FREE TRADE AGREEMENT BETWEEN CANADA AND THE REPUBLIC OF ECUADOR

PREAMBLE

CANADA AND THE REPUBLIC OF ECUADOR ("Ecuador") collectively referred to as the "Parties", having resolved to:

STRENGTHEN the friendship among their peoples, and the economic opportunities developed through trade and investment;

ENHANCE employment opportunities and living standards in their respective territories;

BUILD on their rights and obligations under the Marrakesh Agreement Establishing the World Trade Organization, done at Marrakesh on 15 April 1994, and other international agreements to which they are both parties, to strengthen the international rules-based system;

FACILITATE trade in goods and services between the Parties by preventing, identifying, and eliminating unnecessary technical barriers to trade, enhancing transparency, and promoting good regulatory practices;

PROMOTE diversification, sustainability and resilience of supply chains;

ESTABLISH a clear, transparent, and predictable legal and commercial framework for business planning that supports further expansion of trade and investment;

RECOGNIZE the differences in the level of development and the size of the Parties' economies and the importance of creating opportunities for economic development;

FACILITATE trade between them by promoting efficient and transparent customs procedures that ensure predictability for importers and exporters and encouraging expanded cooperation in the area of trade facilitation and enforcement;

PROTECT human, animal, and plant life and health in their territories and advance science-based decision making while facilitating trade between them;

FACILITATE the cross-border movement of a Party's business persons to support trade in goods, the supply of services, and the conduct of investment activities;

FACILITATE new opportunities for businesses and consumers through digital trade and addressing barriers to trade enabled by electronic means;

RECOGNIZE that the promotion and the protection of investments of investors of a Party in the territory of the other Party will be conducive to the stimulation of mutually beneficial business activity;

ENHANCE AND PROMOTE the competitiveness of their firms in global markets and conditions of fair competition;

ACKNOWLEDGE their respective autonomy and right to regulate within their territories in order to achieve legitimate policy 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;

PROMOTE the protection and enforcement of labour rights, the improvement of working conditions, the strengthening of cooperation and the Parties' capacity on labour issues;

PROMOTE high levels of environmental protection, including through effective enforcement of environmental laws and environmental cooperation;

RECOGNIZE the importance of mutually supportive trade and environmental policies and practices;

PROMOTE sustainable development and support progress towards achieving the United Nations Sustainable Development

Goals;

RECOGNIZE the multi-faceted nature of cultural goods and services as activities of cultural, economic and social value and the importance of incorporating culture as a strategic element in international development cooperation;

AFFIRM their commitments as parties to the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, done at Paris

on 20 October 2005, building upon its principles, and recognizing the importance of strengthening the diversity of cultural expressions within their respective territories;

RECOGNIZE that small and medium-sized enterprises contribute significantly to economic prosperity and innovation, as well as to the achievement of the United Nations Sustainable Development Goals;

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

RECOGNIZE that the economic empowerment of women in all their diversity and the achievement of gender equality contribute significantly to sustainable economic development;

SEEK to increase women's access to, and benefit from, the opportunities created by this Agreement by removing barriers to international trade and investment and by facilitating their full participation in the global economy and supply chains;

ENCOURAGE the increased participation of Indigenous Peoples in international trade and investment to foster sustainable and inclusive economic growth, employment and innovation in a manner that preserves Indigenous knowledge, cultural heritage, and cultural expressions;

RECOGNIZE the importance of improving the economic and social conditions of Indigenous Peoples, while respecting, protecting and promoting their rights as recognized under applicable international or domestic law;

ENCOURAGE enterprises operating within their territory or subject to their jurisdiction to pursue best practices of responsible business conduct, and to respect internationally recognised standards, guidelines and principles of responsible business conduct and corporate social responsibility, including the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct and the United Nations Guiding Principles on Business and Human Rights;

PROMOTE transparency, good governance and the rule of law, and prevent and combat bribery and corruption in trade and investment;

HAVE AGREED as follows:

Chapter 1. INITIAL PROVISIONS AND GENERAL DEFINITIONS

Section A. Initial Provisions

Article 1.1. Establishment of a Free Trade Area

The Parties to this Agreement, consistent with Article XXIV of the GATT 1994 and Article V of the GATS, hereby establish a free trade area.

Article 1.2. Relation to other Agreements

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

2. In the event of any inconsistency between this Agreement and the agreements referred to in paragraph 1, this Agreement prevails to the extent of the inconsistency, except as otherwise provided in this Agreement.

3. In the event of any inconsistency between this Agreement and the TRIPS Agreement, the TRIPS Agreement prevails to the extent of the inconsistency. (1)

(1) For greater certainty, TRIPS Agreement includes any waiver to the TRIPS Agreement that is in force pursuant to the WTO Agreement.

4. In the event of an inconsistency between an obligation of a Party under this Agreement and an obligation of that Party under a multilateral environmental agreement to which both Parties are party, the latter obligation prevails to the extent of the inconsistency, provided that the measure taken is not applied in a manner that would constitute, when the same conditions prevail, arbitrary or unjustifiable discrimination, or a disguised restriction on international trade.

5. The WTO Agreement exclusively governs the rights and obligations of the Parties regarding subsidies and the application of anti-dumping, countervailing, and global safeguard measures, including the settlement of any disputes in respect thereof.

Article 1.3. Reference to other Agreements

Except as otherwise provided, when this Agreement refers to or incorporates by reference other agreements or legal instruments in whole or in part, those references include:

(a) related annexes, protocols, footnotes, interpretative notes, and explanatory notes; and

(b) successor agreements to which the Parties are party or amendments that are binding on the Parties, except where the reference affirms existing rights.

Article 1.4. Reference to Laws

When this Agreement refers to laws, either generally or by reference to a specific statute or regulation, the reference is to the laws, as they may be amended, unless otherwise indicated.

Article 1.5. Extent of Obligations

Except as otherwise provided in this Agreement, each Party is fully responsible for the observance of all provisions of this Agreement and shall take reasonable measures as may be available to it to ensure observance of the provisions of this Agreement by governments and authorities other than the central level of government within its territory.

Article 1.6. Delegated Authority

Each Party shall ensure that any person that has been delegated regulatory, administrative or other governmental authority by a Party, (2) including a state-owned enterprise, state enterprise, or designated monopoly, act in accordance with the Party's obligations as set out under this Agreement in the exercise of that authority.

(2) For greater certainty, delegated regulatory, administrative or other governmental authority by a Party may include the power to expropriate, grant licenses, approve commercial transactions, or impose quotas, fees, or other charge.

Section B. General Definitions

Article 1.7. General Definitions

For the purposes of this Agreement, unless otherwise specified:

confidential information means confidential business information or information that is privileged or otherwise protected from disclosure under the law of a Party; (3)

(3) For Ecuador, information that is protected from disclosure, as described by Organic Law on Transparency and Access to Public Information, 2023.

customs administration means the competent authority that is responsible under the law of a Party for the administration of customs laws and regulations;

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;

days means calendar days, including weekends and holidays;

enterprise means any entity constituted or organized under applicable law, whether or not for profit, and whether privately or governmentally owned or controlled, including any corporation, trust, partnership, sole proprietorship, joint venture, association, or similar organization;

existing means in effect on the date of entry into force of this Agreement;

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

GATT 1994 means the General Agreement on Tariffs and Trade 1994, set out in Annex 1A to the WTO Agreement;

good means any merchandise, product, article or material;

Harmonized System ("HS") means the Harmonized Commodity Description and Coding System, including its General Rules of Interpretation, Section Notes, Chapter Notes, and Subheading Notes as adopted and implemented by the Parties in their respective laws;

heading means the first four digits in the tariff classification number under the Harmonized System;

Joint Committee means the Joint Committee established under Article 26.1 (Administrative and Institutional Provisions – Establishment of the Joint Committee);

measure includes a law, regulation, procedure, requirement, or practice;

originating means qualifying as originating under the rules of origin set out in Chapter 3 (Rules of Origin);

person means a natural person or an enterprise;

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

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

state enterprise means an enterprise owned, or controlled through ownership interests, by a Party;

subheading means the first six digits in the tariff classification number under the Harmonized System;

territory means, for a Party, the territory of that Party as set out in Article 1.8;

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

TRIPS Agreement means the Agreement on Trade-Related Aspects of Intellectual Property Rights, set out in Annex 1C to the WTO Agreement;

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 1.8. Country-Specific Definitions

For purposes of this Agreement, unless otherwise specified:

central level of government means:

(a) for Canada, the Government of Canada; and

(b) for Ecuador, the Government of Ecuador.

Indigenous Peoples means:

(a) for Canada, Aboriginal peoples (including First Nations, Inuit, and Métis peoples) as defined in subsection 35(2) of the Constitution Act, 1982 of Canada;

(b) for Ecuador, Indigenous communities, peoples and nations, the Afro-Ecuadorian people, the Montubio people and the communes as stated in article 56 of the Constitución de la República del Ecuador, 2008 (Constitution of the Republic of Ecuador, 2008).

national means a natural person who is:

(a) for Canada, a Canadian citizen or permanent resident under Canadian law;

(b) For Ecuador, Ecuadorians by birth or naturalization, in accordance with the Constitution of Ecuador.

regional level of government means:

(a) for Canada, a province or territory of Canada; and

(b) for Ecuador, provincial governments, or two or more contiguous provinces according to the procedure established in the Constitution of Ecuador and the law.

territory means:

(a) with respect to Canada,

(i) the land territory, internal waters, and territorial sea of Canada, as well as the airspace above those areas;

(ii) the exclusive economic zone of Canada; and

(iii) the continental shelf of Canada,

as determined by its domestic law and consistent with international law.

(b) with respect to Ecuador,

(i) the mainland, internal waters, islands adjacent, territorial sea as well as the airspace above those areas;

(ii) the archipelago of the Galapagos Islands, as well as the airspace above those islands; and

(iii) the exclusive economic zone, and the continental shelf, over which it may exercise sovereign rights or jurisdiction,

as determined by its domestic law and consistent with international law.

Chapter 2. NATIONAL TREATMENT AND MARKET ACCESS FOR GOODS

Section A. Definitions and Scope

Article 2.1. Definitions

For the purposes of this Chapter:

Agreement on Agriculture means the Agreement on Agriculture, set out in Annex 1A to the WTO Agreement;

AD 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;

Andean Price Band System ("APBS") means the price band system established in accordance with Decision 371 of the Andean Community Commission, adopted on 26 November 1994, and its modifications or any successor to that system;

consular transaction means a requirement to obtain from a consul of the importing Party in the territory of the exporting Party, or in the territory of a non-party, a consular invoice or a consular visa for a commercial invoice, certificate of origin, manifest, shippers' export declaration, or any other customs documentation required on or in connection with the importation of the good;

consumed means:

(a) actually consumed; or

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

customs duty means a duty or a charge of any kind imposed on or in connection with the importation of a good, including any form of surtax or surcharge imposed on or in connection with that importation, but does not include:

(a) a charge equivalent to an internal tax imposed consistently with Article III:2 of the GATT 1994;

(b) an anti-dumping or countervailing measure applied in accordance with Article VI of the GATT 1994, the SCM Agreement, or the AD Agreement; or

(c) a fee or other charge imposed in connection with the importation commensurate with the cost of services rendered;

duty-free means free of customs duty;

export licensing procedure means an administrative procedure requiring the submission of an application or other documentation, other than that generally required for customs clearance purposes, to the relevant administrative body or bodies as a prior condition for exportation from the territory of the exporting Party;

good means any merchandise, product, article or material;

goods of a Party means domestic products as these are understood in the GATT 1994 or any other goods as the Parties may decide, and includes originating goods of a Party;

import licensing means an administrative procedure requiring the submission of an application or other documentation, other than that generally required for customs clearance purposes, to the relevant administrative body as a prior condition for importation into the territory of the importing Party;

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

performance requirement means a requirement that:

(a) a given level or percentage of goods or services be exported;

(b) domestic goods or services of the Party granting a waiver of customs duties or an import licence be substituted for imported goods or services;

(c) a person benefiting from a waiver of customs duties or a requirement for an import licence purchase other goods or services in the territory of the Party that grants the waiver of customs duties or the import licence, or accords a preference to domestically produced goods or services;

(d) a person benefiting from a waiver of customs duties or a requirement for an import licence produce goods or supply services in the territory of the Party that grants the waiver of customs duties or the import licence, with a given level or percentage of domestic content; or

(e) relates in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows,

but does not include a requirement that an imported good be:

(f) subsequently exported;

(g) used as a material in the production of another good that is subsequently exported;

(h) substituted by an identical or similar good used as a material in the production of another good that is subsequently exported; or

(i) substituted by an identical or similar good that is subsequently exported; and

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

Article 2.2. Scope

Except as otherwise provided in this Agreement, this Chapter applies to trade in goods of a Party.

Section B. National Treatment and Market Access for Goods

Article 2.3. National Treatment

1. Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of the GATT 1994, and to this end, Article III of the GATT 1994 is incorporated into and made part of this Agreement.

2. For greater certainty, the treatment to be accorded by a Party under paragraph 1 means, with respect to a regional level of government, treatment no less favourable than the most favourable treatment that the regional 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.

3. Paragraphs 1 and 2 do not apply to the measures set out in Annex 2-A.

Article 2.4. Classification of Goods

The classification of goods in trade between the Parties shall be that set out in each Party's respective tariff nomenclature in conformity with the Harmonized System.

Article 2.5. Reduction or Elimination of Customs Duties on Imports

1. Except as otherwise provided in this Agreement, a Party shall not increase any existing customs duty, or adopt any new customs duty, on an originating good.

2. Except as otherwise provided in this Agreement, each Party shall eliminate its customs duties on originating goods in accordance with its Schedule to Annex 2-B.

3. Each Party shall apply to an originating good the lesser of the customs duty resulting from:

(a) the rate of customs duty calculated in accordance with its Schedule to Annex 2-B; or

(b) the most-favoured-nation ("MFN") applied rate of customs duty.

4. On the request of a Party, the Parties shall consult through the Committee on Trade in Goods to consider accelerating the elimination of customs duties or improving tariff commitments set out in their Schedules to Annex 2-B. A decision of the Joint Committee to accelerate the elimination of a customs duty or improve tariff commitments on an originating good shall supersede any rate of customs duty or staging category determined pursuant to the Parties' Schedules in Annex 2-B for that good when approved by each Party in accordance with its applicable legal procedures.

5. A Party may at any time unilaterally accelerate the elimination of customs duties set out in its Schedule to Annex 2-B on originating goods of the other Party. A Party shall inform the other Party as early as practicable before the new rate of customs duty takes effect.

6. For greater certainty, a Party may:

(a) increase a customs duty to the level established in its Schedule to Annex 2-B following a unilateral reduction; or

(b) maintain or increase a customs duty as authorized by this Agreement, the Dispute Settlement Body of the WTO, or an agreement under the WTO Agreement.

Article 2.6. Waiver of Customs Duties

A Party shall not adopt or maintain any waiver of a customs duty if the waiver is conditioned, explicitly or implicitly, on the fulfillment of a performance requirement.

Article 2.7. Import and Export Restrictions

1. Except as otherwise provided in this Agreement, a Party shall not 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 the GATT 1994. To this end, Article XI of the GATT 1994 are incorporated into and made a part of this Agreement.

2. A Party shall not adopt or maintain any measure prohibited by Article 4.2 of the Agreement on Agriculture with respect to goods of the other Party. To this end, Article

4.2 of the Agreement on Agriculture is incorporated into and made part of this Agreement. This Article does not apply to measures taken pursuant to the Andean Price Band System with respect to the goods listed in Annex 2-C, in accordance with Article 2.18.

3. The Parties understand that GATT 1994 rights and obligations incorporated by paragraph 1 prohibit, in any circumstances in which any other form of restriction is prohibited, a Party from adopting or maintaining:

(a) export or import price requirements, except as permitted in enforcement of countervailing and antidumping duty orders or undertakings;

(b) import licensing conditioned on the fulfilment of a performance requirement; or

(c) voluntary export restraints, except for those applied consistently with Article VI of the GATT 1994, as implemented under Article 18 of the SCM Agreement or Article 8 of the AD Agreement.

4. If a Party adopts or maintains a prohibition or restriction on the importation from or exportation to a non-party of a good, this Agreement does not prevent that Party from:

(a) limiting or prohibiting the importation of the good of that non-party from the territory of the other Party; or

(b) requiring, as a condition for exporting the good of that Party to the territory of the other Party, that the good not be re-exported to the non-party, directly or indirectly, without being consumed in the territory of the other Party.

5. If a Party adopts or maintains a prohibition or restriction on the importation of a good from a non-party, the Parties shall, on the request of a Party, consult with a view to avoiding undue interference with or distortion of pricing, marketing or distribution arrangements in the other Party.

6. This Article does not apply to the measures set out in Annex 2-A.

Article 2.18. Import Licensing

1. Each Party shall ensure that all its import licensing procedures are implemented in a transparent and predictable manner. A Party shall not adopt or maintain an import licensing measure that is inconsistent with the Import Licensing Agreement.

2. Promptly after this Agreement enters into force, each Party shall notify the other Party of its existing import licensing procedures, if any. The notification shall include the information specified in Article 5.2 of the Import Licensing Agreement.

3. A Party shall be deemed to be in compliance with the obligations in paragraph 2 with respect to an existing import licensing procedure if:

(a) it has notified that procedure to the WTO Committee on Import Licensing established under Article 4 of the Import Licensing Agreement together with the information specified in Article 5.2 of that agreement; and

(b) in the most recent annual submission due before the date of entry into force of this Agreement for that Party to the WTO Committee on Import Licensing in response to the annual questionnaire on import licensing procedures described in Article 7.3 of the Import Licensing Agreement, it has provided, with respect to that procedure, the information requested in that questionnaire.

4. A Party shall publish on an official government website any new or modified import licensing procedure, including any information that is required to be published under Article 1.4(a) of the Import Licensing Agreement. To the extent possible, the Party shall do so at least 20 days before the new procedure or modification takes effect.

5. Each Party shall notify the other Party of any new import licensing procedures it adopts and any modifications it makes to its existing import licensing procedures, if possible, no later than 60 days before the new procedure or modification takes effect. A Party shall not provide the notification later than 60 days after the date of publication of the new procedure or modification. A Party shall be deemed to be in compliance with this obligation if it notifies a new import licensing procedure or a modification to an existing import licensing procedure to the WTO Committee on Import Licensing in accordance with Article 5.1, 5.2 or 5.3 of the Import Licensing Agreement.

6. Each Party shall respond within 60 days to a reasonable enquiry from the other Party concerning its licensing rules and its procedures for the submission of an application for an import licence, including the eligibility of persons, firms and institutions to make an application, the administrative body or bodies to be approached and the list of products subject to the licensing requirement.

7. If a Party denies an import licence 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 written explanation of the reason for the denial.

8. A Party shall not apply an import licensing procedure to a good of the other Party unless the Party has complied with the requirements of paragraphs 2 and 4 with respect to that procedure.

Article 2.9. Export Licensing

1. Within 30 days after the date of entry into force of this Agreement, each Party shall notify the other Party in writing of the publications in which its export licensing procedures, if any, are set out, including addresses of relevant government websites on which the procedures are published. Thereafter, each Party shall publish any new export licensing procedure or any modification of an export licensing procedure it adopts as soon as practicable but no later than 30 days after the date the new procedure or modification takes effect.

2. Each Party shall notify the other Party of any new export licensing procedures it adopts and any modifications it makes to its existing export licensing procedures as soon as practicable but no later than 60 days after the date the new procedure or modification takes effect. The notification requirements in Article 5 of the Import Licensing Agreement shall be carried out between the Parties with regard to any new or modified export licensing procedures.

3. A Party shall be deemed to be in compliance with paragraphs 1 and 2 if it has notified the export licensing procedure to the WTO Committee on Market Access in accordance with the Decision on Notification Procedures for Quantitative Restrictions (G/L/59/Rev.1), adopted by the WTO Council on Trade in Goods on 22 June 2012.

4. A Party shall provide the other Party, on request of a Party and to the extent practicable, the following information regarding a particular export licensing procedure that it adopts or maintains, except where doing so would reveal business proprietary or other confidential information of a particular person:

(a) the aggregate number of licences the Party has granted over a recent period specified in the other Party's request; and

(b) measures, if any, that the Party has taken in conjunction with the licensing procedure to restrict domestic production or consumption or to stabilize production, supply, or prices for the relevant good.

5. For greater certainty, this Article does not:

(a) require a Party to grant an export licence;

(b) prevent a Party from implementing its obligations or commitments under United Nations Security Council Resolutions, multilateral non-proliferation regimes or export control arrangements; or

(c) prevent a Party from adopting, maintaining or implementing an export control regime or an independent sanctions regime.

Article 2.10. Administrative Fees and Formalities

1. Each Party shall ensure in accordance with Article VIII:1 of the GATT 1994 and Article 6.2 of the Trade Facilitation Agreement, that all fees and charges of whatever character (other than customs duties, charges equivalent to an internal tax or other internal charges applied consistently with Article III:2 of the GATT 1994, and anti-dumping and countervailing duties) imposed on or in connection with importation or exportation, are limited in amount to the approximate cost of services rendered and do not represent a direct or indirect protection for domestic goods or a taxation of imports for fiscal purposes., that all fees and charges of whatever character (other than customs duties, charges equivalent to an internal tax or other internal charges applied consistently with Article III:2 of the GATT 1994, and anti-dumping and countervailing duties) imposed on or in connection with importation or exportation, are limited in amount to the approximate cost of services rendered and do not represent a direct or indirect protection for domestic goods or a taxation of imports for fiscal purposes.

2. A Party shall not require consular transactions, including related fees and charges, in connection with the importation of a good of the other Party.

3. Each Party shall make publicly available online a current list of the fees and charges it imposes in connection with importation or exportation.

Article 2.11. Exchange of Data for Preference Utilization

1. For the purpose of monitoring the functioning of this Agreement and calculating preference utilization rates, the Parties shall annually exchange updated import statistics for a period starting one year after the date of entry into force of this Agreement and expiring five years after the tariff elimination is completed. The Committee on Trade in Goods may decide to extend this period.

2. The import statistics referred to in paragraph 1 shall include data pertaining to the most recent calendar year available, at the tariff line level for Chapters 1 through 97 of the Harmonized System, on imports of goods from the other Party that are subject to MFN-applied tariffs and tariff preferences under this Agreement, including information on value and, where applicable, volume and tariff rate quota fill rate.

Article 2.12. State Trading Enterprises

1. The Parties affirm their rights and obligations with respect to state trading enterprises under Article XVII of the GATT 1994 and the Understanding on the Interpretation of Article XVII of the GATT 1994.

2. The Parties intend to cooperate at the WTO to ensure transparency regarding the operation and maintenance of state trading enterprises.

Section C. Institutional Provisions

Article 2.13. Committee on Trade In Goods

1. The Parties hereby establish a Committee on Trade in Goods ("Committee"), composed of government representatives of each Party.

2. The Committee shall meet within 60 days of a request of a Party or of the Joint Committee to consider any matter arising under this Chapter.

3. The Committee shall meet at a venue and time as the Parties decide. The Committee may meet in person or by electronic means. Unless the Parties decide otherwise, in-person meetings shall be held alternately in the territory of each Party. The Party hosting an in-person meeting of the Committee shall provide administrative support for that meeting.

4. The Committee's functions shall include:

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

(b) promoting trade in goods between the Parties, including through consultations on accelerating or improvement of tariff commitments under this Agreement and other issues as appropriate;

(c) consulting on and endeavoring to resolve any issues relating to this Chapter, including, as appropriate, in coordination or jointly with other committees, subcommittees, working groups, or other bodies established under this Agreement;

(d) promptly seeking to address barriers to trade in goods between the Parties, including those related to the application of non-tariff measures, other than those within the competence of other committees, subcommittees, working groups or any other bodies established under this Agreement and, if appropriate, referring those matters to the Joint Committee for its consideration;

(e) coordinating the exchange of information on trade in goods between the Parties;

(f) discussing and endeavoring to resolve any difference that may arise between the Parties on matters related to the Harmonized System, including ensuring that each Party's obligations under this Agreement are not altered by its implementation of future amendments to the Harmonized System into its national nomenclature;

(g) referring any relevant issues to other committees, subcommittees, working groups or any other bodies established under this Agreement and notifying the Joint Committee, as appropriate;

(h) providing advice and recommendations to the Joint Committee with regards to matters within the Committee's competence; and

(i) carrying out any other work related to this Chapter that the Joint Committee may assign or another committee may refer to the Committee.

Section D. Agriculture

Article 2.14. Definitions

For the purposes of this Section:

agricultural good means a product listed in Annex 1 of the Agreement on Agriculture;

export subsidy means an export subsidy as defined in Article 1(e) of the Agreement on Agriculture;

Nairobi Decision means the WTO Ministerial Decision on Export Competition, adopted in Nairobi, 19 December 2015, (WT/L/980).

Article 2.15. Scope

This Section applies to any measure adopted or maintained by a Party relating to trade in agricultural goods, except as otherwise provided in Article 2.16.

Article 2.16. Export Restrictions – Food Security

1. For the purposes of this Article, "foodstuff" includes fish and fish products intended for human consumption.

2. The Parties recognize that under Article XI:2(a) of the GATT 1994, a Party may temporarily apply an export prohibition or restriction that is otherwise prohibited under Article XI:1 of the GATT 1994 on a foodstuff to prevent or relieve a critical shortage, subject to meeting the conditions set out in Article 12.1 of the Agreement on Agriculture.

3. A Party that maintains a prohibition or restriction on the exportation or sale for export of a foodstuff as of the date of entry into force of this Agreement shall notify the measure to the other Party within 30 days of the date of entry into force of this Agreement. A Party shall be deemed to be in compliance with this obligation if it has previously notified the measure to the WTO Committee on Agriculture.

4. A Party that adopts a new prohibition or restriction on the exportation or sale for export of a foodstuff to the other Party shall, in addition to meeting the conditions set out in Article 12.1 of the Agreement on Agriculture, notify the measure to the other Party at least 15 days prior to the date the measure takes effect, except when the critical shortage is caused by an event constituting force majeure, in which case the Party adopting the export prohibition or restriction shall notify the other Party prior to the date the measure takes effect. A Party shall be deemed to be in compliance with this obligation if it has notified the measure to the WTO Committee on Agriculture within the timeframe required by the present paragraph.

5. For the purposes of this Article, "force majeure" means the occurrence of an irresistible force or of an unforeseen event, beyond the control of the Party, that makes it materially impossible for the Party to perform its obligations under this Article.

6. A Party shall not apply a measure that is subject to notification under paragraph 3 or 4 to a foodstuff purchased for a non-commercial, humanitarian purpose.

Article 2.17. Export Competition

1. The Parties affirm their rights and obligations under the Nairobi Decision.

2. The Parties share the objective of the multilateral elimination of export subsidies for agricultural goods and shall work together to prevent their reintroduction in any form.

3. A Party shall not provide an export subsidy on any agricultural good destined for the territory of the other Party.

4. Within 30 days of a written request of a Party, the Parties shall enter into consultations regarding any measure the requesting Party considers to be an export subsidy.

Article 2.18. The Andean Price Band System

Ecuador may maintain the Andean Price Band System for agricultural goods subject to the APBS only for goods listed in Annex 2-C, subject to the conditions and modalities of Annex 2-B.

Article 2.19. Sub-Committee on Agriculture

1. The Parties hereby establish a Sub-Committee on Agriculture, composed of relevant government representatives of each Party.

2. The Sub-Committee shall meet within 60 days of a request by a Party or by the Committee on Trade in Goods.

3. The Sub-Committee shall meet at a venue and time as the Parties decide. The Sub-Committee may meet in person or by electronic means. Unless the Parties decide otherwise, in-person meetings shall be held alternately in the territory of each Party. The Party hosting an in-person meeting of the Sub-Committee shall provide administrative support for that meeting.

4. The Sub-Committee's functions shall include:

(a) facilitating communications between the Parties on any matter covered by this Section;

(b) promoting trade in agricultural goods between the Parties under this Agreement;

(c) monitoring and promoting cooperation on the implementation and administration of this Section;

(d) endeavouring to share information, at an appropriately early stage,

of regulatory or policy changes under consideration by a Party that would affect trade in an agricultural good between the Parties;

(e) consulting and endeavouring to address issues or trade barriers and to improve access to their respective markets for agricultural goods, in coordination or jointly with other committees, working groups or any other subsidiary bodies established under this Agreement;

(f) fostering cooperation between the Parties in areas of mutual interest, such as rural development, technology, research and development, capacity building and inclusive approaches to trade; and

(g) undertaking any additional work, including any work that the Committee on Trade in Goods may assign or another committee may assign or refer to it.

5. The Sub-Committee shall inform the Committee on Trade in Goods of the results of its meetings.

Chapter 3. RULES OF ORIGIN

Article 3.1. Definitions

For the purposes of this Chapter:

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

fungible goods or materials means goods or materials that are interchangeable for commercial purposes and whose properties are essentially identical;

generally accepted accounting principles means the principles recognized by consensus or with 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 for general application as well as detailed standards, practices and procedures;

listed means a foreign registered vessel bare-boat chartered in accordance with the law of a Party and whose registration in the foreign country is suspended for the duration of the charter;

material means a good used in the production of another good, and includes a part or ingredient;

motor vehicle means a good of heading 87.03 through 87.04;

net cost means total cost minus sales promotion, marketing and after-sales service costs, royalty, shipping and packing costs, and non-allowable interest cost that are included in the total cost;

non-allowable interest cost means interest costs incurred by a producer that exceed 700 basis points above the applicable national government interest rate identified for comparable maturities;

non-originating good or non-originating material means a good or material that does not qualify as originating under this Chapter;

originating good or originating material means a good or material that qualifies as originating under this Chapter;

production means methods for obtaining goods, including growing, raising, harvesting, cultivating, picking, gathering,

fishing, hunting, trapping, capturing, aquaculture, extracting, manufacturing, processing or assembling a good;

reasonably allocate means to apportion in a manner appropriate under generally accepted accounting principles;

recovered material means a material in the form of one or more individual parts that results from:

(a) the disassembly of a used good into individual parts; and

(b) the cleaning, inspecting, testing or other processing of those parts as necessary for improvement to sound working condition;

remanufactured good means a good that is entirely or partially composed of recovered materials and:

(a) has a similar life expectancy and performs the same as or similar to that good when new; and

(b) has a factory warranty similar to that applicable to that good when new;

royalty means payments of any kind, including payments under technical assistance or similar agreements, made as consideration for the use or right to use any copyright, literary, artistic or scientific work, patent, trademark, design, model, plan, secret formula or process, excluding those payments under technical assistance or similar agreements that can be related to specific services such as:

(a) personnel training, without regard to where it is performed; or

(b) engineering, tooling, die-setting, software design and similar computer services, or other services, if performed in the territory of one or both of the Parties;

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

(a) sales and marketing promotion, media advertising, advertising and market research, promotional and demonstration materials, exhibits, sales conferences, trade shows and conventions, banners, marketing displays, free samples, sales, marketing and after-sales service literature, such as brochures for the good, catalogues, technical literature, price lists, service manuals and sales aid information, establishment and protection of logos or trademarks, sponsorships, wholesale and retail restocking charges, and entertainment;

(b) sales and marketing incentives; consumer, retailer or wholesaler rebates; and merchandise incentives;

(c) salaries and wages, sales commissions, bonuses, benefits, such as medical, insurance and pension, travelling and living expenses, membership and professional fees for sales promotion, marketing and after-sales service personnel;

(d) recruiting and training of sales promotion, marketing and after-sales service personnel and after-sales training of customers' employees, if those costs are identified separately for sales promotion, marketing and after-sales service of goods on the financial statements or cost accounts of the producer;

(e) goods liability insurance;

(f) office supplies for sales promotion, marketing and after-sales service of goods, if those costs are identified separately for sales promotion, marketing and after-sales service of goods on the financial statements or cost accounts of the producer;

(g) telephone, mail and other communications, if those costs are identified separately for sales promotion, marketing and after-sales service of goods on the financial statements or cost accounts of the producer;

(h) rent and depreciation of sales promotion, marketing and after-sales service offices and distribution centres;

(i) property insurance premiums, taxes, cost of utilities, and repair and maintenance of sales promotion, marketing and after-sales service offices and distribution centres, where those costs are identified separately for sales promotion, marketing and after-sales service of goods on the financial statements or cost accounts of the producer; and

(j) payments by the producer to other persons for warranty repairs;

shipping and packing costs means the costs incurred in packing a good for shipment and shipping the good from the point of direct shipment to the buyer, excluding costs of preparing and packaging the good for retail sale;

total cost means all product costs, period costs and other costs incurred in relation to the production of a good in the territory of one or both of the Parties where:

(a) product costs means those costs that are associated with the production of a good and include the value of materials, direct labour costs and direct overhead;

(b) period costs means those costs other than product costs that are expensed in the period in which they are incurred, including selling expenses and general and administrative expenses; and

(c) other costs means all costs recorded on the books of the producer that are not product costs or period costs;

transaction value of the good means the price paid or payable to the producer of the good at the place where the last production was carried out and must include the value of all materials. If there is no price paid or payable or if it does not include the value of all materials, the transaction value of the good:

(a) must include the value of all materials and the cost of production employed in producing the good, calculated in accordance with generally accepted accounting principles; and

(b) may include amounts for general expenses and profit to the producer that can be reasonably allocated to the good;

Any internal taxes which are, or may be, repaid when the good obtained is exported are excluded. If the transaction value of the good includes costs incurred subsequent to the good leaving the place of production, such as transportation, loading, unloading, handling or insurance, those costs are to be excluded; and

value of non-originating materials means the customs value of the material at the time of its importation into a Party, as determined in accordance with the Customs Valuation Agreement. The value of the non-originating material must include any costs incurred in transporting the material to the place of importation, such as transportation, loading, unloading, handling or insurance costs. If the customs value is not known or cannot be ascertained, the value of non-originating materials is the first ascertainable price paid for the materials in a Party.

Article 3.2. Originating Goods

Except as otherwise provided in this Chapter, a good is originating if it is:

(a) wholly obtained or produced entirely in the territory of one or both of the Parties in accordance with Article 3.3;

(b) produced entirely in the territory of one or both of the Parties, exclusively from originating materials; or

(c) produced entirely in the territory of one or both of the Parties, using non-originating materials, provided that the good satisfies the requirements set out in Annex 3-A; and

the good satisfies all other applicable requirements of this Chapter.

