COMPREHENSIVE ECONOMIC PARTNERSHIP AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF INDIA AND THE GOVERNMENT OF THE SULTANATE OF OMAN

PREAMBLE

The Government of the Republic of India ("India") and the Government of the Sultanate of Oman ("Oman");

hereinafter referred to individually as a "Party" and collectively as "the Parties";

RECOGNISING the Parties' strong, historic, and developing relationship, the friendly ties that exists between their people, and wishing to strengthen these links through the creation of a free trade area, thus establishing close and lasting relations;

CONSCIOUS of their respective rights and obligations under the Marrakesh Agreement Establishing the World Trade Organization, in a manner conducive to the development of regional and international cooperation, thereby contributing to the harmonious development and expansion of world trade;

ESTABLISH an agreement to address economic and strategic challenges and opportunities, and contribute to advancing their respective legislative priorities over time;

AIMING to establish a clear, transparent, and predictable legal framework that supports further expansion of trade;

DETERMINED to strengthen their economic and trade relations for their mutual benefit through trade liberalisation in goods and services;

AIMING to encourage the transfer of technology, strengthen their bilateral relationship, encourage the creation of new employment opportunities, raise living standards, and improve the general welfare of their people;

CONVINCED that the establishment of a free trade area will provide a more favourable climate for the promotion and development of economic and trade relations between the Parties;

INTENDING to facilitate trade by promoting efficient and transparent customs procedures that reduce costs and ensure predictability for their importers and exporters;

DETERMINED to support the growth and development of micro, small and medium-sized enterprises by enhancing their ability to participate in and benefit from the opportunities created by this Agreement;

RECOGNISING their right to regulate and to preserve the flexibility of the Parties to set legislative and regulatory priorities;

RECOGNISING FURTHER the need to protect legitimate public welfare objectives, such as health, safety, environmental protection, conservation of living or non-living exhaustible natural resources, integrity and stability of the financial system, and public morals, in accordance with the rights and obligations provided in this Agreement;

CONSCIOUS that a bilateral relationship between the Parties will contribute to trade expansion and promote greater regional economic integration, not only between the Parties but also in the region; and

CONVINCED that this Agreement will open a new era for the relationship between the Parties;

HAVE AGREED, as follows:

Chapter 1. INITIAL PROVISIONS AND GENERAL DEFINITIONS

Article 1.1. Establishment of a Free Trade Area

The Parties, in conformity with the Decision of 28 November 1979 on Differential and More Favourable Treatment,

Reciprocity and Fuller Participation of Developing Countries (Enabling Clause), and Article V of GATS, hereby establish a free trade area in accordance with the provisions of this Agreement.

Article 1.2. Objectives

1. The objectives of this Agreement are:

(a) to strengthen and enhance trade and economic cooperation in the fields agreed between the Parties;

(b) to liberalise and facilitate trade between the Parties in accordance with the provisions of this Agreement;

(c) to improve the efficiency and competitiveness of the Parties' manufacturing and services sectors and to expand trade between the Parties, including joint exploitation of commercial and economic opportunities in non-Parties;

(d) to facilitate and enhance regional economic cooperation and integration; and

(e) to build upon the Parties' commitments at the WTO.

Article 1.3. General Definitions

For the purposes of this Agreement:

"Agreement" means the Comprehensive Economic Partnership Agreement between the Government of the Republic of India and the Government of the Sultanate of Oman;

"Customs Valuation Agreement" means the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994, set out in Annex 1A to the WTO Agreement;

"CTG" means the Committee on Trade in Goods established pursuant to Article 2.20 (Committee on Trade in Goods -Trade in Goods);

"days" means calendar days, including weekends and holidays;

"direct taxes" comprise all taxes on total income, on total capital or on elements of income or of capital, including taxes on gains from the alienation of property, taxes on estates, inheritances and gifts, and taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation; and also include the taxes covered under the Agreement between the Republic of India and the Sultanate of Oman for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, as amended by the Protocols thereto;

"DSU" means the Understanding on Rules and Procedures Governing the Settlement of Disputes, set out in Annex 2 to the WTO Agreement;

"GATS" means the General Agreement on Trade in Services, set out in Annex 1 B to the wro Agreement;

"GATT 1994" means the General Agreement on Tariffs and Trade 1994, set out in Annex 1A to the wro Agreement, and includes its notes and supplementary provisions;

"Harmonised System (HS)" means the Harmonised Commodity Description and Coding System, defined in the International Convention on the Harmonised Commodity Description and Coding System, including its General Rules of Interpretation, and legal notes which includes Section Notes and Chapter Notes, as adopted and implemented by the Parties in their respective laws;

"Import Licensing Agreement" means the Agreement on Import Licensing Procedures, set out in Annex 1A to the wro Agreement;

"Joint Committee" means the Joint Committee established pursuant to Article 15.1 (Joint Committee -Administration of the Agreement) of this Agreement; "measure" means any measure by a Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action, or any other form;

"perishable goods" means goods that rapidly decay due to their natural characteristics, in particular in the absence of appropriate storage conditions;

"person" means either a natural person or a juridical person;

"Trade Facilitation Agreement" means the Agreement on Trade Facilitation, set out in Annex 1A to the WTO Agreement;

"SME" means small and medium-sized enterprises, including micro enterprises, and may be further defined, where applicable, according to the respective laws, regulations, or national policies of each Party;

"territory" means

(a) with respect to India, the territory of the Republic of India, in accordance with the Constitution of India, including its land territory, its territorial sea, and the airspace above it, and other maritime zones including the Exclusive Economic Zone and continental shelf over which the Republic of India has sovereignty, sovereign rights, or exclusive jurisdiction, in accordance with its laws and regulations in force and international law, including the United Nations Convention on the Law of the Sea, 1982.

(b) with respect to Oman, the territory of the Sultanate of Oman, the land, internal waters, territorial sea, air space under its sovereignty, and maritime areas, namely, the exclusive economic zone and the continental shelf, where the Sultanate of Oman exercises sovereign rights or jurisdiction in accordance with its domestic laws and the provisions of international law.

"WTO" means the World Trade Organization; and "WTO Agreement" means the Marrakesh Agreement Establishing the World Trade Organization, done at Marrakesh, on 15 April 1994.

Article 1.4. Geographical Scope

Unless otherwise provided, this Agreement shall apply to the territory of the Parties.

Article 1.5. Relation to other Agreements

1. The Parties reaffirm their rights and obligations with respect to each other under the WTO Agreement and other agreements to which the Parties are party.

2. In the event of any inconsistency between this Agreement and other agreements to which both Parties are party, the Parties shall immediately consult with each other with a view to finding a mutually satisfactory solution.

Article 1.6. Transparency

1. Without prejudice to Article 1.7 (Confidential Information), each Party shall publish or otherwise make publicly available their laws, regulations, judicial decisions and administrative rulings of general application, as well as their respective international agreements which may affect the operation of this Agreement.

2. Each Party shall, within a reasonable period of time, respond to specific questions and provide, upon request, information to each other on matters referred to in paragraph 1.

3. Each Party shall make available to the public the names and addresses of the competent authorities responsible for laws, regulations, administrative procedures, and administrative rulings.

4. The Parties shall endeavour to facilitate the provision of all information, published or otherwise, under paragraphs 1 through 3 in the English language, if a request is made by a person before the competent authority, within a reasonable period of time.

Article 1.7. Confidential Information

1. Each Party shall, in accordance with its laws and regulations, maintain the confidentiality of information designated as confidential by the other Party.

2. Information provided in confidence pursuant to this Agreement shall be used only for the purposes specified by the Party providing the information and shall not be disclosed without the prior written permission of the Party providing the information, except to the extent that it may be required to be disclosed in the context of judicial or quasi-judicial proceedings. In such situations, the Party that has received the information shall notify in writing the other Party of the disclosure.

3. Notwithstanding paragraph 1, confidential information provided pursuant to this Agreement may be transmitted to a third party subject to the prior written consent of the Party providing the information.

4. Nothing in this Agreement shall be construed to require a Party to disclose, furnish, or allow access to confidential information, the disclosure of which would impede law enforcement of the Party, or otherwise be contrary to the public

interest, or which would prejudice the legitimate commercial interests of any economic operator.

Chapter 2. TRADE IN GOODS

Article 2.1

Scope

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

Article 2.2

Definitions

For the purposes of this Chapter:

"Customs Administration" means the authority that, according to the laws and regulations of each Party, is responsible for the administration and enforcement of the customs laws and regulations of that Party. For Oman, it shall be the Royal Oman Police, Directorate General of Customs and for India, it shall be the Central Board of Indirect Taxes and Customs; and

"customs duty" refers to any duty or charge of any kind imposed in connection with the importation of a product, but does not include any:

(a) charge equivalent to an internal tax imposed in conformity with Article Ill of the GATT 1994;

(b) anti-dumping or countervailing duty that is applied consistently with the provisions of Article VI of the GATT 1994, the Agreement on the Implementation of Article VI of the GATT 1994, and the Agreement on Subsidies and Countervailing Measures in Annex 1A to the WTO Agreement respectively, and; safeguard measures under Article XIX of the GATT 1994 and the Agreement on Safeguards in Annex 1A to the WTO Agreement; or

(c) fee or other charge in connection with importation commensurate with the cost of services rendered in conformity with Article VI11 of the GATT 1994.

Article 2.3

National Treatment on Internal Taxation and Regulation

1. The Parties shall accord national treatment in accordance with Article 111 of the GATT 1994, including its interpretative notes. To this end, Article 111 of the GATT 1994 and its interpretative notes are incorporated into and form part of this Agreement, mutatis mutandis.

2. The treatment to be accorded by a Party under paragraph 1 means, with respect to a sub-central level of government, treatment no less favourable than the most favourable treatment that sub-central level of government accords to any like, directly competitive, or substitutable goods, as the case may be, of the Party of which it forms a part.

Article 2.4 Customs Duties

1. The Parties shall not nullify or impair any of the tariff concessions made by them under this Agreement, except as provided in this Agreement.

2. Upon the entry into force of this Agreement, India shall eliminate or reduce its customs duties applied on goods originating from Oman in accordance with Annex 2A (Schedule of Specific Tariff Commitments of India) and Oman shall eliminate or reduce its customs duties on goods from India in accordance with Annex 2B (Schedule of Specific Tariff Commitments of Oman).

3. Where and for so long as a Party's applied most favoured nation customs duty is lower than the rate calculated in accordance with Annex 2A (Schedule of Specific Tariff Commitments of India) or Annex 2B (Schedule of Specific Tariff Commitments of Oman), an importer may claim the lower most favoured nations customs duty and the Party shall apply the lower rate to the originating good of the other Party.

Article 2.5

Classification of Goods and Transposition of Schedules

1. The classification of goods traded between the Parties shall be in conformity with the HS code and its amendments. Each

Party shall ensure consistency in applying its laws and regulations on tariff classification of originating goods of the other Party.

2. Pursuant to paragraph 1, each Party shall ensure that the transposition of its tariff commitments, undertaken in order to implement Annex 2A (Schedule of Specific Tariff Commitments of India) or Annex 2B (Schedule of Specific Tariff Commitments of Oman) in the nomenclature of the revised HS Code following periodic amendments to the HS Code, is carried out without impairing or diminishing the tariff commitments set out in its Schedule of Tariff Commitments in Annex 2A (Schedule of Specific Tariff Commitments of India) or Annex 2B (Schedule of Specific Tariff Commitments of Oman).

3. The Parties shall publish such revisions in a timely manner.

4. Each Party shall, on the request of the other Party and within a reasonable period of time after receiving the request, provide the other Party with a brief explanation in response to any concerns raised regarding the transposition of its tariff commitments.

Article 2.6 Temporary Admission

1. Each Party shall, in accordance with its laws and regulations, grant temporary admission free of customs duties for the following goods imported from the other Party regardless of their origin:

(a) professional and scientific equipment and materials, including their spare parts, and goods for sports purposes, that are necessary for carrying out the business activity, trade, or profession of a person who qualifies for temporary entry pursuant to the laws of the importing Party;

(b) goods intended for display or use at playgrounds, theatres, exhibitions, fairs or other similar events, including commercial samples, advertising materials including printed materials, films and recordings;

(c) containers and pallets in use or to be used for refilling;

(d) machinery and equipment for completion of projects or for conducting the experiments and tests relating to such projects, or for repair; and

(e) goods entered for completion of processing.

2. A Party shall not impose any condition on the temporary admission of a good referred to in paragraph 1, other than to require that such good:

(a) be accompanied by a security deposit in an amount no greater than the customs duty or charges that would otherwise be owed on importation, releasable on exportation of the good;

(b) be exported on the departure of the person referred to in subparagraph 1(a) or within such period of time as is reasonably related to the purpose of temporary admission in accordance with the laws of a Party;

(c) be capable of identification when exported;

(d) not be sold or leased while in its territory;

(e) not be imported in a quantity greater than is reasonable for its intended use; and

(f) be otherwise admissible into the importing Party's territory under its laws.

3. If any condition that a Party imposes under paragraph 2 has not been fulfilled, that Party may apply the customs duty and any other charge that would normally be owed on importation of the good.

4. Each Party shall, at the request of the importer and for reasons deemed valid by its Customs Administration, extend the time limit for temporary admission beyond the period initially fixed.

5. Each Party shall relieve the importer of liability for failure to export a temporarily admitted good upon presentation of satisfactory proof to the Party's Customs Administration that the good has been destroyed within the original time limit for temporary admission or any lawful extension. A Party may condition relief of liability under this paragraph by requiring the importer to receive prior approval from the Customs Administration of the importing Party before the good can be so destroyed.

6. Each Party shall endeavour, through its Customs Administration and in accordance with its laws and regulations, to adopt and maintain procedures providing for the expeditious release of goods admitted under this Article.

Article 2.7

Duty-Free Entry of Commercial Samples of Negligible Value and Printed Advertising Materials

1. Each Party shall, in accordance with its laws and regulations, grant duty-free entry to commercial samples of negligible value, and to printed advertising materials, imported from the territory of the other Party, regardless of their origin, but may require that:

(a) such samples be imported solely for the solicitation of orders for goods, or the solicitation of orders for services provided from the territory, of the other Party or a non-Party; or

(b) such advertising materials be imported in packets that each contain no more than one copy of each such material and that neither such materials nor. packets form part of a larger consignment.

Article 2.8

Goods Returned or Re-Entered After Repair or Alteration

1. Neither Party may apply a customs duty to a good, regardless of its origin, that re-enters its territory within 1 year after that good has been exported from its territory to the territory of the other Party for repair or alteration, regardless of whether such repair or alteration could be performed in its territory, except that a customs duty may be applied to the addition resulting from the repair or alteration that was performed in the territory of the other Party.

2. Neither Party may apply a customs duty to a good, regardless of its origin, admitted temporarily from the territory of the other Party for repair or alteration, provided such good is exported from the territory of the importing Party within 1 year of its entry.

3. For the purposes of this Article, "repair" or "alteration" means any operation or process undertaken on a good to remedy operational defects or material damage and entailing the re-establishment of the good to its original function, or to ensure its compliance with technical requirements for its use. Repair or alteration of a good includes restoring, renovating, cleaning, resterilising, maintenance, or other operation or process, regardless of a possible increase in the value of the good, that does not:

(a) destroy a good's essential characteristics or create a new or commercially different good;

(b) transform an unfinished good into a finished good; or

(c) change the function of a good.

4. The Parties shall commence a review of this Article within 2 years of the date of entry into force of this Agreement and, thereafter, every 3 years, or as the Parties agree otherwise.

Article 2.9

Import and Export Restrictions

Unless otherwise provided in this Agreement, neither Party shall adopt or maintain any prohibition or restriction on the importation of any good of the other Party or on the exportation or sale for export of any good destined for the territory of the other Party, except in accordance with Article XI of GATT 1994. To this end Article XI of GATT 1994 is incorporated into and made part of this Agreement, mutatis mutandis.

Article 2.10 Import Licensing

1. Each Party shall ensure that all automatic and non-automatic import licensing procedures are implemented in a transparent and predictable manner and applied in accordance with the Import Licensing Agreement.

2. Each Party shall adopt, maintain, or administer its import licensing procedures in a manner consistent with Articles 1 through 3 of the Import Licensing Agreement.

3. A Party that institutes licensing procedures or makes changes to existing licensing procedures, shall notify the other Party of such procedures within 60 days of publication. The notification shall include the information specified in Article 5.2 of the Import Licensing Agreement. A Party shall be deemed to be in compliance with this provision if it has notified the relevant import licensing procedure, or any modifications thereof, to the Committee on Import Licensing provided for in Article 4 of the Import Licensing Agreement.

4. Upon request of a Party, the other Party shall promptly provide any relevant information specified in Article 5.2 of the

Import Licensing Agreement, regarding any import licensing procedure that it has adopted or maintains, and wherever feasible the procedures that it intends to adopt, or changes to existing licensing procedures.

5. Nothing in this Article shall be construed in a manner that would require a Party to grant an import license.

6. If a Party denies an import license application with respect to a good of the other Party, it shall, on request of the applicant and within a reasonable period after receiving the request, provide the applicant with a response unless that information is not publicly available and accessible.

Article 2.11 Customs Valuation

Each Party reaffirms its commitment to the provisions of Part I and Annex I of the Customs Valuation Agreement for determining the customs value of the goods traded between the Parties.

Article 2.12 Subsidies

The rights and obligations of the Parties relating to subsidies and countervailing measures shall be governed by Articles VI and XVI of the GATT 1994 and the Agreement on Subsidies and Countervailing Measures, set out in Annex 1A to the WTO Agreement.

Article 2.13 Transparency

Article X of the GATT 1994 is incorporated into and forms part of this Agreement, mutatis mutandis.

Article 2.14

Restrictions to Safeguard the Balance-of-Payments

1. The Parties shall endeavour to avoid the imposition of restrictive measures for balance-of-payments purposes.

2. Any such measures taken for trade in goods shall be in accordance with Article XII of the GATT 1994 and the Understanding on the Balance-of-Payments Provisions of the General Agreement on the Tariffs and Trade 1994, the provisions of which are incorporated into and form part of this Agreement, mutatis mutandis.

Article 2.15 Administrative Fees and Formalities

1. Each Party shall ensure, in accordance with Article Vlll:1 of the GATT 1994 and its interpretive notes and Article 6 of the Trade Facilitation Agreement, that all fees and charges of whatever character (other than import and export duties, charges equivalent to an internal tax or other internal charges applied consistently with Article 111:2 of the GATT 1994, and anti-dumping and countervailing duties applied pursuant to its laws and regulations) imposed by that Party on, or in connection with, importation or exportation, are limited in amount to the approximate cost of services rendered to imports or exports and do not represent a direct or indirect protection for domestic goods or a taxation of imports for fiscal purposes.

2. Each Party shall promptly publish details and shall make such information available on the internet regarding the fees and charges it imposes in connection with importation or exportation and shall make such information available to the other Party, upon written request, in the English language.

Article 2.16 Non-Tariff Measures

1. Neither party shall adopt or maintain any non-tariff measures on the importation of any goods of the other Party or on the exportation of any goods destined for the territory of the other Party except in accordance with its rights and obligations under Annex 1A of the WTO Agreement or in accordance with other provisions of this Agreement.

2. Each Party shall ensure that the non-tariff measures under paragraph 1 are not prepared, adopted or applied with a view to or with the effect of creating unnecessary obstacles to trade in goods between the Parties.

Article 2.17

State Trading Enterprises

Nothing in this Agreement shall be construed to prevent a Party from maintaining or establishing a state trading enterprise in accordance with Article

XVII of the GATT 1994 and the Understanding on the Interpretation of Article XVII of the General Agreement on the Tariffs and Trade 1994.

Article 2.18 Revision Clause

1. Upon request of a Party, the Parties shall consult to consider accelerating, or broadening the scope of the elimination of customs duties as set out in Annex 2A (Schedule of Specific Tariff Commitments of India) and Annex 2B (Schedule of Specific Tariff Commitments of Oman). Further commitments between the Parties to accelerate the elimination of a customs duty on a good, or to include a good in Annex 2A (Schedule of Specific Tariff Commitments of India) and Annex 2B (Schedule of Specific Tariff Commitments of Oman), shall supersede any duty rate or staging category determined pursuant to their respective Schedules of Tariff Commitments. These commitments shall enter into force on the date specified by the Parties following the exchange of notifications certifying that they have completed their internal legal procedures.

2. Nothing in this Agreement shall prohibit a Party from unilaterally accelerating or broadening the scope of the elimination of customs duties set out in its Schedule of Tariff Commitments in Annex 2A (Schedule of Specific Tariff Commitments of India) or Annex 2B (Schedule of Specific Tariff Commitments of Oman). Any such unilateral acceleration or broadening of the scope of the elimination of customs duties will neither permanently supersede any duty rate or staging category determined pursuant to their respective Schedule nor will serve to waive that Party's right to impose at a later time the duty rate or staging category that is determined for that later time by their respective Schedule.

3. For greater certainty with respect to paragraph 2, a Party may:

(a) raise a customs duty back to the level established in its respective Schedule of Tariff Commitments in Annex 2A (Schedule of Specific Tariff Commitments of India) or Annex 2B (Schedule of Specific Tariff Commitments of Oman) following a unilateral reduction; or

(b) maintain or increase a customs duty as authorised by the Dispute Settlement Body of the WTO.

Article 2.19 Exchange of Data'·

1. The Parties recognise the value of trade data in accurately analysing the implementation of this Agreement. The Parties shall cooperate with a view to conducting periodic exchanges of data relating to trade in goods between the Parties.

2. The Parties may engage in such periodic exchanges within the CTG for such purposes and for any other purposes in furtherance of the obligations described in this Chapter as the CTG may determine.

3. A Party shall give positive consideration to a request from the other Party for technical assistance for the purposes of the exchange of data under paragraph 1.

Article 2.20 Committee on Trade in Goods

1. The Parties hereby establish CTG under the Joint Committee.

2. The functions of the CTG shall include:

(a) the monitoring and review of measures taken and implementation of commitments under this Chapter;

(b) the exchange of information and review of developments;

(c) the preparation of technical amendments, including HS Code updating, and otherwise assisting the Joint Committee;

(d) any other matter referred to it by the Joint Committee; and

(e) the preparation of recommendations and reports to the Joint Committee, as necessary.

3. The CTG shall establish such subcommittees as may be necessary under this Agreement, including on Customs Procedures and Trade Facilitation, Technical Barriers to Trade, Sanitary and Phytosanitary Measures, Rules of Origin and Trade Remedies. All such subcommittees shall report to the CTG.

4. Each Party has the right to be represented in the CTG. The CTG shall act by consensus.

5. The CTG shall meet annually or more frequently as the Parties agree otherwise. The meetings of the CTG shall be chaired jointly by Oman and India.

6. The Parties shall examine any difficulties that might arise in their trade in goods and shall endeavour to seek appropriate solutions through dialogue and consultations.

Chapter 3. RULES OF ORIGIN

Article 3.1 Definitions

For the purposes of this Chapter:

"aquaculture" including mariculture, means the farming of aquatic organisms including fish, molluscs, crustaceans, other aquatic invertebrates, and aquatic plants, from seed stock such as eggs, fry, fingerlings and larvae, by intervention in the rearing or growth processes to enhance production, such as, regular stocking, feeding, protection from predators;

"carrier" means any vehicle for air, sea, or land transport. However, the carriage of product can be made through multimodal transport;

"CIF value" means the price actually paid or payable to the exporter for a product when the product is loaded out of the carrier, at the port of importation, including the cost of the product, insurance, and freight necessary to deliver the product to the named port of destination. The valuation shall be made in accordance with Article VII of the GATT 1994 and the Customs Valuation Agreement;

"competent authority" refers to:

(a) for exports from India, the Department of Commerce or any other agency notified from time to time; and for imports into India, the Central Board of Indirect Taxes and Customs (CBIC) or any other agency notified from time to time; and

(b) for Oman, Ministry of Commerce, Industry and Investment Promotion; and Directorate General of Customs, Royal Oman Police or any other authority notified from time to time;

"Customs Administration" refers to:

(a) for India, the CBIC or its successor of such customs administration; and

(b) for Oman, Directorate General of Customs, Royal Oman Police or its successor of such customs administration;

"customs value" means the value of a product as determined in accordance with Article VII of the GATT 1994, including its notes and supplementary provisions thereof, and the Customs Valuation Agreement;

"Ex Works price" means the price paid for the product ex-works to the producer in the Party where the last working or processing is carried out, provided the price includes the value of all the materials used;

"Free-On-Board (FOB) value" means the price actually paid or payable to the exporter for a product when loaded onto the carrier at the named port of exportation, including the cost of the product, and all costs necessary to bring the product onto the carrier;

"Fungible products or materials" means products or materials that are interchangeable for commercial purposes and whose properties are essentially identical;

"generally accepted accounting principles (GAAP)" means the recognised consensus of substantial authoritative support in the territory of a Party, with respect to the recording of revenues, expenses, costs, assets, and liabilities, the disclosure of information and the preparation of financial statements. These principles may encompass broad guidelines of general application as well as detailed standards, practices, and procedures;

"indirect material" means a material used in the production, testing, or inspection of a product, or a material used in the maintenance of buildings, or the operation of equipment associated with the production of a product but not physically incorporated into the product, including:

(a) fuel and energy;

(b) tools, dies and moulds;

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

(d) lubricants, greases, and compounding materials used in production or used to operate equipment and buildings;

(e) gloves, glasses, footwear, clothing, safety equipment and supplies;

(f) equipment, devices, and supplies used for testing or inspecting of products;

(g) catalysts and solvents; and

(h) any other material that is not incorporated into the product but for which the use in the production of the products can

be reasonabiy demonstrated to be a part of that production;

"issuing authority" refers to the government authority(ies) or agency(ies) identified and designated by the competent authority of each Party for issuance of the certificate of origin, notified before the entry into force of the Agreement and as amended from time to time;

"juridical person" means any legal entity duly constituted or otherwise organised under the applicable laws and regulations, whether for profit or otherwise, and whether privately-owned or government-owned, including any corporation, trust, partnership, joint venture, sole proprietorship, or association;

"manufacture" refers to any kind of working or processing, or specific operations;

"material''. means any ingredient, raw input, component or part that is used in the production of a product or physically incorporated into it;

"non-originating material" means any materials whose country of origin is a country other than the Parties (imported non-originating), any materials whose origin cannot be determined (undetermined origin) or a material that does not qualify as originating in accordance with this Chapter;

"originating material" means materials that qualify as originating in accordance with this Chapter;

"preferential tariff treatment" means the customs duty rate applicable to an originating product, pursuant to each Party's Schedule in Annex 2A (Schedule ,of Specific Tariff Commitments of India) and Annex 2B (Schedule of Specific Tariff Commitments of Oman);

"producer" means a person who engages in the production of a product;

"product" means that which is obtained by growing, raising, mining, harvesting, fishing, aquaculture, trapping, hunting, extracting or manufacturing, even if it is intended for later use in another manufacturing operation;

"production" refers to growing, cultivating, raising, mining, harvesting, picking, breeding, extracting, gathering, collecting, fishing, farming, aquaculture, trapping, hunting, capturing, manufacturing and processing, assembling a product or any combination thereof;

"tariff classification" means the classification of a product according to the HS, including its General Interpretative Rules and Explanatory Notes thereof;

"territorial sea" means waters extending up to 12 nautical miles from the baseline as defined by the Parties, in accordance with the United Nations Convention on the Law of the Sea, 1982; and

"value of non-originating materials" means the customs value at the time of importation of the non-originating materials used, i.e., the CIF value or, if this is not known and cannot be ascertained, the first ascertainable price paid for the materials in the territory of a Party.

Article 3.2 Application and Interpretation

1. For the purposes of this Chapter:

(a). the basis for tariff classification is the HS; and

(b) any cost and value referred to in this Chapter,

shall be recorded and maintained in accordance with the GAAP applicable in the territory of the Party in which the product is produced.

Article 3.3 Origin Criteria

1. For the purposes of this Agreement, a product shall be deemed as originating in a Party and shall be eligible for preferential treatment provided it:

(a) is wholly obtained or produced in the territory of the Party as per Article 3.4 (Wholly Obtained or Produced Product); or

(b) has undergone sufficient working or production as per the Product Specific Rules (PSR) in Annex 38 (Product Specific Rules).

2. The producer has the option to use either of the following two methods of computing the value addition criteria of a

product in the PSR in Annex 38 (Product Specific Rules):

(a) Build-down Method

(FOB value or Ex Works price) - (Value of Non Originating Materials)

VA= X 100

FOB value or Ex Works Price

(b) Build-up Method

Value of Originating Material + direct labour cost+ direct overhead cost

VA= X 100

FOB value or Ex Works Price

"VA" means the value addition in a product, expressed as a percentage.

3. In case of build-down method, the value of the non-originating materials shall be:

(a) the CIF value at the time of importation of the materials; or

(b) the earliest ascertained price paid for the materials of undetermined origin in the territory of the Party where the working or processing takes place.

