measures

Neither party shall impose a quota provisional countervailing but after 60 working days of the date of publication of the initiation of the investigation.

Article 9-11. Adoption and Publication of the Preliminary Ruling

1. Within thirty days of the issuance of the initiation of the investigation, the competent authority shall give a preliminary ruling. this decision shall, whether or not to continue the investigation and, where appropriate, impose or not provisional measures. the resolution shall be reasoned based on evidence contained in the administrative record and published in accordance with article 9-07.

2. Provisional contributions countervailing shall take the form of a guarantee, in accordance with the legislation of each party. the amount of the guarantee shall be equal to the amount of the provisional countervailing assessment.

Article 9-12. Content of the Preliminary Ruling

The advance ruling shall contain, in addition to the corresponding data specified in Article 9-08 as follows:

a) The normal value and the export price, the margin of dumping or, where appropriate, the amount of the grant and its impact on the export price obtained by the investigating authority and a description of the methodology to be followed for determining;

b) A description of:

i) Harm; or

ii) Serious injury,

On the analysis and explanation of each of the factors to be taken into account;

c) A description of the determination of a causal relationship; and

d) Where the amount of the provisional assessment countervailing which must be ensured.

Article 9-13. Conciliation Hearings

In the course of the investigation any interested party may request the investigating authority the conciliation hearings in order to reach a satisfactory solution.

Article 9-14. Briefings

1. The investigating authority of the importing Party upon written request of the parties concerned, conducted briefings in order to make the pertinent information on the content of preliminary and final decisions.

2. The request referred to in paragraph 1 shall be submitted within five working days following the date of the publication of the ruling. in both cases, the investigating authority shall carry out the meeting within 15 working days of the submission of the request.

3. The meeting shall take place at the seat of the investigating authority of the importing Party.

4. The meetings of the information referred to in paragraphs 1 and 2, the parties concerned shall be entitled to review reports or technical reports, the calculation methodology sheets, and, in general, any element in which it has been informed the corresponding resolution.

Article 9-15. Public Hearings

1. The investigating authority shall, upon written request of any of the interested parties and public hearings in which the parties concerned may appear and question their counterparts on the information or evidence that it considers appropriate to the investigating authority. also, the opportunity for interested parties to make submissions after the public hearing but had completed the period of evidence. the submissions shall include in its written observations on information and argument supplied in the course of the investigation. the notice to interested parties for the public hearing shall be carried out at least 15 days before the date of implementation of the same.

2. The public hearing shall be carried out at the headquarters of the investigating authority of the importing Party.

Article 9-16. Obligation to Terminate an Investigation

1. The importing Party shall terminate an investigation:

a) In respect of an interested party, where its competent authority determines that:

i) The margin of dumping or the amount of the subsidy is de minimis or;

ii) There is not sufficient evidence of dumping, injury, grant, serious injury or the causal relationship; or

b) Where its competent authority determines that the volume of dumped imports or grant, or the injury is negligible.

2. For purposes of paragraph 1 shall be:

a) The de minimis margin of dumping is when it is less than 2% expressed as a percentage of the export price;

b) The amount of the subsidy is de minimis when it is less than 1% ad valorem; and

c) The volume of dumped imports or subsidies or damage, are insignificant if represents less than 3 per cent of total imports of identical or similar goods of the importing Party.

Article 9-17. Enforcement of Countervailing Contributions

1. A definitive countervailing quota shall be eliminated when automatically after five years from the day following the issuance of the final determination, any interested party has requested revision or the competent authority has initiated.

2. When a party initiates an official review shall immediately inform the other party.

Article 9-18. Refund or Drawback

If a final resolution identifies a compensatory quota is less than that established provisionally, the competent authority of the importing Party shall notify the relevant authorities to return the overpaid amounts within a maximum period of 60 days from the business day following the issuance of the final determination, in accordance with the legislation of each party.

Article 9-19. Clarifications

A compensatory fee imposed provisional or definitive, interested parties may request in writing to the investigating authority to determine whether a good measure imposed is subject to the clarification or any aspect of the relevant resolution.

Article 9-20. Review

1. Definitive countervailing, contributions may be reviewed annually, at the written request of any of the parties concerned, and at any time, if appointed by the competent authority before a change of circumstances. in accordance with the outcome of the review assessed countervailing, may be ratified, modified or eliminated.

2. In the review procedure definitive countervailing quotas shall apply the substantive provisions and procedures provided for in this chapter.

3. The review procedure may be requested in writing by the parties involved in the procedure which led to the definitive countervailing quota or by any producer or importer or exporter without having participated in such proceedings, stating its interest in writing to the investigating authority.

Article 9-21. Access to Files

The parties concerned shall have access, at the headquarters of the investigating authority, the administrative record of the procedure in question.

Article 9-22. Access to other Cases

The investigating authority of each Party shall allow interested parties during the course of an investigation, public access to the information contained in the administrative investigation dossiers any after 60 working days from the day following the issuance of the final determination.

Article 9-23. Access to Confidential Information

1. The investigating authority of each Party shall, subject to its laws, access to confidential information when reciprocity in the other party with respect to access to that information.

2. The confidential information available only to the legal representatives of interested parties to the investigating authority in the administrative investigation. such information shall be used strictly staff and shall not be transferable for any reason.

3. In the event that the information may be used or disclosed for personal benefit, the legal representative shall be liable to criminal, civil and administrative sanctions that correspond to the terms of the legislation of each party.

Article 9-24. Amendments to National Legislation.

1. Where a Party decides to add, modify or abrogate its legal provisions on unfair practices, it shall notify the other party in writing immediately after its publication.

2. The amendments or additions abrogaciones shall be compatible with international regimes mentioned in article 9-05.

3. The Party that considers that the amendments, additions or abrogations are in violation of the provisions of this Chapter may resort to the dispute settlement mechanism of Chapter XX (Dispute Settlement).

Chapter X. Principles on Trade In Services

Article 10-01. Definitions

For purposes of this chapter:

Trade in services supply the means of a service:

a) The territory of a party into the territory of the other party;

b) In the territory of a party to a consumer of the other party;

c) Through the presence of companies providing services of a Party in the territory of the other party; and

d) By natural persons of a Party in the territory of the other party;

Service provider of a Party means a person of a Party that seeks to provide or provides a service;

A quantitative restriction: non-discriminatory measure which imposes limitations on:

a) The number of service suppliers whether in the form of a quota monopoly or an economic needs test or by any quantitative or other means;

b) The operations of any service provider, either through a quota or an economic needs test; or by any other means; and quantitative

Professional services means services that provision requiring specialized higher education, training or experience or equivalent, and which is granted or restricted by a party but does not include services provided by persons engaged in a profession or providing to the crews of vessels and aircraft.

Article 10-02. Scope of Application

1. This chapter applies to measures that a party adopts or maintains relating to trade in services by service providers of the other party, including those relating to:

a) The production, distribution, sale and delivery of a service;

b) The purchase or use of a service;

c) Access to transport and distribution systems, and its use in connection with the provision of a service;

d) Access to public telecommunications networks and services, and its use;

e) The presence in its territory of a service provider of the other party; and

f) The provision of a bond or other form of financial security as a condition for the provision of a service.

2. The reference to the Governments of the Federal, State or regional non-governmental agencies includes powers to exercise governmental regulations and administrative or other delegated to it by that Government.

3. This chapter does not apply to:

a) Air services including domestic and international air transportation, with or without routing equipment and ancillary activities in support of air services except:

i) Maintenance services and repair of aircraft during the period in which an aircraft is withdrawn from service;

ii) Air and specialty services;

iii) Computer reservation systems;

b) Subsidies or grants provided by a party or a state enterprise, including loans and guarantees government-supported insurance;

c) Government services or functions such as law enforcement, rehabilitation, social security insurance or insurance on income security or public social welfare, education, training and public health care for children; or

d) Financial services.

4. Nothing in this chapter shall be construed as:

a) Impose any obligation on a Party with respect to a national of the other party who wish to enter the labour market or who is permanently employed in its territory, or confer any right on that with respect to that national access or employment; or

b) Impose or confer any right, obligation on a Party with respect to government procurement by a party or a State enterprise.

5. The provisions of this chapter shall apply to measures relating to services listed in annexes, only to the extent and terms stipulated in those annexes.

Article 10-03. Most-favoured-nation Treatment

1. Each Party shall accord to services and service providers of the other party treatment no less favourable than that accorded in similar circumstances to services and service providers of any other country is a party.

2. The provisions of this chapter shall not be construed to prevent a party or grants advantages accorded to adjacent countries in order to facilitate exchanges limited to contiguous frontier zones of services that are locally produced and consumed.

Article 10-04. National Treatment

1. Each Party shall accord to services and service providers of the other party treatment no less favourable than that accorded in like circumstances to its services or service providers.

2. The treatment accorded by a Party under paragraph 1 means with respect to a State or a region, treatment no less favourable than the most favourable treatment accorded by such State or region, in like circumstances, to service providers of the Party to which they belong.

Article 10-05. Non-mandatory Local Presence

No Party shall require a service provider of the other party to establish or maintain a representative office or other company or resident in its territory as a condition to the provision of a service.

Article 10-06. Consolidation of Measures

1. No party will increase the degree of inconsistency of their existing measures with respect to articles 10-03 10-04, and 10-05. any reform of any of these measures does not decrease the level of conformity of the measure as it was in force immediately before the amendment.

2. Not later than one year after the Entry into Force of this Treaty, the Parties included in its list of the annex to this article federal or central measures that do not conform with articles 10-03 10-04, and 10-05.

3. For each State or regional measures inconsistent with articles 10-03 10-04, 10-05, and the deadline for inclusion in the list of the annex to this article shall not exceed two years after the Entry into Force of this Treaty.

4. The parties are not required to register municipal measures.

Article 10-07. Transparency

1. In addition to the provisions of article 18-02, each Party shall promptly publish by31 except in emergency situations and on the date of its Entry into Force, all the laws, regulations and administrative guidelines and other relevant resolutions, decisions or measures of general application which pertain to or affect the operation of this chapter; and have been brought into force by any level of Government or by a non-governmental entity regulations. it shall publish international agreements pertaining to or affecting trade in services to which a Party is a signatory to this Treaty.

2. Where it is not practicable or practically the publication of the information referred to in paragraph 1, it shall be made

publicly available.

3. Each Party shall promptly to the other party at least annually; the establishment of new laws, regulations or administrative guidelines which significantly affect trade in services covered by its specific commitments under this chapter or any amendments to the existing.

4. Each Party shall respond promptly to all requests for specific information made by the other Party on any measures referred to in paragraph 1. the other party shall establish one or more centres to facilitate information upon request by the other party for specific information on measures referred to in paragraph 1, as well as on the subject to the notification requirement set out in paragraph 3.

5. To the extent possible, each Party shall provide to the Party and other interested persons a reasonable opportunity to comment on such proposed measures.

Article 10-08. Quantitative Restrictions

1. Periodically, at least once every two years, the Parties shall endeavour to negotiate for liberalizing or eliminate:

a) Existing quantitative restrictions maintained by:

i) A Party at the federal or central, as indicated in the annex to this article; in accordance with paragraph 2; and

ii) A State or region as specified by a party in its schedule to annex to this article, in accordance with paragraph 2; and

b) Quantitative restrictions adopted by a Party after the date of entry in force of this Treaty.

2. Each Party shall have one year from the date of Entry into Force of this Treaty to indicate in its list of the annex to this article quantitative restrictions that maintains a state or region, excluding the municipal governments.

3. Each Party shall notify the other party of any quantitative restriction that it adopts after the date of Entry into Force of this Treaty, except the municipal governments, and shall set out the restriction in its schedule to annex to this article.

Article 10-09. Future Liberalization

1. The Commission shall convene future negotiations through which the parties reached the deepen liberalization in services sectors with a view to achieving the elimination of the remaining restrictions registered in accordance with paragraphs 2 and 3 of Article 10-06.

2. The elimination of barriers to road transport flows between the parties are subject to the provisions of the annex to this article.

Article 10-10. Liberalization of Non-discriminatory Measures

Each Party shall set out in its schedule to annex to this article their commitments to liberalize quantitative restrictions, requirements for licensing and other non-discriminatory measures.

Article 10-11. Procedures

The Commission shall establish procedures for:

a) A Party shall notify the other Party and include in its relevant schedule:

i) Federal or central measures in accordance with paragraph 2 of article 10-06 and its amendments;

ii) The State or regional action in accordance with paragraph 3 of Article 10-06 and its amendments;

iii) Non-discriminatory quantitative restrictions, in accordance with article 10-08;

iv) Measures under Rule 10-10; and

b) Pursuant to article 10-09 future negotiations.

Article 10-12. Limitations on the Provision of Information

In addition to the provisions of article 21-03, nothing in this chapter shall be construed to impose an obligation on a party to provide any confidential information the disclosure of which would prejudice legitimate commercial interests of a public or private undertaking.

Article 10-13. Licensing and Certification

1. With a view to ensuring that any measure that adopts or maintains a Party with respect to the requirements and procedures for licensing or certification of nationals of the other party does not constitute an unnecessary barrier to trade, each Party shall endeavour to ensure that such measure:

a) Based on objective and transparent criteria, such as the capacity and ability to provide a service;

b) Not more burdensome than necessary to ensure the quality of a service; and

c) Do not constitute a disguised restriction on the cross-border provision of a service.

2. When a party recognize, unilaterally or by agreement with another country, education or licences, certifications obtained in the territory of the other party or of any country that is not a party:

a) Nothing in the articles 10-03 shall be construed as requiring a party to recognise the education or licences, certifications obtained in the territory of the other party; and

b) A Party shall provide to the other party adequate opportunity to demonstrate that the education or licences, certifications obtained in the territory of that other party should also be recognized or to conclude an agreement or arrangement or having equivalent effect.

3. Each Party shall, within two years from the date of Entry into Force of this Treaty, shall eliminate any requirement of citizenship or permanent residence that it maintains for the licensing or certification of professional service providers of the other party. where a Party does not comply with this obligation with respect to a particular sector, the other party may, in the same sector and at the same time that the party in default maintain its requirement, maintain, as a single application, an equivalent requirement set out in its schedule of the annex to article 10-06 or restore:

a) Any such requirement at the federal or central level that it eliminated pursuant to this article; or

b) By giving notice to the party in breach of such requirements, any State or regional who have been in force at the date of Entry into Force of this Treaty.

4. In the annex to this article shall establish procedures for the recognition of the education or experience, standards and requirements governing professional service providers.

Article 10-14. Denial of Benefits

A Party may deny the benefits of this chapter to a service provider of the other party, subject to prior notification and consultation, where the party establishes that the service is being provided by an enterprise that has no substantial business activities in the territory of any party, and that is owned or controlled by persons of a non-party.

Article 10-15. Exceptions

In addition to the provisions of article 21-01, nothing in this chapter shall be construed as preventing the adoption or application by either party of measures necessary for the implementation of standards and norms of international agreements to which the Party is a party to the conservation of the environment, provided that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail or a disguised restriction on trade in services between the parties.

Article 10-16. Future Work

1. The Commission shall establish procedures for the establishment of necessary disciplines relating to:

a) Emergency safeguard measures;

b) Trade-distorting subsidies and services;

c) The monopoly of a service supplier.

2. For purposes of paragraph 1, shall be taken into account in the work of relevant international bodies.

Article 10-17. Relationship with Multilateral Agreements on Services

1. The parties undertake to apply provisions among themselves on services contained in multilateral agreements to which they are party.

2. Notwithstanding paragraph 1, in the event of any inconsistency between this Agreement and this treaty, the latter shall prevail over those to the extent of the inconsistency.

Article 10-18. Technical Cooperation

The Parties shall, no later than one year after the Entry into Force of this Treaty, a system for service providers to provide information concerning their markets in relation to:

a) Commercial and technical aspects of the supply of services;

b) The possibility of obtaining technology services; and

c) All those aspects that the Commission identified in services.

Chapter XI. Telecommunications

Article 11-01. Definitions

For the purposes of this chapter, the following definitions shall apply:

intracorporate communications: telecommunications by means of which a company communicates:

a. internally, with its subsidiaries, branches and affiliates, or these among themselves; or.

b. in a non-commercial manner, with persons of fundamental importance to the economic activity of the enterprise, and who have an ongoing contractual relationship with it,

but does not include telecommunications services provided to persons other than those described in this definition;

technically qualified entity: an entity defined by the relevant law of each Party as being responsible for conducting laboratory tests. These entities must be accredited by the competent authorities of each Party.

authorized equipment: terminal or other equipment that has been approved for connection to the public telecommunications network in accordance with the conformity assessment procedures of a Party;

terminal equipment: a digital or analog device capable of processing, receiving, switching, signaling or transmitting signals by electromagnetic means and that is connected to the public telecommunications network, by means of radio or cable connections, at a terminal point;

standardization-related measure: "standardization-related measure" as defined in Chapter XIV (Standardization-Related Measures);

conformity assessment procedure: "conformity assessment procedure", as defined in Chapter XIV of (Measures Relating to Standardization);

protocol: a set of rules and formats governing the exchange of information between two peer entities for the purpose of transferring signal or data information;

network termination point: the final demarcation of the public telecommunications network at the user's premises;

private network: the telecommunications network used exclusively for internal communications within a company;

public telecommunications network: the public telecommunications infrastructure that enables telecommunications between defined end points of the network;

broadcasting services: on-air transmission services of radio and television programs;

enhanced or value-added services: telecommunications services that employ computerized processing systems that:

a. act on the format, content, code, code, protocol or similar aspects of the user's transmitted information;

b. that provide the customer with additional, different or restructured information; or

c. involve user interaction with stored information.

public telecommunications service: a telecommunications service that a Party explicitly or in fact mandates to be offered to the general public, including telegraph, telephone, telex and data transmission, and that generally involves the real-time transmission of customer-supplied information between two or more points, with no "point-to-point" change in the form or content of the user's information;

cross-subsidy: the economic transfer to the production costs of one service at the expense of another service.

fixed tariff: the fixing of price on the basis of a fixed amount per period, regardless of the amount of usage; and

telecommunications: the transmission and reception of signals by any electromagnetic means.

Article 11-02. Scope

1. Recognizing the dual role of telecommunications services, as a specific sector of economic activity and as a means for the provision of services to other economic activities, this chapter applies to:

a) Measures adopted or maintained by a Party relating to the provision of public telecommunications services;

b) Measures adopted or maintained by a Party relating to the continued access to public telecommunications networks or services and their continued use by persons of the other party, including their access and use when operating private networks for conducting intracorporativas communications;

c) Measures adopted or maintained by a Party relating to the provision of value-added services enhanced or by persons of the other party in the territory of the first or across its borders; and

d) The standardization measures relating to the attachment of terminal or other equipment to the public telecommunications networks.

2. Nothing in this chapter shall be construed as:

a) To require a party to authorize a person of the other party to establish, construction, acquisition, leases, operate or supply telecommunications networks or services;

b) Oblige a party or, in turn, requires, to any person, to establish, construction, acquisition, leases, supply or operate public telecommunications networks or services are not offered to the public generally;

c) Prevent a Party from prohibiting persons operating private networks the use of such networks to supply public telecommunications networks or services to third persons; or

d) oblige a Party to require any person that broadcasts or distributes radio or television programs by cable to offer its broadcasting or cable facilities as a public telecommunications network.

Article 11-03. Access to Public Telecommunications Networks and Services and Its Use

1. Each Party shall ensure that any person of the other party have access to any public telecommunications network or service and may make use of them, including private leased circuits offered in its territory or across borders on reasonable and non-discriminatory terms and conditions, for the conduct of business, as set out in paragraphs 2 to 8.

2. Subject to subparagraph (c) of paragraph 2 of article 11-02 and paragraphs 7 and 8, each Party shall ensure that persons of the other party are permitted to:

a) Purchase or lease and interconnect terminal equipment or other equipment that interfaces with the public telecommunications network;

b) Interconnect private owned or leased circuits with public telecommunications networks in the territory of that Party or across its borders through marking including direct access to and from their customers or users or with leased circuits or owned by another person on mutually agreed terms and conditions by those persons;

c) Functions switching, marking and processing subject to the laws in force in each party; and

d) Operating protocols use of their choice.

3. Each Party shall ensure that:

a) The pricing of public telecommunications services reflects economic costs directly related to providing the services approved by the competent authority; and

b) Private leased circuits are available on the basis of a fixed rate established.

4. Nothing in paragraph 3 shall be construed as to prevent cross-subsidization between public telecommunications services.

5. Each Party shall ensure that persons of the other Party may use public telecommunications networks or services to transmit the information in its territory or across its borders intracorporativas including communications, and for access to information contained in databases or otherwise stored in machine-readable form by a machine in the territory of any party.

6. Each Party may take any measure necessary to ensure the security and confidentiality of messages; or protect the privacy of subscribers to public telecommunications networks or services.

7. Each Party in accordance with its legislation shall not impose more conditions for access to public telecommunications networks or services and their use, that necessary to:

a) Safeguard the public service responsibilities of suppliers of public telecommunications networks or services. in particular their ability to make their networks or services available to the public generally or;

b) Protect the technical integrity of public telecommunications networks or services.

8. Provided that conditions for access to public telecommunications networks or services and their use comply with the guidelines established in paragraph 7, such conditions may include:

a) Restrictions on resale or shared use of such services;

b) Requirements for use of certain technical interfaces, interface, including protocols for interconnection with such networks or services;

c) Restrictions on interconnection of private owned or leased circuits with such networks or services or with leased circuits or owned by another person, when used for the supply of public telecommunications networks or services; and

d) Procedures for licensing, permitting, records or notifications, adopted or maintained, are transparent and whose application is expeditiously resolved.

Article 11-04. Conditions for the Provision of Enhanced or Value-added Services

1. Each Party shall ensure that:

a) Any procedure that it adopts or maintains records for licensing, permitting or notifications, relating to the provision of such services is transparent and non-discriminatory and that applications are processed expeditiously; and

b) The information required conform to the requirements and procedures laid down in the respective laws and regulations of each Party which requires the technical and financial capacity to provide the service.

2. No Party shall require a provider of services:

a) Services to the general public;

b) Justify their tariffs according to its costs;

c) A fee;

d) Its interconnect networks with any particular customer or network; or

e) Satisfy any particular standard or technical regulation for interconnection other than for interconnection to a public telecommunications network.

3. Notwithstanding subparagraph (c) of paragraph 2, each Party may require the registration fee to:

a) A service provider to remedy a practice that the provider of that Party, in accordance with its legislation, has found in a

particular case, as anti-competitive; or

b) A monopoly to implement the provisions of article 11-06.

Article 11-05. Measures Related to Standardization

1. Each Party shall ensure that its measures relating to the normalization relating to the attachment of terminal or other equipment to the public telecommunications networks, including those measures relating to the use of measuring equipment for testing and conformity assessment procedure, are adopted or maintained only to the extent necessary to:

a) Technical prevent damage to public telecommunications networks;

b) Technical prevent interference with public telecommunications services or its deterioration;

c) Prevent electromagnetic interference and ensure compatibility with other uses of the electromagnetic spectrum;

d) Prevent billing equipment malfunction; or

e) User ensuring safety and access to public telecommunications networks or services.

2. Each Party may establish the approval requirement for the attachment of terminal or other equipment that is not authorized to the public telecommunications network, provided that the criteria for approval are consistent with paragraph 1.

3. Each Party shall ensure that the endpoints of public telecommunications networks are defined on a reasonable and transparent basis.

4. Once authorized equipment used as protective equipment to the public telecommunications networks, on the basis of the criteria set out in paragraph 1, neither Party shall require authorization for additional equipment that is connected on the consumer side.

5. Each Party shall:

a) Ensure that its conformity assessment procedures are transparent and non-discriminatory applications filed and that the effect is processed expeditiously;

b) Permit any technically qualified entity to perform the required testing to terminal equipment or other equipment to be attached to the public telecommunications network, in accordance with the conformity assessment procedures of the Party, subject to the right of the same to review the accuracy and completeness of the test results; and

c) It shall ensure that are not discriminatory measures it adopts or maintains to authorise persons to act as agents for suppliers of telecommunications equipment before the competent bodies for the conformity assessment of the party.

6. No later than one year after the entry into force of this Treaty, each Party shall adopt its conformity assessment procedures, the provisions necessary to accept the test results from laboratories which is located in the territory of the other party in its rules and procedures.

7. The Sub-Committee of measures concerning the standardization of telecommunications, established pursuant to paragraph 5 of Article 14-17 shall have the following functions set out in the annex to this article, in addition to the available to the Committee of measures concerning standardization.

Article 11-06. Monopolies

1. Where a party maintains or establish a monopoly to provide public telecommunications networks and services and the monopoly competes directly or through a branch in the provision of enhanced or value-added services or other goods or services associated with telecommunications, the Party shall ensure that the monopoly does not use its monopoly position to engage in anticompetitive practices in these markets, either directly or through its dealings with its subsidiaries, so that affects desventajosamente to a person of the other party. such practices may include the conduct and cross-subsidization predatory or discriminatory access to networks and to provide public telecommunications services.

2. Each Party shall introduce or maintain effective measures to prevent anticompetitive conduct referred to in paragraph 1, such as:

a) Accounting requirements;

b) Requirements for structural separation;

c) Rules to ensure that the monopoly to its competitors access to their networks or telecommunications facilities and the use of the same terms and conditions on no less favourable than those it accords to itself or its affiliates; or

d) Rules to ensure the timely disclosure of technical changes to public telecommunications networks and their interfaces.

Article 11-07. Relationship with International Organisations and Agreements

1. The Parties shall make its best efforts to stimulate the role of regional and subregional fora and prompt and to foster the development of telecommunications of the region.