Article 3.3. Wholly Obtained or Produced Goods

The following goods are considered wholly obtained or produced entirely in the territory of one or both of the Parties:

(a) a plant, plant good or fungus, grown, cultivated, harvested, picked or gathered there;

(b) a live animal born and raised there;

(c) a good obtained from a live animal there;

(d) an animal obtained by hunting, trapping, fishing, gathering or capturing there;

(e) a good obtained from aquaculture there;

(f) a mineral good or other naturally occurring substance extracted or taken from there;

(g) a good, other than a fish, crustacean, mollusc and other marine life taken by a Party or a person of a Party from the seabed, ocean floor or subsoil outside the territories of the Parties, provided that Party or the person of that Party has the right to exploit that seabed, ocean floor or subsoil in accordance with international law;

(h) a fish, crustacean, mollusc or other marine life taken from the waters, seabed, ocean floor or subsoil outside the territories of the Parties by vessels that are registered, listed or recorded with a Party and entitled to fly the flag of that Party and that Party has the right to exploit those waters, seabed, ocean floor or subsoil in accordance with international law;

(i) a good obtained or produced on board of a factory ship, exclusively from a good referred to in subparagraph (h),

provided that the factory ship is registered, listed or recorded with a Party and entitled to fly the flag of that Party;

(j) waste and scrap derived from:

(i) production carried out there; or

(ii) used goods collected there, provided that those goods fit only for the recovery of raw materials; and

(k) a good obtained or produced there exclusively from a good referred to in subparagraphs (a) through (j).

Article 3.4. Regional Value Content

1. Except as provided in paragraph 2, where the applicable rule of origin in Annex 3-A specifies a regional value content requirement, the regional value content shall be calculated as follows:

(a) Focused Value Method: Based on the Value of Specified Non-Originating Materials

RVC = ((TVOG - FVNM) / TVOG) x 100

or

where:

(b) Build-down Method: Based on the Value of Non-Originating Materials

RVC = ((TVOG - VNM) / TVOG) x 100

RVC is the regional value content of a good, expressed as a percentage;

VNM is the value of non-originating materials, including materials of undetermined origin, used in the production of the good;

FVNM is the value of non-originating materials, including materials of undetermined origin, specified in the applicable product-specific-rule in Annex 3-A and used in the production of the good. For greater certainty, non-originating materials that are not specified in the applicable product-specific-rule in Annex 3-A are not taken into account for the purpose of determining FVNM; and

TVOG is the transaction value of the good.

2. For the purposes of a good of heading 87.03, subheading 8704.21, 8704.31, 8704.41 or 8704.51, at the choice of an exporter or a producer of that good, where the applicable rule of origin in Annex 3-A specifies a regional value content requirement, the regional value content shall be calculated as follows:

(a) Build-down Method: Based on the Value of Non-Originating Materials

RVC = ((TVOG - VNM) / TVOG) x 100

or

where:

(b) Net Cost Method

RVC = ((NC - VNM) / NC) x 100

RVC is the regional value content of a good, expressed as a percentage;

VNM is the value of non-originating materials, including materials of undetermined origin, used in the production of the good;

NC is the net cost of the good determined in accordance with paragraphs 3 and 4; and

TVOG is the transaction value of the good.

3. For the purposes of calculating the net cost of a good as set out in paragraph 2, the producer of the good may:

(a) calculate the total cost incurred with respect to all goods produced by that producer, subtract any sales promotion, marketing and after-sales service costs, royalty, shipping and packing costs and non-allowable interest cost that are included

in the total cost of all those goods, and then reasonably allocate the resulting net cost of those goods to the good;

(b) calculate the total cost incurred with respect to all goods produced by that producer, reasonably allocate the total cost to the good, and then subtract any sales promotion, marketing and after-sales service costs, royalty, shipping and packing costs and non-allowable interest cost that are included in the portion of the total cost allocated to the good; or

(c) reasonably allocate each cost that forms part of the total cost incurred by that producer with respect to the good so that the aggregate of these costs does not include any sales promotion, marketing and after-sales service costs, royalty, shipping and packing costs, or non-allowable interest cost.

4. For the purposes of calculating the net cost of a good under paragraph 2, the producer may average its calculation over its fiscal year using any one of the following categories, on the basis of either all motor vehicles produced by that producer in the category or only those motor vehicles in the category that are produced by that producer and exported to the territory of the other Party:

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

(b) the same model line of motor vehicles produced in the same plant in the territory of a Party;

(c) the same model line of motor vehicles produced in the territory of a Party;

(d) the same class of motor vehicles produced in the same plant in the territory of a Party; or

(e) any other category as the Parties may decide.

5. Each Party shall provide that all costs considered for the calculation of regional value content are recorded and maintained in conformity with the generally accepted accounting principles applicable in the territory of a Party where the good is produced.

Article 3.5. Accumulation

1. A good is originating if the good is produced in the territory of one or both of the Parties by one or more producers, provided that the good satisfies the requirements of Article 3.2 and all other applicable requirements in this Chapter.

2. An originating good or material of a Party is considered as originating in the territory of the other Party when it is used as a material in the production of a good in the territory of that Party.

3. An exporter may take into account production carried out on a non-originating material in the other Party for the purposes of determining the originating status of a good.

4. Subject to paragraph 5, if, as permitted by the WTO Agreement, each Party has a free trade agreement with the same non-party, a material from that non-party may be taken into consideration by the exporter when determining if a good is originating under this Agreement.

5. Each Party shall apply paragraph 4 only if equivalent provisions are in force between each Party and the non-party and upon agreement by the Parties on the applicable conditions.

Article 3.6. Materials Used In Production

If a non-originating material undergoes further production in the territory of one or both of the Parties and it satisfies the requirements of this Chapter, the material is treated as originating when determining the originating status of the subsequently produced good, regardless of whether that material was produced by the producer of the good.

Article 3.7. De Minimis

1. A good that does not satisfy the applicable change in tariff classification pursuant to Annex 3-A is an originating good if:

(a) for a good, except for a good provided for in Chapters 50 through 63 of the Harmonized System, the value of all non-originating materials used in the production of the good that did not undergo the required change in tariff classification does not exceed 10 per cent of the transaction value of the good;

(b) for a good provided for in Chapters 50 through 60 of the Harmonized System, the total weight of all non-originating materials used in the production of the good that did not undergo the required change in tariff classification does not exceed 15 per cent of the total weight of that good; or

(c) for a good provided for in Chapters 61 through 63 of the Harmonized System, the total weight of all non-originating materials in the component of the good that determines the tariff classification of the good that did not undergo the required change in tariff classification does not exceed 15 per cent of the total weight of that component; and

the good satisfies all other applicable requirements of this Chapter.

2. If a good described in paragraph 1 is also subject to a maximum value or weight of non-originating materials as set out in Annex 3-A, the maximum value or weight of the non-originating materials shall not be exceeded through the application of paragraph 1.

Article 3.8. Treatment of Recovered Materials Used In Production of a Remanufactured Good

1. A recovered material derived in the territory of one or both of the Parties is treated as originating when it is used in the production of, and incorporated into, a remanufactured good.

2. For greater certainty:

(a) a remanufactured good is originating only if it satisfies the applicable requirements of Article 3.2; and

(b) a recovered material that is not used or incorporated in the production of a remanufactured good is originating only if it satisfies the applicable requirements of Article 3.2.

3. This Article applies to a remanufactured good classified in Harmonized System Chapters 84 through 90, except:

(a) a good classified in subheading 8407.31, 8407.32, 8407.33, 8407.34, 8407.90, or 8408.20; or

(b) parts of subheading 8409.91 or 8409.99 for use in the production of a good referred to in subparagraph (a).

Article 3.9. Fungible Goods and Materials

1. A fungible good or material is treated as originating based on the:

(a) physical segregation of each fungible good or material; or

(b) use of any inventory management method recognized in the generally accepted accounting principles of the Party in which production is performed if the fungible good or material is commingled.

2. Once a particular inventory management method is selected under paragraph 1, that method shall continue to be used for those fungible goods or materials throughout the fiscal year of the person that selected the inventory management method.

Article 3.10. Indirect Materials

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

2. For the purposes of this Article, an indirect material means a good used in the production, testing or inspection of another good but not physically incorporated into that other good, or a material used in the maintenance of buildings or the operation of equipment associated with the production of a good, such as:

(a) fuel, energy, catalysts and solvents;

(b) equipment, devices and supplies used for testing or inspection of the goods;

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

(d) tools, dies and moulds;

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

(f) lubricants, greases, compounding materials and other materials used in production, or used to operate equipment or in the maintenance of buildings; and

(g) any other material that is not incorporated into the good but the use of which in the production of the good can

reasonably be demonstrated to be a part of that production.

Article 3.11. Accessories, Spare Parts, Tools, and Instructional or other Information Materials

The accessories, spare parts, tools, or instructional or other information materials of a good, are considered originating if the good is an originating good, and these shall be disregarded in determining whether all the non-originating materials used in the production of the good undergo the applicable requirements set out in Annex 3-A provided that:

(a) the accessories, spare parts, tools and instructional or other information materials are classified with, delivered with and not invoiced separately from the good; and

(b) the quantities and value of the accessories, spare parts, tools and instructional or other information materials are customary for that good.

Article 3.12. Packaging Materials and Containers for Retail Sale

1. Packaging materials and containers in which a good is packaged for retail sale, if classified with the good, are disregarded in determining whether a good is originating in accordance with Article 3.2.

2. For the purposes of this Article, “packaging materials and containers” means materials and containers in which a good is packaged for retail sale.

Article 3.13. Packing Materials and Containers for Shipment

1. Packing materials and containers for shipment are disregarded in determining whether a good is originating.

2. For the purposes of this Article, “packing materials and containers” means materials and containers that are used to protect a good during transportation.

Article 3.14. Transit and Transhipment

1. An originating good retains its originating status if the good has been transported from the exporting Party to the importing Party without passing through the territory of a non-party.

2. If an originating good is transported through the territory of one or more non-parties, the good retains its originating status provided that the good:

(a) does not undergo any operation outside the territory of the Parties other than unloading, reloading, splitting up or any other operation necessary to preserve it in good condition; and

(b) remains under the control of the customs authorities in the territory of a non-party.

Article 3.15. Non-Qualifying Operations

1. A good shall not be considered to be an originating good merely by reason of undergoing one or more of the following operations in the territory of a Party:

(a) packaging, re-packaging or breaking up for retail sale of the good;

(b) oiling or applying anti-rust paint or protective coatings to the good; or

(c) disassembly of a new good into its parts.

2. This Article applies to goods produced using non-originating materials.

Chapter 4. ORIGIN PROCEDURES

Article 4.1. Definitions

For the purposes of this Chapter:

competent authority means:

(a) for Canada, the Canada Border Services Agency, or its successor; and

(b) for Ecuador, the Ministry of Production, Foreign Trade, and Investments or the National Customs Service of Ecuador, or their successors;

determination of origin means a determination as to whether a good qualifies as an originating good in accordance with Chapter 3 (Rules of Origin);

identical goods means goods that are the same in all respects, including physical characteristics, quality and reputation, irrespective of minor differences in appearance that are not relevant to a determination of origin of those goods under Chapter 3 (Rules of Origin);

preferential tariff treatment means the duty rate applicable to an originating good under this Agreement; and

value means the value of a good or material for the purposes of calculating customs duties or for purposes of applying Chapter 3 (Rules of Origin).

The following terms have the same meaning as in Article 3.1 (Rules of Origin - Definitions):

(a) material;

(b) originating good or originating material; and

(c) production.

Article 4.2. Claims for Preferential Tariff Treatment

1. The Parties shall establish a certificate of origin for the purposes of certifying that a good being exported from the territory of a Party into the territory of the other Party qualifies as an originating good. The certificate of origin may thereafter be modified as the Parties may decide.

2. Each Party shall provide that an importer may make a claim for preferential tariff treatment, based on a certificate of origin completed by the exporter, producer, or importer for the purposes of certifying that a good being exported from the territory of a Party into the territory of the other Party qualifies as an originating good.

3. Each Party shall implement paragraph 2 with respect to a certificate of origin by the importer seven years after the date of entry into force of this Agreement.

4. The importing Party may:

(a) require that an importer who completes a certificate of origin provide documents or other information to support the certificate;

(b) establish in its laws and regulations conditions that an importer must meet to complete a certificate of origin;

(c) if an importer fails to meet or no longer meets the conditions established under subparagraph (b), prohibit that importer from providing its own certificate as the basis of a claim for preferential tariff treatment; or

(d) if a claim for preferential tariff treatment is based on a certificate of origin completed by an importer, prohibit that importer from making a subsequent claim for preferential tariff treatment for the same importation based on a certificate of origin completed by the exporter or producer.

5. Each Party shall provide that a certificate of origin may apply to:

(a) a single shipment of one or more goods into the territory of a Party; or

(b) multiple shipments of identical goods within any period specified in the certificate of origin, but not exceeding 12 months.

6. A Party shall not reject a claim for preferential tariff treatment for the sole reason that the invoice was issued in a non-party.

7. Each Party shall provide that a certificate of origin for a good imported into its territory be accepted by its customs administration for one year after the date on which the certificate of origin was completed or for a longer period specified

by the laws or regulations of the importing Party.

8. Each Party shall allow a certificate of origin to be completed and submitted electronically and shall accept the certificate of origin with an electronic signature. For greater certainty, a portable document format of the certificate of origin with an electronic signature is an acceptable electronic format.

9. Each Party shall provide that the certificate of origin for a good imported into its territory may be completed in English, French or Spanish. If the certificate of origin is not in a language of the importing Party, the importing Party may require the importer to submit, on request, a translation into that language.

Article 4.3. Basis of a Certificate of Origin

1. Each Party shall provide that if a producer certifies the origin of a good, the certificate of origin is completed on the basis of the producer having information that demonstrates that the good is originating.

2. Each Party shall provide that if the exporter is not the producer of the good, a certificate of origin may be completed by the exporter of the good on the basis of:

(a) the exporter having information that demonstrates that the good is originating; or

(b) reasonable reliance on the producer's written representation, such as in a certificate of origin, that the good is originating.

3. Each Party shall provide that a certificate of origin may be completed by the importer of the good on the basis of the importer having information that demonstrates that the good is originating.

4. For greater certainty, paragraphs 1 and 2 do not allow a Party to require an exporter or producer to complete a certificate of origin or provide a certificate of origin or a written representation to another person.

Article 4.4. Discrepancies and Minor Errors

1. A Party shall not reject a certificate of origin due to minor errors or discrepancies in the certificate of origin if these errors or discrepancies do not create doubts concerning the correctness of the import documentation.

2. Each Party shall provide that if the customs administration of the importing Party determines that a certificate is illegible, defective on its face, or has not been completed in accordance with this Chapter, the customs administration shall grant to the importer a period of not less than fifteen working days from the date of notification from the customs administration to provide it with a copy of the corrected certificate of origin.

Article 4.5. Waiver of Certificate of Origin

A Party shall not require a certificate of origin if:

(a) the value of the importation does not exceed US $1000 or the equivalent amount in the importing Party's currency or any higher amount as the importing Party may establish; or

(b) it is an importation of a good for which the importing Party has waived the requirement for a certificate of origin,

provided that the importation does not form part of a series of importations carried out or planned for the purposes of evading compliance with the importing Party's laws, regulations or procedures governing claims for preferential tariff treatment under this Agreement.

Article 4.6. Obligations Relating to Importation

1. Except as otherwise provided in this Chapter, each Party shall provide that, for the purposes of claiming preferential tariff treatment, the importer shall:

(a) make a written declaration in the import document, in accordance with the importing Party's laws and regulations, that the good qualifies as an originating good;

(b) have a valid certificate of origin in its possession at the time the declaration referred to in subparagraph (a) is made; and

(c) provide a copy of the certificate of origin to the customs administration of the importing Party if requested by that Party.

2. Each Party shall provide that, if the importer 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, the importer shall promptly correct the importation document and pay any duty and, if applicable, penalties owed.

3. An importing Party shall not subject an importer to a penalty for making an invalid claim for preferential tariff treatment if the importer, on becoming aware that the claim is not valid and prior to discovery of the error by that Party, voluntarily corrects the claim and pays any applicable duty in accordance with the Party's laws and regulations.

4. A Party may require an importer to demonstrate that a good for which the importer claims preferential tariff treatment was shipped in accordance with Article 3.14 (Rules of Origin – Transit and Transhipment) by providing:

(a) transportation documents, including the multimodal or combined transportation documents, such as bills of lading or waybills, indicating the shipping route and all points of shipment and transhipment prior to the importation of the good; and

(b) if the good is shipped through or transhipped outside the territories of the Parties, relevant documents, such as in the case of storage, storage documents, or a copy of the customs control documents, demonstrating that the good remained under customs control while outside the territories of the Parties.

Article 4.7. Obligations Relating to Exportation

1. Each Party shall provide that an exporter or a producer in its territory that completes a certificate of origin shall submit a copy of that certificate of origin to the competent authority of the exporting Party, on its request.

2. Each Party shall provide that if an exporter or a producer in its territory has provided a certificate of origin and has reason to believe that it contains or is based on incorrect information, the exporter or producer shall promptly notify, in writing, every person and the Party to whom the exporter or producer provided the certificate of origin of any change that could affect the accuracy or validity of the certificate of origin.

3. A Party shall not impose a penalty on an exporter or a producer in its territory that voluntarily provides written notification pursuant to paragraph 2 with respect to a certificate of origin.

4. Each Party shall allow a certificate of origin to be submitted electronically from the exporter or producer in the territory of a Party to an importer in the territory of the other Party.

5. A Party may apply measures as the circumstances may warrant when an exporter or a producer in its territory fails to comply with any requirement of this Chapter.

Article 4.8. Record Keeping Requirements

1. Each Party shall provide that an importer claiming preferential tariff treatment for a good imported into its territory shall maintain, for a period of no less than five years from the date of importation of the good:

(a) the documentation related to the importation, including the certificate of origin that served as the basis for the claim; and

(b) all records necessary to demonstrate that the good is originating and qualified for preferential tariff treatment, if the claim was based on a certificate of origin completed by the importer.

2. Each Party shall provide that an exporter or a producer in its territory that completes a certificate of origin shall maintain in its territory for a period of no less than five years from the date the certificate of origin was completed, all records necessary to demonstrate that a good for which the exporter or producer provided a certificate of origin is originating, including records associated with:

(a) the purchase of, cost of, value of, shipping of, and payment for, the good or material;

(b) the purchase of, cost of, value of, shipping of, and payment for all materials, including indirect materials, used in the production of the good or material; and

(c) the production of the good in the form in which the good is exported.

3. Each Party shall provide that an importer, exporter or producer in its territory may choose to maintain the records or documentation specified in paragraphs 1 and 2, in accordance with that Party's laws, regulations or procedures, in any medium, including electronic, provided that the records or documentation can be promptly retrieved and printed.

Article 4.9. Verification of Origin

1. For the purposes of determining whether a good imported into its territory is originating, the importing Party may, through its customs administration, conduct a verification of any claim for preferential tariff treatment by one or more of the following means:

(a) a written request or questionnaire seeking information from the importer of the good;

(b) a written request or questionnaire seeking information from the exporter or producer of the good;

(c) a verification visit to the premises of the exporter or producer of the good in order to request information, including documentation, and to observe the production process and the related facilities; or

(d) any other procedures as the Parties may decide.

2. If the importing Party conducts a verification, it shall accept information directly from the importer, exporter or producer.

3. If a claim for preferential tariff treatment is based on a certificate of origin completed by the exporter or producer and, in response to a written request or questionnaire seeking information by the importing Party under paragraph 1(a), the importer does not provide information to the importing Party or the information provided is not sufficient to support the claim for preferential tariff treatment, the importing Party shall request information from the exporter or producer under paragraph 1(b) or 1(c) before it may deny the claim for preferential tariff treatment. The importing Party shall complete the verification, including any additional request to the exporter or producer under paragraph 1(b) or 1(c), within the time provided in paragraph 6(e). (1)

(1) For greater certainty, a Party is not required to request information from the exporter or producer to support a claim for preferential tariff treatment or complete a verification through the exporter or producer if the claim for preferential tariff treatment is based on the importer's certificate of origin.

4. A written request or questionnaire seeking information or a request for a verification visit under paragraphs 1(a) through 1(c) shall:

(a) include the identity of the customs administration issuing the request;

(b) state the reason for the request, including the specific issue the requesting Party seeks to resolve with the verification;

(c) include sufficient information to identify the good that is being verified and, if possible, a copy of the certificate of origin;

(d) in the case of a verification visit, request the written consent of the exporter or producer whose premises are going to be visited, and indicate:

(i) the legal authority for the visit;

(ii) the proposed date and location for the visit;

(iii) the specific purpose of the visit; and

(iv) the names and titles of the officials performing the visit.

5. If the importing Party has initiated a verification in accordance with paragraph 1(b) or 1(c), it shall inform the importer, only for the purposes of the importer's knowledge, of the initiation of the verification.

6. For a verification under paragraphs 1(a) through 1(c), the importing Party shall:

(a) ensure that the written request or questionnaire seeking information, or documentation to be reviewed during a verification visit, is limited to information and documentation to determine whether the good is originating;

(b) describe the information or documentation in sufficient detail to allow the importer, exporter or producer to identify the information and documentation necessary to respond;

(c) allow the importer, exporter, or producer at least 30 days from the date of receipt of the written request or questionnaire seeking information under paragraph 1(a) or 1(b) to respond;

(d) allow the exporter or producer 30 days from the date of receipt of the written request for a verification visit under

paragraph 1(c) to consent or refuse the request; and

(e) make a determination of origin following a verification as expeditiously as possible and no later than 90 days after the date it receives the information necessary to make the determination, including, if applicable, any information received under paragraph 13, and no later than 365 days after the date that the first request for information or the questionnaire was sent to the importer, exporter, or producer, or other action under paragraph 1 was taken. If permitted by its laws and regulations, a Party may extend the 365-day period in exceptional cases, such as where the technical information provided by the importer, exporter or producer in accordance with paragraph 1 is very complex.

7. If the importing Party initiates a verification under paragraph 1(c), it shall, at the time of making the request for the visit under paragraph 4, provide a copy of the request to the competent authority of the Party where the exporter or producer is located.

8. Each Party shall provide that, when its competent authority receives a copy of the request in accordance with paragraph 7, the competent authority may, within 15 days of receipt of the copy of the request, postpone the proposed verification visit for a period not exceeding 60 days from the proposed date of the visit, or for a longer period as the Parties may decide.

9. Each Party shall provide that when the exporter or producer receives a request for a verification visit under paragraph 4, the exporter or producer may, on a single occasion and within 15 days of the date of receipt of the request, request the postponement of the proposed verification visit for a period not exceeding 60 days from the proposed date of the visit.

10. A Party shall not deny preferential tariff treatment to a good based only on the postponement of a verification visit under paragraphs 8 or 9.

11. Each Party shall allow an exporter or a producer whose good is the subject of a verification visit by the other Party to designate two observers to be present during the visit, (2) provided that:

(2) This Agreement does not prevent the exporter or producer from designating, as one of the two observers, a representative of its competent authority to be present during a verification visit.

(a) the observers do not participate in a manner other than as observers;

(b) the failure of the exporter or producer to designate observers does not result in the postponement of the visit; and

(c) the exporter or producer of the good identifies to the customs administration conducting the verification visit any observers designated to be present during the visit.

12. The importing Party shall provide the importer, exporter or producer that certified that the good was originating and is the subject of a verification with a written determination of origin that includes the findings of facts and the legal basis for the determination. If the importer is not the certifier, the importing Party shall also provide that written determination to the importer.

13. Prior to issuing a written determination of origin under paragraph 12, if the importing Party intends to deny preferential tariff treatment, the importing Party shall provide the importer, exporter or producer who is subject to the verification with a notice of intent to deny that includes when the denial would be effective and a period of at least 30 days for the submission of additional information related to the originating status of the good.

14. During verification, the importing Party shall allow the release of the good, subject to payment of duties or provision of security as provided for under its laws and regulations. If, as a result of the verification, the importing Party determines that the good is an originating good, it shall grant preferential tariff treatment to the good and refund any excess duties paid or release any security provided, unless the security also covers other obligations.

15. If verifications of identical goods by a Party indicate a pattern of conduct by an importer, exporter, or producer of false or unsupported representations relevant to a claim that a good imported into its territory qualifies as an originating good, the Party may withhold preferential tariff treatment to identical goods imported, exported or produced by that person until that person demonstrates that the identical goods qualify as originating.

16. If, in conducting a verification of origin of a good imported into its territory under this Article, a Party conducts a verification of origin of a material that is used in the production of the good, the Party shall conduct the verification of origin of the material in accordance with the procedures in paragraphs 1, 4, 6(a) through (d), 7 through 9, 11 and 19.

17. When a Party conducts a verification of a material under paragraph 16 the Party may consider the material to be non-originating in determining whether the good is an originating good if the producer or supplier of that material does not

allow the Party access to information required to make a determination of whether the material is an originating material by the following or other means:

(a) denial of access to its records;

(b) failure to respond to a written request or questionnaire seeking information under paragraphs 1(a) and 1(b); or

(c) failure to provide its written consent within 30 days of the date of receipt of a request for a verification visit under paragraph 1(c).

18. For the purposes of a verification under this Article it is sufficient for a Party to rely on the contact information of an exporter, producer or importer in a Party provided in a certificate of origin.

19. For the purposes of this Article, all communications to the exporter or producer and to the competent authority of the exporting Party shall be sent by any means that can produce a confirmation of receipt. The specified time periods shall begin from the date of receipt.

Article 4.10. Determinations on Claims for Preferential Tariff Treatment

1. Except as otherwise provided in paragraph 2, each Party shall grant a claim for preferential tariff treatment made under this Chapter for a good imported into its territory on or after the date of entry into force of this Agreement.

2. The importing Party may deny a claim for preferential tariff treatment if:

(a) it determines that the good does not qualify for preferential tariff treatment;

(b) pursuant to a verification under Article 4.9, it has not received sufficient information to determine that the good qualifies as originating;

(c) the importer, exporter or producer fails to respond to a written request or questionnaire seeking information in accordance with Article 4.9;

(d) after receipt of a request for a verification visit, the exporter or producer fails to provide its written consent in accordance with Article 4.9;

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

(f) the importer, exporter or producer of the good that is required to maintain records or documentation in accordance with this Chapter:

(i) fails to maintain those records or documentation; or

(ii) denies access, if requested by a Party, to those records or documentation.

Article 4.11. Refunds

1. Each Party shall provide that an importer may apply for preferential tariff treatment and a refund of any excess duties paid for a good if the importer did not make a claim for preferential tariff treatment at the time of importation, provided that the good would have qualified for preferential tariff treatment when it was imported into the territory of the Party.

2. The importing Party may, for the purposes of paragraph 1, require that the importer:

(a) make a claim for preferential tariff treatment;

(b) provide a statement that the good was originating at the time of importation;

(c) provide a copy of the certificate of origin; or

(d) provide other documentation relating to the importation of the good as the importing Party may require,

no later than one year after the date of importation or a longer period if specified in the importing Party's law.

Article 4.12. Penalties

Each Party shall adopt or maintain criminal, civil or administrative penalties for violations of its laws and regulations related

to this Chapter.

Article 4.13. Advance Rulings Relating to Origin

1. Each Party shall, through its customs administration, on request, provide for the expeditious issuance of a written advance ruling, prior to the importation of a good into its territory, to an importer in its territory or an exporter or producer in the territory of the other Party, concerning whether a good qualifies as an originating good under Chapter 3 (Rules of Origin).

2. Each Party shall adopt or maintain uniform procedures for the issuance of advance rulings, including a detailed description of the information required to process a request for a ruling in accordance with that Party's laws, regulations and procedures.

3. Each Party shall make the following information available on one or more free, publicly accessible websites, and shall ensure that the information is updated as necessary:

(a) the uniform procedures for the issuance of advance rulings as set out in paragraph 2; and

(b) newly issued advance rulings pursuant to this Article and Article 5.5 (Customs and Trade Facilitation – Advance Rulings) in accordance with its laws, regulations, or procedures, which shall be subject to the consent of the person to whom the advance ruling was issued.

4. Each Party shall allow a person to request an advance ruling through electronic means, such as through e-mail or other electronic system.

5. Each Party shall provide that its customs administration:

(a) may, at any time during the course of processing a request for an advance ruling, request supplemental information from the person requesting the advance ruling or a sample of the good for which the advance ruling was requested;

(b) in issuing an advance ruling, take into account the facts and circumstances provided by the person requesting that ruling;

(c) issue the ruling as expeditiously as possible and in no case later than 120 days after it has obtained all necessary information from the person requesting an advance ruling; and

(d) provide, to the person requesting the advance ruling, a full explanation of the reasons for the ruling.

6. A Party may decline, or in the case of Canada may alternately postpone, the issuance of an advance ruling if the facts and circumstances forming the basis of the advance ruling are the subject of a verification of origin or an administrative, quasi-judicial, or judicial review or appeal.

7. A Party that declines, or in the case of Canada alternately postpones, the issuance of an advance ruling shall promptly notify, in writing, the person requesting the ruling, setting out the relevant facts and circumstances and the basis for its decision.

8. Subject to paragraph 9, each Party shall apply an advance ruling to importations into its territory of the good for which the ruling was requested on the date of its issuance or at a later date if specified in the ruling.

9. Each Party shall provide to a person requesting an advance ruling the same treatment as it provided to any other person to whom it issued an advance ruling, provided that the facts and circumstances are identical in all material respects.

10. After issuing an advance ruling, the Party may modify or revoke the advance ruling if:

(a) there is a change in the facts or circumstances on which the ruling was based;

(b) the ruling was based on inaccurate or false information;

(c) the ruling was based on an error; or

(d) there is a change in the law.

11. A Party shall not apply retroactively a modification or revocation to the detriment of the person requesting the advance ruling unless that person has not acted in accordance with its terms and conditions or the ruling was based on inaccurate or false information provided by the requester.

12. Each Party shall provide that, unless it retroactively applies a modification or revocation as described in paragraph 11,

any modification or revocation of an advance ruling shall be effective on the date on which the modification or revocation is issued, or on a later date as may be specified therein.

13. The Party issuing the advance ruling may postpone the effective date of a modification or revocation for a period not exceeding 90 days.

14. Each Party shall provide that an advance ruling takes effect on the date that it is issued or on a later date specified in the ruling, and an advance ruling remains in effect and is honoured unless it has been modified or revoked pursuant to paragraph 10.

15. A Party shall not impose a fee or charge for the issuance or processing of an advance ruling.

16. Each Party shall promote the use of the other Party's advance rulings by encouraging its traders to request advance rulings from the other Party.

17. A Party shall not require, as a condition for requesting an advance ruling, a person of the other Party to establish or maintain a contractual or other relationship with a person located in the territory of the importing Party.

Article 4.14. Review and Appeal

Each Party shall grant substantially the same rights of review and appeal of determinations of origin and advance rulings by its customs administration related to origin under this Agreement as it provides to importers in its territory, to an exporter or producer located in the territory of the other Party:

(a) that completes a certificate of origin for a good that has been the subject of a determination of origin under this Agreement; or

(b) that has been issued an origin advance ruling under Article 4.13 or any other advance ruling under Article 5.5 (Customs and Trade Facilitation – Advance Rulings).

Article 4.15. Confidentiality

1. Each Party shall maintain the confidentiality of the information collected for the purposes of this Chapter by protecting that information from disclosure that could prejudice the competitive position of the trader to whom this information relates.

2. A Party may use or disclose information referred to in paragraph 1 for the purposes of administering or enforcing determinations of origin and other customs matters or as otherwise provided under the Party's law.

3. For greater certainty, a Party may allow information referred to in paragraph 1 to be used in any administrative, judicial or quasi-judicial proceeding related to compliance with customs related laws and regulations implementing Chapter 3 (Rules of Origin) and this Chapter. A Party shall, to the extent required under its laws, regulations or procedures, notify the person or Party who provided the information in advance of that use.

Article 4.16. Cooperation

1. With respect to goods considered originating in accordance with Article 3.5 (Rules of Origin – Accumulation), the Parties may cooperate with a non-party in developing customs procedures based on the principles of this Chapter.

2. The Parties shall cooperate, to the extent practicable and subject to available resources, in organizing training programs on trade, customs and any other issues related to this Chapter as the Parties may decide, such as simulated audit environment exercises and training on the implementation of the certificate of origin by the exporter, producer and importer, for the government officials who participate directly in trade and customs procedures.

Article 4.17. Committee on Rules of Origin and Origin Procedures

1. The Parties hereby establish a Committee on Rules of Origin and Origin Procedures ("Committee"), composed of government representatives of each Party, to consider any matters arising under Chapter 3 (Rules of Origin) and this Chapter.

2. The Committee shall consult regularly to ensure that Chapter 3 (Rules of Origin) and this Chapter are administered effectively, uniformly and consistently with the spirit and objectives of this Agreement, and shall cooperate in the

administration of Chapter 3 (Rules of Origin) and this Chapter.

3. The Committee shall consult to discuss possible amendments or modifications to Chapter 3 (Rules of Origin) or this Chapter, taking into account developments in technology, production processes or other related matters.

4. Prior to the entry into force of an amended version of the Harmonized System, the Committee shall consult to prepare updates to Chapter 3 (Rules of Origin) and this Chapter that are necessary to reflect changes to the Harmonized System.

Chapter 5. CUSTOMS AND TRADE FACILITATION

Article 5.1. General Objectives and Principles

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

2. Each Party shall administer its customs procedures relating to the importation, exportation and transit of goods, in a manner that:

(a) is transparent, predictable and consistent throughout its territory;

(b) facilitates the importation, exportation, and transit of goods that meet the Party's laws, regulations and procedural requirements; and

(c) ensures compliance with its law.

3. For greater certainty, this Chapter does not prevent a Party from adopting or maintaining measures to secure compliance by traders with a Party's laws, regulations or procedural requirements relating to the importation, exportation or transit of goods, such as appropriate declarations of goods and complete payment of applicable duties, taxes, fees and charges by traders, provided those measures are consistent with this Agreement.