4. In case of build-up method:

(a) value of originating material shall consist of:

(i) cost of materials;

(ii) freight and insurance.

(b) direct labour cost shall include:

(i) wages;

(ii) remuneration;

(iii) other employee benefits associated with the manufacturing process.

(c) direct overhead cost shall include, but not limited to:

(i) real property items associated with the production process (insurance, factory rent and leasing, depreciation on buildings, repair and maintenance, taxes, and interests on mortgage);

(ii) leasing of and interest payments for plant and equipment;

(iii) factory security;

(iv) insurance (plant, equipment and materials used in the manufacture of the products);

(v) utilities (energy, electricity, water and other utilities directly attributable to the production of the product);

(vi) research, development, design and engineering;

(vii) dies, moulds, tooling and the depreciation, maintenance and repair of plant and equipment;

(viii) royalties or licenses (in connection with patented machines or processes used in the manufacture of the product or the right to manufacture the product);

(ix) inspection and testing of materials and the products;

(x) storage and handling in the factory;

(xi) disposal of recyclable wastes;

(xii) cost elements in computing the value of raw materials, i.e., port and clearance charges and import duties paid for the

dutiable component.

5. Notwithstanding paragraph 1, the final manufacture before export must have occurred in the exporting Party.

Article 3.4

Wholly Obtained or Produced Product

1. For the purposes of this Chapter, the following products shall be considered as being wholly obtained or produced in the territory of a Party:

(a) plant and plant products, including fruits, flowers, vegetables, trees, seaweed, fungi, algae and live plants, grown, cultivated, harvested, picked or gathered there;

(b) live animals born and raised there;

(c) products obtained from live animals born or raised there;

(d) mineral products and natural resources extracted or taken from that Party's soil, waters, seabed or subsoil beneath the seabed;

(e) product obtained from hunting, trapping, fishing or aquaculture, gathering, or capturing conducted there;

(f) product of sea fishing and other marine products taken from outside its territorial sea by a vessel or produced by a factory ship registered, recorded or licensed with a Party and flying its flag;

(g) product, other than products of sea fishing and other marine products, taken or extracted from the seabed or the subsoil of the continental shelf or the exclusive economic zone of any of the Parties;

(h) waste or scrap (excluding precious metals) resulting from consumption or manufacturing operations conducted in the territory of that Party, fit only for disposal or recovery of raw materials; and

(i) product produced in the territory of that Party exclusively from product referred to in subparagraphs (a) through (h).

Article 3.5 De Minimis

1. Notwithstanding paragraph 1 of Article 3.3 (Origin Criteria), non-originating materials that do not meet the required change in tariff classification (CTC), if applicable in the product specific rule (PSR), shall be deemed originating if:

(a) their total value does not exceed 10% of the FOB value or Ex Works price of the exported product; or

(b) in the case of textiles and clothing under chapters 50-63 of the HS, the weight of the non-originating material is less than 10% of the total weight of the materials used in the production of the exported product or 10% of the FOB value or Ex Works price.

2. In the case of a wholly obtained product, a de minimis value not exceeding 10% of the FOB value or Ex Works price of the exported product is allowed.

3. For the purpose of paragraph 1, the de minimis availed under this Article shall be included in the determination of the value of non-originating materials for arriving at the applicable VA as set out in Annex 38 (Product Specific Rules).

Article 3.6

Minimal or Insufficient Operations and Processes

1. Notwithstanding any provisions in this Chapter, a product shall not be considered originating in a Party merely by undergoing any one or more of the following operations on non-originating materials in the territory of that Party:

(a) operations to ensure the preservation of products in good condition during transport, and storage (such as drying, freezing or thawing, keeping in brine, removal of damaged parts) and other similar operations;

(b) changes of packaging and breaking up and assembly of packages;

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

(d) simple1 combining operations, labelling, pressing, cleaning or dry cleaning, packaging operations, or any combination thereof;

(e) cutting to length or width and hemming, or stitching or over locking of fabrics which are readily identifiable as being intended for a particular commercial use;

(f) for textiles: trimming or joining together by sewing looping, linking or attaching accessory articles such as straps, bands, beads, cords, rings and eyelets; ironing or pressing;

(g) simple painting and polishing;

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

(i) operations to colour sugar or form sugar lumps;

U) peeling and removal of stones and shells from fruits, nuts and vegetables;

(k) unflaking, crushing, squeezing, slicing, macerating and removal of bones;

(I) sharpening, simple grinding or simple cutting and repackaging;

(m) simple operations such as removal of dust, sifting, screening, sorting, classifying, grading, matching, slitting, bending, coiling or uncoiling;

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

(o) affixing or printing marks, labels, logos and other like distinguishing signs on products or their packaging;

(p) simple mixing of products, whether or not of different kinds;

(q) mere dilution with water or another substance that does not materially alter the characteristics of the product;

1 For the purposes of this Article, "simple" describes an activity which needs neither special skills nor machines, apparatus or equipment especially produced or installed to carry out the activity.

(r) simple assembly of parts of articles to constitute a complete article or disassembly of products into parts;

(s) slaughter of animals; or

(t) simple testing, calibration, inspection or certification.

2. Operations or processes as set out in paragraph 1 of Article 3.3 (Origin Criteria) may be considered while determining eligibility of a product for preferential treatment to the extent sufficient working or production on a product includes operations or processes other than those listed in paragraph 1, or is in combination with operations or processes listed in paragraph 1.

3. Each Party shall provide that a product shall not be considered to be an originating product merely by reason of a production or pricing practice in respect of which it may be demonstrated, on the basis of a preponderance of evidence, that the object was to circumvent the provisions of this Chapter.

Article 3.7 Bilateral Cumulation

1. Originating products from the territory of a Party that are used in the production of a product in the territory of the other Party as materials for finished products shall be considered as materials originating in the territory of the other Party where the manufacture of the finished product has taken place.

2. Notwithstanding paragraph 1, the last production process should be beyond the minimal or insufficient operations as described in Article 3.6 (Minimal or Insufficient Operations and Processes).

Article 3.8

Packages, Packing Materials and Containers

1. The packages, packing materials and containers for retail sale in which a product is packed for retail sale, when classified together with the product according to Rule 5(b) of the General Rule for the Interpretation of the Harmonised System, shall be disregarded in determining whether all non-originating materials used in the manufacture of a product undergo a CTC applicable to the said product.

2. Wherever such a product is subject to value addition, the value of the packages, packing materials and containers for

retail sale in which a product is packed for retail sale shall be taken into account as originating or non-originating, as the case may be, in calculating the value addition for the product.

3. The containers and packing materials exclusively used for the transport or shipment of a product shall not be taken into account in determining the origin of the product.

Article 3.9 Accessories, Spare Parts or Tools

1. Each Party shall provide that accessories, spare parts, or tools classified and delivered with a product that forms a part of the product's standard accessories, spare parts, or tools as per standard trade practice, shall be considered as originating and part of the product in question. However, this is contingent on the following:

(a) the accessories, spare parts, or tools are not invoiced separately from the product;

(b) the quantities and value of the accessories, spare parts, or tools are customary for the product; and

(c) the value of the accessories, spare parts, or tools shall be taken into account as originating or non-originating materials, as the case may be, in calculating the value addition of the product in accordance with Article 3.3 (Origin Criteria).

Article 3.10 Indirect Materials

An indirect material shall be considered to be originating without regard to where it is produced.

Article 3.11 Accounting Segregation

1. Each Party shall provide that the determination of whether fungible products or materials are originating products shall be made ordinarily by physical segregation of each product or material; or, in case of any difficulty, an inventory management method, such as averaging, last-in, first-out, or first-in, first out, recognised in the GAAP of the Party in which the production is performed, or otherwise accepted by the Party in which the production is performed.

2. The inventory management method shall continue to be used for those fungible products or materials throughout the fiscal year of the Party and shall be recorded, applied and maintained in accordance with the GAAP applicable in the Party in which the product is manufactured. The inventory management method chosen must:

(a) permit a clear distinction to be made between originating and non-originating materials including materials of undetermined origin acquired or kept in stock; and

(b) guarantee over the relevant accounting period of 12 months that no more products receive originating status than would be the case if the materials had been physically segregated.

3. A producer using an inventory management system shall keep records of the operation of the system that are necessary for the competent authority of the Party concerned to verify compliance with the provisions of this Chapter.

4. The competent authority may require from its exporters that the application of the method for managing stocks as provided for in this Article will be subject to prior authorisation.

Article 3.12 Direct Consignment

1. The originating product of a Party shall be deemed to meet the direct consignment criteria under this Chapter when they are:

(a) transported directly from the territory of that Party to the territory of the other Party; or

(b) transported through the territory or territories of one or more non-Parties for the purpose of transit in such territory or territories, provided that:

(i) the products remain under customs control in the territory of a non-Party and have not entered the trade or consumption in the non-Party;

(ii) the products do not undergo operations other than unloading, reloading or operations necessary to preserve them in good condition; and

(iii) the transit entry is justified for geographical reason and by considerations related exclusively to transport requirements.

2. Evidence that the conditions set out in paragraph 1 have been fulfilled shall be supplied to the customs authorities of the importing Party, on request, by the production of bill of lading/airway bill and any other relevant transport document

covering the passage from the exporting Party to the importing Party, including through the country of transit where applicable.

3. An importer shall, upon request, provide a certificate issued by the customs authorities of the country of transit mentioning the following information:

(a) giving an exact description of the products;

(b) stating the dates of unloading and reloading of the products and, where applicable, the names of the ships, or the other means of transport used; and

(c) certifying that the products remained under customs control in the territory of the non-Party, and did not enter into trade or commerce in the non-Party.

Article 3.13 Proof of Origin

1. For products originating in a Party and otherwise fulfilling the requirements of this Chapter, the proof of origin of an exported product shall be provided through any of the following means:

(a) a Certificate of Origin in electronic or hard copy format issued by issuing authority referred to in Article 3.14 (Certificate of Origin and Certification Procedures), signed and stamped by the exporter, electronically or otherwise:

(i) till the system of electronic signing and stamping is instituted for the exporter by either party, the exporter should manually append the signature and stamp on the printed Certificate of Origin issued by the issuing authority; and

(ii) in case the electronic Certificate of Origin cannot be issued by the issuing authority due to technical difficulties, a printed Certificate of Origin, issued with the official stamp of the issuing authority;

(b) a fully digitised Certificate of Origin (e-certificate) issued by issuing authority and exchanged by a mutually developed electronic system in accordance with Article 3.33 (Exchange of Electronic Data on Origin); or

(c) an origin declaration, when agreed by the Parties, in accordance with Article 3.34 (Origin Declaration).

2. A Certificate of Origin shall be valid for 12 months from the date of issue in the exporting Party.

3. The Certificate of Origin shall be submitted to the Customs Administration of the importing Party in accordance with the procedures applicable in that Party.

Article 3.14

Certificate of Origin and Certification Procedures

1. The Certificate of Origin shall be as per the format in Annex 3C (Certificate of Origin Template).

2. The Certificate of Origin shall be in the English language.

3. The Certificate of Origin shall bear a unique, sequential serial number separate for each office of issuance and affixed by the issuing authority in the exporting Party. In case of issuance of electronic Certificate of Origin, it shall bear a QR code as well.

4. The Certificate of Origin .will be issued by the issuing authority of each Party. It shall bear the official stamp of the issuing authority.

5. The Certificate of Origin shall be valid for only one import declaration and may include one or more products.

6. The number and date of the commercial invoice or any other relevant documents shall be indicated in the box reserved for this purpose in the Certificate of Origin.

7. The Certificate of Origin shall be submitted within its validity period.

8. In exceptional circumstances, the Certificate of Origin may be accepted by the Customs Administration of the importing Party for the purpose of granting preferential tariff treatment even after the expiry of its validity, provided'that the failure to observe the time limit 'results from force majeure or other valid reasons beyond the control of the exporter and the products have been imported before the expiry of the validity period of the said Certificate of Origin.

9. The Certificate of Origin shall be forwarded by the exporter to the importer. The customs authorities may require the original copy in case of manual issuance of Certificate of Origin.

10. Neither erasures nor superimposition shall be allowed on the Certificate of Origin. A new certificate of origin may be issued to replace the erroneous one.

11. The Certificate of Origin shall be issued either prior to, or within 5 working days from the date of exportation. However, under exceptional cases, where a Certificate of Origin has not been issued prior to, or within 5 working days from the date of exportation due to involuntary errors or omissions, or any other valid reasons, the Certificate of Origin may be issued retrospectively, bearing the words "ISSUED RETROSPECTIVELY" in box 4 of the Certificate of Origin, with the issuing authority also recording the reasons in writing on the exceptional circumstances due to which the certificate was issued retrospectively. The Certificate of Origin can be issued retrospectively within 12 months from the date of shipment.

12. In the event of theft, loss or destruction of a physical copy of the Certificate(t) of Origin, the producer, exporter or their authorised representative may apply in writing to the issuing authority for a certified true copy of the original Certificate of Origin made on the basis of the export documents in their possession bearing the endorsement of the words "CERTIFIED TRUE COPY" (in lieu of the original certificate) and the date of issuance of the original Certificate of Origin. The certified true copy of a Certificate of Origin shall be issued within the validity period of the original Certificate of Origin. The exporter shall immediately notify the theft, loss or destruction and undertake not to use the original Certificate of Origin for exports under this Agreement to the competent authority.

13. Minor discrepancies between the Certificate of Origin and the documents submitted to the Customs Administration at the port of importation for the purpose of carrying out the formalities for importing the products shall not ipso facto invalidate the Certificate of Origin, if such Certificate of Origin corresponds to the products under importation. Minor discrepancies include typing errors or formatting errors, subject to the condition that these minor errors do not affect the authenticity of the Certificate of Origin or the accuracy of the information included in the Certificate of Origin. For greater clarity, discrepancies in the specimen stamps of the issuing authority shall not be regarded as minor discrepancies.

Article 3.15 Third-party Invoicing

1. An importing Party shall not deny a claim for preferential tariff treatment for the sole reason that an invoice was not issued by the exporter or producer of a product, provided that it meets the requirements in this Chapter.

2. The exporter of the products shall indicate "third-party invoicing" and such information as name, address, invoice date and number, and the country of the company issuing the invoice shall appear in box 7 of the Certificate of Origin as per the format in Annex 3C (Certificate of Origin Template).

Article 3.16 Authorities

1. The Certificate of Origin shall be issued by an issuing authority of a Party.

2. Each Party shall inform the competent authorities and the Customs Administration of the other Party of the names and addresses of the officials of the issuing authority designated to issue Certificates of Origin under this Chapter.

3. The Parties shall exchange specimen stamps of the authorities issuing the Certificate of Origin.

4. Each Party shall intimate the name, designation and contact details (address, phone number and e-mail) of its authorities:

(a) to whom the specimen stamps of the issuing authorities of the other Party should be communicated:

(i) India: CBIC, Department of Revenue, Government of India.

(ii) Oman: Ministry of Commerce, Industry and Investment Promotion or any other relevant authority as notified by Oman.

(b) to whom the references of verification of the Certificate of Origin issued by the Party, should be addressed:

(i) India: Department of Commerce, Government of India.

(ii) Oman: Ministry of Commerce, Industry and Investment Promotion.

(c) from whom the specimen stamps of the issuing authority of the other Party would be received:

(i) India: Department of Commerce, Government of India.

(ii) Oman: Ministry of Commerce, Industry and Investment Promotion.

(d) from whom references would emanate for verification of the Certificate of Origin issued by the other Party:

(i) India: CBIC, Department of Revenue, Government of India.

(ii) Oman: Ministry of Commerce, Industry and Investment Promotion.

5. Any change in the officials' stamps shall be promptly informed to the other Party.

6. Each Party shall, within 30 days of the date of er:itry into force of this Agreement for that Party, designate one or more contact points within its competent authority for the implementation of this Chapter and shall notify the other Party of the contact details of that contact point or those contact points. Each Party shall promptly notify the other Party of any change to those contact details.

7. Any changes in authorities or agencies shall be promptly notified to the other Party. Such changes shall come into effect after 30 days from the date of receipt of the notice by the other Party (the receiving Party). The receiving Party shall acknowledge the receipt of such notice within 7 days of th'e receipt of the notice.

Article 3.17 Application for Certificate of Origin

1. For the issuance of a Certificate of Origin, the final producer or exporter of the product shall present, or submit electronically to the issuing authority of the exporting Party, in accordance with the procedure laid down by each Party's laws and regulations, the following:

(a) an application to the issuing authority together with the appropriate supporting documents for proving origin;

(b) set of minimum information requirements referred to in Annex 3A (Minimum Required Information) in whichever form or format as may be required by the issuing authority and in consonance with the description in the invoice;

(c) the corresponding commercial invoice or other documents necessary to establish the origin of the product; and

(d) the HS code, description, quantity and value of exported product if the same has already not been provided for.

2. Multiple items declared on the same Certificate of Origin, shall be allowed, provided that each item qualifies separately in its own right.

3. The issuing authority may apply a risk management system in order to selectively conduct pre-export verification of the minimum required information filed by an exporter or producer. The verification may, at the discretion of the issuing authority, include methods such as obtaining detailed cost sheets, and conducting a factory visit.

Article 3.18 Record Keeping

1. The issuing authorities shall keep the minimum required information and supporting documents for a period not less than 5 years from the date of issuance of the Certificate of Origin.

2. The importer shall keep records relevant to the importation in accordance with the laws and regulations of the importing Party. The application for Certificates of Origin and all documents related to such application shall be retained by the issuing authority for not less than 5 years from the date of issue.

3. The records in paragraphs 1 and 2 may include electronic records and shall be maintained in accordance with the laws and regulations of each Party.

Article 3.19

Obligations of the Exporter or Producer

1. The exporter or producer shall submit the minimum required information, as referred in paragraph 1(b) of Article 3.17 (Application for Certificate of Origin), and supporting documents for the issue of the Certificate of Origin as per the procedures followed by the issuing authority in the exporting Party only in cases where a product conforms to the Rules of Origin provided in this Chapter.

2. Any exporter or producer who falsely represents any material information relevant to the determination of origin of a product shall be liable to be penalised under the laws and regulations of the exporting Party.

3. The exporter or producer shall keep the minimum required information, as referred in subparagraph 1(b) of Article 3.17 (Application for Certificate of Origin), and supporting documents for a period not less than 5 years from the date of issuance of the Certificate of Origin or the date of export, whichever is earlier.

4. For the purpose of the determination of origin, the exporter or producer applying for a Certificate of Origin or Origin Declaration under this Chapter shall maintain appropriate commercial accounting records for the production and supply of products (as well as relevant records and documents from the suppliers) qualifying for preferential treatment and keep all

commercial and customs documentation relating to the material used in the production of the product, including breakup of costs relating to material, labour, other overheads, and any other relevant elements, such as profits and related components for at least 5 years from the date of issuance of the Certificate of Origin or the date of export, whichever is earlier. The exporter or producer shall promptly, upon request of the competent authority of the exporting Party, where the Certificate of Origin has been issued, make available records for inspection to enable verification of the origin of the product.

5. The exporter or producer shall not deny any request for a verification visit, agreed between the competent authority of the exporting Party and the competent authority of the importing Party, under the terms of Article 3.21 (Verification of Certificates of Origin). Any failure to consent to a verification visit shall be grounds for a denial of preferential tariff treatment claimed under this Agreement.

6. If the exporter or producer has reason to believe that the Certificate of Origin is based on incorrect information that could affect the accuracy or validity of the Certificate of Origin, they shall be obliged to immediately notify the issuing authority or competent authority in writing of any change affecting the originating status of each product to which the Certificate of Origin applies.

Article 3.20

Presentations of the Certificate of Origin

1. For the purposes of claiming preferential tariff treatment, the importer or its authorised representative shall submit to the Customs Administration of the importing Party, at the time of filing import declaration, the Certificate of Origin including supporting documentation and other documents as required, in accordance with the laws and regulations of the importing Party.

2. If a claim for preferential treatment 1s made without producing the original copy of the Proof of Origin as referred to in Article 3.14 (Certificate of Origin and Certification Procedures), the Customs Administration of the importing Party may deny preferential tariff treatment and request a guarantee in any of its modalities or may take any action necessary in order to preserve fiscal interests, as a pre-condition for the completion of the importation operations subject to and in accordance with the laws, regulations and procedures of the importing Party.

3. Each Party shall, in accordance with its laws and regulations, provide for a refund of any excess duties paid as a result of the product not having been accorded preferential treatment if a product would have qualified as an originating product when it was imported into the territory of that Party. The importer of the product may, within a period of 1 year from the date of importation or the period as specified by the laws of the importing Party, apply for a refund of any excess duties paid as a result of the product not having been accorded preferential treatment at the time of importation, provided that the importer formally declares to the Customs Administration of the importing Party that the product in question qualified as an originating product in accordance with the importing Party's laws and regulations.

4. Each Party shall provide that if the importer has reason to believe that the claim for preferential tariff treatment is based on incorrect information that could affect the accuracy or validity of the Certificate of Origin, the importer shall correct the importation document, and pay any customs duty and, if applicable, penalties owed.

Article 3.21

Verification of Certificates of Origin

1. For the purpose of determining the authenticity and the correctness of the information given in the Certificate of Origin, the importing Party may conduct verification by means of:

(a) requests for information from the importer;

(b) requests for assistance from the competent authority of the exporting Party as provided for in paragraph 2;

(c) written questionnaires to an exporter or a producer in the territory of the other Party through the competent authority of the exporting Party;

(d) in exceptional circumstances, visits to the premises of an exporter or a producer in the territory of the other Party; or

(e) such other procedures as the Parties may agree.

2. For the purposes of subparagraph 1(b), the competent authority of the importing Party, in accordance with its laws and regulations:

(a) may request, in writing, from the competent authority of the exporting Party to assist it in verifying:

(i) the authenticity of a Certificate of Origin;

(ii) the accuracy of any information contained in the Certificate of Origin; or

(iii) the authenticity and accuracy of the information and documents, including breakup of costs relating to material, labour, other overheads and any other relevant elements such as profits and related components which are relevant to the origin determination of the product under Article 3.3 (Origin Criteria);

(b) shall provide the competent authority of the exporting Party with:

(i) the reasons why such assistance is sought;

(ii) the Certificate of Origin, or a copy thereof; and

(iii) any information and documents as may be necessary for the purpose of providing such assistance.

3. In so far as possible, the competent authority of the importing Party conducting a verification shall seek necessary information or documents relating to the origin of imported product from the importer, in accordance with its laws and regulations, before making any request to the competent authority of the exporting Party for verification.

4. In cases where the competent authority of the importing Party deems it necessary to seek a verification from the competent authority of the exporting Party, it shall specify in its written request whether the verification is on a random basis, or the veracity of the information is in doubt. In case the determination of origin is in doubt, the competent authority of the importing Party shall provide detailed grounds for the doubt concerning the veracity of the Certificate of Origin.

5. The proceedings of verification of origin as provided in this Chapter shall also apply to the pro9ucts already cleared for home consumption under preferential tariffs in accordance with this Agreement.

Article 3.22 Procedure for Verification

1. Any request made pursuant to Article 3.21 (Verification of Certificates of Origin) shall be in accordance with the procedures set forth in this Article and shall be conducted in a transparent, objective, and non-discriminatory manner.

2. In cases where the competent authority of the importing Party seeks to verify the veracity of the claim for preferential tariff treatment, including the basis of such claim, it shall make a written request or send a questionnaire seeking information from the importer of the product.

3. The importer shall respond to the verification request or questionnaire within 10 working days from the date of receipt of such request, if the request is on the ground of suspicion in respect of the claim for preferential tariff treatment in respect of the product and the information and documents which form the basis of such claim.

4. Where the importer fails to provide requisite information and documents by the prescribed due date in subparagraph 3 or where the information and documents received from the importer are found to be insufficient to conclude that the origin criteria prescribed in the respective rules of origin have been met, the competent authority of the importing Party shall request the competent authority of the exporting Party:

(a) by providing a copy of the Certificate of Origin and any supporting document such as an invoice, packing list, bill of lading or airway bill, etc.

(b) by specifying whether it requires a verification of the genuineness of the Certificate of Origin to rule out any forgery, seeks the minimum required information with the supporting documents or seeks to verify the determination of origin.

5. In cases where the competent authority of the importing Party seeks to verify the authenticity of the Certificate of Origin, accuracy of the information contained in the certificate or a copy of the minimum required information set out in Annex 3A (Minimum Required Information), along with supporting documents based on which origin was claimed, the competent authority of the importing Party shall send a written request for the same to the competent authority of the exporting Party.

6. In cases where the Customs Administration of the importing Party seeks to verify the determination of origin, the competent authority of the importing Party shall send a questionnaire to the competent authorities of the exporting Party, which shall be passed on to the exporter or producer, for such inquiry or documents, as necessary.

7. The competent authority of the exporting Party shall provide the information and documentation requested by the Customs Administration of the importing Party, within the following time periods from the date of receipt of the request:

(a) 15 days, where the request pertains to the authenticity of the Certificate of Origin, including the stamp of the issuing authority;

(b) 30 days, where the request seeks a copy of the relevant document with the minimum required information; or

(c) 90 days, where the request is on the grounds of suspicion of the accuracy of the determination of origin of the product. This period may be extended by mutual consultation between the Customs Administration of the importing Party and the issuing authority of the exporting Party for a period not more than 60 days.

8. If, upon receiving the results of the verification questionnaire pursuant to paragraphs 5 and 6, the competent authority of the importing Party has reasons to believe and therefore deems it necessary to request further investigative actions or information, the competent authority of the importing Party shall communicate the fact to the competent authority of the exporting Party in writing. The term for the execution of such new actions, or for the presentation of additional information, shall not be more than 90 days from the date of the receipt of the request for the additional information.

9. If, upon receiving the results of the verification pursuant to paragraphs 5 and 6, the competent authority of the importing Party deems it necessary to conduct a verification visit, it may deliver a written request to the competent authority of the exporting Party to facilitate a visit to the premises of the exporter or producer with a view to examining the records, production processes, as well as the equipment and tools utilised in the manufacture of the product under verification.

10. The request for a verification visit shall be made no later than 30 days of the receipt of the verification report referred to in paragraphs 5 and 6. The requested Party shall promptly inform the dates of the visit, but no later than 45 days of the receipt of request and give a notice of at least 21 days to the requesting Party and exporter or producer so as to enable arrangements for the visit.

11. The competent authorities of the exporting Party shall accompany the authorities of the importing Party during the verification visit. Such visits may include the participation of specialists acting as observers. Each Party can designate specialists, who shall be neutral and have no interest whatsoever in the verification. Each Party may deny the participation of such specialists whenever the latter represent the interests of the companies involved in the verification.

12. Participants in the visit shall subscribe to a "Record of Visit" within 60 days of the conclusion of the visit. The said record shall contain the following information:

(a) date and place of the visit;

(b) identification of the Certificate of Origin which led to the verification;

(c) identification of the products under verification;

(d) identification of the participants, including the institutions they represent; and

(e) a record of the proceedings.

Article 3.23 Release of Products

Upon reasonable suspicion regarding the origin of the products, the importing Party, subject to and in accordance with its laws and regulations, may as a condition for the release of the products:

(a) request the importer to provide a guarantee in any of its modalities; or

(b) take any action necessary in order to preserve fiscal interests as a pre-condition for the completion of the importation operations.

Article 3.24 Confidentiality

1. The information obtained by the competent authority of the importing Party may be used for the purpose of at a decision regarding the determination of origin in respect of the product under verification or during legal proceedings concerning issues under this Chapter and in accordance with each Party’s respective laws and regulations.

2. Each Party shall protect such information from any unauthorised disclosure, in accordance with-its respective laws and regulations.

Article 3.25

Denial of Preferential Treatment

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

(a) the importing party determines that the products do not meet the requirements of this Chapter;

(b) the importer, exporter or producer fails to comply with the relevant requirements of this Chapter including those in Article 3.18 (Record Keeping), Article 3.19 (Obligations of the Exporter or Producer) or Article 3.22 (Procedure for Verification);

(c) the Certificate of Origin does not meet the requirements of this Chapter; or

(d) the exporting Party refuses or fails to respond to the competent authority of the importing Party in accordance with Article 3.22 (Procedure for Verification).

2. In cases where the Certificate of Origin is rejected by the Customs Administration of the importing Party, after following the due process provided under its laws, a copy of the decision, containing the grounds of rejection, shall be notified to the importer.

Article 3.26

Products Complying with Rules of Origin

If a verification conducted under Article 3.21 (Verification of Certificates of Origin), determines that the products comply with the rules of origin under this Chapter, the importer shall be promptly refunded the duties paid in excess of the preferential duty or release guarantees obtained in accordance with importing Party's laws and regulations.