2. The Parties recognize the importance of international standards for global compatibility and interoperability of networks or telecommunications services and undertake to promote such standards through the work of relevant international bodies, including the International Telecommunication Union and the International Organization for Standardization.

Article 11-08. Technical Cooperation and other Consultations

1. In order to encourage the development of interoperable telecommunications services, the Parties shall cooperate in the exchange of technical information in the development of training programs and other related intergovernmental activities. in pursuance of this obligation, the Parties shall put special emphasis on coordination and exchange programmes.

2. The Parties shall consult to determine among them the possibility of further liberalizing trade in all telecommunications services.

Article 11-09. Transparency

Each Party shall make publicly available the measures relating to access to public telecommunications networks or services and its use, including measures relating to:

a) Tariffs and other terms and conditions of service;

b) Technical specifications of interfaces with such networks and services;

c) Information on bodies responsible for the preparation and adoption of standards affecting such access and use;

d) Conditions for the attachment of terminal or other equipment to the public telecommunications network; and

e) Any notification requirement, registration, license or permit.

Article 11-10. Relationship to other Chapters.

In the event of any inconsistency between the provisions of this chapter and chapter of the other shall prevail to the extent of the inconsistency.

Chapter XII. Temporary Entry of Business Persons

Article 12-01. Definitions

For purposes of this chapter:

Temporary entry means business entry by a person of a Party in the territory of the other party without the intent to establish permanent residence;

Business person means a national of a party who is engaged in trade in goods or services or investment activities;

National means a national, but does not include a permanent residents; and

Existing: the quality of compulsory legislative regulations of the Parties at the time of Entry into Force of this Treaty.

Article 12-02. General Principles

The provisions of this chapter reflects the preferential trading relationship between the parties, whether to facilitate the temporary entry of business persons under the principle of reciprocity and the need to establish transparent criteria and procedures for this purpose. it also reflect the need to ensure border security and to protect the work of its nationals and permanent employment in their respective territories.

Article 12-03. General Obligations

1. Each Party shall apply its measures relating to this chapter in accordance with article, in particular the apply expeditiously to avoid undue hardship, or delay trade in goods or services or investment activities under this Treaty.

2. The Parties shall endeavour to develop and adopt common standards, definitions and interpretations for the implementation of this chapter.

Article 12-04. Authorisation for Temporary Entry

1. In accordance with the provisions of this chapter including those contained in the annex to this article, each Party shall grant temporary entry to business persons who meet the other applicable measures relating to public health and safety and national security.

2. A Party may refuse to issue an immigration document authorizing employment to a business person where the temporary entry adversely affecting:

a) The settlement of any labour dispute that is in the place where is employed or will be used; or

b) The employment of any person who is involved in such dispute.

3. When a party refuses to issue an immigration document authorizing employment in accordance with paragraph 2, that Party:

a) It shall inform the person affected business in writing the reasons for the refusal; and

b) Shall without delay and in writing of the reasons for the refusal to the Party in whose national refused entry.

4. Each Party shall limit the rights that causes the processing of applications for temporary entry to the approximate cost of services rendered processing.

Article 12-05. Availability of Information

1. In addition to the provisions of article 18-02, each Party shall:

a) The other Party shall provide to materials such as will enable it to know measures relating to this chapter; and

b) Not later than twelve months after the date of Entry into Force of this Treaty, shall publish and make available in its territory and the other party a consolidated document with materials explaining the requirements for temporary entry under this chapter to know the business persons of the other party.

2. Each Party shall collect and maintain and make available to the other Party in accordance with its legislation, information concerning the granting of temporary entry of authorisations under this chapter to the other party of persons who have been issued immigration documentation. this compilation shall include information specific to each occupation, profession or activity.

Article 12-06. Committee on Temporary Entry.

1. The parties establish a committee of temporary entry, comprising representatives of each of them, including migration officials.

2. The Committee shall meet at least once every 12 months to consider:

a) The implementation and administration of this chapter;

b) The development of measures to further facilitate temporary entry of business persons under the principle of reciprocity.

c) The exemption of labour certification tests or procedures of similar effect for spouses of the person who has been

granted temporary entry for more than one year under section B or C of the annex to article 12-04; and

d) The proposed modifications or additions to this chapter.

Article 12-07. Dispute Settlement

1. The Parties shall not initiate proceedings under article 20-06 regarding a refusal of authorisation of temporary entry under this chapter or a particular case covered by paragraph 1 of Article 12-03, except that:

a) The case concerns a recurrent practice; and

b) The person affected business have exhausted the available administrative remedies regarding the particular matter.

2. The remedies referred to in subparagraph 1 (b) shall be deemed to be exhausted if the competent authority has issued a final decision within 12 months after the beginning of the administrative procedure, and resolution is not attributable to delay caused by the business person.

Article 12-08. Relationship to other Chapters

Except as provided in this chapter chapters and provisions (1) initial, (ii) general definitions, XVIII (transparency), article XX (dispute settlement) and XXII (Final provisions), no provision of this Agreement shall impose any obligation on a Party regarding its immigration measures.

Annex to Article 12-04. Temporary entry of business persons

Section A. Business Visitors

1. Each Party shall allow the temporary entry of a business person who, at the request of an enterprise of the other party registered bilateral enterprises referred to in paragraph 7, intends to perform any activity listed in appendix 1 to this Annex, without requiring authorisation to use, provided that, in addition to comply with existing immigration measures applicable to temporary entry, displays:

a) Proof of nationality of a party;

b) Documentation attesting to the request for an enterprise established in the territory of a party;

c) Documentation attesting to undertake such activities and bring the purpose of entry; and

d) Evidence of the international character of the proposed business activity carried out and that the person is not intended to enter the local labour market.

2. Each Party shall provide that a business person may satisfy the requirements set forth in subparagraph (d) of paragraph 1 when'proving that:

a) The primary source of remuneration for that activity is outside the territory of the party authorizing the temporary entry; and

b) The principal place of business and where it is most of the profits remain outside such territory.

3. Each Party shall normally accept an oral declaration as to the principal place of business and the profits. where the party requires additional verification be deemed sufficient evidence; a letter from the employer recorded in the register bilateral enterprises showing the circumstances.

4. Each Party shall grant temporary entry to a business person seeking to carry out any activity other than those set out in appendix 1 to this annex on terms no less favourable than those under the existing provisions listed in Appendix 2 to this Annex, provided that the business person complies with existing immigration measures applicable to temporary entry.

5. No party may:

a) Requiring as a condition for authorizing temporary entry under paragraph 1 or 3, prior approval procedures, requests, labour certification tests or other procedures of similar effect; or

b) Impose or maintain any numerical entry to temporary restriction under paragraph 1 or 3.

6. Notwithstanding paragraph 5, a Party may require a business person seeking temporary entry under this section to obtain a visa prior to entry, or an equivalent document. before a visa requirement imposes a party, shall consult with the other party for the purpose of avoiding the requirement. where a Party is the visa requirement, at the request of the other Party shall consult with a view to its removal.

7. For the purposes of this section, the Parties shall establish and keep updated registration - bilateral business visitors.

Section B. Traders and Investors

1. Each Party shall grant temporary entry and provide documentation to a business person seeking to:

a) To carry out a substantial trade in goods or services principally between the Territory of the Party of which he is a national and the territory of the party into which entry is sought; or

b) Establish, develop, administer or provide advice or technical services in key monitoring functions, executive or involves essential skills, to conduct or operation of an investment business to which the person or the business have committed or are in the process of committing a substantial amount of capital, provided that the person complies with existing immigration measures applicable to temporary entry.

2. No party may:

a) Labour require certification tests or other procedures of similar effect as a condition for authorizing temporary entry under paragraph 1; or

b) Impose or maintain any numerical restriction relating to temporary entry under paragraph 1.

3. Notwithstanding paragraph 2, a Party may consider in a timely fashion, the investment business proposal of a person to assess whether the investment complies with the applicable legal provisions.

4. Notwithstanding paragraph 2, a Party may require a business person seeking temporary entry under this section to obtain a visa prior to entry, or an equivalent document.

Section C. Transfers of Personal Within an Enterprise

1. Each Party shall grant temporary entry and supporting documentation to issue a business person employed by an enterprise of the other party bilateral companies registered as referred to in paragraph 4, that seeks to perform managerial, executive or involves specialized knowledge to that enterprise or a subsidiary or affiliate, provided that complies with existing immigration measures applicable to temporary entry. a Party may require the person to have been continuously employed by the Enterprise for one year within the three-year period immediately preceding the date of submission of the request.

2. No party may:

a) Labour require certification tests or other procedures of similar effect as a condition for authorizing temporary entry under paragraph 1; or

b) Impose or maintain any numerical restriction relating to temporary entry under paragraph 1.

3. Notwithstanding paragraph 2, a Party may require a business person seeking temporary entry under this section to obtain a visa prior to entry, or an equivalent document. before a visa requirement imposes a party, shall consult with the other party for the purpose of avoiding the requirement. where a Party is the visa requirement, at the request of the other, shall consult with a view to its removal.

4. For the purposes of this section, the Parties shall establish and keep updated registration bilateral enterprises - transfers within the company.

Appendix 1 to Annex Article 12-04. Business visitors

I. Definitions

For purposes of section A to appendix:

Bus tour operator: natural person required for the operation of the vehicle for tourist travelling including personnel

accompanying a follow-on or later; and

Transport operator: a natural person who is not a bus tour operator, required for the operation of the vehicle throughout the journey, including personnel accompanying a follow-on or later.

II. Research and design

- Technical, scientific and statistical researchers conducting independent research or for an enterprise located in the territory of the other party.

III. Cultivation, production and manufacturing

- Owners of machines harvesters supervising a group of operators admitted in accordance with the applicable provisions.

- Purchasing and production personnel, at managerial level, to undertake commercial transactions for an enterprise located in the territory of the other party.

IV. marketing

- Market researchers and analysts conducting independent research or analysis for an enterprise located in the territory of the other party.

- Fairs and promotional personnel attending a trade conventions.

V. sales (1)

- Sales representatives and agents to lift orders or negotiating contracts for goods and services for an enterprise located in the territory of the other party but not delivering goods or providing services.

- Procurement buyers make for an enterprise located in the territory of the other party.

VI. distribution

- Transport operators to undertake loading and transport of goods or passengers in the territory of a Party from the territory of the other party, without undertake loading or unloading, in the territory of the Party to which the request entry of goods that are in that territory or that address passenger therein.

- Customs agents to provide advisory services for the purpose of facilitating the import or export of goods.

VII. after-sales services

- Staff of installation, maintenance and repair, with monitoring expertise essential to comply with the obligation of the seller and to provide services, or train workers to provide such services, pursuant to a warranty or other service contract related to the sale of commercial or industrial equipment or machinery, including software purchased from an enterprise located outside the territory of the other party, during the life of the warranty or service agreement.

VIII. General services

- Management and supervisory personnel engaging in commercial operation for an enterprise located in the territory of the other party.

- Financial services (personnel insurance agents or brokers, investment bankers) involved in commercial transactions for an enterprise located in the territory of the other party.

- Staff of public relations and advertising to provide advice to customers or attending or participating in conventions.

- Tourism personnel (travel agents and tour guides, tourist or tour operators) attending or participating in conventions or lead any excursion has begun in the territory of the other party.

- Bus tour operators falling within the territory of a party:

a) With a group of passengers on a bus tour that has begun in the territory of the other party and to return to it;

b) To obtain a group of passengers on a bus tour that completes and develop, mostly in the territory of the other party; or

c) With a group of passengers on a bus travel and tour destined for the Territory of the other party, and return without passengers or with the Panel.

- Translators and interpreters performing services as employees of an enterprise located in the territory of the other party.

(1) This category of business visitors is subject for Nicaragua to Art. 24 of the Tax and Commercial Justice Law published in La Gaceta, Official Gazette of June 6, 1997.

Appendix 2 to Annex Article 12-04. Existing immigration measures

1. In the case of Mexico, chapter III of the General Population Act, 1974, reforms.

2. In the case of Nicaragua, Migration Law, Law Gazette No. 153 no.80, 30 April 1993, Act No. 154, No.81 Gazette, 3 May 1993.

Chapter XIII. Financial Services

Article 13-01. Definitions

For purposes of this Chapter, the following definitions shall apply:

public entity: a central bank, or monetary authority of a Party, or any financial institution of a public nature owned or controlled by a Party;

financial institution: a company or financial intermediary that is authorized to do business and is regulated or supervised as a financial institution under the laws of the Party in whose territory it is located;

financial institution of the other Party: a financial institution, incorporated under the laws of each Party, located in the territory of a Party that is controlled by persons of the other Party;

investment:

a. an enterprise;

b. shares of an enterprise;

c. debt instruments of an enterprise:

(i) where the enterprise is an affiliate of the investor; or

ii) where the original maturity date of the debt instrument is at least three years, but does not include a debt instrument of a state enterprise, regardless of the original maturity date;

d. a loan to an enterprise:

(i) when the enterprise is an affiliate of the investor; or

ii) when the original maturity date of the loan is at least three years, but does not include a loan to a state enterprise, regardless of the original maturity date;

e. an interest in an enterprise, which allows the owner to participate in the income or profits of the enterprise;

f. an interest in an enterprise, which entitles the owner to share in the equity of that enterprise in a liquidation, provided that the liquidation does not arise from an obligation or loan excluded under c) and d);

g. real estate or other property, tangible or intangible, acquired or used for the purpose of obtaining an economic benefit or for other business purposes;

h. benefits derived from allocating capital or other resources for the development of an economic activity in the territory of the other Party, among others, pursuant to:

(i) contracts involving the presence of an investor's property in the territory of the other Party, including concessions, construction and turnkey contracts; or

ii) contracts where the remuneration is substantially dependent on the production, revenues or profits of an enterprise; and

i. a loan granted to a financial institution or a debt security issued by a financial institution that is treated as equity for

regulatory purposes by the Party in whose territory the financial institution is located;

shall not be deemed to be an investment:

j. pecuniary claims that do not involve the types of rights set forth in the subparagraphs of the definition of investment arising solely from:

(i) commercial contracts for the sale of goods or services by a national or enterprise in the territory of a Party to an enterprise in the territory of the other Party; or

ii) the extension of credit in connection with a commercial transaction, such as trade financing, other than a loan covered by the provisions of subparagraph d);

k. any other pecuniary claim that does not involve the types of rights set out in the subparagraphs of the definition of investment;

investment of an investor of a Party: an investment owned or controlled directly or indirectly by an investor of a Party;

investor of a Party: a Party, an enterprise of the State of that Party, or a person of that Party that intends to make, makes, or has made an investment;

disputing investor: a person bringing a claim under the provisions of Article 13-20;

new financial service: a financial service not provided in the territory of a Party that is provided in the territory of the other Party, including any new form of distribution of a financial service, or sale of a financial product that is not sold in the territory of the Party;

self-regulatory body: a non-governmental entity, including any stock or futures exchange or market, clearing house or any other association or organization that exercises proprietary or delegated regulatory or supervisory authority over financial service suppliers or financial institutions;

person of a Party: a national or company of a Party and, for greater certainty, does not include a branch of a company of a non-Party;

cross-border supply of financial services or cross-border trade in financial services means the supply of a financial service:

a. from the territory of a Party into the territory of the other Party;

b. in the territory of a Party, by a person of that Party to a person of the other Party; or

c. by a person of a Party into the territory of the other Party;

financial service supplier of a Party: a person of a Party that is engaged in the business of supplying any financial service in the territory of the other Party;

cross-border financial service supplier of a Party: a person of a Party that is engaged in the business of supplying financial services in its territory and intends to or does engage in the cross-border supply of financial services; and

financial service: a service of a financial nature, including insurance, reinsurance, and any service related or auxiliary to a service of a financial nature.

Article 13-02. Scope

1. This chapter applies to measures adopted or maintained by a Party relating to:

a) Financial institutions of the other party;

b) A Party of investors and investments of investors in those financial institutions in the territory of the other party; and

c) Cross-border trade in financial services.

2. Nothing in this chapter shall be construed as preventing a party or its public entities, leading or provide exclusively in its territory:

a) Activities or services forming part of a public retirement plan or public social security systems;

b) The use of the financial resources of the Party; or

c) Other activities or services on behalf of the party or its public entities or with the guarantee.

3. The parties undertake to liberalize among themselves, progressive and gradual, any restriction or financial reserve with the aim of ensuring effective economic complementarity between them.

4. The provisions of this chapter shall take precedence over the other chapters, except in cases where reference is made to those chapters.

Article 13-03. Self-regulating Agencies

When a party requires that a financial institution or a Financial Services Service is member of the other party engages in, or have access to an agency autoregulado to provide a financial service in its territory or to him, the Party shall make every effort to that body complies with the obligations of this chapter.

Article 13-04. Right of Establishment

1. The Parties recognize the principle that investors of a party engaged in the business of providing financial services in their territory, they should be permitted to establish a financial institution in the territory of the other party, by any of the modalities for the establishment and operation of allowing.

2. Each party may impose, at the time of establishment, terms and conditions that are consistent with Article 13-06.

Article 13-05. Cross-border Trade

1. No restrictions of party increase its measures relating to cross-border trade in financial services by Financial Services Service of the other Party on the date of Entry into Force of this Treaty.

2. Each Party shall permit persons located in its territory and its nationals, wherever located, to purchase financial services from cross-border financial service suppliers of the other Party located in the territory of that other Party. This does not oblige a Party to allow such suppliers to do business or advertise in its territory. Subject to paragraph 1, each Party may define what is meant by "doing business" and "advertising" for purposes of this obligation.

3. Without prejudice to other means of prudential regulation of cross-border trade in Financial Services, a Party may require the registration of Financial Services Service of the other party and of financial instruments.

Article 13-06. National Treatment

1. Each Party shall accord to investors of the other party treatment no less favourable than that accorded in like circumstances to its own investors with respect to the establishment, expansion and acquisition, administration, management, operation and sale or other disposition of financial institutions and investments in financial institutions in its territory.

2. Each Party shall accord to financial institutions of the other party and to investments of investors of the other party in financial institutions treatment no less favourable than that accorded in like circumstances to its own financial institutions and to its own investments of investors in financial institutions, with respect to the establishment and acquisition, expansion, administration, management, operation, sale or other disposition of financial institutions and investments.

3. Where a Party permits the cross-border provision of a financial service shall, pursuant to article 13-05 Financial Services Service of the other party treatment no less favourable than that accorded in like circumstances to its own financial service providers with respect to the provision of such service.

4. The treatment that a Party shall accord to financial institutions and Financial Services Service of the other party, whether the same or different to that accorded to its own institutions or providers in like circumstances, is consistent with paragraphs 1 to 3, if affords equal competitive opportunities.

5. The treatment of a Party does not provide equal opportunities to compete in similar circumstances whether at a disadvantage Financial Institutions and Financial Services Service of the other party in their ability to provide financial services as compared with the ability of its own financial institutions and financial service providers of the party to provide such services.

Article 13-07. Most-favoured-nation Treatment

Each Party shall accord to investors of the other party in financial institutions of the other party and to investments of investors in financial institutions and Financial Services Service of another party treatment no less favourable than that accorded in like circumstances to investors in financial institutions and to investments of investors in financial institutions and Financial Services Service of the other party or in another country that is not a party.

Article 13-08. Recognition and Harmonization

1. In applying measures under this chapter, each party may recognize prudential measures of the other party or of a country that is not a party. such recognition may be:

a) Accorded unilaterally;

b) Achieved through harmonization or other means; or

c) Granted under an agreement with the other party or of a non- party.

2. The party that grants recognition of prudential measures under paragraph 1 shall provide adequate opportunity to the other party to demonstrate that circumstances exist in which there are or will exist equivalent regulations, monitoring and implementation of the regulation and, where appropriate, procedures for the sharing of information between the parties.

3. Where a Party grants recognition of prudential measures in accordance with paragraph 1 and the circumstances set out in paragraph 2 exist, that Party shall provide adequate opportunity for the other Party to negotiate accession to the agreement, or to negotiate a similar agreement.

Article 13-09. Exceptions

1. Nothing in this chapter shall be construed to prevent a Party from adopting or maintaining reasonable measures for prudential reasons, such as:

a) Protection of investors, depositors, participants in the financial market, holders or beneficiaries of policies or persons of fiduciary duties owed by a financial institution or a Financial Services service;

b) Maintaining security, integrity, responsibility or financial soundness of financial institutions or Financial Services service; or

c) Ensuring the integrity and stability of the financial system of a party.

2. Nothing in this chapter applies to non-discriminatory application of general measures taken by a public entity in the conduct of monetary policies or policies related credit or exchange rate policies. this paragraph shall not affect the obligations of any Party deriving from Article 16-05 16-08 and with respect to measures covered by chapter XVI (investment) or under article 13.

3. Article 13-06 does not apply to the issuance of exclusive rights that makes a party to a financial institution, to provide a Financial Services referred to in subparagraph (a) of paragraph 2 of article 13-02.

4. Notwithstanding paragraphs 1 to 3 of Article 13, a Party may prevent or limit transfers by a financial institution or a Financial Services Service, or those for the benefit of an affiliate of related to such person or institution or in such a service provider, through the fair and non-discriminatory application of measures relating to maintenance of security, integrity, responsibility or financial soundness of financial institutions or Financial Services Service. nothing in this paragraph shall be without prejudice to any other provision of this t ratado that permits a party to restrict transfers.

Article 13-10. Transparency

1. In addition to the provisions of article 18-02, each Party shall ensure that any measure taken on matters related to this chapter is officially issued or made known to the opportunity to which it was addressed by any other written means.

2. Regulatory authorities of each Party shall make available to interested persons completing its requirements for applications for the Provision of Financial Services.

3. At the request of the applicant, the regulatory authority shall inform the applicant of the status of its application. if such authority requires additional information from the applicant, it shall without undue delay.

4. Each of the regulatory authorities shall within a period not exceeding 120 days, an administrative measure with respect to

a complete application relating to the provision of a financial service, submitted by an investor in a financial institution, by a financial institution or a Financial Services Service of the other party. the Authority shall notify the applicant without delay. an application shall not be considered complete until all relevant hearings are held and all necessary information is received. where it is not feasible to make a ruling within 120 days, the regulatory authority shall notify the applicant without undue delay and shall endeavour to make the decision within a reasonable time.

5. Nothing in this chapter requires a party to disclose or allow access to:

a) Information related to the accounts and financial affairs of individual customers of financial institutions or Financial Services service; or

b) Any confidential information the disclosure of which would impede law enforcement or otherwise be contrary to the public interest or prejudice legitimate commercial interests of particular enterprises.

6. Each Party shall maintain or establish one or more information centres, within one year following the Entry into Force of this Treaty, to respond in writing as soon as possible to all reasonable inquiries from interested persons regarding general application of measures taken by that Party under this chapter.

Article 13-11. Financial Services Committee

1. The parties establish the Financial Services Committee composed of representatives of the Competent Authorities identified in the annex to this article.

2. The Committee shall:

a) Supervise the implementation of this chapter and its further development;

b) Consider issues regarding Financial Services that are submitted by a party;

c) Shall participate in the dispute settlement procedures in accordance with articles 13-19 and 13-20; and

d) To facilitate the exchange of information between supervisory authorities and cooperate in providing advice, on prudential regulation, ensuring the harmonization of regulatory frameworks as well as other policies, when it deems appropriate.

3. The Committee shall meet at least once a year to review the implementation of this chapter.

Article 13-12. Consultations

1. Any Party may request consultations with the other Party regarding any matter arising under this Agreement that affects financial services. the other party shall favourably consider that request. consulting the parties to the Committee shall make available the results of their consultations during meetings of the Tribunal.

2. In consultations under this article shall include representatives from the competent authorities identified in the annex to article 13-11.

3. A Party may request that regulatory authorities of the other party participate in consultations under this article or to discuss measures of general application of that other party which may affect the operations of financial institutions or Financial Services service in the territory of the party requested that the consultations.

4. Nothing in this article shall be construed to require regulatory authorities participating in consultations to disclose information under paragraph 3 or to act in a manner that would interfere with specific matters regulatory supervision, administration and implementation of measures.

5. Where, for the purpose of monitoring, information concerning a Party may require a financial institution in the territory of the other party or on Financial Services service in the territory of the other party, the party may have recourse to a regulatory authority responsible in that territory the other party to seek information.

Article 13-13. New Financial Services and Data Processing

1. Each Party shall permit a financial institution of the other party to provide any new financial service similar to those of a type that Party may provide for its financial institutions, in its legislation in like circumstances. a Party may determine the institutional and juridical form through which the service to be provided and may require authorization for the provision of

the same. where such authorization is required, the decision shall be made within a reasonable time and may only be refused for prudential reasons.

2. Each Party shall allow a financial institutions of the other Party to transfer, for processing information, within or outside the territory of the Party, using any means authorized therein when necessary for carrying out the business activities of such institutions.

Article 13-14. Senior Management and Boards of Directors

1. No party may require financial institutions of another party to recruit staff of a particular nationality to senior management positions of business or other charges.

2. No party may require that the Board of Directors of a financial institution of the other party is incorporated by a simple majority exceeding the nationals of that Party, resident in its territory or a combination of the two.

Article 13-15. Reserves and Specific Commitments

1. Not later than one year after the Entry into Force This Treaty shall negotiate, the parties and included in the list of the annex to this article, reservations to articles 13-04, 13-05, 1306, 13-07, 13-13 and 13-14.

2. The parties, in the negotiations referred to in paragraph 1 shall seek to reach agreements aimed at ensuring an overall balance of concessions granted.