Article 5.2. Online Publications

Each Party shall make the following information available on one or more free, publicly accessible websites, and shall ensure that the information is updated as necessary:

(a) information each Party is required to publish under the Trade Facilitation Agreement and Article X of the GATT 1994, in a manner that enables a person to become acquainted with them;

(b) customs procedures relating to the importation, exportation and transit of goods, in a manner that is clear and comprehensive;

(c) a description of the procedures and practical steps a person needs to follow for the importation into, exportation from, and transit of goods through, its territory;

(d) contact information for its enquiry point or points established or maintained pursuant to Article 5.3;

(e) a comprehensive list of government entities responsible for measures imposed in relation to the importation into, exportation from, and transit of goods through, its territory, including contact information for those entities;

(f) regulations of general application governing trade and customs matters relating to goods that it proposes to adopt, as set out in Article 5.4;

(g) the advance rulings procedures, as set out in Article 4.13 (Origin Procedures – Advance Rulings Relating to Origin);

(h) newly issued advance rulings pursuant to Article 4.13 (Origin Procedures – Advance Rulings Relating to Origin), in accordance with its laws, regulations, and procedures, which may be subject to the consent of the person to whom the advance ruling was issued;

(i) a description of the Party's security regime and its requirements, where administered, including the method used to establish a security amount, as set out in Article 5.6;

(j) information on its single window system, as set out in Article 5.9;

(k) a description of its penalty regime for breaches of customs laws and regulations, as set out in Article 5.14;

(l) information on how a person may request a review or appeal, as set out in Article 5.15; and

(m) information on how a person may submit a complaint, in accordance with paragraph 5.17.2.

Article 5.3. Enquiry Points

1. Each Party shall establish or maintain one or more enquiry points to respond to enquiries from any interested person concerning the importation, exportation, and transit of goods.

2. A Party shall not require the payment of a fee for answering enquiries under paragraph 1. A Party may require payment of a fee for requests, made in accordance with its laws and regulations, for statistical information, or for access to public government records that requires document search, duplication, or review.

3. Each Party shall ensure that responses to enquiries are provided within a reasonable period of time, which may vary depending on the nature or complexity of the request.

Article 5.4. Consulting Traders

1. Each Party shall, to the extent possible and in accordance with its law, publish in advance, regulations of general application governing trade and customs matters relating to goods that it proposes to adopt and shall provide any interested person the opportunity to comment before the Party adopts those regulations.

2. Each Party shall adopt or maintain a mechanism to allow for regular communication between its customs administration and traders within its territory on its procedures relating to the importation, exportation and transit of goods. These communications shall provide traders with an opportunity to raise emerging issues and provide their views to the customs administration on these procedures.

Article 5.5. Advance Rulings

1. Each Party shall issue an advance ruling on:

(a) the tariff classification of a good, in accordance with the Harmonized System;

(b) the appropriate method or criteria to be used for determining the customs value of a good, under a particular set of facts, in accordance with the Customs Valuation Agreement; and

(c) any other matter as the Parties may decide.

2. For the purposes of paragraph 1, each Party shall issue advance rulings in accordance with Article 4.13 (Origin Procedures – Advance Rulings Relating to Origin).

Article 5.6. Release of Goods

1. Each Party shall allow for the immediate release of a good from customs control, unless:

(a) the importer or the good fails to comply with the laws, regulations or procedural requirements of the importing Party;

(b) the good is selected for examination by the customs administration or another governmental entity of the importing Party through the administration of the Party's risk management regime; or

(c) release is otherwise delayed by virtue of force majeure.

For greater certainty, this obligation applies, to the extent possible, to restricted and controlled goods.

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

(a) that provide for the electronic submission and processing of information, including manifests, in advance of the arrival of a good in order to expedite the release of goods from customs control upon arrival;

(b) that allow a good to be released at the point of arrival without requiring temporary transfer to a warehouse or other facility; and

(c) to communicate to the importer when a Party does not release a good in accordance with paragraph 1, including, to the extent permitted by its laws and regulations, the reasons why the good is not released and the identity of the governmental entity, if not the customs administration, that has caused the release of the good to be withheld.

3. Each Party shall adopt or maintain procedures that provide for the release of a good prior to a final determination and payment of any duties, taxes, fees, and charges imposed on or in connection with the importation of the good, when these elements are not determined prior to or promptly upon arrival, provided that the good is otherwise eligible for release and any security required by the importing Party has been provided.

4. If a Party requires security as a condition for release, that Party shall:

(a) allow for a security instrument to cover multiple importations;

(b) limit the security to an amount that is calculated to ensure compliance with payment of duties, taxes, fees and charges, and which must not represent an indirect protection of domestic traders or goods or a taxation of imports for fiscal purposes; and

(c) ensure that the security is discharged as soon as possible after its customs administration is satisfied that the obligations arising from the importation of the good have been fulfilled or, for instruments covering multiple importations, until it is no longer required by the customs administration.

5. Each Party shall, provided the applicable requirements are met, allow a good intended for release in its territory to be moved under customs control from the point of entry into the Party's territory to another customs office in its territory where the good is intended to be released.

Article 5.7. Perishable Goods (1)

(1) For the purposes of this Article, perishable goods are goods that rapidly decay due to their natural characteristics, particularly in the absence of appropriate storage conditions.

1. With a view to preventing avoidable loss or deterioration of perishable goods, and provided that all documentation has been submitted and all applicable requirements have been met, each Party shall provide for the release of a perishable good from customs control:

(a) under normal circumstances, in the shortest possible time, after the arrival of the good; and

(b) in exceptional circumstances, where it would be appropriate to do so, outside the business hours of its customs administration and other relevant governmental entities.

2. Each Party shall give appropriate priority to a perishable good when scheduling any examination that may be required.

3. Each Party shall arrange or allow an importer to arrange for the proper storage of a perishable good pending its release. Each Party shall require that any storage facilities arranged by the importer have been approved or designated by its relevant governmental entities. The movement of the good to those storage facilities, including authorizations for the operator moving the good, may be subject to the approval, where required, of the relevant entities. Each Party shall, where practicable and consistent with its laws and regulations, on the request of the importer, release the good at those storage facilities.

4. In cases of significant delay in the release of a perishable good, the Party shall communicate with the importer if the Party does not release the good in accordance with paragraph 1. This communication shall, to the extent permitted by the Party's laws and regulations, provide the reasons for the delay and identify the governmental entity, if not the customs administration, that has caused the release of the good to be withheld.

Article 5.8. Express Shipments

1. Each Party shall adopt or maintain expedited customs procedures for express shipments while maintaining appropriate customs control and selection. These procedures shall:

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

(b) allow a single submission of information covering all goods contained in an express shipment, such as a manifest, through, if possible, electronic means. For greater certainty, additional information and documentation may be required as a condition for release;

(c) expedite the release of an express shipment based on, to the extent possible, minimum documentation;

(d) provide for an express shipment, under normal circumstances, to be released immediately after arrival, provided that all necessary information and documentation has been submitted, and all requirements have been met; and

(e) endeavour to apply the treatment in subparagraphs (a) to (d) to a shipment of any weight or value, recognizing that a Party may require formal entry procedures as a condition for release which may vary based on a good's weight or value, including declarations and supporting documentation for the assessment and payment of applicable duties or taxes.

2. If a Party does not provide the treatment in paragraph 1(a) through (e) to all shipments, that Party shall provide a separate customs procedure which provides that treatment for express shipments. For greater certainty, "separate" does not require a specific facility or lane.

3. This Article does not prevent a Party from requiring additional procedures and any necessary information and documentation as a condition for the release of a restricted or controlled good, including declarations and supporting documentation for the assessment and payment of applicable duties, taxes, fees or charges.

Article 5.9. Single Window

1. Each Party shall establish or maintain a single window system that enables the electronic submission, through a single entry point, of the information the Party requires for the importation of a good into its territory.

2. Each Party shall, through its applicable electronic system and in a timely manner, inform a trader that is using its single window system of the status of the release of the good.

3. If a Party receives information for a good or shipment of a good through its single window system, the Party shall not request the same information for that good or shipment of a good, except in urgent circumstances or pursuant to other limited exceptions set out in its laws, regulations, or procedures. Each Party shall minimize the extent to which paper documents are required if electronic copies are provided.

Article 5.10. Risk Management

1. Each Party shall adopt or maintain a risk management regime that enables its customs administration to focus enhanced customs controls on high-risk shipments and facilitates the release and movement of low-risk shipments.

2. Each Party shall administer risk management at the border, as well as in the pre-border and post-border environments.

3. Each Party shall base risk assessment on appropriate selectivity criteria.

4. Each Party shall design and apply risk management in a manner that avoids arbitrary or unjustifiable discrimination, or disguised restrictions on international trade.

5. In order to facilitate trade, each Party shall periodically review and update its risk management regime, as appropriate.

Article 5.11. Consistency

1. With a view to promoting transparency and predictability for traders, each Party shall adopt or maintain administrative measures that support consistency in the implementation and application of its customs laws and regulations throughout its territory. Those measures may include, among others, training for customs officials and the issuance of internal guidance or policy documents.

2. If an inconsistency is discovered in the implementation or application of its customs laws or regulations, the Party shall promptly seek to resolve the inconsistency, if practicable.

Article 5.12. Customs Valuation of Goods

1. For the purposes of determining the customs value of a good traded between the Parties, each Party shall apply the provisions contained in Part I and Annex I of the Customs Valuation Agreement.

2. With respect to customs valuation, each Party shall evaluate an imported good on its own merit, giving due consideration to the circumstances surrounding the individual importation. To this end, a Party shall not reject the application of the transaction value method under Article 1 of the Customs Valuation Agreement, solely based on the fact that the price declared for an imported good is lower than the prevailing market prices for an identical or similar good.

3. If a Party cannot determine the customs value of an imported good on the basis of the transaction value method under Article 1 of the Customs Valuation Agreement, the Party shall, prior to considering the applicability of Article 2 of the Customs Valuation Agreement:

(a) communicate to the importer in writing its grounds for not being able to determine the customs value on the basis of Article 1 of the Customs Valuation Agreement, accompanied with supporting evidence; and

(b) provide the importer with a reasonable opportunity to respond to the communication.

4. A Party shall inform the importer in writing of the customs value determined for each good imported, if different than that declared by the importer, and the method used to determine that value.

Article 5.13. Post-Clearance Audit

1. Notwithstanding the verification procedures set out in Article 4.9 (Origin Procedures – Verification of Origin), each Party shall adopt or maintain a post-clearance audit regime to ensure compliance with its customs laws and regulations.

2. Each Party's post-clearance audit regime shall be administered for the purposes of, among other things:

(a) verifying the accuracy of the tariff classification, tariff treatment and customs valuation declared by an importer for a good previously cleared; and

(b) facilitating the consistency and accuracy of customs decisions.

3. Each Party shall conduct post-clearance audits according to risk-based selectivity criteria, as referred to in Article 5.10.

4. Each Party shall conduct post-clearance audits in a transparent manner that informs the audited person with respect to its laws, regulations, and procedures, and promotes future compliance. Once an audit is completed, a Party shall, without delay, notify the person whose records are audited of the audit results, the basis for the results, and the audited person's rights and obligations.

5. Each Party shall provide in its laws or regulations, or otherwise give effect to, a fixed and finite period with respect to record-keeping obligations.

Article 5.14. Penalties

1. Each Party shall establish or maintain a penalty regime addressing breaches of its customs laws or regulations in relation to the importation, exportation, or transit of goods.

2. Each Party shall ensure that its penalties for breaches of customs laws or regulations are administered by its customs administration in a transparent and uniform manner throughout its territory.

3. Each Party shall ensure that a penalty imposed by its customs administration for a breach of its customs laws or regulations is imposed only on the person legally responsible for the breach.

4. Each Party shall ensure that a penalty imposed by its customs administration for a breach of its customs laws or regulations is based on the facts and circumstances of the case, including any previous breaches by the person receiving the penalty, and is commensurate with the nature and severity of the breach.

5. Each Party shall adopt or maintain measures to avoid conflicts of interest in the assessment and collection of penalties, duties, and taxes by its customs administration. No portion of the remuneration of a government official shall be calculated as a fixed portion or percentage of any penalties, duties, or taxes assessed or collected by the official or the customs administration.

6. Each Party shall ensure that when its customs administration imposes a penalty for a breach of its customs laws or regulations, it provides an explanation in writing to the person on whom the penalty is imposed specifying:

(a) the nature of the breach, including the specific laws or regulations concerned;

(b) the basis for determining the penalty amount if not set forth specifically in its laws, regulations, or procedures; and

(c) the rights and obligations of the person on whom the penalty is imposed.

7. Each Party shall provide in its laws, regulations, or procedures, or otherwise give effect to, a fixed and finite period within which its customs administration may initiate an administrative proceeding to impose a penalty relating to a breach of its

customs laws or regulations. For greater certainty, this paragraph does not apply to quasi-judicial or judicial proceedings.

8. Each Party shall provide that a person may correct an error in a customs transaction that is a potential breach of customs laws or regulations, excluding fraud, prior to the discovery of the error by the Party, if the person does so in accordance with the Party's laws, regulations, or procedures, and pays any owed duties, taxes, fees, and charges, including interest. The correction must include the identification of the transaction and the circumstances of the error. The Party shall not use this error to assess a penalty for a breach of its customs laws or regulations.

Article 5.15. Review and Appeal

1. With a view to providing effective, impartial, and easily accessible procedures for review and appeal of administrative determinations on customs matters, each Party shall ensure that any person to whom its customs administration issues an administrative determination has access, without reprisal and undue delay, to:

(a) an administrative review or appeal of the determination, by an administrative authority higher than or independent of the official or office that issued the determination; and

(b) a quasi-judicial or judicial review or appeal of the determination made at the final level of an administrative review.

2. Each Party shall provide a person to whom it issues an administrative determination with the reasons for the administrative determination and access to information on how to request a review or appeal.

3. For the purposes of this Article, "without reprisal" means that a Party shall not treat a request for review or appeal as a sign of non-compliance or defiance. A Party shall not treat a person that has filed a request for review or appeal less favourably than a person who has not filed a similar request, based solely on the filing of that request.

4. A Party shall not impose a fee or charge for an administrative review or appeal of an administrative determination. This Article does not prevent a Party from requiring full payment of assessed duties, taxes, penalties, or interest prior to filing a request for review or appeal.

5. Each Party shall adopt or maintain procedures that allow for a request for administrative review or appeal to be submitted through electronic means.

6. 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, and the reasons for the determination or decision.

7. Each Party shall ensure that if a person receives a determination or decision on an administrative, quasi-judicial, or judicial review or appeal, as provided under paragraph 1, that determination or decision shall be applicable in the same manner throughout the territory of the Party with respect to that person.

8. With a view to ensuring predictability for traders and consistent application of its customs laws, regulations, and procedures, each Party is encouraged to apply determinations or decisions of administrative, quasi-judicial and judicial authorities under paragraph 1 to the practices of its customs administration throughout its territory.

Article 5.16. Protection of Trader Information

1. Each Party shall adopt or maintain measures governing the collection, protection, use, disclosure, retention, correction, and disposal of information that relates to a trader and that is collected by its customs administration for the purposes of administering or enforcing its customs laws and regulations.

2. Each Party shall, through its customs administration, treat as confidential all information that:

(a) is collected for the purposes of administering or enforcing its customs laws and regulations; and

(b) is by its nature confidential, or has been designated as confidential by the trader, by protecting it from use or disclosure that could prejudice the competitive position of the trader to whom the confidential information relates. For greater certainty, "information that is by its nature confidential" includes any trade, business, industrial, commercial or professional information, secret or process.

3. Notwithstanding paragraph 2, a Party may use or disclose confidential information but only for the purposes of administering or enforcing its customs laws and regulations or as otherwise provided under the Party's law, including in an administrative, quasi-judicial, or judicial proceeding.

4. If confidential information is used or disclosed other than in accordance with this Article, the Party shall address the

incident and strive to prevent a reoccurrence.

Article 5.17. Standards of Conduct

1. Each Party shall adopt or maintain measures to deter its customs officials from engaging in improper behaviour or action in the performance or exercise of their official duties, including any behaviour or action that may result in, or reasonably create the appearance of, the use of their position as a public official for personal or private gain.

2. Each Party shall provide a mechanism for a person to submit a complaint regarding perceived improper or corrupt behaviour of a customs official in its territory. Each Party shall take appropriate and timely action in response to a complaint in accordance with its laws, regulations, or procedures.

Article 5.18. Customs Cooperation

1. The customs administration of each Party shall designate one or more contact points for the purposes of this Chapter and provide the details of that contact point or contact points to the other Party.

2. Each Party may, through its customs administration, at any time request consultations with the customs administration of the other Party on any matter arising from the interpretation or administration of this Chapter. Consultations shall be conducted through the relevant contact point identified under paragraph 1 and shall be concluded within 60 days of the date of the request. The period of time for concluding consultations may be extended by the Parties' customs administrations.

3. When a matter raised in a consultation under paragraph 2 cannot be resolved through consultations between the customs administrations, a Party may refer the matter to the Committee on Trade Facilitation, established under Article 5.20, for resolution.

4. This Article does not prevent a Party's customs administration from rendering a decision, or taking any other action that it considers necessary, in accordance with its laws and regulations, pending a resolution of a matter under paragraphs 2 or 3.

Article 5.19. Authorized Economic Operators

1. Each Party shall maintain a trade facilitation partnership program for operators who meet specified criteria, referred to as the Authorized Economic Operator ("AEO") program, in accordance with the SAFE Framework of Standards to Secure and Facilitate Global Trade, adopted at Brussels, June 2005, as amended.

2. The Parties may, as deemed necessary, exchange experiences on the operation of and improvements to their respective AEO programs, seeking to adopt, if appropriate, best practices.

Article 5.20. Committee on Trade Facilitation

1. The Parties hereby establish a Committee on Trade Facilitation composed of government representatives of each Party. Each Party shall provide the details of its government representatives to the other Party.

2. The Parties shall cooperate through the Committee on Trade Facilitation to ensure the appropriate and uniform interpretation and administration of the provisions contained in this Chapter.

3. Through the Committee on Trade Facilitation, the Parties shall explore and, where feasible and appropriate, promote the administration of measures beyond the obligations contained in the Trade Facilitation Agreement and this Chapter. In this regard, each Party shall:

(a) regularly review international initiatives on customs and trade facilitation; and

(b) as applicable, propose initiatives for consideration by the Committee on Trade Facilitation, if further joint action could facilitate trade between the Parties and promote shared multilateral objectives.

4. The Parties may, subject to available resources and as deemed appropriate, assist each other in relation to:

(a) developing and implementing best practices in customs matters, including risk management techniques;

(b) simplifying and harmonizing customs procedures;

(c) advancing technical skills and the use of technology;

(d) the tariff classification and valuation of goods; and

(e) any other customs issue as the Parties may decide.

Chapter 6. SANITARY AND PHYTOSANITARY MEASURES

Article 6.1. Definitions

1. The definitions in Annex A of the SPS Agreement are incorporated into and made part of this Chapter.

2. For the purposes of this Chapter:

competent authority means a government body of a Party responsible for measures and matters referred to in this Chapter;

emergency measure means a sanitary or phytosanitary measure that is applied by the importing Party to the exporting Party to address an urgent problem of human, animal or plant life or health protection that arises or threatens to arise for the Party applying the measure;

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

WTO SPS Committee means the WTO Committee on Sanitary and Phytosanitary Measures.

3. The definitions adopted by the:

(a) Codex Alimentarius Commission (“the Codex”),

(b) World Organisation for Animal Health (“the WOAH”), and

(c) International Plant Protection Convention, done at Rome on 6 December 1951 (“the IPPC”);

are incorporated into and made part of this Chapter.

4. To the extent there is an inconsistency between the definitions referred to in paragraphs 1 and 2, and those referred to in paragraph 3, the definitions in paragraphs 1 and 2 prevail to the extent of the inconsistency.

Article 6.2. 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 and build on 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 are science-based and do not create unjustified barriers to trade;

(e) enhance transparency in and understanding of the application of each Party’s sanitary and phytosanitary measures; and

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

Article 6.3. Scope

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

Article 6.4. General Provisions

1. The following provisions of the SPS Agreement are incorporated into and made part of this Chapter: Articles 1 through 9, Article 13, Annex B and Annex C.

2. In implementing the following articles, each Party shall take into account relevant decisions and guidance of the WTO SPS Committee and international standards, guidelines and recommendations:

(a) Article 6.5;

(b) Article 6.6;

(c) Article 6.7;

(d) Article 6.8;

(e) Article 6.9;

(f) Article 6.10;

(g) Article 6.11;

(h) Article 6.12; and

(i) Article 6.13.

Article 6.5. Science and Risk Analysis

1. Recognizing the Parties' rights and obligations under the relevant provisions of the SPS Agreement, this Chapter does not prevent a Party from:

(a) establishing its appropriate level of sanitary or phytosanitary protection; or

(b) establishing or maintaining an approval procedure that requires a risk assessment to be conducted before the Party grants a product access to its market.

2. In conducting its risk assessment and risk management, each Party shall ensure that each risk assessment it conducts is appropriate to the circumstances of the risk to human, animal, or plant life or health, and take into account the available relevant scientific evidence.

3. Each Party shall consider, as a risk management option, taking no measure if that would achieve the Party's appropriate level of sanitary or phytosanitary protection.

4. Each Party shall conduct its risk analysis with respect to a sanitary or phytosanitary measure that constitutes a sanitary or phytosanitary regulation as defined in footnote 5 of Annex B of the SPS Agreement in a manner that is documented and provides the other Party an opportunity to comment, in a manner to be determined by the Party conducting the risk analysis.

5. If the importing Party requires a risk assessment to evaluate a request from the exporting Party to authorize importation of a good of the exporting Party, the importing Party shall provide, on request of the exporting Party, an explanation of the information required for the risk assessment. On receipt of the requisite information from the exporting Party, the importing Party shall endeavour to facilitate the evaluation of the request for authorization by scheduling work on this request in accordance with the procedures, policies, resources, laws, and regulations of the importing Party.

6. On request of the exporting Party, the importing Party shall inform the exporting Party of the status of a request to authorize trade, including the status of any risk assessment or other evaluation the importing Party requires to authorize trade and of any delay that occurs during the process.

7. If the importing Party, as a result of a risk assessment, adopts a sanitary or phytosanitary measure that may facilitate trade between the Parties, the importing Party shall implement the measure without undue delay.

8. If a Party adopts or maintains a provisional sanitary or phytosanitary measure when relevant scientific evidence is insufficient, that Party shall within a reasonable period of time:

(a) complete the risk assessment after obtaining the requisite information; and

(b) review and, if appropriate, revise the provisional measure in light of the risk assessment.

9. Without prejudice to Article 6.9, a Party shall not stop the importation of a good of the other Party for the reason that the importing Party is undertaking a review of its sanitary or phytosanitary measure, if the importing Party permitted the importation of that good of the other Party when the review was initiated.

10. The importing Party shall not be considered as having stopped imports for the reason that it is undertaking a review if that Party stops the importation of a good on the basis that the review identified that additional information is necessary to permit the importation of a good. The importing Party shall ensure that this review is undertaken in a manner that is consistent with this Chapter.

Article 6.6. Equivalence

1. Further to Article 4 of the SPS Agreement, the Parties shall apply recognition of equivalence to a specific sanitary or phytosanitary measure, or to the extent feasible and appropriate, to a group of measures or on a systems-wide basis.

2. The importing Party shall recognize the equivalence of a sanitary or phytosanitary measure, group of measures, or system, even if the measure, group of measures, or system differs from its own, if the exporting Party objectively demonstrates to the importing Party that the exporting Party's measure, group of measures or system achieves the importing Party's appropriate level of sanitary or phytosanitary protection taking into account outcomes that the exporting Party's measures, group of measures, or system achieves.

3. In determining the equivalence of a sanitary or phytosanitary measure, the importing Party shall take into account available knowledge, information, and relevant experience, including knowledge acquired through experience with the exporting Party's relevant competent authority.

4. On request of the exporting Party, the importing Party shall explain the objective and rationale of its sanitary or phytosanitary measure and identify the risk the sanitary or phytosanitary measure is intended to address.

5. When the importing Party receives a request for an equivalence determination and determines that the information provided by the exporting Party is sufficient, it shall initiate the equivalence assessment without undue delay.

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

7. When the importing Party initiates an equivalence assessment, it shall explain, on request of the exporting Party, and without undue delay, its equivalence process, and, if the determination results in recognition of equivalence, its plan for enabling trade.

8. If the importing Party accepts the exporting Party's sanitary or phytosanitary measures, group of measures, or system as equivalent, the importing Party shall communicate this acceptance to the exporting Party in writing and shall apply this recognition to trade from the exporting Party without undue delay.

9. If an equivalence assessment does not result in acceptance of equivalence, the importing Party shall communicate that determination and its rationale to the exporting Party without undue delay.

10. If a Party intends to modify or repeal a measure that is the subject of a sanitary or phytosanitary recognition of equivalence or to adopt a measure relating to a sanitary or phytosanitary recognition of equivalence, the following applies:

(a) that Party shall notify the other Party of its intention, which may include a draft measure or the modification or repeal of an existing measure. The notification should take place at an appropriately early stage, when any comments submitted by the other Party can be taken into account, including by revising its intended approach. Upon request of the other Party, the Parties shall discuss whether the modification, repeal, or adoption of the measure may affect the recognition of equivalence;

(b) that Party shall, upon request of the other Party, provide information and rationale concerning its intended modification, repeal, or adoption. The other Party shall review any information provided to it and submit any comments to the Party that intends to modify, repeal, or adopt the measure, without undue delay; and

(c) the importing Party shall not revoke its recognition of equivalence on the basis that modification, repeal, or adoption of the measure is pending.

11. If a Party adopts, modifies, or repeals a measure that is the subject of a sanitary or phytosanitary recognition of equivalence, the importing Party shall maintain its recognition of equivalence if the exporting Party objectively demonstrates that the exporting Party's measures concerning the good continue to achieve the appropriate level of sanitary or phytosanitary protection of the importing Party. Upon request of a Party, the Parties shall promptly discuss the determination made by the importing Party.

Article 6.7. Adaptation to Regional Conditions, Including Pest - or Disease - Free Areas and Areas of Low Pest or Disease Prevalence

1. The Parties recognize that adaptation to regional conditions, including regionalization, zoning, and compartmentalization, is an important means to facilitate trade.

2. The Parties may cooperate on the recognition of pest - or disease - free areas, and areas of low pest or disease prevalence with the objective of acquiring confidence in the procedures followed by each Party for the recognition of pest - or disease - free areas, and areas of low pest or disease prevalence.

3. When the importing Party receives a request for a determination of regional conditions from the exporting Party and determines that the information provided by the exporting Party is sufficient, the importing Party shall initiate an assessment without undue delay.

4. When the importing Party initiates an assessment of a request for a determination of regional conditions under paragraph 3, that Party shall promptly, on request of the exporting Party, explain its process for making the determination of regional conditions.

5. On request of the exporting Party, the importing Party shall inform the exporting Party of the status of the assessment of the exporting Party's request for a determination of regional conditions.

6. The importing Party shall finalize the assessment and all necessary stages involved for the determination of regional conditions of the exporting Party without undue delay once the importing Party's competent authority determines that it has received sufficient information from the exporting Party.

7. When the importing Party adopts a sanitary or phytosanitary measure that recognizes specific regional conditions of the exporting Party, the importing Party shall communicate that measure to the exporting Party in writing and implement the measure without undue delay.

8. The Parties may also decide in advance the risk management measures that shall apply to trade between them in the event of a change in the status of the determination of regional conditions.

9. If the assessment of the evidence provided by the exporting Party does not result in a determination to recognize pest- or disease- free areas, or areas of low pest and disease prevalence, the importing Party shall provide to the exporting Party, in writing, with the rationale for its determination without undue delay.

10. If there is an incident that results in the importing Party modifying or revoking the determination recognizing regional conditions, on request of the exporting Party, the Parties shall cooperate to assess whether the determination can be reinstated.

Article 6.8. Transparency

1. The Parties recognize the value of sharing information about their sanitary and phytosanitary measures on an ongoing basis, and of providing the other Party and persons of the other Party with the opportunity to comment on their proposed sanitary and phytosanitary measures.

2. A Party shall notify a proposed sanitary or phytosanitary measure that may have an effect on the trade of the other Party, including any that conforms to international standards, guidelines or recommendations, by using the WTO SPS notification submission system as a means of notifying the other Party.

3. Unless urgent problems of human, animal, or plant life or health protection arise or threaten to arise requiring the adoption of an emergency measure, or the measure is of a trade-facilitating nature, a Party shall normally allow at least 60 days for the other Party or persons of the other Party to provide written comments on the proposed measure, other than proposed legislation, after it makes the notification under paragraph 2. The Party shall consider any reasonable request from the other Party or persons of the other Party to extend the comment period. On request of the other Party, the Party shall respond to the written comments of the other Party in an appropriate manner.

4. The Party shall make available on a free, publicly available website or official journal, the proposed sanitary or phytosanitary measure notified under paragraph 2, the legal basis for the measure, and shall endeavour to, if consistent with its practice, publish the written comments or a summary of the significant written comments that the Party has received from the public on the measure.

5. If a Party proposes a sanitary or phytosanitary measure which does not conform to a relevant international standard, guideline or recommendation, that Party shall provide to the other Party, on request, the relevant documentation that the Party considered in developing the proposed measure, including documented and objective scientific evidence that is rationally related to the measure, such as risk assessments, relevant studies and expert opinions.

6. A Party that proposes to adopt a sanitary or phytosanitary measure shall discuss with the other Party, on request and when appropriate during its regulatory process, 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 Party's appropriate level of sanitary or phytosanitary protection.

7. Each Party shall publish, by electronic means, notices of final sanitary or phytosanitary measures in an official journal or website.

8. Each Party shall notify the other Party of final sanitary or phytosanitary measures through the WTO SPS 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.

9. If a final sanitary or phytosanitary measure is substantively altered from the proposed measure, the Party shall also include in the notice of the final sanitary or phytosanitary measure that it publishes, an explanation of:

(a) the objective and rationale of the measure and how the measure advances that objective and rationale; and

(b) any substantive revisions that it made to the proposed measure.

10. The exporting Party shall notify the importing Party through the competent authorities referred to in Article 6.16 in a timely and appropriate manner:

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

(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 regionalized pest or disease;

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

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

11. If feasible and appropriate, a Party shall normally provide an interval of no less than six months between the date it publishes a final sanitary or phytosanitary measure and the date on which the measure takes effect, unless the measure is intended to address an urgent problem of human, animal, or plant life or health protection or the measure facilitates trade.

12. Paragraphs 1 to 11 apply to sanitary or phytosanitary measures that constitute sanitary or phytosanitary regulations as defined in footnote 5 of Annex B of the SPS Agreement.

13. 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.

Article 6.9. Emergency Measures

1. If the importing Party adopts an emergency measure to address an urgent problem of human, animal or plant life or health protection that arises or threatens to arise and applies it to the exports of the exporting Party, the importing Party shall promptly notify the exporting Party of that measure through the relevant contact point referred to in Article 6.16. The importing Party shall take into consideration any information provided by the exporting Party in response to the notification.

2. If the importing Party adopts an emergency measure under paragraph 1, it shall review the scientific basis of that measure within six months and make available the results of the review to the exporting Party on request. If the emergency measure is maintained after the review, because the reason for its adoption remains, the importing Party should review the measure periodically.

Article 6.10. Import Checks

1. Each Party shall ensure that its import checks are based on the risks associated with importations, and that its import checks are carried out without undue delay.

2. A Party shall make available, on request of the other Party, information on its import procedures and its basis for

determining the risk associated with the importation of goods.

3. The importing Party may amend the frequency of its import checks as a result of experience gained through import checks or as a result of actions by, or exchange of information, between competent authorities.

4. The importing Party shall provide, on request of the other Party, information regarding the analytical methods, quality controls, sampling procedures and facilities that the importing Party uses to test a good. The importing Party shall ensure that any testing is conducted using appropriate and validated methods in a facility that operates under a quality assurance program that is consistent with international laboratory standards. The importing Party shall maintain physical or electronic documentation regarding the identification, collection, sampling, transportation and storage of the test sample, and the analytical methods used on the test sample.

5. Each Party shall conduct import checks in a manner that preserves the integrity of the goods, except for the individual specimens or samples obtained pursuant to the requirements referred to in subparagraph 1(e) of Annex C of the SPS Agreement.

6. The importing Party shall ensure that its final decision in response to a finding of non-compliance with the importing Party's sanitary or phytosanitary measure is limited to what is reasonable and necessary in response to the non-compliance and is rationally related to the available science.

7. If the importing Party prohibits or restricts the importation of a good of the other Party on the basis of an adverse result of an import check, the importing Party shall provide a physical or electronic notification about the adverse result to at least one of the following: the importer or its agent, the exporter, the manufacturer, or the exporting Party.

8. When the importing Party provides a notification pursuant to paragraph 7, that Party shall:

(a) include in its notification:

(i) the reason for the prohibition or restriction;

(ii) the legal basis or authorization for the action; and

(iii) information on the status of the affected goods and, if appropriate, on their disposition; and

(b) transmit the notification as soon as possible and no later than seven days after the date of the decision to prohibit or restrict, unless the good is seized by a customs administration.

9. The importing Party that prohibits or restricts the importation of a good of the other Party on the basis of an adverse result of an import check shall provide an opportunity for a review of the decision and consider any relevant information submitted to assist in the review. The review request and information should be submitted to the importing Party within a reasonable period of time.

10. This Chapter does not prevent the importing Party from disposing of goods which are found to have any infectious pathogen or pests that, if urgent action is not taken, can spread and cause damage to human, animal, or plant life or health in the Party's territory, provided that the measure is in conformity with this Chapter.

11. If the importing Party determines that there is a significant, sustained, or recurring pattern of non-compliance with a sanitary or phytosanitary measure, the importing Party shall notify the exporting Party of the non-compliance.

Article 6.11. Audits

1. The Parties shall establish the conditions for carrying out an audit, which may include on-site, remote, or virtual options for any part of the audit.

2. To determine an exporting Party's ability to provide required assurances and meet the sanitary and phytosanitary measures of the importing Party, the importing Party shall have the right, subject to this Article, to audit the exporting Party's competent authorities and associated or designated inspection systems. That audit may include an assessment of the competent authorities' control programs, including, if appropriate, reviews of the inspection and audit programs, and on-site inspections of facilities.

3. Each Party shall ensure that the audit is systems-based and designed to check the effectiveness of the regulatory controls of the competent authorities of the exporting Party.

4. Prior to the commencement of an audit, the Parties shall discuss and decide upon the rationale, objectives, scope of the

audit and the criteria or requirements on the basis of which the audited Party will be assessed. At that time, the Parties shall also decide the itinerary and procedure for conducting the audit.