Article 3.27

Prospective Restoration of Preferential Benefits

1. Where preferential treatment for a product has been denied by the Customs Administration of the importing Party prospectively or retrospectively, the exporter or producer may take recourse to the procedure in paragraph 2 in respect of future exports to the importing Party.

2. Such exporter or producer shall clearly demonstrate to the satisfaction of the competent authority of the exporting Party that the manufacturing conditions were modified so as to fulfil the origin requirements of the rules of origin under this Chapter.

3. The competent authority of the exporting Party shall send the information to the competent authority of the importing Party explaining the changes carried out by the exporter or producer in the manufacturing conditions as a consequence of which the products fulfil the origin criterion.

4. If deemed necessary, the competent authority of the importing Party, shall within 45 days from the date of the receipt of the information, request for a verification visit to the producer's premises, for satisfying itself of the veracity of the claims of the exporter or producer referred in paragraph 2.

5. The prospective restoration of preferential benefits would be granted by the competent authority of the importing Party, if the veracity of the claims of the exporter or producer are established.

6. If the competent authorities of the Parties fail to agree on the fulfilment of the rules of origin under this Chapter subsequent to the modification of the manufacturing conditions, they may refer the matter to the Subcommittee established under Article 3.31 (Cooperation) for a decision.

Article 3.28

Temporary Suspension of Preferential Treatment

1. The importing Party may suspend the preferential tariff treatment in respect of a product originating in the exporting Party when the suspension is justified due to persistent failure to comply with the provisions of this Chapter by an exporter or producer in the exporting Party or a persistent failure on the part of the competent authority of the exporting Party to respond to a request for verification.

2. The importing Party shall, within 90 days from the date of suspension of the preferential tariff treatment for a product, notify the exporting Party in writing of the reasons for such suspension.

3. Upon receipt of the notification of the suspension, the competent authority of the exporting Party may request consultations.

4. The consultations may be conducted by electronic means, including, video conference, or by in-person meetings, as mutually agreed, and may also involve joint verification.

5. Pursuant to the consultations between the Parties, and such measures as they may mutually agree, the Parties shall resolve to:

(a) restore preferential tariff treatment to the product with retrospective effect;

(b) restore preferential tariff treatment to the product with prospective effect, subject to implementation of any mutually agreed measures by one or both Parties; or

(c) continue with the suspension of preferential tariff treatment to the product, subject to remedies available under Article 3.27 (Prospective Restoration of Preferential Benefits).

Article 3.29

Non-Compliance of Products with Rules of Origin and Penalties

1. If the verification under Article 3.21 (Verification of Certificates of Origin) establishes the non-compliance of products with the rules of origin, duties shall be levied in accordance with the laws and regulations of the importing Party.

2. Each Party shall also adopt or maintain measures that provide for the imposition of sanctions for violations of its customs laws and regulations, including those governing rules of origin and the entitlement to preferential tariff treatment under this Agreement.

Article 3.30 Relevant Dates

The time periods set out in this Chapter shall be calculated on a consecutive day basis from the day following the fact or event to which they refer.

Article 3.31 Cooperation

1. The Parties hereby establish a. Subcommittee on Rules of Origin to oversee the implementation of this Chapter, under the CTG.

2. The Subcommittee on Rules of Origin shall comprise of officials of the competent authorities, the Customs Administration and the issuing authorities of the Parties.

3. The Subcommittee on Rules of Origin shall meet at least once annually for the furtherance of the objectives of this Chapter, including to enhance mutual capacity building to facilitate the smooth implementation of the procedures under this Chapter and to explore ways and means for utilising information technology-enabled services for the issuance and verification of the Certificate of Origin.

4. The Subcommittee on Rules of Origin will also evaluate and decide on whether to continue with the issuance of the Certificate of Origin by the issuing authority of each Party, or to switch to self-certification procedures. If either Party is not ready to switch to self-certification during the first regular review session, the issue shall be deferred to subsequent reviews until such time where both Parties can agree to adopt the self-certification procedures.

5. The Subcommittee on Rules of Origin may refer any matter to the Joint Committee.

Article 3.32 Consultation and Modifications

1. The Parties shall consult and cooperate through the Subcommittee on Rules of Origin as appropriate to:

(a) ensure that this Chapter is applied in an effective and uniform manner; and

(b) discuss necessary amendments to this Chapter, taking into account developments in technology, production processes, and other related matters.

Article 3.33

Exchange of Electronic Data on Origin

The Parties endeavour to develop an electronic system for information exchange on origin to ensure the effective and efficient implementation of this Chapter particularly on transmission of electronic Certificate of Origin.

Article 3.34 Origin Declaration

For the purposes of subparagraph 1(c) of Article 3.13 (Proof of Origin), the Parties endeavour to negotiate, agree on, and implement provisions allowing each competent authority to recognise an origin declaration made by an approved exporter.

Chapter 4. SANITARY AND PHYTOSANITARY MEASURES

Article 4.1 Definitions

For the purposes of this Chapter:

1. "SPS Agreement" means the Agreement on the Application of Sanitary and Phytosanitary Measures, set out in Annex 1A to the WTO Agreement.

2. The definitions under Annex A of the SPS Agreement shall apply.

3. Relevant definitions developed by Codex Alimentarius Commission (Codex), the World Organisation for Animal Health (WOAH), and the International Plant Protection Convention (IPPC) shall apply.

4.- '"Competent authorities" mean those authorities within each Party recognised by the national government as responsible for developing and administering the SPS measures within that Party.

5. An "emergency measure" means a sanitary or phytosanitary measure that is applied by a Party to products of the other Party to address an urgent problem of human, animal or plant life or health protection that arises or threatens to arise in the Party applying the measure.

Article 4.2 Objectives

1. The objectives of this Chapter are to:

(a) protect human, animal or plant life or health in the territories of the Parties while facilitating trade between them;

(b) reinforce the SPS Agreement;

(c) strengthen communication, consultation, and cooperation between the Parties, and particularly between the Parties' competent authorities;

(d) ensure that sanitary or phytosanitary measures implemented by a Party do not create unjustified barriers to trade;

(e) enhance transpareney in and understanding of the-application of each Party's sanitary and phytosanitary measures; and

(f) encourage the development and adoption of science-based international standards, guidelines, and recommendations, and promote their implementation by the Parties.

Article 4.3 Scope

This Chapter shall apply to all sanitary and phytosanitary measures of a Party that may, directly or indirectly, affect trade between the Parties.

Article 4.4 General Provision

1. The Parties affirm their rights and obligations with respect to each other under the SPS Agreement.

2. In the event of any conflict between the definitions under the SPS Agreement and any of the other sources specified in paragraph 3 of Article 4.1 (Definitions), the definitions under the SPS Agreement shall prevail.

Article 4.5 Equivalence

1. Both Parties shall strengthen cooperation on equivalence in accordance with Article 4 of the SPS Agreement while taking into account relevant decisions of the WTO SPS Committee and international standards, guidelines and recommendations, in accordance with Annex A of the SPS Agreement, mutatis mutandis.

2. The importing Party shall recognise the equivalence of a sanitary and phytosanitary measure if the exporting Party objectively demonstrates to the importing Party that its measure achieves the same level of protection as the importing Party's measure or that its measure has the same effect in achieving the objective as the importing Party's measure.

3. In determining equivalence, the importing Party shall take into account existing knowledge, information and experience as well as the regulatory competence of the exporting Party.

4. A Party shall, upon request, enter into consultation with the aim of achieving bilateral recognition arrangements of equivalence of specified sanitary and phytosanitary measures. The recognition of equivalence may be with respect to a single measure, group of measures or on a systems-wide basis. For this purpose, reasonable access shall be given, upon request, to the importing Party for inspection, testing and other relevant procedures.

5. As part of the consultation for equivalence recognition, on request by the exporting Party, the importing Party shall explain and provide:

(a) the rationale and objective of its measures; and

(b) the specific risks its measures are intended to address.

6. The exporting Party shall provide necessary information for the importing Party to commence an equivalence assessment. Once the assessment commences, the importing Party shall, without undue delay and upon request, explain the process and plan for making an equivalence determination.

7. The consideration by a Party of a request from the other Party for recognition of equivalence of its measures with regard to a specific product, or group of products, shall not be in itself a reason to disrupt or suspend ongoing imports from the Party of the product(s) in question.

8. When the importing Party recognises the equivalence of the exporting Party's specific sanitary and phytosanitary measure, group of measures or measures on a systems-wide basis, the importing Party shall communicate the decision in writing to the exporting Party and implement the measure within a reasonable period of time. The rationale shall be provided in writing by the importing Party in the event that the decision is negative.

9. The importing Party may withdraw or suspend equivalence on the basis of any amendment, by one of the Parties, of measures affecting equivalence, in accordance with the following provisions:

(a) the exporting Party shall inform the importing Party of any proposal for amendment of its measures for which equivalence of measures is recognised and the likely effect of the proposed measures on the equivalence which has been recognised;

(b) within 60 working days or as mutually agreed by the Parties on receipt of this information, the importing Party shall inform the exporting Party whether or not equivalence would continue to be recognised on the basis of the proposed measures;

(c) the importing Party shall inform the exporting Party of any proposal for amendment of its measures on which recognition of equivalence has been based and the likely effect of the proposed measures on the equivalence which has been recognised; and

(d) in case of non-recognition or withdrawal or suspension of equivalence, the importing Party shall indicate to the exporting Party the required conditions on which the process referred to in paragraphs 4 and 5 may be reinitiated, provided that the timelines of paragraph 6 shall be adhered to in any process for re-assessment of equivalence.

10. The withdrawal or suspension of equivalence rests solely with the importing Party acting in accordance with its administrative and legislative framework which shall adhere to the international standards, guidelines and recommendations. The importing Party shall provide to the exporting Party, upon request, an explanation for its determinations and decisions, except for disclosure of confidential data.

11. Compliance by an exported product that has been accepted as equivalent to sanitary and phytosanitary measures and standards of the importing Party shall not remove the need for that product to comply with any other relevant mandatory requirements of the importing Party.

Article 4.6

Adaptation to Regional Conditions, including Pest- or Disease-Free Areas and Areas of Low Pest or Disease Prevalence

1. Both Parties recognise the concepts of regional conditions, including pest-or disease-free_areas and areas of low pest or disease prevalence, zoning and compertmentalisation. Parties shall take into account the relevant decisions of the WTO SPS Committee and international standards, guidelines, and recommendations.

2. Both Parties may cooperate on the recognition of regional conditions with the objective of acquiring confidence in the procedures followed by each other for such recognition.

3. At the request of the exporting Party, the importing Party shall, without undue delay, explain its process and plan for

making the determination of regional conditions.

4. When the importing Party has received a request for a determination of regional conditions from the exporting Party, and has determined that the information provided by the exporting Party is sufficient, it shall initiate the assessment within a reasonable period of time.

5. For this assessment, reasonable access shall be given, upon request, to the importing Party for inspection, testing and other relevant procedures.

6. On request of the exporting Party, the importing Party shall inform the exporting Party of the status of the assessment.

7. When the importing Party recognises specific regional conditions of an exporting Party, the importing Party shall communicate that decision to the exporting Party in writing and implement the measures within a reasonable period of time.

8. If the evaluation of the evidence provided by the exporting Party does not result in a decision by the importing Party to recognise the regional conditions, the importing Party shall provide the exporting Party the rationale for its decision in writing within a reasonable period of time.

9. Where a determination recognising regional conditions is made, the Parties are encouraged, where mutually agreed, to report the outcome to the WTO SPS Committee.

Article 4.7 Risk Analysis

1. The Parties shall strengthen their cooperation on risk analysis in accordance with the SPS Agreement while taking into account the relevant decisions of the WTO SPS Committee and international standards, guidelines, and recommendations.

2. When conducting a risk analysis, an importing Party shall:

(a) ensure that the risk analysis is documented and that it provides the exporting Party with an opportunity to comment in a manner to be determined by the importing Party;

(b) consider risk management options that are not more trade restrictive than required to achieve its appropriate level of sanitary or phytosanitary protection; and

(c) select a risk management option that is not more trade restrictive than required to achieve its appropriate level of sanitary or phytosanitary protection, taking into account technical and economic feasibility.

3. On request of the exporting Party, the importing Party shall inform the exporting Party of the progress of a··specific risk analysis request, and of any delay that may occur during the process.

4. Without prejudice to the Parties' right to take emergency measures consistent with Article 4.9 (Emergency Measures), no Party shall stop the importation of a good of the other Party solely for the reason that the importing Party is undertaking a review of a sanitary or phytosanitary measure, if the importing Party permitted importation of the good of the other Party at the time of the initiation of the review.

Article 4.8

Audit, Certification and Import Checks

1. The Parties shall ensure that their import procedures comply with Annex C of the SPS Agreement including audit, certification, and import checks.

2. When conducting an audit, the Parties agree that:

(a) audits shall be systems-based and designed to check the effectiveness of the regulatory controls of the competent authorities of the exporting Party. Audits may include an assessment of the competent authorities' control programme, including, where appropriate, reviews of the inspection and audit programmes, and on-site inspections of facilities, without prejudice to the rights of a Party to seek market access on the basis of individual inspection and audits;

(b) prior to commencement of an audit, both Parties shall discuss and agree, inter alia:

(i) the rationale for and the objectives and scope of the audit;

(ii) the criteria or requirements against which the exporting Party will be assessed; and

(iii) the itinerary and procedures for conducting the audit;

(c) the auditing Party shall provide the audited Party the opportunity to comment on the finding of an audit and take any such comments into account before making its conclusions and taking any action;

(d) any decisions or actions taken by the auditing Party as a result of the audit shall be supported by objective evidence and data which can be verified, taking into account the knowledge, relevant experience, and confidence that the auditing Party has with the audited Party. Any such objective evidence and data shall be provided to the audited Party on request;

(e) any costs incurred by the auditing Party shall be borne by the auditing Party, unless the Parties agree otherwise; and

(f) the auditing Party and the audited Party shall each ensure that procedures are in place to prevent the disclosure of confidential information acquired during the auditing process.

3. When conducting certification, the Parties agree that:

(a) where certification is required for trade in a product, the importing Party shall ensure such certification is applied, in meeting its sanitary or phytosanitary objectives, only to the extent necessary to protect human, animal and plant life or health;

(b) in applying certification requirements, each Party shall take into account relevant decisions from the WTO SPS Committee and international standards, guidelines, and recommendations;

(c) the Parties shall promote the implementation of electronic certification and other technologies to facilitate trade; and

(d) without prejudice to each Party's right to use import controls, the importing Party shall accept certificates issued by the competent authorities in compliance with the regulatory requirements of the importing Party.

4. When conducting import checks, the Parties agree that:

(a) both Parties shall ensure that their control, inspection and approval procedures are in accordance with Annex C of the SPS Agreement;

(b) the import checks applied to imported animals, animal products, plants and plant products traded between the Parties shall be based on the risk associated with such importations. The import checks shall be carried out in a manner that is appropriate to the risk involved, without undue delay, and shall be least trade-restrictive; and

(c) unless there is a clearly identified risk in holding a consignment, the consignment shall not be destroyed without affording an opportunity to the importer to take back the consignment.

5. In the case of non-compliant consignments, both Parties agree to share relevant laboratory reports, if any.

Article 4.9 Emergency Measures

1. If a Party adopts an emergency measure that is necessary for the protection of human, animal or plant life or health and that may have an effect on trade, the Party shall promptly notify, in writing, in the English language, the other Party of that measure through the relevant contact point referred to in Article 4.13 (Contact Points and Competent Authorities). The importing Party shall take into consideration any information provided by the other Party in response to the notification.

2. If a Party adopts an emergency measure, it shall review the measure within 8 months or any other such time as agreed by the Parties and make available the results of the review to the other Party on request. If the emergency measure is maintained after the review, because the reason for its adoption remains, the Party may review the measure every 6 months.

Article 4.10 Transparency

1. The Parties recognise the value of transparency in the adoption and application of sanitary and phytosanitary measures and the importance of sharing information on such measures on an ongoing basis.

2. Each Party shall notify proposed measures or changes to sanitary or phytosanitary measures that may have a significant effect on the trade of the other Party through the online WTO Sanitary and Phytosanitary Measures Notifiyation Submission System, the contact points designated under Article 4.13 (Contact Points and Competent Authorities), or through already established communication channels of the Parties.

3. In implementing this Article, both Parties shall take into account relevant decisions of the WTO SPS Committee and international standards, guidelines, and recommendations.

4. A Party, upon request from the other Party, shall provide relevant information and clarification regarding any sanitary or phytosanitary measure to the requesting Party within a reasonable period of time including:

(a) the sanitary and phytosanitary requirements that apply for the import of specific products;

(b) the status of the Party's application; and

(c) the procedures for the authorisation of specific products.

5. Unless urgent problems of human, animal or plant life or health protection arise or threaten to arise, or the measure is of a trade-facilitating nature, the Party proposing a sanitary or phytosanitary measure shall normally allow at leasf 60 days for the other Party to provide written comments on the proposed measure after it makes a notification under paragraph 2. If feasible and appropriate, the Party proposing the measure should allow more than 60 days. The Party shall consider any reasonable request from the other Party to extend the comment period. On request of the other Party, the Party proposing the measure shall respond to the written comments of the other Party in an appropriate manner.

6. A Party that proposes to adopt a sanitary or phytosanitary measure shall discuss with the other Party, on request, and if appropriate and feasible, any scientific or trade concerns that the other Party may raise regarding the proposed measure and the availability of alternative, less trade-restrictive approaches for achieving the objective of the measure.

7. The Parties encourage the publication, by electronic means, in an official journal or on a website, the proposed sanitary or phytosanitary measure notified under paragraph 3, and the legal basis for the measure.

8. Each Party shall notify the other Party of final sanitary or phytosanitary measures through the WTO Sanitary and Phytosanitary Measures Notification Submission System. Each Party shall ensure that the text or the notice of a final sanitary or phytosanitary measure specifies the date on which the measure takes effect and the legal basis for the measure. Each Party shall publish, preferably by electronic means, notices of final sanitary or phytosanitary measures in an official journal or website.

9. An exporting Party shall notify the importing Party through the contact points referred to in Article 4.13 (Contact Points and Competent Authorities) in a timely and appropriate manner:

(a) if it has identified significant sanitary or phytosanitary risk related to the export of a good from its territory going to the importing Party;

(b) of urgent situations where a change in animal or plant health status in the territory of the exporting Party may affect current trade;

(c) of significant changes in the status of a regionalised pest or disease;

(d) of new scientific findings of importance which affect the regulatory response with respect to food safety, pests or diseases; or

(e) of significant changes in food safety, pest or disease management, control or eradication policies or practices that may affect current trade.

10. Each Party shall provide within a reasonable period of time, appropriate information to the other Party through the contact points established under Article 4.13 (Contact Points and Competent Authorities) or already established communication channels of the Parties, when:

(a) there is significant or recurring sanitary or phytosanitary noncompliance associated with an exported consignment identified by the importing Party; and

(b) a sanitary or phytosanitary measure adopted provisionally against or affecting the export of the other Party is considered necessary to protect human, animal or plant life or health within the importing Party.

11. A Party shall provide to the other Party, on request, all sanitary or phytosanitary measures related to the importation of a good into that Party's territory in the English language.

Article 4.11 Cooperation and Capacity Building

1. Both Parties shall explore opportunities for further cooperation between them, including capacity building, technical assistance, collaboration, and information exchange on sanitary and phytosanitary matters of mutual interest, consistent with the provisions of this Chapter.

2. In undertaking cooperative activities, both Parties shall endeavour to coordinate with bilateral, regional or multilateral

work programmes with the objective of avoiding unnecessary duplications and eliminating unnecessary obstacles to trade between the Parties and maximising the use of resources.

3. If there is mutual interest and with the objective of establishing a common scientific foundation for each Party's regulatory approach, the competent authorities of the Parties are encouraged to:

(a) share best practices; and

(b) cooperate on joint scientific data collection.

Article 4.12 Technical Discussions

1. Where a Party considers that a sanitary or phytosanitary measure is affecting its trade with the other Party, it may, through the contact points or through other established communication channels, request a detailed explanation of the sanitary or phytosanitary measures including the scientific basis of the measure. The other Party shall respond promptly to any request for such explanation.

2. A Party shall notify the other Party of an emergency measure under this Chapter immediately after adopting its decision to implement the measure. If a Party requests technical discussion to address the emergency SPS measure, the technical discussion must be held within 10 days of the notification of the emergency measure. The Parties shall consider any information provided through the technical discussion.

3. A Party may request to hold technical discussions with the other Party in an attempt to resolve any concerns on specific issues arising from the application of the sanitary and phytosanitary measure. The requested Party shall respond promptly to any reasonable request for such consultation.

4. Where a Party requests technical discussion, such discussion shall take place as soon as practicable, unless the Parties agree otherwise.

5. The technical discussions may be conducted via teleconference, videoconference, or through any other means as the Parties mutually agree.

6. Such technical discussions are withoL:Jt prejudice to the rights and obligations of the Parties under Chapter 13 (Dispute Settlement).

Article 4.13

Contact Points and Competent Authorities

1. Upon entry into force of this Agreement, each Party shall:

(a) designate a contact point or contact points to facilitate communication on matters covered under this Chapter;

(b) inform the other Party of a contact point or contact points; and

(c) when more than one contact point is designated, specify a contact point that serves as the focal point to respond to enquiries by the other Party about the appropriate contact point with which to communicate.

2. A Party shall provide the other Party, through the contact point or contact points, a description of its competent authorities and their division of functions and responsibilities.

3. Both Parties shall notify each other of any changes to the contact points and significant changes in the structure, organisation and division of responsibility within its competent authorities.

4. Both Parties recognise the importance of the competent authorities in the implementation of this Chapter. Accordingly, the competent authorities of the Parties may cooperate with each other on matters covered by this Chapter in a manner the Parties mutually agree.

Article 4.14 Subcommittee on SPS Measures

1. The Parties hereby establish a Subcommittee on Sanitary and Phytosanitary Measures (SPS Subcommittee) under the CTG, consisting of representatives of each P-arty's competent authorities.

2. The SPS Subcommittee shall meet within one year from the date of entry into force of this Agreement, and thereafter, at such venues and time-period as the Parties mutually determine.

3. The functions of the SPS Subcommittee shall be to:

(a) consider any sanitary and phytosanitary matters of mutual interest;

(b) coordinate cooperation pursuant to Article 4.11 (Cooperation and Capacity Building) and identify mutually agreed priority sectors for enhanced cooperation;

(c) monitor the implementation and operation of this Chapter;

(d) encourage the Parties to share their experiences regarding the implementation of this Chapter; and

(e) facilitate technical discussions.

4. Meetings may occur in person, by teleconference, by video conference, or through any other means as determined by .the Parties.

Article 4.15 Annex

1. The agreed text of Annex on Export Inspection Council Certification to Chapter 4 on Sanitary and Phytosanitary Measures is placed in Annex 4A.

2. The Parties shall, through mutual agreement, extend recognition of certification requirements for products issued by the competent authorities of Oman and India, as may be established for this purpose, in compliance with the regulatory requirements of the importing Party, to facilitate trade between them. The Parties, subject to their respective laws and regulations, shall commit to enter into a mutual recognition arrangement within 6 months from the date of signature of this Agreement or from the receipt of an official request letter, whichever is later, unless otherwise agreed.

3. Nothing in this Chapter prevents the Parties to request for such mutual recognition arrangements, whenever required, to facilitate trade between the Parties. Any such arrangements, once agreed upon between the Parties, shall form part of subsequent Annexes under this Chapter.

Chapter 5. TECHNICAL BARRIERS TO TRADE

Article 5.1 Definitions

1. For the purposes of this Chapter, the terms and their definitions set out in Annex 1 of the TBT Agreement shall apply.

2. "TBT Agreement"means Agreement on Technical Barriers to Trade, set out in Annex 1A to the wro Agreement.

Article 5.2 Objectives

1. The objectives of this Chapter are to facilitate trade in goods between the Parties by:

(a) ensuring that standards, technical regulations and conformity assessment procedures do not create unnecessary obstacles to trade;

(b) furthering cooperation pursuant to the TBT Agreement, promoting mutual understanding of each Party's standards, technical regulations and conformity assessment procedures, and enhancing transparency;

(c) facilitating information exchange and cooperation between the Parties in the field of standards, technical regulations and conformity assessment procedures, including the work of relevant international bodies; and

(d) addressing the issues that may arise under this Chapter.

Article 5.3 Scope

1. This Chapter shall apply to the standards, technical regulations and conformity assessment procedures that may affect trade in goods between the Parties. The Chapter shall not apply to:

(a) sanitary and phytosanitary measures which are covered in Chapter 4 (Sanitary and Phytosanitary Measures) of this Agreement; and

(b) purchasing specifications prepared by governmental bodies for production or consumption requirements of governmental bodies.

2. Without prejudice to paragraph 1, this Chapter shall apply to the preparation, adoption and application of all standards,

technical regulations and conformity assessment procedures by central government bodies, and where explicitly provided for in this Agreement, government bodies at the level directly below that of the central level of government that may affect trade in goods between the Parties.

3. All references in this Chapter to standards, technical regulations and conformity assessment procedures shall be construed to include any amendments to them and any addition to the rules or the product coverage of those standards, technical regulations and conformity assessment procedures, except amendments and additions of an insignificant nature.

4. Each Party shall take such reasonable measures that are within its authority to encourage observance by local government bodies, as the case may be, on the level directly below that of the central level of government within its territory which are responsible for the preparation, adoption, and application of standards, technical regulations and conformity assessment procedures, of Articles 5.5 (Standards) and 5.7 (Conformity Assessment Procedures).

5. For greater certainty, nothing in this Chapter shall prevent a Party from preparing, adopting, applying or maintaining standards, technical regulations or conformity assessment procedures in accordance with its rights and obligations under this Agreement, the TBT Agreement, and any other relevant international agreement.

Article 5.4

Affirmation and Incorporation of the TBT Agreement

1. The Parties affirm their rights and obligations under the TBT Agreement, and the following provisions of the TBT Agreement are incorporated into and form part of this Agreement, mutatis mutandis:

(a) Article 2;

(b) Article 3;

(c) Article 4.1;

(d) Article 5;

(e) Article 6.1, 6.3; and

(f) Annex 3, except paragraph A.

2. In the event of any inconsistency between the provisions of the TBT Agreement incorporated under this Article and other provisions of this Chapter, the latter shall prevail.

3. Neither Party shall have recourse to dispute settlement under Chapter 13 (Dispute Settlement) for a dispute that exclusively alleges a violation of the provisions of the TBT Agreement incorporated under this paragraph.

Article 5.5 Standards

1. The Parties recognise the important role that international standards, guides and recommendations can play in harmonising technical regulations, conformity assessment procedures and national standards, and in reducing unnecessary barriers to trade.

2. To determine whether there is an international standard, guide or recommendation within the meaning of Articles 2 and 5 and Annex 3 of the TBT Agreement, each Party shall apply the Decision of the Committee on Principles for the Development of International Standards, Guides and Recommendations with relation to Articles 2 and 5 and Annex 3 of the TBT Agreement (G!TBT19, 13 November 2000, Annex 4), and subsequent relevant decisions and recommendations in this regard, adopted by the \NTO Committee on Technical Barriers to Trade (\NTO TBT Committee).

3. Each Party shall ensure that its standardising body or bodies, while formulating national standards, shall ensure that such standards are not prepared, adopted or applied with a view to, or with the effect of, creating unnecessary obstacles to international trade.

4. Where modifications to the contents or structure of the relevant international standards were necessary in developing a Party's national standards, that Party_shall, on request of the other Party, encourage its standardising body or bodies to provide information about the differences in the contents and structure, and the reason for those differences. Any fees charged for this service shall, apart from the real cost of delivery, be the same for foreign and domestic persons.

5. The Parties shall cooperate with each other to ensure that international standards, guides and recommendations that are likely to become a basis for technical regulations and conformity assessment procedures do not create unnecessary obstacles to international trade.

6. Each Party shall encourage the standardising body or bodies in its territory to cooperate with the standardising body or bodies of the other Party including:

(a) exchange of information on standards;

(b) exchange of information relating to standard setting procedures; and

(c) cooperation in the work of international standardising bodies in areas of mutual interest.

7. The Parties shall, where appropriate, strengthen coordination and communication with each other in the context of discussion on international standards and related issues in other international fora, such as the WTO TBT Committee.

Article 5.6 Technical Regulations

1. Each Party shall prepare, adopt and apply its technical regulations in accordance with Article 2 of the TBT Agreement and ensure adherence to Article 3 of the TBT Agreement.

2. Each Party shall use relevant international standards to the extent provided in paragraph 4 of Article 2 of the TBT Agreement, as a basis for its technical regulations. Where a Party does not use such international standards, or their relevant parts, as a basis for its technical regulations and these may have an effect on trade of the other Party, it shall, upon request of the other Party, explain the reasons therefor. The explanation shall make every effort to address why the standard has been judged inappropriate or ineffective for the objective pursued. Where the Party considers that the technical explanation provided is not satisfactory, both Parties shall enter into technical discussions that will take place as expeditiously as possible to arrive at a mutually satisfactory understanding.