3. The parties undertake to progressively liberalise among themselves, any restriction or financial reserve included in the lists referred to in paragraph 1, with the aim of ensuring effective economic complementarity between them.

4. No party will increase the degree of inconsistency of the measure reserved in accordance with paragraph 1 after its entry in such lists.

5. Where a Party has set out in chapters X (general principles on trade in services) and Investment (XVI), a reserve the right of establishment, cross-border trade, National Treatment and most-favoured-nation treatment, new financial services and data processing business or senior management and boards of directors, the reservation shall be construed as references to articles 13-04, 13-05, 13-06, 13-07 13-13 13-14, and of this chapter, as the case may be, to the extent that the measure, sector and subsector activity or set out in the reservation covered by this chapter.

Article 13-16. Denial of Benefits

A Party may deny the partial or total the benefits of this chapter a Financial Services to service the other party or a Financial Services Service of the other party, subject to prior notification and consultation in accordance with articles 13-10 13-12 and, where the party establishes that the service is being provided by an enterprise that has no substantial business activities in the territory of any party or that is owned by persons of a non-party or under the control of the same.

Article 13-17. Transfers

1. Each Party shall permit all transfers relating to an investment of an investor of the other party in the territory of the Party to be made freely and without delay. such transfers include:

a) Profits, dividends, interests, capital gains, royalties, fees payments for administration, technical assistance and other fees; returns and other amounts in kind derived from the investment;

b) Products derived from the sale or the total or partial liquidation of the investment;

c) Payments made under a contract of which is a party to an investor or its investment;

d) Resulting payments of compensation for expropriation in accordance with article 16-09; or

e) Payments arising out of a dispute settlement procedure under Article 13-20.

2. Each Party shall permit transfers to be made in a freely convertible currency at the rate of exchange prevailing on the date of transfer to spot transactions in the currency to be transferred without prejudice to article 13-18.

3. No party may require its investors to transfers carried out their income, profits, or other profits or amounts derived from investments carried out in the territory of the other party, or attributable to them.

4. Notwithstanding paragraphs 1 and 2, each party may prevent a transfer through the equitable and non-discriminatory application of its laws in the following cases:

a) Bankruptcy or insolvency or the protection of the rights of creditors;

b) Issuance of securities, and trade operations;

c) Criminal or administrative offences;

d) Reports of transfers of currency or other monetary instruments;

e) Ensuring compliance with orders or awards in adjudicatory proceedings; or

f) Establishment of instruments and mechanisms to ensure the payment of taxes on income through such means as dividends as regards the retention or other items.

5. Paragraph 3 shall not be interpreted as an impediment to a party through the application of their legislation on an equitable, non-discriminatory and in good faith, impose any measure under subparagraphs (a) and (e) of paragraph 4.

Article 13-18. Safeguarding and Balance of Payments

1. Each Party may adopt or maintain a measure to suspend, by a reasonable time, all or some of the benefits contained in this chapter and in article 16-08, when:

a) The provisions of this article or chapter 16-08 is in serious economic or financial disturbance in the territory of the Party that is not possible to settle adequately through any other alternative measure; or

b) The balance of payments of a party, including the state of their monetary reserves, is seriously threatened or facing serious difficulties.

2. The party to suspend or intends to suspend benefits of this Chapter, shall be notified promptly to the competent authority of the other party:

a) What is the serious economic or financial disturbance caused by the application of this article or chapter 16-08, as appropriate, the nature and scope of the serious threats to its balance of payments;

b) The economic situation and the trade of the Party;

c) Alternative measures that are available to remedy the problem; and

d) Economic policies to take to address the problems mentioned in paragraph 1, as well as the direct relationship between them and the solution.

3. A measure adopted or maintained by a Party at any time shall:

a) To avoid unnecessary damage to the economic, commercial and financial interests of the other party;

b) Not impose greater burdens than necessary to deal with the resulting difficulties that the measure is adopted or maintained;

c) Temporal be progressively liberalized, and to the extent that the balance of payments, or the economic and financial situation of the party, as the case may be, improves;

d) Be applied by, at any time, such a measure to prevent discrimination between the parties; and

e) To be consistent with internationally accepted standards.

4. Any party to take a measure to suspend benefits under this chapter or under article 16-08, shall inform the other Party on the evolution of the events giving rise to the adoption of the measure.

5. For the purposes of this article, a reasonable time during which means that persist events described in paragraph 1.

Article 13-19. Settlement of Disputes between the Parties

1. In terms of this chapter, amending article XX (dispute settlement) applies to the settlement of disputes between the parties concerning this chapter.

2. The Financial Services Committee shall be by consensus a list of up to 10 individuals including up to five individuals of each Party who have the skills and necessary provisions to serve as arbitrators in disputes related to this chapter. members of the roster shall, in addition to satisfy the requirements set out in chapter XX (dispute settlement), have expertise or experience in financial matters arising from the exercise of responsibilities in the financial sector, or in its regulation.

3. For the purposes of the Constitution of the arbitral tribunal shall be used the list referred to in paragraph 2, except that warring parties agree that may be part of the arbitral tribunal individuals not included in the list provided that they comply with the requirements established in paragraph 2. the Chairman of the arbitral tribunal provided shall be selected from the roster.

4. In any dispute where the arbitral tribunal has found that a measure is inconsistent with the obligations of this chapter, where appropriate the suspension of benefits referred to in chapter XX (dispute settlement) and the measure affects:

a) Only the financial services sector, the complaining party may suspend benefits only in this sector;

b) The financial services sector and any other sectors, the complaining party may suspend benefits in the financial services sector that have an effect equivalent to the effect of the measure in the financial services sector; or

c) Any other sector except services, the complaining party may not suspend benefits in the financial services sector.

Article 13-20. Settlement of Disputes between an Investor and a Party of the other Party.

1. Except as provided in this article to make claims an investor litigants against a party in connection with the obligations under this Chapter shall be settled in accordance with section B of chapter XVI (investment). for this purpose, the provisions of section B of chapter XVI (investment) are incorporated into this chapter and are an integral part thereof.

2. Where the party against which the complaint has invoked any of the exceptions referred to in article 13-09, shall apply the following procedures:

a) The arbitral tribunal shall refer the matter to the Financial Services Committee for a decision. the Tribunal may not proceed pending receipt of a decision by the Committee under the terms of this article or 60 days after the date of receipt by the Committee; and

b) Upon receipt of the matter, the Committee shall decide whether and to which extent article 13-09 invoked the derogation is a valid defence to the claim of the investor and shall transmit a copy of its decision to the Tribunal and to the Commission. such decision shall be binding on the Tribunal.

Annex to Article 13-11. Competent authorities

1. The Financial Services Committee shall be composed of representatives appointed by that:

a) In the case of Mexico, the Ministry of Finance and Public Credit, or its successor; and

b) In the case of Nicaragua, the Ministry of Economy and Development, the Ministry of Finance, the Central Bank and the Superintendency of Banks, or their successors.

2. The principal representative of each Party shall where such authority designated for that purpose.

Chapter XIV. Measures Related to Standardization

Article 14-01. Definitions

1. For purposes of this chapter, the terms presented in the sixth edition of ISO / IEC guide 2: 1991 ", general terms and definitions related to their standardization and related activities, shall have the same meaning as used in this chapter, except that here are defined differently.

2. For purposes of this chapter:

Risk assessment: the assessment of potential harm to human health and safety, animal and plant or the environment could lead to a product or service being traded between the parties;

Make compatible: bring to a level, measures related to standardization different, but with the same extent, adopted by

different standardisation bodies so that are identical or equivalent or have the effect of allowing goods and services are used interchangeably or for the same purpose, in order to enable the goods and services are traded between the parties;

Measures related to standardization: technical regulations or standards and conformity assessment procedures;

Standard means a document approved by a recognized institution that provides for common and repeated use, rules, guidelines or characteristics for products or related processes and production methods, or services or related to methods of operation, and with which compliance is not mandatory. it may also include requirements of terminology, symbols, packaging, marking or labelling applicable to a product, service, process or production method, or related exclusively to them;

International Standard means a measure of standardization, or other guides or recommendations adopted by an international body standardisation and made available to the public;

Legitimate objectives: inter alia, security and protection of human life and health, animal and plant, of their environment and the prevention of practices which are likely to mislead consumers, including matters relating to the identification of goods or services, considering, inter alia, where appropriate, key factors such as climate geographicai, technological or scientific justification or infrastructure;

Standardizing body standardisation means a body whose activities are recognized by the Government of each Party, respectively;

International standards: standardizing body, a body open to the relevant bodies of at least the members of the WTO Agreement on Technical Barriers to Trade, including the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC), the Commission of the Food Codex, the World Health Organization (WHO), the International Organization of Legal Metrology (OIML), or any other body designated by the parties;

Conformity assessment procedure procedure used any means, directly or indirectly, to determine that the requirements established by the relevant technical regulations or standards are fulfilled, including sampling, testing, inspection, evaluation, assurance of conformity, verification, certification, accreditation, registration or approval, employees for such purposes, but not means an approval procedure;

Approval procedure: the registration, notification or any other administrative process for the issuance of a compulsory licence so that a product or service is sold or used for purposes defined or under conditions laid down;

Administrative refusal: actions taken by a body of public administration of the importing Party, in the exercise of its powers, to prevent the entry into its territory a shipment of or the provision of services, for technical reasons;

Technical regulation means a document which lays down the characteristics of the goods, services or their related processes and production methods, including any applicable administrative provisions; and with which compliance is mandatory. it may also include requirements of terminology, symbols or packaging, labelling, product service applicable to a process, or production method, or related exclusively to them; and

Service means a service within the scope of this Treaty, except financial services.

Article 14-02. Scope

1. This chapter applies to measures relating to standardization, metrology and related actions that may directly or indirectly affect the trade in goods and services between them. the provisions of this chapter does not apply to sanitary and phytosanitary measures.

2. Each Party shall comply with the provisions of this chapter and shall take the necessary measures to ensure compliance by the State, regional and municipal governments, and shall take such measures as may be available to them in respect of accredited non-governmental standardizing bodies in its territory.

Article 14-03. Reaffirmation of International Rights and Obligations.

The parties reaffirm their rights and obligations existing under standardization measures related to the Agreement on Technical Barriers to Trade and other international agreements relating to the protection of life, safety, animal and plant, the environment and practices that prevent mislead consumers, of which the parties are party.

Article 14-04. Basic Rights and Obligations

1. The Parties shall develop, adopt, maintain or apply any measure on standardisation that have the purpose or effect of creating unnecessary obstacles to trade between them. to this end, each Party shall ensure that its measures relating to the normalization not more trade restrictive than necessary to achieve a legitimate objective, taking into account the risks that do not create the.

2. It shall be considered that measures relating to standardization create unnecessary obstacles to trade when:

a) The purpose of the demonstrable measure is to achieve a legitimate objective; and

b) Does not operate to exclude Goods and Services of the other party that legitimate meet that objective.

3. Notwithstanding any other provision of this chapter each Party may determine the level of protection it considers appropriate in pursuing its legitimate objectives.

4. In accordance with paragraph 3, each Party may develop, adopt, maintain and implement measures related to standardization to ensure their level of protection as well as measures to ensure the implementation and enforcement of such measures related to standardization, including approval procedures.

5. In relation to its measures relating to standardization, each Party shall accord to the goods and services from the territory of the other party National Treatment no less favourable than that accorded to similar goods and services from any other country.

Article 14-05. Use of International Standards

1. Each Party shall, as a basis for their own measures related to international standards, standardization, existing or imminent, or their parts, except where such relevant standards do not constitute an effective or appropriate means for achieving their legitimate objectives; for instance because of fundamental climatic or geographical nature or technological infrastructure, in accordance with this chapter.

2. It shall be presumed that measures relating to the standardization of a party which conforms to an international standard shall be consistent with the provisions of paragraphs 1, 2 and 5 of Article 14-04.

3. In pursuing its legitimate objectives, each Party may adopt or maintain any measure on standardisation applied to achieve a high level of protection to which would have been obtained if the measure based on an international standard due, among other factors, nature of fundamental climatic or geographical, technological infrastructure.

Article 14-06. Compatibility and Equivalence

1. Recognizing the central role of measures related to standardization in the promotion and protection of the legitimate objectives, the parties shall work together in accordance with this chapter, to strengthen the level of safety or of protection of human life and health, animal and plant, of their environment and the prevention of practices which may mislead consumers.

2. The Parties shall make compatible to the maximum extent possible, their respective technical regulations and conformity assessment procedures, without reducing the level of safety or of protection of human life and health, animal and plant, the environment or to consumers, without prejudice to the rights conferred by any party in this chapter and taking into account international standardization activities.

3. At the request of a party the other party shall take reasonable measures to promote the compatibility of the measures related to specific standardization that exist in its territory, to measures relating to the normalization that exist in the territory of the other party, taking into account international standardization activities.

4. Each Party shall accept a technical regulation to adopt or maintain the other party as equivalent to its own where, in cooperation with the importing Party and the exporting party proves to the satisfaction of the visit, that its Technical Regulation adequately complies with the legitimate objectives of the importing Party, and, where appropriate, revise it. at the request of the exporting party and the importing Party shall provide written reasons for not accepting a technical regulation as equivalent.

5. Each Party shall, whenever possible, shall accept the results of conformity assessment procedures conducted in the territory of the other party, even where these procedures differ from those provided that those procedures offer satisfactory, equivalent to an assurance that the procedures provided that the party carrying out or to be carried out in their territory which accepts that the good or service complies with the relevant applicable technical regulations or standards developed or maintained in the territory of that Party and, where appropriate, revise the relevant measure on

standardisation.

6. Prior to accepting the results of a conformity assessment procedure in accordance with paragraph 5, and in order to build confidence in the integrity of the results of conformity assessment of each of the Parties may consult on matters such as the technical capacity of conformity assessment bodies, taking into account the verified compliance with relevant international standards and recommendations.

Article 14-07. Conformity Assessment

1. The Parties recognise the desirability of achieving mutual recognition of their conformity assessment systems, including bodies accredited by the entity concerned to facilitate trade in goods and services between them and undertake to work towards the achievement of this objective.

2. In addition to paragraph 1, and recognizing the existence of differences in their conformity assessment procedures in their respective territories, the Parties shall make compatible with the highest possible degree of their respective systems and conformity assessment procedures, so that they are mutually recognisable pursuant to this chapter.

3. For the mutual benefit of the Parties and reciprocally, each party through the competent institutions:

a) assess and recognize the national accreditation system of the other Party; and

b) credit, approve, license or recognize conformity assessment bodies in the territory of the other Party on terms no less favorable than those granted to such bodies in its territory.

4. Each Party shall give sympathetic consideration to applications submitted by the other party to negotiate agreements for the mutual recognition of the results of conformity assessment procedures of that Party.

5. When required to carry out any procedure of conformity assessment, each Party shall have the obligation to:

a) Not adopt or maintain more stringent procedures for assessment of conformity and not to apply stricter than necessary to ensure that the good or service conforms to the technical standards or applicable regulations, taking into account the risk that non-conformity would create.

b) Initiate and complete the procedure as expeditiously as possible;

c) Establish a non-discriminatory order for the processing of applications;

d) Publish the normal period of each procedure or communicate, at the request of the applicant, the approximate duration of the procedure;

e) Ensure that the competent body:

i) Upon receipt of a request, consider promptly make the documentation is complete and informs the applicant in a precise and complete manner of any deficiency;

ii) As soon as practicable the applicant to transmit the results of the conformity assessment procedure in a complete and precise so that the applicant may carry out any corrective action;

iii) Where the application is inadequate, the procedure where possible, if the applicant so requests; and

iv) Report of the applicant at the request of the status of the application and the reasons for any delay;

f) Limited to what is necessary, and in accordance with its applicable legislation, the applicant must submit information to assess conformity and to determine the relevant rights;

g) Accord confidential information from the procedure or that are present in relation to:

i) The same treatment as the information concerning a product or service; and

ii) In any case, treatment to protect the legitimate commercial interests of the applicant;

h) Ensure that the amount of any right to raise for assessing the conformity of a good or service that is exported from the other party, not more than any right to raise for assessing the conformity of a good or service National identical or similar, taking into consideration the costs of communication, transportation and other related costs;

i) Ensure that the location of facilities which are carried out at conformity assessment procedures do not cause unnecessary

inconvenience to an applicant or his representative;

j) Where possible, ensure that the procedure is conducted by that installation and, where appropriate, a mark of conformity;

k) Limiting the procedure for a good or service that has been amended as a result of a determination of the conformity assessment, to that necessary to determine that the good or service is complying with applicable technical standards or regulations; and

l) A reasonable limit any requirement regarding samples of a good and ensure that the selection of samples does not cause unnecessary inconvenience to an applicant or his representative, in accordance with the procedures adopted at international level and sampling.

6. The Parties shall apply the provisions of paragraph 5 to its approval procedures, with such modifications as appropriate.

7. At the request of a party the other party shall take such reasonable measures as may be available to it to facilitate the implementation of the conformity assessment activities.

Article 14-08. Provision of Information, Notification and Publication

1. Each Party shall notify the other party before the Entry into Force and not later than its nationals, on measures concerning standardization which shall seek to establish as stated in this chapter.

2. The proposing the adoption or modification of any measure on standardisation, each Party shall:

a) Publish a notice and notify the other party in writing of its intention to adopt or amend such measure at least 60 days prior to the adoption or modification, so as to enable interested persons to become acquainted with the proposed, except in cases of any measure on standardisation related to perishable goods, in which case the party, in the best extent possible, publish a notice and notify the other party at least 30 days prior to the adoption or amendment of such measure, but simultaneously be notified to domestic producers;

b) Identify in the notice and notification to the good or service which shall apply the measure, and include a brief description of the objective and the reasons for such action.

c) A copy of the proposed measure to the other party and at the request of any interested person and, where possible, shall identify the provisions which differ substantially from relevant international standards;

d) Without discrimination as will enable the Party and other interested persons to make comments in writing and shall, upon request, discuss and take these comments into account and the results of the discussions; and

e) Ensure that in taking the measure, it shall expeditiously publish or otherwise make available to interested persons in the Party to become acquainted with them.

3. Where there is a relevant international standard or which is imminent for issuing a measure on standardisation proposal, or on standardisation such measure is not substantially the same as an international standard, and where the measure on standardisation may have a significant effect on trade between the parties, each Party shall:

a) Shall publish a notice and notification of the type required in subparagraphs (a) and (b) of paragraph 2, at an early and appropriate;

b) Shall observe the provisions of subparagraphs (c) and (d) of paragraph 2.

4. As regards the technical regulations of the State, regional and municipal governments, each Party shall:

a) It shall publish a notice and notify the other party in writing of its intention to adopt or amend this regulation at an early appropriate;

b) Ensure that notice is identified in the notification and the good or service to which they apply the technical regulation, and include a brief description of the objective and motivation of such regulations;

c) Ensure that re-delivered a copy of the proposed regulation to the other party and to any interested person upon request; and

d) It shall take such reasonable measures as may be available to it to ensure that the adoption of the technical regulation, it shall expeditiously publish or otherwise make available to interested persons in the Party to become acquainted with them.

5. Each Party shall each year to the other party of its standardization plans and programmes.

6. Where a Party considers it necessary to address an urgent problem relating to security or for the protection of life and human, animal and plant health, the environment or practices that mislead consumers, it may omit any step set out in subparagraphs (a) and (b) of paragraph 2, provided that, in adopting the measure on standardisation:

a) Immediately notify the other Party in accordance with the requirements set out in subparagraph 2 (b), including a brief description of the urgent problem;

b) Re-delivered a copy of the measure to any interested party or that person so requests;

c) Without discrimination as to enable the Party and other interested persons to make comments in writing and, upon request, discuss and take into account the comments and the results of the discussions; and

d) Ensure that the measure is published expeditiously, or to enable interested persons to become acquainted with them.

7. The Parties shall allow a reasonable period between the publication of its measures relating to standardization and the date of entry into force, if there is a time for interested persons to conform to these measures related to standardization, except where necessary to address an urgent problems identified in paragraph 6.

8. Where a Party allows persons outside its territory to be present during the process of development of measures related to standardization, shall also allow persons who are present in the territory of the other party that do not belong to the Government.

9. Each Party shall designate a government authority responsible for the implementation of the provisions of the notification of this chapter for federal or central and shall notify the other Party no later than three months after the Entry into Force of this Treaty. where a Party designates two or more government authorities for this purpose, it shall inform the other party or exceptions, unambiguously on the scope of responsibility of those authorities.

10. When a Party administratively refuses a shipment or the provision of services by reason of that breach of a measure on standardisation, it shall inform without delay and in writing to the person of lading or the service provider the technical justification for rejection.

11. Once generated the information referred to in paragraph 10, it shall be immediately transmitted the information centre of measures related to standardization located in the territory of that Party, which, in turn, will be communicated to the information centre of the other party.

Article 14-09. Information Centres

1. Each Party shall ensure that there is at least an information centre within its territory able to answer questions and all reasonable requests of the Party and other interested persons and provide the relevant documentation in relation to:

a) Any measure related to standardization adopted or proposed in its territory of its state or federal or central, regional or local government;

b) The membership and participation of that party and their relevant authorities at the central or federal, state or local or regional bodies in standardisation and conformity assessment systems international or regional, bilateral or multilateral agreements within the scope of this chapter and the provisions of those systems and arrangements;

c) The location of notices published pursuant to this chapter, or where such information can be obtained;

d) The location of information centres; and

e) The processes of risk assessment of the Party and the factors it takes into consideration for conducting the assessment and in establishing the levels of protection that it considers appropriate in accordance with paragraph 3 of article 14 -

2. Where a Party designates more of an information centre:

a) It shall inform the other party complete and unambiguous, on the scope of responsibility of each such centres; and

b) Ensure that any request sent the wrong information centre shall convey expeditiously to correct information centre.

3. Each Party shall take reasonable measures and within its power to ensure that there is at least an Information Centre, within its territory, able to answer all questions and requests from the Party and other interested persons and to provide relevant documents or information which may be obtained such documentation relating to:

a) Any standard or conformity assessment procedure adopted or proposed by non-governmental standardizing bodies in its territory; and

b) The membership and participation in bodies standardisation and conformity assessment systems international and regional non-governmental bodies in its territory.

4. Each Party shall ensure that the other party or by interested persons in accordance with the provisions of this chapter, upon request, copies of the documents referred to in paragraph 1, they shall provide the same price that applies to nationals, except the actual cost of shipment.

Article 14-10. Limitations on the Provision of Information

In addition to the provisions of article 21-03, nothing in this chapter shall be construed as requiring a party to furnish any confidential information the disclosure of which would prejudice legitimate commercial interests of a company.

Article 14-11. Metrology Patterns

For the purpose of avoiding the patterns metrological each party constitute unnecessary barriers to trade, the parties will make compatible, to the greatest extent possible, based on existing international standards.

Article 14-12. Health Protection

1. Medicines, equipment and medical equipment farmoquímicos products and other inputs for human, animal and plant health; food; products and toxic substances; products, materials, radioactive sources and equipment; emitting ionizing radiation sources and equipment subject to registration in the territory of a Party, shall, where appropriate, registered or evaluated, recognized by the competent authority of that Party under a single national system federal or central mandatory.

2. Certificates of conformity assessment from the goods referred to in paragraph 1 shall be accepted only if they have been issued by government agencies or non-governmental conformity assessment of each party.

3. The Parties shall establish a system of mutual technical cooperation to work on the basis of the following work program:

a) Identifying specific needs relating to:

i) The implementation of good manufacturing practices in the development and adoption of medicinal products for human use, animal or plant;

ii) The implementation of GLP systems analysis and assessment procedures in relevant international standards and guides; and

iii) The development of systems and identification of common nomenclature for auxiliary products to health and medical equipment;

b) Harmonization of requirements on labelling and the strengthening of the surveillance systems of standardization and related to labelling;

c) Training programmes and training, including the organization of a common system of training, continuing education, training and evaluation of official health inspectors; and

d) Development of an accreditation system for mutual units of verification and testing laboratories;

e) Updating of legal and regulatory frameworks;

f) Strengthening formal communication systems to monitor and regulate the exchange of products relating to human, animal or plant health.

4. For the purpose of carrying out activities proposed in paragraph 3, the Committee of measures related to established standardization under paragraphs 5 and 6 of article 14, a technical subcommittee on follow-up and organisation of such activities, to guide and make recommendations to the parties upon request.

Article 14-13. Risk Assessment

1. Pursuant to paragraphs 3 and 4 of Article 14-04, each Party may carry out risk assessments within its territory, as deemed

appropriate. in so doing they shall take into account the risk assessment methods developed by international organizations and that their technical regulations and standards based on an assessment of risk to human health and safety, animal or plant and the environment.

2. In conducting a risk assessment, who carry out the Party shall take into consideration all relevant scientific evidence, technical information available, the intended end-use, processes or methods of production, operation, sampling, inspection, quality or evidence, or environmental conditions.

3. Once established a level of protection that it considers appropriate, when a Party in accordance with paragraph 3 of Article 14-04, an assessment of risk, avoid distinctions between similar goods or services in the level of protection that it considers appropriate, if such distinctions:

a) Have the effect of arbitrary or unjustifiable discrimination against goods or services of the other party;

b) Constitute a disguised restriction on trade between the parties; or

c) Discriminate between similar goods or services for the same use under the same conditions that pose the same level of risk and provide similar benefits.

4. Where a Party conducting a risk assessment concluded that scientific evidence or other information is insufficient to complete the evaluation, that Party may take a provisional measure on the basis of available relevant information. once it has submitted the information sufficient to complete the assessment of risk, the Party shall conclude as soon as possible the assessment, review and, where appropriate, reconsideration of the measure in the light of that assessment.