5. Unless the Parties decide otherwise, the auditing Party shall hold a closing meeting at a mutually decided time, that includes an opportunity for the competent authority of the audited Party to raise questions or seek clarification on the preliminary findings and observations provided at the meeting.

6. The auditing Party shall provide the audited Party the draft written audit report, including its initial findings. The auditing Party shall provide the audited Party the opportunity to comment on the accuracy of the draft audit report and shall take any comments into account before the auditing Party finalizes its report. The auditing Party shall provide a report setting out its conclusions in writing to the audited Party within a reasonable period of time.

7. In undertaking an audit in cases in which the importing Party has recognized equivalence on a systems-wide basis, the importing Party shall:

(a) conduct the audit to verify that the audited Party's system achieves an equivalent outcome to the appropriate level of sanitary or phytosanitary protection of the importing Party; and

(b) audit against the exporting Party's implementation of the equivalent oversight and control system.

8. A decision or action taken by the auditing Party as a result of the audit shall be supported by objective evidence and available data that can be verified, taking into account the auditing Party's knowledge of, relevant experience with, and confidence in, the audited Party's regulatory controls. The auditing Party shall, on request of the audited Party, provide that evidence and data to the audited Party for verification.

9. If the auditing Party makes a final audit report publicly available, the final audit report must incorporate, or be accompanied by, the comments or written response to the draft report provided by the competent authority of the audited Party.

10. The costs incurred by the auditing Party shall be borne by the auditing Party, unless the Parties decide otherwise.

11. Each Party shall ensure that procedures are in place to prevent the disclosure of confidential information that is acquired during the audit process.

Article 6.12. Certification

1. Each Party shall ensure that at least one of the following conditions is satisfied before imposing a sanitary or phytosanitary certification requirement:

(a) the certification requirement is based on the relevant international standards; or

(b) the certification requirement is appropriate to the circumstances of risks to human, animal, or plant life or health.

2. The importing Party shall limit attestations and information it requires on the certificates to essential information that is necessary to provide assurances to the importing Party that its appropriate level of sanitary or phytosanitary protection has been met.

3. The importing Party shall provide to the exporting Party, on request, the rationale for any attestation or information that the importing Party requires to be included in a proposed or existing certificate.

4. The Parties may decide to work cooperatively to develop model certificates to accompany specific goods traded between the Parties, taking into account relevant decisions and guidance of the WTO SPS Committee and international standards, guidelines, and recommendations.

5. The Parties shall promote the implementation of electronic certification and other technologies to facilitate trade.

Article 6.13. Approval Procedures for Import Maximum Residue Limits for Plant Protection Products

1. In the absence of an import Maximum Residue Limit ("MRL") in the importing Party for a plant protection product ("PPP") for an imported good, upon request by the exporting Party, the importing Party shall use the Codex MRL as the basis for market access until a final MRL determination is made by the importing Party. If a Codex MRL does not exist for that PPP, the importing Party shall consider using the exporting Party's domestic MRL for that PPP.

2. Each Party shall ensure that any import MRL it adopts or maintains for a PPP is based on an assessment of dietary risk to human health associated with the imported good, taking into account risk assessment techniques developed by Codex.

3. Each Party shall publish, on a publicly available website, the import MRLs it adopts or maintains for PPPs. If possible, each Party shall endeavour to make that information available in English.

4. If a Party notifies the WTO SPS Committee of its proposed sanitary measure to revoke or lower an MRL for a PPP that applies to an imported good, unless the Party determines a shorter transition period is required to address human life or health risks, that Party shall provide a transition period of no less than twelve months between the date it publishes its final sanitary measure and the date on which the sanitary measure enters into force.

Article 6.14. Committee on Sanitary and Phytosanitary Measures

1. For the purposes of the effective implementation and operation of this Chapter, the Parties hereby establish a Committee on Sanitary and Phytosanitary Measures (“SPS Committee”).

2. Each Party shall ensure that appropriate government representatives, which may include those with responsibility for sanitary and phytosanitary measures from its relevant trade and regulatory agencies or ministries, participate in the SPS Committee meetings.

3. The objectives of the SPS Committee are to:

(a) monitor and enhance each Party’s implementation of this Chapter;

(b) identify, prioritize, manage, and resolve any issue that may arise concerning a sanitary or phytosanitary measure that may have a significant effect on trade between the Parties with a view to facilitating a mutually acceptable solution and resolving any trade concerns;

(c) consider sanitary and phytosanitary matters of mutual interest; and

(d) enhance communication and cooperation on sanitary and phytosanitary matters.

4. The SPS Committee may:

(a) enhance mutual understanding of each Party’s sanitary and phytosanitary measures and the regulatory processes that relate to those measures;

(b) establish and, as appropriate, determine the scope and mandate of technical working groups in areas such as animal health, plant health, and food safety, taking into account existing mechanisms, to undertake work related to the implementation of this Chapter; and

(c) identify and discuss proposed sanitary or phytosanitary measures or revisions to existing sanitary or phytosanitary measures that may have a significant effect on trade between the Parties, with a view to avoid any potential trade concerns.

5. The SPS Committee shall meet within one year of the date of entry into force of this Agreement and every 18 to 24 months thereafter or as decided by the Parties.

6. The SPS Committee shall establish its terms of reference at its first meeting and may revise those terms as needed.

7. The SPS Committee shall report on its work to the Joint Committee.

Article 6.15. Technical Consultations

1. A Party (requesting Party) may initiate technical consultations with the other Party (responding Party) to discuss any matter arising under this Chapter that may adversely affect its trade by delivering a written request to the contact point of the responding Party. The request shall identify the reason for the request, including a description of the requesting Party’s concerns about the matter.

2. The Parties shall meet within 30 days of the date of delivery of the request, with the aim of resolving the matter cooperatively within 180 days of the delivery of the request if possible. This meeting, and any subsequent meeting, may be held virtually or in person as decided by the Parties.

3. The Parties shall ensure the appropriate involvement of relevant government officials in meetings held pursuant to this Article.

4. Recognizing that Parties may decide to engage in consultations pursuant to this Article for any length of time, the requesting Party may cease technical consultations under this Article and have recourse to dispute settlement under Chapter 27 (Dispute Settlement) following the meeting referred to in paragraph 2 or if the meeting is not held.

5. A Party shall not have recourse to dispute settlement under Chapter 27 (Dispute Settlement) for a matter arising under this Chapter without first seeking to resolve the matter through technical consultations in accordance with this Article.

Article 6.16. Competent Authorities and Contact Points

1. For the purposes of this Chapter, the competent authority is:

(a) for Canada:

(i) the Canadian Food Inspection Agency, or its successor and

(ii) the Department of Health, or its successor;

(b) for Ecuador:

(i) Ministry of Production, Foreign Trade and Investments, or its successor;

(ii) Phytosanitary and Zoosanitary Control and Regulation Agency, or its successor; and

(iii) National Agency of Regulation, Control and Sanitary Surveillance, Doctor Leopoldo Izquieta Perez, or its successor.

2. For the purposes of this Chapter, the contact point is:

(a) for Canada, the Canadian Food Inspection Agency, or its successor;

(b) for Ecuador, the Ministry of Production, Foreign Trade, and Investments, or its successor.

3. Each Party shall promptly inform the other Party of any change in its competent authorities or contact point.

4. Each Party shall provide to the other Party the contact information of the designated contact point for matters arising under this Chapter and a written description of the sanitary and phytosanitary responsibilities of its competent authorities within 60 days of the entry into force of this Agreement.

Chapter 7. TECHNICAL BARRIERS TO TRADE

Article 7.1. Definitions

1. Annex 1 of the TBT Agreement, including the chapeau, is incorporated into and made part of this Chapter.

2. For the purposes of this Chapter:

(a) international standard means a standard that is consistent with the TBT Committee Decision on International Standards;

(b) TBT Agreement means the Agreement on Technical Barriers to Trade, set out in Annex 1A to the WTO Agreement; and

(c) TBT Committee Decision on International Standards means Annex 2 to Part 1 (Decision of the Committee on Principles for the Development of International Standards, Guides and Recommendations with relation to Articles 2, 5 and Annex 3 of the Agreement) in the Decisions and Recommendations adopted by the WTO Committee on Technical Barriers to Trade Since 1 January 1995 (G/TBT/1/Rev.15), as may be revised, adopted by the WTO Committee on Technical Barriers to Trade.

Article 7.2. Scope

1. This Chapter applies to the preparation, adoption and application of standards, technical regulations, and conformity assessment procedures, including any amendments, of central level of government bodies, which may affect trade in goods between the Parties.

2. Notwithstanding paragraph 1, this Chapter does not apply to:

(a) technical specifications prepared by a governmental body for production or consumption requirements of governmental bodies; or

(b) sanitary or phytosanitary measures.

Article 7.3. Incorporation of the TBT Agreement

Articles 2 through 9, and Annex 3 of the TBT Agreement are incorporated into and made part of this Agreement.

Article 7.4. International Standards, Guides and Recommendations

1. The Parties recognize the important role that international standards, guides and recommendations can play in supporting greater regulatory alignment, good regulatory practices and 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 TBT Committee Decision on International Standards.

3. The Parties shall cooperate with each other, if appropriate, 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.

Article 7.5. Technical Regulations

1. Each Party shall conduct an appropriate assessment concerning any technical regulation it proposes to adopt. An assessment may include:

(a) a regulatory impact analysis of the potential impacts of the technical regulation; or

(b) an analysis of alternative measures, if any, including voluntary actions, that are brought to the Party's attention in a timely manner.

2. If a Party has not used an international standard as a basis for its technical regulation, it shall, on request from the other Party, explain why it has not used a relevant international standard or has substantially deviated from an international standard. To facilitate an appropriate explanation, the requesting Party shall ensure its request:

(a) identifies a relevant international standard that the other Party has not used as a basis for its technical regulation; and

(b) describes how the technical regulation is constraining or has the potential to constrain its exports.

3. If no international standard exists that fulfils the legitimate objectives of its technical regulation or conformity assessment procedure, a Party may consider whether a standard developed by a standardizing body domiciled in the other Party can fulfill its legitimate objectives. To that end, a Party may:

(a) consider and decide whether to accept that standard; and

(b) if the Party has decided not to accept a standard that was brought to its attention by the other Party, issue a written explanation for that decision, if practicable.

4. In order for a Party to consider accepting or using a standard as provided for in paragraph 3, the Parties recognize that a standard must be brought to the attention of the other Party during that Party's planning stage or when the proposed technical regulation or conformity assessment procedure is published for comment as provided for under Article 7.8.

5. Each Party shall:

(a) periodically review its technical regulations and conformity assessment procedures in order to:

(i) examine increasing alignment with relevant international standards, including by reviewing any new developments in the relevant international standards and whether the circumstances that have given rise to divergences from any relevant international standard continue to exist; or

(ii) consider the existence of any less trade-restrictive approaches.

(b) maintain a process whereby persons of the other Party may directly petition the Party's regulatory authorities to review a technical regulation or conformity assessment procedure on the grounds that:

(i) circumstances that were relevant to the content of the technical regulation have changed; or

(ii) a less trade-restrictive method to fulfil the technical regulation's objective exists, such as a technical regulation based on an international standard.

6. A Party shall, on written request of the other Party, consider accepting as equivalent a technical regulation of the other Party, even if that regulation differs from its own, provided that it is satisfied that the regulation adequately fulfills the objectives of its own regulation.

7. Where a Party does not accept a technical regulation of the other Party as equivalent to its own, it shall, on request of the other Party, explain the reasons for its decision within a reasonable period of time.

8. If a Party detains a good originating from the territory of the other Party at a port of entry due to perceived non-compliance of that good with a technical regulation, the Party detaining the good shall notify the importer without undue delay of the reasons for the detention.

Article 7.6. Gender Responsive Technical Regulations and Standards

1. The Parties recognize the importance of improving the gender responsiveness of technical regulations and standards.

2. The Parties also recognize the importance of the United Nations Economic Commission for Europe's Declaration for Gender Responsive Standards and Standards Development, adopted in Geneva on 14 May 2019, in advancing gender responsive standards and standards development.

3. Accordingly, each Party shall endeavour to develop gender responsive technical regulations, standards, and standards development processes including by:

(a) encouraging its national standards body to make standards and standards development processes gender responsive;

(b) encouraging its national standards body to cooperate with the other Party's national standards body, including by developing knowledge and sharing best practices, to improve gender responsiveness in the development cycle of standards; and

(c) considering, where appropriate, gender responsiveness in the development of its technical regulations.

Article 7.7. Conformity Assessment

1. The Parties shall encourage their respective accreditation and conformity assessment bodies to participate in cooperation arrangements that promote the mutual acceptance of conformity assessment results.

2. Each Party shall recognize conformity assessment bodies located in the territory of the other Party under conditions no less favourable than those it applies for the recognition of conformity assessment bodies located in its own territory.

3. Each Party shall accept conformity assessment results conducted by conformity assessment bodies located in the other Party's territory and that the importing Party recognizes, under conditions no less favourable than those it applies to the acceptance of conformity assessment results conducted by recognized conformity assessment bodies located in its own territory.

4. Further to paragraphs 2 and 3, a Party shall not require, as a pre-condition for the recognition of the other Party's conformity assessment bodies or the acceptance of conformity assessment results, that conformity assessment bodies located in the territory of the other Party establish a legal or physical presence in its own territory or that a separate agreement or arrangement be concluded between the Parties. (1)

(1) For greater certainty, a Party may, in accordance with its law, require a conformity assessment body to establish a legal or physical presence in its own territory as a condition for delivering conformity assessment procedures in its own territory.

5. Notwithstanding paragraphs 2, 3, and 4, the following exceptions apply:

(a) with respect to radio and terminal telecommunications equipment, a Party may require a mutual recognition agreement for conformity assessment bodies; and

(b) with respect to the maritime and aviation sectors, a Party may require the establishment of a legal or physical presence in its own territory for a conformity assessment body.

6. Each Party is encouraged to recognize as competent to accredit conformity assessment bodies an accreditation body

established in the territory of the other Party that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement or a signatory to the International Accreditation Forum Multilateral Recognition Arrangement, or their successors.

7. Each Party shall adopt or maintain reasonable measures to ensure that central level of government accreditation bodies accredit conformity assessment bodies established in the territory of the other Party as expeditiously as possible and under conditions no less favourable than the conditions applied to conformity assessment bodies located in its territory.

8. Each Party shall give positive consideration to a request of the other Party to enter into negotiations for a mutual recognition agreement or equivalency arrangement to accept the results of conformity assessment procedures of the other Party.

9. On the request of the other Party, a Party shall explain the reasons for its decision, whenever it declines to:

(a) accredit, approve, license, or otherwise recognize a conformity assessment body;

(b) recognize the results from a conformity assessment body that is accredited or otherwise recognized by a signatory to a mutual recognition agreement, or a mutual or multilateral recognition arrangement;

(c) accept conformity assessment results conducted in the territory of the other Party; or

(d) enter into or continue negotiations for a mutual recognition agreement or equivalency arrangement.

10. This Chapter does not prevent a Party from undertaking conformity assessment procedures solely by government bodies that are located in its territory, subject to the Parties' obligations under the TBT Agreement.

11. The Parties recognize that the choice of conformity assessment procedure should include an evaluation of the risks involved, the need to adopt procedures to address those risks, relevant scientific and technical information, incidence of non-compliant products, and possible alternative approaches for establishing that a technical regulation or standard has been met.

Article 7.8. Transparency

1. Each Party shall allow persons of the other Party to participate in the development of technical regulations, standards and conformity assessment procedures by its central level of government bodies on terms no less favourable than those it accords to its own persons. (2)

(2) A Party satisfies this obligation by, for example, providing interested persons a reasonable opportunity to provide comments during a public consultation period on the measure it proposes to develop and taking those comments into account in the development of the measure.

2. In addition to Articles 2.9 and 5.6 of the TBT Agreement, if a Party prepares or proposes to adopt a technical regulation or conformity assessment procedure that is not in response to an urgent situation as referred to in Article 2.10 of the TBT Agreement, the Party shall:

(a) publish the proposed technical regulation or conformity assessment procedure, identifying the precise international standards, guides or recommendations used as a basis for the technical regulation or conformity assessment procedure;

(b) allow a person of the other Party to submit written comments during a public consultation period on no less favourable terms than it provides to its own persons, and when the authority proposing the measure has sufficient time to review those comments and, as appropriate, to revise the measure to take them into account;

(c) consider the written comments from a person of the other Party on no less favourable terms than it considers those submitted by its own persons; and

(d) if practicable, (3) accept a written request from the other Party to discuss written comments that the other Party has submitted.

(3) For greater certainty, circumstances where discussions will be deemed not practicable include the circumstance where the Party requesting discussions has failed to submit its comments within the prescribed comment period.

3. Notwithstanding paragraph 2, if urgent problems of safety, health, environmental protection or national security arise or threaten to arise for a Party, that Party shall notify a technical regulation or conformity assessment procedure that is in

accordance with the technical content of relevant international standards, guides or recommendations according to the procedures established under Article 2.10 or 5.7 of the TBT Agreement. The Party's notification shall identify the international standards, guides or recommendations used as a basis for the technical regulation or conformity assessment procedure.

4. Each Party shall publish online and make freely accessible, preferably on a single website, all proposed and adopted technical regulations or conformity assessment procedures, and shall endeavour to publish the written comments received during a public consultation period, or a summary of how it has addressed substantive issues raised within the public consultation period, except with respect to any standards that have been incorporated by reference into a technical regulation or conformity assessment procedure.

5. Each Party shall, if appropriate, encourage non-governmental bodies including standardization bodies in its territory to act consistently with the obligations in paragraphs 1 and 7, in developing standards and voluntary conformity assessment procedures.

6. Each Party shall ensure that the work program of its central level of government standardizing body, containing the standards it has adopted or is proposing to adopt, is available online.

7. Each Party shall endeavour to consider methods to provide additional transparency in the development of technical regulations, standards and conformity assessment procedures, including through the use of electronic tools and public outreach or consultations.

8. With respect to notifications made under Articles 2.9 and 5.6 of the TBT Agreement and paragraph 4 of this Article, each Party shall notify proposed technical regulations and conformity assessment procedures, at an early and appropriate stage, using the notification format and guidelines outlined in the Decisions and Recommendations Adopted by the WTO Committee on Technical Barriers to Trade Since 1 January 1995 (G/TBT/1/Rev.15), as may be revised, and by identifying how the proposed technical regulation or conformity assessment procedure fulfills its objective.

9. With respect to notifications made under Articles 2.9 and 5.6 of the TBT Agreement and paragraph 4 of this Article, each Party shall normally allow 60 days following the notification of its proposed technical regulations and conformity assessment procedures for the other Party or an interested person of a Party to provide comments in writing on the proposal. A Party shall consider any reasonable request from the other Party, or if practicable an interested person of a Party, to extend the comment period.

10. Each Party, when making a notification under Articles 2.10 or 5.7 of the TBT Agreement, shall at the same time transmit electronically the notification and text of the technical regulation or conformity assessment procedure, or a web page where the text of the measure can be viewed, to the other Party's contact point referred to in Article 7.13.

11. If a Party is notifying a proposed technical regulation or conformity assessment procedure to the WTO TBT Committee and the other Pary for the first time, (4) the Party shall notify it to the WTO TBT Committee and the other Party as a regular notification. (5) Each Party shall endeavour to identify the scope of its proposed technical regulation or conformity assessment procedure in its notification by reference to the specific harmonized tariff schedule codes or chapter or heading and number for the products that would be affected by the proposal.

(4) Considering G/TBT/35, Coherent Use of Notification Formats.

(5) A notification is a document that is circulated by the WTO Secretariat, or submitted to the WTO Secretariat for the purposes of circulation, under the prefix "G/TBT/N."

12. If a Party is notifying a proposed technical regulation or conformity assessment procedure that is related to a measure that was previously notified, including because it is a revision, amendment, or replacement to the previously notified measure, the Party shall provide the WTO notification symbol for the previously notified measure.

13. Each Party shall endeavour to submit a revision to a notification if the notified measure has been substantially redrafted prior to its entry into force. If the Party files a revision, it shall endeavour to allow either a new or extended period of time for interested persons to submit comments to the Party.

14. Each Party shall submit an addendum to a notification it has previously made to the WTO TBT Committee and the other Party in any of the following circumstances:

(a) if the period of time to submit comments on the proposed measure has changed;

(b) the notified measure has been adopted, its final text has been published or otherwise entered into force, or the compliance dates for the final measure have changed; or,

(c) the notified measure has been withdrawn, revoked, or replaced. (6)

(6) The Party shall provide the WTO document number identifying the notification of a measure that replaces or has been proposed as a replacement for a withdrawn or revoked measure.

15. For the purposes of determining whether a proposed technical regulation or conformity assessment procedure may have a significant effect on trade and should be notified in accordance with Articles 2.9, 2.10, 3.2, 5.6, 5.7, or 7.2 of the TBT Agreement and this Chapter, a Party shall consider, among other things, the relevant guidance in the Decisions and Recommendations Adopted by the WTO Committee on Technical Barriers to Trade Since 1 January 1995 (G/TBT/1/Rev.15), as may be revised.

16. If a Party adopts a technical regulation or conformity assessment procedure that may have a significant effect on trade, that Party shall promptly publish online:

(a) an explanation of how the technical regulation or conformity assessment procedure achieves the Party's objectives;

(b) a description of alternative approaches, if any, that the Party considered in developing the technical regulation or conformity assessment procedure and the explanation of why it chose one approach over the others it considered;

(c) its views on any substantive issues raised in timely comments on the technical regulation or conformity assessment procedure when it was being developed;

(d) any impact assessment it has undertaken;

(e) if not addressed by an impact assessment, an explanation of the relationship between the technical regulation and the key evidence, data, and other information the regulatory authority considered in finalizing its work on the technical regulation; and

(f) the date of entry into force of the technical regulation or conformity assessment procedure.

Article 7.9. Compliance Period for Technical Regulations and Conformity Assessment Procedures

1. For the purposes of applying Articles 2.12 and 5.9 of the TBT Agreement, the term "reasonable interval" means normally a period of not less than six months, except when this would be ineffective in fulfilling the legitimate objectives pursued by the technical regulation or the conformity assessment procedure. (7)

(7) For greater certainty, a Party may decide to set an interval of less than six months between the publication of a measure and its entry into force in certain circumstances, including those where the measure is trade facilitative or is addressing an urgent problem of safety, health, environmental protection, or national security.

2. A Party shall endeavour to give positive consideration to a reasonable request of the other Party, received prior to the end of the comment period following the notification of a proposed technical regulation or conformity assessment procedure, for extending the period of time between the publication of the technical regulation or conformity assessment procedure and its entry into force, except where this extension would be ineffective in fulfilling the legitimate objectives pursued.

Article 7.10. Information Exchange and Technical Discussions

1. The Parties recognize that technical discussions and information exchange can serve an important function in reaching mutually satisfactory solutions to trade concerns by promoting cooperation and consultation informed by relevant technical and scientific information. Accordingly, with respect to a matter that arises under this Chapter, a Party may request that the other Party:

(a) engage in technical discussions concerning the matter; or

(b) provide information regarding any proposed or final technical regulation or conformity assessment procedure that relates to the matter.

2. The Party shall make the request in writing and identify:

(a) the matter, including those provisions of this Chapter to which the matter relates;

(b) the reasons for the request, including any concerns with a proposed or final measure;

(c) whether the matter is urgent; and

(d) if applicable, the precise information that is being requested.

The Party shall transmit the request to the contact point of the other Party designated under Article 7.13.

3. With respect to a request made under paragraph 1(a), the Parties shall discuss the matter identified in the request within 60 days from the date on which the request was transmitted to the contact point of a Party, unless the request identifies the matter as urgent, in which case the Parties shall endeavour to hold the technical discussions sooner. With respect to a request made under paragraph 1(b), the Party receiving the request shall provide appropriate information within a reasonable period of time.

4. Unless the Parties decide otherwise, any discussions or information exchanged under this Article, other than the information provided in a request made under paragraph 1, shall be kept confidential and is without prejudice to the Parties' rights and obligations under this Agreement, the WTO Agreement or any other agreement to which the Parties are party.

Article 7.11. Cooperation

The Parties recognize that a broad range of mechanisms exist to support greater regulatory alignment and to eliminate unnecessary technical barriers to trade between them, including:

(a) regulatory dialogue and cooperation to:

(i) exchange information on regulatory approaches and practices; or

(ii) promote the use of good regulatory practices to improve the efficiency and effectiveness of technical regulations, standards and conformity assessment procedures;

(b) facilitation of the greater use and alignment of technical regulations, standards, and conformity assessment procedures with relevant international standards, guides, and recommendations;

(c) promotion of the acceptance of technical regulations of the other Party as equivalent; and

(d) technical assistance and capacity building activities, aimed at strengthening national quality infrastructure, including standardization, metrology, conformity assessment, accreditation and other related topics.

Article 7.12. Committee on Technical Barriers to Trade

1. The Parties hereby establish a Committee on Technical Barriers to Trade ("the Committee"), composed of government representatives of each Party.

2. Through the Committee, the Parties shall strengthen their joint work in the fields of technical regulations, standards, and conformity assessment procedures with a view to facilitating trade between the Parties.

3. The Committee shall meet on request of a Party or the Joint Committee. Meetings or communications may be conducted by any means as decided by the Parties, including through electronic mail or videoconference.

4. The Committee's functions include:

(a) monitoring the implementation, enforcement and administration of this Chapter, and identifying any potential amendments for referral to the Joint Committee for consideration;

(b) as appropriate, discussing proposed or final versions of standards, technical regulations or conformity assessment procedures of any Party;

(c) deciding on priority areas of mutual interest for future work under this Chapter and considering proposals for new sector-specific initiatives or other initiatives;

(d) encouraging cooperation between the Parties in matters that pertain to this Chapter;

(e) reviewing this Chapter in light of any developments under the TBT Agreement, and developing recommendations for amendments to this Chapter in light of those developments;

(f) taking any other steps that the Parties consider will assist them in implementing this Chapter;

(g) ensuring that appropriate government representatives, such as from the competent authority that has proposed a technical regulation or conformity assessment procedure, participate in meetings or discussions of the Committee, or in the information exchanges or technical discussions referred to under Articles 7.8 and 7.10; and

(h) addressing any issue that a Party raises relating to this Chapter.

Article 7.13. Contact Points

1. Each Party shall designate a contact point and notify it to the other Party. A Party shall promptly notify the other Party of any change to its contact point.

2. The functions of each contact point shall include:

(a) communicating with the other Party's contact point, including facilitating discussions, requests and the timely exchange of information on matters arising under this Chapter;

(b) communicating with and coordinating the involvement of relevant government agencies, including regulatory authorities, in the territory of the Party it represents on matters arising under this Chapter; and

(c) consulting and, if appropriate, coordinating with interested persons in the territory of the Party it represents on matters arising under this Chapter.

Chapter 8. EMERGENCY ACTION

Article 8.1. Definitions

For the purposes of this Chapter:

competent investigating authority means:

(a) for Canada, the Canadian International Trade Tribunal, or its successor; and

(b) for Ecuador, the Trade Remedies Directorate of the Ministry of Production, Foreign Trade and Investment, or its successor;

domestic industry means, with respect to an imported good, the producers as a whole of the like or directly competitive good operating in the territory of a Party or those

domestic producers whose collective production of the like or directly competitive good constitutes a major proportion of the total domestic production of that good;

emergency action means an emergency action described in Article 8.3;

serious injury means a significant overall impairment of a domestic industry;

substantial cause means a cause that is important and not less important than any other cause;

threat of serious injury means serious injury that is clearly imminent based on facts and not based on allegation, conjecture or remote possibility; and

transition period means the 10-year period beginning on the date of entry into force of this Agreement, except when the tariff elimination for the good against which the emergency action is taken occurs over a longer period of time, in which case the transition period is the period of the staged tariff elimination for that good.

Article 8.2. Coordination of Safeguard Measures

1. A Party shall not adopt or maintain with respect to the same good at the same time:

(a) an emergency action; and

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

2. A Party shall not adopt or maintain a safeguard measure under this Chapter on any product imported under a tariff-rate quota established by the Party under this Agreement. A Party adopting or maintaining a safeguard measure under Article XIX of the GATT 1994 and the Safeguards Agreement may exclude from the safeguard measure imports of originating goods under a tariff-rate quota established by the Party under this Agreement and set out in Annex 2-B (Tariff Commitments), if those imports are not a cause of serious injury or threat thereof.

Article 8.3. Application of a Bilateral Emergency Action

1. A Party may adopt an emergency action described in paragraph 2:

(a) only during the transition period; and

(b) if as a result of the reduction or elimination of a customs duty pursuant to this Agreement an originating good is being imported into the Party's territory in such increased quantities, in absolute terms or relative to domestic production, and under such conditions as to constitute a substantial cause of serious injury, or threat thereof, to a domestic industry producing a like or directly competitive good.

2. If the conditions set out in paragraph 1 and Article 8.4 and Article 8.5 are met, a Party may, to the extent necessary to prevent or remedy serious injury, or threat thereof, and to facilitate adjustment:

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

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

(i) the most-favoured-nation rate of customs duty in effect at the time the emergency action is taken, and

(ii) the base rate of customs duty as provided in the Schedule to Annex 2-B (Tariff Commitments).

Article 8.4. Notification and Consultations

1. A Party shall, in writing, promptly notify and invite for consultations the other Party in connection with:

(a) initiating an emergency action proceeding;

(b) making a finding of serious injury, or threat thereof, under the conditions set out in Article 8.3.1; and

(c) adopting an emergency action.

2. A Party shall, without delay, provide to the other Party a copy of the public version of any notice or any report by a competent investigating authority issued in connection with matters notified pursuant to paragraph 1.

3. If a Party accepts an invitation for consultations made pursuant to paragraph 1, the Parties shall enter into consultations to review the notification under paragraph 1 or any document issued in connection with the emergency action proceeding.

4. An emergency action shall be initiated no later than one year after the date the proceeding is instituted.

Article 8.5. Standards for Emergency Action

1. A Party shall not maintain an emergency action:

(a) for a period exceeding three years; or

(b) beyond the expiration of the transition period.

2. A Party shall not apply an emergency action against a good originating in the territory of the other Party more than once.

3. On the termination of an emergency action, a Party shall set the rate of customs duty at the rate that would have been in effect but for the action according to the Party's Schedule to Annex 2-B (Tariff Commitments) for the staged elimination of the tariff.

4. In order to facilitate adjustment in a situation when the expected duration of an emergency action is longer than one

year, at the beginning of the second year, the Party applying a measure under Article 8.3 shall progressively liberalize it at regular intervals during the remainder of the period of application.

Article 8.6. Compensation

1. A Party adopting an emergency action under Article 8.3 shall provide to the other Party mutually accepted trade liberalizing compensation in the form of concessions with substantially equivalent trade effects or equivalent to the value of the additional duties expected to result from the action.

2. If the Parties are unable to decide on compensation referred to in paragraph 1, the Party whose goods are subject to the action may take tariff action with trade effects substantially equivalent to the emergency action taken under Article 8.3.

3. The Party taking the tariff action referred to in paragraph 2 shall apply the action only for the minimum period necessary to achieve the substantially equivalent effects and only while the emergency action under Article 8.3 is in effect.

Article 8.7. Administration of Emergency Action Proceedings

1. Each Party shall ensure the consistent, impartial and reasonable administration of its laws, regulations, decisions and rulings governing emergency action proceedings.

2. Each Party shall entrust determinations of serious injury, or threat thereof, in an emergency action proceeding to a competent investigating authority. Each Party shall:

(a) ensure that those determinations are subject to review by judicial or administrative tribunals, to the extent provided by the Party's law;

(b) ensure that negative injury determinations are not modified, except through a review referred to in subparagraph (a); and

(c) provide its competent investigating authority with the necessary resources to enable it to fulfill its duties.

3. Each Party shall adopt or maintain equitable, timely, transparent and effective procedures for emergency action proceedings in accordance with the requirements set out in paragraph 4.

4. A Party shall apply an emergency action only following an investigation by the Party's competent investigating authority in accordance with Articles 3 and 4.2 of the Safeguards Agreement. To this end, Articles 3 and 4.2 of the Safeguards Agreement are incorporated into and made part of this Agreement.

Chapter 9. COMPETITION POLICY

Article 9.1. Definitions

For the purposes of this Chapter:

competition authority means an authority or authorities responsible for the enforcement of a Party's competition laws; and

enforcement proceeding means a judicial or administrative proceeding following an investigation into an alleged contravention of the competition laws, and does not include the consensual resolution of issues. (1)

(1) For Canada, this does not include the consensual resolution of issues between the competition authority and a person alleged to have contravened competition laws, where the allegations made by the competition authority are not contested.

Article 9.2. Objectives

1. The Parties recognize that anti-competitive business conduct and mergers, and misleading or deceptive commercial activities may distort the proper functioning of markets and offset the benefits of trade liberalization. The Parties seek to take appropriate measures to proscribe anti-competitive conduct, mergers and activities, to implement policies promoting competition and consumer protection, and to cooperate on matters covered by this Chapter to help secure the benefits of this Agreement.

2. The Parties recognize that anti-competitive business conduct and mergers, and misleading or deceptive commercial

activities outlined in their competition and consumer protection laws are incompatible with this Agreement, insofar as they may affect trade between the Parties.

Article 9.3. Competition Laws and Authorities

1. Each Party shall adopt or maintain competition laws that proscribe anti-competitive business conduct and mergers, and shall take appropriate action with respect to anti-competitive business conduct and mergers. The purpose of those laws is to encourage competition in order to promote economic efficiency and benefit consumers and businesses. The laws and regulations a Party adopts or maintains to proscribe anti-competitive business conducts and mergers may be administrative, civil or criminal in nature.

2. Each Party shall endeavour to apply its competition laws to all commercial activities in its territory. This does not prevent a Party from applying its competition laws to a commercial activity outside its borders that has an appropriate nexus to its jurisdiction.

3. Each Party may provide for an exemption from the application of its competition laws provided that the exemption is transparent, established in its law, and based on public policy grounds or public interest grounds.

4. Each Party shall maintain a competition authority.

5. Each Party shall ensure independence in decision-making by its competition authority and in relation to the enforcement of its competition laws.

6. Each Party shall ensure that its competition authority enforces its competition laws in accordance with the objectives set out in this Chapter, and does not discriminate on the basis of nationality.