3. In implementing Article 2.2 of the TBT Agreement, each Party shall consider available alternatives in order to ensure that any proposed technical regulations to be adopted are not more trade-restrictive than necessary to fulfil a legitimate objective, taking account of the risk non-fulfilment would create.

4. Each Party shall give positive consideration to accepting as equivalent, technical regulations of the other Party, even if these regulations differ from its own, provided it is satisfied that these regulations adequately fulfil the objectives of its own regulations.

5. In addition to Article 2.7 of the TBT Agreement, a Party shall, on request of the other Party,1 provide the reasons why it has not accepted, or cannot accept, a technical regulation of that Party as equivalent to its own. The Party to which the request is made should provide its response within a reasonable period of time.

6. Each Party shall uniformly and consistently apply its technical regulations that are prepared and adopted by its central government bodies to its territory. For greater certainty, nothing in this paragraph shall be construed to prevent local government bodies from preparing, adopting and applying additional technical regulations in a manner consistent with the provisions of the TBT Agreement.

7. Except where urgent problems of safety, health, environmental protection or national security arise or threaten to arise, Parties shall allow a reasonable interval between the publication of technical regulations and their entry into force in order to provide sufficient time for producers in exporting Party to adapt their products or methods of production to the requirements of importing Party.

8. At the request of a Party that has an interest in developing a technical regulation similar to a technical regulation of the other Party, such other Party shall endeavour to provide, to the extent practicable, relevant information, including studies or documents, except for confidential information, on which it has relied in its development.

9. Consistent with the obligations of the TBT Agreement, incorporated by Article 5.4 (Affirmation and Incorporation of the TBT Agreement), each Party shall ensure that its technical regulations concerning labels:

(a) accord treatment no less favourable than that accorded to like goods of national origin; and

(b) do not create unnecessary obstacles to trade between the Parties.

1 The Party's request should identify with precision the respective technical regulations it considers to be equivalent and any data or evidence that supports its position.

Article 5.7

Conformity Assessment Procedures

1. In cases where a positive assurance is required that products conform with technical regulations or standards, and relevant international standards, guides or recommendations issued by international standardising bodies exist or their completion is imminent, each Party shall ensure that central government bodies use them or the relevant parts of them as a basis for their conformity assessment procedures, except where, as duly explained upon request, such international standards, guides or recommendations or relevant parts are inappropriate for the Party concerned, for reasons such as: national security requirements; the prevention of deceptive practices; protection of human health or safety, animal or plant life or health, or the environment; fundamental climatic or other geographical factors; fundamental technological or infrastructural problems.

2. Procedures for assessment of conformity by central government bodies of each Patty shall be in accordance with Articles of the TBT Agreement.

3. Each Party shall ensure, whenever possible, that results of the conformity assessment procedures in the other Party are accepted, even when those procedures differ from its own, provided it is satisfied that those procedures offer an assurance of conformity with applicable technical regulations or standards equivalent to its own procedures.

4. A Party shall, upon request of the other Party, explain its reasons for not accepting the results of a conformity assessment procedure conducted in the other Party. Each Party recognises that a broad range of mechanisms exists to facilitate the acceptance of the results of conformity assessment procedures conducted in the other Party. Such mechanisms may include:

(a) mutµal recognition agreements for the results of conformity assessment procedures conducted by bodies in the Parties;

(b) cooperative (voluntary) arrangements between accreditation bodies or those between conformity assessment bodies in the Parties;

(c) use·of accreditation to qualify conformity assessment bodies, including through relevant multilateral • agreements or arrangements to recognise the accreditation granted by the other Party;

(d) designation of conformity assessment bodies in the other Party;

(e) unilateral recognition by a Party, of results of conformity assessment procedures conducted in the other Party; and

(f) manufacturer's or supplier's declaration of conformity.

5. Upon reasonable request, the Parties shall exchange information or share experiences on the mechanisms referred to in paragraph 4, with a view to facilitating the acceptance of the results of conformity assessment procedures.

6. Each Party shall, if it considers appropriate, permit participation of conformity assessment bodies in the other Party, in its conformity assessment procedures under conditions no less favourable than those accorded to conformity assessment bodies in that Party.

7. Where a Party permits participation of its conformity assessment bodies and does not permit participation of conformity assessment bodies in the other Party in its conformity assessment procedures, it shall, upon written request of that Party, explain the reason for its refusal in writing.

8. The Parties recognise the important role that relevant regional or international organisations can play in cooperation in the area of conformity assessment. In this regard, each Party shall take into consideration the participation status or membership in such organisations of relevant bodies in the Parties in facilitating this cooperation.

9. The Parties agree to encourage cooperation between their relevant conformity assessment bodies in working closer with a view to facilitating the acceptance of conformity assessment results between the Parties.

Article 5.8 Cooperation

1. The Parties shall encourage cooperation between their respective organisations responsible for standardisation, conformity assessment, accreditation and metrology, with a view to facilitating trade.

2. Each Party shall, upon request of the other Party, give positive consideration to proposals for cooperation on matters of mutual interest on standards, technical regulations and conformity assessment procedures.

3. Such cooperation, which shall be on terms and conditions the Parties mutually determine, may include:

(a) advice, technical assistance or capacity building relating to the development and application of standards, technical regulations and conformity assessment procedures;

(b) cooperation between conformity assessment bodies, both governmental and non-governmental, in the Parties on matters of mutual interest;

(c) cooperation in areas of mutual interest in the work of relevant regional and international bodies relating to the development and application of standards and conformity assessment procedures, such as enhancing participation in the frameworks for mutual recognition developed by relevant regional and international bodies;

(d) enhancing cooperation in the development and improvement of standards, technical regulations and conformity assessment procedures;

(e) strengthening communication and coordination in the WTO TBT Committee and other relevant international,or regional fora;

(f) greater alignment of national standards with relevant international standards, except where such international standards are inappropriate or ineffective;

(g) facilitation of the greater use of relevant international standards, guides and recommendations as the basis for technical regulations and conformity assessment procedures; and

(h) promotion of the acceptance of technical regulations of the other Party as equivalent.

4. Each Party shall, upon request of the other Party, give due consideration for cooperation in areas of mutual interest under this Chapter.

Article 5.9

Information Exchange and Technical Discussions

1. A Party may request in writing that the other Party provide information on any matter arising under this Chapter. A Party receiving a written request in the English language under this paragraph shall provide that information within a reasonable period of time and, if possible, by electronic means.

2. When a Party considers the need to resolve an issue under the provisions of this Chapter, it may request, in writing, to hold technical discussions with the other Party. The requested Party shall respond as early as possible to such a request.

3. The Parties shall discuss the matter raised within 60 days after the date of the request. If the requesting Party considers that the matter is urgent, it may request that any discussion take place within a shorter time frame. The Parties shall attempt to obtain satisfactory resolution of the matter as expeditiously as possible, recognising that the time required to resolve a matter will depend on a variety of factors, and that it may not be possible to resolve every matter through technical discussions.

4. Requests for information or technical discussions and communications shall be conveyed through the respective contact points designated pursuant to Article 5.11 (Contact Points).

5. Unless the Parties agree otherwise, the discussions and any information exchanged in the course of the discussions shall be confidential and without prejudice to the rights and obligations of the participating Parties under this Agreement, the WTO Agreement or any other agreement to which both Parties are party.

6. The Parties understand and agree that this Article is without prejudice to the rights and obligations of the Parties under Chapter 13 (Dispute Settlement).

Article 5.10 Transparency

1. The Parties recognise the importance of the provisions relating to transparency in the TBT Agreement. In this respect, the Parties shall take into account relevant Decisions and Recommendations adopted by the WTO TBT Committee.

2. Upon request, a Party shall provide, if already available, the full text or summary of its notified technical regulations and conformity assessment procedures in the English language. If unavailable, that Party shall provide a summary stating the requirements of the notified technical regulations and conformity assessment procedures to the requesting Party in the English language, within a reasonable period of time agreed between the Parties and, if possible, within 30 days after receiving the written request. In implementing the preceding sentence, the contents of the summary shall be determined by the responding Party.

3. Each Party shall, on request of the other Party, provide information regarding the objectives of, and rationale for, a technical regulation or conformity assessment procedure that Party has adopted or is proposing to adopt.

4. Each Party shall normally allow 60 days from the date of notification to the WTO in accordance with Articles 2.9 and 5.6 of the TBT Agreement for the other Party to present comments in writing, except where urgent problems of safety, health, environmental protection or national security arise or threaten to arise.

5. Each Party shall take the comments of the other Party into account and shall endeavour to provide responses to these comments upon request.

6. Each Party shall allow persons of the other Party to participate in consultation procedures which are available to the general public for the development of technical regulations, national standards and conformity assessment procedures by the Party, subject to its laws and regulations, on terms no less favourable than those accorded to its own persons.

7. When a Party detains at the point of entry an imported consignment, due to non-compliance with a technical regulation or a conformity assessment procedure, it shall notify the importer or its representative, as soon as possible, the reasons for the detention.

8. Unless the Chapter provides otherwise, any information or explanation requested by a Party pursuant to this Chapter shall be provided to the other Party, within a reasonable period of time as the Parties may agree and, if possible, within 60 days. Upon request, the requested Party shall provide such information or explanation in the English language.

Article 5.11 Contact Point

1. Within 60 days after the date of entry into force of this Agreement, each Party shall designate a contact point or contact points responsible for coordinating the implementation of this Chapter.

2. Each Party shall provide the other Party with the name of the designated contact point or contact points and the contact details of the relevant official(s) in that organisation, including telephone, email and any other relevant details.

3. Each Party shall notify the other Party promptly of any change in their contact points or any amendments to the details of the relevant official(s).

4. Each Party shall ensure that its contact point or contact points facilitate the exchange of information between the Parties on standards, technical regulations and conformity assessment procedures, in response to all reasonable requests for such information from a Party.

Article 5.12

Subcommittee on Standards, Technical Regulations and Conformity Assessment Procedures

1. The Parties hereby establish a Subcommittee on Standards, Technical Regulations and Conformity Assessment Procedures, under the Committee on Trade in Goods, consisting of representatives of the Parties.

2. The Subcommittee shall meet at such venues and time-period as the Parties mutually agree. Meetings may be conducted in person, or by any other means as the Parties mutually agree.

3. The functions of the Subcommittee may include:

(a) monitoring the implementation and operation of this Chapter;

(b) coordinating cooperation pursuant to Article 5.8 (Cooperation);

(c) facilitating technical discussions;

(d) reporting, where appropriate, its findings to the CTG; and

(e) carrying out other functions as may be delegated by the CTG.

Article 5.13 Annexes

1. The agreed text of Bilateral Cooperation on Pharmaceutical Products is placed in Annex 5A.

2. The agreed text of Mutual Recognition of Halal Certification is placed in Annex 5B.

3. The agreed text on Organic Products is placed in Annex 5C.

Chapter 6. CUSTOMS PROCEDURES AND TRADE FACILITATION

Article 6.1 Definitions

For the purposes of this Chapter:

"Customs Administration" means any administration that is responsible under law of a Party for customs law and regulations. For Sultanate of Oman, it is Directorate General of Customs, Royal Oman Police and for India, it is the Central Board of Indirect Taxes & Customs;

"customs laws and regulations" means laws and regulations concerning the importation, exportation, transit of goods, or any other customs procedures, whether relating to customs duties, taxes or any other charges collected by the Customs Administrations, or to measures for prohibition, restriction, or control enforced by the Customs Administrations;

"customs procedures" means the measures applied by the Customs Administration of a Party to goods and to the means of transport that are subject to its customs laws and regulations;

"persons" means both natural or legal persons, unless the context otherwise requires;

"Authorised Economic Operators (AEO)" means, in accordance with the Trade Facilitation Agreement, the programme which recognises an operator involved in the international movement of goods in whatever function that has been approved by the national Customs Administration as complying with the World Customs Organisation (WCO) supply chain security standards;

"Mutual Recognition Arrangement (MRA)" means the arrangement between the Parties that mutually recognises AEO authorisations that have been properly granted by the respective Customs Administrations; and

"TFA commitments" means respective commitments of both Parties under the Trade Facilitation Agreement.

Article 6.2 Scope and Objectives

1. This Chapter shall apply, in accordance with each Party's respective laws and regulations, to customs procedures required for clearance of goods traded between the Parties.

2. The objectives of this Chapter are to:

(a) promote trade facilitation for foods traded between the Parties while ensuring effective customs controls;

(b) ensure transparency of each Party's customs laws, regulations, and procedural requirements and, where possible, conformity thereof with applicable international standards;

(c) ensure using of effective methods to combat fraud and promote legitimate trade;

(d) simplify and modernise customs procedures of the Parties; and

(e) enhance cooperation between the Parties in the field of customs and trade facilitation.

Article 6.3 General Provisions

1. The Parties recognise the importance of customs and trade facilitation matters in the evolving global trading environment. The Parties shall reinforce cooperation in this area with a view to ensuring that the relevant legislation and procedures, as well as the administrative capacity of the relevant administrations, fulfil the objectives of promoting trade facilitation while ensuring effective customs control.

2. The Parties agree that their customs laws and regulations and customs procedures shall be transparent, non-discriminatory, consistent and avoid unnecessary procedural obstacles to trade.

3. The Parties affirm their rights and obligations under the Trade Facilitation Agreement:

4. The Parties shall ensure that their customs procedures conform, where possible, to the standards and recommended practices of the WCO.

5. The Parties shall ensure that their Customs Administration, to the extent possible, periodically review its customs procedures with a view to their further simplification and development to facilitate bilateral trade.

6. The Parties recognise that legitimate public policy objectives, including in relation- to security, safety and fight against fraud shall not be compromised in any manner.

Article 6.4 Transparency measures

1. Each Party shall ensure that its laws, regulations, guidelines, procedures, tariffs, fees and administrative rulings governing customs matters are promptly published, on the internet in the English language, to the extent possible.

2. Each Party shall designate, establish, and maintain one or more enquiry points consistent with its TFA commitments to address reasonable enquiries from interested persons pertaining to customs matters, and shall endeavour to make available publicly through electronic means, information concerning procedures for making such enquiries.

3. Nothing in this Agreement shall require any Party to publish internal operational guidelines including those related to conducting risk analysis and targeting methodologies.

4. Each Party shall, to the extent practicable, and in a manner consistent with its law and TFA commitments, ensure that new or amended laws and regulations of general application related to the movement, release, and clearance of goods, including goods in transit, are published or information on them made otherwise publicly available, as early as possible before their entry into force, so that interested parties have the opportunity to become acquainted with the new or amended laws and regulations. Such information and publications shall be made available in the English language.

5. Each Party to the extent possible shall in a manner consistent with its law, ensure that new or amended customs laws and regulations are published online, or information on them made otherwise publicly available, as early as possible before their entry into force to enable traders and other interested parties to become acquainted with them.

6. Changes to duty rates or tariff rates, measures that have a relieving effect, measures the effectiveness of which would be undermined as a result of compliance with paragraph 4, measures applied in urgent circurnstances, or minor changes to law are each excluded from the obligations in paragraphs 1 to 5.

Article 6.5 Risk Management

1. Each Party shall adopt a risk management approach using electronic data processing techniques in its customs activities, based on its risk evaluation criteria concerning goods and supply chain entities, in order to facilitate the clearance of low-risk consignments, while focusing its customs control on high-risk goods.

2. Each Party shall design and apply risk management in a manner so as to avoid arbitrary or unjustifiable discrimination, or disguised restrictions on international trade.

Article 6.6 Automation

1. For the purposes of trade facilitation, the Parties shall endeavour to provide an electronic environment that supports business transactions between the Customs Administrations and trading entities.

2. The Parties shall exchange views and information on realising and promoting paperless communications between the Customs Administrations and trading entities.

3. The Customs Administration of each Party, in implementing initiatives which provide for the use of paperless communications, shall take into account the methodologies agreed at the WCO.

Article 6.7 Single Window

1. Each Party shall establish or maintain single window systems enabling traders to submit documentation or data requirements for importation, exportation, or transit of goods through a single entry point to the participating authorities or agencies.

2. Each Party shall endeavour to inform an applicant using single window of the status of the release of goods in a timely manner.

Article 6.8 Advance Rulings

1. In accordance with its TFA commitments, each Party shall provide for the issuance of an advance ruling, prior to the importation of a good into its territory, to an importer of the good in its territory, or to an exporter or producer of the good in the territory of the other Party.

2. Each Party shall publish online, at least:

(a) the requirements for the application for an advance ruling, including the information to be provided and the format;

(b) the time period by which it will issue an advance ruling; and

(c) the length of time for which the advance ruling is valid.

3. For the purposes of paragraph 1, each Party shall issue rulings as to whether the good qualifies as an originating good or to assess the goad's tariff classification. Each Party shall issue its determination regarding the origin or classification of the good within a reasonable and time-bound manner from the date of receipt of a complete application for an advance ruling.

4. The importing Party shall apply an advance ruling issued by it under paragraph 1 on the date that the ruling is issued or on a later date specified in the ruling. The ruling shall remain in effect for a reasonable period of time and in accordance with the national procedures on advance rulings.

5. Where a Party revokes, modifies, or invalidates the advance ruling, it shall provide written notice to the applicant setting out the relevant facts and the basis for its decision. Where a Party revokes, modifies or invalidates advance rulings with retroactive effect, it may only do so where the ruling was based on false or misleading information.

6. The advance ruling issued by the Party shall be binding only on the person to whom the ruling is issued.

7. A Party may decline to issue an advance ruling if the facts and circumstances forming the basis of the advance ruling are the subject of a post clearance audit or are under review before any governmental agency or an administrative, judicial, or quasi-judicial review or appeal. A Party that declines to issue an advance ruling shall promptly in accordance with its national procedures notify, in writing, the person requesting the ruling, setting out the relevant facts and circumstances and the basis for its decision.

8. The importing Party may:

(a) modify an advance ruling in such respects as it considers appropriate and as per its laws and regulations or system on advanced ruling, if the ruling was based on incorrect facts or mistake of law;

(b) revoke or find the advance ruling non-binding if there is a change in the material facts or circumstances or law on which the ruling was based; or

(c) revoke the advance ruling from when it was issued if the advance ruling has been obtained by fraud or misrepresentation of facts.

9. Where a Party revokes or modifies an advance ruling, it shall provide written notice to the applicant setting out the relevant facts and the basis for its decision.

10. Each Party shall provide that any modification or revocation of an advance ruling shall be effective on the date on which the modification or revocation is issued, or on such later date as may be specified therein, and shall not be applied to importations of a good that have occurred prior to that date, unless the advance ruling was based on incomplete, incorrect, false, or misleading information.

11. Each Party shall provide, upon written request of an applicant, an opportunity to review an advanced ruling, or the decision to revoke, modify or invalidate it.1

12. For the purpose of the Article, each Party shall issue advance rulings in accordance with the provisions of Chapter 3 (Rules of Origin).

13. Each Party may require that the applicant have legal representation or registration in its territory. To the extent possible, such requirements shall not restrict the categories of persons eligible to apply for advance rulings, with particular consideration for the specific needs of small and medium-sized enterprises. These requirements shall be clear and transparent and not constitute a means of arbitrary or unjustifiable discrimination.

1 Under this paragraph, a review may, either before or after the ruling has been acted upon, be provided by the official, office, or authority that issued the ruling, a higher or independent administrative authority, or a judicial authority; and a Party is not required to provide the applicant with recourse to paragraph 1 of Article 6.16 (Review and Appeal).

Article 6.9 Penalties

1. Each Party shall maintain measures imposing criminal, civil or administrative penalties, whether solely or in combination, for violations of the Party's customs laws and regulations or customs procedures.

2. Each Party shall ensure that penalties issued for a breach of its customs laws and regulations or customs procedures are imposed only on the person(s) responsible for the breach under its laws.

3. Each Party shall ensure that the penalty imposed by its Customs Administration is dependent on the facts and circumstances of the case and is commensurate with the degree and severity of the breach, and consistent with its laws and regulations.

4. Each Party shall ensure that it maintains measures to avoid conflicts of interest in the assessment and collection of penalties and duties. Each Party shall ensure that it maintains measures to avoid creating an incentive·for the assessment or collection of a penalty that is inconsistent with paragraph 3.

5. Each Party shall ensure that if a penalty is imposed by its Customs Administration for a breach of its customs laws and regulations or customs procedures, an explanation in writing is provided to the person(s) upon whom the penalty is imposed specifying the nature of the breach and the law, regulation or procedure used for determining the penalty amount.

Article 6.10

Pre-arrival Processing

1. Each Party shall adopt or maintain procedures allowing for the submission of documents and other information required for the importation of goods, in order to begin processing prior to the arrival of goods with a view to expediting the release of goods upon arrival.

2. Each Party shall provide, as appropriate, for advance lodging of documents and the other information referred to in paragraph 1 in electronic format for pre-arrival processing of such documents.

Article 6.11 Release of Goods

1. Each Party shall adopt or maintain simplified customs procedures for the efficient release of goods in order to facilitate trade, consistent with its laws, regulations and procedures.

2. Pursuant to paragraph 1, each Party shall adopt or maintain procedures that:

(a) provide for the release of goods without unnecessary delay upon receipt of the customs declaration and fulfilment of all applicable requirements and procedures;

(b) provide for the electronic submission and processing of documentation and data, including manifests, prior to the arrival of the goods, in order to expedite the release of goods from customs control upon arrival;

(c) Allow goods to be released at the point of arrival to the extent possible without requiring temporary transfer to warehouses or other facilities; and

(d) require that, to the extent permitted by its customs laws and regulations, the importer be informed if a Party does not promptly release goods, including, the reasons why the goods are not released and which border agency, if not the Customs Administration, has withheld release of the goods.

3. Nothing in this Article requires a Party to release goods if its requirements for release have not been met nor prevents a Party from liquidating or requiring a security deposit in accordance with its customs laws and regulations.

4. Each Party shall adopt or maintain simplified customs procedures for the efficient release of goods in order to facilitate trade, consistent with laws, regulations and procedures, and Article 7.3 of the Trade Facilitation Agreement.

5. Each Party may allow, to.the extent practicable and in accordance with its customs laws and regulations, goods intended for import to be moved with.in its territory under customs control from the point of entry into the Party's territory to another customs office in its territory from where the goods are.intended to be released, provided the applicable regulatory requirements are met.

6. Nothing in.this Article shall:

(a) in case of suspicion or as per the risk management, affect the right of a Party to examine, detain, seize, confiscate or refuse entry of goods, or to carry out post-clearance audits, including in connection with the use of risk management systems; or

(b) prevent a Party from requiring, as a condition for release, the submission of additional information and the fulfilment of non-automatic licensing requirements.

Article 6.12 Authorised Economic Operators

1. Each Party shall establish or maintain a trade facilitation partnership programme for operators who meet specified criteria, in accordance with the SAFE Framework of Standards to Secure and Facilitate Global Trade adopted at the June 2005 WCO Session in Brussels and as updated from time to time (the "SAFE Framework").

2. Each Party shall publish its specified criteria to qualify as an AEO. The specified criteria shall relate to compliance, or the

risk of non-compliance, in accordance with requirements specified in the Party's customs laws and regulations. The Parties may use the criteria set out in paragraph 7.2(a) of Article 7 of the Trade Facilitation Agreement.

3. The specified criteria to qualify as an AEO shall not be designed or applied so as to afford or create arbitrary or unjustifiable discrimination between operators where the same conditions prevail. The specified criteria shall be designed or applied so as to allow the participation of small and medium-sized enterprises.

4. The programme referred to in paragraph 1 shall include specific benefits for operators that meet the specified criteria, taking into account the commitments of each Party.under paragraph 7.3 of Article 7 of the Trade Facilitation Agreement.

5. The Parties shall endeavour to conclude an MRA on the programme referred to in paragraph 1, taking into account paragraphs 2 through 4, as soon as possible, after entry into force of this Agreement.

Article 6.13 Perishable Goods

1. For the purposes of this Article, "perishable goods" means goods that rapidly decay due to their natural characteristics, in particular in the absence of appropriate storage conditions.

2. With a view to preventing avoidable loss or deterioration of perishable goods, each Party shall, in normal circumstances, release perishable goods immediately from customs control on arrival at each point of presentation to customs provided that:

(a) the Party has received and checked all customs information and documentation required to release all goods in the shipment on or prior to presentation to customs;

(b) no further examination of this information or documentation is required;

(c) the goods, or any other goods in the same shipment, are not subject to physical inspection or examination; and

(d) all non-customs regulatory checks required for release have been completed.

3. If further examination of the customs information or documentation is required, each Party shall, in normal circumstances, release perishable goods from customs control within shortest time possible of arrival at each point of presentation to customs provided that the conditions in subparagraphs (a), (c), and (d) of paragraph 2 are met.

4. Each Party shall provide, in exceptional circumstances, and if appropriate for the release of perishable goods outside the business hours of its customs authority.

5. With a view to expediting the release of goods, each Party shall ensure that any physical inspection or examination of perishable goods is conducted without undue delay.

6. Each Party shall give appropriate priority to perishable goods when scheduling and conducting any inspections or examinations that may be required.

7. Each Party shall either arrange, or allow an importer to arrange, for the appropriate storage of perishable goods pending their release. Each Party may require that its customs authority approve or designate any storage facilities arranged by the importer. Each Party shall, if possible, release the perishable goods directly from those storage facilities.

8. Nothing in this Article requires a Party to release goods if regulatory requirements for release have not been met.

Article 6.14

Border Agency Cooperation

Each Party shall ensure that its authorities and agencies responsible for border controls and procedures dealing with the importation, exportation, and transit of goods cooperate with one another and coordinate their activities in order to facilitate trade pursuant to this Chapter.

Article 6.15 Expedited Shipments

1. Each Party shall adopt or maintain expedited customs procedures for goods entered through air cargo facilities while maintaining appropriate customs control and selection. These procedures, subject to TFA commitments, shall:

(a) provide for information necessary to release an expedited shipment to be submitted and processed before the shipment arrives;

(b) minimise the documentation required for the release of expedited shipments, and to the extent possible, provide for release based on a single submission of information on certain shipments through electronic means;

(c) under normal circumstances, provide for expedited shipments to be released as soon as possible after submission of the necessary customs documents, provided the shipment has arrived and applicable customs duties have been assessed where applicable;

(d) apply to shipments of any weight or value recognizing that a Party may require formal entry procedures as a condition for release, including declaration and supporting documentation and payment of customs duties, based on the goad's weight or value; and

(e) under normal circumstances, provide that no customs duties will be collected on expedited shipments valued or assessed to duty at or below a fixed amount set under the Party's law.2 Each Party shall endeavour to review the amount periodically taking into account factors that it may consider relevant.

Article 6.16 Review and Appeal

1. Each Party shall ensure that any person to whom it issues a decision on a customs matter has access to:

(a) an administrative appeal to or review by an administrative authority higher than or independent from the official or office that issued the decision; or

(b) a judicial appeal or review of the decision.

2. Each Party shall ensure that its procedures for appeal and review are carried out in a non-discriminatory and timely manner.

3. Each Party shall ensure that an authority conducting a review or appeal under paragraph 1 notifies the person in writing of its determination or decision in the review or appeal, and the reasons for the determination or decision.

Article 6.17 Customs Cooperation

1. With a view to further enhancing customs cooperation and exchange of information between the Customs Administrations to secure and facilitate lawful trade through the proper application of customs laws and regulations for the prevention, investigation and combating of customs offences, and to ensure the security of the international trade supply chain, each Party shall implement and comply with the obligations in the Customs Mutual Assistance Agreement (CMAA).

2. The Parties shall endeavour to conclude a customs mutual administrative assistance agreement with a view to enhancing cooperation for the purposes of assisting the other Party in the administra'tion and enforcement of its customs laws and regulations, including its measures concerning customs offences.

2 Notwithstanding this Article, a Party may assess customs duties or may require formal entry documents for restricted or controlled goods, such as goods subject to import licensing or similar requirements.

3. The Parties shall facilitate initiatives for the exchange of pre-arrival customs data as well as information on best practices in relation to the implementation and management of customs procedures described in this Chapter, and in accordance with the CMAA.

Article 6.18 Confidentiality

Any information received under this Chapter shall be treated as confidential pursuant to the terms of the CMAA.

Article 6.19

Subcommittee on Customs Procedures and Trade Facilitation

1. The Parties agree to establish a Subcommittee on Customs Procedures and Trade Facilitation (CPTF Subcommittee) under the CTG, consisting of representatives of each Party's competent authorities from Customs Administrations.