Article 14-14. Environmental Protection and Management of Chemicals and Hazardous Wastes

1. For the care and protection of the environment, each Party shall, subject to its laws, provisions, guides or recommendations of the United Nations Organisation and the relevant international agreements to which both parties are party.

2. Each Party shall regulate and monitor the introduction, production and marketing of pharmaceutical products, toxic agro-chemicals and any other dangerous substances of human, animal or plant health or the environment, in accordance with its laws and the provisions of this Treaty.

3. Each Party, in accordance with its laws, regulate the introduction, acceptance, storage, transport and transit through its territory of hazardous waste, radioactive or other internal or external, by their nature, constitute a danger to the health of its population, flora, fauna or environment.

Article 14-15. Labelling

1. The labelling requirements of goods and services are subject to the provisions of this chapter.

2. Each Party shall apply its relevant labelling requirements under this chapter.

3. The Parties shall develop common labelling requirements. the proposals made by each Party shall be evaluated by the Sub-Committee on measures related to standardization in packaging and labelling and packaging, in accordance with paragraph 5 of article 14.

4. The Sub-Committee measures relating to standardization in packaging and labelling and packaging may work and make recommendations on:

a) The establishment of a common system of symbols and pictograms to the Parties;

b) Definitions and terminology;

c) Submission of information, including language, measurement systems, ingredients and sizes; or

d) Other matters.

Article 14-16. Committee on Standards-Related Measures

1. The parties establish a Committee on measures related to standardization comprising representatives of each party.

2. The functions of the Committee include:

a) The Monitoring of Implementation and the administration of this chapter, including the progress of the Sub-Committees established pursuant to paragraph 5, the operation of the information centres established in accordance with paragraph 1 of Article 14-09 and updates to ISO / IEC guide 2: 1991;

b) Facilitating the process by which the parties make compatible their measures related to standardization and metrology;

c) To provide a forum for the parties to consult on issues relating to measures related to standardization and metrology;

d) Further to the relevant institutions to take into account developments on measures related to standardization governmental, non-governmental, regional and multilateral, including the Agreement on Technical Barriers to Trade;

e) Develop procedural mechanisms necessary to achieve mutual recognition of conformity assessment bodies; and

f) Report annually to the Commission on the implementation of this chapter.

3. The Committee shall:

a) It shall be composed of an equal number of representatives of relevant government institutions of each party. each Party shall establish procedures for the selection of their representatives;

b) Unless the parties agree otherwise, shall meet:

i) At least once a year; and

ii) At the request of any party;

c) It shall adopt its own rules of procedure; and

d) It shall take its decisions by consensus.

4. Each Party shall take the necessary steps to allow representatives of state governments, regional or local participation in the work of the Committee when it deems necessary.

5. The Committee shall:

a) The Sub-Committee of measures concerning the standardization of health;

b) The Sub-Committee of measures concerning the standardization of packaging and labelling and packaging;

c) The Sub-Committee of measures concerning the standardization of telecommunications; and

d) Any Sub-Committee that it considers appropriate to discuss, inter alia:

i) The identification and classification of goods and services subject to measures related to standardization;

ii) Technical regulations and standards of quality and identity;

iii) Programmes for the adoption of products and for monitoring after its sale;

iv) principles for accreditation or recognition of the facilities, testing and inspection agencies conformity assessment bodies;

v) The development and implementation of a uniform system for the information and classification of hazardous chemicals and the type of chemical hazard communication;

vi) programmes to ensure compliance with the rules in force, including the training and inspection by the Staff Regulations, analysis and verification of compliance;

vii) Promotion and implementation of good laboratory practice;

viii) Promotion and implementation of good manufacturing practices;

ix) Criteria for the evaluation of potential damage to the environment by use of goods or services;

x) Analysis of the simplification of procedures for the import requirements of goods or services;

xi) Methodologies for the assessment of risk;

xii) Guidelines for testing of chemicals, including industrial and agricultural use, pharmaceutical and biological;

xiii) Means that facilitate consumer protection, including with respect to redress the same; and

xiv) any other matter, as determined by the Committee.

6. Each Sub-Committee shall be composed of representatives of each party and shall:

a) Where necessary, consult with or include:

i) Representatives of non-governmental bodies, such as cameras and standardisation bodies or private sector associations;

ii) Representatives of academic institutions of higher education and scientific research;

iii) Technical experts;

iv) representatives of governmental institutions; and

b) Determine its work programme, taking into account relevant international activities.

Article 14-17. Technical Cooperation

1. At the request of a Party may, the other party to the extent possible:

a) That party to provide information or technical advice and assistance on mutually agreed terms and conditions to strengthen measures concerning the standardization of that Party, as well as their activities, processes and systems; and

b) That party to provide information on its technical cooperation programs linked with measures related to standardization on areas of particular interest.

2. Each Party shall encourage cooperation standardisation of its bodies, as appropriate, in standardisation activities, such as through membership in international standardisation bodies.

Article 14-18. Technical Consultations

1. Where a Party has doubts concerning the interpretation or application of this chapter, on measures related to standardization and metrology of the other party, and measures related to them, may apply alternately by the Committee or the mechanism established in Chapter XX (dispute settlement). the Parties shall not use two tracks simultaneously.

2. Where a Party decides to apply to the Committee, it shall notify the other party to consider the matter, refers to any Sub-Committee or another forum to obtain technical advice or non-binding recommendations.

3. The Committee shall consider any matter referred to it in accordance with paragraphs 1 and 2, as expeditiously as possible and, similarly, to the Parties shall make known any technical advice or recommendations that it develops or receives concerning the matter. once the parties receive the Committee a technical advice or recommendations that have requested, send a written response to such technical advice or recommendations within a period determined by the Committee.

4. Subject to paragraphs 2 and 3, in the event that the recommendation issued by the Technical Committee fails to resolve the difference between the parties, the parties may invoke the mechanism established in Chapter XX (dispute settlement). if the parties so agree, consultations before the Committee shall constitute consultations for purposes of article 20-05.

5. The party to ensure that a measure on standardisation of the other party is inconsistent with the provisions of this chapter shall demonstrate that inconsistency.

Chapter XV. Government Procurement

Section A. Definitions

Article 15-01. Definitions

1. For the purposes of this chapter, the following definitions shall apply:

scheduled purchase: the purchase for which an entity listed in annexes 2 and 3 to article 15-02 publishes a call for purchase

pursuant to paragraph 4 of article 15-11, and subsequently invites suppliers that have expressed interest in the purchase to confirm their interest pursuant to paragraph 5 of article 15-11;

entity: an entity listed in Annex 1, 2 or 3 to Article 15-02;

technical specification: a specification that establishes the characteristics of goods or processes and related production methods, or the characteristics of services or their related methods of operation, including the applicable administrative provisions. It may also include or deal exclusively with terminology, symbols, packaging, marking or labeling requirements applicable to a good, process, or method of production or operation;

standard: "standard", as defined in Article 14-01;

international standard: "international standard" as defined in Article 14-01;

tendering procedures: open tendering procedures, selective tendering procedures or restricted tendering procedures;

open tendering procedures: procedures in which all interested suppliers may submit tenders;

restricted tendering procedures: procedures by which an entity communicates individually with suppliers only in the circumstances and in accordance with the conditions described in Article 15-16;

selective tendering procedures: procedures in which, under the terms of paragraph 3 of Article 15-12, tenders may be submitted by suppliers invited by the entity to do so;

supplier: a person who has supplied or may supply goods or services in response to an entity's invitation to tender;

locally established supplier: a natural person resident in the territory of the Party, an enterprise organized under the laws of the Party and established in the Party, and a branch or representative office located in the territory of the Party, among others;

services: the services specified in the Appendix to Annex 5 to Article 15-02 and those specified in the Appendix to Annex 6 to Article 15-02, unless otherwise specified; and

construction services: the services specified in the Appendix to Annex 6 to Article 15-02.

Section B. Scope of Application

Article 15-02. Scope of Application

1. This chapter applies to measures adopted or maintained by a Party relating to procurement:

a) An entity of a federal or central specified in Annex 1 to this article; a company or autonomous government entity set out in annex 2 to this article; or a State or Government or municipal regional entity specified in annex 3 to this article in accordance with article 15-24;

b) Goods in accordance with Annex 4 to this article; services in accordance with annex 5 to this article; or construction services in accordance with annex 6 to this Article; and

c) Where it considers that the value of the contract to be awarded equals or exceeds the value of the thresholds, calculated and adjusted in accordance with the inflation rate of the United States of America, as provided in annex 7 to this article, to:

i) Federal or central government entities, $50,000 of the United States of America ($) for contracts for goods, services or any combination thereof, and 6.5 million for contracts for construction services;

ii) Government enterprises and autonomous entities, of $250,000 for contracts for goods, services or any combination thereof, and 8 million for contracts for construction services; and

iii) Entities of State or regional and municipal governments, the value of the applicable thresholds as provided in annex 3 to this article, in accordance with article 15-24.

2. Paragraph 1 is subject to the transitional arrangements laid down in Annex 8 to this article and to the general notes set out in annex 9 to this article.

3. Subject to paragraph 4, where a contract to be awarded by an entity is not subject to this chapter, its provisions shall not be construed to cover any good or service component of that contract.

4. No entity shall, shall be structured or a purchase contract in such a manner as to avoid the obligations of this chapter.

5. Procurement includes procurement by entities through methods such as purchase or lease, with or without an option to buy. purchases does not include:

a) Non-contractual agreements or any form of government assistance, including cooperation agreements, loans, transfers, capital transfers, guarantees, fiscal incentives and supply of goods and services to persons or to State Governments or regional or local governments; or

b) The acquisition of Fiscal Agency services or deposits, liquidation and Management Services for regulated financial institutions and sale and distribution services for government debt.

6. The provisions contained in this Chapter establishes the general principles for the entities of each party in its procurement procedures.

7. The Parties shall ensure that measures to implement its entities are in accordance with the provisions of this chapter.

Article 15-03. Valuation of Contracts

1. Each Party shall ensure that, when determining whether a contract is covered by this chapter, its entities to implement the provisions of paragraphs 2 to 7 in calculating the value of the contract.

2. The value of the contract shall be estimated at the time of publication of a notice in accordance with article 15-11.

3. In calculating the value of a contract, entities shall take into account all forms of remuneration, including premiums, fees, commissions and interests.

4. In addition to paragraph 4 of Article 15-02, an entity may not select a valuation method or purchases subdivided into separate contracts in order to avoid the obligations contained in this chapter.

5. Where an individual requirement would result in the award of a contract or contracts are awarded in separate parts, the basis for valuation shall be:

a) The actual value of the successive contracts of the same type awarded during the preceding 12 months or fiscal year, adjusted where possible, in the light of the changes in quantity and value for 12 months; or

b) The estimated value of the successive contracts of the same nature concluded over the fiscal year or 12 months following the initial contract.

6. In the case of leases, with or without an option to buy, or contracts which do not indicate a total price, the basis for valuation shall be in the case of:

a) Contracts for a given period, the calculation shall be based on the total contract value for its duration; or

b) Contracts for an indefinite period, the estimated monthly payment shall be multiplied by 48.

If the entity is not certain whether the contract is limited in time and the value of the contract, calculated using the method referred to in subparagraph (b).

7. Where the tender consider clauses allowing the listing of alternative or substitute goods or services, the basis for valuation shall be the total value of the maximum permissible, including all possible optional purchases.

Article 15-04. National Treatment and Non-Discrimination

1. With respect to measures covered by this chapter Each Party shall grant the goods of the other party and to the suppliers of such goods and to service providers of another party treatment no less favourable than the most favourable treatment accorded to:

a) Its own goods and suppliers; and

b) Suppliers of goods and another party.

2. With respect to measures covered in this chapter, no party may:

a) To a supplier established in its territory treatment less favourable than that accorded to another supplier established in

the Territory, on the basis of the degree of foreign ownership or affiliation; or

b) Discriminate against a locally-established supplier in its territory on the basis that the goods or services offered by that supplier for a particular procurement are goods or services of the other party.

3. Paragraph 1 shall not apply to measures concerning customs duties or other charges imposed on of any kind or in connection with the method of levying charges or such other duties and import regulations, including restrictions and formalities.

4. The Parties shall not introduce requirements of representation or local presence which have as their object or effect discriminate in favour of domestic suppliers.

Article 15-05. Rules of Origin

For purposes of government procurement covered by this chapter, neither party shall apply rules of origin to goods imported from the other party different or inconsistent with the rules of origin applies the party in the normal commercial transactions.

Article 15-06. Denial of Benefits

1. A Party may deny the benefits of this chapter to a service provider of the other party, subject to prior notification and consultation, where the party establishes that the Service is being provided by an enterprise that has no substantial business activities in the territory of any party and is owned or controlled by persons of a non-party.

Article 15-07. Prohibition of Countervailing Special Conditions

Each Party shall ensure that its entities do not take into account, upon request, nor impose countervailing special conditions in the qualification and selection of suppliers of goods or services. in the evaluation of tenders or in the award of contracts. for the purposes of this article, shall mean those countervailing special conditions that an entity may impose or take into account before or during the procurement procedures to encourage local development or improve balance of payments accounts by means of local content requirements, licensing of the use of technology, investments, countertrade or similar requirements.

Article 15-08. Technical Specifications

1. Each Party shall ensure that its entities do not develop, adopt or apply any technical specification with the purpose or the effect of creating unnecessary obstacles to trade.

2. Each Party shall ensure that, where appropriate, any technical specification requiring their entities:

a) Defined in terms of performance criteria rather than design or descriptive characteristics; and

b) Based on international standards, national technical regulations, recognised national building codes or standards.

3. Each Party shall ensure that technical specifications stipulating its entities do not require or refer to a particular trademark or trade name; patent, design or type, specific origin; suppliers; or producer unless there is no other sufficiently precise or intelligible way of describing the procurement requirements and provided that in such cases are included in the tender words such as "or equivalent.

4. Each Party shall ensure that its entities do not seek or accept, in a manner that would have the effect of precluding that advice, competition may be used in the preparation or adoption of any technical specification for a specific procurement from a person that may have a commercial interest in that procurement.

Section C. Tendering Procedures

Article 15-09. Tendering Procedures

1. Entities shall make its purchases by means of open or restricted selective tendering procedures. without prejudice to the provisions of article 15-16, entities of each Party may choose to the open or selective tendering procedures, provided that the procedure chosen to ensure maximum possible competition.

2. Each Party shall ensure that the tendering procedures of its entities:

a) Are applied in a non-discriminatory manner; and

b) Are consistent with this Article and Articles 15-10 on 15-16.

3. In this regard, each Party shall ensure that its entities:

a) Do not provide any information relating to supplier to a specific procurement in a manner that would have the effect of precluding competition or grant an advantage to a supplier; and

b) All suppliers to provide equal access to information regarding a purchase during the period prior to the issuance of any notice or tender basis.

Article 15-10. Supplier Qualification

1. In accordance with article 15-04, in the qualification of suppliers during the tendering procedure, no entity of a Party may discriminate between suppliers of the other party or between domestic suppliers and suppliers of the other party.

2. The qualification of suppliers to conduct an entity shall be consistent with the following:

a) The conditions for participation by suppliers in tendering procedures shall be published sufficiently in advance to allow suppliers are provided with adequate time to initiate and to the extent that it is compatible with the efficient operation of the procurement to complete the qualification procedures;

b) The conditions for participation in tendering procedures, such as financial guarantees and technical qualifications and information necessary to prove the financial, commercial and technical capacity of suppliers, as well as the verification that the supplier satisfies the conditions, shall be limited to those essential to ensure the fulfillment of the contract in question;

c) The financial, commercial and technical capacity of a supplier shall be determined on the basis of its global business, including its activity in the territory of the Party of the supplier as its activity in the territory of the Party of the entity has, if the buyer;

d) An entity may not use the classification process, including the time required to exclude suppliers of another party a list of suppliers or not to be considered for a particular purchase;

e) An entity shall recognize as qualified suppliers to those suppliers of another party that meet the conditions for participation in a particular purchase;

f) An entity shall consider for a particular procurement those suppliers of another party that request to participate in the procurement and that are not yet qualified, provided that there is sufficient time to complete the qualification procedure;

g) An entity that maintains a permanent list of qualified suppliers shall ensure that suppliers may apply for qualification at any time and that all qualified suppliers so requesting are included in the List within a reasonably short time and that all suppliers included in the list of the termination or notified of their removal of the same;

h) If, after the publication of a notice in accordance with Article 1511, a supplier not yet qualified requests to participate in a particular purchase, the entity shall promptly start procedures for qualification;

i) An entity shall communicate to any supplier that qualification has applied for its decision on whether it has been qualified; and

j) Where an entity rejects an application for qualification or ceases to recognize a supplier qualification, upon request, the entity promptly provide pertinent information concerning its reasons for action.

3. Each Party shall:

a) It shall ensure that each of its entities may use a single procedure qualification; however the procedure for the assessment of suppliers will vary according to the nature of the aspects to analyse. where the entity established the need for a different procedure, and at the request of the other party, is prepared to demonstrate the need, may use additional qualification procedures; and

b) Endeavour to minimize differences between the qualification procedures of its entities.

4. Nothing in paragraphs 2 and 3 prevent an entity shall exclude a supplier on grounds such as bankruptcy or false

declarations.

Article 15-11. Invitation to Participate

1. Except as provided in article 15-16, an entity shall publish in accordance with paragraphs 2, 3 and 5, an invitation to participate in the appropriate for all purchases publication referred to in annex 1 to article 15-19.

2. The invitation to participate shall take the form of a notice containing the following information:

a) A description of the nature and quantity of the goods or services to be procured, including any option to buy future and, if possible:

i) An estimate of when they may be exercised such options; and

ii) In the case of successive contracts of the same type, an estimate of when subsequent notices will be issued;

b) An indication of whether it is open or selective tendering procedures;

c) Where relevant, the date to engage in or conclude the delivery of goods or services to be procured;

d) Where appropriate, the address to which must be submitted an application to be invited to tender or for qualifying for the suppliers list and the final date for receipt of the application;

e) The Authority which shall refer to tenders and the final date for receipt;

f) The address of the entity awarding the contract and provide any information necessary for obtaining specifications and other documents;

g) A statement of any economic or any guarantee, technical and financial information and documents required from suppliers;

h) The amount and terms of payment of any sum payable for the tender; and

i) The indication if the entity invites the submission of tenders for the acquisition or rental, with or without an option to buy.

3. In the case of selective tendering, the invitation to participate shall contain, in addition to the provisions in paragraph 2, the following information:

a) The authority to which the request must be sent to be invited to tender or for qualifying for the suppliers list and the final date for receipt of the application; and

b) When it does not involve the use of a supplier registration, deadlines for submission of applications for admission to the tender.

4. Notwithstanding paragraphs 2 and 3, an entity listed in annex 2 or 3 of Article 15-02 may use an invitation to participate as a notice of planned procurement that shall contain the information in paragraphs 2 and 3 insofar as is available to the entity but shall include at least the following information:

a) A description of the subject-matter of the procurement;

b) The time limits for the receipt of tenders or, in the case of selective tendering, for the submission of requests to be invited to tender;

c) The authority to which it may request the documents relating to procurement;

d) A statement that interested suppliers should express their interest in the procurement; and

e) The identification of an information centre in the Entity where they may seek additional information.

5. An entity that uses an invitation to participate as a notice of planned procurement invite, subsequently, to suppliers that have expressed an interest in the procurement to confirm their interest, based on the information provided by the entity shall include at least the information set out in paragraphs 2 and 3.

6. Notwithstanding paragraphs 2 and 3, an entity listed in annex 2 or 3 of Article 15-02 may use an invitation to participate as a notice regarding the rating system. an entity that uses such notice shall provide timely, in accordance with the considerations referred to in paragraph 8 of Article 15-15, information to allow all suppliers that have expressed an interest

in participating in the procurement have a real chance to assess their interest. the information shall normally data required for the convening referred to in paragraphs 2 and 3. information provided to any interested supplier shall be provided without discrimination to all other stakeholders.

7. In the case of selective tendering procedures or constitutes an entity that maintains a permanent list of qualified suppliers shall be inserted in the appropriate publication referred to in annex 1 to article 15-19, a notice containing the following information:

a) A list of all existing lists, including its led, in relation to those types of goods or services or goods or services which are made through the lists;

b) The conditions to suppliers to be included in the lists and the methods pursuant to which the entity in question shall verify each of these conditions; and

c) The period of validity of the list and the formalities for its renewal. this publication shall meet annually.

8. If, after the publication of an invitation to participate, but before the expiration of the time set for opening or receipt of tenders as stated in the notice or the tender, the necessary modifications or entity issuing the invitation to tender or databases, the Entity shall ensure that the notice or tender bases of new or amended the same circulation is given to the original documentation. any significant information given to one supplier on purchase, shall be given to other suppliers simultaneously all concerned in sufficient time to allow all interested parties the appropriate time to consider such information and to respond.

9. An entity shall indicate in the notice referred to in this article that the procurement is covered by this chapter.

Article 15-12. Selective Tendering Procedures

1. Selective tendering procedures in the entity shall publish an invitation to participate in accordance with article 15-11.

2. To ensure optimum effective competition among suppliers of the Parties in selective tendering procedures, an entity may invite directly, for each procurement, the maximum number of domestic suppliers and suppliers of the other Party that is compatible with the efficient operation of the procurement system.

3. An entity may limit, in accordance with objective criteria and fully justified reasons, the number of tenders to assess when the analysis of all tenders received might materially affect the efficient operation of the procurement system, provided that it is ensured to suppliers of the other party compliance with article 15-04.

4. Pursuant to the provisions of paragraphs 1 and 5, an entity that maintains a permanent list of qualified suppliers may select which shall be convened purchase directly to tender in a given. in the selection process, the Entity shall provide equitable opportunities for suppliers on the list.

5. In accordance with subparagraphs (f) and (h) of paragraph 2 of article 15-10, an entity shall allow a supplier that requests to participate in a particular purchase, submit a tender and shall take into account. the number of suppliers that will be permitted to participate only limited additional by reason of the efficient operation of the procurement system.

6. Where an entity does not favour or in the invitation to a supplier, at his request, promptly provide pertinent information concerning its reasons for action.

Article 15-13. Time Limits for Tendering and Delivery

1. An entity shall:

a) To establish a deadline, suppliers of another party to provide sufficient time to prepare and submit tenders before the closing of the tendering procedures;

b) To establish a deadline, consistent with its own reasonable needs, shall take into account such factors as the complexity of the procurement; the extent of subcontracting anticipated and the period of time normally required for transmitting tenders by mail from foreign as well as within the national territory; and

c) In establishing the final date for receipt of tenders or of requests for admission to the tender, deemed appropriate to publication delays.

2. An entity shall provide that:

a) In open tendering procedures, the deadline for receipt of tenders is no less than 40 days from the date of publication of a notice in accordance with article 15-11;

b) In selective tendering procedures not involving the use of a permanent list of qualified suppliers, the time limit for the submission of an application for admission to the tender is not less than 25 days from the date of publication of a notice in accordance with article 15-11, and the period for receipt of tenders is no less than 40 days from the date of publication of a notice; and

c) In selective tendering procedures involving the use of a permanent list of qualified suppliers, the deadline for receipt of tenders is no less than 40 days from the date of the first invitation to tender, when the latter do not coincide with the date of publication of a notice referred to in article 15-11, not less than 40 days must elapse between the publication and receipt of tenders.

3. An entity may reduce the time limits specified in paragraph 2 in accordance with the following:

a) As provided for in paragraph 4 or 6 of Article 15-11, when it has issued a call within a period of no less than 40 days and not more than 12 months the 40-day limit for receipt of tenders may be reduced to no less than 24 days;

b) In the case of second or subsequent publication of a publication on successive contracts of the same type, pursuant to subparagraph (a) of paragraph 2 of article 15-11, the 40-day limit for receipt of tenders may be reduced to no less than 24 days;

c) Where, for reasons of urgency and duly justified the entity that has not been anticipated, cannot be deadlines, they shall in no case less than ten days from the date of publication of a notice in accordance with article 15-11; or

d) Where one of the entities listed in annex 2 or 3 of Article 15-02 used an invitation to participate as a notice referred to in paragraph 6 of Article 15-11 the selected entity and suppliers may determine by common agreement the deadlines; however, in the absence of agreement, the entity may fix periods wide enough to permit the submission of tenders, which in no case shall be less than 10 days.

4. In establishing the date of delivery of the goods or services, according to their needs and reasonable, an entity shall take into account such factors as the complexity of the procurement; the extent of subcontracting and the anticipated time realistically deemed necessary for the production, processing and transport of goods from the different locations of supply.

Article 15-14. Bidding Conditions

1. Where entities provide databases to suppliers tender documentation shall contain all information necessary to permit them to present its submissions, including the information to be published in the notice referred to in paragraph 2 of article 15-11 except the information required under subparagraph (h) of paragraph 2 of article 15-11. the documentation shall also include:

a) The address of the entity to be sent tenders;

b) The address to which they must be sent requests for additional information;

c) The date and time of the closure of the receipt of tenders and the period during which shall be validated;

d) The authorized persons, in addition to participating suppliers to attend the opening of tenders and the time and place for the opening of the tenders.

e) A description of any condition of any economic or technical and financial guarantee, information and documents required from suppliers;

f) A complete description of the goods or services to be procured and any other requirements, including technical specifications, certificates of conformity and levels, designs and instructions necessary;

g) The criteria which will inform the award of the contract, such as the price, and any other factor to be considered in the evaluation of tenders; the cost elements to be taken into account when assessing the prices of tenders shall include, in areas such as transport, insurance and inspection and, in the case of goods or services of the other party, customs duties and other import taxes and charges the currency of payment;

h) The terms of payment; and

i) Any other terms or conditions.