Article 9.4. Procedural Fairness In Competition Law Enforcement

1. Each Party shall ensure that, before it imposes a sanction or remedy against a person for contravening its competition laws, it affords that person a reasonable opportunity, in accordance with its law, to:

(a) obtain non-privileged information about the competition authority's competition concerns, including identification of the specific competition laws alleged to have been contravened;

(b) if the person contests the allegations in an enforcement proceeding,

(i) have timely access to non-privileged information that is necessary to prepare an adequate defence; for greater certainty, confidential third-party information must only be provided to the person's legal counsel, and a competition authority is not obliged to produce information that is not already in its possession or control;

(ii) be heard and present evidence or testimony in their defence, including, if applicable, to offer the analysis of a properly qualified expert, cross-examine any testifying witness and review and rebut evidence; and

(c) contest an allegation that the person has contravened competition laws before an independent and impartial judicial or administrative body including review of alleged substantive or procedural errors,

except that a Party may provide for these opportunities within a reasonable time after it imposes an interim measure.

2. Each Party shall ensure that its competition authority affords to a person who has allegedly contravened or is allegedly contravening a Party's competition laws a reasonable opportunity to be represented by legal counsel, including by:

(a) allowing, at the person's request, legal counsel's participation in meetings or proceedings between the competition authority and the person. For greater certainty, this provision does not apply to ex parte proceedings, or to searches of premises pursuant to search warrants; and

(b) recognizing a privilege as acknowledged by its law, if not waived, for lawful communications between the legal counsel and the person if the communications concern the soliciting or rendering of legal advice.

3. Each Party shall adopt or maintain written procedures pursuant to which its competition law investigations are conducted. If these investigations are not subject to definitive deadlines, then subject to its law, each Party shall ensure its competition authority conducts its investigations within a reasonable time frame taking into account circumstances, including the nature and complexity of the investigation.

4. Each Party shall adopt or maintain rules of procedure and evidence that apply to an enforcement proceeding concerning

alleged contraventions of its competition laws and the determination of sanctions and remedies under that proceeding. These rules shall include procedures for introducing evidence, including expert evidence, if applicable, and shall apply equally to all persons subject to an enforcement proceeding.

5. Each Party's competition authority shall maintain measures to preserve all relevant evidence, including exculpatory evidence, that it collects as part of an investigation. Evidence must continue to be preserved until the investigation is discontinued or completed, or until the enforcement proceeding is complete and all appeals are exhausted.

6. Each Party shall authorize its competition authority or public prosecutor to resolve alleged contraventions voluntarily by consent of the competition authority or public prosecutor and the person subject to the investigation. A Party may provide for this voluntary resolution to be subject to judicial or independent tribunal approval or a public comment period before becoming final.

7. Each Party shall ensure that its competition authority does not state or imply in a public notice revealing the existence of a pending or ongoing investigation against a particular person that the person has in fact contravened the Party's competition laws.

8. Each Party shall ensure that its competition authority or public prosecutor has the burden of establishing the legal and factual basis for an alleged contravention of the Party's competition laws in an enforcement proceeding; however, a Party may require that a person accused of a contravention has the burden of establishing certain defences to the allegation.

9. Subject to paragraph 1(b) and in accordance with its law, each Party shall provide for the protection of confidential information obtained by its competition authority during the investigative process.

10. Each Party shall, if appropriate and legally permissible, ensure that its competition authority informs a person that is the subject of an investigation as soon as practicable of that investigation, according to the status and specific needs of the investigation, such as the need to keep the investigation covert or to take immediate action to mitigate further harm. This information must include the legal basis for the investigation and the alleged conduct or activity under investigation.

11. Each Party shall, if appropriate and legally permissible, provide a person that has been informed that they are the subject of an investigation, or that has notified a merger or other transaction or conduct, with reasonable opportunities for meaningful and timely engagement on significant and relevant factual, legal, economic and procedural issues, according to the status and specific needs of the investigation.

Article 9.5. Transparency

1. The Parties recognize the value of making their competition enforcement and advocacy policies as transparent as possible.

2. Each Party shall ensure that its competition laws, regulations and information on enforcement policies and practices are publicly available.

3. On request of a Party, the other Party shall make available to the requesting Party public information concerning:

(a) its competition law enforcement policies and practices; and

(b) exemptions to its competition laws.

4. Each Party shall ensure that a final decision from an enforcement proceeding finding a contravention of its competition laws sets out findings of fact and the reasoning,2 including legal and, if applicable, economic analysis, on which the decision is based.

5. Each Party shall ensure that a final decision referred to in paragraph 4 and any order implementing that decision are published, or if publication is not practicable, are otherwise made publicly available in a manner that enables interested persons and other parties to become acquainted with them. Each Party shall ensure that the version of the decision or order that is published or made publicly available is redacted to the extent necessary in order to be consistent with that Party's law regarding confidentiality and privilege and other applicable exceptions, including the need to safeguard information on the grounds of public policy or public interest.

Article 9.6. Confidentiality

1. Each Party shall have publicly available rules, policies or guidance regarding the identification and treatment of confidential information.

2. If a third-party seeks to obtain access to confidential information in the possession of the competition authority, the competition authority shall generally oppose, to the fullest extent possible, the disclosure of confidential information protected under the Party's laws.

2 This does not apply to a jury trial in Canada.

Article 9.7. Consumer Protection

1. The Parties recognize the importance of consumer protection policy and enforcement to creating efficient and competitive markets and enhancing consumer trust in the free trade area.

2. Each Party shall adopt or maintain consumer protection laws or other laws or regulations that proscribe misleading or deceptive commercial activities, including:

(a) misrepresentations or omissions of material fact, including implied factual misrepresentations;

(b) misleading representations or deceptive marketing practices in promoting the supply or use of a product, service or any business interest; and

(c) misleading representations regarding the price of a product, service or any business interest.

3. The laws and regulations a Party adopts or maintains to proscribe the activities identified in paragraph 2 may be civil or criminal in nature.

4. The Parties recognize that the enforcement of consumer protection laws and regulations is in the public interest.

Article 9.8. Cooperation In Competition and Consumer Protection

1. The Parties recognizes that anti-competitive business conduct and mergers, and misleading or deceptive commercial activities increasingly transcend borders and that cooperation and coordination between the Parties to foster effective competition law and consumer protection enforcement is important and in the public interest.

2. Each Party's competition authority shall cooperate, as appropriate:

(a) in the areas of competition policy by exchanging information on the development of those policies; and

(b) on issues of competition law enforcement, including the exchange of information, investigative and enforcement assistance, and consultation and coordination on cross-border investigations.

3. Each Party shall promote, as appropriate, cooperation and coordination on matters of mutual interest related to misleading or deceptive commercial activities, including in the enforcement of its consumer protection laws, in the exchange of information and in joint public awareness initiatives.

4. A Party's competition authority or any competent authority responsible for the enforcement of consumer protection laws may consider entering into a cooperation arrangement with the respective authority of the other Party that sets out mutually decided terms of cooperation.

5. Recognizing that the Parties can benefit by sharing their diverse experience in developing, administering and enforcing their competition and consumer protection laws and policies, and by providing each other with technical assistance in any area they consider appropriate (3), the Parties shall consider undertaking technical cooperation activities, including:

(3) Including capacity building, strengthening the technical and institutional capacities for the implementation of their competition laws and policies, and promotion of competition culture.

(a) providing advice or training on relevant issues, including through the exchange of officials;

(b) exchanging information and experiences on competition advocacy and consumer protection policy, including ways to promote a culture of competition; and

(c) assisting a Party as it implements a new competition or consumer protection law.

6. The Parties shall cooperate under this Article in a manner compatible with their respective laws, policies, regulations and mutual interests, and within their reasonably available resources. Information shared pursuant to this Article may be subject

to additional requirements, including confidentiality or restrictions on the purposes for which the information may be used.

Article 9.9. Consultations

1. In order to foster understanding between the Parties, or to address specific matters that arise under this Chapter, on request of the other Party, a Party shall enter into consultations with the requesting Party. The requesting Party shall indicate, if relevant, how the matter affects trade or investment between the Parties. A Party shall accord full and sympathetic consideration to the concerns of the Party requesting consultation.

2. To facilitate the discussion regarding the matter of consultations, each Party shall endeavour to provide relevant non-confidential, non-privileged information to the other Party.

Article 9.10. Non-Application of Dispute Settlement

A Party shall not have recourse to dispute settlement under Chapter 27 (Dispute Settlement) for a matter arising under this Chapter.

Chapter 10. STATE-OWNED ENTERPRISES AND DESIGNATED MONOPOLIES

Article 10.1. Definitions

For the purposes of this Chapter:

Arrangement means the Arrangement on Officially Supported Export Credits or a successor undertaking that has been adopted by at least 12 original WTO Members that were Participants to the Arrangement as of 1 January 1979;

commercial activities means activities that an enterprise undertakes with an orientation toward profit making and that result in the production of a good or supply of a service that will be sold to a consumer in the relevant market in quantities and at prices (1) determined by the enterprise. Activities undertaken by an enterprise that operates on a not-for-profit basis or on a cost recovery basis are not activities undertaken with an orientation toward profit making;

(1) Measures of general application to the relevant market are not construed as the determination by a Party of pricing, production, or supply decisions of an enterprise.

commercial considerations means price, quality, availability, marketability, transportation, and other terms and conditions of purchase or sale, or other factors that would normally be taken into account in the commercial decisions of a privately owned enterprise in the relevant business or industry;

covered investment has the same meaning as in Article 15.1 (Investment – Definitions);

designate means to establish, name, or authorize a monopoly, or to expand the scope of a monopoly to cover an additional good or service;

designated monopoly means a privately owned monopoly that is designated after the date of entry into force of this Agreement and any government monopoly that a Party designates or has designated;

financial service supplier, financial institution, and financial services have the same meaning as in Article 18.1 (Financial Services – Definitions);

government monopoly means a monopoly that is owned, or controlled through ownership interests, by a Party or by another government monopoly;

independent pension fund means an enterprise that is owned, or controlled through ownership interests, by a Party that:

(a) is principally engaged in the following activities:

(i) administering or providing a plan for pension, retirement, social security, disability, death, or employee benefits, or any combination thereof for the benefit of natural persons who are contributors to this plan and their beneficiaries; or

(ii) investing the assets of these plans;

(b) has a fiduciary duty to the natural persons referred to in subparagraph (a)(i) or to depositors representing those natural persons; and

(c) is not subject to investment direction from the government of the Party. Investment direction from the government of a Party does not include general guidance with respect to risk management and asset allocation that is not inconsistent with usual investment practice and is not demonstrated solely by the presence of government officials on the enterprise's board of directors or investment panel;

market means the geographical and commercial market for a good or service;

monopoly means an entity, including a consortium or government agency, that in any relevant market in the territory of a Party is designated as the sole provider or purchaser of a good or service, but does not include an entity that has been granted an exclusive intellectual property right solely by reason of the grant;

non-commercial assistance means assistance to a state-owned enterprise by virtue of that state-owned enterprise’s government ownership or control, where:

(a) assistance means:

(i) direct transfers of funds or potential direct transfers of funds or liabilities, such as:

(A) grants or debt forgiveness;

(B) loans, loan guarantees, or other types of financing on terms more favourable than those commercially available to that enterprise;

(C) equity capital inconsistent with the usual investment practice, including for the provision of risk capital, of private investors;

(ii) the provision of goods or the supply of services other than general infrastructure, on terms more favourable than those commercially available to that enterprise; or

(iii) the purchase of goods on terms more favourable than those commercially available to the enterprise;

(b) by virtue of that state-owned enterprise’s government ownership or control means that the Party or any of the Party’s state enterprises or state-owned enterprises:

(i) explicitly limits access to the assistance to the Party’s state-owned enterprises;

(ii) provides assistance which is predominately used by the Party’s state-owned enterprises;

(iii) provides a disproportionately large amount of the assistance to the Party’s state-owned enterprises; or

(iv) otherwise favours the Party’s state-owned enterprises through the use of its discretion in the provision of assistance; and

for the purposes of this definition:

(c) in determining whether the assistance is provided by virtue of that state-owned enterprise’s government ownership or control, account must be taken of the extent of diversification of economic activities within the territory of that Party, as well as of the length of time during which the non-commercial assistance program has been in operation; and

(d) non-commercial assistance does not include a Party’s transfer of funds, collected from contributors to a plan for pension, retirement, social security, disability, death, or employee benefits, or any combination thereof, to an independent pension fund for investment on behalf of the contributors and their beneficiaries;

public service mandate means a government mandate pursuant to which a state-owned enterprise makes available a service, directly or indirectly, to the general public in its territory. A service to the general public includes the distribution of goods and the supply of general infrastructure services;

sovereign wealth fund means an enterprise owned or controlled through ownership interests by a Party that:

(a) serves solely as a special purpose investment fund or arrangement for asset management, investment, and related activities, using financial assets of a Party. The Parties understand that the word “arrangement” herein as an alternative to “fund” allows for a flexible interpretation of the legal arrangement through which the assets can be invested; and

(b) endorses the Generally Accepted Principles and Practices ("Santiago Principles") adopted by the International Working Group of Sovereign Wealth Funds in October 2008, or other principles and practices as may be agreed to by the Parties, or is a Member of the International Forum of Sovereign Wealth Funds, and includes any special purpose vehicles established solely for the activities described in subparagraph (a) wholly owned by the enterprise, or wholly owned by the Party but managed by the enterprise; and

state-owned enterprise means an enterprise that is principally engaged in commercial activities in which a Party:

(a) directly or indirectly owns more than 50 percent of the share capital. For the purposes of this definition, the term "indirectly" refers to situations in which a Party holds an ownership interest in an enterprise through one or more state enterprises of that Party. At each level of the ownership chain, state enterprises either alone or in combination with other state enterprises must own, or control through ownership interests, another enterprise;

(b) controls, through direct or indirect ownership interests, the exercise of more than 50 per cent of the voting rights;

(c) holds the power to control the enterprise through any other ownership interest, including indirect or minority ownership. For the purposes of this definition, a Party holds the power to control the enterprise if, through an ownership interest, it can determine or direct important matters affecting the enterprise, excluding minority shareholder protections. In determining whether a Party has this power, all relevant legal and factual elements must be taken into account on a case by case basis. Those elements may include the power to determine or direct commercial operations, including major expenditures or investments; issuances of equity or significant debt offerings; or the restructuring, merger, or dissolution of the enterprise; or

(d) holds the power to appoint a majority of members of the board of directors or any other equivalent management body.

Article 10.2. Scope

1. This Chapter applies to the activities of state-owned enterprises and designated monopolies of a Party that affect trade or investment between Parties within the free trade area. This Chapter also applies to the activities of state-owned enterprises of a Party that cause adverse effects in the market of a non-party, as provided in Article 10.5.

2. This Chapter does not apply to:

(a) the regulatory or supervisory activities, or monetary and related credit policy and exchange rate policy, of a central bank or monetary authority of a Party;

(b) the regulatory or supervisory activities of a financial regulatory body of a Party, including a non-governmental body, such as a securities or futures exchange or market, clearing agency, or other organization or association, that exercises regulatory or supervisory authority over financial services suppliers; or

(c) activities undertaken by a Party or one of its state enterprises or state-owned enterprises for the purpose of the resolution of a failing or failed financial institution or any other failing or failed enterprise principally engaged in the supply of financial services. (2)

(2) For Ecuador, its law does not oblige the State to guarantee the resolution of a failing or failed financial enterprise.

3. This Chapter does not apply with respect to a sovereign wealth fund of a Party, except:

(a) Article 10.5.1 and Article 10.6.1 apply with respect to a Party's indirect provision of non-commercial assistance through a sovereign wealth fund; and

(b) Article 10.5.2 applies with respect to a sovereign wealth fund's provision of non-commercial assistance.

4. This Chapter does not apply with respect to an independent pension fund of a Party, or an enterprise owned or controlled by an independent pension fund of a Party, except:

(a) Article 10.5.1 and Article 10.6.1 apply with respect to a Party's direct or indirect provision of non-commercial assistance to an enterprise owned or controlled by an independent pension fund; and

(b) Article 10.5.1 and Article 10.6.1 apply with respect to a Party's indirect provision of non-commercial assistance through an enterprise owned or controlled by an independent pension fund.

5. This Chapter does not apply to government procurement.

6. This Chapter does not prevent a state-owned enterprise of a Party from providing goods or services exclusively to that Party for the purposes of carrying out that Party's governmental functions.

7. This Chapter does not prevent a Party from:

(a) establishing or maintaining a state enterprise or a state-owned enterprise; or

(b) designating a monopoly, nor require it to undertake those measures.

Article 10.3. Non-discriminatory Treatment and Commercial Considerations

1. Each Party shall ensure that each of its state-owned enterprises, when engaging in commercial activities:

(a) acts in accordance with commercial considerations in its purchase or sale of a good or service, except to fulfil any terms of its public service mandate that are not inconsistent with subparagraph (c)(ii);

(b) in its purchase of a good or service:

(i) accords to a good or service supplied by an enterprise of the other Party treatment no less favourable than it accords to a like good or a like service supplied by enterprises of the Party or of a non-party; and

(ii) accords to a good or service supplied by an enterprise that is a covered investment in the Party's territory treatment no less favourable than it accords to a like good or a like service supplied by enterprises in the relevant market in the Party's territory that are investments of investors of the Party or of a non-party; and

(c) in its sale of a good or service:

(i) accords to an enterprise of the other Party treatment no less favourable than it accords to enterprises of the Party or of a non-party; and

(ii) accords to an enterprise that is a covered investment in the Party's territory treatment no less favourable than it accords to enterprises in the relevant market in the Party's territory that are investments of investors of the Party or of a non-party.

2. Each Party shall ensure that each of its designated monopolies:

(a) acts in accordance with commercial considerations in its purchase or sale of the monopoly good or service in the relevant market, except to fulfil any terms of its designation that are not inconsistent with subparagraphs (b), (c) or (d);

(b) in its purchase of the monopoly good or service:

(i) accords to a good or service supplied by an enterprise of the other Party treatment no less favourable than it accords to a like good or a like service supplied by enterprises of the Party or of a non-party; and

(ii) accords to a good or service supplied by an enterprise that is a covered investment in the Party's territory treatment no less favourable than it accords to a like good or a like service supplied by enterprises in the relevant market in the Party's territory that are investments of investors of the Party or of a non-party; and

(c) in its sale of the monopoly good or service:

(i) accords to an enterprise of the other Party treatment no less favourable than it accords to enterprises of the Party or of a non-party; and

(ii) accords to an enterprise that is a covered investment in the Party's territory treatment no less favourable than it accords to enterprises in the relevant market in the Party's territory that are investments of investors of the Party or of a non-party; and

(d) does not use its monopoly position to engage in, either directly or indirectly, including through its dealings with its parent, subsidiaries, or other entities the Party or the designated monopoly owns, anti-competitive practices in a non-monopolised market in its territory that negatively affect trade or investment between the Parties.

3. Paragraph 1 does not apply with respect to the purchase or sale of shares, stock, or other forms of equity by a state-owned enterprise as means of its equity participation in another enterprise.

4. Paragraphs 1(b), 1(c), 2(b) and 2(c) do not preclude a state-owned enterprise or designated monopoly from:

(a) purchasing or selling goods or services on different terms or conditions including those relating to price; or

(b) refusing to purchase or sell goods or services,

provided that this differential treatment or refusal is undertaken in accordance with commercial considerations.

Article 10.4. Courts and Administrative Bodies

1. Each Party shall provide its courts with jurisdiction over civil claims against an enterprise owned or controlled through ownership interests by a foreign government based on a commercial activity carried on in its territory. This paragraph does not preclude a Party from providing its courts with jurisdiction over claims against enterprises owned or controlled through ownership interests by a foreign government other than those claims referred to in this paragraph. This paragraph does not require a Party to provide jurisdiction over these claims if it does not provide jurisdiction over similar claims against enterprises that are not owned or controlled through ownership interests by a foreign government.

2. Each Party shall ensure that any administrative body that the Party establishes or maintains that regulates a state-owned enterprise exercises its regulatory discretion in an impartial manner with respect to enterprises that it regulates, including enterprises that are not state-owned enterprises. The impartiality with which an administrative body exercises its regulatory discretion is to be assessed by reference to a pattern or practice of that administrative body.

Article 10.5. Adverse Effects

1. A Party shall not cause adverse effects to the interests of the other Party through the use of non-commercial assistance that it provides, either directly or indirectly, to any of its state-owned enterprises with respect to:

(a) the production and sale of a good by the state-owned enterprise;

(b) the supply of a service by the state-owned enterprise from the territory of the Party into the territory of the other Party; or

(c) the supply of a service in the territory of the other Party through an enterprise that is a covered investment in the territory of that other Party.

2. Each Party shall ensure that its state-owned enterprises do not cause adverse effects to the interests of the other Party through the use of non-commercial assistance that the state-owned enterprise provides to any of its state-owned enterprises with respect to:

(a) the production and sale of a good by the state-owned enterprise;

(b) the supply of a service by the state-owned enterprise from the territory of the Party into the territory of the other Party; or

(c) the supply of a service in the territory of the other Party through an enterprise that is a covered investment in the territory of that other Party.

3. For the purposes of paragraphs 1 and 2, it must be demonstrated that the adverse effects claimed have been caused by the non-commercial assistance. The non-commercial assistance must be examined within the context of other possible causal factors to ensure an appropriate attribution of causality.

4. A service supplied by a state-owned enterprise of a Party within that Party's territory is deemed not to cause adverse effects. This paragraph does not apply to a service that itself is a form of non-commercial assistance.

5. For the purposes of paragraph 1, indirect provision of non-commercial assistance includes the situation in which a Party entrusts or directs an enterprise that is not a state-owned enterprise to provide non-commercial assistance.

6. For the purposes of paragraph 1 and 2, adverse effects arise if the effect of the non-commercial assistance is:

(a) that the production and sale of a good by a Party's state-owned enterprise that has received the non-commercial assistance displaces or impedes from the Party's market imports of a like good of the other Party or sales of a like good produced by an enterprise that is a covered investment in the territory of the Party;

(b) that the production and sale of a good by a Party's state-owned enterprise that has received the non-commercial assistance displaces or impedes from the market of a non-party imports of a like good of the other Party;

(c) a significant price undercutting by a good produced by a Party's state-owned enterprise that has received the non-commercial assistance and sold by the enterprise in:

(i) the market of a Party as compared with the price in the same market of imports of a like good of the other Party or a like good that is produced by an enterprise that is a covered investment in the territory of the Party, or significant price suppression, price depression, or lost sales in the same market; or

(ii) the market of a non-party as compared with the price in the same market of imports of a like good of the other Party, or significant price suppression, price depression, or lost sales in the same market;

(d) that services supplied by a Party's state-owned enterprise that has received the non-commercial assistance displace or impede from the market of the other Party a like service supplied by a service supplier of that other Party; or

(e) a significant price undercutting by a service supplied in the market of the other Party by a Party's state-owned enterprise that has received the non-commercial assistance as compared with the price in the same market of a like service supplied by a service supplier of that other Party, or significant price suppression, price depression or lost sales in the same market.

7. The purchase or sale of shares, stock, or other forms of equity by a state-owned enterprise that has received non-commercial assistance as a means of its equity participation in another enterprise is not, in and of itself, construed to give rise to adverse effects as provided for in paragraph 6. Consistent with paragraph 2, if the state-owned enterprise provides equity capital to another state-owned enterprise, depending on the facts, the production and sale of a good or the supply of a service by the recipient enterprise could give rise to adverse effects.

8. For the purposes of paragraphs 6(a), 6(b), and 6(d), the displacing or impeding of a good or service includes any case in which it has been demonstrated that there has been a significant change in relative shares of the market to the disadvantage of the like good or like service. "Significant change in relative shares of the market" includes any of the following situations:

(a) there is a significant increase in the market share of the good or service of the Party's state-owned enterprise;

(b) the market share of the good or service of the Party's state-owned enterprise remains constant in circumstances in which, in the absence of the non-commercial assistance, it would have declined significantly; or

(c) the market share of the good or service of the Party's state-owned enterprise declines, but at a significantly slower rate than would have been the case in the absence of the non-commercial assistance.

The change must manifest itself over an appropriately representative period sufficient to demonstrate clear trends in the development of the market for the good or service concerned, which, in normal circumstances, is at least one year.

9. For the purposes of paragraphs 6(c) and 6(e), price undercutting includes any case in which the price undercutting has been demonstrated through a comparison of the prices of the good or service of the state-owned enterprise with the prices of the like good or service in the relevant market.

10. Comparisons of the prices in paragraph 9 must be made at the same level of trade and at comparable times, and due account must be taken for factors affecting price comparability. If a direct comparison of transactions is not possible, the existence of price undercutting may be demonstrated on some other reasonable basis, such as, in the case of goods, a comparison of unit values.

11. Non-commercial assistance that a Party provides before the date of entry into force of this Agreement is deemed not to cause adverse effects.

12. For the purposes of paragraphs 1(b) and 2(b), the initial capitalization of a state-owned enterprise, or the acquisition by a Party of a controlling interest in an enterprise, that is principally engaged in the supply of services within the territory of the Party, is deemed not to cause adverse effects.

Article 10.6. Injury

1. A Party shall not cause injury to a domestic industry of the other Party through the use of non-commercial assistance that it provides, either directly or indirectly, to any of its state-owned enterprises that is a covered investment in the territory of that other Party in circumstances where:

(a) the non-commercial assistance is provided with respect to the production and sale of a good by the state-owned enterprise in the territory of the other Party; and

(b) a like good is produced and sold in the territory of the other Party by the domestic industry of that other Party. In situations of material retardation of the establishment of a domestic industry, it is understood that a domestic industry may not yet produce and sell the like good. However, in these situations, there must be evidence that a prospective domestic

producer has made a substantial commitment to commence production and sales of the like good.

2. For the purposes of paragraph 1, the term “domestic industry” refers to the domestic producers as a whole of the like good, or to those domestic producers whose collective output of the like good constitutes a major proportion of the total domestic production of the like good, excluding the state-owned enterprise that is a covered investment that has received the non-commercial assistance.

3. For the purposes of paragraph 1, the term “injury” means material injury to a domestic industry, threat of material injury to a domestic industry or material retardation of the establishment of that industry. A determination of material injury must be based on positive evidence and involve an objective examination of the relevant factors, including the volume of production by the covered investment that has received non-commercial assistance, the effect of that production on prices for like goods produced and sold by the domestic industry, and the effect of that production on the domestic industry producing like goods. The periods for examination of the non-commercial assistance and injury must be reasonably established and must end as closely as practical to the date of initiation of the proceeding before the panel pursuant to Chapter 27 (Dispute Settlement).

4. With regard to the volume of production by the covered investment that has received non-commercial assistance, consideration must be given as to whether there has been a significant increase in the volume of production, either in absolute terms or relative to production or consumption in the territory of the Party in which injury is alleged to have occurred. No one or several of these factors can necessarily give decisive guidance.

5. With regard to the effect of the production by the covered investment on prices, consideration must be given as to whether there has been a significant price undercutting by the goods produced and sold by the covered investment as compared with the price of like goods produced and sold by the domestic industry, or whether the effect of production by the covered investment is otherwise to depress prices to a significant degree or to prevent price increases, which otherwise would have occurred, to a significant degree. No one or several of these factors can necessarily give decisive guidance.

6. The examination of the impact on the domestic industry of the goods produced and sold by the covered investment that received the non-commercial assistance must include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, such as actual and potential decline in output, sales, market share, profits, productivity, return on investments, or utilization of capacity; factors affecting domestic prices; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital or investments and, in the case of agriculture, whether there has been an increased burden on government support programs. This list is not exhaustive, nor can one or several of these factors necessarily give decisive guidance.

7. It must be demonstrated that the goods produced and sold by the covered investment are, through the effects of the non-commercial assistance, set out in paragraphs 4 and 5, causing injury within the meaning of this Article. The demonstration of a causal relationship between the goods produced and sold by the covered investment and the injury to the domestic industry must be based on an examination of all relevant evidence. Any known factors other than the goods produced by the covered investment which at the same time are injuring the domestic industry must be examined, and the injuries caused by these other factors must not be attributed to the goods produced and sold by the covered investment that has received non-commercial assistance. Factors which may be relevant in this respect include, among other things, the volumes and prices of other like goods in the market in question, contraction in demand or changes in the patterns of consumption, and developments in technology and the export performance and productivity of the domestic industry.

8. A determination of a threat of material injury must be based on facts and not merely on allegation, conjecture or remote possibility and must be considered with special care. The change in circumstances which would create a situation in which non-commercial assistance to the covered investment would cause injury must be clearly foreseen and imminent. In making a determination regarding the existence of a threat of material injury, there should be consideration of relevant factors and of whether the totality of the factors considered lead to the conclusion that further availability of goods produced by the covered investment is imminent and that, unless protective action is taken, material injury would occur.

9. In making a determination regarding the existence of a threat of material injury referred to in paragraph 8, a panel established pursuant to Chapter 27 (Dispute Settlement) should consider factors, among other things, such as:

(a) the nature of the non-commercial assistance in question and the trade effects likely to arise therefrom;

(b) a significant rate of increase in sales in the domestic market by the covered investment, indicating a likelihood of substantially increased sales;

(c) sufficient freely disposable, or an imminent, substantial increase in, capacity of the covered investment indicating the likelihood of substantially increased production of the good by that covered investment, taking into account the availability of export markets to absorb additional production;

(d) whether prices of goods sold by the covered investment will have a significant depressing or suppressing effect on the price of like goods; and

(e) inventories of like goods.

Article 10.7. Transparency

1. Each Party shall provide to the other Party a list of its state-owned enterprises no later than six months after the date of entry into force of this Agreement, and thereafter shall update the list annually.

2. Each Party shall promptly notify the other Party the designation of a monopoly or expansion of the scope of an existing monopoly and the terms of its designation.

3. On the written request of the other Party, a Party shall promptly provide the following information concerning a state-owned enterprise or a government monopoly, provided that the request includes an explanation of how the activities of the entity may be affecting trade or investment between the Parties:

(a) the percentage of shares that the Party, its state-owned enterprises or designated monopolies cumulatively own, and the percentage of votes that they cumulatively hold, in the entity;

(b) a description of any special shares or special voting or other rights that the Party, its state-owned enterprises or designated monopolies hold, to the extent these rights are different than the rights attached to the general common shares of the entity;

(c) the government titles of any government official serving as an officer or member of the entity's board of directors;

(d) the entity's annual revenue and total assets over the most recent three-year period for which information is available;

(e) any exemptions from which the entity benefits under the Party's law; and

(f) any additional information regarding the entity that is publicly available, including annual financial reports and third party audits, and that is sought in the written request.

4. On the written request of the other Party, a Party shall promptly provide, in writing, information regarding any policy or program it adopts or maintains that provides for non-commercial assistance, provided that the request includes an explanation of how the policy or program affects or could affect trade or investment between the Parties.

5. If a Party provides a response pursuant to paragraph 4, the information it provides must be sufficiently specific to enable the requesting Party to understand the operation of and evaluate the policy or program and its effects or potential effects on trade or investment between the Parties. The Party responding to a request shall ensure that the response it provides contains the following information on condition that the other Party has requested it:

(a) the form of the non-commercial assistance provided under the policy or program, for example, grant or loan;

(b) the names of the government agencies, state-owned enterprises, or state enterprises providing the non-commercial assistance and the names of the state-owned enterprises that have received or are eligible to receive the non-commercial assistance;

(c) the legal basis and policy objective of the policy or program providing for the non-commercial assistance;

(d) with respect to goods, the amount per unit of the non-commercial assistance or, in cases where this is not possible, the total amount or the annual amount budgeted for the non-commercial assistance, indicating, if possible, the average amount per unit in the previous year;

(e) with respect to services, the total amount or the annual amount budgeted for the non-commercial assistance, indicating, if possible, the total amount in the previous year;

(f) with respect to policies or programs providing for non-commercial assistance in the form of loans or loan guarantees, the amount of the loan or amount of the loan guaranteed, interest rates, and fees charged;

(g) with respect to policies or programs providing for non-commercial assistance in the form of the provision of goods or services, the prices charged, if any;

(h) with respect to policies or programs providing for non-commercial assistance in the form of equity capital, the amount invested, the number and a description of the shares received, and any assessments that were conducted with respect to

the underlying investment decision;

(i) duration of the policy or program or any other time limits attached to it; and

(j) available statistical data on trade or investment between the Parties.

6. If a Party considers that it has not adopted or does not maintain any policies or programmes referred to in paragraph 4, it shall so inform the requesting Party in writing.

7. If the Party responding to a request has not addressed a relevant point in paragraph 5, that Party shall provide an explanation for this omission in the written response.

8. The Parties recognize that the provision of information under paragraphs 5 and 7 does not prejudge the legal status of the assistance that was the subject of the request under paragraph 4 or the effects of that assistance under this Agreement.

9. If a Party provides written information pursuant to a request under this Article and informs the requesting Party that it considers the information to be confidential, the requesting Party shall not disclose the information without the prior consent of the Party providing the information.

Article 10.8. Technical Cooperation

1. The Parties shall, if appropriate and subject to available resources, engage in mutually decided technical cooperation activities, including:

(a) exchanging information regarding Parties' experiences in improving the corporate governance and operation of their state-owned enterprises;

(b) sharing best practices on policy approaches to ensure a level playing field between state-owned and privately owned enterprises, including policies related to competitive neutrality; and

(c) organizing international seminars, workshops or any other appropriate forum for sharing technical information and expertise related to the governance and operations of state-owned enterprises.

2. The Parties may promote direct cooperation between state-owned enterprises to develop and implement sector-specific projects and initiatives. The cooperation activities among state-owned enterprises may include, among others, collaboration for joint ventures, research and development activities, and other cooperative efforts tailored to particular industry needs, with the potential to bring about significant benefits. For this purpose, the state-owned enterprises may exchange contact points through the contact points of this Chapter.

Article 10.9. Contact Points

Each Party shall designate a contact point on State-Owned Enterprises and Designated Monopolies and notify the other Party to facilitate communications between the Parties on any matter covered by this Chapter.

Article 10.10. Party-Specific Annexes

1. Article 10.3, Article 10.5 and Article 10.6 do not apply with respect to the non-conforming activities of state-owned enterprises or designated monopolies that a Party lists in its Schedule to Annex IV in accordance with the terms of the Party's Schedule.

2. Article 10.3, Article 10.4, Article 10.5, Article 10.6 and Article 10.7 do not apply with respect to a Party's state-owned enterprises or designated monopolies as set out in Annex 10-C.