2. The functions of the CPTF Subcommittee shall include:

(a) cooperating in the administration and uniform interpretation of this Chapter;

(b) monitoring the effective operation and implementation of this Chapter, including the transparent and consistent application of customs procedures of the Parties;

(c) cooperating to further simplify and implement the customs procedures under this Chapter;

(d) exchanging information on matters related to this Chapter;

(e) communicating the necessary contact details of the CPTF Subcommittee members for the purposes of this Chapter;

(f) considering any matters referred to it by the Joint Committee or the CTG; and·

(g) any other matter as the CPTF Subcommittee mutually agrees.

3. The CPTF Subcommittee, shall meet within 6 months of the date of entryinto force of this Agreement and thereafter annually.

Chapter 7. TRADE REMEDIES

Article 7.1 Definitions

For the purposes of this Chapter:

"Anti-Dumping Agreement" means the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, set out in Annex 1A to the WTO Agreement;

"Safeguards Agreement" means the Agreement on Safeguards, set out in Annex 1A to the WTO Agreement; and

"SCM Agreement" means the Agreement on Subsidies and Countervailing Measures, set out in Annex 1A to the WTO Agreement.

Article 7.2

Anti-Dumping and Countervailing Measures

Each Party retains its rights and obligations under Article VI of the GATT 1994, the Anti-Dumping Agreement, and the SCM Agreement.

Article 7.3 Global Safeguard Measures

1. Each Party retains its rights and obligations under Article XIX of the GATT 1994 and the Safeguards Agreement.

2. Neither Party shall apply with respect to the same good at the same time:

(a) a bilateral safeguard measure as provided in Article 7.4 (Bilateral Safeguard Measures); and

(b) a measure under Article XIX of the GATT 1994 and the Safeguards Agreement.

Article 7.4

Bilateral Safeguard Measures

Definitions:

For the purposes of this Article:

"bilateral safeguard measure" means a measure described in paragraph 1 of Article 7.4;

"domestic industry" means with respect to an imported good, the producers as a whole of the like or directly competitive good operating within the territory of a Party, or those producers whose collective production of the like or directly competitive good constitutes a major proportion of the total domestic production of that good;

"serious injury" means a significant overall impairment in the position of a domestic industry; and

"threat of serious injury" means serious injury that, on the basis of facts and not merely on allegation, conjecture or remote possibility, is clearly imminent.

General:

1. If, as a result of the reduction or elimination of a customs duty under this Agreement, an originating good of the other Party is being imported into the territory of a Party in such increased quantities, either in absolute terms or relative to

domestic production, and under such conditions that the imports of such originating good from the other Party causes serious injury, or threat thereof, to a domestic industry producing a like or directly competitive good, the Party may:

(a) suspend the further reduction of any rate of customs duty on the imports of the originating good provided for under this Agreement;

(b) increase the rate of customs duty on the imports of the originating good to a level not to exceed the lesser of:

(i) the most favoured nation applied rate of duty on the good in effect at the time the measure is applied; and

(ii) the most favoured nation applied rate of duty on the good in effect on the day immediately preceding the date this Agreement enters into force.

2. The Parties agree that neither tariff rate quotas nor quantitative restrictions are permissible forms of bilateral safeguard measures.

3. The Parties agree that the right to apply bilateral safeguard measures shall be permanent for the duration of this Agreement. Nonetheless, upon a request by a Party, the Joint Committee may, not less than 5 years after the date on which the elimination or reduction of the customs duty on all the goods is completed, discuss and review the implementation and operation of this Article.

Notification and Consultation:

4. A Party shall notify the other Party in writing or by electronic communication:

(a) within 7 days from the initiation of a bilateral safeguard investigation;

(b) immediately upon making a finding of serious injury or threat thereof caused by increased imports; and

(c) immediately upon application of provisional or a definitive bilateral safeguard measure or extending the measure.

5. In making the notification referred to in subparagraphs 4(b) and 4(c), the Party proposing to apply a bilateral safeguard measure shall provide the other Party with all pertinent information, which shall include evidence of serious injury or threat thereof caused by the increased imports, precise description of the good involved and the proposed measure and expected duration.

6. A Party proposing to apply a definitive bilateral safeguard measure or proposing the extension of a definitive bilateral safeguard measure shall provide adequate opportunity for prior consultations with the other Party as far in advance, of making a definitive finding for applying or extending any such measure, with a view to reviewing the information arising from the investigation, and exchanging views on the measure. The Parties shall in such consultations, review, inter alia, the information provided by the competent investigating authority, to determine:

(a) compliance with this Article;

(b) whether the proposed measure should be applied; and

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

Conditions and Limitations:

7. A Party shall apply a bilateral safeguard measure only following an investigation by the Party's competent authorities in accordance with Article 3 and Article 4.2(c) of the Safeguards Agreement, and to this end, Article 3 and Article 4.2(c) of the Safeguards Agreement are incorporated into and form a part of this Agreement, mutatis mutandis.

8. While conducting a bilateral safeguard investigation, a Party shall comply whh the requirements of Article 4.2(a) of the Safeguards Agreement, and to this end, Article 4.2(a) of the Safeguards Agreement is incorporated into and forms a part of this Agreement, mutatis mutandis.

9. Each Party shall ensure that its competent authorities complete any such investigation within 8 months from the date of initiation which may be extended up to 1 year by the competent authority.

10. Neither Party may apply a bilateral safeguard measure:

(a) except to the extent, and for such time, as may be necessary to prevent or remedy serious injury and to facilitate adjustment; or

(b) for a period exceeding 2 years, except that the period may be extended by up to 2 years if the competent authorities of the importing Party determine, in conformity with the procedures specified in this Article, that the measure continues to be necessary to prevent or remedy serious injury and to facilitate adjustment and that there is evidence that the industry is adjusting, provided that the total period of application of a bilateral safeguard measure, including the period of initial application and any extension thereof, shall not exceed 4 years.

11. No bilateral safeguard measure shall be applied to the import of an originating good for a period of 1 year from the date of commencement of tariff reduction or tariff elimination for that originating good provided for under this Agreement.

12. When a Party terminates a bilateral safeguard measure, the rate of customs duty for the originating good subject to that bilateral safeguard measure shall be the rate that, according to that Party's Schedule of Tariff Commitments in Annex 2A (Schedule of Specific Tariff Commitments of India) or Annex 2B (Schedule of Specific Tariff Commitments of Oman), would have been in effect but for that bilateral safeguard measure.

13. No bilateral safeguard measure shall be applied again to the import of an originating good that has been previously subject to such measure for a period of time equal to the period during which the previous measure was applied or 1 year since the expiry of such measure, whichever is longer.

14. Notwithstanding the provisions of paragraph 13, a bilateral safeguard measure with a duration of 180.days or less may be applied again to the import of an originating good if:

(a) at least 1 year has elapsed since the date of introduction of a bilateral safeguard measure on the import of that originating good; and

(b) such a bilateral safeguard measure has not been applied on the same originating good more than twice in the 4 year period immediately preceding the date of introduction of the measure.

15. Where the expected duration of a bilateral safeguard measure is over 1 year, the Party applying the bilateral safeguard measure shall progressively liberalise it at regular intervals during the period of application.

Provisional Safeguard Measures:

16. In critical circumstances where delay would cause damage that would be difficult to repair, a Party may apply a bilateral safeguard measure on a provisional basis pursuant to a preliminary determination by its competent authorities that there is clear evidence that imports of an originating good from the other Party have increased as a result of the reduction or elimination of a customs duty under this Agreement, and such imports have caused serious injury, or threat thereof, to the domestic industry.

17. If a Party's competent authorities make a preliminary determination, the Party shall make such determination available to interested parties and shall provide interested parties at least 15 days to comment and submit their arguments with respect to such determinations.

18. The duration of any provisional measure shall not exceed 200 days, during which time the Party shall comply with the requirements of paragraphs 5, 7, and 8.

19. The Party shall promptly refund any tariff increases if the investigation described in paragraphs 7 and 8 results in a finding that the requirements of paragraph 1 are not met. The duration of any provisional measure shall be counted as part of the period described in subparagraph 10(b).

Compensation:

20. No later than 30 days after a Party applies a definitive bilateral safeguard measure, the Party shall afford an opportunity to the other Party to consult regarding the appropriate trade liberalising compensation in the form of concessions having substantially equivalent trade effects. The applying Party shall provide such compensation as the Parties mutually agree.

21. If the Parties are unable to agree on compensation within 30 days in the consultations, the Party against whose originating good the bilateral safeguard measure is applied may suspend the application of concessions with respect to the originating goods of the other Party that has trade effects substantially equivalent to that of the bilateral safeguard measure. The Party exercising the right of suspension may suspend the application of concessions only for the minimum period necessary to achieve substantially equivalent trade effects.

22. A Party against whose originating good the bilateral safeguard measure is applied shall notify the Party applying the bilateral safeguard measure in writing at least 30 days before it suspends concessions in accordance with paragraph 21.

23. The right to suspend the application of concessions referred to in paragraph 21 shall not be exercised for:

(a) the first 2 years that the measure is in effect; and

(b) the first 3 years during which the bilateral safeguard measure is in effect, where it has been extended beyond 2 years.

24. The applying Party's obligation to provide compensation under paragraph 20 and the other Party's right to suspend concessions under paragraph 21 shall cease on the termination of the bilateral safeguard measure.

Article 7.5 Subcommittee on Trade Remedies

1. The Parties agree to establish a Subcommittee on Trade Remedies under the CTG, consisting of representatives of each Party's competent authorities.

2. The Subcommittee on Trade Remedies shall meet annually or when requested by either Party.

Article 7.6

Non-Application of Dispute Settlement

Neither Party shall have recourse to dispute settlement under Chapter 13 (Dispute Settlement) for any matter arising under Article 7.2 and Article 7.3.

Chapter 8. TRADE IN SERVICES

Article 8.1 Definitions

For the purposes of this Chapter:

"a service supplied in the exercise of governmental authority" means any service which is supplied neither on a commercial basis nor in competition with one or more service suppliers;

"aircraft repair and maintenance services" means such activities when undertaken on an aircraft or a part thereof while it is withdrawn from service and do not include so-called line maintenance;

"commercial presence" means any type of business or professional establishment, including through:

(a) the constitution, acquisition or maintenance of a juridical person; or

(b) the creation or maintenance of a branch or a representative office, within the territory of a Party for the purpose of supplying a service;

"computer reservation system services" means services provided by computerised systems that contain information about air carriers' schedules, availability, fares and fare rules, through which reservations can be made or tickets may be issued;

"juridical person" means any legal entity duly constituted or otherwise organised under the law of that Party, whether for profit or otherwise, and whether privately- or governmentally-owned, including any corporation, trust, partnership, joint venture, sole proprietorship, or association;

A "juridical person". is:

(a) owned by persons of a Party if more than 50 per cent of the equity interest in it is beneficially owned by persons of that Party;

(b) controlled by persons of a Party if such persons have the power to name a majority of its directors or otherwise to legally direct its actions;

(c) affiliated with another person when it controls, or is controlled by,that other person; or when it and the other person are both controlled by the same person;

"juridical person of the other Party" means a juridical person which is either:

(a) constituted or otherwise organised under the law of the other Party, and is engaged in substantive business operations in the territory of that Party; or

(b) in the case of the supply of a service through commercial presence, owned or controlled by:

(i) natural persons of that other Party; or

(ii) juridical persons of that other Party as identified under subparagraph (a);

"measure" means any measure by a Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action, or any other form;

"measures by a Party" means measures taken by:

(a) central, regional, or local governments and authorities; and

(b) non-governmental bodies in the exercise of powers delegated by central, regional or local governments or authorities;

In fulfilling its obligations and commitments under this Chapter, each Party shall take such reasonable measures as may be available to it to ensure their observance by regional and local governments and authorities and non-governmental bodies within its territory;

"measures by a Party affecting trade in services" include measures in respect of:

(a) the purchase, payment or use of a service;

(b) the access to and use of, in connection with the supply of a service, services which are required by the Party to be offered to the public generally;

(c) the presence, including commercial presence, of persons of the Party for the supply of a service in the territory of the other Party;

"monopoly supplier of a service"means any person, public or private, which in the relevant market of the territory of a Party is authorised or established formally or in effect by that Party as the sole supplier of that service;

"natural person of the other Party" means a natural person who resides in the territory of that Party or elsewhere, and who under the law of that Party:

(a) is a national of that Party; or

(b) has the right of permanent residence in that Party provided that such Party accords substantially the same treatment to its permanent residents as it does to its nationals in respect of measures affecting trade in services, provided that the Party is not obligated to accord to such permanent residents treatment more favourable than would be accorded by that Party to such permanent residents;

"sector of a service" means:

(a) with reference to a specific commitment, one or more, or all, subsectors of that service, as specified in a Party's Schedule; and

(b) otherwise, the whole of that service sector, including all of its subsectors;

"selling and marketing of air transport services" means opportunities for the air carrier concerned to sell and market freely its air transport services including all aspects of marketing such as market research, advertising and distribution. These activities do not include the pricing of air transport services nor the applicable conditions;

"services" includes any service in any sector except services supplied in the exercise of governmental authority;

"service consumer" means any person that receives or uses a service;

"service of the other Party" means a service which is supplied:

(a) from or in the territory of the other Party, or in the case of maritime transport, by a vessel registered under the laws of the other Party, or by a person of the other Party which supplies the service through the operation of a vessel or its use in whole or in part; or

(b) in the case of the supply of a service through commercial presence or through the presence of natural persons, by a service supplier of the other Party;

"service supplier" means any person that supplies a service1;

"supply of a service" includes the production, distribution, marketing, sale and delivery of a service;

"trade in services" is defined as the supply of a service:

(a) from the territory of a Party into the territory of the other Party ("cross-border");

(b) in the territory of a Party to the service consumer of the other Party ("consumption abroad");

(c) by a service supplier of a Party, through commercial presence in the territory of the other Party ("commercial presence");

(d) by a service supplier of a Party, through presence of natural persons of a Party in the territory of the other Party ("presence of natural persons"); and

"traffic rights" means the right for scheduled and non-scheduled services to operate and/or to carry passengers, cargo and mail for remuneration or hire from, to, within, or over the territory of a Party, including points to be served, routes to be operated, types of traffic to be carried, capacity to be provided, tariffs to be charged and their conditions, and criteria for designation of airlines, including such criteria as number, ownership, and control.

Article 8.2 Scope

1. This Chapter applies to measures by a Party affecting trade in services.

2. This Chapter does not apply to:

(a) laws, regulations, or requirements governing the procurement by government agencies of services purchased for governmental purposes and not with a view to commercial resale or with a view to use in the supply of services for commercial sale;

1 Where the service is not supplied directly by a juridical person but through other forms of commercial presence such as a branch or a representative office, the service supplier (i.e., the juridical person) shall, nonetheless, through such presence be accorded the treatment provided for service suppliers under this Chapter. Such treatment shall be extended to the presence through which the service is supplied and need not be extended to any other parts of the supplier located outside the territory where the service is supplied.

(b) subsidies or grants except to the extent provided in Article 8.15 (Subsidies) on subsidies;

(c) services provided in the exercise of governmental authority;

(d) cabotage in maritime transport services;

(e) measures affecting air traffic rights or measures affecting services directly related to the exercise of air traffic rights, other than measures affecting:2

(i) aircraft repair and maintenance services;

(ii) the selling and marketing of air transport services;

(iii) computer reservation system services;

(iv) rental services of aircraft with crew; or

(v) air transport management services.

3. This Chapter shall not apply to measures affecting natural persons seeking access to the employment market of a Party, nor shall it apply to measures pertaining to citizenship, permanent residence or employment on a permanent basis.

4. The rights and obligations of the Parties in respect of Financial Services shall be governed by the Annex on Financial Services of the GATS, which are hereby incorporated into and made part of this Chapter.3 However, the licensing, regulation and supervision of the financial activities and services falling under the jurisdiction of the Central Bank shall be subject to the relevant laws and regulations and instructions.

5. The rights and obligations of the Parties in respect of Telecommunications shall be governed by the Annex on Telecommunications of the GATS, which are hereby incorporated into and made part of this Chapter.

6. The provisions of this Chapter shall be read with Annex 8C (Movement of Natural Persons).

7. For greater certainty, Annex 8C (Movement of Natural Persons), and Annex

8D (Health-Related Services and Traditional Medicine Services) are an integral part of this Chapter.

2 Notwithstanding subparagraphs (iv) and (v), this Chapter shall apply to measures affecting rental services of aircraft with

crew and air transport management services only for a Party that opts to make commitments in relation to such services in accordance with Article 8.7 (Schedule of Specific Commitments).

3 Nothing in this Chapter shall apply to measures taken or activities conducted by a central bank or monetary authority or by any other public entity in pursuit of monetary policies and related credit policies or exchange rate policies.

Article 8.3 Market Access

1. With respect to market access through the modes of supply defined under "Trade in Services" in Article 8.1 (Definitions), each Party shall accord services and service suppliers of the other Party treatment no less favourable than that provided for under the terms, limitations and conditions agreed and specified in its Schedule of specific commitments.4

2. In sectors where market access commitments are undertaken, the measures which a Party shall not maintain or adopt either on the basis of a regional subdivision or on the basis of its entire territory, unless otherwise specified in its Schedule of specific commitments, are defined as:

(a) limitations on the number of service suppliers whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirements of an economic needs test;

(b) limitations on the total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;

(c) limitations on the total number of service operations or on the total quantity of service output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test;5

(d) limitations on the total number of natural persons that may be employed in a particular service sector or that a service supplier may employ and who are necessary for, and directly related to, the supply of a specific service in the form of numerical quotas or the requirement of an economic needs test;

(e) measures which restrict or require specific types of legal entity or joint venture through which a service supplier may supply a service; and

4 If a Party undertakes a market-access commitment in relation to the supply of a service through the "cross-border" mode of supply referred to in the definition of "Trade in Services" in Article 8.1 (Definitions), and if the cross-border movement of capital is an essential part of the service itself, that Party is thereby committed to allow such movement of capital. If a Party undertakes a market-access commitment in relation to the supply of a service through the "commercial presence" mode of supply referred to in the definition of "Trade in Services" in Article 8.1 (Definitions}, it is thereby committed to allow related transfers of capital into its territory.

5 Subparagraph (c) does not cover measures of a Party which limit inputs for the supply of services.

(f) limitations on the participation of foreign capital in terms of maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment.

3. Each Party shall endeavour to minimise requirements for a service supplier of the other Party to establish or maintain a representative office or any form of juridical person or to be resident in its territory, as a condition for the cross-border supply of a service.

Article 8.4 National Treatment

1. In the sectors inscribed in its Schedule of specific commitments, and subject to any conditions and qualifications set out therein, each Party shall accord to services and service suppliers of the other Party, in respect of all measures affecting the supply of services, treatment no less favourable than that it accords to its own like services and service suppliers.6

2. A Party may meet the requirement of paragraph 1 by according to services and service suppliers of the other Party, either formally identical treatment or formally different treatment to that it accords to its own like services and service suppliers.

3. Formally identical or formally different treatment shall be considered to be less favourable if it modifies the conditions of competition in favour of services or service suppliers of a Party compared to like services or service suppliers of the other Party.

Article 8.5 Additional Commitments

The Parties may negotiate commitments with respect to measures affecting trade in services not subject to scheduling under Articles 8.3 (Market Access) or 8.4 (National Treatment), including those regarding qualifications, standards or

licensing matters. Such commitments shall be inscribed in a Party's Schedule of specific commitments.

6 Specific commitments assumed under this Article shall not be construed to require either Party to compensate for any inherent competitive disadvantages which result from the foreign character of the relevant services or service suppliers.

Article 8.6

Most Favoured Nation Treatment7

If, after the date of entry into force of this Agreement, a Party enters into any agreement on trade in services with a non-Party, it shall give consideration to a request by the other Party for the incorporation herein of treatment no less favourable than that provided under the aforesaid agreement. Any such incorporation should maintain the overall balance of commitments undertaken by each Party under this Agreement.

Article 8.7

Schedule of Specific Commitments

1. Each Party shall set out, in a Schedule, the specific commitments it undertakes under Articles 8.3 (Market Access), 8.4 (National Treatment) and 8.5 (Additional Commitments). With respect to sectors where such commitments are undertaken, each Schedule of specific commitments shall specify: _ • •

(a) terms, limitations and conditions on market access;

(b) conditions and qualifications on national treatment;

(c) undertakings relating to additional commitments;

(d) where appropriate the time frame for implementation of such commitments; and

(e) the date of entry into force of such commitments.

2. Measures inconsistent with both Articles 8.3 (Market Access) and 8.4 (National Treatment) shall be inscribed in the column relating to Article 8.3 (Market Access). In this case, the inscription will be considered to provide a condition or qualification to Article 8.4 (National Treatment) as well.

3. The Parties' Schedules of specific commitments shall be annexed to this Chapter as Annex 8A (Schedule of Specific Commitments of India on Trade in Services) arid Annex 8B (Schedule of Specific Commitments of Oman on Tr;:ide in Services) and shall form an integral part of this Agreement.

7 This Article shall not apply to Financial_Services.

Article 8.8 Modification of Schedules

1. A Party may modify or withdraw any commitment in its Schedule, (referred to in this Article as the "modifying Party"), at any time after three years have elapsed from the date on which that commitment entered into force, in accordance with the provisions of this Article. It shall notify the other Party of its intent to modify or withdraw a commitment no later than three months before the intended date of implementation of the modification or withdrawal.

2. At the request of the other Party, the modifying Party shall enter into negotiations with a view to reaching agreement on any necessary compensatory adjustment within six months. In such negotiations and agreement, the Parties shall endeavour to maintain a general level of mutually advantageous commitments not less favourable to trade than that provided for in the Schedule of specific commitments prior to such negotiations. The Joint Committee shall be kept informed of the outcome of the negotiations.

3. If agreement is not reached between the affected Party and the modifying Party before the end of the period provided for negotiations, the affected Party may invoke the process in Chapter 13 (Dispute Settlement).

4. If an affected Party does not refer the matter to dispute settlement within 60 days from the expiration of the period referred to in paragraph 3, the modifying Party shall be free to implement the proposed modification or withdrawal.

5. The modifying Party may not modify or withdraw its commitment until it has made compensatory adjustments in conformity with the findings of the panel established pursuant to Article 13.8 (Establishment of a Panel

- Dispute Settlement).

6. If the modifying Party implements its proposed modification or withdrawal and does not comply with the findings of the panel established pursuant to Article 13.8 (Establishment of a Panel - Dispute Settlement), the affected Party may modify or withdraw substantially equivalent benefits in conformity with those findings.

Article 8.9 Domestic Regulation

1. In sectors where specific commitments are undertaken, each Party shall ensure that all measures of general application affecting trade in services are administered in a reasonable, objective and impartial manner.

2. Each Party shall maintain or institute as soon as practicable, judicial, arbitral or administrative tribunals or procedures which provide, at the request of an affected service supplier of the other Party, for the prompt review of, and where justified, appropriate remedies for, administrative decisions affecting trade in services. Where such procedures are not independent of the agency entrusted with the administrative decision concerned, the Party shall ensure that the procedures in fact provide for an objective and impartial review.

3. The provisions of paragraph 2 shall not be construed to require a Party to institute such tribunals or procedures where this would be inconsistent with its constitutional structure or the nature of its legal system.

4. Where authorisation is required for the supply of a service on which a specific commitment has been made, the competent authorities of a Party shall:

(a) within a reasonable period of time after the submission of an application considered complete under the laws and regulations of the Party, inform the applicant of the decision concerning the application;

(b) in the case of an incomplete application, at the request of the applicant, identify all the additional information that is required to complete the application and provide the opportunity to remedy deficiencies within a reasonable timeframe;

(c) at the request of the applicant, without undue delay, provide information concerning the status of the application; and

(d) if an application is terminated or denied, to the maximum extent possible, inform the applicant in writing and without delay the reasons for such action. The applicant will have the possibility of resubmitting, at its discretion, a new application.

5. With a view to ensuring that measures relating to qualification requirements and procedures, technical standards and licensing requirements, do not constitute unnecessary barriers to trade in services, the Parties shall jointly review the results of the negotiations on disciplines on these measure.$, pursuant to Article Vl.4 of the GATS, with a view to their incorporation into this Chapter. The Parties note that such disciplines aim to ensure that such requirements are, inter a/ia:

(a) based on objective and transparent criteria, such as competence and the ability to supply the service;

(b) not more burdensome than necessary to ensure the quality of the service;

(c) in the case of licensing procedures, not in themselves a restriction on the supply of the service.

6. Pending the incorporation of disciplines pursuant to paragraph 5, for sectors where a Party has undertaken specific commitments and subject to any terms, limitations, conditions or qualifications set out therein, a Party shall not apply licensing and qualification requirements and procedures and technical standards that nullify or impair such specific commitments in a manner which:

(a) does not comply with the criteria outlined in subparagraphs 5(a), 5(b), or 5(c); and

(b) could not reasonably have been expected of that Party at the time the specific commitments in those sectors were made.

7. In determining whether a Party is in conformity with the obligation under paragraph 6, international standards of relevant international organisations8 applied by that Party shall be taken into account.

8. In sectors where specific commitments regarding professional services are undertaken, each Party shall provide for adequate procedures to verify the competence of professionals of the other Party in accordance with paragraph 5.

Article 8.10 Recognition

1. For the purposes of the fulfilment of its standards or criteria for the authorisation, licensing or certification of services suppliers, each Party shall give due consideration to any requests by the other Party to recognise the education or experience obtained, requirements met, or licenses or· certifications granted in the other Party. Such recognition which may be achieved through harmonisation or otherwise may be based upon an agreement or arrangement with the other Party, or otherwise be accorded autonomously.

8 The term•:relevant international organisations" refers to international bodies whose membership is open to the relevant bodies of both Parties.

2. Where a Party recognises, by agreement or arrangement, the education or experience obtained, requirements met, or licenses or certifications granted in the territory of a non-Party, that Party shall afford the other Party adequate opportunity to negotiate its accession to such an agreement or arrangement, whether existing or future, or to negotiate a comparable agreement or arrangement with it. Where a Party accords recognition autonomously, it shall afford adequate opportunity for the other Party to demonstrate that the education or experience obtained, requirements met, or licenses or certifications granted in the territory of that other Party should also be recognised.

3. After the entry into force of this Agreement, the Parties shall encourage their relevant professional bodies in the service sectors of architecture, engineering, medical (doctors), dental, accounting and auditing, nursing, veterinary and company secretaries, to negotiate with the aim of concluding any such agreements or arrangements providing mutual recognition of the education or experience obtained, qualification requirements and procedures and licensing requirements and procedures, within a reasonable period of time. The Parties shall report periodically to the Joint Committee on progress and on impediments experienced.

4. In respect of regulated service sectors, other than those mentioned in paragraph 3, upon a request being made in writing by a Party to the other Party in such sector, the Parties shall encourage their respective professional bodies to negotiate, in that service sector, agreements for mutual recognition of education, or experience obtained, qualifications requirements and procedures, and licensing requirements and procedures in that service sector, with a view to the achievement of early outcomes. The Parties shall report periodically to the Joint Committee on the progress and the impediments experienced.

5. The Parties agree that they shall not be responsible in any way for the settlement of disputes arising out of or under the agreements or arrangements for mutual recognition concluded by their respective professional, standard-setting or regulatory bodies under the provisions of this Article and that the provisions of the Chapter 13 (Dispute Settlement) shall not apply to disputes arising out of or under the provisions of such agreements or arrangements.

6. The Parties agree to encourage, where possible, the relevant bodies in their respective territories to:

(a) enhance cooperation on skill development and mutual recognition of qualifications;

(b) organise bilateral discussion on particular skill sets and standards as per the requirements by each Party; and

(c) pursue mutually acceptable standards and criteria for licensing and certification with respect to service sectors of mutual importance to the Parties.

Article 8.11

Monopolies and Exclusive Service Suppliers

1. Each Party shall ensure that any monopoly supplier of a service in its territory does not, in the supply of the monopoly service in the relevant market, act in a manner inconsistent with that Party's obligations under specific commitments.

2. Where a Party's monopoly supplier competes, either directly or through an affiliated company, in the supply of a service outside the scope of its monopoly rights and which is subject to that Party's Schedule of specific commitments, the Party shall ensure that such a supplier does not abuse its monopoly position to act in its territory in a manner inconsistent with such commitments.

3. If a Party has reason to believe that a monopoly supplier of a service of the other Party is acting in a manner inconsistent with paragraphs 1 or 2, it may request the other Party, that is the Party establishing, maintaining or authorising such supplier, to provide specific information concerning the relevant operations.

4. This Article shall also apply to cases of exclusive service suppliers, where a Party, formally or in effect:

(a) authorises or establishes a small number of service suppliers; and

(b) substantially prevents competition among those suppliers in its territory.

Article 8.12 Business Practices

1. The Parties recognise that certain business practices of service suppliers, other than those falling under Article 8.11 (Monopolies and Exclusive Service Suppliers), may restrain competition and thereby restrict trade in services.