2. An entity shall:

a) Provide the basis for tendering upon request by a supplier participating in open tendering procedures or requests to participate in selective tendering procedures, and reply promptly to any reasonable request for clarification of the same; and

b) Reply promptly to any reasonable request for relevant information by a supplier participating in the tendering, on condition that such information does not give that supplier an advantage over its competitors in the procedure for the award of the contract.

Article 15-15. Submission, Receipt and Opening of Tenders and Awarding of Contracts

1. The Entity shall use the procedures for submission, receipt and opening of tenders and the awarding of contracts that are consistent with the following:

a) Normally, tenders shall be submitted in writing, directly or by mail;

b) Where the invitation to participate shall accept offers sent by telegram, telex, telefacsímil or other means of electronic transmission, the tender shall include all the information necessary for its evaluation, in particular the final price proposed by the supplier and a statement that the supplier accepts all the terms and conditions of the notice;

c) The tenders submitted by telegram, telex or telefacsímil or other means of electronic transmission must be confirmed within the period specified in the notice or the tender, sending the original document of tenders or signed copy of telefacsímil, telegram, telex or electronic message;

d) The content of the telegram, telex, electronic message or telefacsímil shall prevail in the event of any inconsistency between this difference or any other documentation and received after the deadline for receipt of tenders has expired;

e) It shall not be permitted to submit tenders by telephone;

f) Applications to participate in selective tendering may be sent by telegram, telex, telefacsímil and, when permitted by other means of electronic transmission; and

g) The opportunity to correct unintentional errors of form, such as arithmetical errors or other which do not affect the substance of the tender, provided to suppliers during the period between the opening of tenders and the awarding of the contract shall not be used in a manner that discriminate between suppliers.

For purposes of this paragraph, shall mean those electronic transmission means through which the recipient may deliver a copy of the tender at the place of destination of the transmission.

2. No entity subject to a supplier on grounds attributable exclusively to the entity.

3. All solicited tenders by an entity in the open or selective tendering procedures shall be received and opened under conditions and procedures guaranteeing the regularity of the opening of the tenders. the Entity shall retain the information for the opening of tenders. the information shall remain available to participants to legitimate interest and the competent authorities of the Party to be used as required under article 15-17 or 15-19 or Chapter XX (dispute settlement).

4. An entity shall award contracts in accordance with the following:

a) For tenders may be considered in the awarding, shall meet at the time of opening, with the requirements set out in the notice or the tender and the suppliers that satisfy the conditions for participation;

b) If the entity has received a tender abnormally lower than the prices in other submitted, the entity may enquire with the supplier to ensure that it satisfies the conditions for participation and is or will be capable of fulfilling the terms of the contract;

c) Unless, for reasons of public interest, the entity decides not to award the contract to be awarded to the supplier that has considered capable of performing the contract and whose tender is either the lowest price or the most advantageous in accordance with the evaluation criteria set out in the notice or in the invitation to tender;

d) The award shall be made in accordance with the criteria and requirements set out in the tender; and

e) They shall not be used clauses allowing the listing of alternative or substitute goods or services to circumvent this chapter.

5. No entity of a Party may make the award of a contract that the supplier has previously been allocated one or more

contracts by an entity of that Party or that the supplier prior work experience in the territory of that Party.

6. An entity shall:

a) At the express request, shall promptly inform participating suppliers of decisions on contract awards and, on request, to do so in writing; and

b) At the request of a supplier was not selected, whose tender shall supply relevant information to that supplier concerning the reasons why its tender was not selected, the characteristics and relative advantages of the tender selected and the name of the winning supplier.

7. Within a reasonable time after the award of the contract, an entity inserted a notice in the appropriate publication referred to in annex 1 to article 15-19 containing the following information:

a) A description of the nature and quantity of the goods or services covered by the contract;

b) The name and address of the entity awarding the contract;

c) The date of the award;

d) The name and address of each supplier selected;

e) The value of the contract; and

f) The tendering procedure used.

8. Notwithstanding paragraphs 1 to 7, an entity may withhold certain information on the contract award where release:

a) Would impede law enforcement or would be contrary to the public interest;

b) Violated the legitimate commercial interests of a particular person; or

c) Would prejudice fair competition between suppliers.

In any case, subparagraphs (b) and (c) shall prevail when seeking information on matters of public interest.

Article 15-16. Limited Tendering

1. An entity may, under the conditions and in accordance with the conditions described in paragraph 2, use limited tendering procedures and thus to derogate from articles 15-10 15-15, provided that they are not limited tendering procedures to avoid maximum possible competition or in a manner that would constitute a means of discrimination between suppliers of the other party or protection to domestic suppliers.

2. An entity may use limited tendering procedure in the following circumstances and subject to the following conditions, as appropriate:

a) In the absence of tenders in response to an open tender or selective tendering; or where the tenders submitted have resulted from collusion; does not conform to the essential requirements of the tender; or where the tenders have been made by a supplier that satisfies the conditions for participation provided for in accordance with this chapter, provided that the requirements of the initial procurement are not substantially modified in the contract award;

b) Where the goods or services can be supplied only by a particular supplier without other reasonable alternative or substitute exists; for works of art; for reasons connected with the protection of patents, copyrights or other exclusive rights; privileged information; or has not competition for technical reasons;

c) So far as is where strictly necessary for reasons of extreme urgency due to the entity unforeseeable events, is not possible to obtain the goods or services to time by means of open or selective tendering procedures;

d) For additional deliveries by either the original supplier as spare parts for existing continuing services or installations, materials or services, or expansion of existing facilities or services, materials, where a change of supplier would compel the Entity to procure equipment or services shall not conform to the requirements of interchangeability with already existing equipment or services, including software, insofar as the initial procurement of it has been covered by this chapter;

e) Where an entity acquiring prototypes or a good first manufactured or first provide a service at its request in the course of a particular contract research, experiment, study or original manufacture. once they have been fulfilled such contracts, the purchase of goods or services which are performed as a result of them shall comply with the articles 15-15 15-10. original

development of a good first may include limited production in quantity to take into account the results of the tests in practice and to demonstrate that the product was provided to the serial production meet acceptable standards of quality, but does not include the production in order to establish commercial viability or to recover research and development costs;

f) For goods purchased on a market commodity price is listed in an international market;

g) For purchases made exceptionally under advantageous conditions that only a very short term, but does not include conditions routine purchases from regular suppliers. by exceptionally favourable conditions, are those which are substantially advantageous for the buyer entity under normal market conditions, such as unusual disposals by enterprises which are not normally suppliers; or disposal of assets in liquidation or of persons under judicial administration;

h) For contracts to be awarded to the winner of a contest architectural design, provided that the contest is:

i) Organized in accordance with the principles of this chapter, including in relation to publication of an invitation to the qualified suppliers to participate in procurement;

ii) Organized in such a way that the design contract is awarded to the winner; and

iii) Subject to an independent jury; and

i) Where an entity requires consulting services regarding matters of a confidential nature, the disclosure of which could reasonably be expected to compromise confidential information in the public sector, causing serious economic or similarly be contrary to the public interest.

3. Entities shall explain the reasons justifying the use of limited tendering and prepare a report in writing on each contract awarded under paragraph have

2. Each report shall contain the name of the procuring entity; the value and kind of goods or services procured; the country of origin and a statement of the circumstances and conditions described in paragraph 2 that justified the use of limited tendering. the Entity shall retain a file in each report will complete documentation on the contract. they shall be available to the competent authorities of the Party for use as required under article 15-17 or 15-19 or with chapter XX (dispute settlement).

Section D. Avoidance Proceedings

Article 15-17. Avoidance Proceedings

1. With the objective of promoting fair procurement procedures, open and fair, each Party shall adopt or maintain procedures avoidance through administrative channels for procurement covered by this chapter in accordance with the following:

a) Each Party shall establish a procedure for suppliers to challenge the various aspects of the procurement process, for the purposes of this article, begins after an entity has defined its requirement and continues until the award of the contract;

b) Before initiating the procedure for a disputing party shall encourage the supplier to the contracting entity to seek a solution to the complaint;

c) Each Party shall ensure that its entities impartial and timely consideration to any complaints or disputes regarding procurement covered by this chapter;

d) Regardless of whether a supplier has or has not attempted to resolve its complaint with the entity or having reached a successful resolution, no party shall prevent the supplier that initiates the procedure to challenge or seek a remedy available;

e) A Party may request that a supplier to the entity notifies the commencement of avoidance proceedings;

f) A Party may limit the time limit within which a supplier may initiate the avoidance proceedings 1, this period but shall in no case be less than ten days from the time when the supplier is considered knew or ought to have known as the basis of the complaint;

g) Each Party shall establish or designate an authority review without specialized substantial interest in the outcome of the procurement to receive complaints and issuing resolutions and, where appropriate, the relevant recommendations;

h) On receipt of an objection, the reviewing authority shall investigate expeditiously;

i) The review authority shall limit its considerations to the challenge;

j) The review authority shall issue a decision to settle the dispute, which may include directives for the Entity to evaluate new account tenders may terminate the procurement process, the contract or subjected to competition;

k) Generally, entities shall follow the recommendations of the review authority;

l) Upon the termination of the proceeding, each Party shall grant its review authority to submit further written recommendations to an entity, on any stage of a procurement process that has been found to be problematic during the investigation of the disputing, including recommendations for changes in the procurement procedures of the entity to which are consistent with this chapter;

m) The review authority in a timely manner and shall notify in writing the outcome of its investigations, decisions and recommendations on any challenge, and make them available to the Parties and interested persons;

n) Each Party shall be in writing and made generally available to all their avoidance proceedings; and

o) In order to ensure that the procurement was conducted in accordance with this Chapter, each Party shall ensure that its entities maintain complete documentation relating to each purchase, including a written record of all communications substantially affect the procurement process for a period of at least three years from the date on which the contract was awarded.

2. A Party may request the commencement of avoidance proceedings only after the notice is published or, if not issued after databases available tender. where a party establishes that requirement, within 10 working days referred to in subparagraph (f) of paragraph 1, shall begin no earlier than the date that the notice is published or made available the tender.

Section E. General Provisions

Article 15-18. Exceptions

1. Nothing in this chapter shall be construed as preventing a party from taking any action or not disclosing any information which it considers necessary to protect its essential security interests relating to the procurement of arms, munitions or war materials or any other procurement indispensable for national security or for national defence purposes.

2. Provided that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between the parties where the same conditions prevail or a disguised restriction on trade between the parties nothing in this chapter shall be construed to prevent a Party from adopting or maintaining measures:

a) Necessary to protect public morals, public order or security;

b) Necessary to protect human life and health, animal or plant;

c) Necessary to protect intellectual property; or

d) Relating to goods or services provided by charitable institutions, disabled or of prison labour.

Article 15-19. Provision of Information

1. Pursuant to Article 18-02, each Party shall promptly publish any laws, regulations, jurisprudence, administrative rulings of general application and any procedures, including model contract clauses, relating to government procurement covered by this Chapter, by inserting them in the relevant publications referred to in Annex 2 to this Article.

2. Each Party shall:

a) It shall explain to the other Party upon its request for public procurement procedures;

b) It shall ensure that its entities, on request of a supplier promptly explain their practices and procedures of public procurement; and

c) Designate by31 upon the Entry into Force of this Treaty, one or more centres for information:

i) To facilitate communication between the parties; and

ii) Upon request, all reasonable answer enquiries from the other party to provide relevant information on matters covered by this chapter.

3. A Party may request additional information on the contract award as may be necessary to determine whether a procurement was conducted in accordance with the provisions of this chapter in respect of tenders that have not been selected. for this purpose, the buyer entity will provide information on the characteristics and relative advantages of the winning tender and the contract price. where release of this information would prejudice future solicitations, competition in the requesting party shall not disclose information except after consultation with the other party and after obtaining the consent.

4. Each Party shall provide to the other Party upon request information available to that party and its entities concerning covered procurement of its entities and the individual contracts awarded by its entities.

5. No party may disclose confidential information the disclosure of which would prejudice the legitimate commercial interests of a particular person or might prejudice fair competition between suppliers without formal authorization of the person that the information provided to the party.

6. With a view to ensuring effective monitoring of procurement covered by this chapter Each Party shall provide to collect statistics and the other party, unless the parties agree otherwise an annual report in accordance with the following requirements:

a) Statistics on the estimated value of contracts awarded, both as lower than the value of the applicable thresholds, broken down by entities;

b) Statistics on the number and total value of contracts above the value of the applicable thresholds, broken down by entities, by categories of goods and services established in accordance with the classification systems developed pursuant to this chapter and by country of origin of the goods and services procured;

c) Statistics on the number and total value of contracts awarded pursuant to article 15-16, broken down by entities, by category of goods or services, and by country of origin of the goods and services procured; and

d) Statistics on the number and total value of contracts awarded pursuant to derogations from this chapter set out in the annex to article 9 15-02 broken down by entities.

7. Each Party may organize by state and municipality or region any portion of the report referred to in paragraph 6 which corresponds to entities listed in annex 3 to article 15-02.

Article 15-20. Technical Cooperation

1. The Parties shall cooperate on mutually agreed terms, in order to achieve a better understanding of their government procurement systems with a view to achieving greater access to opportunities in government procurement for their suppliers.

2. Each Party shall provide to the other party and their suppliers, information concerning training and orientation programs regarding its government procurement systems and non-discriminatory access to any programme made on the basis of cost recovery.

3. The training and orientation programs referred to in paragraph 2 shall include:

a) Training of public sector personnel directly involved in government procurement procedures;

b) Training of interested suppliers of opportunities in government procurement;

c) The explanation and description of specific aspects of the system of government procurement of each party, such as its rebuttal mechanism; and

d) Information relating to market opportunities for public procurement.

4. Each Party shall establish by the date of entry into force of the Treaty at least one contact point to provide information on the training and orientation programs referred to in this article.

Article 15-21. Joint Programmes for Micro, Small and Medium-sized Industry

1. The Parties shall, upon the Entry into Force of this Treaty, the Committee of micro, small and medium industry, comprising representatives of each party. the Committee shall meet upon agreement of the Parties, at least once a year and shall report annually to the Commission on the efforts of the Parties to promote public procurement opportunities for their

micro, small and medium-sized industries.

2. The Committee shall work to facilitate the activities of the following Parties:

a) The identification of opportunities for the training of personnel of micro, small and medium-sized industries in government procurement procedures;

b) The identification of micro, small and medium-sized industries interested in becoming trading partners of micro, small and medium-sized industries in the territory of the other party;

c) The development of databases on micro-, small and medium-sized industries in the territory of each party to be used by entities of the other party wishing to purchases of smaller companies;

d) Consultations with respect to the factors that each party uses to establish their eligibility criteria for any programme of micro, small and medium-sized industries; and

e) Activities to address any related matter.

Article 15-22. Rectifications or Modifications

1. A Party may modify its coverage under this chapter only in exceptional circumstances.

2. Where a Party modifies its coverage under this chapter:

a) The amendment shall be notified to the Secretariat and the other party;

b) Incorporate a change to the relevant annex; and

c) It shall propose to the other party appropriate compensatory adjustments to its coverage in order to maintain a level comparable to that coverage of existing prior to the modification.

3. Notwithstanding paragraphs 1 and 2, a Party may make rectifications of a purely formal or minor amendments to annexes to its schedules 1 to 6 and 9 of Article 15-02 provided that it notifies such rectifications to the other party and to the Secretariat and the other party does not show its objection to the proposed rectification within a period of 30 days. in such cases, compensation need not be proposed.

4. Notwithstanding other provisions of this chapter, a Party may undertake reorganizations of its public sector entities covered by this chapter, including programmes for decentralization of the procurement of such entities or the corresponding government functions cease to be performed by any public sector entity, whether or not covered by this chapter. in such cases, compensation need not be proposed. no party may undertake such reorganizations or programs to avoid the obligations of this chapter.

5. A Party may have recourse to the procedures set out in chapter XX (dispute settlement) if it considers that:

a) The adjustment proposed under subparagraph (c) of paragraph 2 is not adequate to maintain a comparable level of coverage or mutually agreed;

b) Rectification or a minor amendment pursuant to paragraph 3 or a reorganization under paragraph 4 does not comply with the requirements set out in those paragraphs and as a result, require compensation.

Article 15-23. Disposal of Entities

1. Nothing in this chapter shall be construed as preventing a party from an entity dispose covered by this chapter.

2. If, by the public offering of shares of an entity contained in annex 2 of Article 1502, or other methods, the entity is no longer subject to federal or central government control, the parties shall eliminate such entity of that Annex and withdraw the coverage of this chapter, upon notification to the other party and to its secretariat.

3. When a Party objects to the withdrawal on the grounds that the entity remains subject to federal or central government control, that Party may have recourse to the procedures set out in chapter XX (dispute settlement).

Article 15-24. Future Negotiations

1. With a view to achieving further liberalization of their respective public procurement markets, the parties shall commence

negotiations as determined by the Commission.

2. In such negotiations, the Parties shall review all aspects of their government procurement for purposes of:

a) Assess the operation of their government procurement systems;

b) Seek to extend the coverage of this chapter through:

i) Other Governmental Corporations, autonomous entities, decentralized bodies or other public enterprises; and

ii) Purchases subject to exceptions legislative or administrative; and

c) Revise the value of the thresholds.

3. Before doing so, the parties may consult with their State or regional and municipal governments with a view to achieving commitments, on a voluntary and reciprocal basis for incorporation into this chapter purchases of entities and companies of State or regional and municipal governments.

Chapter XVI. Investment

Section A. Investment

Article 16-01. Definitions

For purposes of this chapter:

ICSID means the International Centre for Settlement of Investment Disputes;

ICSID Convention means the Convention on the Settlement of Investment Disputes between States and Nationals of Other States done at Washington on 18 March 1965;

Inter-American Convention: the Inter-American Convention on International Commercial Arbitration, held in Panama; 30 January 1975

New York Convention means the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards done at New York on 10 June 1958;

Application: the claim by the investor litigants against a party, is an alleged violation of the provisions contained in this chapter;

Enterprise of a Party means an enterprise of a Party and a branch located in the territory of the party who carry out business activities in the same;

Investment, inter alia:

a) An enterprise;

b) Shares of an enterprise;

c) Debt instruments of an enterprise:

i) Where the enterprise is an affiliate of the investor; or

ii) Where the original maturity of the debt instrument is at least three years, but does not include a debt instrument of a State enterprise, regardless of original maturity date;

d) A loan to an enterprise:

i) Where the enterprise is an affiliate of the investor; or

ii) Where the original maturity of the loan is at least three years, but does not include a loan to a state enterprise, regardless of original maturity date;

e) An interest in an enterprise that allow the owner to participate in its income or profits of the enterprise;

f) An interest in an enterprise that grants to the owner the right to participate in the assets of that enterprise in liquidation,

provided that it does not result in a duty or a loan excluded under subparagraphs (c) and (d);

g) Real property;

h) Other tangible or intangible property acquired or used for the purpose of obtaining an economic benefit or other business purposes;

i) Benefits arising out of capital or other resources to the developing of an economic activity in the territory of the other party, inter alia, under:

i) Contracts involving the presence of an investor property in the territory of the other party, including concessions, leave, construction and turnkey contracts; or

ii) Contracts where remuneration depends substantially on the production, income or profits of an enterprise; and

j) A loan to a financial institution or a value of debt issued by a financial institution is treated as regulatory capital by the Party in whose territory the financial institution is located;

No investment means:

k) Monetary claims that do not involve the kinds of rights in subparagraphs from the definition of investment under exclusively to:

i) Commercial contracts for the sale of goods or services by a national or enterprise in the territory of a party to an enterprise in the territory of the other party; or

ii) The granting of credit in connection with a commercial transaction, such as trade financing, except a loan covered by the provisions of subparagraph (d);

l) Any other monetary claim that does not involve the kinds of rights in subparagraphs from the definition of investment;

Investment of an investor Party a means of an investment owned by an investor of a party or under the direct or indirect control;

An investor of a Party means a Party or a company of the same or a national of that Party or an enterprise that seeks to perform or performs or has made an investment;

Investor combatant: an investor that makes a claim under section B;

Opposing side: the party against whom the award is made a claim to arbitration under section B;

The opposing side: investor combatant or the opposing side; contending parties: the investor combatant and the opposing side;

UNCITRAL Arbitration Rules means the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL) adopted by the United Nations General Assembly on 15 December 1976;

Secretary-General means the Secretary-General of ICSID;

Transfers means transfers and international payments;

A tribunal means an arbitration tribunal established under article 16-21; and

Court of cumulation: an arbitral tribunal established under article 16-27.

Article 16-02. Scope

1. This chapter applies to measures adopted or maintained by a Party relating to:

a) Investors of the other party, in connection with his investment;

b) Investments of investors of the other party in the territory of the Party; and

c) With respect to Article 16-05, all investments in the territory of the party.

2. This chapter does not apply to:

a) Economic activities reserved for each Party in accordance with its legislation in force at the date of signature of this Treaty, which are listarán in the annex to this article within a period not exceeding one year after the Entry into Force of this Treaty;

b) Measures adopted or maintained by a Party relating to Financial Services under chapter XII (Financial Services), to the extent that they are subject to this chapter; or

c) The measures taken by a party to restrict the participation of investments of investors of the other party in its territory for reasons of public order or national security.

Article 16-03. National Treatment

1. Each Party shall provide to the investors of the other party and to investments of investors of the other party treatment no less favourable than that accorded in like circumstances to its own to investors and investments of such investors.

2. Each Party shall accord to investors of the other party, in respect of investments in its territory who suffer losses due to armed conflict or civil strife, to force majeure or unforeseeable circumstances, non-discriminatory treatment with respect to any measure that it adopts or maintains in relation to such losses.

Article 16-04. Most-favoured-nation Treatment

1. Each Party shall provide to the investors of the other party and to investments of investors of the other party treatment no less favourable than that accorded in like circumstances to investors and to investments of investors of the other party or of a country that is not a party, except as provided in paragraph 2.

2. If a party has granted special treatment to investors or investments of such, from a country that is not a Party under agreements to establish a free trade area, customs union, common market, economic or monetary unions or similar institutions and provisions for the avoidance of double taxation, that Party shall not be obliged to accord special treatment to investors or to investments of investors of the other party.

Article 16-05. Performance Requirements

1. Neither party may impose or enforce compliance with the following requirements or commitments with respect to any investment in its territory:

a) Export a given level or percentage of goods or services;

b) To achieve a given level or percentage of domestic content;

c) Purchase or use a or accord preference to produced goods or services provided in its territory or to purchase goods producers or from providers of services in its territory;

d) In any way relate to the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with such investment;

e) In its territory to restrict sales of goods or services that such investment produces or provides such sales by relating in any way to the volume or value of its exports or to generate foreign exchange earnings;

f) Transfer to a person in its territory, technology, knowledge production process or other reserved except when the requirement is imposed by a judicial or administrative tribunal or competent authority to remedy an alleged violation of competition laws or to act in a manner not inconsistent with other provisions of this treaty; or

g) To act as the exclusive supplier of the goods it produces or services it provides to a specific region or world market.

This paragraph does not apply to any requirement other than those specified therein.

2. No party may condition the receipt of an incentive or which shall continue to receive the same, to compliance with the following requirements in connection with any investment in its territory:

a) Purchase or use a or accord preference to goods produced in its territory or to purchase goods from producers in its territory;

b) To achieve a given level or percentage of domestic content;

c) In any way relate to the volume or value of imports to the volume or value of exports or to the amount of foreign

exchange inflows associated with such investment; or

d) In its territory to restrict sales of goods or services that such investment produces or provides such sales by relating in any way to the volume or value of its exports or foreign exchange earnings.

This paragraph does not apply to any requirement other than those specified therein.

3. Nothing in this article shall be construed as preventing a Party from imposing, in relation to any investment in its territory, requirements of geographical location of production units, employment or training of labour or activities in the area of research and development.

Article 16-06. Employment and Business Management.

Limitations on the number or the proportion of foreigners who work in an undertaking or function or administration in accordance with the legislation of each Party shall not prevent or hinder the exercise by an investor of control of their investment.

Article 16-07. Reservations and Exceptions

1. The articles 16-03 16-06 do not apply to any measure contrary to maintain or adopt a party, regardless of the level of government. not later than one year from the entry of this treaty in force of the Parties included those measures in the schedules of the annex to this article. any measure contrary to adopt a party after the Entry into Force of this Treaty shall not be more restrictive than those existing at the time the measure is made.

2. Articles, 16-03 16-04 16-06, and do not apply to:

a) Procurement by a party or a state enterprise; or

b) Subsidies or inputs, including government loans and insurance guarantees granted by a party or a state enterprise, except as provided in paragraph 2 of article 16-03.

3. The provisions of:

a) Subparagraphs (a), (b) and (c) and of paragraph 1 (a) and (b) of paragraph 2 of Article 16-05 do not apply to qualification requirements for goods or services with respect to export promotion programmes;

b) Subparagraphs (b), (c), (f) and (g) and of paragraph 1 (a) and (b) of paragraph 2 of Article 16-05 do not apply to procurement by a party or a state enterprise; and

c) Subparagraphs (a) and (b) of paragraph 2 of Article 16-05 do not apply to requirements imposed by an importing party content to goods to qualify for preferential tariffs or fees.