Article 10.11. Exceptions

1. Article 10.3, Article 10.5, and Article 10.6 do not:

(a) prevent the adoption or enforcement by a Party of measures to respond temporarily to a national or global economic emergency; or

(b) apply to a state-owned enterprise with respect to which a Party has adopted or enforced measures on a temporary basis in response to a national or global economic emergency, for the duration of that emergency.

2. Article 10.3.1 does not apply with respect to the supply of financial services by a state-owned enterprise pursuant to a government mandate if that supply of financial services:

(a) supports exports or imports, provided that these services are:

(i) not intended to displace commercial financing; or

(ii) offered on terms no more favourable than those that could be obtained for comparable financial services in the commercial market;

(b) supports private investment outside the territory of the Party, provided that these services are:

(i) not intended to displace commercial financing; or

(ii) offered on terms no more favourable than those that could be obtained for comparable financial services in the commercial market; or

(c) is offered on terms consistent with the Arrangement, provided that it falls within the scope of the Arrangement.

3. The supply of financial services by a state-owned enterprise pursuant to a government mandate, including through an enterprise that is a covered investment, is deemed not to give rise to adverse effects under Article 10.5.1(b), Article 10.5.2(b) Article 10.5.1(c) or Article 10.5.2(c) where the Party in which the financial services are supplied requires a local presence in order to supply those services, if that supply of financial services:

(a) supports exports and imports, provided that these services are:

(i) not intended to displace commercial financing; or

(ii) offered on terms no more favourable than those that could be obtained for comparable financial services in the commercial market;

(b) supports private investment outside the territory of the Party, provided that these services are:

(i) not intended to displace commercial financing; or

(ii) offered on terms no more favourable than those that could be obtained for comparable financial services in the commercial market; or

(c) is offered on terms consistent with the Arrangement, provided that it falls within the scope of the Arrangement.

4. In circumstances in which no comparable financial services are offered in the commercial market referred to in paragraphs 2 and 3:

(a) for the purposes of paragraphs 2(a)(i), 2(b)(i), 3(a)(i) and 3(b)(i), the supply of the financial services is deemed not to be intended to displace commercial financing; and

(b) for the purposes of paragraphs 2(a)(ii), 2(b)(ii), 3(a)(ii) and 3(b)(ii), the state-owned enterprise may rely on available information to establish a benchmark on the terms on which these services would be offered in the commercial market.

5. Article 10.3, Article 10.5, Article 10.6 and Article 10.7 do not apply to any service supplied in the exercise of governmental authority. For the purposes of this paragraph, “a service supplied in the exercise of governmental authority” has the same meaning as in GATS, including the meaning in the Financial Services Annex of GATS if applicable.

6. Article 10.5 and Article 10.6 do not apply with respect to an enterprise located outside the territory of a Party over which a state-owned enterprise of that Party has assumed temporary ownership as a consequence of foreclosure or a similar action in connection with defaulted debt, or payment of an insurance claim by the state-owned enterprise, associated with the supply of the financial services referred to in paragraphs 2 and 3, provided that any support the Party, a state enterprise or state-owned enterprise of the Party, provides to the enterprise during the period of temporary ownership is provided in order to recoup the state-owned enterprise’s investment in accordance with a restructuring or liquidation plan that will result in the ultimate divestiture from the enterprise.

7. Article 10.3, Article 10.5, Article 10.6, and Article 10.7 do not apply with respect to a state-owned enterprise or designated monopoly if in any one of the three previous consecutive fiscal years, the annual revenue derived from the commercial activities of the state-owned enterprise or designated monopoly was less than a threshold amount which must be calculated in accordance with Annex 10-A.

8. Article 10.3.1(b), Article 10.3.1(c), Article 10.3.2(b), and Article 10.3.2(c) do not apply to the extent that a Party's state-owned enterprise or designated monopoly makes purchases and sales of goods or services pursuant to:

(a) any existing non-conforming measure that the Party maintains, continues, renews, or amends in accordance with Article 15.18.1 (Investment – Non-conforming Measures), Article 16.7.1 (Cross-Border Trade in Services – Non-conforming Measures), or Article 18.10.1 (Financial Services – Non-conforming Measures), as set out in its Schedule to Annex I or in Section A of its Schedule to Annex III; or

(b) any non-conforming measure that the Party adopts or maintains with respect to sectors, subsectors, or activities in accordance with Article 15.18.2 (Investment – Non-conforming Measures), Article 16.7.2 (Cross-Border Trade in Services – Non-conforming Measures), or Article 18.10.2 (Financial Services – Non-conforming Measures), as set out in its Schedule to Annex II or in Section B of its Schedule to Annex III.

9. If a Party invokes the exception referred to in paragraph 7 during consultations under Article 27.5 (Dispute Settlement – Consultations), the Parties should exchange and discuss available evidence concerning the annual revenue of the state-owned enterprise or the designated monopoly derived from the commercial activities during the three previous consecutive fiscal years in an effort to resolve during the consultations period any disagreement regarding the application of the exception.

Article 10.12. Process for Developing Information

Annex 10-B applies in any dispute under Chapter 27 (Dispute Settlement) regarding a Party's conformity with Article 10.3, Article 10.5, or Article 10.6.

Chapter 11. GOVERNMENT PROCUREMENT

Article 11.1. Definitions

For purposes of this Chapter:

build-operate-transfer contract and public works concession contract means a contractual arrangement the primary purpose of which is to provide for the construction or rehabilitation of physical infrastructure, plants, buildings, facilities or other government-owned works and under which, as consideration for a supplier's execution of a contractual arrangement, a procuring entity grants to the supplier, for a specified period of time, temporary ownership or a right to control and operate, and demand payment for the use of those works for the duration of the contract;

commercial goods or services means goods or services of a type generally sold or offered for sale in the commercial marketplace to, and customarily purchased by, non-governmental buyers for non-governmental purposes;

Committee means the Committee on Government Procurement established by Article 11.23.1;

construction service means a service that has as its objective the realization by whatever means of civil or building works, based on Division 51 of the United Nations Provisional Central Product Classification ("CPC");

electronic auction means an iterative process that involves the use of electronic means for the presentation by suppliers of either new prices, or new values for quantifiable non-price elements of the tender related to the evaluation criteria, or both, resulting in a ranking or re-ranking of tenders;

in writing or written means any worded or numbered expression that can be read, reproduced and later communicated. It may include electronically transmitted and stored information;

limited tendering means a procurement method whereby the procuring entity contacts a supplier or suppliers of its choice;

measure means any law, regulation, procedure, administrative guidance or practice or any action of a procuring entity relating to a covered procurement;

multi-use list means a list of suppliers that a procuring entity has determined satisfy the conditions for participation in that list, and that the procuring entity intends to use more than once;

notice of intended procurement means a notice published by a procuring entity inviting interested suppliers to submit a request for participation, a tender, or both;

offset means any condition or undertaking that encourages local development or improves a Party's balance-of-payments

accounts, such as the use of domestic content, the licensing of technology, investment, counter-trade or similar action or requirement;

open tendering means a procurement method whereby all interested suppliers may submit a tender;

procuring entity means an entity covered under a Party's Schedule to Annex 11-A;

qualified supplier means a supplier that a procuring entity recognizes as having satisfied the conditions for participation;

SDR means Special Drawing Rights;

selective tendering means a procurement method whereby only qualified suppliers are invited by the procuring entity to submit a tender;

services includes construction services, unless otherwise specified;

standard means a document approved by a recognized body that provides for common and repeated use, rules, guidelines or characteristics for goods or services, or related processes and production methods, with which compliance is not mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labelling requirements as they apply to a good, service, process or production method;

supplier means a person or group of persons that provides or could provide goods or services; and

technical specification means a tendering requirement that:

(a) lays down the characteristics of goods or services to be procured, including quality, performance, safety and dimensions, or the processes and methods for their production or provision; or

(b) addresses terminology, symbols, packaging, marking or labelling requirements, as they apply to a good or service.

Article 11.2. Scope and Coverage

1. This Chapter applies to any measure regarding covered procurement, whether or not it is conducted exclusively or partially by electronic means.

2. For the purposes of this Chapter, covered procurement means procurement for governmental purposes:

(a) of goods, services or any combination thereof:

(i) as specified in each Party's Schedule to Annex 11-A ; and

(ii) not procured with a view to commercial sale or resale, or for use in the production or supply of goods or services for commercial sale or resale;

(b) by any contractual means, including purchase, lease or rental, with or without an option to buy, build-operate-transfer contracts and public works concessions contracts;

(c) for which the value, as estimated in accordance with paragraphs 6 through 8, equals or exceeds the relevant threshold specified in a Party's Schedule to Annex 11-A, at the time of publication of a notice in accordance with Article 11.6;

(d) by a procuring entity; and

(e) that is not otherwise excluded from coverage in paragraph 3 or a Party's Schedule to Annex 11-A.

3. This Chapter does not apply to:

(a) the acquisition or rental of land, existing buildings or other immovable property or the rights thereon;

(b) non-contractual agreements or any form of assistance that a Party provides, including cooperative agreements, grants, loans, subsidies, equity infusions, guarantees and fiscal incentives;

(c) the procurement or acquisition of fiscal agency or depository services, liquidation and management services for regulated financial institutions or services related to the sale, redemption and distribution of public debt, including loans and government bonds, notes and other securities;

(d) public employment contracts; or

(e) procurement conducted:

(i) for the specific purpose of providing international assistance, including development aid;

(ii) under the particular procedure or condition of an international agreement relating to the stationing of troops or relating to the joint implementation by the signatory countries of a project; or

(iii) under the particular procedure or condition of an international organization, or funded by international grants, loans or other assistance if the applicable procedure or condition would be inconsistent with this Chapter.

4. Each Party shall specify the following information in its Schedule to Annex 11-A:

(a) in Section A, the central government entities whose procurement is covered by this Chapter;

(b) in Section B, all other entities whose procurement is covered by this Chapter;

(c) in Section C, the goods covered by this Chapter;

(d) in Section D, the services, other than construction services, covered by this Chapter;

(e) in Section E, the construction services covered by this Chapter;

(f) in Section F, any General Notes;

(g) in Section G, the applicable Threshold Adjustment Formula; and

(h) in Section H, the publication information required under Article 11.5.

5. If a procuring entity, in the context of covered procurement, requires persons not covered under a Party's Schedule to Annex 11-A to procure in accordance with particular requirements, Article 11.4.1 and Article 11.4.2 shall apply to those requirements.

6. A procuring entity shall not prepare or design a procurement, or otherwise structure or divide a procurement into separate procurements in any stage of the procurement, or use a particular method to estimate the value of a procurement, in order to avoid the obligations of this Chapter.

7. This Chapter does not prevent a Party, including its procuring entities, from developing new procurement policies, procedures or contractual means, provided that they are not inconsistent with this Chapter.

8. In estimating the value of a procurement for the purposes of ascertaining whether it is a covered procurement, a procuring entity shall include the estimated maximum total value of the procurement over its entire duration, taking into account:

(a) all forms of remuneration, including any premium, fee, commission, interest or other revenue stream that may be provided for under the contract;

(b) the value of any option clause; and

(c) any contract awarded at the same time or over a given period to one or more suppliers under the same procurement.

9. If the total estimated maximum value of a procurement over its entire duration is not known, the procurement is deemed a covered procurement, unless otherwise excluded under this Chapter.

Article 11.3. Security and General Exceptions

1. This Chapter does not prevent a Party from taking any action or not disclosing any information that it considers necessary for the protection of its essential security interests relating to the procurement of arms, ammunition or war materials, or to procurement indispensable for national security or for national defence purposes.

2. Subject to the requirement that the measure is not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination between the Parties where the same conditions prevail or a disguised restriction on international trade, this Chapter does not prevent a Party from imposing or enforcing a measure:

(a) necessary to protect public morals, order or safety;

(b) necessary to protect human, animal, or plant life or health;

(c) necessary to protect intellectual property; or

(d) relating to a good or service of a person with a disability, of a philanthropic institution or of prison labour.

3. The Parties understand that paragraph 2(b) includes environmental measures necessary to protect human, animal or plant life or health.

Article 11.4. General Principles

1. With respect to any measure regarding covered procurement, each Party, including its procuring entities, shall accord immediately and unconditionally to the goods and services of the other Party and to the suppliers of the other Party offering the goods or services, treatment no less favourable than the treatment the Party, including its procuring entities, accords to its domestic goods, services and suppliers. For greater certainty, the obligations set out in this Chapter, including this paragraph, are subject to the exclusions and restrictions in this Chapter and Annex 11-A.

2. With respect to any measure regarding covered procurement, a Party, including its procuring entities, shall not:

(a) treat a locally established supplier less favourably than another locally established supplier on the basis of the degree of foreign affiliation or ownership; or

(b) discriminate against a locally established supplier on the basis that the good or service offered by that supplier for a particular procurement are a good or service of the other Party.

3. If conducting covered procurement by electronic means, a procuring entity shall:

(a) ensure that the procurement is conducted using information technology systems and software, including those related to authentication and encryption of information, that are generally available and interoperable with other generally available information technology systems and software; and

(b) maintain mechanisms that ensure the integrity of requests for participation and tenders, including establishment of the time of receipt and the prevention of inappropriate access.

4. A procuring entity shall conduct covered procurement in a transparent and impartial manner that:

(a) is consistent with this Chapter;

(b) avoids conflicts of interest; and

(c) prevents corrupt practices.

5. For the purposes of covered procurement, a Party shall not apply rules of origin to goods or services imported from or supplied from the other Party that are different from the rules of origin the Party applies at the same time in the normal course of trade to imports or supplies of the same goods or services from the other Party.

6. With regard to covered procurement, a Party, including its procuring entities, shall not seek, take account of, impose or enforce any offset.

7. Paragraphs 1 and 2 do not apply to: customs duties or charges of any kind imposed on, or in connection with, importation; the method of levying those duties or charges; other import regulations or formalities; or measures affecting trade in services other than measures governing covered procurement.

Article 11.5. Publication of Procurement Information

1. Each Party shall promptly publish any measure of general application relating to covered procurement, and any change or addition to this information.

2. Each Party shall list in Section H of its Schedule to Annex 11-A the paper or electronic means through which the Party publishes the information described in paragraph 1 and the notices required by Article 11.6, Article 11.8.7 and Article 11.15.2.

3. Each Party shall, on request, respond to an inquiry relating to the information referred to in paragraph 1.

4. Each Party shall promptly notify the other Party of any modification to the Party's information listed in Section H of its Schedule to Annex 11-A.

Article 11.6. Notices

1. For each covered procurement, a procuring entity shall publish a notice of intended procurement in the appropriate electronic medium listed in Section H of a Party's Schedule to Annex 11-A, except in the circumstances described in Article 11.12. The notices shall be accessible by electronic means free of charge through a single point of access and shall remain readily accessible to the public, at least until expiration of the time period indicated in the notice.

2. Except as otherwise provided in this Chapter, each notice of intended procurement shall include:

(a) the name and address of the procuring entity and other information necessary to contact the procuring entity and obtain all relevant documents relating to the procurement, and their cost and terms of payment, if any;

(b) a description of the procurement, including the nature and the quantity of the goods or services to be procured or, if the quantity is not known, the estimated quantity;

(c) for recurring contracts, an estimate, if possible, of the timing of subsequent notices of intended procurement;

(d) a description of any options;

(e) the time frame for delivery of goods or services or the duration of the contract;

(f) the procurement method that will be used and whether it will involve negotiation or electronic auction;

(g) if applicable, the address and any final date for the submission of requests for participation in the procurement;

(h) the address and the final date for the submission of tenders;

(i) the language or languages in which tenders or requests for participation may be submitted, if they may be submitted in a language other than an official language of the Party of the procuring entity;

(j) a list and brief description of any conditions for participation of suppliers, including any requirements for specific documents or certifications to be provided by suppliers in connection therewith, unless those requirements are included in tender documentation that is made available to all interested suppliers at the same time as the notice of intended procurement;

(k) where, pursuant to Article 11.8, a procuring entity intends to select a limited number of qualified suppliers to be invited to tender, the criteria that will be used to select them and, if applicable, any limitation on the number of suppliers that will be permitted to tender; and

(l) an indication that the procurement is covered by this Chapter.

3. For each case of intended procurement, a procuring entity shall publish a summary notice that is readily accessible at the same time as the publication of the notice of intended procurement, in one of the WTO languages. The summary notice shall contain at least the following information:

(a) the subject matter of the procurement;

(b) the final date for the submission of tenders or, if applicable, any final date for the submission of requests for participation in the procurement or for inclusion on a multi-use list; and

(c) the address from which documents relating to the procurement may be requested.

4. Each Party shall endeavour to use English as the language for publishing the summary notice and the notice of intended procurement.

5. Each Party shall encourage procuring entities to publish in the appropriate paper or electronic medium listed in Section H of the Party's Schedule to Annex 11-A as early as possible in each fiscal year a notice regarding their future procurement plans ("notice of planned procurement"). The notice of planned procurement should include the subject matter of the procurement and the planned date of the publication of the notice of intended procurement.

Article 11.7: Conditions for Participation

1. A procuring entity shall limit any conditions for participation in a procurement to those that are essential to ensure that a supplier has the legal and financial capacities and the commercial and technical abilities to undertake the relevant procurement.

2. In establishing the conditions for participation, a procuring entity:

(a) shall not impose the condition that, in order for a supplier to participate in a procurement, the supplier has previously been awarded one or more contracts by a procuring entity of a Party; and

(b) may require relevant prior experience if essential to meet the requirements of the procurement.

3. In assessing whether a supplier satisfies the conditions for participation, a procuring entity:

(a) shall evaluate the financial capacity and the commercial and technical abilities of a supplier on the basis of that supplier's business activities both inside and outside the territory of the Party of the procuring entity; and

(b) shall base its evaluation on the conditions that the procuring entity has specified in advance in notices or tender documentation.

4. If there is supporting evidence, a Party, including its procuring entities, may exclude a supplier on grounds such as:

(a) bankruptcy;

(b) false declarations;

(c) significant or persistent deficiencies in performance of any substantive requirement or obligation under a prior contract or contracts;

(d) final judgments in respect of serious crimes or other serious offences;

(e) professional misconduct or acts or omissions that adversely reflect on the commercial integrity of the supplier; or

(f) failure to pay taxes.

Article 11.8: Qualification of Suppliers

1. A Party, including its procuring entities, may maintain a supplier registration system under which interested suppliers are required to register and provide certain information.

2. Each Party shall ensure that:

(a) its procuring entities make efforts to minimize differences in their qualification procedures; and

(b) if its procuring entities maintain registration systems, the entities make efforts to minimize differences in their registration systems.

3. A Party, including its procuring entities, shall not adopt or apply any registration system or qualification procedure with the purpose or the effect of creating unnecessary obstacles to the participation of suppliers of the other Party in its procurement.

4. If a procuring entity intends to use selective tendering, the entity shall:

(a) include in the notice of intended procurement at least the information specified in Article 11.6.2(a), (b), (f), (g), (j), (k) and (l) and invite suppliers to submit a request for participation; and

(b) provide, by the commencement of the time period for tendering, at least the information in Article 11.6.2(c), (d), (e), (h) and (i) to the qualified suppliers that it notifies as specified in Article 11.10.3(b).

5. A procuring entity shall allow all qualified suppliers to participate in a particular procurement, unless the procuring entity states in the notice of intended procurement any limitation on the number of suppliers that will be permitted to tender and the criteria for selecting the limited number of suppliers.

6. If the tender documentation is not made publicly available from the date of publication of the notice referred to in paragraph 4, a procuring entity shall ensure that those documents are made available at the same time to all the qualified suppliers selected in accordance with paragraph 5.

7. A procuring entity may maintain a multi-use list, provided that a notice inviting interested suppliers to apply for inclusion on the list is:

(a) published annually; and

(b) if published by electronic means, made available continuously, in the appropriate medium listed in Section H of the Party's Schedule to Annex 11-A.

8. The notice referred to in paragraph 7 must include:

(a) a description of the goods or services, or categories thereof, for which the list may be used;

(b) the conditions for participation to be satisfied by suppliers for inclusion on the list and the methods that the procuring entity will use to verify that a supplier satisfies the conditions;

(c) the name and address of the procuring entity and other information necessary to contact the entity and obtain all relevant documents relating to the list;

(d) the period of validity of the list and the means for its renewal or termination, or if the period of validity is not provided, an indication of the method by which notice will be given of the termination of use of the

list; and

(e) an indication that the list may be used for procurement covered by this Chapter.

9. Notwithstanding paragraph 7, if a multi-use list will be valid for three years or less, a procuring entity may publish the notice referred to in paragraph 7 only once, at the beginning of the period of validity of the list, provided that the notice:

(a) states the period of validity and that further notices will not be published; and

(b) is published by electronic means and is made available continuously during the period of its validity.

10. A procuring entity shall allow suppliers to apply at any time for inclusion on a multi-use list and shall include on the list all qualified suppliers within a reasonably short time.

11. If a supplier that is not included on a multi-use list submits a request for participation in a procurement based on a multi-use list and all required documents within the time period provided for in Article 11.10, a procuring entity shall examine the request. The procuring entity shall not exclude the supplier from consideration in respect of the procurement on the grounds that the entity has insufficient time to examine the request, unless, in exceptional cases, due to the complexity of the procurement, the entity is not able to complete the examination of the request within the time period allowed for the submission of tenders.

12. A procuring entity shall promptly inform any supplier that submits a request for participation in a procurement or application for inclusion on a multi-use list of its decision with respect to the request or application.

13. If a procuring entity rejects a supplier's request for participation in a procurement or application for inclusion on a multi-use list, ceases to recognize a supplier as qualified, or removes a supplier from a multi-use list, the entity shall promptly inform the supplier and, on request of the supplier, promptly provide the supplier with a written explanation of the reasons for its decision.

Article 11.9: Technical Specifications and Tender Documentation

1. A procuring entity shall not prepare, adopt or apply any technical specification or prescribe any conformity assessment procedure with the purpose or the effect of creating unnecessary obstacles to trade between the Parties.

2. In prescribing the technical specifications for the goods or services being procured, a procuring entity shall, if appropriate:

(a) set out the technical specification in terms of performance and functional requirements, rather than design or descriptive characteristics; and

(b) base the technical specification on international standards, if these exist; otherwise, on national technical regulations, recognized national standards or building codes.

3. If design or descriptive characteristics are used in the technical specifications, a procuring entity should indicate, if appropriate, that it will consider tenders of equivalent goods or services that demonstrably fulfil the requirements of the procurement by including words such as "or equivalent" in the tender documentation.

4. A procuring entity shall not prescribe technical specifications that require or refer to a particular trademark or trade name, patent, copyright, design, type, specific origin, producer or supplier, unless there is no other sufficiently precise or intelligible way of describing the procurement requirements and provided that, in these cases, the entity includes words such as "or equivalent" in the tender documentation.

5. A procuring entity shall not seek or accept, in a manner that would have the effect of precluding competition, advice that may be used in the preparation or adoption of any technical specification for a specific procurement from a person that may have a commercial interest in the procurement.

6. For greater certainty, a Party, including its procuring entities, may prepare, adopt or apply technical specifications to promote the conservation of natural resources or protect the environment.

7. For greater certainty, a Party, including its procuring entities, may prepare, adopt or apply technical specifications required to protect, for Ecuador, reserved or confidential government information, and for Canada, sensitive government information, including specifications that may affect or limit the storage, hosting or processing of this information outside the territory of the Party.

8. A procuring entity shall make available to suppliers tender documentation that includes all information necessary to permit suppliers to prepare and submit responsive tenders. Unless already provided in the notice of intended procurement, this documentation must include a complete description of:

(a) the procurement, including the nature and the quantity of the goods or services to be procured or, if the quantity is not known, the estimated quantity and any requirements to be fulfilled, including any technical specifications, conformity assessment certification, plans, drawings or instructional materials;

(b) any conditions for participation of suppliers, including a list of information and documents that suppliers are required to submit in connection with the conditions for participation;

(c) all evaluation criteria the entity will apply in the awarding of the contract, and, except if price is the sole criterion, the relative importance of those criteria;

(d) if the procuring entity will conduct the procurement by electronic means, any authentication and encryption requirements or other requirements related to the submission of information by electronic means;

(e) if the procuring entity will hold an electronic auction, the rules, including identification of the elements of the tender related to the evaluation criteria, on which the auction will be conducted;

(f) if there will be a public opening of tenders, the date, time and place for the opening and, if appropriate, the persons authorized to be present;

(g) any other terms or conditions, including terms of payment and any limitation on the means by which tenders may be submitted, such as whether on paper or by electronic means; and

(h) any dates for the delivery of goods or the supply of services.

9. In establishing any date for the delivery of goods or the supply of services being procured, a procuring entity shall take into account factors such as the complexity of the procurement, the extent of subcontracting anticipated and the realistic time required for production, destocking and transport of goods from the point of supply or for supply of services.

10. The evaluation criteria set out in the notice of intended procurement or tender documentation may include, among others, price and other cost factors, quality, technical merit, environmental characteristics, socio-economic considerations and terms of delivery.

11. A procuring entity shall promptly:

(a) make available tender documentation to ensure that interested suppliers have sufficient time to submit responsive tenders;

(b) provide, on request, the tender documentation to any interested supplier; and

(c) reply to any reasonable request for relevant information by any interested or participating supplier, provided that this information does not give that supplier an advantage over other suppliers.

12. If, prior to the award of a contract, a procuring entity modifies the criteria or requirements set out in the notice of intended procurement or tender documentation provided to participating suppliers, or amends or reissues a notice or tender documentation, it shall transmit in writing all modifications or amended or reissued notice or tender documentation:

(a) to all suppliers that are participating at the time of the modification, amendment or reissuance, if these suppliers are known to the entity, and in all other cases, in the same manner as the original information was made available; and

(b) in adequate time to allow these suppliers to modify and resubmit amended tenders, as appropriate.

Article 11.10: Time Periods

1. A procuring entity shall, consistent with its own reasonable needs, provide sufficient time for suppliers to prepare and submit requests for participation and responsive tenders, taking into account factors such as:

(a) the nature and complexity of the procurement;

(b) the extent of subcontracting anticipated; and

(c) the time necessary for transmitting tenders by non-electronic means from foreign as well as domestic points if electronic means are not used.

These time periods, including any extension of the time periods, must be the same for all interested or participating suppliers.

2. A procuring entity that uses selective tendering shall establish that the final date for the submission of requests for participation not be, in principle, less than 25 days from the date of publication of the notice of intended procurement. If a state of urgency duly substantiated by the procuring entity renders this time period impracticable, the time period may be reduced to no less than 10 days.

3. Except as provided for in paragraphs 4, 5 and 7, a procuring entity shall establish that the final date for the submission of tenders is no less than 40 days from the date on which:

(a) in the case of open tendering, the notice of intended procurement is published; or

(b) in the case of selective tendering, the entity notifies suppliers that they will be invited to submit tenders, whether or not it uses a multi-use list.

4. A procuring entity may reduce the time period for tendering set out in paragraph 3 to no less than 10 days if:

(a) the procuring entity has published a notice of planned procurement as described in Article 11.6.4 at least 40 days and no more than 12 months in advance of the publication of the notice of intended procurement, and the notice of planned procurement contains:

(i) a description of the procurement;

(ii) the approximate final dates for the submission of tenders or requests for participation;

(iii) the address from which documents relating to the procurement may be obtained; and

(iv) as much of the information that is required for the notice of intended procurement under Article 11.6.2 as is available;

(b) the procuring entity, for recurring contracts, indicates in an initial notice of intended procurement that subsequent notices will provide time periods for tendering based on this paragraph; or

(c) a state of urgency duly substantiated by the procuring entity renders the time period for tendering set out in paragraph 3 impracticable.

5. A procuring entity may reduce the time period for tendering set out in paragraph 3 by five days for each one of the following circumstances:

(a) the notice of intended procurement is published by electronic means;

(b) all the tender documentation is made available by electronic means from the date of the publication of the notice of intended procurement; and

(c) the entity accepts tenders by electronic means.

6. The use of paragraph 5, in conjunction with paragraph 4, shall in no case result in the reduction of the time period for tendering set out in paragraph 3 to less than 10 days from the date on which the notice of intended procurement is published.

7. Notwithstanding any other provision in this Article, if a procuring entity purchases commercial goods or services, or any combination thereof, it may reduce the time period for tendering established in accordance with paragraph 3 to no less than

13 days, provided that it publishes by electronic means, at the same time, both the notice of intended procurement and the tender documentation. In addition, if the entity accepts tenders for commercial goods or services by electronic means, it may further reduce the time period established in accordance with paragraph 3 to no less than 10 days.

Article 11.11: Negotiation

1. A Party may provide for its procuring entities to conduct negotiations if:

(a) the entity has indicated its intent to conduct negotiations in the notice of intended procurement required under Article 11.6.2; or

(b) it appears from the evaluation that no tender is obviously the most advantageous in terms of the specific evaluation criteria set out in the notice of intended procurement or tender documentation.

2. A procuring entity shall:

(a) ensure that any elimination of suppliers participating in negotiations is carried out in accordance with the evaluation criteria set out in the notice of intended procurement or tender documentation; and

(b) at the conclusion of negotiations, if remaining participating suppliers are to submit new or revised tenders, provide a common deadline for the submission of those tenders.1

1 For greater certainty, this subparagraph applies only if a Party permits remaining participating suppliers to submit new or revised tenders.

Article 11.12: Limited Tendering

1. Provided that it does not use this provision for the purpose of avoiding competition among suppliers or in a manner that discriminates against suppliers of the other Party or protects domestic suppliers, a procuring entity may use limited tendering and may choose not to apply Article 11.6, Article 11.7, Article 11.8, Article 11.9 (paragraphs 7 through 11), Article 11.10, Article 11.11, Article 11.13 and Article 11.14 only under any of the following circumstances:

(a) if:

(i) no tenders were submitted or no suppliers requested participation;

(ii) no tenders that conform to the essential requirements of the tender documentation were submitted;

(iii) no suppliers satisfied the conditions for participation; or

(iv) the tenders submitted have been collusive,

provided that the requirements of the tender documentation are not substantially modified;

(b) if the goods or services can be supplied only by a particular supplier and no reasonable alternative or substitute goods or services exist for any of the following reasons:

(i) the requirement is for a work of art;

(ii) the protection of patents, copyrights or other exclusive rights; or

(iii) due to an absence of competition for technical reasons;

(c) for additional deliveries by the original supplier of goods or services that were not included in the initial procurement if a change of supplier for these additional goods or services:

(i) cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, software, services or installations procured under the initial procurement; and

(ii) would cause significant inconvenience or substantial duplication of costs for the procuring entity;

(d) insofar as is strictly necessary if, for reasons of extreme urgency brought about by events unforeseeable by the procuring entity, the goods or services could not be obtained in time using open tendering or selective tendering;

(e) for goods purchased on a commodity market;

(f) if a procuring entity procures a prototype or a first good or service that is developed at its request in the course of, and

for, a particular contract for research, experiment, study or original development. Original development of a first good or service may include limited production or supply in order to incorporate the results of field testing and to demonstrate that the good or service is suitable for production or supply in quantity to acceptable quality standards, but does not include quantity production or supply to establish commercial viability or to recover research and development costs;

(g) for purchases made under exceptionally advantageous conditions that only arise in the very short term in the case of unusual disposals such as those arising from liquidation, receivership or bankruptcy, but not for routine purchases from regular suppliers; or

(h) if a contract is awarded to a winner of a design contest provided that:

(i) the contest has been organized in a manner that is consistent with the principles of this Chapter, in particular relating to the publication of a notice of intended procurement; and

(ii) the participants are judged by an independent jury with a view to a design contract being awarded to a winner.

2. A procuring entity shall prepare a report in writing on each contract awarded under paragraph 1. The report must include the name of the procuring entity, the value and kind of goods or services procured and a statement indicating the circumstances and conditions described in paragraph 1 that justified the use of limited tendering.

Article 11.13: Electronic Auctions

If a procuring entity intends to conduct a covered procurement using an electronic auction, the entity shall provide each participant, before commencing the electronic auction, with:

(a) the automatic evaluation method, including the mathematical formula, that is based on the evaluation criteria set out in the tender documentation and that will be used in the automatic ranking or re-ranking during the auction;

(b) the results of any initial evaluation of the elements of its tender if the contract is to be awarded on the basis of the most advantageous tender; and

(c) any other relevant information relating to the conduct of the auction.

Article 11.14: Treatment of Tenders and Awarding of Contracts

1. A procuring entity shall receive, open and treat all tenders under procedures that guarantee the fairness and impartiality of the procurement process and the confidentiality of tenders.

2. A procuring entity shall not penalize any supplier whose tender is received after the time specified for receiving tenders if the delay is due solely to mishandling on the part of the procuring entity.

3. If a procuring entity provides a supplier with an opportunity to correct unintentional errors of form between the opening of tenders and the awarding of the contract, the procuring entity shall provide the same opportunity to all participating suppliers.

4. To be considered for an award, a tender must be submitted in writing and must, at the time of opening, comply with the essential requirements set out in the notices and tender documentation and be from a supplier that satisfies the conditions for participation.

5. Unless a procuring entity determines that it is not in the public interest to award a contract, the entity shall award the contract to the supplier that the entity has determined to be capable of fulfilling the terms of the contract and that, based solely on the evaluation criteria specified in the notices and tender documentation, has submitted:

(a) the most advantageous tender; or

(b) if price is the sole criterion, the lowest price.

6. If a procuring entity receives a tender with a price that is abnormally lower than the prices in other tenders submitted, it may verify with the supplier that it satisfies the conditions for participation and is capable of fulfilling the terms of the contract.

7. A procuring entity shall not use options, cancel a procurement or modify awarded contracts in a manner that circumvents the obligations under this Chapter.

Article 11.15: Transparency of Procurement Information

1. A procuring entity shall promptly inform participating suppliers of the entity's contract award decisions and, on the request of a supplier, shall do so in writing. Subject to paragraphs 2 and 3 of Article 11.16, a procuring entity shall, on request, provide an unsuccessful supplier with an explanation of the reasons why the entity did not select its tender and the relative advantages of the successful supplier's tender.

2. No later than 72 days after the award of each contract covered by this Chapter, a procuring entity shall publish a notice in the appropriate paper or electronic medium listed in Section H of the Party's Schedule to Annex 11-A. If the entity publishes the notice only in an electronic medium, the information shall remain readily accessible for a reasonable period of time. The notice must include at least the following information:

(a) a description of the goods or services procured;

(b) the name and address of the procuring entity;

(c) the name and address of the successful supplier;

(d) the value of the successful tender or the highest and lowest offers taken into account in the award of the contract;

(e) the date of award; and

(f) the type of procurement method used, and in cases in which limited tendering was used in accordance with Article 11.12, a description of the circumstances justifying the use of limited tendering.