2. A Party shall, at the request of the other Party (the "Requesting Party"), enter into consultations with a view to eliminating

practices referred to in paragraph 1. The Party addressed (the "Requested Party") shall accord full and sympathetic consideration to such a request and shall cooperate through the supply of publicly available non-confidential information of relevance to the matter in question. The Requested Party shall also provide other information available to the Requesting Party, subject to its domestic laws and to the conclusion of satisfactory agreement concerning the safeguarding of its confidentiality by the Requesting Party.

Article 8.13 Safeguard Measures

1. Each Party shall review the treatment of emergency safeguard measures taking into account the results of negotiations pursuant to Article X of the GATS.

2. In the event a Party is considering initiating an emergency safeguard investigation pursuant to the results of the above referenced negotiations, a Party shall request consultations with the other Party.

Article 8.14 Subsidies

Each Party shall review the treatment of subsidies related to trade in services taking into account the development of the multilateral disciplines pursuant to paragraph 1 of Article XV of the GATS.

Article 8.15 Payments and Transfers

1. Except under the circumstances envisaged in Article 8.16 (Restrictions to Safeguard the Balance of Payments), a Party shall not apply restrictions on international transfers and payments for current transactions relating to its specific commitments.

2. Nothing in this Chapter shall affect the rights and obligations of the Parties as members of the International Monetary Fund (IMF) under the Articles of Agreement of the Fund, including the use of exchange actions which are in conformity with the Articles of Agreement, provided that a Party shall not impose •restrictions on any capital transactions inconsistently with its specific commitments regarding such transactions, except under Article 8.16 (Restrictions to Safeguard the Balance of Payments) or at the request of the IMF.

Article 8.16

Restrictions to Safeguard the Balance of Payments

1. In the event of serious balance-of-payments and external financial difficulties or threat thereof, a Party may adopt or maintain restrictions on trade in services in respect of which it has undertaken specific commitments, including on payments or transfers for transactions relating to such commitments. It is recognised that particular pressures on the balance-of-payments of a Party in the process of economic development may necessitate the use of restrictions to ensure, inter alia, the maintenance of a level of financial reserves adequate for the implementation of its programme of economic development.

2. The restrictions referred to in paragraph 1 shall:

(a) be applied in such a manner that the other Party is treated no less favourably than any non-Party;

(b) be consistent with the Articles of Agreement of the IMF;

(c) avoid unnecessary damage to the commercial, economic and financial interests of the other Party;

(d) not exceed those necessary to deal with the circumstances described in paragraph 1; and

(e) be temporary and be phased out progressively as the situation specified in paragraph 1 improves.

3. In determining the incidence of such restrictions, the Parties may give priority to the supply of services which are more essential to their economic or development programmes. However, such restrictions shall not be adopted or maintained for the purpose of protecting a particular service sector.

4. Any restrictions adopted or maintained under paragraph 1, or any changes therein, shall be promptly notified to the other Party.

5. To the extent that it does not duplicate the process under WTO and IMF, the Party adopting any restrictions under paragraph 1 shall, upon request by the other Party, commence consultations with the other Party in order to review the restrictions adopted by it.

Article 8.17 Denial of Benefits

1. A Party may deny the benefits of this Chapter:

(a) to the supply of a service, if it establishes that the service is supplied from or in the territory of a non-Party;

(b) to a service supplier that is a juridical person, if it establishes that it is not a service supplier of the other Party;

(c) in the case of the supply of a maritime transport service, if it establishes that the service is supplied:

(i) by a vessel registered under the laws of a non-Party; and

(ii) by a person which operates and/or uses the vessel in whole or in part but which is of a non-Party.

2. A Party may also deny the benefits of this Chapter to the supply of a service from or in the territory of the other Party, if the Party establishes that the service is supplied by a service supplier that is owned or controlled by a person of a non-Party and the denying Party:

(a) does not maintain diplomatic relations with the non-Party; or

(b) adopts or maintains measures with respect to the non-Party or a person of the non-Party that prohibit transactions with the enterprise or that would be violated or circumvented if the benefits of this Chapter were accorded to the service supplier.

Article 8.18 Movement of Natural Persons

1. The rights and obligations of the Parties in respect of the movement of natural persons of a Party supplying services shall be governed by the GATS Annex on Movement of Natural Persons Supplying Services, which is hereby incorporated into and forms part of this Agreement.

2. Annex BC (Movement of Natural Persons) sets out further rights and obligations regarding movement of natural persons of a Party supplying services.

3. Subject to the domestic laws and regulations in force in the territory of both Parties, the Parties agree to negotiate on matters pertaining to the social security of the workers in the territory of the other Party with a view to ensure continuity of social security coverage on reciprocal basis.

Article 8.19 Cooperation

1. The Parties shall strengthen cooperation efforts in sectors, including sectors which are not covered by current cooperation arrangements. The Parties shall discuss and agree on the sectors for cooperation and develop cooperation programmes in these sectors in order to improve their domestic services capacity and their efficiency and competitiveness.

2. Recognising that trade in audiovisual services, including film and television co-productions, can significantly contribute to the development of the audiovisual industry and to the intensification of cultural and economic exchange between them, the Parties shall endeavour to enhance cooperation in the sector, including by pursuing an audiovisual co-production agreement.

3. Recognising that construction services are important for development due to their role in building industrial and social infrastructure, the Parties endeavour to enhance cooperation in this sector to reduce the barriers affecting trade in construction services.

Article 8.20 Subcommittee on Trade in Services

1. The Parties hereby establish a Subcommittee on Trade in Services ("Trade in Services Subcommittee"), composed of representatives of each Party.

2. The Trade in Services Subcommittee shall meet within one year from the date of entry into force of the Agreement, and thereafter as mutually determined by the Parties.

3. The Trade in Services Subcommittee's functions shall be to:

(a) review and monitor the implementation of this Chapter;

(b) consider any other matters related to this Chapter identified by either Party; and

(c) facilitate the exchange of information between the Parties in relation to this Chapter.

4. The Trade in Services Subcommittee may:

(a) make recommendations, or refer matters, to the Joint Committee;

(b) establish ad hoc working groups, as appropriate;

(c) refer matters to any ad hoc or standing working group or any other subsidiary body related to this Chapter; and

(d) consider any other matter related to this Chapter, or any matter as directed by the Joint Committee.

5. The Trade in Services Subcommittee shall report to the Joint Committee as required.

Chapter 9. GOVERNMENT PROCUREMENT

Article 9.1 General Provisions

1 The Parties recognise the importance of government procurement in the trade relations between the Parties and to maximise, inter alia, the competitive opportunities for the suppliers of the Parties.

2. The Parties recognise the importance of government procurement as a tool in furthering the expansion of domestic production and trade so as to promote growth and employment, with due consideration of the balance between optimum utilisation of resources and requirements.

3. The Parties recognise the importance of promoting the transparency of laws, regulations and procedures, and developing cooperation among the Parties, regarding government procurement.

4. The Parties recognise the importance of carrying out procurements in a transparent and impartial manner.

Article 9.2 Cooperation

1. The Parties intend to cooperate on matters relating to government procurement with a view to achieving a better understanding of each Party's respective government procurement systems at the central-level. Such cooperation may include:

(a) exchanging information, to the extent possible, on Parties' laws, regulations and procedures, and any modifications thereof;

(b) exchanging experience and information about best practices and regulatory frameworks;

(c) providing training, technical assistance or capacity building to Parties, and sharing information on these initiatives;

(d) sharing information and best practices in relation to SMEs; and

(e) sharing information, where possible, on electronic procurement systems.

Article 9.3 Review

The Parties may, in the Joint Committee, review this Chapter after the entry into force of this Agreement and examine the possibility of developing and deepening their cooperation under this Chapter as mutually agreed by Parties.

Chapter 10. INTELLECTUAL PROPERTY

SECTION A GENERAL PROVISIONS

Article 10.1 Definitions

For the purposes of this Chapter:

"geographical indication" means an indication that identifies a good as originating in the territory of a Party, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin;

"intellectual property" refers to all categories of intellectual property that are the subject of Sections 1 through 7 of Part II of the Agreement on Trade-Related Aspects of Intellectual Property Rights, set out in Annex 1C to the WTO Agreement (TRIPS Agreement); and

a "national" means, in respect of the relevant right, a person of a Party that would meet the criteria for eligibility for

protection provided for in the TRIPS Agreement.

Article 10.2 Objectives

1. The protection and-enforcement of intellectual property rights should contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations.

2. Establish a general framework for cooperation activities in the field of intellectual property between the Parties in accordance with the laws and regulations of each Party or:, the basis of reciprocal benefits and mutual interest.

Article 10.3 Principles

1. A Party may, in formulating or amending its laws and regulations, adopt measures necessary to protect public health and nutrition, and to promote the public interest in sectors of vital importance to their socio-economic and technological development, in accordance with Article 8 of the TRIPS Agreement.

2. The Parties recognise that appropriate measures, provided that they are consistent with the provisions of this Chapter, may be needed 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 10.4 Understandings in Respect of this Chapter

1. Having regard to the underlying public policy objectives of national intellectual property systems, the Parties recognise the need to:

(a) promote innovation, creativity, and technology transfer;

(b) facilitate the diffusion of information, knowledge, technology, culture and the arts;

(c) protect against unfair competition in accordance with the TRIPS Agreement1; and

(d) enhance, support and cooperate, as determined mutually by the Parties, in the field of traditional knowledge, traditional cultural expressions, genetic resources, creative industries, and new plant varieties;

through their respective intellectual property systems, while respecting the principles of transparency and due process, and taking into account the interests of right holders, users and the public.

Article 10.5 Scope

Each Party shall give effect to the provisions of this Chapter. A Party may, but shall not be obliged to, provide more extensive protection for, or enforcement of, intellectual property rights under its law than is required by this Chapter, provided that such protection or enforcement does not contravene the provisions of th_isChapter. Each Party shall be free to determine the appropriate method of implementing the provisions of this Chapter within its own legal system and practice.

1 Article 39 of the TRIPS Agreement.

Article 10.6 TRIPS and Public Health

1. The Parties:

(a) reaffirm, in general, their right to utilise the flexibilities provided in the TRIPS Agreement;

(b) reaffirm, in particular, the Doha Declaration on the TRIPS Agreement and Public Health adopted on 14 November 2001 by the Ministerial Conference of the WTO; and

(c) affirm that this Chapter shall be interpreted and implemented in a manner supportive of each Party's right to protect public health and, in particular, to promote access to medicines for all sections of the public.

2. The Parties have reached the following understanding regarding the protection of intellectual property rights under this Agreement:

(a) this Chapter does not, in any manner whatsoever, prevent the Parties from taking measures to protect public health;

(b) this Chapter does not, in any manner whatsoever, prevent the effective utilisation of Article 31bis of the TRIPS Agreement and the Annex and Appendix to the Annex to the TRIPS Agreement;

(c) the Parties recognise the need and importance of contributing towards international efforts to implement Article 31bis of the TRIPS Agreement and the Annex and Appendix to the Annex to the TRIPS Agreement.

Article 10.7 National Treatment

1. In respect of all categories of intellectual property covered in this Chapter, 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 protection2 of intellectual property rights.

2. With respect to secondary uses of phonograms by means of analogue communications and free over-the-air broadcasting, however, a Party may limit the rights of the performers and producers of the other Party to the rights its persons are accorded within the jurisdiction of that other Party.

3. A Party may derogate from paragraph 1 in relation to its judicial and administrative procedures, including requiring a national of the other Party to designate an address for service of process in its territory, or to appoint an agent in its territory, provided that such derogation is:

(a) necessary to secure compliance with laws or regulations that are not inconsistent with this Chapter; and

(b) not applied in a manner that would constitute a disguised restriction on trade.

Article 10.8 Transparency and Ease of Access

1. Each Party shall make available on the internet its laws, regulations, and final administrative rulings of general application concerning the protection and enforcement of intellectual property rights.

2. Each Party shall endeavour to, subject to its law, make available on the internet information that it makes public concerning applications for trademarks, geographical indications, patents, designs, plant variety rights, and copyright.3

3. Each Party shall, subject to its law, make available on the internet information that it makes public concerning registered or granted trademarks, geographical indications, patents, designs, plant variety rights, and copyright sufficient to enable the public to become acquainted with those registered or granted rights.4

2 For the purposes of this paragraph, "protection" shall inch‚Jde matters affecting the availability, acquisition, scope, maintenance and enforcement of intellectual property rights as well as matters affecting the use of intellectual property rights specifically covered by this Chapter. For greater certainty, "matters affecting the use of intellectual property rights specifically covered by this Chapter" in respect of works, performances and phonograms, include any form of payment, in respect of uses that fall under the copyright and related rights in this Chapter. The preceding sentence is without prejudice to a Party's interpretation of "matters affecting the use of intellectual property rights" in footnote 3 of the TRIPS Agreement.

3 For greater certainty, under paragraph 2, a Party may make available on the internet the entire dossier for the relevant application.

4. For the better efficiency of the process related to intellectual property (IP) filings and registrations, each Party shall endeavour that the communication between IP filers/holders and IP offices is also made in the English language as well as in the official language to the extent practicable.

5. Each Party may, but shall not be obliged, to make available the information referred to in paragraphs 1 through 3 in the English language.

Article 10.9

Application of Chapter to Existing Subject Matter and Prior Acts

1. Unless otherwise provided in this Chapter, this Chapter gives rise to obligations in respect of all subject matter existing at the date of entry into force of this Agreement for a Party and that is protected on that date in the territory of the Party where protection is claimed, or that meets or comes subsequently to meet the criteria for protection under this Chapter.

2. Unless otherwise provided in this Chapter, a Party shall not be required to restore protection to subject matter that on the date of entry into force of this Agreement for that Party has fallen into the public domain in its territory.

3. This Chapter does not give rise to obligations in respect of acts that occurred before the date of entry into force of this Agreement for a Party.

Article 10.10

Exhaustion of Intellectual Property Rights

Nothing in this Agreement prevents a Party from determining whether or under what conditions the exhaustion of intellectual property rights applies under its legal system.5

4 For greater certainty, under paragraph 3, a Party may make available on the internet the entire dossier for the relevant registered or granted intellectual property right.

5 For greater certainty, this Article is without prejudice to any provisions addressing the exhaustion of intellectual property rights in international agreements to which a Party is a party.

SECTION B COOPERATION

Article 10.11 Cooperation Activities and Initiatives

1. The Parties shall endeavour to cooperate on the subject matter covered by this Chapter, such as through appropriate coordination, training and exchange of information between the respective intellectual property offices of the Parties, or other institutions, as determined mutually by the Parties. Cooperation may cover areas such as:

(a) developments in domestic and international intellectual property policy;

(b) intellectual property administration and registration systems;

(c) education and awareness relating to intellectual property;

(d) academics and research;

(e) intellectual property issues relevant to:

(i) small and medium-sized enterprises;

(ii) science, technology and innovation activities;

(iii) the generation, transfer and dissemination of technology;

(iv) industrial models and prototypes;

(v) technology and innovation support centres, including incubators;

(vi) new plant varieties;

(vii) limitations and exceptions; and

(viii) global innovation index and global competitiveness index;

(f) policies involving the use of intellectual property for research, innovation and economic growth;

(g) implementation of multilateral intellectual property agreements such as those concluded or administered under the auspices of World Intellectual Property Organization (WIPO);

(h) technical assistance for developing countries;

(i) genetic resources, traditional knowledge, and traditional cultural expressions; and

(j) geographical indications, including the preservation or revival of local arts or traditions.

Article 10.12 Cooperation in the Field of Patents

1. The Parties recognise the importance of continuous improvement in the quality and efficiency of the procedures followed in their respective patent offices, including the simplification and streamlining of the procedures for the benefit of the public as a whole.

2. Further to paragraph 1, the Parties shall endeavour to cooperate so as to facilitate the sharing of search and examination work by their patent offices. This may include:

(a) training and capacity building;

(b) providing and supporting the exchange of patent applications, examination and search documents through approved

processes for each Party;

(c) making search and examination results accessible to the public according to the relevant laws and regulations of each Party; and

(d) exchanging information on quality assurance systems relating to patent examination.

Article 10.13 Cooperation on Request

Cooperation activities and initiatives undertaken under this Chapter shall be considered upon request, conducted on mutually agreed terms, and be subject to the availability of resources.

SECTION C TRADEMARKS

Article 10.14

Use of Identical or Similar Signs

Each Party shall provide that the owner of a registered trademark has the exclusive right to prevent third parties that do not have the owner's consent from using in the course of trade, identical or similar signs, for goods or services that are related to those goods or services in respect of which the owner's trademark is registered, where such use would result in a likelihood of confusion. In the case of the use of an identical sign for identical goods or services, a likelihood of confusion shall be presumed.

Article 10.15

Scope of Protection in Trademarks

Each Party shall ensure that any signs or any combination of signs capable of distinguishing the goods and services of one undertaking from those of other undertakings, shall be capable of constituting a trademark. Such signs, in particular words including personal names, letters, numerals, figurative elements, three-dimensional shapes and combinations of colours as well as any combination of such signs, shall be eligible for registration as trademarks. Where signs are not inherently capable of distinguishing the relevant goods or services, the Parties may make registrability depend on distinctiveness acquired through use. No Party shall deny registration of a trademark solely on the grounds that the sign of which it is composed is a sound.6

Article 10.16

Well-Known Trademarks

1. No Party shall require as a condition for determining that a trademark is well-known that the trademark has been registered in the Party or in another jurisdiction.

2. Article 6bis of the Paris Convention for the Protection of Industrial Property, done at Paris on 20 March 1883, as revised at Stockholm on 14 July 1967, shall apply, mutatis mutandis, to goods or services that are not identical or similar to those identified by a well-known trademark,7 whether registered or not, provided that the use of that trademark in relation to those goods or services would indicate a connection between those goods or services and the owner of the well-known trademark, and provided that the interests of the owner of the well-known trademark are likely to be damaged by such use.

6 A Party may require an adequate description, which can be represented graphically, of the trademark.

7 In determining whether a trademark is well-known in a Party, that Party need not require that the reputation of the trademark extend beyond the sector of the public that normally deals with the relevant goods or services.

3. Each Party recognises the importance of the Joint Recommendation Concerning Provisions on the Protection of Well-Known Marks as adopted by the Assembly of the Paris Union for the Protection of Industrial Property and the General Assembly of WIPO at the Thirty-Fourth Series of Meetings of the Assemblies of the Member States of WIPO, 20 to 29 September 1999.

4. Each Party shall provide for appropriate measures to refuse the application or cancel the registration and prohibit the use of a trademark that is identical or similar to a well-known trademark,8 for identical or similar goods or services, if the use of that trademark is likely to cause confusion with the prior well-known trademark. A Party may also provide such measures including in cases in which the subsequent trademark is likely to deceive the public or cause confusion.

Article 10.17

Procedural Aspects of Examination, Opposition and Cancellation

1. Each Party shall provide a system for the examination and registration of trademarks which includes, inter a/ia:

(a) communicating to the applicant in writing, which may be by electronic means, the reasons for any refusal to register a trademark;

(b) providing the applicant with an opportunity to respond to communications from the competent authorities, to contest any initial refusal, and to make a judicial appeal of any final refusal to register a trademark;

(c) providing an opportunity to oppose the registration of a trademark or to seek cancellation9 of a trademark; and

(d) requiring administrative decisions in opposition and cancellation proceedings to be reasoned and in writing, which may be provided by electronic means.

8 The Parties understand that a well-known trademark is one that was already well-known before, as determined by a Party, the application for, registration of, or use of the first-mentioned trademark.

9 For greater certainty, cancellation for the purposes of this Section may be implemented through nullification or revocation proceedings.

Article 10.18 Classification of Goods and Services

1. Each Party shall adopt or maintain a trademark classification system that is consistent with the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks done at Nice on 15 June 1957, as revised and amended (Nice Classification). Each Party may as permitted by its law, provide that:

(a) registrations and the publications of applications indicate the goods and services by their names, grouped according to the classes established by the Nice Classification;10 and

(b) goods or services may not be considered as being similar to each other on the ground that, in any registration or publication, they are classified in the same class of the Nice Classification. Conversely, each Party shall provide that goods or services may not be considered as being dissimilar from each other on the ground that, in any registration or publication, they are classified in different classes of the Nice Classification.

Article 10.19 Multiclass Application

Each Party shall provide that single application may be made for registration of trademarks for different classes of goods or services of the Nice Classification.

Article 10.20

Term of Protection for Trademarks

Each Party shall provide that initial registration and each renewal of registration of a trademark is for a term of no less than 10 years.

Article 10.21 Exceptions

A Party may provide limited exceptions to the rights conferred by a trademark, such as fair use of descriptive terms, provided that those exceptions take account of the legitimate interest of the owner of the trademark and of third parties.

10 A Party that relies on translations of the Nice Classification shall follow updated versions of the Nice Classification to the extent that official translations have been issued and published.

SECTION D COUNTRY NAMES

Article 10.22 Country Names

Each Party shall provide the legal means for interested persons to prevent commercial misuse of the country name of a Party in relation to a good in a manner that misleads consumers as to the origin of that good.

SECTION E GEOGRAPHICAL INDICATIONS

Article 10.23

Recognition of Geographical Indications

1. The Parties shall ensure in their domestic laws, adequate and effective means to protect geographical indications. Each Party recognises that such protection may be provided through a trademark system, relevant approved or acceded11 international agreements, or a sui generis system or other legal means, provided that all requirements under the TRIPS Agreement are fulfilled.

2. Each Party recognises that such goods may include, agricultural goods, natural goods, and manufactured goods, including goods of industry, handicrafts, and foodstuffs.

Article 10.24 Opposition Procedures

With respect to the opposition procedures, each Party in accordance with its laws shall provide procedures that allow at least interested persons to oppose the protection of a geographical indication.

11 'Approved' and 'acceded' may be deemed by a Party to be synonymous terms.

SECTION F

PATENTS AND GENETIC RESOURCES, TRADITIONAL KNOWLEDGE AND TRADITIONAL CULTURAL EXPRESSIONS

Article 10.25 Grace Period

1. Each Party may disregard information contained in public disclosures used to determine whether an invention is novel or has an inventive step, if the public disclosure of any form:12, 13

(a) was made by the patent applicant or by a person that obtained the information directly or indirectly from the patent applicant; and

(b) occurred within 12 months prior to the date of the filing of the application.

Article 10.26 Exceptions

A Party may provide limited exceptions to the exclusive rights conferred by a patent, provided that such exceptions do not unreasonably conflict with a normal exploitation of the patent and do not unreasonably prejudice the legitimate interests of the patent owner, taking account of the legitimate interests of third parties.

Article 10.27

Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions

1. Subject to each Party's international obligations, each Party shall establish appropriate measures to protect genetic resources, traditional knowledge, and traditional cultural expressions.

12 No Party shall be required to disregard information contained in applications for, or registrations of, intellectual property rights made available to the public or published by a patent office, unless erroneously published or unless the application was filed without the consent of the inventor or their successor in title, by a third person who obtained the information directly or indirectly from the inventor.

13 For greater certainty, a Party may limit the application of this Article to disclosures made by, or obtained directly or indirectly from, the inventor or joint inventor. A Party may provide that, for the purposes of this Article, information obtained directly or indirectly from the patent applicant may be information contained in the public disclosure that was authorised by, or derived from, the patent applicant.

2. Where a Party has disclosure requirements relating to the source or origin of genetic resources as part of a Party's patent system, that Party shall endeavour to make available its laws, regulations, and procedures with respect to such requirements, including on the internet where feasible, in such a manner as to enable interested persons and other relevant Parties to become acquainted with them.

3. The Parties shall endeavour to pursue quality patent examination, which may include, wherever applicable and appropriate, the use of databases or digital libraries which contain relevant information on traditional knowledge associated with genetic resources, and, when determining prior art, relevant publicly available documented information related to traditional knowledge associated with genetic resources may be taken into account.

4. The Parties shall endeavour to cooperate on areas of mutual interest with respect to genetic resources, traditional knowledge, and traditional cultural expressions, through appropriate coordination, training, or exchange of information, as determined mutually by the Parties. Cooperation may cover areas such as:

(a) strengthening the efforts to protect genetic resources, traditional knowledge and cultural expressions;

(b) conducting activities for the promotion and utilisation of genetic resources, traditional knowledge and cultural expressions;

(c) sharing of best practices and experiences to prevent misappropriation of genetic resour_ces, traditional knowledge and cultural expressions;

(d) sharing of best practices and experiences on the usefulness of the disclos(t)_re requirements of origin or source of genetic resources and associated traditional knowledge in patent applications;

(e) strengthening and sharing the experiences for enhancing the transparency requirements of the patent system that is related to utilisation of genetic resources and associated traditional knowledge; and

(f) sharing experiences and exchange of information regarding the development of access and benefit-sharing legislations- or regulatory requirements; as well as other areas in common to the Parties that are relevant, inter alia, to the above mentioned activities and may also include joint implementation of the learnings for the equitable economic benefits of each Party.

SECTION G COPYRIGHT AND RELATED RIGHTS

Article 10.28

Rights of Reproduction, Distribution and Communication

1. Each Party shall provide14 to authors, performers and producers of phonograms15 the exclusive right to authorise or prohibit:

(a) all reproduction of their works, performances or phonograms in any manner or form, including in electronic form;

(b) the making available to the public of the original and copies16 of their works, performances and phonograms through sale or other transfer of ownership; and

(c) the commercial rental to the public of the original and copies of their performances fixed in phonograms as determined in the national law of each Party, even after their distribution.

2. Each Party shall provide to authors of phonogram17 the exclusive right to authorise or prohibit the communication to the public of their works, by wire or wireless means, including the making available to the public of their works in such a way that members of the public may access these works from a place and at a time individually chosen by them.18

3. Copyright may not be restricted except in accordance with the laws and regulations in force in each Party and the TRIPS Agreement.

14 For greater certainty, the Parties understand that it is a matter for each Party's law to prescribe that works, performances or phonograms in general or any specified categories of works, performances and phonograms are not protected by copyright or related rights unless the work, performance or phonogram has been fixed in some material form.

15 The terms "authors, performers, and producers of phonograms" refer also to any of their successors in interest.

16 The expressions "copies" and "original and copies", that are subject to the right of distribution in this Article, refer exclusively to fixed copies that can be put into circulation as tangible objects.

17 The Parties understand that phonograms do not include cinematographic or other audiovisual works.

18 The Parties understand that the mere provision of physical facilities for enabling or making a communication does not in itself amount to communication within the meaning of this Chapter or the Berne Convention for the Protection of Literary and Artistic Works (Berne Convention). The Parties further understand that nothing in this Article precludes a Party from applying Article 11bis (2) of the Berne Convention.

Article 10.29 Related Rights

1. Each Party shall accord the rights provided for in this Chapter with respect to performers and producers of phonograms to the performers and producers of phonograms that are nationals19 of the other Party, and to performances or phonograms first published or first fixed20 in the territory of the other Party.21

2. Each Party shall provide to performers the exclusive right to authorise or prohibit:

(a) the broadcasting and communication to the public of their unfixed performances, unless the performance is already a broadcast performance; and

(b) the fixation of their unfixed performances.

3. Each Party shall provide to performers and producers of phonograms the exclusive right to authorise or prohibit the broadcasting or any communication to the public of their performances or phonograms, by wire or wireless means,22 and the making available to the public of those performances or phonograms in such a way that members of the public may access them from a place and at a time individually chosen by them.

4. Notwithstanding paragraph 3 and Article 10.31 (limitations and Exceptions), the application of the right referred to in paragraph 3 to analogue transmissions and non-interactive free over-the-air broadcasts·, and exceptions or limitations to this right for those activities, is a matter of each Party's law.23

19 For the purposes of determining criteria for eligibility under this Article, with respect to performers, a Party may treat "nationals" as those who would meet the criteria for eligibility under Article 3 of the World Intellectual Property Performances and Phonograms Treaty (WPPT).

20 For the purpose of this Article, "fixation" means the embodiment of sound or moving images

or of the representation thereof from which they can be perceived, reproduced or communicated by means of a device.

21 For greater certainty, in this paragraph with respect to performances or phonograms first published or first fixed in the territory of a Party, a Party may apply the criterion of publication, or alternatively, the criterion of fixation, or both. For greater certainty, consistent with Article 10.7 (National Treatment), each Party shall accord to performances and phonograms first published or first fixed in the territory of the other Party treatment no less favourable than it accords to performances or phonograms first published or first fixed in its own territory.

22 For greater certainty, the obligation under this paragraph does not include broadcasting or communication to the public, by wire or wireless means, of the sounds or representations of sounds fixed in a phonogram that are incorporated in a cinematographic or other audio-visual work.

5. Both Parties shall endeavour to cooperate in the field of copyright and related rights covered by this Chapter for preventing and combating infringement, such as through appropriate coordination, training and exchange of information, between the respective intellectual property offices, or other institutions, as determined mutually by the Parties.