Article 16-08. Transfers

1. Each Party shall permit all transfers relating to an investment of an investor of the other party in the territory of the Party to be made freely and without delay. such transfers include:

a) Profits, dividends, interests, capital gains, royalties, fees payments for administration, technical assistance and other fees; returns and other amounts in kind derived from the investment;

b) Products derived from the sale or the total or partial liquidation of the investment;

c) Payments made under a contract of which is a party to an investor or its investment;

d) Resulting payments of compensation for expropriation, in accordance with article 16-09; or

e) Payments arising out of a dispute settlement procedure under section B.

2. Each Party shall permit transfers to be made in a freely convertible currency at the market rate of exchange prevailing on the date of transfer to spot transactions in the currency to be transferred without prejudice to article 13-18.

3. No party may require its investors to transfers carried out their profits or income, profits or other amounts derived from investments carried out in the territory of another party, or attributable to them.

4. Notwithstanding paragraphs 1 and 2, a Party may prevent a transfer through the equitable and non-discriminatory application of its laws in the following cases:

a) Bankruptcy or insolvency or the protection of the rights of creditors;

b) Issuance of securities, and trade operations;

c) Criminal or administrative offences;

d) Reports of transfers of currency or other monetary instruments;

e) Ensuring compliance with orders or awards in adjudicatory proceedings; or

f) Establishment of instruments and mechanisms to ensure the payment of taxes on income through such means as the retention of the amount on dividends or other items.

Article 16-09. Expropriation and Compensation

1. No party may expropriate or nationalize directly or indirectly an investment of an investor of the other party in its territory or take any measure equivalent to expropriation or nationalization of such investment (expropriation), except:

a) For a public purpose;

b) On a non-discriminatory basis;

c) In accordance with due process of law; and

d) On payment of compensation in accordance with paragraphs 2 to 4.

2. Compensation shall be equivalent to the fair market value of the expropriated investment immediately before the expropriation took place (date of expropriation), and shall not reflect any change in value occurring because the intended expropriation had been known prior to the date of expropriation. valuation criteria shall include tax declared going concern value of tangible property as well as other criteria that are relevant to determine fair market value.

3. The compensation shall be paid without delay and shall be fully realized.

4. The amount paid shall be no less than the amount of compensation to be paid in a freely convertible currency at the international financial market, on the date of expropriation and this had been converted at the currency market rate of exchange prevailing on the date of valuation, plus interest at a commercially reasonable rate established for that currency selected by the Party in accordance with international standards until the date of payment.

Article 16-10. Special Formalities and Information Requirements

1. Nothing in Article 16-03 shall be construed to prevent a Party from adopting or maintaining a measure that prescribes special formalities connected with the establishment of investments by investors of the other party, such as that investments be constituted in accordance with the laws and regulations of the Party provided that such formalities do not materially impair the protections afforded by a Party pursuant to this chapter.

2. Notwithstanding articles 16-03 16-04, and the parties may require an investor of the other party or its investment in its territory to provide routine information concerning that investment or informational solely for statistical purposes. the such Party shall protect any confidential information that is from that disclosure would prejudice the competitive position of the investor or the investment.

Article 16-11. Relationship to other Chapters

In the event of incompatibility between any provision of this chapter and a provision of another, the latter shall prevail to the extent of the inconsistency.

Article 16-12. Denial of Benefits

A Party, subject to prior notification and consultation with the other party, partial or total may deny the benefits of this chapter to an investor of the other party of such an enterprise that is party to such investments and of where the investor Party determines that investors of a non-party own or control the enterprise and that has no substantial business activities

in the territory of the party under whose law it is constituted or organized.

Article 16-13. Extraterritorial Application of the Legislation of a Party

1. The parties, in relation to investments of its investors constituted or organized under the laws and regulations of the other party may not exercise jurisdiction, or take any measure which would cause the extraterritorial application of its laws or blocking of trade between the parties, or between a party and a non- party.

2. If any of the Parties to fulfil the provisions of paragraph 1, the Party where the investment is incorporated may, at its discretion, take the measures and bring an action that it considers necessary for the purpose of invalidating the legislation or measure concerned and barriers to trade resulting therefrom.

Article 16-14. Measures Related to the Environment

1. Nothing in this chapter shall be construed as preventing a party from maintaining or implement any measure consistent with this chapter that it considers appropriate to ensure that investment activity in its territory observe environmental laws.

2. The Parties recognize that it is inappropriate to encourage domestic investment by relaxing measures applicable to the health, safety or relating to the environment. accordingly, no party shall commit to eliminate or exempt from the application of such measures of an investor to investment, as a means to induce the establishment, acquisition, expansion or retention of an investment in its territory. if a Party considers that the other party has encouraged an investment in such a manner, it may request consultations with the other party.

Article 16-15. Investment Promotion and Exchange of Information

1. With the intention to significantly increase the participation of reciprocal investment, the Parties shall develop documents for the promotion of investment opportunities and designed for dissemination mechanisms; the parties shall maintain and refined financial mechanisms for investments of a Party in the territory of the other party.

2. The Parties shall make available detailed information on:

a) Investment opportunities in its territory, which may be developed by investors of the other party;

b) Opportunities for strategic alliances between investors of the Parties through research and collection of interests and partnership opportunities; and

c) Investment opportunities in specific economic sectors which are of interest to the parties and to their investors, according to the application is made by any of the Parties.

3. The Parties shall keep each other informed and updated on:

a) Investment opportunities referred to in paragraph 2, including the dissemination of financial instruments available to contribute to the expansion of the investment in the territory of the Parties;

b) The laws, regulations or measures which directly or indirectly affect foreign investment including exchange rate regimes and of a fiscal nature; and

c) The conduct of foreign investment in their respective territories.

Article 16-16. Double Taxation

The parties for the purpose of promoting investment within their respective territories, through the removal of obstacles to fiscal nature and surveillance in tax compliance through the exchange of tax information, shall enter into negotiations for the conclusion of agreements to avoid double taxation, in accordance with the timetable established between the competent authorities of the Parties.

Section B. Settlement of Disputes between a Party and an Investor of the other Party

Article 16-17. Objective

This section provides a mechanism for the settlement of disputes of a legal nature on investment, which may arise as a result of the breach of an obligation under section A arising between an investor and a party of the other party from the date of entry into force of this Treaty relating to events thereafter, and ensuring the equal treatment between investors of the Parties in accordance with the principle of international reciprocity, as the proper performance of the security and defence within a legal proceedings before an impartial tribunal.

Article 16-18. Claim by an Investor of a Party, on Its Own Account or on Behalf of an Enterprise

1. In accordance with this section, the investor of a Party may, on their own account or on behalf of an enterprise of the other Party that is a juridical person that is owned or controlled, directly or indirectly, to submit a claim which arbitration founded on the other party or a state enterprise of that party has breached an obligation under section A, if the investor or its investment has suffered losses or damages under the violation or as a result of it.

2. An investor may not make a claim under this section if more than three years have elapsed from the date on which it had knowledge or should have had knowledge of the alleged breach and the loss or damage.

3. Where an investor submits a claim on behalf of an enterprise that is a juridical person that is owned or controlled, directly or indirectly, and in parallel an investor that does not have control of an undertaking to submit a claim for own account as a result of the same acts, or two or more claims submitted to arbitration under the same measure adopted by a Party, a court of cumulation shall jointly such claims unless the Tribunal finds that the interests of a party litigants.

4. An investment may not submit a claim to arbitration under this section.

Article 16-19. Dispute Settlement Through Consultation and Negotiation

The parties to the conflict first attempt to resolve the dispute through consultation and negotiation.

Article 16-20. Notice of Intent to Submit a Claim to Arbitration

The Investor combatant shall notify in writing the opposing side of its intention to submit a claim to arbitration at least 90 days prior to submitting the claim. the notice shall specify:

a) The name and address of the investor combatant and, where the application is made on behalf of an enterprise), the name and address of the enterprise;

b) The provisions of this Agreement alleged to have been breached and any other relevant provisions;

c) The factual basis for the claim; and

d) The relief sought and the approximate amount of damages claimed.

Article 16-21. Submission of a Claim to Arbitration

1. Provided that six months have elapsed since the measures giving rise to the claim, an investor litigants may submit the claim to arbitration under:

a) The ICSID Convention provided that both the opposing side as the party of the investor are parties to the Convention;

b) The ICSID Additional Facility Rules, when the opposing side or the party of the investor, but not both, are parties to the ICSID Convention; or

c) The UNCITRAL Arbitration Rules.

2. Where an enterprise of a Party that is a juridical person owned by an investor of the other party or directly or indirectly controls alleges in proceedings before a judicial or administrative tribunal, which allegedly the other party has breached an obligation under section A, or investors of enterprise may not allege that the alleged breach in an arbitration under section B.

3. Except as provided for in article 16-27 and provided that both the opposing side as part of the Challenger investor are parties to the ICSID Convention; any dispute between the same shall be submitted under subparagraph (a) of paragraph 1.

4. The rules chosen for an arbitration established under this Chapter shall be applicable to the same except to the extent

modified by this section.

Article 16-22. Conditions Precedent to Submission of a Claim to Arbitration

1. An investor combatant self-employment and an investor on behalf of an enterprise) may submit a claim to arbitration under this section only if:

a) In the case of the investor, self-employed consents to arbitration in accordance with the procedures set out in this section;

b) In the case of the investor on behalf of an enterprise, both the investor and the enterprise consent to arbitration in accordance with the procedures set out in this section; and

c) Both the investor as a company of the other party, waive their right to initiate proceedings before any court or administrative tribunal of either party, with respect to the alleged measure to be a breach of the provisions of this chapter, except that are exhausted administrative remedies before the authorities responsible for implementing the measure alleged to be a breach under the legislation of the opposing side.

2. The consent and waiver required by this article would result in writing, shall be delivered to the opposing side and included in the submission of a claim to arbitration.

Article 16-23. Consent to Arbitration

1. Each party consents to submit a claim to arbitration in accordance with the procedures and requirements set out in this section.

2. The submission of a claim to arbitration by an investor combatant shall comply with the requirements set out in:

a) Chapter II of the ICSID Convention (Jurisdiction of the Centre) and the ICSID Additional Facility Rules for written consent of the Parties;

b) Article II of the New York Convention for an agreement in writing; and

c) Article I of the Inter-American Convention, which requires an agreement.

Article 16-24. Number of Arbitrators and Method of Appointment

Except as provided for in article 16-27, and without prejudice to the warring parties agree otherwise, the Tribunal shall be composed of three arbitrators. each Party shall appoint an arbitrator litigants; the third arbitrator who shall be the Chair of the arbitral tribunal shall be appointed by mutual agreement of the Parties to the conflict, but shall not be a national of any party.

Article 16-25. Integration of the Tribunal In the Event That a Disputing Party Fails to Appoint an Arbitrator or Fails to Reach an Agreement on the Appointment of the Tribunal's President

1. The Secretary-General shall appoint the arbitrator in the arbitration proceedings under this section.

2. Where a tribunal, which is not established in accordance with article 16-27, not be integrated within a period of 90 days from the date that the claim is submitted to arbitration, the Secretary General at the request of any of the Parties, at its discretion, shall appoint the arbitrator or arbitrators not yet appointed, but not to the Chairman of the Tribunal who shall be appointed pursuant to paragraph 3.

3. The Secretary-General shall appoint the presiding arbitrator from the roster referred to in paragraph 4, ensuring that the President of the Court is not a national of the opposing side or a national of the Party of the investor litigants. in the event that is not available in the list an arbitrator as Chairman of the Tribunal, the Secretary-General shall be appointed from the ICSID panel of arbitrators to the President of the Court, wherever nationality different from the opposing side or the party of the investor litigants.

4. From the date of Entry into Force of this Treaty, the Parties shall establish and maintain a list of five possible as presiding arbitrator of the Tribunal who possess the qualities established under the ICSID Convention and the rules referred to in article 16-21 and with experience in International Law and investment matters. roster members shall be appointed by

consensus regardless of nationality.

Article 16-26. Agreement to Appointment of Arbitrators

For purposes of article 39 of the ICSID Convention and article 7 of part C of the ICSID Additional Facility Rules, and without prejudice to an objection to an arbitrator pursuant to paragraph 3 of Article 16-25 or on the basis of nationality:

a) The opposing side agrees to the appointment of each individual member of a tribunal established under the ICSID Convention or the ICSID Additional Facility Rules; and

b) An investor litigants, either on its own behalf or on behalf of an enterprise) may submit a claim to arbitration or continue the procedure under the ICSID Convention or the ICSID Additional Facility Rules only if the investor combatant and, where appropriate, the enterprise to express their consent in writing to the appointment of each member of the Tribunal.

Article 16-27. Consolidation of Proceedings

1. A tribunal established under this article cumulation will be in accordance with the UNCITRAL Arbitration Rules and shall conduct as laid down in these rules, except as provided in this section.

2. Where a tribunal of cumulation determines that claims submitted to arbitration under article 16-22 raise issues of fact and law together, the Tribunal cumulation, in the interest of fair and efficient resolution, and having listened warring parties may assume jurisdiction, processing and resolve:

a) All or part of the claims; jointly; or

b) One or more of the claims on the basis of which would contribute to the resolution of the others.

3. A Party intending to determine the litigant cumulation under paragraph 2 shall request the Secretary-General to establish a tribunal of cumulation and in the request shall specify:

a) The name and address of the opposing parties against which seeks to obtain the agreement of cumulation;

b) The nature of the cumulation requested; and

c) The rationale underlying the request.

4. Within 60 days of the date of the request, the Secretary-General shall establish a tribunal composed of three arbitrators cumulation. the Secretary-General shall appoint the list of arbitrators referred to in paragraph 4 of Article 16-25, the President of the Court of cumulation, who shall not be a national of the opposing side or a national of the Party of the investor litigants. in the event that is not available in the list an arbitrator available to chair the cumulation Tribunal, the Secretary-General shall be appointed from the ICSID panel of arbitrators, the Chairman of the Tribunal who shall not be a national of the opposing side or a national of the Party of the investor litigants. the Secretary-General shall appoint the other two members of the Court of cumulation of the list referred to in paragraph 4 of Article 16-25 and, where not available in that list, shall select the Panel of Arbitrators of the ICSID; not having availability in that Panel of Arbitrators, the Secretary-General shall make the appointment at its discretion missing. one member shall be a national of the opposing side and the accumulation of another member of the Tribunal shall be a national of a party of the disputants investors.

5. Where a tribunal has been established for cumulation litigants, the investor who has submitted a claim to arbitration) and that has not been named in a request for cumulation made under paragraph 3 may submit a written request to the Tribunal that it be included cumulation at the request of cumulation made under paragraph 2. and in the request shall specify:

a) The name and address of the investor combatant and, where appropriate, the name and address of the enterprise;

b) The nature of the cumulation requested; and

c) The reasons for the request.

6. The cumulation provided for by the investor concerned, to request a copy of the cumulation of fighting against investors who seeks to obtain the agreement of cumulation.

7. A tribunal established under article 16-21 shall not have jurisdiction to decide a claim or part thereof, in respect of which it has assumed jurisdiction a court of cumulation.

8. At the request of a party, a litigant cumulation tribunal may, pending its decision under paragraph 2, provided that the

proceedings of a tribunal established under article 16-21 be suspended until it is resolved on cumulation of origin.

Article 16-28. Notification to the Secretariat

1. A Party shall deliver to the Secretariat litigants within 15 days of receipt by the opposing side:

a) A request for arbitration made under paragraph 1 of Article 36 of the ICSID Convention;

b) A notice of arbitration under article 2 of part C of the ICSID Additional Facility Rules; or

c) A notice of arbitration in accordance with the UNCITRAL Arbitration Rules.

2. A Party combatant shall deliver to the Secretariat a copy of a request made under paragraph 3 of Article 16-27:

a) Within 15 days from the receipt of the request, in the case of a request made by the investor combatant; or

b) Within 15 days of the date of the request, in the case of a request made by the opposing side.

3. A Party combatant shall deliver to the Secretariat a copy of a request made under paragraph 6 of Article 16-27 within 15 days of the date of receipt of the request.

4. The secretariat shall maintain a public register of the documents referred to in this article.

Article 16-29. Notification to the other Party

The opposing side shall deliver to the other party:

a) Written notice of a claim that has been submitted to arbitration no later than 30 days after the date of submission of a claim to arbitration; and

b) Copies of all communications submitted to the arbitration.

Article 16-30. Participation of a Party

Upon written notice to the parties to the conflict, a Party may make submissions to a tribunal established under this section on a question of interpretation of this Treaty.

Article 16-31. Documentation

1. A Party shall, at its own expense, entitled to receive a copy of the opposing side:

a) The evidence provided to any tribunal established pursuant to this section; and

b) Written submissions by the parties to the conflict.

2. A Party receiving information pursuant to paragraph 1 shall treat the information as if it were a party litigants.

Article 16-32. Seat of Arbitration

The place of arbitration shall be located in the territory of the opposing side, unless the parties agree otherwise, where a tribunal established under this section shall conduct the arbitration proceedings in the territory of a Party that is a party to the New York Convention, which shall be elected in accordance with:

a) The ICSID Additional Facility Rules if the arbitration rules or those is under the ICSID Convention; or

b) The UNCITRAL Arbitration Rules if the arbitration is under those rules.

Article 16-33. Applicable Law

1. Any tribunal established under this section shall decide the dispute to be submitted to it in accordance with this Treaty and applicable rules of international law.

2. An interpretation by the commission of a provision of this Treaty shall be binding on a tribunal established under this

section.

Article 16-34. Interpretation of Annexes

1. When a party claims that the measure as a defence alleged to be a breach is within the scope of a reservation or exception registered in the annex to article 16-07, at the request of the opposing side, any tribunal established under this section shall request the Commission interpretation on this matter. the Commission shall, within 60 days of the delivery of the request in writing and shall submit its interpretation to the Tribunal.

2. The Commission interpretation submitted under paragraph 1 shall be binding on a tribunal established under this section. if the Commission fails to submit an interpretation within 60 days, the Tribunal shall decide on the matter.

Article 16-35. Provisional or Protective Measures

A tribunal established under this section shall apply to national courts or warring parties an interim measure of protection to preserve the rights of the opposing side or to ensure that the Tribunal jurisdiction takes full effects. a tribunal may not order the law-abidance or the suspension of the application of the measure alleged to be a breach referred to in article 16-18.

Article 16-36. Final Award

1. Where a tribunal established under this section and an award against a party, the Tribunal may only be:

a) The payment of monetary damages and any applicable interest; or

b) Restitution of property in which case the award shall provide that the opposing side may pay pecuniary damage, plus interest, in lieu of restitution.

2. Where an investor makes a claim on behalf of an enterprise:

a) The award for the restitution of property that shall provide restitution be made to the enterprise; and

b) The award which awarded non-pecuniary damages and interest shall provide that the sum be paid to the enterprise.

3. The award shall be made without prejudice the rights that a Party has a legal interest on compensation for the damage suffered, in accordance with the applicable legislation.

Article 16-37. Finality and Enforcement of the Award

1. An award made by a tribunal established under this section shall be binding only for opposing parties and only in respect of the particular case.

2. Subject to paragraph 3 and the review procedure applicable for an interim award a party combatant abide by and comply with an award without delay.

3. A party litigants may seek enforcement of a final award provided that:

a) In the case of a final award made under the ICSID Convention:

i) 120 days have elapsed from the date the award was rendered without any opposing side has requested revision or annulment of the same; or

ii) Have concluded the revision or annulment proceedings; and

b) In the case of a final award under the ICSID Additional Facility Rules or the UNCITRAL Arbitration Rules:

i) Three months have elapsed from the date the award was rendered without any opposing side has initiated a procedure to revise or annul, overturning it; or

ii) A tribunal of the opposing side has dismissed or allowed an application for reconsideration or annulment of the award a written notice to the parties to the conflict to national courts in accordance with its laws, and this decision cannot be appealed.

4. Each Party shall provide for the enforcement of an award in its territory.

5. Where a Party combatant fails to comply with the final award, the Commission, upon receipt of a request by a Party whose investor was a party to the arbitration tribunal shall, under a Chapter XX (dispute settlement). the requesting party may invoke the procedures for:

a) A determination that the failure or refusal of the terms of the final award is inconsistent with the obligations of this Treaty; and

b) A recommendation that the party complies and comply with the final award.

6. The Investor litigants may seek enforcement of an arbitration award under the ICSID Convention or the New York Convention or the Inter-American Convention regardless of whether or not commenced the procedures referred to in paragraph 5.

7. For purposes of article I of the New York Convention and article I of the Inter-American Convention shall be considered a claim that is submitted to arbitration under this section, arises out of a commercial relationship or transaction.

Article 16-38. General Provisions

When a claim is submitted to arbitration.

1. A claim shall be deemed submitted to arbitration under this section when:

a) The request for arbitration under paragraph 1 of Article 36 of the ICSID Convention has been received by the Secretary-General;

b) The notice of arbitration under article 2 of part C of the ICSID Additional Facility Rules has been received by the Secretary-General; or

c) The notice of arbitration under the UNCITRAL Arbitration Rules is received by the opposing side.

Delivery of documents.

2. Delivery of notice and other documents shall be done in the place designated by each Party in accordance with the annex to this article.

Payments pursuant to an insurance or guarantee contract.

3. In an arbitration under this section a Party not used as a counterclaim, defence, right of set-off or other litigant, that the investor has received or will receive pursuant to a contract of insurance or guarantee, indemnification or other compensation for all or part of the alleged damages whose refund sought.

Publication of decisions.

4. Final awards shall be issued only in the event that a written agreement between the parties.

Article 16-39. Exclusions

The dispute settlement provisions of this section of chapter XX (and dispute settlement) shall not apply to cases contained in the annex to this article.

Annex to Article 16-38. Service of documents

Delivery of notice and other documents shall be:

a) In the case of Mexico, the Directorate of Foreign Investment of the Secretariat of trade and industrial development, or any other place designated by the Secretariat itself, by notifying the other party, and

b) In the case of Nicaragua, to its secretariat.

Annex to Article 16-39. Exclusions from Mexico

Shall not be subject to the dispute settlement mechanisms under section B of this chapter or of Chapter XX (dispute settlement), decisions taken by a Party under paragraph 2 of article 16-02, or the resolution to prohibit or restrict the acquisition of an investment in its territory that is owned or controlled by nationals of that Party, by an investor of the other

party, in accordance with the legislation of each party.

Chapter XVII. Intellectual Property

Section A. General Provisions and Principles

Article 17-01. Definitions

For purposes of this chapter:

Brussels Convention means the Convention relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite (1974);

Rome Convention: the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (1961;

Berne Convention means the Berne Convention for the Protection of Literary and Artistic Works (1971;

Geneva Convention: the Geneva Convention for the Protection of Producers of Phonograms against Unauthorized Duplication of Their Phonograms, 1971;

Paris Convention means the Paris Convention for the Protection of Industrial Property (1967);

Intellectual Property Rights means all categories of intellectual property that are the subject of protection under this chapter, as it is indicated;

Nationals of the other Party: in respect of the relevant intellectual property right, persons that would meet the criteria for eligibility for protection provided by the Berne Convention, the Geneva Convention, the Rome Convention, the Brussels Convention and, where appropriate, the Paris Convention;

Public: that includes, for purposes of copyright and related rights in relation to the rights of communication and execution of the works under articles 11, (i) and 11A 14.1.2 The Berne Convention, with respect to at least the dramático-musicales, drama, music, cinema, literary or artistic any group of individuals who seeks to steer and are able to receive communications or execution of works regardless of whether they are done at the same time and in the same place, or at different times and places, provided that the organisation is greater than a family and its immediate circle of acquaintances or who is not a group consisting of a limited number of individuals who are of the same type of foreign, which was not composed primarily for the purpose of receiving such executions Works and Communications; and

Encrypted programme-carrying satellite signal transmitting programmes: one in a form whereby the characteristics or visual, auditory or both, amending or alter to prevent the receipt by persons who lack of equipment that is designed to eliminate the effects of such amendment or modification of the Programme carried in that signal.

Article 17-02. Protection of Intellectual Property Rights

1. Each Party shall accord in its territory to nationals of the other party adequate and effective protection of intellectual property rights and ensure that measures to protect those rights do not become a barrier to legitimate trade.

2. Each Party shall accord in its domestic law more extensive protection of intellectual property rights than is required under this chapter, provided that such protection is not inconsistent with the same.

3. The parties may freely establish the appropriate method for implementing the provisions of this chapter, within the framework of its own legal system and practice.

Article 17-03. Provisions on the Subject

1. In order to provide adequate and effective protection of intellectual property rights, the Parties shall, at least, the provisions contained in this chapter and the substantive provisions of:

a) The Berne Convention for the Protection of Literary and Artistic Works (1971) (Berne Convention);

b) The Geneva Convention for the Protection of Producers of Phonograms against Unauthorized Duplication of Their Phonograms, 1971 (Geneva Convention);

c) The Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (1961 Rome Convention);

d) The Paris Convention for the Protection of Industrial Property, 1967 (Paris Convention); and

e) The Convention relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite (Brussels Convention (1974)

2. Under subparagraphs (a), (b) and (c) of paragraph 1, where a Party is not a party to the conventions referred to the date of Entry into Force of this Treaty shall apply the substantive provisions of the same as set out in the annex to this article.

Article 17-04. National Treatment

1. Each Party shall accord to nationals of the other party treatment no less favourable than it accords to its own nationals with regard to the protection and enforcement of intellectual property rights covered in this chapter, including patents, utility models and industrial designs, and, where appropriate, plant varieties, subject to the exceptions already provided for in the Berne Convention, the Rome Convention and the Paris Convention.

2. No party may require that a national of the other party, to comply with any conditions or formalities to acquire rights copyright or related rights, as a condition for the granting of National Treatment in accordance with this article.