3. Each procuring entity shall maintain the documentation, records and reports relating to tendering procedures and contract awards for covered procurement, including the records and reports provided for in Article 11.12, for a period of at least three years from the date it awards a contract.

Article 11.16: Disclosure of Information

1. On request of the other Party, a Party shall provide promptly any information necessary to determine whether a procurement was conducted fairly, impartially and in accordance with this Chapter, including information on the characteristics and relative advantages of the successful tender. In cases in which release of the information would prejudice competition in future tenders, the Party that receives the information shall not disclose it to any supplier, except after consulting with, and obtaining the agreement of, the Party that provided the information.

2. Notwithstanding any other provision of this Chapter, a Party, including its procuring entities, shall not provide to any particular supplier information that might prejudice fair competition between suppliers.

3. This Chapter does not require a Party, including its procuring entities, authorities and review bodies, to disclose information if disclosure:

(a) would impede law enforcement;

(b) might prejudice fair competition between suppliers;

(c) would prejudice the legitimate commercial interests of particular persons, including the protection of intellectual property; or

(d) would otherwise be contrary to the public interest.

Article 11.17: Ensuring Integrity in Procurement Practices

1. Each Party shall ensure that criminal, civil or administrative measures exist to address corruption, fraud and other wrongful acts in its government procurement.

2. These measures may include procedures to debar, suspend or declare ineligible from participation in a Party's procurements, either indefinitely or for a stated period of time, a supplier that the Party has determined to have engaged in corruption, fraud or other wrongful acts relevant to a supplier's eligibility to participate in the Party's government procurement.

3. Each Party shall ensure that it has in place measures to address potential conflicts of interest on the part of those engaged in or having influence over a procurement.

Article 11.18: Domestic Review Procedures

1. Each Party shall provide a timely, effective, transparent and non-discriminatory administrative or judicial review

procedure through which a supplier may challenge:

(a) a breach of this Chapter; or

(b) if the supplier does not have a right to challenge directly a breach of this Chapter under the domestic law of a Party, a failure to comply with a Party's measures implementing this Chapter,

arising in the context of a covered procurement, in which the supplier has, or has had, an interest. The procedural rules for all challenges shall be in writing and made generally available.

2. In the event of a complaint by a supplier, arising in the context of covered procurement in which the supplier has, or has had, an interest, that there has been a breach or a failure as referred to in paragraph 1, the Party of the procuring entity conducting the procurement shall encourage the procuring entity and the supplier to seek resolution of the complaint through consultations. The procuring entity shall accord impartial and timely consideration to any complaint in a manner that is not prejudicial to the supplier's participation in ongoing or future procurement or its right to seek corrective measures under the administrative or judicial review procedure.

3. Each supplier shall be allowed a sufficient period of time to prepare and submit a challenge, which in no case shall be less than 10 days from the time when the basis of the challenge became known or reasonably should have become known to the supplier.

4. Each Party shall establish or designate at least one impartial administrative or judicial authority that is independent of its procuring entities to receive and review a challenge by a supplier arising in the context of a covered procurement.

5. If a body other than an authority referred to in paragraph 4 initially reviews a challenge, the Party shall ensure that the supplier may appeal the initial decision to an impartial administrative or judicial authority that is independent of the procuring entity whose procurement is the subject of the challenge.

6. Each Party shall ensure that a review body that is not a court shall have its decision subject to judicial review or have procedures that provide that:

(a) the procuring entity shall respond in writing to the challenge and disclose all relevant documents to the review body;

(b) the participants to the proceedings (hereinafter referred to as "participants") have the right to be heard prior to a decision of the review body being made on the challenge;

(c) the participants have the right to be represented and accompanied;

(d) the participants have access to all proceedings;

(e) the participants have the right to request that the proceedings take place in public and that witnesses may be presented; and

(f) the review body shall make its decisions or recommendations in a timely fashion, in writing, and shall include an explanation of the basis for each decision or recommendation.

7. Each Party shall adopt or maintain procedures that provide for:

(a) rapid interim measures to preserve the supplier's opportunity to participate in the procurement. Those interim measures may result in suspension of the procurement process. The procedures may provide that overriding adverse consequences for the interests concerned, including the public interest, may be taken into account when deciding whether those measures should be applied. Just cause for not acting shall be provided in

writing; and

(b) if a review body has determined that there has been a breach or a failure as referred to in paragraph 1, corrective action or compensation for the loss or damages suffered, which may be limited to either the costs for the preparation of the tender or the costs relating to the challenge, or both.

Article 11.19: Modifications to Schedules to Annex 11-A

1. A Party shall notify any proposed modification to its Schedule to Annex 11-A in writing to the other Party.

2. The notification of proposed modification must contain:

(a) for a proposed modification concerning the withdrawal of a procuring entity from its Schedule to Annex 11-A in exercise

of its rights on the grounds that government control or influence over the procuring entity's covered procurement has been effectively eliminated, evidence of that elimination; or

(b) any compensatory adjustments to be provided pursuant to paragraph 3.

3. Except as provided for in paragraph 4, a Party shall provide appropriate compensatory adjustments to maintain the level of coverage that existed prior to the modification.

4. A Party is not required to provide compensatory adjustments if the proposed modification:

(a) concerns the withdrawal of a procuring entity from the Party's Schedule to Annex 11-A in exercise of its rights on the grounds that government control or influence over the procuring entity's covered procurement has been effectively eliminated; or

(b) is minor or of a purely formal nature, such as:

(i) a change in the name of a procuring entity;

(ii) a merger of two or more procuring entities listed within a Section of a Party's Schedule to Annex 11-A;

(iii) a separation of a procuring entity listed in a Party's Schedule to Annex 11-A into two or more procuring entities that are added to the procuring entities listed in the same Section of the Annex; or

(iv) a change in references to a website relating to the procuring entity.

5. If the other Party does not agree that:

(a) a compensatory adjustment proposed under paragraph 3 maintains the level of coverage that existed prior to the modification; or

(b) the proposed modification is a modification provided for in subparagraph 4(a) or 4(b),

it shall notify the modifying Party of its objection in writing within 30 days of receipt of the notification of proposed modification referred to in paragraphs 1 and 2, or be deemed to have accepted the proposed modification, including for the purposes of Chapter 27 (Dispute Settlement).

6. The Parties shall make every attempt to resolve any objection through dialogue.

7. The Joint Committee shall adopt a modification to the Schedule to Annex 11-A in accordance with Article 26.2 (Administrative and Institutional Provisions – Functions of the Joint Committee) to reflect any agreed modification.

Article 11.20: Environmental, Social and Labour Considerations

1. The Parties recognize the role of government procurement in:

(a) advancing environmental and climate change objectives, including those set out in the Paris Agreement, done at Paris on 12 December 2015;

(b) creating opportunities for socially or economically disadvantaged persons; and

(c) promoting internationally recognized labour principles and rights, including those set out in the International Labour Organization Declaration on Fundamental Principles and Rights at Work.

2. For greater certainty, a Party, including its procuring entities, may take into account environmental, socio-economic, or labour-related considerations in the procurement process, including through conditions for participation, technical specifications or evaluation criteria, provided that those considerations are not applied in a manner that constitutes a means of arbitrary or unjustifiable discrimination between the Parties or a disguised restriction on trade between the Parties.

Article 11.21: Facilitation of Participation by Small and Medium-Sized Enterprises2

1. The Parties recognize the important contribution that small and medium-sized enterprises can make to economic growth and employment and the importance of facilitating the participation of small and medium-sized enterprises in government procurement.

2. The Parties also recognize the importance of business alliances between suppliers of a Party and in particular small and medium-sized enterprises, including joint participation in procurement procedures.

3. If a Party maintains a measure that provides preferential treatment for small and medium-sized enterprises, the Party shall ensure that the measure, including the criteria for eligibility, is transparent.

4. To assist, promote, encourage or facilitate the participation by small and medium-sized enterprises in covered procurement, each Party shall endeavour, if appropriate, and using the means available, to:

(a) ensure that information on how to participate in government procurement is readily available;

(b) make all tender documentation available free of charge;

(c) conduct procurement by electronic means, including through new information and communication technologies;

(d) consider the size, design and structure of the procurement, including subcontracting with small and medium-sized enterprises; and

(e) promote prompt payment upon satisfactory provision of the goods or services.

Article 11.22: Cooperation in Government Procurement

The Parties recognize the importance of cooperation in helping to ensure the effective implementation of this Chapter. Taking into account the available and existing instruments, resources and mechanisms, the Parties shall, to the extent possible, cooperate and exchange experiences, best practices and information, including through networks, seminars and workshops, in matters such as:

(a) the collection and reporting of statistical data;

(b) institutional strengthening for compliance with the provisions of this Chapter, including training of public officials;

(c) training and technical assistance on access to the government procurement market;

(d) sustainable procurement practices; and

(e) streamlining and simplifying procurement processes to facilitate the participation of suppliers in government procurement.

2 For greater certainty, for Ecuador small and medium-sized enterprises include the Actors of the Popular and Solidarity Economy.

Article 11.23: Committee on Government Procurement

1. The Parties hereby establish a Committee on Government Procurement, composed of government representatives of each Party. On request of a Party, the Committee shall meet to:

(a) exchange information related to the government procurement opportunities in each Party and statistical data relevant to the procurement covered by this Chapter;

(b) report to the Joint Committee on the implementation and administration of this Chapter, as appropriate;

(c) discuss and follow up on any cooperative activities;

(d) discuss any other matter related to the implementation or operation of this Chapter.

2. Each meeting shall take place, either in person or virtually, on a date, at a place (if in person) and according to an agenda as decided by the Parties.

Chapter 12. ENVIRONMENT

Article 12.1: Definitions

For the purposes of this Chapter:

environmental laws means a statute or regulation of a Party, or provision thereof, including any that implements the Party's obligations under a multilateral environmental agreement, the primary purpose of which is the protection of the environment, or the prevention of a danger to human life or health, through:

(a) the prevention, abatement or control of, the release, discharge or emission of pollutants or environmental contaminants;

(b) the control and management of environmentally hazardous or toxic chemicals, substances, materials or wastes, and the dissemination of information related thereto;

(c) the conservation of biological diversity, which includes the protection of wild flora or wild fauna, endangered species and their habitat, protected natural areas and natural ecosystems;1 or

(d) the mitigation of climate change and adaption to its effects,

but does not include a statute or regulation, or provision thereof, directly related to worker safety or health, nor any statute or regulation, or provision thereof, the primary purpose of which is managing the subsistence or aboriginal harvesting of natural resources; and

statute or regulation means:

(a) for Canada, an Act of the Parliament of Canada or regulation made under an Act of the Parliament of Canada that is enforceable by action of the central level of government; and

(b) for Ecuador, a law approved by the National Assembly or an Executive Decree of the Presidente of the Republic, promulgated as established by the Constitución de la República del Ecuador (Constitution of the Republic of Ecuador).

Article 12.2: Context and Objectives

1. The Parties recognize that a healthy environment is an integral element of sustainable development and recognize the contribution that trade makes to sustainable development.

2. The Parties recognize that the objectives of this Chapter are to:

(a) promote mutually supportive trade and environmental policies and practices;

1 For the purposes of this Chapter, the term “protected natural areas” and “natural ecosystems” means those areas as defined by the Party in its law.

(b) promote high levels of environmental protection, including the sustainable management of natural resources, considering the Parties’ respective levels of development and capacities, and effective enforcement of environmental laws; and

(c) enhance the capacities of the Parties to address trade-related environmental issues, including through cooperation, in the furtherance of sustainable development.

3. Taking into account differences in their respective levels of development, national priorities, and circumstances, the Parties recognize that enhanced cooperation to protect and conserve the environment and the sustainable use and management of their natural resources bring benefits that can contribute to sustainable development, strengthen their environmental governance, support implementation of multilateral environmental agreements to which they are a party and complement the objectives of this Agreement.

4. The Parties recognize that the environment plays an important role in the economic, social and cultural well-being of Indigenous Peoples and rural or remote communities, and acknowledge the importance of engaging with these groups in the long term conservation of the environment while taking a gender responsive and inclusive approach.

5. The Parties recognize that it is inappropriate to establish or use their environmental laws or other measures in a manner which would constitute a disguised restriction on trade or investment between the Parties.

Article 12.3: General Commitments

1. The Parties recognize the importance of mutually supportive trade and environmental policies and practices to improve environmental protection in the furtherance of sustainable development.

2. The Parties recognize the sovereign right of each Party to establish its own levels of domestic environmental protection and its own environmental priorities, and to establish, adopt or modify its environmental laws and policies accordingly.

3. Each Party shall endeavour to ensure that its environmental laws and policies provide for, and encourage, high levels of environmental protection and shall endeavour to continue to improve its respective levels of environmental protection, taking into account its level of development and capacity.

4. Each Party shall take into account relevant scientific and technical information and related international standards, guidelines or recommendations when preparing and implementing measures aimed at environmental protection that may

affect trade or investment between the Parties.

5. A Party shall not fail to effectively enforce its environmental laws through a sustained or recurring course of action or inaction2 in a manner affecting trade or investment between the Parties.3,4

6. The Parties recognize that each Party retains the right to exercise discretion and to make decisions regarding:

(a) investigatory, prosecutorial, regulatory and compliance matters; and

(b) the allocation of environmental enforcement resources with respect to other environmental laws determined to have higher priorities.

Accordingly, the Parties understand that, with respect to the enforcement of environmental laws, a Party is in compliance with paragraph 4 if a course of action or inaction reflects a reasonable exercise of that discretion, or results from a decision regarding the allocation of those resources that was taken in good faith and in accordance with the priorities of that Party to enforce environmental laws.

7. Without prejudice to paragraph 2, the Parties recognize that it is inappropriate to encourage trade or investment by weakening or reducing the protection afforded in their respective environmental laws. A Party shall not waive or otherwise derogate from, or offer to waive or otherwise derogate from, its environmental laws in a manner that weakens or reduces the protection afforded in those laws in order to encourage trade or investment between the Parties.

8. This Chapter does not authorize a Party's authorities to undertake environmental laws enforcement activities in the territory of the other Party.

Article 12.4: Public Information and Participation

1. Each Party shall promote public awareness of its environmental laws and policies, including enforcement and compliance procedures, by ensuring that relevant information is available to the public.

2. Each Party shall provide for the receipt and consideration of written questions or comments from a person of that Party regarding its implementation of this Chapter. Each Party shall respond in a timely manner to these questions or comments in writing and in accordance with its procedures, and make the questions, comments, and responses available to the public, including by publishing them on an appropriate public website.

2 For greater certainty, a "sustained or recurring course of action or inaction" is "sustained" if the course of action or inaction is consistent or ongoing, and is "recurring" if the course of action or inaction occurs periodically or repeatedly and when the occurrences are related or the same in nature. A course of action or inaction does not include an isolated instance or case.

3 For greater certainty, a "course of action or inaction" is "in a manner affecting trade or investment between the Parties" if the course involves: (i) a person or industry that produces a good or supplies a

service traded between the Parties or has an investment in the territory of the Party that has failed to comply with this obligation; or (ii) a person or industry that produces a good or supplies a service that competes in the territory of a Party with a good or a service of the other Party.

4 For the purposes of dispute settlement, a panel shall presume that a failure is in a manner affecting trade or investment between the Parties unless the responding Party demonstrates otherwise.

Article 12.5: Procedural Matters

1. Each Party shall ensure that an interested person residing or established in its territory may request that its competent authorities investigate alleged violations of its environmental laws and that the competent authorities give those requests due consideration, in accordance with its law.

2. Each Party shall ensure that judicial, quasi-judicial or administrative proceedings for the enforcement of its environmental laws are available under its law and that those proceedings are fair, equitable, transparent and comply with due process of law. Any

hearings in these proceedings shall be open to the public, except when a Party's administration of justice otherwise requires, and in accordance with its law.

3. Each Party shall ensure that a person with a recognized interest under its law in a particular matter has appropriate access to the proceedings referred to in paragraph 2.

4. Each Party shall provide appropriate sanctions or remedies for violations of its environmental laws. Those sanctions or

remedies may include a right to bring an action directly against the violator to seek damages or injunctive relief, or a right to seek governmental action.

5. Each Party shall ensure that it takes account of factors that are relevant for the determination of the sanctions or remedies referred to in paragraph 4. Those factors may include the nature and gravity of the violation, damage to the environment and any economic benefit the violator derived from the violation.

Article 12.6: Environmental Impact Assessment

Recognizing the importance of safeguarding the quality of natural resources, each Party shall maintain appropriate procedures5 to evaluate the environmental impacts of proposed projects that may cause significant environmental effects, with a view to eliminating, avoiding, minimizing, or mitigating adverse effects.

Article 12.7: Multilateral Environmental Agreements

1. The Parties recognize that multilateral environmental agreements, to which they are both party, play an important role, globally and domestically, in protecting the environment and promoting sustainable trade, and that the implementation of those agreements by each Party is critical to achieving global environmental objectives.

2. Each Party affirms its commitment to implement in its respective laws its obligations under the multilateral environmental agreements to which it is party.

5 For Canada, the term “procedures” refers to a set of actions determined by the central level of government.

3. The Parties may exchange, as appropriate, information on trade-related environmental issues of mutual interest and on their respective ratification and implementation of multilateral environmental agreements, including their protocols and amendments, to which they are both party.

4. The Parties acknowledge their right to use Article 28.1 (Exceptions and General Provisions – General Exceptions) in relation to environmental measures, including those taken pursuant to multilateral environmental agreements to which they are both party.

Article 12.8: Climate Change

1. The Parties recognize:

(a) that climate change is a growing threat that requires urgent and collective action to reduce greenhouse gas emissions in accordance with the best available science and taking into account different national circumstances;

(b) the importance of nature-based climate solutions as actions that sustainably manage, protect and restore natural and modified ecosystems, including forests and other terrestrial and marine ecosystems, and mitigate and adapt to the effects of climate change while simultaneously providing human well-being and biodiversity benefits;

(c) the important contribution of sub-central governments, women, Indigenous Peoples, rural or remote communities, as well as the private sector and other interested stakeholders, in addressing and responding to climate change;

(d) that reducing human-caused methane emissions is one of the fastest ways to decrease near term global warming and could contribute significantly to global efforts to limit warming to 1.5 degrees Celsius above pre-industrial levels; and

(e) the importance of trade-related climate measures to achieve overall green growth objectives.

2. Accordingly, each Party shall:

(a) effectively implement its obligations under the Paris Agreement; and

(b) promote the positive contribution of trade to the transition to a net zero and climate resilient economy, recognizing the importance of mutually supportive trade and climate change policies.

Article 12.9: Plastic Pollution and Circular Economy

1. The Parties recognize the importance of adopting measures to prevent and reduce pollution from plastic waste, including microplastics, in order to preserve human health and the environment.

2. Recognizing the global nature of the challenge posed by adopting measures under paragraph 1, each Party shall adopt or maintain measures to prevent, reduce, and where possible, eliminate plastic pollution and plastic waste, including microplastics.

3. The Parties affirm their commitment to promoting a circular economy that addresses plastic pollution across the full lifecycle, with the aim of minimizing waste generation, maximizing resource efficiency, and promoting sustainable consumption and production patterns.

Article 12.10: Responsible Business Conduct

1. The Parties recognize the importance of promoting corporate social responsibility and responsible business conduct.

2. Each Party shall encourage enterprises organized or constituted under its laws, or operating in its territory, to adopt and implement principles and standards of responsible business conduct and corporate social responsibility that are related to the environment, and that are consistent with internationally recognized standards and guidelines that have been endorsed or are supported by that Party to strengthen coherence between economic and environmental objectives.

Article 12.11: Voluntary Mechanisms to Enhance Environmental Performance

1. The Parties recognize that flexible, voluntary mechanisms, such as voluntary auditing and reporting, voluntary sharing of information and expertise, and public private partnerships, can contribute to the achievement and maintenance of high levels of environmental protection and complement regulatory measures. The Parties also recognize that those mechanisms should be designed in a manner that maximises their environmental benefits and avoids the creation of unnecessary barriers to trade.

2. Further to paragraph 1, each Party shall encourage, in accordance with its laws, regulations or policies:

(a) the use of flexible and voluntary mechanisms to protect natural resources and the environment in its territory; and

(b) its relevant authorities, businesses and business organizations, non-governmental organizations, and other interested persons involved in the development of criteria used to evaluate environmental performance, with respect to these voluntary mechanisms, to continue to develop and improve those criteria.

3. If private sector entities or non-governmental organizations develop voluntary mechanisms for the promotion of products based on their environmental qualities, each Party shall, in a manner consistent with its laws, regulations and policies, encourage those entities and organizations, as appropriate, to develop voluntary mechanisms that, among other things:

(a) are accurate, are not misleading and take into account scientific and technical information;

(b) if available and applicable, are based on relevant international standards, recommendations or guidelines, and best practices;

(c) promote competition and innovation; and

(d) do not treat a product less favourably on the basis of origin.

Article 12.12: Biological Diversity and Trade

1. The Parties recognize the importance of conservation and sustainable use of biological diversity, including the ecosystem services it provides. The Parties also recognize the key role that conservation and sustainable use of biodiversity plays in achieving sustainable development.

2. The Parties recognize the importance of respecting, preserving, and maintaining, in a manner consistent with their respective law, the knowledge and practices of Indigenous Peoples and rural or remote communities embodying traditional lifestyles, that contribute to the conservation and sustainable use of biological diversity.

3. The Parties recognize the importance of facilitating access to genetic resources within their respective national jurisdictions in a manner consistent with each Party's international obligations. The Parties further recognize that each Party may require, through national measures, prior informed consent to access genetic resources in accordance with those national measures and, if access is granted, the establishment of mutually agreed terms, including with respect to sharing of benefits from the use of genetic resources between users and providers.

4. The Parties recognize that the movement of terrestrial and aquatic invasive alien species across borders through trade-related pathways can adversely affect the environment, economic activities and development, and human health. The Parties also recognize that the prevention, detection, early response and management, and when possible, eradication of invasive alien species, are critical strategies to averting or mitigating those adverse effects.

5. The Parties affirm the importance of ensuring that international trade in wild fauna and flora does not affect the survival of species in the wild, and of combatting the illegal take of, 6 and illegal trade in, wild fauna and flora. Further, the Parties

acknowledge that illegal trade undermines efforts to conserve and sustainably manage wild fauna and flora, has social consequences, distorts legal trade in wild fauna and flora, and reduces the economic and environmental value of wild fauna and flora.

6. Each Party shall:

(a) promote and encourage the conservation and sustainable use of biological diversity, in accordance with its law or policy;

(b) adopt, maintain and implement laws, regulations and any other measures to fulfil its obligations under the Convention on the International Trade in Endangered Species of Wild Fauna and Flora, done at Washington, D.C. on 3 March 1973, ("CITES");7, 8, 9

(c) endeavour to implement CITES resolutions that aim to protect and conserve species whose survival is threatened by international trade;

(d) maintain or strengthen government capacity and institutional frameworks to promote the conservation of wild fauna and flora, and endeavour to enhance public participation and transparency in the institutional frameworks;

(e) adopt or maintain measures to protect and conserve wild fauna and flora that it has identified to be at risk within its territory, including measures to conserve the ecological integrity of protected natural areas such as grasslands and wetlands;

6 For the purposes of this Article, the term "take" means captured, killed, or collected and with respect to a plant, also means harvested, cut, logged or removed.

7 For the purposes of this Article, a Party's CITES obligations include existing and future amendments to which the Parties are party and any existing and future reservations or exemptions applicable to a Party.

8 To establish a violation of paragraph 6(b), a Party must demonstrate that the other Party has failed to adopt, maintain or implement laws, regulations or other measures to fulfil its obligations under CITES in a manner affecting trade or investment between the Parties.

9 If a Party considers that the other Party is failing to comply with its obligations under paragraph 6(b), it shall endeavour, in the first instance, to address the matter through a consultative or other procedure under CITES.

(f) adopt or maintain measures to combat and cooperate to prevent the trade of wild fauna and flora that, based on credible evidence,10 were taken or traded in violation of its law or another applicable law,11 the primary purpose of which is to conserve, protect, or manage wild fauna or flora;

(g) endeavour to adopt measures to combat the trade of wild fauna and flora transshipped through its territory that, based on credible evidence, were illegally taken or traded, including sanctions, penalties, or other effective measures, such as administrative measures that can act as a deterrent to that trade;

(h) endeavour to maintain or strengthen enforcement techniques to facilitate increased detection of illegal shipments containing wild fauna or flora, including parts and products thereof, at ports of entry; and

(i) treat intentional transnational trafficking of wildlife protected under its law12 as a serious crime as defined in the United Nations Convention against Transnational Organized Crime, done at New York,

on 15 November 2000.13

7. In implementing paragraphs 6(f) and 6(g), the Parties recognize that each Party:

(a) retains the right to exercise administrative, investigatory, and enforcement discretion including by taking into account in relation to each situation the strength of the available evidence and the seriousness of the suspected violation; and

(b) retains the right to make decisions regarding the allocation of administrative, investigatory and enforcement resources.

Article 12.13: Sustainable Agriculture and Trade

1. The Parties recognize the importance of:

(a) a productive, sustainable and inclusive agricultural sector in building resilient and economically sustainable communities;

10 For greater certainty, for the purposes of this paragraph, each Party shall retain the right to determine what constitutes "credible evidence".

11 For greater certainty, “another applicable law” means a law of the territory where the take or trade occurred and is only relevant to the question of whether the wild fauna and flora has been taken or traded in violation of that law.

12 For greater certainty, the term “wildlife” includes all species of wild fauna and flora, including animals, timber, and marine species, and their related parts and products. Further, for the purposes of this Article, the term “protected” means a CITES-listed species or a species that is listed under a Party’s law as endangered, threatened, or being at risk within its territory.

13 The term “serious crime” has the same meaning as that under paragraph 2(b) of the United Nations Convention against Transnational Organized Crime.

(b) improving food security by enhancing production of, access to, and availability of food;

(c) protecting and conserving land, water resources, and biodiversity;

(d) mitigating climate change; and

(e) the role of trade in pursuing these objectives.

2. The Parties recognize that sustainable agriculture objectives may be achieved through different approaches given the diversity and complexity of agricultural and food production conditions globally.

3. The Parties recognize their respective roles in promoting a sustainable agriculture sector, and commit to ensuring that their respective agricultural sustainability policies and programmes be consistent with each Party’s international trade obligations.

4. Accordingly, and consistent with its law, each Party shall ensure that their agricultural sustainability policies, programmes and other measures are non-discriminatory and are not applied in a manner that constitutes a disguised restriction on agriculture and agri-food trade.

5. Each Party shall, as appropriate:

(a) promote agricultural sustainability policies, programmes and other measures that are outcome based, and based on technical and scientific information, or recognized international guidelines and studies, as relevant; and

(b) aim to enhance the transparency of its environmental policies, programmes and other measures pertaining to agricultural production.

6. The Parties shall cooperate and exchange information and best practices, as appropriate, in the development and implementation of policies, programmes and other measures to promote the economic, social, and environmental aspects of sustainable agriculture.

Article 12.14: Sustainable Fisheries, Marine Aquaculture and Trade14

1. The Parties recognize:

(a) their role as consumers, producers and traders of marine fisheries and marine aquaculture products, and that sustainably managed fisheries and marine aquaculture operations contribute to responsible international trade, sustainable development and environmental protection;

14 For greater certainty, this Article only applies to marine fisheries and marine aquaculture.

(b) the importance of marine fisheries and marine aquaculture to the sustainable development and livelihoods of coastal communities, including those communities engaged in artisanal or Indigenous fisheries;15

(c) the importance of promoting and facilitating trade in sustainably and legally caught fish and seafood products;

(d) the importance of implementing measures to sustainably manage fisheries and marine aquaculture operations, and to conserve and protect marine ecosystems; and

(e) the need for action within international fora to address overfishing, overcapacity, illegal, unreported, and unregulated (“IUU”) fishing, and unsustainable utilization of global fisheries resources.

2. Accordingly, each Party shall:

(a) operate a marine fisheries management framework that regulates marine wild capture fishing and marine aquaculture in a manner that is consistent with relevant national and international instruments;16

(b) adopt or maintain conservation and management measures to promote the long-term conservation of fish stocks, chondrichthyans (sharks and rays), marine turtles, seabirds and marine mammals, including bycatch mitigation measures and shark finning prohibitions;

(c) adopt or maintain monitoring, control, surveillance, compliance and enforcement measures, as appropriate, to combat IUU fishing and prevent IUU products from entering trade flows;

(d) implement port state measures, consistent with the Food and Agriculture Organization ("FAO") Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing done at Rome on 22 November 2009;

(e) implement, as appropriate, catch or trade document schemes consistent with the Voluntary Guidelines for Catch Documentation Schemes adopted by the FAO Conference during its 40th Session in Rome in July 2017;

15 For the purposes of this Article, "artisanal fisheries" and "Indigenous fisheries" are as defined by each Party.

16 These instruments include, as they may apply, the United Nations Convention on the Law of the Sea, done at Montego Bay on 10 December 1982, the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, done at New York

on 4 December 1995, the FAO Code of Conduct for Responsible Fisheries adopted at Rome

on 31 October 1995, the FAO Guidelines for Sustainable Aquaculture, and the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing adopted at Rome on

2 March 2001 and endorsed by the FAO Council on 23 June 2001.

(f) participate constructively in the work of regional fisheries management organizations or arrangements of which they are members, observers, or cooperating non-contracting parties, to combat and deter IUU fishing and support sustainable fisheries, ecosystems and effective governance;

(g) strive to act consistently with relevant conservation and management measures, including, as appropriate, catch and trade documentation schemes adopted by regional fisheries management organizations or arrangements; and

(h) support efforts to enhance international rules on the provision and transparency of fisheries subsidies, including through implementation of the Agreement on Fisheries Subsidies done at Geneva on 17 June 2022, as well as future multilateral commitments within the WTO framework, and through cooperation in relevant bilateral and multilateral forums.

3. In support of the development and management of environmentally responsible marine fisheries and marine aquaculture operations, each Party shall also endeavour to act in accordance with the principles of the FAO Code of Conduct for Responsible Fisheries.

Article 12.15: Sustainable Forest Management and Trade

1. The Parties recognize the importance of conservation and the sustainable management of forests in contributing to economic, environmental, and social objectives and their benefits for present and future generations, including for Indigenous Peoples.

2. The Parties recognize the critical role of forests in providing numerous ecosystem services, including carbon storage, maintaining water quantity and quality, stabilizing soils, and providing habitat for wild fauna and flora.

3. The Parties recognize the importance of combatting illegal logging and associated trade.

4. Accordingly, each Party shall:

(a) maintain or strengthen government capacity and institutional frameworks to promote sustainable forest management; and

(b) encourage trade in forest products from sustainably managed forests harvested in accordance with the law of the country of harvest.

Article 12.16: Environmental Goods and Services

1. The Parties recognize the importance of trade and investment in environmental goods, services and clean technologies, including those that support climate change mitigation and adaptation, in a manner consistent with their respective law and in accordance with applicable international agreements.

2. Accordingly, each Party shall facilitate and promote trade and investment in environmental goods, services, and clean technologies.

3. Each Party shall identify and endeavour to address potential barriers to trade in environmental goods, services, and clean technologies, including by working through the contact points or relevant committees established under this Agreement.

Article 12.17: Cooperation

1. The Parties recognize that cooperation is an effective means to achieve the objectives and implement the obligations under this Chapter, to enhance its benefits, including gender responsive and inclusive benefits, and to strengthen each Party's capacity to protect the environment and promote sustainable development.

2. Taking account of their respective national priorities and circumstances, and available resources, the Parties shall cooperate to address matters of mutual interest in relation to the implementation of this Chapter. Each Party may involve the public, Indigenous Peoples, and interested stakeholders in the development and implementation of activities under this Article.

3. Areas of cooperation may include:

(a) climate change, including climate adaptation and mitigation; pollution prevention, such as addressing plastic pollution and waste, and chemical substances;

(b) biodiversity and combatting the illegal take of, and trade in, wild fauna and flora;

(c) sustainable forest management;

(d) sustainable marine fisheries and aquaculture;

(e) sustainable development with greater emphasis on bioeconomy and circular economy;

(f) sustainable agriculture;

(g) water resource management; and

(h) sustainable management of mining resources.

4. The Parties shall coordinate specific activities under this Article through the contact points designated under Article 12.18.

5. All activities under this Article are subject to the available resources of each Party. The Parties shall decide, on a case-by-case basis, the financing of specific activities.

Article 12.18: Institutional Provisions and Contact Points

1. Each Party shall, within 30 days of the date of entry into force of this Agreement, designate and maintain a contact point to facilitate communication between the Parties in the implementation of this Chapter, and shall notify the other Party of any change of its contact point.

2. The contact points shall:

(a) facilitate communication and coordination between the Parties on any matter regarding the implementation of this Chapter;

(b) establish an appropriate mechanism as decided by the Parties, to support the implementation of cooperative activities guided by the areas of cooperation identified in Article 12.17;

(c) on written request from the requesting Party under Article 12.19.2, establish a Consultative Body, composed of senior governmental representatives of each Party or their delegates, and maintain it for the duration of the consultations;

(d) report to the Joint Committee, upon the Joint Committee's request, regarding the implementation of the Chapter.

3. All decisions and reports of the contact points will be made by consensus, unless the contact points decide otherwise or unless otherwise provided for in this Chapter.

Article 12.19: Environment Consultations

1. The Parties shall endeavour to decide on the interpretation and application of this Chapter, and shall make every effort, including through dialogue, consultation, exchange of information and cooperation, to resolve any matter that might affect

the operation of this Chapter.

2. If a matter remains unresolved, a Party (the requesting Party) may request consultations with the other Party (the responding Party) by delivering a written request for consultations to the responding Party's contact point. The requesting Party shall set out the reasons for its request, including information that is specific and sufficient to enable the responding Party to respond.

3. Unless the Parties decide otherwise, the Parties shall enter into consultations promptly and no later than 60 days after the date of receipt of the request by the responding Party. Consultations shall take place through the Consultative Body established under Article 12.18.2 and the Parties shall make every effort to arrive at a mutually satisfactory resolution.