Article 10.30

Obligations Concerning Protection of Technological Measures and Rights Management Information

1. Each Party shall provide adequate legal protection and effective legal remedies against the circumvention of effective technological measures that are used by authors, performers or producers of phonograms in connection with the exercise of their rights as provided under Articles 10.28 (Rights of Reproduction, Distribution and Communication) and 10.29 (Related Rights) of this Agreement, that restrict acts, in respect of their works, performances or phonograms, which are not authorised by the authors, performers or producers of phonograms concerned or permitted by law.

2. Each Party shall provide adequate and effective legal remedies against any person who knowingly, without authorisation removes or alters any electronic rights management information or distributes, imports for distribution, broadcasts or communicates to the public, without authority, works or copies of works knowing that electronic rights management information24 has been removed or altered without authorisation.

Article 10.31 Limitations and Exceptions

With respect to this Section, each Party shall confine limitations or exceptions to exclusive rights to certain special cases that do not conflict with a normal exploitation of the work, performance or phonogram, and do not unreasonably prejudice the legitimate interests of the right holder.

23 For the purposes of this paragraph, the Parties understand that a Party may provide for the retransmission of non-interactive, free over-the-air broadcasts, provided that these retransmissions are lawfully permitted by that Party's government communications authority; any entity engaging in these retransmissions complies with the relevant rules, orders or regulations of that authority; and these retransmissions do not include those delivered and accessed over the internet. For greater certainty, this footnote does not limit a Party's ability to avail itself of this paragraph.

24 For the purpose of clarity,"rights management information" shall be interpreted in accordance with Article 12 of the W/PO Copyright Treaty, done at Geneva on 20 December 1996.

SECTION H ENFORCEMENT

Article 10.32

General Obligation in Enforcement

1. Each Party shall ensure that enforcement procedures as specified in this Section are available under its law so as to permit effective action against any act of infringement of intellectual property rights covered by this Chapter, including expeditious remedies to prevent infringements and remedies that constitute a deterrent to future infringements. These procedures shall be applied in such a manner 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.

3. It is understood that this part does not create any application to put in place a judicial system for the enforcement of intellectual property rights, distinct from that for the enforcement of law in general, nor does it affect the capacity of the Parties to enforce their law in general. Nothing in this Section creates any obligation with respect to the distribution of resources, as between enforcement of intellectual property rights, and the enforcement of law in general.

Chapter 11. MICRO, SMALL AND MEDIUM-SIZED ENTERPRISES

Article 11.1 General Principles

1. Recognising the fundamental role of SMEs in maintaining the dynamism and enhancing the competitiveness of their respective economies, the Parties shall foster close cooperation between their SMEs and cooperate in promoting jobs and growth in SMEs.

2. The Parties recognise the integral role of the private sector in SME cooperation under this Chapter.

Article 11.2

Cooperation to Increase Trade and Investment Opportunities for SMEs

1. With a view to facilitating robust cooperation between the Parties to enhance commercial opportunities for SMEs, each Party shall seek to increase trade and investment opportunities, and in particular shall:

(a) promote cooperation between the Parties' small business support infrastructure, including dedicated SME centres, incubators and accelerators, export assistance centres, and other centres, as appropriate, to create an international network for sharing best practices, exchanging market research, and promoting SME participation in international trade, as well as business growth in local markets;

(b) strengthen collaboration with the other Party on activities to promote SMEs owned by women and youth, as well as start-ups, and promote partnerships among these SMEs and their participation in international trade;

(c) enhance cooperation with the other Party to exchange information and best practices in areas including improving SME access to capital and credit, increasing SME participation in covered government procurement opportunities, and helping SMEs adapt to changing market conditions; and

(d) encourage participation in purpose-built mobile or web-based platforms for business entrepreneurs to share information and best practices to help SMEs link with international suppliers, buyers, and other potential business partners.

Article 11.3

Information Sharing

1. Each Party shall establish or maintain its own free, publicly accessible website containing information regarding this Agreement, including:

(a) the text of this Agreement;

(b) a summary of this Agreement; and

(c) information designed for SMEs that contains:

(i) a description of the provisions in this Agreement that the Party considers to be relevant to SMEs; and

(ii) any additional information that would be useful for SMEs interested in benefitting from the opportunities provided by this Agreement.

2. Each Party shall endeavour to include in its website links to:

(a) the websites of the equivalent entities of the other Party; and

(b) the websites of its own government agencies and other appropriate entities that provide information which the Party considers useful to any person interested in trading, investing, or doing business in that Party's territory.

3. Subject to each Party's laws and regulations, the information described in subparagraph 2(b) may include:

(a) customs regulations, procedures, or enquiry points;

(b) regulations or procedures concerning intellectual property, trade secrets, and patent protection rights;

(c) technical regulations, standards, quality or conformity assessment procedures;

(d) sanitary or phytosanitary measures relating to importation or exportation;

(e) foreign investment regulations;

(f) business registration and corporate structuring procedures;

(g) trade promotion programmes;

(h) competitiveness programmes;

(i) SME investment and financing programmes;

(j)employment regulations;

(k) taxation regulations, accounting and reporting procedures, or enquiry points;

(l) government procurement opportunities; and

(m) other information which the Party considers to be useful for SMEs.

4. Each Party shall regularly review the information and links on the website referred to in paragraphs 1 and 2 to ensure that the information and links are up-to-date and accurate.

5. To the extent possible, each Party shall make the information in this Article available in the English language.

Article 11.4 Committee on SME

1. The Parties shall establish the Committee on SME (SME Committee) comprising representatives of each Party.

2. The SME Committee shall:

(a) identify ways to assist SMEs in the Parties' territories to take advantage of the commercial opportunities resulting from this Agreement and to strengthen SME competitiveness;

(b) identify and recommend ways for further cooperation between the Parties to develop and enhance partnerships between SMEs of the Parties;

(c) exchange and discuss each Party's experiences and best practices in supporting and assisting SME exporters with respect to, inter alia, training programmes, trade education, trade finance, trade missions, trade facilitation, digital trade, identifying commercial partners in the territories of the Parties, and establishing good business credentials;

(d) promote seminars, workshops, webinars, mentorship sessions, or other activities to inform SMEs of the benefits available to them under this Agreement;

(e) explore opportunities for capacity building to facilitate each Party's work in developing. and enhancing SME export counselling, assistance, and training.programmes;

(f) recommend additional information that a Party may include on the website referred to in Article 11.3 (Information Sharing);

(g) review and coordinate its work programmes with the work of other committees, subcommittees and working groups established under this Agreement, to avoid duplication of work programmes and to identify appropriate opportunities for cooperation to improve the ability of SMEs to engage in trade and investment opportunities resulting from this Agreement;

(h) collaborate with and encourage committees, subcommittees and working groups established under this Agreement to consider SME-related commitments and activities into their work;

(i) review the implementation and operation of SME-related provisions within this Agreement and report findings and make recommendations to the Joint Committee that can be included in future work and SME assistance programmes as appropriate;

U) facilitate the development of programmes to assist SMEs to participate and integrate effectively into the Parties' regional and global supply chains;

(k) promote the participation of SMEs in digital trade enabling them to take advantage of the opportunities resulting from this Agreement and rapidly access new markets;

(I) facilitate the exchange of information on entrepreneurship education and awareness programmes for youth and women to promote the entrepreneurial environment in the territories of the Parties;

(m) submit on an annual basis, unless the Parties decide otherwise, a report of its activities and make appropriate recommendations to the Joint Committee; and

(n) consider any other matter pertaining to SMEs as the SME Committee may decide, including issues raised by SMEs regarding their ability to benefit from this Agreement.

3. The SME Committee shall meet within one year after the date of entry into force of this Agreement and thereafter meet annually, unless the Parties agree otherwise.

4. The SME Committee may seek to collaborate with appropriate experts in carrying out its programmes and activities.

Article.11.5

Non-Application of Dispute Settlement

Neither Party shall have recourse to dispute settlement under Chapter 13 (Dispute Settlement) for any matter arising under this Chapter.

Chapter 12. COOPERATION

Article 12.1 Objectives

1. The Parties affirm the importance of all forms of cooperation, with particular attention to economic, trade and technical cooperation, as a means to contribute to the implementation of this Agreement, to promote, liberalise and facilitate trade and investment between the Parties and to enhance the ability of the Parties to take advantage of the economic opportunities created by the Agreement.

2. Cooperation between the Parties under this Chapter shall complement the cooperation and cooperative activities between the Parties set out in this Agreement and in other cooperation agreements or arrangements between them with the objective of maximizing its benefits, supporting pathways to trade and investment facilitation, and further improving market access and openness to contribute to the sustainable inclusive economic growth and prosperity of the Parties.

Article 12.2 Scope

1. Cooperation and capacity building activities may include the following areas:

(a) trade and investment promotion;

(b) human resource and skill development;

(c) tourism and cross-cultural cooperation;

(d) digital transformation, and information and communications technology;

(e) agricultural products, food security, livestock, fisheries and aquaculture;

(f) mining and minerals;

(g) pharmaceutical industry and health care;

(h) energy, including renewable energy;

(i) logistics and physical infrastructure;

(j) digital trade and e-commerce;

(k) space technology;

(l) defence manufacturing; and

(m) innovation.

2. The Parties shall endeavour to include, inter alia, the following activities for cooperation and capacity building:

(a) dialogue on policies and regular exchanges of information and views on ways to promote and expand trade and investment between the Parties;

(b) joint collaboration for studies and technical projects of economic interest according to the economic development needs identified by the Parties;

(c) providing assistance and facilities to business persons and trade missions of a Party that visit the other Party with the knowledge and support of its relevant agencies;

(d) supporting dialogue and exchange of best practices among the respective stakeholders of the Parties; and

(e) establishing and developing mechanisms for providing information

and identifying opportunities for business cooperation, trade and investment.

3. The Parties shall regularly review cooperation and capacity building areas and activities set forth in this Article and, where appropriate, recommend new areas and activities for further cooperation.

Article 12.3

Agricultural Products, Food Security, Livestock, Fisheries and Aquaculture

1. The Parties acknowledge that agriculture, fisheries, aquaculture and marine products play a considerable role in both economies.

Cooperation and capacity building activities in these sectors may include:

(a) sharing best practice principles and exploring collaborative opportunities in agricultural research, fisheries and aquaculture, animal breeding and trade in agricultural commodities including new plant varieties and food security, including various types of millets and other ancient grains, aquaculture inputs and marine products between the Parties; and .

(b) developing training programmes for leading producers including agriculture and aquaculture farmers, fishermen, technicians, and professionals in order to improve the productivity and competitiveness in fisheries, aquaculture, agricultural products including various types of millets and other ancient grains, livestock and agricultural value-added products; and

(c) building an ecosystem with the requisite supply chain linkages, technological repository, awareness creation, policy changes, and developing knowledge and understanding of each other's markets, consumer preferences, emerging segments, standards, regulations, and trade policies.

Article 12.4 Mining and Minerals

1. The Parties shall promote cooperation in the sectors of mining and minerals, as a way to promote investment and technology transfer in these sectors.

2. The Parties shall endeavour to cooperate, inter alia, in the following activities:

(a) promoting and facilitating trade and investment in the sectors relating to mining and minerals;

(b) facilitating access to mining and minerals projects, mining equipment, services, etc., wherever possible for public and private entities in accordance with the laws and regulations of the Parties;

(c) promoting cooperation, on a mutual basis, in geological mapping and research, prospecting, exploration and mining development, beneficiation of ores and minerals within their territories and of non-Parties;

(d) collaborating on action to support transparent, open, predictable, secure, and resilient supply chains for mining and minerals, including through bilateral and multilateral mechanisms;

(e) fostering exchange of publicly available information and experience sharing regarding best practices in mineral regulatory policy to encourage commercially viable and responsible activities in the mining and minerals sectors;

(f) fostering research, development and innovation in mining and minerals sectors,. including exploration, extraction, processing, recycling, as well as the development of technical capacities in unconventional sources of critical minerals, on a mutually agreed basis;

(g) promoting innovation and collaborative research to develop emerging technologies in downstream sectors; and

(h) encouraging training, technical assistance and capacity building activities, and foster opportunities for the development of skilled workforce.

3. The Parties shall endeavour to undertake cooperative activities to promote the development, transfer and diffusion of technology in the area of mining and minerals. The Parties shall, in accordance with their respective laws and regulations, endeavour to:

(a) encourage, support and incentivise voluntary initiatives for the transfer of technology between privately-owned enterprises in each Party; and

(b) undertake activities that facilitate the development, transfer and diffusion of technology between state enterprises, on a mutually agreed basis.

Article 12.5 Pharmaceutical Industry and Healthcare

1. The Parties recognise that pharmaceuticals and healthcare play a considerable role in the territories of both Parties.

2. Cooperation and capacity building activities in this sector shall include, but are not limited to:

(a) exchange of information on regulatory requirements regarding issues such as clinical trials on the most common and contagious diseases, Good Manufacturing Practices (GMP) and Good Clinical Practices (GCP) certifications, reference pricing and regulatory control for pharmaceuticals, vaccines, blood products, biotechnology products and traditional and complementary medicine including teaching, practice, registration of traditional and complementary medicine, qualified practitioners, drug and drugless therapies;

(b) cooperation in technology transfer and innovation; and

(c) seeking and providing expertise of qualified medical practitioners.

Article 12.6

Digital Trade Cooperation and E-Commerce

Recognising the global nature of digital trade, the Parties shall endeavour to exchange information and share experiences and best practices on regulations, policies, enforcement and compliance relating to digital trade and e-commerce including the protection of personal information, security in electronic communications, and online consumer protection.

Article 12.7 Space Technology

1. The Parties recognise that as space technology continues to evolve, collaboration in this sector holds immense potential for mutual growth and advancement. The key areas of cooperation in the field of space technology include:

(a) sharing satellite data for agriculture, disaster management, and environmental monitoring with a view to benefitting both the Parties, leading to more efficient resource management and sustainable development;

(b) collaborative efforts in space research, exploration, downstream applications and the development of technologies; and

(c) capacity building programmes, training exchanges, educational partnerships, and skill development initiatives in the field

of space.

Article 12.8 Tourism

1. The Parties recognise that tourism contributes to the improvement of bilateral trade and investment, and that it is an important industry for their economies.

2. Cooperation and capacity building activities in areas related to tourism and hospitality may include establishing exchange programmes for cooperation in human resources development.

3. The Parties may encourage the tourism stakeholders such as hoteliers, travel agents and tour operators to promote tourist attractions of both Parties. The Parties shall endeavour to promote niche segments such as heritage tourism, medical value travel, ecotourism, sports tourism, film tourism and meetings, incentives, conferences and exhibitions tourism.

Article 12.9

Logistics and Physical Infrastructure

The Parties, acknowledging the importance of the logistics sector, in their respective economies, agree to cooperate in this sector to develop logistics infrastructure and related services for greater resilience of the global value chains.

Article 12.10 Defence Manufacturing

The Parties shall endeavour to cooperate in the transfer of mutually agreed advanced military technologies and to engage in activities for fostering joint ventures in defence manufacturing, co-development and co-production of cutting edge military equipment, maintenance repair and overhaul, sustenance of defence platforms, and strengthening the self-sufficiency and technological capacity of both the Parties. Furthermore, the cooperation would also include promotion of defence trade to foster seamless exchange of military products between the Parties.

Article 12.11 Innovation

1. Subject to mutual agreement, the Parties shall endeavour to cooperate under this Article:

(a) to provide the necessary financial and human resources for cooperation to encourage research, development and innovation, including:

(i) supporting joint projects;

(ii) making available experts in the relevant fields of science and technology;

(iii) organizing exhibitions and scientific events in the-field of innovation; and

(iv) providing financial and administrative support to start-ups;

(b) in identifying common areas of interest, such as:

(i) innovative technologies;

(ii) artificial intelligence; and

(iii) renewable energy and green economy;

(c) by encouraging dissemination of the results of joint projects, including:

(i) presenting scientific papers at scientific conferences and symposia;

(ii) publishing scientific articles in scientific journals; and

(iii) filing patents.

2. Cooperating institutions of the Parties may conclude implementing agreements, in specific areas covered by this Agreement, in accordance with their applicable laws and regulations. These implementing agreements shall cover, as appropriate, areas of cooperation, procedures applicable to personnel exchanges or participants, procedures for transfer and use of materials, equipment and funds, and other relevant issues including the intellectual property rights.

Article 12.12 Resources

1. Resources for economic cooperation under this Chapter shall be provided in a manner as agreed by the Parties and in

accordance with the laws and regulations of the Parties.

2. The Parties, where it is of mutual benefit, may consider cooperation with, and contributions from, non-Parties to support the implementation of the agreed areas of cooperation.

Article 12.13 Committee on Cooperation

1. For the purposes of the effective implementation and operation of this Chapter, the Parties shall establish a Committee on Cooperation (CoC).

2. The CoC shall:

(a) review, through regular reporting from the Parties, the operation of this Chapter and the application and fulfilment of its objectives;

(b) monitor and assess the progress in implementing the cooperation projects agreed by the Parties;

(c) make recommendations on the cooperative activities under this Chapter, in accordance with the strategic priorities of the Parties;

(d) discuss and consider issues or proposals for future cooperation and capacity building activities;

(e) coordinate with other committees, working groups and any other subsidiary body established under this Agreement as appropriate, in support of the development and implementation of cooperation and capacity building activities; and

(f) engage in other activities, as the Parties may decide.

3. The Committee shall produce an agreed record of its meetings, including decisions and next steps and, as appropriate, report to the Joint Committee.

4. The Parties shall designate a contact point to facilitate communication on possible cooperative activities. The contact points shall endeavour to work with government agencies, business sector representatives, educational and research institutions, and any other relevant agency for the operation of this Chapter.

Article 12.14

Non-Application of Dispute Settlement

Neither Party shall have recourse to dispute settlement under Chapter 13 (Dispute Settlement) for any matter arising under this Chapter.

Chapter 13. DISPUTE SETTLEMENT

SECTION A OBJECTIVE AND SCOPE

Article 13.1 Definitions

For the purposes of this Chapter and its annexes:

"Code of Conduct" means the Code of Conduct referred to in Article 13.16 (Rules of Procedure and Code of Conduct of the Panel) and set out in Annex 13B (Code of Conduct for Panellists);

"Complaining Party" means the Party that requests consultations under Article 13.6 (Consultations);

"Matters of Urgency" means those matters which concern goods that rapidly lose their quality, current condition, or commercial value, in a short period of time, including Perishable Goods;

"Panel" means a panel established under Article 13.8 (Establishment of a Panel) or reconvened under Articles 13.22 (Compliance Review) or 13.23 (Compensation and Suspension of Concessions or other Obligations), unless the context provides otherwise;

"Responding Party" means the Party to which a request for consultations is made under Article 13.6 (Consultations); and

"Rules of Procedure" means the Rules of Procedure referred to in Article 13.16 (Rules of Procedure and Code of Conduct of the Panel) and set out in Annex 13A (Rules of Procedure for the Panel).

Article 13.2 Objective

The objective of this Chapter is to establish an effective and efficient mechanism for avoiding and settling disputes between the Parties concerning the interpretation and application of this Agreement with a view to reaching, where possible, a mutually agreed solution.

Article 13.3 Cooperation

The Parties shall endeavour to agree on the interpretation and application of this Agreement, and shall make every attempt, through cooperation, to arrive at a mutually satisfactory resolution of any matter that might affect the operation of this Agreement.

Article 13.4 Scope

1. Unless otherwise provided in this Agreement, this Chapter shall apply with respect to the settlement of any dispute between the Parties concerning the interpretation or application of the provisions of this Agreement (hereinafter referred to as "covered provisions") when a Party considers that:

(a) a measure of the other Party is inconsistent with its obligations under this Agreement; or

(b) the other Party has otherwise failed to carry out its obligations under this Agreement.

2. This Chapter applies subject to such special and additional provisions on dispute settlement contained in other Chapters of this Agreement.

SECTION B CONSULTATIONS, GOOD OFFICES, CONCILIATION AND MEDIATION

Article 13.5 Request for Information

Before a request for consultations, good offices, conciliation or mediation is made pursuant to Articles 13.6 (Consultations) or 13.7 (Good Offices, Conciliation or Mediation) respectively, a Party may request, in writing, any relevant information with respect to a measure at issue. The Party to which that request is made shall make all efforts to provide the requested information in a written response to be submitted no later than 30 days after the date of receipt of the request.

Article 13.6 Consultations

1. The Parties shall endeavour to resolve any dispute referred to in Article 13.4 (Scope) by entering into consultations in good faith with the aim of reaching a mutually agreed solution.

2. A Party shall seek consultations by means of a written request delivered to the other Party identifying the reasons for the request, including the measure at issue and a description of its factual and legal basis specifying the covered provisions that it considers applicable.

3. The Responding Party shall reply to the request promptly, but no later than 10 days after the date of receipt of the request. The consultations shall be held within 30 days after the date of receipt of the request. The consultations shall be deemed to be concluded within 60 days after the date of receipt of the request, unless the Parties agree otherwise.

4. Consultations on Matters of Urgency shall be held within 15 days after the date of receipt of the request. The consultations shall be deemed to be concluded within 30 days after the date of receipt of the request, unless the Parties agree otherwise.

5. During consultations, each Party shall provide sufficient information so as to allow a complete examination of the measure at issue including how that measure affects the operation and application of this Agreement.

6. Consultations, including all information disclosed and positions taken by the Parties during consultations, shall be confidential, and without prejudice to the rights of either Party in any further proceedings under this Chapter or any other proceedings before a forum selected by the Parties.

7. Consultations may be held in person or by any other means of communication, as the Parties may agree. Consultations, if held in person, shall take place in the territory of the Responding Party, unless the Parties agree otherwise.

8. If the Responding Party does not respond to the request for consultations within 10 days after the date of its receipt, or if consultations are not held within the timeframes laid down in paragraph 3 or paragraph 4 respectively, or if consultations have been concluded and no mutually agreed solution has been reached, the Complaining Party may have recourse to Article 13.8 (Establishment of a Panel).

Article 13.7 ·Good Offices, Conciliation or Mediation

1. The Parties may at any time agree to enter into procedures for good offices, conciliation or mediation. They may begin and be terminated by either Party at any time.

2. Proceedings involving good offices, conciliation or mediation and the particular positions taken by the Parties in these proceedings shall be confidential and without prejudice to the rights of either Party in any further proceedings under this Chapter or any other proceedings before a forum selected by the Parties.

3. If the Parties agree, procedures for good offices, conciliation or mediation may continue during the Panel proceedings, as set out in Section C (Panel Procedures).

SECTION C PANEL PROCEDURES

Article 13.8 Establishment of a Panel

1. If the Parties fail to resolve the dispute through recourse to consultations as provided for in Article 13.6 (Consultations), the Complaining Party may request the establishment of a Panel.

2. The request for the establishment of a Panel shall be made by means of a written request delivered to the Responding Party and shall identify the measures at issue and indicate the legal basis specifying the relevant covered provisions, in a manner sufficient to present how such measures have breached those provisions.

3. When a request is made by the Complaining Party in accordance with paragraph 1, a Panel shall be established in accordance with Article 13.9 (Composition of a Panel).

Article 13.9 Composition of a Panel

1. Unless the Parties agree otherwise, a Panel shall consist of three panellists·.

2. Unless the Parties agree otherwise, the panellists shall neither be nationals of the Parties to the dispute nor have their permanent place of residence in the territory of a Party to the dispute.

3. Within 20 days after the establishment of a Panel, each Party shall appoint a panellist. The Parties shall, by mutual agreement, within 40 days after the establishment of a Panel, appoint the third panellist who shall serve as the chairperson of the Panel.

4. The Parties shall exchange a list of up to five nominees for the appointment of the chairperson within 10 days from the date of receipt of the written notification requesting the establishment of a Panel.

5. If any of the three panellists have not been appointed within the time period established in paragraph 3, on request of either Party, the panellist will be appointed by draw of lot from the list of the nominees exchanged under paragraph 4. Where more than one panellist, including a chairperson is to be selected by draw of lot, the chairperson shall be appointed first. The selection by draw of lot for the chairperson or any other panellist shall be conducted by the Parties.

6. If a Party fails to submit its list of five nominees within the time period established in paragraph 4, the appointment of panellist under paragraph 5 shall be by draw of lot from the list submitted by the other Party.

7. The date of composition of the Panel shall be the date on which the last of the three selected panellists has notified to the Parties the acceptance of their appointment.

8. If a Panel is reconvened under Article 13.22 (Compliance Review), or Article 13.23 (Compensation and Suspension of Concessions or other Obligations), the Panel shall, to the extent possible, have the same panellists as the original Panel. If this is not possible, any successor panellist shall be appointed in accordance with this Article and shall have all the powers and duties of the original panellist.

Article 13.10 Qualifications of Panellists

1. Each panellist shall:

(a) have demonstrated expertise or experience in law, international trade, and other matters covered by this Agreement, or the resolution of disputes arising under international trade agreements;

(b) be independent of, and not be affiliated with or take instructions from, either Party;

(c) serve in their individual capacities and not take instructions from any organisation or government with regard to matters

related to the dispute;

(d) comply with the Code of Conduct; and

(e) be chosen strictly on the basis of objectivity, reliability, and sound judgment.

2. The chairperson shall also have experience in dispute settlement procedures.

3. Persons who provided good offices, conciliation or mediation to the Parties, pursuant to Article 13.7 (Good Offices, Conciliation or Mediation) in relation to the same or a substantially equivalent matter, shall not be eligible to be appointed as panellists in that matter.

Article 13.11 Replacement of Panellists

If any of the panellists of the original Panel becomes unable to act, withdraws or needs to be replaced because that panellist does not comply with the requirements of the Code of Conduct, a successor panellist shall be appointed in the same manner as prescribed for the appointment of the original panellist, and the successor panellist shall have the powers and duties of the original panellist. The work of the Panel shall be suspended until the appointment of the successor panellist.

Article 13.12 Functions of a Panel

1. Unless the Parties agree otherwise, the Panel:

(a) shall make an objective assessment of the matter before it, including an objective assessment of the facts of the case and the applicability of and conformity of the measure at issue with the covered provisions, and make findings and determinations as are called for in its terms of reference;

(b) shall set out, in its decisions and reports, the findings of fact and law and the rationale behind any findings and conclusions that it makes; and

(c) may consult with the Parties and provide adequate opportunities for the development of a mutually agreed solution.

2. A Panel shall make its findings by consensus. If a Panel is unable to reach consensus, it may make its findings by majority vote. A Panel shall not disclose the panellists associated with majority or minority opinions. 3. No finding, determination or recommendation of a Panel can add to or diminish the rights and obligations of the Parties under this Agreement.

Article 13.13 Terms of Reference

1. Unless the Parties agree otherwise, within 15 days after the date of establishment of the Panel, the terms of reference of the Panel shall be: "to examine, in the light of the relevant covered provisions of this Agreement cited by the Parties, the matter referred to in the request for the establishment of the Panel, to make findings on the conformity of the measure at issue with the relevant covered provisions as well as recommendations, if any, on the means to resolve the dispute, if jointly requested by the Parties and to deliver a report in accordance with Articles 13.18 (Interim Report) and 13.19 (Final Report)".

2. If the Parties agree on terms of reference other than those referred to in paragraph 1, they shall notify the agreed terms of reference to the Panel no later than 5 days after their agreement.

Article 13.14 Decision on Matters of Urgency

1. If a Party so requests, the Panel shall decide, within 15 days after its composition, whether the dispute concerns Matters of Urgency.

2. In cases of Matters of Urgency, the applicable time periods set out in Articles 13.18 (Interim Report) and 13.19 (Final Report) shall be half of the time prescribed therein.

Article 13.15 Rules of Interpretation

1. The Panel shall interpret the covered provisions in accordance with customary rules of interpretation of public international law.

2. When appropriate, the Panel may also take into account relevant interpretations in reports of prior panels established under this Chapter and reports of panels and the Appellate Body adopted by the Dispute Settlement Body of the WTO.

Article 13.16

Rules of Procedure and Code of Conduct of the Panel

1. The proceedings provided for in this Chapter shall be conducted in accordance with Annex 13A (Rules of Procedure for the Panel) and Annex 13B (Code of Conduct for Panellists), unless the Parties agree otherwise.

2. The Panel may, after consulting with the Parties, adopt additional rules of procedure not inconsistent with the Chapter and Rules of Procedure.

Article 13.17 Receipt of Information

1. Upon the request of a Party, or on its own initiative, the Panel may seek from the Parties relevant information it considers necessary and appropriate. The Parties shall respond promptly and fully to any such request by the Panel.

2. At the request of a Party, a Panel may seek information or technical advice from any known source that it deems appropriate, provided that the Parties agree, and subject to any terms and conditions agreed by the Parties.

3. Any information obtained by the Panel under this Article shall be made available to the Parties and the Parties may provide comments on that information-.