Article 17-05. Exceptions

Each party may avail itself of the exceptions referred to in Article 17-04 in relation to its judicial and administrative procedures for the protection and enforcement of intellectual property rights, including the designation of a registered office or the appointment of an agent within the territory of the Party provided that such derogation:

a) This is necessary to ensure compliance with provisions that are not inconsistent with this chapter; and

b) Is not applied in a manner that would constitute a disguised restriction on trade.

Article 17-06. Most-favoured-nation Treatment

With regard to the protection of intellectual property, any advantage, favour, privilege or immunity granted by a party to the nationals of any other country shall be accorded immediately and unconditionally to the nationals of the other party. this obligation shall be exempt from any advantage, favour, privilege or immunity granted by a Party that:

a) Deriving from international agreements on mutual legal assistance and law enforcement of a general nature and not limited in particular to the protection of intellectual property;

b) Have been granted in accordance with the provisions of the Berne Convention or the Rome Convention authorizing the treatment is not granted on the basis of national treatment but the treatment accorded in the other country; and

c) Concerning the rights of performers and producers of phonograms and broadcasting organisations which are not covered by this chapter.

Article 17-07. Control of Abusive or Anticompetitive Practices and Conditions

Each party may apply appropriate measures consistent with the provisions of this chapter, to prevent the abuse of intellectual property rights by right holders or the resort to practices which unreasonably restrain trade or adversely affect the international transfer of technology.

Article 17-08. Cooperation to Eliminate Trade In Goods That Infringe Intellectual Property Rights

The Parties shall cooperate with a view to eliminating trade in goods infringing intellectual property rights. to this end, the Parties shall develop and shall disclose information centres, devoted to exchange information relating to trade in such goods.

Section B. Trademarks

Article 17-09. Subject Matter

1. A trademark may establish any sign or combination of signs capable of distinguishing the goods or services to a person of the other, as they sufficiently distinctive or likely to identify the goods or services to be applied against the same class or kind. trademarks and service shall include those of the community. it may include certification marks. each Party may establish, as a condition for the registration of a trademark that signs be visible or be represented graphically.

2. Notwithstanding paragraph 1, each Party may refuse, in accordance with its laws, the registration of a trademark that:

a) Incorporate, inter alia, national symbols or other public entities, national or international signs, words or expressions contrary to morality, public order or morality;

b) Misleading as to the quality, nature or origin; or

c) Suggest a connection with other marks that any risk of confusion or association.

3. The parties may make use of the possibility of registration. however, the application for registration shall not be subject to the condition of effective use of a trademark. no party shall refuse an application for registration solely on the grounds that the intended use has not taken place before the expiry of a period of three years from the date of application for registration.

4. The nature of the goods and services to which a trademark applies shall in no case obstacle for registration.

5. The parties shall publish each trademark before registration or promptly after it, in accordance with its laws, to provide interested persons a reasonable opportunity to object to register or to seek cancellation of the same.

Article 17-10. Rights Conferred

The holder of a registered trademark shall have the right to prevent all third parties not having the consent in trade, use identical or similar signs for goods or services which are identical or similar to those that has been registered trademark holder where such use generates a likelihood of confusion. it shall be presumed that there is likelihood of confusion where the use of an identical or similar signs for goods or services which are identical or similar. the rights described above shall not prejudice rights acquired prior and shall not affect the possibility of the Parties recognize rights on the basis of use.

Article 17-11. Well-known Trademarks

1. The parties, ex officio if its law so permits or at the request of the person concerned shall invalidate definitively, or refuse the registration and prohibit the use of a trademark or a service marks constituting the reproduction or translation, imitation, may create confusion, of a well-known mark and used for identical or similar goods. it is understood that a trademark is a well-known when a Party in a particular sector of the public or business of the party knows the mark as a result of commercial activities undertaken in a Party or outside it, by a person that use that trademark in relation to its goods or services. for the purpose of demonstrating the reputation of the trademark, may used all the evidence admitted in the Party concerned.

2. The Parties shall not be registered as a trademark identical or similar to those signs a well-known mark, to be applied to any good or service, when the use of a trademark by a person who requests registration could create a risk of confusion or association with the person that use that trademark in relation to its goods or services; constitutes an unfair advantage of the reputation of the trademark; or suggests a connection with the same, and could prejudice the interests of such person. this provision shall not apply where the applicant of the mark is the owner of the well-known mark in a party.

3. The person to initiate an action for annulment of the registration of marks granted contrary to paragraph 2, shall accredit have applied a party in the registration of the well-known trademark whose title claims.

Article 17-12. Exceptions

Each Party may provide limited exceptions to the rights conferred by a trademark, as the correct use of descriptive terms, provided that such exceptions take account of the legitimate interests of the owner of the trademark and of third parties.

Article 17-13. Duration of Protection

The initial registration of a trademark shall be for a period of ten years from the date of the submission of the claim or the

date of its issuance and may be extended indefinitely for further periods of ten years, provided that it satisfies the conditions for renewal.

Article 17-14. Use of the Trademark

1. Each Party shall require the use of a trademark to maintain a registration. it is understood that a trademark is in use where the goods or services that distinguishes this have been brought into trade or available on the market with such trademark in the quantity and normally, considering the nature of the goods or services and the procedures under which is placing on the market.

2. The registration may be cancelled or declared by outdated non-use only after an uninterrupted period of not more than five years immediately prior to the application for revocation or cancellation or declaration unless the trademark holder'proving valid reasons based on the existence of obstacles to such use. shall be recognised as valid reasons for the lack of use the circumstances arising independently of the will of the trademark owner that constitute an obstacle to the use of the same, such as import restrictions or other government requirements applicable to goods or services identified by the trademark.

3. For the purpose of maintaining the registration, shall recognize the use of a trademark by a person other than the trademark holder, where such use is subject to the control of the right holder.

Article 17-15. Other Requirements

In trade shall not impede the use of a trademark by special requirements, such as a use that reduces the trademark function as an indication of source or use a trademark or with another use in a manner that would impair the ability of the trademark for identifying the goods or services of one person from those of other persons.

Article 17-16. Licences and Assignment of Trademarks

Each Party may determine conditions on the licensing and assignment of trademarks. it shall not be permitted the Complusory Licenses of trademarks. the holder of a registered trademark shall have the right to B. with or without the transfer of the business which belongs to the trademark. however, each party may condition the release of the mark when it is part of the trade name of the alienator, in which case may only be transferred to the enterprise or establishment that identifies the name.

Section C. Geographical Indications of Source and Designations of Origin

Article 17-17. Protection of Geographical Indications or Provenance and Designations of Origin

1. For purposes of this chapter, designations of origin, geographical designation of a country or a region or locality which serves to identify a good as originating in the territory of a country or a region or locality in that territory, and the quality or characteristics of which are exclusively to the geographical environment, including natural and human factors.

2. For the same purpose, shall mean geographical indications of source or geographical name of a country, region or locality that is used in the production of a good to indicate their place of origin, provenance, collection, processing or extraction.

3. The protected designations of origin in a Party shall not be considered to be a common or generic or, as long as its protection in the country of origin.

4. The parties, ex officio if its law so permits or at the request of an interested party, shall invalidate or refuse the registration of a trademark which contains or consists of a geographical indication or designation of origin, with respect to goods not originating in the Territory, if the use of the indication in the trademark for those goods in that country, is such as to mislead the public as to the true origin.

Section D. Protection of Undisclosed Information

Article 17-18. Protection of Undisclosed Information

1. The Parties shall provide protection for industrial or commercial secrets, which are those that incorporates information of industrial or commercial application, kept confidential, means a person in order to obtain or retain a competitive advantage third-party economic activities.

2. Each Party shall ensure that the holder of an industrial or commercial secrecy provide the legal means to prevent the disclosure of secrets, acquired or used by others without the consent of the person lawfully in control of the information in a manner contrary to honest practices of trade, such as non-compliance of contracts, abuse of trust, incitement of the infringement and the acquisition of undisclosed information by third parties who knew, or who do not know through negligence, Acquisition implied such practices, to the extent that:

a) The secret information is, in the sense that as a body or in the precise configuration and composition of its components, is not generally known or easily accessible to persons circles that normally deal with the kind of information in question;

b) The information has commercial value because secret; and

c) In the circumstances, the person lawfully The control has taken reasonable steps to keep it secret.

3. For the protection, each Party may require that an industrial or commercial secrecy in documents or electronic, magnetic, optical disks, microfilms, films or other similar instruments.

4. No party may limit the duration of protection for industrial or commercial secrets, as long as the conditions described in subparagraphs (a), (b) and (c) of paragraph 2.

5. No party impede or discourage the voluntary licensing of industrial or commercial secrets by imposing excessive or discriminatory conditions on such conditions that licenses or dilute the value of industrial or commercial secrets.

6. If, as a condition for approving the marketing of goods or property farmoquímicos agrochemical using new chemical components, a party requires the submission of data on experiments or other information which have not been published and that are necessary to determine the safety and efficacy of the use of those goods, that Party shall protect such data submitted by persons, when the generation of such data involves considerable effort, except where the disclosure is necessary to protect the public or unless steps are taken to ensure that the data protection against unfair commercial use.

Section E. Copyright

Article 17-19. Copyright

1. Each Party shall protect the works covered by article 2 of the Berne Convention, including any other that embody original expression within the meaning of this term conferred by this Agreement, such as computer programmes and compilations of data by reason of the selection or arrangement, digest, disposal of their contents constitute intellectual creations.

2. The protection provided for compilations of data shall not extend to data or material in themselves, nor shall prejudice any copyright exists on such data or material.

3. Each Party shall provide to authors and their successors rights enumerated in the Berne Convention in respect of works referred to in paragraphs 1 and 2, including the right to authorize or prohibit:

a) The graphic;

b) The translation to any language or dialect;

c) Adaptation and inclusion in phonograms, films, videograms and other audiovisual works;

d) The communication to the public;

e) The reproduction by any means and in any form;

f) The first public distribution of the original and copy each of the work by sale, lease, loan or any other means;

g) Imports into the territory of a Party of copies of the work made without the authorization of the right holder; and

h) Any form of use, process or system known or unknown.

4. At least in respect of software, each Party shall provide to authors and their successors the right to authorize or prohibit the commercial rental to the public of the original and copies of their works protected by copyright.

5. In the case of software, it shall not be necessary for the authorization of the author or beneficiary when a copy of a computer program is not in itself the essential object of the rental.

6. Each Party shall provide that for copyright and related rights:

a) Any person acquiring or possesses economic rights and may freely transfer separately by contract for purposes of exploitation and enjoyment by the transferee; and

b) Any person acquiring or possesses such economic rights by virtue of a contract of employment contracts, including involving the creation of any type of works, phonograms and has the ability to exercise those rights in its own name and fully enjoy the benefits derived from those rights.

7. Each party circumscribed limitations or exceptions to the rights provided for in this article to certain special cases that do not impede the normal exploitation of the work nor entail unwarranted prejudice the legitimate interests of the right holder.

8. Copyrights are permanent throughout life. after his death, who have acquired a legitimate rights, shall be granted for a period of at least 50 years. where the term of protection of a work is calculated on a basis other than the life of a natural person, such period shall be:

a) No less than 50 years counted from the end of the calendar year of the authorized publication or dissemination of the work; or

b) In the absence of its publication or dissemination authorized, 50 years from the end of the year of the completion of the work.

Section F. Related Rights

Article 17-20. Performers

1. Each Party shall provide to performers the right to authorize or prohibit:

a) The fixation of their unfixed performances and the reproduction of fixations;

b) The communication to the public, transmission and broadcasting by wireless means; and

c) Any other form of use of their performances.

2. Paragraph 1 shall not be applicable once a performer has consented to incorporate their performance in a visual or audiovisual fixation.

Article 17-21. Producers of Phonograms

1. Each Party shall grant the Phonogram a producer of the right to authorize or prohibit:

a) The direct or indirect reproduction of the Phonogram;

b) Imports into the territory of the Party of the Phonogram copies made without the authorization of the producer; and

c) The first public distribution of the original and copy each of the Phonogram through sale, lease or any other means.

2. Each Party shall confer to producers of phonograms and all other holders of rights in the phonogram, as determined by its legislation; the right to authorize or prohibit the commercial rental to the public of the original copies of their Phonograms and protected. however, if at the Entry into Force of this Treaty, a party applies a system of equitable remuneration of holders of rights with respect to rental of phonograms, may maintain that system provided that such lease is not produced significant impairment of the exclusive right of reproduction of the right holders.

Article 17-22. Broadcasting Organisations

1. Each Party shall grant to broadcasting organizations the right to authorize or prohibit:

a) The fixing and reproduction of fixations of their broadcasts;

b) The further distribution, the broadcasting and communication to the public of their broadcasts; and

c) The receipt in connection with commercial activities of their broadcasts.

2. Infringements of the rights referred to in paragraph 1 shall cause of civil liability, whether or not combined with the criminal according to the legislation of each party.

Article 17-23. Term of Protection of Related Rights

The term of protection granted under this chapter to performers and producers of phonograms shall not be less than 50 years counted from the end of the calendar year in which the fixation was made or took place the interpretation or implementation. the term of protection to be granted to broadcasting organisations shall not be less than 20 years counted from the end of the calendar year in which the broadcast took place.

Article 17-24. Limitations or Exceptions to the Rights Related Thereto

1. The protection provided for in this chapter, in relation to the rights of performers and producers of phonograms and broadcasting organizations, shall not in any way the protection of copyright in literary or artistic or shall be construed to derogate from such protection.

2. Each party circumscribed limitations or exceptions to the rights provided for in this article to certain special cases that do not impede the normal exploitation of the phonogram, entail unwarranted nor prejudice the legitimate interests of the right holder to the extent permitted by the Rome Convention.

Article 17-25. Miscellaneous Provisions

1. Each Party may provide protection for the rights on:

a) Titles or heads of a cinematographic News newspaper, magazine, and, in general, any publication or dissemination on a regular basis;

b) Figures fictitious or symbolic in literary works, cartoons or in any periodical, when they are brought originality and are used or regularly;

c) Human characters characterization employees artistic performances, art names as artistic designations;

d) Graphic originals which are distinctive features of the work or in its collection and use;

e) Characteristics of promotions when an advertising originality brought except notices trade.

2. The term of protection of such rights shall be determined by the legislation of each party.

Section G. Enforcement of Intellectual Property Rights

Article 17-26. General Provisions

1. Each Party shall ensure that procedures are available under their law enforcement of intellectual property rights as provided in articles 17-27 the 17-30 that permit effective action against any act of infringement of intellectual property rights referred to in this chapter, including expeditious remedies to prevent infringements and remedies which constitute a deterrent to further infringements. these procedures shall be applied in such a way as to avoid the creation of barriers to legitimate trade and to provide for safeguards against their abuse.

2. Procedures concerning the enforcement of intellectual property rights shall be fair and equitable. these procedures shall not be unnecessarily complicated or burdensome, nor shall include timeframes unjustified or undue delay.

3. Decisions on the merits of a case shall be made in writing and shall contain the reasons on which it is based. at least these decisions shall be made available to the parties to the dispute, without undue delay; and be based only on evidence in respect of which it has given to the parties an opportunity to be heard.

4. It shall accord to the dispute to the parties an opportunity for review by a judicial authority of the final administrative decisions and at least the legal aspects of all trial judicial decisions on the merits of the case, subject to the provisions on jurisdiction of domestic laws concerning the importance of a case. however, there shall be no obligation to provide opportunity for review of acquittals in criminal cases.

5. It is understood that the enforcement of intellectual property rights does not impose any obligation to put in place a judicial system for the enforcement of intellectual property rights distinct from that already existing for the enforcement of law in general. it does not create any obligation with respect to the distribution of resources between the means to achieve the enforcement of intellectual property rights and the enforcement of law in general.

Article 17-27. Specific Procedural Aspects and Resources In Civil and Administrative Proceedings

1. Each Party shall make available to right holders civil judicial procedures for the defence of any intellectual property right covered by this chapter and shall provide that:

a) The defendants have the right to receive a written notification stating in sufficient detail the basis for the claim;

b) The parties to be authorized in a proceeding to be represented by independent legal counsel;

c) The procedures do not impose unreasonable mandatory requirements of personal appearances;

d) All parties in a proceeding are duly empowered to support its claims and submit relevant evidence; and

e) The procedures include a means to identify and protect confidential information.

2. Each Party shall provide that its judicial authorities have the authority to:

a) Order, where a Party in a proceeding has presented sufficient evidence to which is reasonably available as a basis for their arguments, and has identified some evidence relevant to the substantiation of its claims that is within the control of the counterpart, the latter provide such evidence, subject to any conditions that ensure the protection of confidential information;

b) Preliminary or final orders, whether positive or negative, where a Party in a proceeding voluntarily and without good reason refuses access to evidence, or does not provide relevant evidence under their control within a reasonable period or significantly impedes a proceeding relating to a case of Protection of Intellectual Property Rights. such decisions shall be made on the basis of the evidence, including the complaint or the arguments presented by the party adversely affected by the denial of access to evidence provided that is granted to the parties an opportunity to be heard on the allegations or evidence;

c) Order a party in a proceeding to desist from an alleged infringement until the final resolution of the case, including to prevent the imported goods that involve the infringement of an intellectual property right from entering into trade channels of its jurisdiction. this will be implemented at least immediately after customs clearance of such goods;

d) Order the infringer of an intellectual property right holder of the right to pay adequate compensation as compensation for damages the right holder has suffered as a result of the infringement the infringer knew where that was engaged in an activity infringing or having reasonable grounds to know;

e) Order the infringer of an intellectual property right to cover expenses incurred by the right holder, which may include appropriate attorney fees; and

f) Order a party in a proceeding at whose request measures were taken and who has abused defence procedures to provide adequate compensation to any party wrongfully put or restricted in the proceeding for the injury suffered because of such abuse and to pay the costs of that Party, which may include appropriate attorney fees.

3. With respect to the authority referred to in subparagraph (c) of paragraph 2, no party shall be obliged to accord such authority with respect to the subject matter that had been acquired and ordered by a person before that person knew that when dealing with the matter would involve the infringement of an intellectual property right or having reasonable grounds to know.

4. With respect to the authority referred to in subparagraph 2 (d), each Party may, at least with respect to protected by copyright works, phonograms and to provide to the judicial authorities may order the recovery of profits or the payment of damages predetermined, or both, even where the infringer did not know that was engaged in an activity infringing or having reasonable grounds to know.

5. Each Party shall provide that in order to effectively deter violations, its judicial authorities have the authority to order that:

a) Goods that they have found to infringe intellectual property rights are without compensation of any kind, withdrawn the channels of commerce in such a manner as to avoid any injury to the right holder or destroyed provided that it is not

contrary to the constitutional provisions; and

b) Materials and tools that have been predominantly used in the production of goods subject to offences are without compensation of any kind, withdrawn the channels of commerce in such a manner as to minimize the risks of subsequent infringements.

6. In considering the issuance of orders referred to in paragraph 5, the judicial authorities of each Party shall take into account the proportionality between the seriousness of the infringement and the measures ordered as well as the interests of other persons, including by the right holder. in regard to the simple counterfeit goods removal of the trademark unlawfully affixed shall not be sufficient to permit the customs clearance of goods, except in exceptional cases such as those in which the authority available to charitable donation.

7. With regard to the application of any law pertaining to the protection or enforcement of intellectual property rights each Party shall only exempt both public authorities and officials from liability to appropriate remedial measures where actions are taken or provisions in good faith in the course of the administration of such laws.

8. Without prejudice to articles 17-26 the 17-30, where a Party is sued by the infringement of an intellectual property right as a result of the use, by or on behalf of that right, that Party may establish a single remedies available against payment of adequate compensation to the right holder, depending on the circumstances of the case, taking into account the economic value of the use.

9. Each Party shall provide that where it can be ordered civil reparation as a result of administrative procedures on the merits of a case, such procedures shall conform to principles which are substantially equivalent to those set out in this article.

10. Subparagraphs (a) and (b) of paragraph 2 and paragraph 9 shall apply taking into account as set out in the annex to this article.

Article 17-28. Precautionary Measures

1. Each Party shall provide that its judicial authorities have the authority to order provisional measures: prompt and effective

a) Prevent any infringement of an intellectual property right and in particular to prevent the introduction of goods subject to the alleged infringement in trade within its jurisdiction, including measures to prevent the entry of imported goods at least immediately after customs clearance; and

b) To preserve relevant evidence relating to the alleged infringement.

2. Each Party shall provide that its judicial authorities have the authority to order the applicant for provisional measures to provide any available evidence reasonably to access and that they consider necessary to determine, with a sufficient degree of certainty whether:

a) The applicant is the right holder;

b) The applicant's right is being infringed or such infringement is imminent; and

c) Any delay in the issuance of such measures is likely to cause irreparable harm to the right holder or where there is a demonstrable risk of evidence being destroyed.

3. For purposes of paragraph 2, each Party shall provide that its judicial authorities have the authority to order the applicant to provide a security or equivalent assurance sufficient to protect the defendant and to prevent abuse.

4. Each Party shall provide that its competent authorities have the authority to require an applicant for provisional measures to provide any information necessary for the identification of the relevant goods by the authority that performs precautionary measures.

5. Each Party shall provide that its judicial authorities have the authority to order precautionary measures that does not give hearing counterpart in particular where any delay is likely to cause irreparable harm to the right holder or where there is a demonstrable risk of evidence being destroyed.

6. Each Party shall provide that where provisional measures are adopted by the judicial authorities of that party that does not provide counterpart hearing to:

a) The person affected shall be given notice of those measures without delay and no later than immediately after the execution of the measures; and

b) The respondent, upon request, obtain judicial review of measures by the judicial authorities of that Party for the purpose of deciding, within a reasonable period after notice of those measures, if they shall be amended, revoked or confirmed.

7. Without prejudice to paragraph 6, each Party shall provide that, at the request of the defendant, its judicial authorities shall revoke or otherwise cease without effect precautionary measures taken pursuant to paragraphs 1 to 5, if proceedings leading to a decision on the merits of the case are not:

a) Within a reasonable period as determined by the judicial authority ordering the measures where the legislation of the party so permits; or

b) In the absence of such determination, within a period of no more than 20 working days or 31 calendar days, whichever is longer.

8. Each Party shall provide that where the provisional measures are revoked when lapse by action or omission of the applicant or when the judicial authorities subsequently determined that there has been no infringement or threat of infringement of an intellectual property right, the judicial authorities have the authority to order the applicant, at the request of a respondent to provide the appropriate compensation for any injury caused by these measures.

9. Each Party shall provide that where a provisional measure can be ordered as a result of administrative procedures, such procedures shall conform to principles which are substantially equivalent to those set out in this article.

Article 17-29. Criminal Procedures and Penalties

1. Each Party shall provide for criminal procedures and penalties to be applied at least in cases of wilful trademark counterfeiting or copies protected by copyright on a commercial scale. each Party shall provide that applicable penalties include imprisonment and / or monetary fines that are sufficient deterrent and consistent with the level of penalties applied for crimes of a corresponding gravity.

2. Each Party shall provide that its judicial authorities may order the forfeiture of infringing and destruction of any goods and materials and tools that have been predominantly used in the commission of the wrongful.

3. For purposes of paragraph 2, the judicial authorities shall take into account, when considering the issuance of such orders, proportionality between the seriousness of the infringement and the measures ordered as well as the interests of other persons by including the right holder. in regard to the simple counterfeit goods removal of the trademark unlawfully affixed shall not be sufficient to permit the release of the goods, except in exceptional cases, such as those in which the authority available to charitable donation.

4. Each Party shall provide for criminal procedures and penalties in cases of infringement of Intellectual Property Rights other than those referred to in paragraph 1, when committed with malice and on a commercial scale.

Article 17-30. Protection of Intellectual Property Rights at the Border

1. Each Party shall, in accordance with this article, the procedures enabling right holder who has valid grounds for suspecting that may occur the importation of counterfeit or pirated goods related to trademarks, copyrights or submit a written request to the competent authorities, whether administrative or judicial, for which the Customs Authority suspends the free movement of such goods. no party shall be obligated to such procedures apply to goods in transit. each Party shall authorize the submission of an application of this nature in respect of goods that involve other infringements of Intellectual Property Rights, provided that they comply with the requirements of this article. each Party shall also establish similar procedures for suspension by the customs authorities of the customs clearance of goods destined for exportation from its territory.

2. Each Party shall provide that its competent authorities have the authority to require any applicant who initiates procedures under paragraph 1 to provide adequate evidence to:

a) The competent authorities of the importing Party shall ensure that may be presumed to be an infringement of intellectual property rights in accordance with its laws; and

b) In order to provide a sufficiently detailed description of the goods to make them readily recognizable by the customs authorities.

3. Each Party shall provide that its competent authorities notify the actor within a reasonable period whether they have accepted the application and, when the competent authorities who is established by the customs authorities.

4. Each Party shall provide that its competent authorities have the authority to require an applicant under paragraph 1 to provide a security or equivalent assurance sufficient to protect the defendant and the competent authorities and to prevent abuse. such security assurance or equivalent, shall not unduly deter the applicant for recourse to these procedures.

5. Each Party shall provide that the owner, importer or consignee of goods involving industrial or commercial secrets, shall have the right to obtain the customs clearance, subject to the lodging of a security or equivalent assurance in an amount sufficient to protect the right holder against any infringement, provided that:

a) As a result of an application made in accordance with the procedures of this article has been suspended by the customs authorities of the release for free circulation of such goods, not based on a resolution issued by a judicial or other independent authority;

b) The period defined in paragraphs 8, 9, 10 and 11 has expired without the competent authority has issued a temporary suspension measure; and

c) Have been complied with all other conditions for importation.

6. The payment of a deposit or guarantee referred to in paragraph 5 shall not prejudice any other remedy available to the right holder and shall be refunded if the right holder does not exercise its action within a reasonable time.

7. Each Party shall provide that its competent authority to promptly notify the importer and the applicant for the suspension by the customs clearance of goods in accordance with paragraph 1.

8. Each Party shall provide that its Customs Authority to customs clearance of goods provided that all other conditions for importation, exportation or if within a period not exceeding 10 working days after it has been served notice of the suspension by the applicant, the customs authorities have not been informed that:

a) A Party other than the defendant has initiated proceedings leading to a decision on the merits of the case; or

b) The competent authority empowered to the effect that has taken provisional measures prolonging the suspension of customs clearance of goods.

9. For purposes of paragraph 8, each Party shall provide that its customs authorities have the authority to extend, where appropriate, the suspension of customs clearance of goods for another ten working days.

10. If it has initiated proceedings leading to a decision on the merits of the case, at the request of the respondent shall, within a reasonable time, to a review. this review will include the respondent's right to be heard, for the purpose of deciding whether such measures should be amended, revoked or confirmed.

11. Without prejudice to paragraphs 8, 9 and 10, when the suspension of customs clearance takes place or continued in accordance with a provisional judicial measure shall apply the provisions of paragraph 7 of Article 17-28.

12. Each Party shall provide that its competent authorities have the authority to order the applicant under paragraph 1 to pay the importer, the consignee and the owner of the goods appropriate compensation for any injury and damage caused by the improper detention of goods or through the detention of goods which have been released pursuant to paragraphs 8 and 9.

13. Without prejudice to the protection of confidential information, each Party shall provide that its competent authorities have the power to grant:

a) The right holder sufficient opportunity to inspect any asset held by the customs authorities to substantiate its claim; and

b) An opportunity equivalent to the importer to inspect goods.

14. Where the competent authorities have made a positive decision on the merits of the case, each Party shall accord to these authorities have the authority to give the right holder of the names and addresses of the consignor and the importer and the consignee, as well as the quantity of the goods in question.

15. Where a party requires its competent authorities to act on their own initiative and to suspend the release of goods in respect of which they have the evidence that at first sight suggest that infringe an intellectual property right:

a) The competent authorities may at any time seek from the right holder any information that may help them in the exercise of such power;

b) The importer and the right holder shall be notified of the suspension, promptly, by the competent authorities of the party. when the importer has requested a review of the suspension by the competent authorities, such suspension shall be subject to the changes leading to the provisions in paragraphs 8, 9, 10 and 11; and

c) The Party shall only exempt public authorities and officials from liability to appropriate remedial measures where actions or prepared in good faith.

16. Without prejudice to other actions that correspond to the right holder and subject to the right of the defendant to request a review by a judicial authority, each Party shall provide that its competent authorities have the authority to order the destruction or disposal of infringing goods in accordance with the principles set out in paragraphs 5 and 6 of Article 17-27. in regard to counterfeit goods, the authorities shall not allow, except in exceptional circumstances, that these are re-exported in the same state or subject to a separate customs procedure.

17. Each Party may exclude from the application of paragraphs 1 to 16, small quantities of goods of a non-commercial nature and forming part of Travellers' personal luggage or sent in small consignments not repeated.

18. This article shall be taken into account as set out in the annex to the Agreement.

Article 17-31. Protection of Programme-carrying Satellite Signals.

Within one year following the Entry into Force of this Treaty, each Party shall, as a result of civil liability, whether or not combined with the criminal, in accordance with its laws, the manufacture, import, sale, lease or any act that would have a system or device that is primarily of assistance in decoding an encrypted programme-carrying satellite signal without the authorization of the lawful distributor of such signal.

Section H. Technical Cooperation

Article 17-32. Technical Cooperation

The Parties shall grant technical cooperation in terms of the annex to this article.

Annex to Article 17-03. Conventions on intellectual property

Nicaragua make every effort to accede to the following agreements and shall within a period of 18 months from the date of Entry into Force of this Treaty.

a) The Berne Convention;

b) The Rome Convention; and

c) The Geneva Convention.

Annex to Article 17-04. Plant varieties

This provision shall not be construed to require any party to provide protection for plant varieties, while that party has not enacted on this matter.

Annex to Article 17-27. Enforcement of intellectual property rights

Nicaragua shall conduct its utmost to implement the measures referred to in subparagraphs (a) and (b) of paragraph 2 and paragraph 9 of Article 17-27, which shall take place not later than 1 July 2000.

Annex to Article 17-30. Enforcement of intellectual property rights at the border

Nicaragua shall conduct its utmost to implement the measures referred to in Article 1730, which shall take place not later than 1 July 2000.

Annex to Article 17-32. Technical cooperation

1. In order to facilitate the implementation of this chapter, Mexico, in coordination with other international cooperation

programmes, shall, upon request and on terms and conditions mutually agreed, technical assistance to Nicaragua. such assistance will include:

a) Support in the adequacy of rules and procedures for the implementation of the Paris Convention;

b) Exchange of documents of Patents;

c) Training in the procedures for granting or registration of patents and industrial designs, utility models;

d) Assistance in plant varieties;

e) Advisory and training on the automated search and procedures for registration of marks;

f) Exchange information on the experience of Mexico in establishing the Mexican Institute of Industrial Property;

g) Exchange of information on the updating of the legislative framework in the field of Intellectual Property Rights;

h) Advice in respect of copyright and related rights; and

i) Advice in automation for the granting of records and conservation of industrial property rights.

2. The technical assistance referred to in paragraph 1 shall not imply a commitment of financial support from Mexico.

Chapter XVIII. Transparency

Article 18-01. Information Centre

1. Each Party shall designate a branch or office as an information centre to facilitate communication between the parties on any matter covered by this Treaty.

2. When a party so requests, the Information Centre of the other party shall indicate the office or official responsible for the matter and provide the required support to facilitate communication with the requesting party.

Article 18-02. Publication

1. Each Party shall ensure that its laws, regulations, procedures and administrative rulings of general application; relating to any matter covered by this Agreement are promptly published or otherwise made available to the parties and to any interested person.

2. To the extent possible, each Party shall:

a) Publish in advance any such measure that it proposes to adopt; and

b) Provide interested persons and the other party a reasonable opportunity to comment on such proposed measures.

Article 18-03. Notification and Provision of Information

1. Each Party shall, as far as possible to the other party, any existing or proposed measure that the Party considers might affect or substantially affect the interests of the other party under the terms of this Treaty.

2. Each Party, at the request of the other Party shall provide information and respond promptly to questions pertaining to any existing or proposed measure without prejudice to that Party has been previously notified of that measure.

3. Notification and provision of information referred to in this article shall be without prejudice to whether the measure is consistent with this Treaty.

Article 18-04. Guarantees of Hearing, Legality and Due Process of Law

1. The parties reaffirm the hearing of the rule of law and due process of law enshrined in their respective laws.

2. Each Party shall maintain judicial or administrative tribunals or procedures for the review and, where appropriate, the correction of final acts related to this Treaty.

3. Each Party shall ensure that in judicial and administrative procedures concerning the implementation of any measure

affecting the operation of this Treaty, conform to the essential elements of procedure and based substantiating the legal cause.

Chapter XIX. Administration of the Treaty

Article 19-01. Commission

1. The Parties shall establish the Committee, composed of officials referred to in annex 1 to this article or persons to whom they designate.

2. The Commission shall have the following functions:

a) To ensure the fulfillment and correct application of the provisions of this Treaty;

b) Assess the results achieved in the implementation of this Treaty and monitor their development;

c) To resolve disputes that may arise regarding its interpretation or application;

d) Supervise the work of all committees established under this Treaty and listed in Annex 2 to this Article; and

e) Consider any other matter that may affect the operation of this Treaty or any other entrusted to it by the parties.

3. The Commission may:

a) Establish and delegate responsibilities to permanent or ad hoc expert committees;

b) To seek the advice of non-governmental groups or persons without linkage; and

c) If the parties so agree, take any other action in the exercise of its functions.

4. The Committee shall take its decisions by consensus.

5. The Committee shall meet at least once a year. the meetings shall be chaired successively by each party.

Article 19-02. Secretariat

1. Each Party shall designate an office or official to become a secretariat unit of that Party and shall inform the other Party: the names and titles of the officials responsible for the Secretariat; and the address of the Secretariat to which they apply.

2. The Commission shall monitor the operation coordinated Secretaries of the Parties.

3. The secretariats shall:

a) Provide assistance to the Commission;

b) Provide administrative support to the arbitral tribunals;

c) On instructions from the Commission to support the work of the Committees established pursuant to this Treaty;

d) The remuneration and expenses to be paid to the arbitrators and experts appointed under this Treaty, as specified in the annex to this Article; and

e) Other functions assigned by the Commission.

Annex to Article 19-01. Commission officials administering officials

Commission officials administering officials referred to in article 19-01 are:

a) In the case of Mexico, the Secretary of Commerce and industrial development, or its successor; and

b) In the case of Nicaragua, the Minister of Economic Affairs and Development, or its successor.

Committees:

- Committee on agricultural trade.

- Committee on Sanitary and fitosaniarias measures.

- Committee on Rules of Origin.

- Committee on Customs Procedures.

- Committee on temporary entry.

- Financial Services Committee.

- Committee on measures related to standardization.

- Committee on micro-, small and medium industry.

Sub-committees:

- Sub-Committee on measures relating to the standardization of health.

- Sub-Committee on measures related to standardization in packaging and labelling and packaging.

- Sub-Committee on measures relating to the standardization of telecommunications.

Annex to Article 19-02. Remuneration and payment of expenses

1. The Commission shall establish the amounts of remuneration and expenses to be paid to the arbitrators and experts.

2. The remuneration of the arbitrators, experts and their assistants, their transport and accommodation expenses and all general expenses of arbitral tribunals will be borne in equal parts by the parties.

3. Each expert arbitrator and shall keep a record and submit a final account of their time and expenses, and the arbitral tribunal shall keep a record and a similar final account of all general expenses.

Chapter XX. Settlement of Disputes

Article 20-01. Cooperation

If the parties shall endeavour to agree on the interpretation and application of this Treaty through cooperation and consultations provided, and shall endeavour to reach a mutually satisfactory resolution of any matter that might affect its operation.

Article 20-02. Scope of Application

Except as otherwise provided in this Treaty, the procedure of this chapter shall apply:

a) To the avoidance or settlement of disputes between all the parties concerning the interpretation or application of this Treaty; and

b) Where a Party considers that an existing or proposed measure of another party is inconsistent with the obligations of this Treaty or would cause nullification or impairment in the sense of the annex to this article.

Article 20-03. Dispute Settlement Under the Provisions of the WTO Agreement

1. Disputes arising under the provisions of this Treaty and the WTO agreement may be settled in either forum at the discretion of the complaining party.

2. Once a dispute settlement procedure under article 20-06 or one in accordance with the provisions of the WTO Agreement, the Forum selected shall be exclusive of any other.

3. For the purposes of this article shall be deemed to be initiated dispute settlement procedures under the provisions of the WTO Agreement when a party requests the establishment of a Panel under Article 6 of the Understanding on Rules and Procedures Governing the Settlement of Disputes of the WTO.

Article 20-04. Perishable Goods

In matters relating to perishable goods, the parties, the Commission and the arbitral tribunal shall make every effort to accelerate the procedure. to this end the Parties shall seek to reduce by common agreement the time-limits set out in this chapter.

Article 20-05. Consultations

1. Any Party may request in writing to the other party holding consultations with respect to any measure adopted or planned, or any other matter it considers that might affect the operation of this treaty in terms of article 20-02.

2. The Party to initiate consultations pursuant to paragraph 1 shall deliver the request to the Secretariat and the other party.

3. The Parties shall:

a) Provide information to examine the manner in which the measure adopted or planned, or any other matter might affect the operation of this Treaty; and

b) Treat any confidential information exchanged in the course of consultations in the same manner as the party providing the information.

Article 20-06. Intervention of the Commission, Good Offices, Mediation and Conciliation.

1. Any Party may request in writing that the Commission meet whenever an issue is not resolved in accordance with article 20-05 within 45 days after the delivery of the request for consultations.

2. A Party may also request in writing that the Commission where consultations have been held pursuant to articles 5-14 and 14-18.

3. The Party initiating the procedure in the request shall state the measure or other matter complained of and indicate the provisions of this Treaty as may be applicable and shall deliver the request to the Secretariat and the other party.

4. The Commission shall convene within 10 days of delivery of the request and with the aim of reaching a mutually satisfactory solution to the dispute, shall:

a) Convene technical advisers or create expert committees as it deems necessary;

b) Recourse to conciliation, mediation or other dispute settlement procedures; or

c) Make recommendations.

Article 20-07. Request for the Integration of the Arbitral Tribunal

1. If the Commission has convened pursuant to paragraph 4 of Article 20-06 and the matter has not been resolved within 45 days after the meeting, any Party may request in writing the establishment of an arbitral tribunal. the requesting party shall deliver the request to the Secretariat and the other party.

2. The delivery of the request, the Commission shall establish an arbitral tribunal.

3. Unless otherwise agreed between the parties, the arbitral tribunal shall be established and perform its functions in accordance with the provisions of this chapter.

Article 20-08. List of Arbitrators

1. The Commission shall a roster of up to 20 individuals who possess the qualities and the willingness to be arbitrators. roster members shall be appointed by mutual agreement, for periods of three years and may be re-elected.

2. Members of the roster shall:

a) Shall have expertise or experience in law and international trade or other matters related to this Treaty or in the settlement of disputes arising under international trade agreements;

b) They shall be elected strictly according to their reliability and objectivity, sound judgment;

c) They shall be independent, not linked with the parties and not receive instructions from the same; and

d) Shall comply with the code of conduct established by the Commission.

3. The list shall include experts who are not nationals of the Parties.

Article 20-09. Qualities of the Arbitrators

1. All the arbitrators shall meet the qualifications set out in paragraph 2 of article 20-08.

2. Persons that have participated in a dispute under the terms of paragraph 4 of Article 20-06, may not be arbitrators for the same dispute.

Article 20-10. Establishment of the Arbitral Tribunal.

1. The arbitral tribunal shall comprise five members.

2. The Parties shall endeavour to appoint the Chair of the arbitral tribunal within 15 days of the delivery of the request for the integration of the same. if the parties do not reach agreement within this period, one appointed by lot, shall be appointed within 5 days. in the event of failure to do so, the other Party shall designate. the Chairman of the arbitral tribunal shall not be a national of the Party of which it designates.

3. Within 15 days following the choice of the Chairman, each Party shall select two arbitrators who are nationals of the other party.

4. If a Party fails to select an arbitrator within that period, it shall be selected by lot from among the roster members who are nationals of the other party.

5. The arbitrators shall preferably be selected from the roster. within 15 days after the date on which the proposal, any Party may challenge, without giving due to any person not included in the list referred to it as an arbitrator by a party.

6. Where a Party considers that an arbitrator has incurred in violation of the Code of Conduct, the Parties shall consult and agreement of that arbitrator, contemporaneous and select a new one pursuant to the provisions of this article.

Article 20-11. Model Rules of Procedure

1. The Commission shall establish the model rules of procedure, in accordance with the following principles:

a) The procedures shall ensure the right to a hearing before the arbitral tribunal as well as the opportunity to submit arguments and written responses; and

b) The hearings before the arbitral tribunal, deliberations and the preliminary decision and to all written submissions and communications with the same, shall be of a confidential nature.

2. Unless otherwise agreed between the parties to the proceedings before the arbitral tribunal is governed by the Model Rules of Procedure.

3. The mission of the arbitral tribunal, contained in the terms of reference shall be:

"review in the light of the relevant provisions of the Treaty, the matter referred to it in the request for a meeting of the Commission, and make decisions referred to in articles 20-13 and age 20-14".

4. If the complaining party claims that a matter has been a cause of nullification or impairment of benefits in the sense of the annex to article 20-02, the terms of reference shall so indicate.

5. When a party requests that the arbitral tribunal to make findings as to the degree of adverse trade effects caused to a party to the extent that it is inconsistent with this Agreement or to have caused nullification or impairment in the sense of the annex to article 20-02, the terms of reference shall so indicate.

Article 20-12. Role of Experts

At the request of a party or on its own initiative, the arbitral tribunal may seek information and technical advice from persons or groups as it deems appropriate.

Article 20-13. Preliminary Decision

1. The arbitral tribunal shall give a preliminary ruling based on the submissions and arguments presented by the parties and on any information received in accordance with article 2012.

2. Unless otherwise agreed between the parties, within 90 days of the appointment of the last arbitrator, the arbitral tribunal shall present a preliminary decision to the parties which shall include:

a) The findings of fact, including any resulting from a request under paragraph 5 of Article 20-11;

b) The determination as to whether the measure at issue is or would be inconsistent with the obligations of this Agreement or cause nullification or impairment in the sense of the annex to article 20-02; and

c) The draft decision.

3. Arbitrators may provide separate opinions on matters for which there is unanimous decision.

4. The Parties may submit written comments to the arbitral tribunal on the draft decision within 14 days of its presentation.

5. In this case, and considering such written comments after the arbitral tribunal may on its own initiative or at the request of any party:

a) Any proceeding that it considers appropriate; and

b) Preliminary reconsider its decision.

Article 20-14. Final Decision

1. The Arbitral Tribunal shall submit to the Committee agreed, a final decision by majority and, where appropriate, the separate opinions on matters in respect of which there has been unanimous decision within 30 days of the presentation of the preliminary ruling.

2. Decision preliminary and final decision shall not disclose the identity of the arbitrators who have voted with the majority or minority.

3. The final decision of the arbitral tribunal shall be published 15 days after its submission to the Commission.

Article 20-15. Implementation of the Final Decision

1. The final decision of the arbitral tribunal shall be binding for the parties in the terms and within the time it orders.

2. When the final decision of the arbitral tribunal shall declare that the measure is inconsistent with this Treaty, whenever possible the respondent Party shall refrain from executing the measure or repealed.

3. When the decision of the arbitral tribunal shall declare that the measure is a cause of nullification or impairment in the sense of the annex to article 20-02, it shall determine the level of nullification or impairment and may suggest the adjustments mutually satisfactory for the parties.

Article 20-16. Non-implementation - Suspension of Benefits

1. The complaining party may suspend the application of benefits of equivalent effect to the responding party if the arbitral tribunal decides:

a) A measure that is inconsistent with the obligations of this Treaty and the responding party does not comply with the final decision within the period fixed by the arbitral tribunal; or

b) A measure that is a cause of nullification or impairment in the sense of the annex to article 20-02 and the parties fail to reach a mutually satisfactory agreement on the dispute within the timeframe determined by the arbitral tribunal.

2. The suspension of benefits shall last until the defendant complies with the final decision of the arbitral panel or until the parties reach a mutually satisfactory agreement on the dispute, as the case may be.

3. In considering the benefits to be suspended in accordance with paragraph 1:

a) The complaining party shall first seek to suspend benefits in the same as that sector or sectors affected by the measure or other matter that the arbitral tribunal has found to be inconsistent with the obligations arising from the Treaty or that

has been a cause of nullification or impairment in the sense of the annex to article 20-02; and

b) The complaining party considers that it is not practicable or effective to suspend benefits in the same sector or sectors may suspend benefits in other sectors.

4. Upon written request of any Party, notified to the other party and to its secretariat, the Commission will be an arbitral tribunal is manifestly excessive to determine whether the level of benefits that the complaining party has suspended in accordance with paragraph 1.

5. The proceedings before the arbitral tribunal established for the purposes of paragraph 4 shall be carried out in accordance with the model rules of procedure. the arbitral tribunal shall present its final decision within 60 days from the appointment of the last arbitrator, or within such other period as the parties agree.

Article 20-17. Proceedings Before Internal Judicial and Administrative Authorities

1. If an issue of interpretation or application of this agreement arises in any domestic judicial or administrative proceeding of a party and the other party warrants considers that its intervention, or when a court or administrative body solicits the views of a Party from the other party, the Party in whose territory the court or administrative body shall notify the other party and to its secretariat. the Commission shall, as soon as possible, to agree on an appropriate response.

2. The Party in whose territory the court or administrative body, any agreed interpretation submitted to them by the Commission in accordance with the procedures of that forum.

3. If the Commission fails to reach agreement, either Party may submit its own views to the court or administrative body in accordance with the procedures of that forum.

Article 20-18. Alternative Means of Dispute Settlement

1. To the extent possible, each Party shall encourage and facilitate the use of arbitration and other means of alternative for the settlement of international commercial disputes between private parties.

2. To this end, each Party shall provide appropriate procedures to ensure observance of Arbitral Agreements and the recognition and enforcement of arbitral awards in such disputes.

3. The Parties shall be deemed to comply with paragraph 2 if it is a party and in accordance with the provisions of the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958 (the New York Convention or the Inter-American Convention on International Commercial Arbitration Convention of 1975 (Panama).

4. The Commission shall establish an advisory committee on private commercial disputes comprising persons with expertise or experience in the resolution of private international commercial disputes. the Committee shall submit reports and recommendations to the Commission on the existence, use and effectiveness of arbitration and other procedures for the resolution of such disputes.

Annex to Article 20-02. Nullification and impairment

1. The parties may have recourse to the dispute settlement mechanism of this chapter where as a result of the application of a measure that is not inconsistent with this Treaty, deemed to be nulifican or impair the benefits that could reasonably have expected to receive from the application of the following provisions:

a) Part two (trade in goods);

b) Chapter X (general principles on trade in services);

c) Part four (Technical Barriers to Trade);

d) Part five (government procurement); and

e) Part seven (intellectual property).

2. Paragraph 1 shall apply even if the party against whom recourse to invoke a general exception under article 21-01 except for an exception applies to the cross-border trade in services.

Chapter XXI. Exceptions

Article 21-01. General Exceptions

1. This Treaty shall be incorporated into and form an integral part of the same article XX of the GATT 1994 and its interpretative notes for purposes of:

a) Part two (trade in goods), except to the extent that some of its provisions apply to services or investment; and

b) Part IV (Technical Barriers to Trade), except to the extent that some of its provisions apply to services.

2. Nothing in Part Four (Technical Barriers to Trade) and chapter X (general principles on trade in services) and XI (telecommunications), except to the extent that some of its provisions apply to goods, shall be construed as to prevent any Party may adopt or enforce measures necessary to:

a) To protect public morals or to maintain public order;

b) In order to protect the lives and health of people and animal or plant, or

c) Ensure compliance with laws and regulations that are not inconsistent with the provisions of this Treaty, including those relating to:

i) The prevention of fraudulent practices or misleading practices and to deal with the effects of a default on services contracts;

ii) The protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts; and

iii) Security.

Provided that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail or a disguised restriction on trade between the parties.

Article 21-02. National Security

1. In addition to the provisions of article 21-01, nothing in this Treaty shall be construed as:

a) To require a party to furnish or allow access to information the disclosure of which it considers contrary to its essential security interests;

b) Prevent a Party from taking any action which it considers necessary to protect its essential security interests:

i) Relating to trade in arms, munitions and war materiel and trade operations and on goods, materials, technology and services undertaken directly or indirectly for the purpose of supplying a military establishment or other establishment of defence;

ii) Taken in time of war or other emergency in international relations; and

iii) With regard to the implementation of national policies or international agreements in the field of non-proliferation of nuclear weapons or other nuclear explosive devices; or

c) To prevent any Party from taking action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

Article 21-03. Exceptions to Disclosure of Information

Nothing in this Treaty shall be construed as requiring a party to furnish or allow access to information the disclosure of which would impede the enforcement or otherwise be contrary to the Constitution or their laws concerning the protection of the privacy of individuals, the accounts and financial affairs of individual customers of financial institutions, inter alia, or be contrary to the public interest.

Chapter XXII. Final Provisions

Article 22-01. Annexes

The annexes to this Agreement constitute an integral part of it.

Article 22-02. Amendments

1. The parties may agree on any of modification or addition to this treaty.

2. The agreed additions and amendments shall enter into force after approval according to the relevant legal procedures of each party and shall constitute an integral part of this Treaty.

Article 22-03. Entry Into Force

This Treaty shall enter into force on 1 July 1998, once exchanged notifications certifying that they have completed the necessary legal formalities.

Article 22-04. Reservations

This Treaty shall not be subject to reservations and interpretative declarations at the time of ratification.

Article 22-05. Accession

1. Any country or group of countries incorporated in this Treaty may subject to such terms and conditions as may be agreed between such country or group of countries and the Commission and after its accession has been adopted in accordance with the applicable legal procedures of each country.

2. This Agreement shall not enter into force between a Party and any acceding country or group of countries if at the time of accession any one of them does not give its consent.

3. Accession shall enter into force once exchanged notifications certifying that the legal formalities have been completed.

Article 22-06. Denunciation

1. Any Party may denounce this Treaty. the termination shall take effect 180 days after information to the other party without prejudice to that the parties may agree on a different period.

2. In the event of the accession of a country or group of countries in accordance with article 22-05 however, that a Party has denounced the Treaty, it shall remain in force for the other parties.

Article 22-07. Review of the Treaty

The Parties shall regularly assess the development of this Treaty with a view to seeking their development and consolidate the integration process in the region; promoting the active participation of the productive sectors.

Done at Managua, on 18 December 1997, in two equally authentic originals.

The President of the United Mexican States, Ernesto Zedillo Ponce de Leon.

(signature)

The President of the Republic of Nicaragua, Arnoldo Alemán.

(signature)