Article 13.18 Interim Report

1. The Panel shall deliver an interim report to the Parties within 90 days after the date of composition of the Panel. When the Panel considers that this deadline cannot be met, the chairperson of the Panel shall notify the Parties in writing, stating the reasons for the delay and the date on which the Panel plans to deliver its interim report.

2. The interim report shall include a descriptive part and the Panel's findings and conclusions.

3. Each Party may submit to the Panel written comments and a written request to review precise aspects of the interim report within 10 days after the date of issuance of the interim report. A Party may comment on the other Party's request within 7 days after the delivery of the request.

4. After considering any written comments and requests by each Party on the interim report, the Panel may modify the interim report and make any further examination it considers appropriate.

5. The interim report shall not be made public.

Article 13.19 Final Report

1. The Panel shall deliver its final report to the Parties within 120 days after the date of composition of the Panel.

2. The final report shall include a discussion of any written comments and requests made by the Parties on the interim report. The Panel may, if jointly requested by the Parties, suggest ways in which the final report could be implemented.

3. A Party may release a copy of the final report to the public. The release shall be subject to the protection of confidential information in accordance with the Rules of Procedure.

4. The final report shall be binding on the Parties.

Article 13.20 Implementation of the Final Report

1. Where the Panel finds that the Responding Party has acted inconsistently with a covered provision, or that the Responding Party has otherwise failed to carry out its obligations under this Agreement, the Responding Party shall take any measure necessary to comply promptly and in good faith with the findings and conclusions in the final report.

2. If immediate compliance is not possible, the Responding Party shall, no later than 30 days after the delivery of the final report, notify the Complaining Party of the length of the reasonable period of time necessary for compliance, with the final report, and the Parties shall endeavour to agree on the reasonable period of time required for compliance with the final report.

Article 13.21 Reasonable Period of Time for Compliance

1. If the Parties have not agreed on the length of the reasonable period of time, the Complaining Party may, no later than 30 days after the date of receipt of the notification made by the Responding Party in accordance with paragraph 2 of Article 13.20 (Implementation of the Final Report), request, in writing, that the original Panel determine the length of the reasonable period of time. Such request shall be notified simultaneously to the Responding Party.

2. The original Panel shall deliver its decision to the Parties within 30 days after the date of submission of the request. 3. The length of the reasonable period of time for compliance with the final report may be extended by mutual agreement of the

Parties.

Article 13.22 Compliance Review

1. The Responding Party shall deliver a written notification of its progress in complying with the final report to the Complaining Party at least 1 month before the expiry of the reasonable period of time for compliance with the final report unless the Parties agree otherwise.

2. The Responding Party shall, no later than the expiry of the reasonable period of time, deliver a notification to the Complaining Party of any measure that it has taken to comply with the final report.

3. Where the Parties disagree on the existence of measures to comply with the final report, or their consistency with the covered provisions, the Complaining Party may request, in writing, that the original Panel decide on the matter. Such request shall be notified simultaneously to the Responding Party.

4. The request shall provide the factual and legal basis for the complaint, including the identification of the specific measures at issue and an indication of why any measures taken by the Responding Party fail to comply with the final report or are otherwise inconsistent with the covered provisions.

5. The Panel shall deliver its decision to the Parties within 60 days after the date of delivery of the request.

Article 13.23 Compensation and Suspension of Concessions or other Obligations

1. The Responding Party shall, on request of the Complaining Party, enter into consultations with a view to agreeing on a mutually satisfactory agreement or any necessary compensation if:

(a) the Responding Party fails to notify any measure taken to comply with the final report before the expiry of the reasonable period of time;

(b) the Responding Party notifies the Complaining Party in writing that it is not possible to comply with the final report within the reasonable period of time; or

(c) the original Panel finds that no measure taken to comply exists or that the measure taken to comply with the final report as notified by the Responding Party is inconsistent with the covered provisions.

2. The Complaining Party may notify the Responding Party, in writing, that it intends to suspend concessions or other obligations under this Agreement, if:

(a) the Parties fail to reach a mutually satisfactory agreement or to agree on compensation within 30 days after the date of receipt of the request made in accordance with paragraph 1; or

(b) the Parties agreed on a mutually satisfactory agreement or compensation under paragraph 1 but the Complaining Party considers that the Responding Party has failed to observe the terms of the mutually satisfactory agreement or compensation.

3. The notification referred to in paragraph 2 shall specify the level of intended suspension of benefits or other obligations.

4. The Complaining Party may begin the suspension of benefits or other obligations, referred to in paragraph 2, 30 days after the date the Complaining Party had served notice to the Responding Party, unless the Responding Party made a request under paragraph 8.

5. The suspension of benefits or other obligations shall be:

(a) at a level equivalent to the nullification or impairment that is caused by the failure of the Responding Party to comply with the final report; and

(b) restricted to benefits accruing to the Responding Party under this Agreement.

6. In considering what benefits to suspend, in accordance with paragraph 2, the Complaining Party shall apply the following principles:

(a) the Complaining Party should first seek to suspend benefits in the same sector or sectors as that affected by the measure that the Panel has found to be inconsistent with this Agreement or have caused nullification or impairment;1

(b) the Complaining Party may suspend benefit in other sectors, if it considers that it is not practicable or effective to suspend benefits or other obligations in the same sector.

7. The suspension of benefits or other obligations shall be temporary and shall only apply until the inconsistency of the measure with the relevant covered provisions which has been found in the final report has been removed, or until the Parties have reached a mutually agreed solution or agreed on any necessary compensation.

8. If the Responding Party considers that the suspension of benefits or other obligations does not comply with paragraphs 5 and 6 or that it has complied with the terms and conditions of the mutually satisfactory agreement or compensation agreed pursuant to paragraph 2, that Party may request, in writing, the original Panel to examine the matter no later than 15 days after the date of receipt of the notification referred to in paragraph 2. That request shall be notified simultaneously to the Complaining Party. The original Panel shall notify the Parties of its decision on the matter no later than 30 days after the receipt of the request from the Responding Party. Benefits or other obligations shall not be suspended until the original Panel has delivered its decision. The suspension of benefits or other obligations shall be consistent with this decision.

1 For the purposes of this paragraph, "sector" means: (i) with respect to goods, all goods; (ii) with respect to services, a principal sector. as identified in the current "Services Sectoral Classification Lise which identifies such sectors.

Article 13.24 Compliance Review after Compensation and Suspension of Concessions or other Obligations

1. Upon the notification by the Responding Party to the Complaining Party of the measure taken to comply with the final report: (a) in a situation where the right to suspend benefits or other obligations has been exercised by the Complaining Party in accordance with Article 13.23 (Compensation and Suspension of Concessions or other Obligations), the Complaining Party shall terminate the suspension of benefits or other obligations no later than 30 days after the date of receipt of the notification, with the exception of the cases referred to in paragraph 2; or (b) in a situation where necessary compensation has been agreed, the Responding Party may terminate the application of such compensation no later than 30 days after the date of receipt of the notification, with the exception of the cases referred to in paragraph 2.

2. If the Parties do not reach an agreement on whether the measure notified in accordance with paragraph 1 is consistent with the relevant covered provisions within 30 days after the date of receipt of the notification, the Complaining Party shall request, in writing, that the original Panel examine the matter. That request shall be notified simultaneously to the Responding Party. The decision of the Panel shall be notified to the Parties no later than 45 days after the date of submission of the request. If the Panel decides that the measure notified in accordance with paragraph 1 is consistent with the relevant covered provisions, the suspension of benefits or other obligations, or the application of the compensation, shall be terminated no later than 15 days after the date of the decision. If the Panel determines that the notified measure achieves only partial compliance with the covered provisions, the level of suspension of benefits or other obligations, or of the compensation, shall be adapted in light of the decision of the Panel.

Article 13.25 Suspension and Termination of Proceedings

If both Parties so request, the Panel shall suspend its work for a period agreed by the Parties not exceeding 12 consecutive months. In the event of a suspension of the work of the Panel, the relevant time periods under this Section shall be extended by the same period of time for which the work of the Panel was suspended. The Panel shall resume its work before the end of the suspension period at the written request of both Parties. If the work of the Panel has been suspended for more than 12 consecutive months, the authority of the Panel shall lapse and the dispute settlement proceeding shall be terminated. The Panel shall terminate its proceedings if the Parties request it to do so.

SECTION D GENERAL PROVISIONS

Article 13.26 Choice of Forum

1. Unless otherwise provided in this Article, this Chapter is without prejudice to the rights of the Parties to have recourse to dispute settlement procedures available under other international agreements to which both Parties are party, including the WTO agreements.

2. When a dispute arises with regard to the alleged inconsistency of a particular measure with a covered provision under this Agreement and a substantially equivalent obligation under another international agreement to which both Parties are party, including the WTO agreements, the Complaining Party may select the forum in which to settle the dispute.

3. The Complaining Party shall be deemed to have selected the forum in which to settle the dispute when it has requested the establishment of, or referred the matter to, a Panel or tribunal, pursuant to Article 13.8 (Establishment of a Panel) or under the relevant provisions of the other international agreement.

4. Once the Complaining Party has selected the forum in which to settle the dispute, that forum shall be used to the exclusion of all other fora 2.

Article 13.27 Costs

1. Unless the Parties agree otherwise, the costs of the Panel and other expenses associated with the conduct of its proceedings shall be borne in equal parts by both Parties, in accordance with the Rules of Procedure. 2 For greater certainty, the exclusion of other fora includes the exclusion of consultations in those fora.

2. Each Party shall bear its own expenses and legal costs in the Panel proceedings.

Article 13.28 Mutually Agreed Solution

1. The Parties may reach a mutually agreed solution at any time with respect to any dispute referred to in Article 13.4 (Scope).

2. If a mutually agreed solution is reached during the Panel proceedings, the Parties shall jointly notify that solution to the chairperson of the Panel. Upon such notification, the Panel proceedings shall be terminated.

3. Each Party shall take measures necessary to implement the mutually agreed solution within the agreed time period.

4. No later than the expiry of the agreed time period, the Responding Party shall inform the Complaining Party, in writing, of any measure that it has taken to implement the mutually agreed solution.

Article 13.29 Time Periods

1. All time periods laid down in this Chapter shall be counted in calendar days from the day following the act to which they refer. 2. Any time period referred to in this Chapter may be modified by mutual agreement of the Parties.

Article 13.30 Annexes

The Joint Committee may modify Annex 13A (Rules of Procedure for the Panel) and Annex 138 (Code of Conduct for Panellists).

Article 13.31 Working Language

All proceedings under this Chapter and documents submitted to the Panel or Parties shall be in the English language.

Article 13.32 Contact Points

1. Each Party shall designate a contact point within 30 days from the date of entry into force of this Agreement to facilitate communications between the Parties with respect to any dispute initiated under this Chapter.

2. Any request, notification, written submission or other document made in accordance with this Chapter shall be delivered to the other Party through its designated contact point.

ANNEX 13A. RULES OF PROCEDURES FOR THE PANEL

Definitions

1. For the purposes of this Annex:

"assistant" means a person who, under the terms of appointment of a panellist, conducts research or provides support for the panellist;

"panellist" means a member of a Panel established under Article 13.8 (Establishment of a Panel - Dispute Settlement); and

"proceeding", unless otherwise specified, means the proceeding of a Panel under Chapter 13 (Dispute Settlement).

Timetable

2. After consulting the Parties, the Panel shall, whenever possible, within 7 days from the date of composition of the Panel, fix the timetable for the Panel process. The indicative timetable attached to this Annex should be used as a guide.

3. The Panel process shall, as a general rule, not exceed 120 days from the date of composition of the Panel until the date of the final report, unless the Parties agree otherwise.

4. Should the Panel consider that there is a need to modify the timetable, it shall consult the Parties in writing regarding the proposed modification and the reason for it and make necessary procedural or administrative adjustments as may be required, consistent with Chapter 13 (Dispute Settlement).

Appointment of Panellist

5. The Parties shall notify, in writing, each individual who has been selected to serve as a panellist of their selection. Each individual shall confirm their availability to both Parties within 5 days after the date of delivery of the notification.

6. The panellist shall accept their appointment by signing the appointment contracts. The Parties shall endeavour to ensure that, by the time all the selected panellists have confirmed their availability, they have agreed on the remuneration and reimbursement of expenses of the panellists and assistants and have prepared the necessary appointment contracts with a view to having them signed promptly.

Written Submissions and other Documents

7. Unless the-Panel decides otherwise, the Complaining Party shall deliver its first written submission to the Panel no later than 10 days after the date of composition of the Panel. The Responding Party shall deliver its first written submission to the Panel no later than 30 days after the date of delivery of the Complaining Party's first written submission. Copies shall be provided for each panellist.

8. Each Party shall also provide a copy of its first written submission to the other Party at the same time as it is delivered to the Panel.

9. Within 5 days after the conclusion of the hearing, each Party may deliver to the Panel and the other Party a supplementary written submission responding to any matter that arose during the hearing.

10. All written documents provided to the Panel or by one Party to the other Party shall also be provided in electronic form.

11. Minor errors of a clerical nature in any request, notice, written submission or any other document related to the Panel proceeding may be corrected as soon as possible by delivery of a new document clearly indicating the changes. •

Operation of the Panel

12. The chairperson of the Panel shall preside at all of its meetings. The Panel may delegate to the chairperson the authority to make administrative and procedural decisions.

13. Panel deliberations shall be confidential. Only panellists may take part in the deliberations of the Panel. The panel report shall be drafted without the presence of the Parties in light of the information provided and the statements made.

14. Opinions expressed in the panel report by individual panellists shall be anonymous.

15. Except as otherwise provided in this Annex, the Panel may conduct its business by any means, including by telephone, facsimile transmission and any other means of electronic communication.

Hearings

16. The timetable established in accordance with paragraph 2 shall provide for at least one hearing for the Parties to present their cases to the Panel15 days after receipt of the first written submission of the Responding Party.

17. The Panel may convene additional hearings if the Parties so agree.

18. All panellists shall be present at hearings. Panel hearings shall be held in closed session with only the panellists and the Parties in attendance. However, in consultation with the Parties, assistants, translators or designated note takers may also be present at hearings to assist the Panel in its work. Any such arrangements established by the Panel may be modified with the agreement of the Parties.

19. The hearing shall be conducted by the Panel in a manner ensuring that the Complaining Party and the Responding Party are afforded equal time to present their case. The Panel shall conduct the hearing in the following manner:

Opening Oral Statement and Argument:

(a) opening oral statement and argument of the Complaining Party; and

(b) opening oral statement and argument of the Responding Party;

Rebuttal Argument:

(a) the reply of the Complaining Party;

(b) the counter-reply of the Responding Party;

Closing Oral Statement:

(a) closing oral statement of the Complaining Party; and

(b) closing oral statement of the Responding Party.

The chairperson may set time limits for oral arguments to ensure that each Party is afforded equal time.

20. The Parties to the dispute shall make available to the Panel written versions of their oral statements before the Panel within 1 day.

Questions

21. The Panel may direct questions to either Party at any time during the proceedings. The Parties shall respond promptly and fully to any request by the Panel for such information as the Panel considers necessary and appropriate.

22. Where the question is in writing, each Party shall also provide a copy of its response to such questions to the other Party at the same time as it is delivered to the Panel. Each Party shall be given the opportunity to provide written comments on the response of the other Party.

Confidentiality

23. The Panel's hearings and the documents submitted to it shall be confidential. Each Party shall treat as confidential, information submitted to the Panel by the other Party which that Party has designated as confidential.

24. Where a Party designates as confidential, its written submissions to the Panel, it shall, on request of the other Party, provide the Panel and the other Party with a non-confidential summary of the information contained in its written submissions that could be disclosed to the public no later than 5 days after the date of request. Nothing in this Annex shall prevent a Party from disclosing statements of its own positions to the public.

Role of Experts

25. On request of a Party, the Panel may seek information and technical advice from any individual or body that it deems appropriate, provided that the Parties agree and subject to such terms and conditions as the Parties agree. The Panel shall provide the Parties with any information so obtained for comment.

Working Language

26. The working language of the Panel proceedings, including for written submissions, oral arguments or presentations, the report of the Panel and all written and oral communications between the Parties and with the Panel, shall be the English language.

Venue

27. The venue for the hearings of the Panel shall be decided by agreement between the Parties. If there is no agreement, the first hearing shall be held in the territory of the Responding Party, and any additional hearings shall alternate between the territories of the Parties.

Expenses

28. Unless the Parties agree otherwise, remuneration for panellists shall be paid at the rate for non-governmental panellists used by the WTO on the date when a Complaining Party makes a written request for the establishment of a Panel pursuant to Article 13.8 (Establishment of a Panel - Dispute Settlement).

29. The Panel shall keep a record and render a final account of all general expenses incurred in connection with the proceedings, including those paid to its assistants, designated note takers or other individuals that it retains.

Indicative Timetable for the Panel

Panel established on xx/xx/xxxx.

1. Receipt of first written submissions of the Parties:

(a) Complaining Party: 10 days after the date of the composition of the Panel;

(b) Responding Party: 30 days after subparagraph (a);

2. Date of the first hearing with the Parties: 15 days after receipt of the first submission of the Responding Party;

3. Receipt of written supplementary submissions of the Parties: 5 days after the date of the first hearing;

4. Issuance of initial report to the Parties: 30 days after receipt of written supplementary submissions;

5. Deadline for the Parties to provide written comments on the interim report: 10 days after the issuance of the initial report; and

6. Issuance of final report to the Parties: within 30 days after presentation of the initial report.

ANNEX 13B. CODE OF CONDUCT FOR PANELLISTS

Definitions

1. For the purposes of this Annex:

(a) "assistant" means a person who, under the terms of appointment of a panellist, conducts research or provides support for the panellist;

(b) "panellist" means a member of a Panel established under Article 13.8 (Establishment of a Panel - Dispute Settlement);

(c) "proceeding", unless otherwise specified, means the proceeding of a Panel under Chapter 13 (Dispute Settlement); and

(d) "staff", in respect of a panellist, means persons under the direction and control of the panellist, other than assistants.

Responsibilities to the Process

2. Every panellist shall avoid impropriety and the appearance of impropriety, shall be independent and impartial, shall avoid direct and indirect conflicts of interests and shall observe high standards of conduct so that the integrity and impartiality of the dispute settlement process are preserved. Former panellists shall comply with the obligations established in paragraphs 17 through 20.

Disclosure Obligations

3. Prior to confirmation of their selection as a panellist under this Agreement, a candidate shall disclose any interest, relationship or matter that is likely to affect their independence or impartiality, or that might reasonably create an appearance of impropriety or bias in the proceeding. To this end, a candidate shall make all reasonable efforts to become aware of any such interests, relationships and matters.

4. Once selected, a panellist shall continue to make all reasonable efforts to become aware of any interests, relationships and matters referred to in paragraph 3, and shall disclose them by communicating them in writing to the Joint Committee for consideration by the Parties. The obligation to disclose is a continuing duty, which requires a panellist to disclose any such interests, relationships and matters that may arise during any stage of the proceeding.

5. In the event of uncertainty regarding whether an interest, relationship or matter must be disclosed, a candidate or panellist should err in favour of disclosure.

Performance of Duties by Panellists

6. A panellist shall comply with the provisions of Chapter 13 (Dispute Settlement) and the applicable Rules of Procedure in Annex 13A (Rules of Procedure for the Panel).

7. Upon selection, a panellist shall perform their duties thoroughly and expeditiously throughout the course of the proceeding with fairness and diligence.

8. A panellist shall not deny other panellists the opportunity to participate in all aspects of the proceeding.

9. A panellist shall consider only those issues raised in the proceeding and necessary to rendering a decision and shall not delegate the duty to decide to any other person.

10. A panellist shall take all appropriate steps to ensure that the panellist's assistant and staff are aware of, and comply with, paragraphs 2, 3, 4, 19, 20 and 21.

11. A panellist shall not engage in ex parte contacts concerning the proceeding.

12. A panellist shall not communicate matters concerning actual or potential violations of this Annex by another panellist unless the communication is to both Parties or is necessary to ascertain whether that panellist has violated or may violate

this Annex.

Independence and Impartiality of Panellists

13. A panellist shall be independent and impartial. A panellist shall act in a fair manner and shall avoid creating an appearance of impropriety or bias.

14. A panellist shall not be influenced by self-interest, outside pressure, political considerations, public clamour, prior affiliation, loyalty to a Party or fear of criticism.

15. A panellist shall not, directly or indirectly, incur any obligation or accept any benefit that would in any way interfere, or appear to interfere, with the proper performance of the panellist's duties.

16. A panellist shall not use their position on the Panel to advance any personal or private interests. A panellist shall avoid actions that may create the impression that others are in a special position to influence the panellist. A panellist shall make every effort to prevent or discourage others from representing themselves as being in such a position.

17. A panellist shall not allow past or existing financial, business, professional, family, or social relationships or responsibilities to influence the panellist's conduct or judgment.

18. A panellist shall avoid entering into any relationship, or acquiring any financial interest, that is likely to affeet the panellist's impartiality or that might reasonably create an appearance of impropriety or bias.

Duties in Certain Situations

19. A panellist or former panellist shall avoid actions that may create the appearance that the panellist was biased in carrying out the panellist's duties, or would benefit from the decision or report of the Panel.

Maintenance of Confidentiality

20. A panellist or former panellist shall not at any time disclose or use any non-public information concerning the proceeding or acquired during the proceeding except for the purposes of the proceeding and shall not, in any case, disclose or use any such information to gain personal advantage, or advantage for others, or to affect adversely the interest of others. A panellist shall not make any public statement regarding the merits of a pending Panel proceeding.

21. A panellist shall not disclose a panel report, or parts thereof, prior to its publication.

22. A panellist or former panellist shall not at any time disclose the deliberations of a Panel, or any panellist's view, except as required by legal or constitutional requirements.

Chapter 14. EXCEPTIONS

Article 14.1 General Exceptions

1. For the purposes of Chapter 2 (Trade in Goods), Chapter 3 (Rules of Origin), Chapter 4 (Sanitary and Phytosanitary Measures), Chapter 5 (Technical Barriers to Trade), Chapter 6 (Customs Procedures and Trade Facilitation), Article XX of the GATT 1994 and its interpretative notes are incorporated into and form part of this Agreement, mutatis mutandis.

2. For the purpose of Chapter 8 (Trade in Services), Article XIV of the GATS, including its footnotes, is incorporated into and forms part of this Agreement, mutatis mutandis.

Article 14.2 Security Exceptions

1. Nothing in this Agreement shall be construed to:

(a) require any Party to furnish any information, the disclosure of which it considers contrary to its essential security interests; or

(b) prevent any Party from taking any action which it considers necessary for the protection of its essential security interests:

(i) relating to fissionable and fusionable materials or the materials from which they are derived;

(ii) relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment;

(iii) relating to the supply of services as carried out directly or indirectly for the purpose of provisioning a military

establishment;

(iv) relating to the protection of critical public infrastructure, including, but not limited to, critical communications infrastructure, power infrastructure and water infrastructure, from deliberate attempts intended to disable or degrade such infrastructure;

(v) taken in time of domestic emergency, or war or other emergency in international relations; or

(c) prevent any Party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

Article 14.3 Taxation

1. Nothing in this Agreement shall apply to any direct taxation measure.

2. Nothing in this Agreement shall affect the rights and obligations of any Party under any tax convention. In the event of any inconsistency between this Agreement and any tax convention, the tax convention shall prevail to the extent of the inconsistency.

3. Neither Party shall have recourse to dispute settlement under Chapter 13 (Dispute Settlement), for determination of the inconsistency under paragraph 2. For greater certainty, any such determination of the inconsistency should be addressed in accordance with the relevant tax convention under paragraph 2.

Chapter 15. ADMINISTRATION OF THE AGREEMENT

Article 15.1 Joint Committee

1. The Parties hereby establish a Joint Committee.

2. The Joint Committee:

(a) shall be composed of representatives of the Parties; and

(b) in addition to the committees, subcommittees or working groups expressly provided for under this Agreement, may establish or restructure committees, subcommittees or working groups as it considers necessary to assist it in accomplishing its tasks and assign any of its powers thereto.

3. The Joint-Committee shall meet within 1 year from the entry into force of this Agreement. Thereafter, it shall meet at least once every 2 years unless the Parties agree otherwise, to consider any matter relating to this Agreement. The regular sessions of the Joint Committee shall be held alternately in the territories of the Parties.

4. Upon request by a Party, the Joint Committee shall hold special sessions without undue delay.

5. The functions of the Joint Committee shall be as follows:

(a) to review, consider, assess, and monitor the results and overall operation of this Agreement, including improving market access in the light of the experiences gained during application of this Agreement and its objectives, including matters reported by the committees, subcommittees, working groups or contact points;

(b) to consider and recommend any amendments to this Agreement that may be proposed by either Party, including those listed in paragraph 3 of 16.2 (Amendment- Final Provisions);

(c) to endeavour to amicably resolve disputes between the Parties in connection with -the, . operation or implementation of the Agreement, without prejudice to the rights of the Parties under Chapter 13 (Dispute Settlement);

(d) to supervise and coordinate the work of all committees, subcommittees and working groups established under this Agreement;

(e) if requested by either Party, to impose interpretation to be given to the provisions of this Agreement;

(f) to review the possibility of further removal of obstacles to trade between the Parties and the further development of the trade relationship;

(g) to explore ways to further enhance trade between the Parties and to further the objectives of this Agreement;

(h) to consider any other matter that may affect the operation of this Agreement;

(i) to adopt decisions or make recommendations as envisaged by this Agreement; and

U) to carry out any other functions as may be agreed to by the Parties.

6. The Joint Committee shall establish its own working procedures. A committee, subcommittee or working group under this Agreement may adopt the Joint Committee working procedures with necessary modifications.

7. Meetings of the Joint Committee and of any committee, subcommittee or working group under this Agreement may be conducted in person or by any other means as determined by the Parties.

Article 15.2 Communications

1. Each Party shall designate a contact point to receive and facilitate official communications between the Parties on any matter relating to this Agreement, except for matters for which this Agreement establishes a specific contact point.

2. All official communications in relation to this Agreement shall be in the English language.

3. Each Party shall promptly notify the other Party, in writing, of any changes to its overall contact point or any other contact point under this Agreement.

Chapter 16. FINAL PROVISIONS

Article 16.1

Annexes, Footnotes and Side Letters

The Annexes, footnotes, and Side Letters shall constitute an integral part of this Agreement, unless otherwise provided.

Article 16.2 Amendments

1. Either Party may submit proposals for amendments to this Agreement to the Joint Committee for its consideration.

2. After the Joint Committee's recommendation, the Parties may agree in writing to amend this Agreement. Such amendment shall be subject to completion of internal legal procedures of the Parties. Where an amendment has been ratified, accepted or approved by a Party, it shall notify the other Party of such ratification, acceptance or approval, in writing, through diplomatic channels.

3. Notwithstanding paragraph 2, amendments relating only to the following Annexes may be made by the Joint Committee and exchanged through diplomatic notes between the Governments of the Parties:

(a) Annex 3A (Minimum Required Information);

(b) Annex 38 (Product Specific Rules);

(c) Annex 3C (Format of the Certificate of Origin under the India-Oman Trade Agreement);

(d) Annex 13A (Rules of Procedure for the Panel); and

(e) Annex 138 (Code of Conduct for Panellists).

Article 16.3 General Review

1. The Parties shall undertake a general review of this Agreement, with a view to furthering its objectives, at ministerial level, within 3 years after the date of entry into force of this Agreement unless mutually agreed by the Parties.

2. Any review pursuant to paragraph 1 shall take into account:

(a) facilitating trade through liberalisation of market access for goods and services;

(b) that balanced outcomes flow from the implementation and overall operation of this Agreement;

(c) the work of relevant committees, subcommittees, or working groups established under th_is Agreement, including reviews under relevant Chapters; and

(d) any other matters as may be agreed by the Parties.

Article 16.4 Duration and Termination

1. This Agreement shall be valid for an indefinite period.

2. Either Party may terminate this Agreement by a written notification to the other Party, and the termination shall take effect 12 months after the date of such notification, or on such other date as the Parties may agree.

Article 16.5 Entry into Force

1. The Parties shall ratify this Agreement in accordance with their internal legal procedures.

2. When a Party has ratified this Agreement in accordance with its internal legal procedures, that Party shall notify the other Party of such ratification, approval or acceptance in writing, through diplomatic channels, within a period of 60 days.

3. Unless the Parties agree otherwise, where both Parties have notified each other of such ratification, approval or acceptance, this Agreement shall enter into force on the first day of the second month following the date of receipt of the last written notification, or on such other date as the Parties may agree.

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

DONE in two originals at Muscat on this eighteenth day of December, 2025 corresponding to 25 Jumada al-Thani 1447 AH.

For the Government of the Republic of India

Piyush Goyal

Minister of Commerce and Industry

For the Government of the Sultanate of Oman

Qais bin Mohammed Al Yousef

Minister of Commerce, Industry and Investment Promotion