4. In the process of resolving the matter pursuant to paragraph 3, the Parties shall consider all available options, and may jointly decide on a course of action including, as appropriate:

(a) the development and implementation of an action plan, which may include specific steps and timelines;

(b) cooperation activities to assist the responding Party to address the matter and to strengthen its capacity to protect the environment; or

(c) seeking technical advice or assistance from independent experts, including by drafting reports or providing recommendations on the matter.

If the Parties fail to decide on a course of action under this paragraph within 180 days of the date of entering into consultations, paragraph 6 applies.

5. If the Parties resolve the matter under paragraph 3 or 4, they shall document any outcome, including, if appropriate, specific steps and timelines decided on by the Parties. The Parties shall make the outcome available to the public unless they decide otherwise.

6. If the Parties fail to resolve the matter pursuant to paragraph 4, the requesting Party may refer the matter to the relevant Ministers of the Parties by delivering a written request for ministerial consultations to the responding Party's contact point. Those ministerial consultations shall take place no later than 120 days after the date of receipt of the request.

7. Consultations shall be confidential and without prejudice to the rights of a Party in any future proceedings.

Article 12.20: Dispute Settlement

1. A Party shall not have recourse to dispute settlement under Chapter 27 (Dispute Settlement) for a matter arising under this Chapter without first seeking to resolve the matter in accordance with Article 12.19.

2. If the Parties fail to resolve a matter through ministerial consultations under Article 12.19, the requesting Party may request the establishment of a panel under Article 27.7 (Dispute Settlement – Request for the Establishment of a Panel).

3. Notwithstanding Article 27.12 (Dispute Settlement – Information and Technical Advice), in a dispute arising under Article 12.7 or Article 12.12.6, a panel established under Article 27.7 (Dispute Settlement – Request for the Establishment of a Panel) shall:

(a) seek technical advice or assistance, if appropriate, from an entity authorised under the relevant multilateral environmental agreement to address the particular matter, and provide the Parties with an opportunity to comment on any technical advice or assistance received; and

(b) provide due consideration to any interpretive guidance received under subparagraph (a) on the matter to the extent appropriate in light of its nature and status in making its findings and determinations under Article 27.13 (Dispute Settlement – Panel Reports).

Chapter 13. LABOUR

Article 13.1: Definitions

For the purposes of this Chapter:

ILO Declaration on Rights at Work means the International Labour Organization ("ILO") ILO Declaration on Fundamental Principles and Rights at Work and its Follow-Up adopted at Geneva in June 1998, as amended in 2022;

ILO Declaration on Social Justice means ILO Declaration on Social Justice for a Fair Globalization adopted at Geneva in June

2008, as updated in 2022; and

labour laws means a measure of a Party that implements or otherwise relates to the commitments and rights set out in Section B of this Chapter.

Section A: Shared Commitments

Article 13.2: General Commitments

1. The Parties affirm their obligations as members of the ILO including those stated in the ILO Declaration on Rights at Work, such as the obligation to respect, promote and realize in good faith the fundamental rights which are the subject of ILO Conventions, even if the Party has not ratified the Convention in question.

2. The Parties affirm their commitments to further the aims of the Decent Work Agenda that are enshrined in the ILO Declaration on Social Justice.

3. The Parties recognize the important role of workers' and employers' organizations in protecting internationally recognized labour rights.

Section B: Obligations1,2

Article 13.3: General Obligations

1. Each Party shall adopt and maintain in its labour laws the following internationally recognized labour principles and rights, taking into account, if applicable, its commitments under the ILO Declaration on Rights at Work:

(a) freedom of association and the effective recognition of the right to collective bargaining;3

(b) the elimination of all forms of forced or compulsory labour;

(c) the effective abolition of child labour and a prohibition on the worst forms of child labour;

(d) the elimination of discrimination in respect of employment and occupation;

(e) a safe and healthy working environment;

(f) acceptable minimum employment standards such as minimum wage, maximum hours of work and overtime pay for wage earners, including those not covered by collective agreements; and

(g) non-discrimination in respect of working conditions for migrant workers.4

2. Each Party shall effectively implement in its labour laws the fundamental ILO Conventions that it has ratified and shall endeavour to ratify the other fundamental ILO Conventions if it has not yet done so. The Parties shall exchange information on their respective situations and advances regarding the ratification of the fundamental ILO Conventions at the request of one of the Parties.

3. For the purposes of this Article:

(a) elimination of discrimination includes the elimination of discrimination based on sex, pregnancy, possibility of pregnancy, maternity, gender and gender identity, and sexual orientation;

(b) acceptable minimum employment standards include job-protected maternity and parental leave; and

1 To establish a violation of an obligation under this Section, a Party must demonstrate that the other Party has failed to meet its obligation in a matter related to trade or investment.

2 For the purposes of dispute settlement, a panel shall presume that a failure is related to trade or investment, unless the responding Party demonstrates otherwise.

3 For greater certainty, the right to freedom of association includes protection of the right to organize and the right to strike.

4 For greater certainty, non-discrimination in respect of working conditions for migrant workers means providing migrant workers in a Party's territory with the same legal protection as the Party's nationals in respect of working conditions.

(c) a safe and healthy working environment includes the prevention of occupational injuries and illnesses related to pregnancy and breastfeeding.

4. Each Party shall consider the psychological impacts of harassment and bullying in the workplace, including gender-based harassment and bullying, in the promotion of a safe and healthy working environment.

Article 13.4: Fair and Balanced Labour Laws

1. Each Party shall ensure that its labour laws provide for high labour standards and shall endeavour to continue to improve those standards.

2. Each Party shall:

(a) ensure that its labour laws promote best practices in labour relations and shall endeavour to improve those practices;

(b) ensure that its labour laws do not undermine or erode the ability of employers and workers to meaningfully bargain collectively;

(c) ensure that its labour laws do not prevent workers' organizations from negotiating collective agreements that include a requirement for workers covered by the collective agreement to pay a reasonable fee to the

workers' organization;

(d) adopt and maintain measures to prohibit and effectively deter employer interference with the organization of workers, including any exercise of undue influence, coercion or intimidation by employers and any form of retaliation against a person involved in the organization of workers;5

(e) adopt and maintain measures to ensure that workers' organizations are:

(i) representative of, and accountable to, their members; and

(ii) independent of the employer and the Party, including requirements that:

(A) leaders of workers' organizations are duly elected by the worker members they represent;

(B) workers have timely access to by-laws of the workers' organizations representing them and to collective agreements applicable to them; and

(C) workers' organizations have a duty to represent their members.

5 For greater certainty, those measures shall ensure that employees are not required, as a condition of employment or in order to avoid any employment sanction, to listen or otherwise attend to communications by the employer intended to persuade the employee not to be represented by a workers' organization.

3. A Party shall not provide special legal recognition to agreements of a collective nature between employers and workers unless those agreements are negotiated through workers' organizations that are:

(a) representative of, and accountable to, their members; and

(b) independent of the employer and the Party.

Article 13.5: Levels of Protection

1. A Party shall not weaken or reduce the protections afforded in its labour laws.

2. A Party shall not waive or otherwise derogate from, or offer to waive or otherwise derogate from, its labour laws if the waiver or derogation weakens or reduces adherence to the rights set out in this Section.

Article 13.6: Enforcement of Labour Laws

1. A Party shall not fail to effectively enforce its labour laws through a sustained or recurring course of action or inaction6 in a matter related to trade or investment after the date of entry into force of this Agreement.

2. Each Party shall ensure compliance with its labour laws through appropriate government action, including by:

(a) appointing and training inspectors;

(b) monitoring compliance and investigating suspected violations, including through on-site inspections;

(c) seeking assurances of voluntary compliance;

(d) requiring record keeping and reporting;

(e) encouraging the establishment of worker-management committees to address labour regulation of the workplace;

(f) providing or encouraging mediation, conciliation, and arbitration services;

(g) initiating, in a timely manner, proceedings to seek appropriate sanctions or remedies for violations of its labour laws; and

(h) ensuring remedies and sanctions imposed for violations of its labour laws are effective and appropriate, and implemented completely and in a timely manner, including by ensuring the timely collection of monetary penalties and the timely reinstatement of an affected worker.

6 For greater certainty, a "sustained or recurring course of action or inaction" is "sustained" if the course of action or inaction is consistent or ongoing, and is "recurring" if the course of action or inaction occurs periodically or repeatedly and when the occurrences are related or the same in nature. A course of action or inaction does not include an isolated instance or case.

Article 13.7: Forced or Compulsory Labour

1. The Parties recognize the goal of eliminating all forms of forced or compulsory labour, including forced or compulsory child labour.

2. Accordingly, each Party shall adopt or maintain laws or regulations it considers appropriate to address forced or compulsory labour, including forced or compulsory child labour, in supply chains.

Article 13.8: Violence Against Workers

1. The Parties recognize that workers and labour organizations must be able to exercise the rights set out in Article 13.3 in a climate that is free from violence, threats, and intimidation, and the imperative of governments to effectively address incidents of violence, threats and intimidation against workers.

2. Accordingly, a Party shall not fail to address violence or threats of violence against workers, directly related to exercising or attempting to exercise the rights set out in Article 13.3, in a matter related to trade or investment.7

Article 13.9: Public Awareness and Procedural Guarantees

1. Each Party shall promote public awareness of its labour laws, including by ensuring that information related to its labour laws and enforcement and compliance procedures is publicly available.

2. Each Party shall ensure that a person with a recognized interest under its law in a particular matter has appropriate access to administrative, quasi-judicial or judicial

proceedings for the enforcement of the Party's labour laws.

3. Each Party shall ensure that proceedings before administrative, quasi-judicial, or judicial bodies for the enforcement of its labour laws:

(a) are fair, equitable and transparent;

(b) are conducted by impartial decision-makers who meet appropriate guarantees of independence and impartiality, including not having an interest in the outcome of the matter;

(c) comply with due process of law;

(d) do not entail unreasonable fees or time limits, and are not subject to unwarranted delay; and

(e) are open to the public, unless the law or the administration of justice requires otherwise.

7 For purposes of dispute settlement, a panel shall presume that a failure is in a matter related to trade or investment, unless the responding Party demonstrates otherwise.

4. Each Party shall ensure that:

(a) the parties to these proceedings are entitled to support or defend their respective positions, including by presenting information or evidence; and

(b) final decisions on the merits of the case:

(i) are based on information or evidence in respect of which the parties were offered the opportunity to be heard;

(ii) state the reasons on which they are based; and

(iii) are available in writing without undue delay to the parties to the proceedings and, consistent with its law, to the public.

5. Each Party shall provide that parties to these proceedings have the right, under its law, to seek review of the decisions and, if warranted, the correction of decisions issued in these proceedings, in accordance with due process.

6. Each Party shall ensure that the parties to these proceedings have access to

remedies under its law for the effective enforcement of their rights under the Party's labour laws and that these remedies are executed in a timely manner.

7. Each Party shall provide procedures to effectively enforce the final decisions in these proceedings.

8. Each Party shall ensure that its competent authorities give due consideration, in accordance with its law, to a request by an employer, worker, or their representatives, or another interested person, to investigate an alleged violation of that Party's labour laws.

9. Each Party shall ensure that investigations into alleged violations of its labour laws:

(a) are fair, equitable and transparent;

(b) are conducted by investigators who meet appropriate guarantees of impartiality, including not having an interest in the outcome of the matter;

(c) do not entail unreasonable fees or time limits or unwarranted delay;

(d) provide a person directly affected by the alleged violation of the labour laws with a reasonable opportunity to present and respond to relevant information and evidence during the investigation; and

(e) document and communicate decisions made in the investigation and the reasons upon which they were based to a person directly affected by the alleged violation of the labour laws.

Section C: Institutional Mechanisms

Article 13.10: Labour Council

1. The Parties establish a Labour Council (the "Council") composed of senior governmental representatives at the ministerial or other level from trade and labour ministries, as designated by each Party.

2. The Council shall meet within one year of the date of entry into force of this Agreement and thereafter as often as it considers necessary to discuss matters of common interest, and to oversee the implementation of, and review progress under, this Chapter.

3. In conducting its activities, including meetings, the Council shall provide a means for receiving and considering the views of an interested person on matters related to this Chapter. If practicable, meetings must include a public session or other means for Council members to meet with the public to discuss matters relating to the implementation of this Chapter.

4. The Council may consider any matter within the scope of this Chapter and take any other action in the exercise of its functions.

5. The Council shall review the operation and effectiveness of this Chapter within five years of the date of entry into force of this Agreement and thereafter as may be decided by the Council.

Article 13.11: National Administrative Office

1. Each Party shall designate a National Administrative Office for this Chapter and shall notify the other Party of its contact details within 30 days of the date of entry into force of this Agreement.

2. Each Party shall notify the other Party promptly in the event of any change to its National Administrative Office.

3. The National Administrative Office of each Party shall serve as a point of contact with the other Party to:

(a) facilitate regular communication and coordination between the Parties, including responding to requests for information and providing sufficient information to enable a full examination of matters related to this Chapter;

(b) assist the Council;

(c) report to the Council, as appropriate;

(d) receive and independently review public submissions in accordance with Article 13.13;

(e) act as a channel for communication with the public in their respective territories; and

(f) work together, including with other appropriate agencies of their governments, to develop and implement cooperative activities, guided by the priorities of the Council, areas of cooperation identified in Article 13.14, and the needs of the Parties.

4. The National Administrative Office of a Party may develop and implement specific cooperative activities with the National Administrative Office of the other Party.

5. The National Administrative Offices of the Parties may communicate and coordinate activities in person or through electronic or other means of communication.

Article 13.12: Public Engagement

Each Party shall establish or maintain a national labour consultative or advisory body or similar mechanism, for members of its public, including representatives of its labour and business organizations, to consult with, and provide views to, on matters regarding this Chapter.

Article 13.13: Public Submissions

1. Each Party, through its National Administrative Office designated under

Article 13.11, shall provide for the receipt and consideration of written submissions from a person of a Party on matters related to this Chapter in accordance with its domestic procedures. Each Party shall make readily accessible and publicly available its procedures, including timelines, for the receipt and consideration of written submissions.

2. Each Party shall:

(a) consider matters raised by the submission and provide a timely response to the submitter, including in writing, as appropriate; and

(b) make the submission and the results of its consideration available to the other Party and the public, as appropriate, in a timely manner.

3. A Party may request from the person or organization that made the submission additional information that is necessary to consider the substance of the submission.

Article 13.14: Cooperation

1. The Parties may develop a plan of action for cooperative labour activities between the Parties to promote the objectives of this Chapter.

2. In carrying out the plan of action, the Parties may, commensurate with the availability of resources, cooperate through:

(a) seminars, training sessions, working groups and conferences;

(b) joint research projects, including sector studies; and

(c) other means to which the Parties may decide.

3. The Parties may develop cooperative activities in the following areas:

(a) information sharing: exchanging of information and sharing of best practices on issues of common interest and on relevant events, activities, and initiatives organized in their respective territories;

(b) international forums: cooperation within international and regional forums, such as the ILO, on labour-related issues;

(c) fundamental rights and their effective application: laws and regulations, and practice related to the core elements of the ILO Declaration, namely, freedom of association and the effective recognition of the right to collective bargaining, elimination of all forms of forced or compulsory labour, the effective abolition of child labour, the elimination of discrimination in respect of employment and occupation, and a safe and healthy working environment;

(d) worst forms of child labour: laws and regulations, and practice related to compliance with ILO Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, done at Geneva, 17 June 1999;

(e) forced labour or compulsory labour: laws and regulations, and practice related to addressing forced or compulsory labour, including forced or compulsory child labour in supply chains;

(f) labour administration: institutional capacity of labour administrations and administrative, quasi-judicial and judicial bodies;

(g) labour inspectorates and inspection systems: methods and training to improve the level and efficiency of labour law enforcement, strengthen labour inspection systems, and help ensure compliance with labour laws and regulations;

(h) labour relations: forms of cooperation and dispute resolution to ensure productive labour relations among workers, employers and governments;

(i) working conditions: mechanisms for supervising compliance with laws and regulations pertaining to hours of work, minimum wages and overtime, and employment conditions;

(j) occupational safety and health: prevention of occupational injuries and illnesses;

(k) union-based apprenticeship programs: creation and operation of union-based skills training programs for new and transitioning workers; and

(l) any other area that the Parties may decide.

4. The Parties may also develop cooperative activities in the following areas to further gender equity in the field of labour and employment:

(a) non-discrimination: eliminating discrimination in respect of employment and occupation including by engaging men and youth in addressing gender inequality in the workplace;

(b) pay equity: developing analytical and enforcement tools related to the realization of equal pay for work of equal value;

(c) capacity-building: building capacity and enhancing skills of women workers and union leaders;

(d) occupational health and safety: mainstreaming of gender considerations in the prevention and compensation of occupational injuries and illnesses;

(e) policies and practices: advancing care policies and programs that include a gender and shared social responsibility perspective;

(f) statistics: using gender-focused statistical indicators, methods and procedures in the field of labour; and

(g) violence: preventing workplace gender-based violence and harassment.

5. The Parties may establish cooperative arrangements with the ILO and other competent international and regional organizations to draw on their expertise and resources to achieve the objectives of this Chapter.

Article 13.15: Labour Consultations

1. The Parties shall endeavour to come to an understanding on the interpretation and application of this Chapter.

2. A Party may request consultations (requesting Party) with the other Party regarding any matter under this Chapter by delivering a written request to the National Administrative Office of the other Party. The Parties shall make every attempt, including through cooperation, consultations, and the exchange of information, to address a matter that might affect the operation of this Chapter.

3. Labour consultations shall be confidential and without prejudice to the rights of a Party in any other proceedings. The consulting Parties may decide to make the facts, timelines, and general subject-matter of the consultations publicly available.

4. If the Parties fail to resolve the matter, the requesting Party may request consultations under Article 13.16.

Article 13.16: Council Consultations

1. A Party may request (requesting Party) that the Council be convened to consider the matter in question by submitting a written request to the other Party through its National Administrative Office. The requesting Party shall notify the other

Party through its National Administrative Office. The Council shall convene no later than 30 days after the date of receipt of the request, unless the Parties decide otherwise, and shall seek to resolve the matter, including, if appropriate, by consulting independent experts and resorting to procedures such as good offices, conciliation or mediation.

2. If the Parties decide to consult independent experts, the Parties may decide to seek technical advice or assistance from those experts, including to draft a report and recommendations on the matter.

3. If the Parties resolve the matter, they shall document any outcome, including, if appropriate, specific steps and timelines that are decided by the Parties. The Parties shall make the outcome available to the public unless they decide otherwise.

4. In the process of resolving the matter pursuant to paragraph 3, the Parties shall consider all available options, and may jointly decide on a course of action they consider appropriate, including:

(a) the development and implementation of an action plan in a form that they find satisfactory, which may include specific and verifiable steps and appropriate timeframes; and

(b) appropriate incentives, such as cooperative programs and capacity building, to encourage or assist the Parties to identify and address labour matters.

5. If the Parties fail to resolve the matter within 75 days after the date of receipt of a request under paragraph 1, the requesting Party may request the establishment of a panel under Article 27.7 (Dispute Settlement – Request for the Establishment of a Panel).

6. A Party shall not have recourse to dispute settlement under Chapter 27 (Dispute Settlement) for a matter arising under this Chapter without first seeking to resolve the matter in accordance with Articles 13.15 and 13.16.

7. Council consultations shall be confidential and without prejudice to the rights of a Party in other proceedings. The Parties may make public the circumstances, timelines, and general subject of the consultations.

Chapter 14. TRANSPARENCY, ANTI-CORRUPTION AND RESPONSIBLE BUSINESS CONDUCT

Section A: Definitions

Article 14.1: Definitions

For the purposes of this Chapter:

act or refrain from acting in relation to the performance of official duties includes any use of the public official's position, whether or not within the official's authorised competence;

administrative ruling of general application means an administrative ruling or interpretation that applies to all persons and factual situations that fall generally within the ambit of that administrative ruling or interpretation and that establishes a norm of conduct, but does not include:

(a) a determination or ruling made in an administrative or quasi-judicial proceeding that applies to a particular person, good or service of the other Party in a specific case; or

(b) a ruling that adjudicates with respect to a particular act or practice.

foreign public official means any person holding a legislative, executive, administrative or judicial office of a foreign country, at any level of government, whether appointed or elected, whether permanent or temporary, whether paid or unpaid, irrespective of that

person's seniority; and any person exercising a public function for a foreign country, at any level of government, including for a public agency or public enterprise;

official of a public international organization means an international civil servant or any person who is authorised by a public international organization to act on its behalf; and

public official means:

(a) any person holding a legislative, executive, administrative or judicial office of a Party, whether appointed or elected, permanent or temporary, paid or unpaid, and irrespective of that person's seniority;

(b) any other person who performs a public function for a Party, including for a public agency or public enterprise, or provides a public service, as

defined under the Party's law and as applied in the pertinent area of that Party's law; or

(c) any other person defined as a public official under a Party's law.

Section B: Transparency

Article 14.2: Publication

1. Each Party shall ensure that its laws, regulations, procedures and administrative rulings of general application regarding any matter covered by this Agreement are promptly published or made available in a manner that enables interested persons and the other Party to become acquainted with them.

2. Each Party shall, to the extent possible:

(a) publish in advance any measure mentioned in paragraph 1 that it proposes to adopt; and

(b) provide a reasonable opportunity for interested persons and the other Party to comment on the proposed measure.

3. Unless this Agreement provides otherwise, to the extent possible, when adopting or amending the laws, regulations or procedures referred to in paragraph 1, each Party shall endeavour to provide a reasonable period between the date when those laws, regulations or procedures, proposed or final, in accordance with its legal system, are made publicly available and the date when they enter into force.

4. With respect to a proposed regulation of general application of a Party's central level of government respecting any matter covered by this Agreement that is likely to affect trade or investment between the Parties and that is published in accordance with paragraph 2(a), each Party shall:

(a) publish the proposed regulation in an official journal, or on an official website, preferably consolidated into a single online portal;

(b) endeavour to publish the proposed regulation:

(i) no less than 60 days in advance of the date on which comments are due; or

(ii) within another period in advance of the date on which comments are due that provides sufficient time for an interested person to evaluate the proposed regulation and formulate and submit comments;

(c) to the extent possible, include in the publication under subparagraph (a) an explanation of the purpose of, and rationale for, the proposed

regulation; and

(d) consider comments received during the comment period and endeavour to explain any significant modifications made to the proposed regulation, preferably in an official journal or on an official website.

5. Each Party shall, with respect to a regulation of general application adopted by its central level of government respecting any matter covered by this Agreement that is published in accordance with paragraph 1:

(a) promptly publish the regulation on one free, publicly accessible official website, or in an official journal of national circulation, preferably online and consolidated into a single portal; and

(b) if appropriate, include with the publication an explanation of the purpose of and rationale for the regulation.

Article 14.3: Notification and Provision of Information

1. A Party shall, to the extent possible, notify the other Party of any proposed or final measure that the Party considers may materially affect the operation of this Agreement, or that substantially affects the interests of the other Party pursuant to this Agreement.

2. On request of a Party, the other Party shall promptly provide information and respond to questions related to any proposed or final measure that the requesting Party considers may materially affect the operation of this Agreement, or substantially affect its interests under this Agreement, whether or not the requesting Party has been previously informed of that measure.

3. Any notification, request or information related to this Article shall be provided by the relevant Agreement Coordinator designated under Article 26.6 (Administrative and Institutional Provisions – Agreement Coordinators).

4. Any notification, answer or information provided pursuant to this Article shall be without prejudice as to whether the measure is consistent with this Agreement.

Article 14.4: Administrative Proceedings

1. With a view to administering in a consistent, impartial and reasonable manner its laws, regulations and administrative rulings of general application with respect to any matter covered by this Agreement, each Party shall ensure, in its administrative proceedings applying measures referred to in Article 14.2.1 to a particular person, good or service of the other Party in specific cases, that:

(a) if possible, a person of the other Party that is directly affected by a proceeding is provided with reasonable notice, in accordance with domestic procedures, of when a proceeding is initiated, including a description of the nature of the proceeding, a statement of the legal authority under which the proceeding is initiated and a general description of any issue in question;

(b) a person of the other Party that is directly affected by a proceeding is afforded a reasonable opportunity to present facts and arguments in

support of that person's position prior to any final administrative action, if time, the nature of the proceeding and the public interest permit; and

(c) the procedures are in accordance with its law.

Article 14.5: Review and Appeal

1. Each Party shall establish or maintain judicial, quasi-judicial or administrative tribunals or procedures for the purpose of the prompt review and, if warranted, correction of final administrative actions regarding matters covered by this Agreement. Each Party shall ensure that its tribunals are:

(a) impartial and independent of the office or authority entrusted with administrative enforcement; and

(b) that they do not have any substantial interest in the outcome of the matter.

2. Each Party shall ensure that, in any tribunals or procedures referred to in paragraph 1, the parties to the proceedings are entitled to:

(a) a reasonable opportunity to support or defend their respective positions; and

(b) a decision based on the evidence and submissions of record or, if required by that Party's law, on the record compiled by the relevant authority.

3. Each Party shall ensure, subject to appeal or further review as provided for in its law, that the decision referred to in paragraph 2(b) is implemented by, and governs the practice of, the office or authority with respect to the administrative action at issue.

Article 14.6: Cooperation on Promoting Increased Transparency

The Parties intend to cooperate in bilateral, regional and multilateral fora on ways to promote transparency in respect of international trade and investment.

Section C: Anti-Corruption

Article 14.7: Scope

1. This Section applies to measures to prevent and combat bribery and corruption with respect to any matter covered by this Agreement.

2. Each Party affirms its resolve to prevent and combat corruption and bribery in international trade and investment with the understanding that this affirmation contributes to efforts to substantially reduce corruption and bribery in all their forms.

3. The Parties recognize that the description of offences adopted or maintained in accordance with this Section, and of the applicable legal defences or legal principles controlling the lawfulness of conduct, is reserved to each Party's law, and that

those offences shall be prosecuted and punished in accordance with each Party's law.

4. Each Party affirms its adherence to the United Nations Convention against Corruption, done at New York on 31 October 2003 ("UNCAC") and the Inter-American Convention Against Corruption, done at Caracas on 29 March 1996 ("IACAC"). Canada affirms its adherence to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, done at Paris on 21 November 1997

("OECD Convention").

Article 14.8: Measures to Combat Corruption

1. Each Party shall adopt or maintain legislative and other measures as may be necessary to establish as criminal offences under its law, in matters that affect international trade or investment, if committed intentionally, by any person subject to its jurisdiction:

(a) the promise, offering or giving to a public official, directly or indirectly, of an undue advantage for the official or another person or entity, in order that the official act or refrain from acting in relation to the performance or exercise of their official duties;

(b) the solicitation or acceptance by a public official, directly or indirectly, of an undue advantage for the official or another person or entity, in order that the official act or refrain from acting in relation to the performance or exercise of their official duties;

(c) the promise, offering or giving to a foreign public official or an official of a public international organization, directly or indirectly, of an undue advantage for the official or another person or entity, in order that the official act or refrain from acting in relation to the performance of or the exercise of official duties, in order to obtain or retain business or other undue advantage in relation to the conduct of international business; and

(d) the aiding or abetting, or conspiracy in the commission of any of the offences described in subparagraphs (a) through (c).

2. Each Party shall adopt or maintain legislative and other measures as may be necessary to establish as a criminal offense under its law, in matters that affect international trade or investment, when committed intentionally, by a person subject to its jurisdiction, the embezzlement, misappropriation or another diversion by a public official for their benefit or for the benefit of another person or entity, of property, public or private funds or securities, or any other thing of value entrusted to the public official by virtue of their position.

3. Each Party shall make the commission of an offence described in paragraphs 1, 2 or 6 liable to sanctions that take into account the gravity of that offence.

4. Each Party shall adopt or maintain measures as may be necessary, consistent with its legal principles, to establish the liability of legal persons for offences described in paragraphs 1 and 6. In particular, each Party shall ensure that there are measures that provide for legal persons held liable for offences described in paragraphs 1 or 6 to be subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions.

5. Each Party shall disallow the tax deductibility of expenses that constitute bribes under subparagraphs 1(a), (b) and (c) and, if appropriate, other expenses incurred in furtherance of corrupt conduct.

6. In order to prevent corruption, each Party shall adopt or maintain measures as may be necessary, in accordance with its laws and regulations, regarding the maintenance of books and records, financial statement disclosures and accounting and auditing standards, to prohibit the following acts carried out for the purpose of committing any of the offences described in paragraph 1:

(a) the establishment of off-the-books accounts;

(b) the making of off-the-books or inadequately identified transactions;

(c) the recording of non-existent expenditure;

(d) the entry of liabilities with incorrect identification of their objects;

(e) the use of false documents; and

(f) the intentional destruction of bookkeeping documents earlier than foreseen by the law.

7. Each Party shall consider adopting or maintaining measures to protect, against any unjustified treatment, any person who, in good faith and on reasonable grounds, reports to the competent authorities any facts concerning offences

described in paragraphs 1, 2 or 6.

Article 14.9: Cooperation in International Fora

The Parties recognize the importance of regional and multilateral initiatives to prevent and combat bribery and corruption in international trade and investment. The Parties commit to work together to advance efforts in regional and multilateral fora to prevent and combat bribery and corruption in international trade and investment, including by encouraging and supporting appropriate initiatives.

Article 14.10: Promoting Integrity among Public Officials

1. To fight corruption in matters that affect trade and investment, each Party shall promote, among other things, integrity, honesty and responsibility among its public officials. To this end, each Party shall, in accordance with the fundamental principles of its legal system, adopt or maintain:

(a) measures to provide adequate procedures for the selection and training of natural persons for public positions considered by the Party to be especially vulnerable to corruption;

(b) measures to promote transparency in the behaviour of public officials in the exercise of public functions;

(c) policies and procedures to identify and manage actual or potential conflicts of interest of public officials;

(d) measures that require senior public officials and other public officials as determined by the Party to make declarations to appropriate authorities regarding, among other things, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials; and

(e) measures to facilitate reporting by public officials of any facts concerning offences described in Article 14.8.1, Article 14.8.2 or Article 14.8.6 to appropriate authorities, if those facts come to their notice in the performance of their functions.

2. Each Party shall adopt or maintain codes or standards of conduct for the correct, honourable and proper performance of public functions, and measures providing for disciplinary or other measures, if warranted, against public officials who violate the codes or standards established or maintained in accordance with this paragraph.

3. Each Party shall, to the extent consistent with the fundamental principles of its legal system, consider establishing procedures through which a public official accused of an offence described under Article 14.8.1 may, if considered appropriate by that Party, be removed, suspended or reassigned by the appropriate authority, bearing in mind respect for the principle of the presumption of innocence.

4. Each Party shall, in accordance with the fundamental principles of its legal system and without prejudice to judicial independence, adopt or maintain measures to strengthen integrity, and to prevent opportunities for corruption, among members of the judiciary in matters that affect international trade or investment. These measures may include rules with respect to the conduct of members of the judiciary.

Article 14.11: Participation of Private Sector and Society

1. Each Party shall take appropriate measures, within its means and in accordance with fundamental principles of its legal system, to promote the active participation and safety of individuals and groups outside the public sector, such as enterprises, civil society, non-governmental organizations, women's organizations and community-based organizations, in the prevention of and the fight against corruption in matters affecting international trade or investment, and to raise public awareness regarding the existence, causes and gravity of, and the threat posed by, corruption. To this end, a Party may, for example:

(a) undertake inclusive public information activities and inclusive public education programs that contribute to non-tolerance of corruption;

(b) adopt or maintain measures to encourage professional associations and other non-governmental organizations, if appropriate, in their efforts to encourage and assist enterprises, in particular small and medium-sized enterprises, in developing internal controls, ethics and compliance programs or measures for preventing and detecting bribery and corruption in international trade and investment;

(c) adopt or maintain measures to encourage company management to make statements in their annual reports or otherwise publicly disclose their internal controls, ethics and compliance programs or measures, including those that contribute to preventing and detecting bribery and corruption in international trade and investment; or

(d) adopt or maintain measures that respect, promote and protect the freedom to seek, receive, publish and disseminate

information concerning corruption.

2. Each Party shall endeavour to encourage private enterprises, taking into account their structure and size, to:

(a) adopt or maintain sufficient internal auditing controls to assist in preventing and detecting offences described in Article 14.8.1 or

Article 14.8.6 in matters affecting international trade or investment; and

(b) ensure that their accounts and required financial statements are subject to appropriate auditing and certification procedures.

3. Each Party shall take appropriate measures to ensure that its relevant anti-corruption bodies are known to the public and shall provide access to those bodies, if appropriate, for the reporting, including anonymously, of any incident that may be considered to constitute an offence described in Article 14.8.1.

4. The Parties recognize the benefits of internal compliance programs in enterprises to combat corruption. In this regard, each Party shall encourage enterprises, taking into account their size, legal structure, capacities, resources, and the sectors in which they operate, to establish compliance programs for the purpose of preventing and detecting offences described in Article 14.8.1 or Article 14.8.6.

Article 14.12: Application and Enforcement of Anti-Corruption Laws

1. In accordance with the fundamental principles of its legal system, a Party shall not fail to enforce its laws or other measures adopted or maintained to comply with

Article 14.8 through a sustained or recurring course of action or inaction, after the date of entry into force of this Agreement, as an encouragement for trade and investment. The Parties recognize that individual cases or specific discretionary decisions related to the enforcement of anti-corruption laws are subject to each Party's laws and legal procedures.

2. In accordance with the fundamental principles of its legal system, each Party retains the right for its law enforcement, prosecutorial and judicial authorities to exercise discretion with respect to the enforcement of its anti-corruption laws. Each Party retains the right to take decisions with regard to the allocation of its resources.

3. The Parties shall continue their cooperation under applicable international agreements and arrangements, in a manner consistent with their respective legal and administrative systems, to enhance the effectiveness of law enforcement actions to combat the offences described in Article 14.8.

Article 14.13: Relation to Other Agreements

This Agreement does not affect the rights and obligations of the Parties under UNCAC, the United Nations Convention against Transnational Organized Crime, done at New York on 15 November 2000, or the IACAC, and to the extent that they are a party, the OECD Convention.

Article 14.14: Dispute Settlement

1. A Party may only have recourse to this Article and dispute settlement under Chapter 27 (Dispute Settlement) if it considers that a measure of the other Party is inconsistent with an obligation under this Section, or that the other Party has otherwise failed to carry out an obligation under this Section, in a manner affecting trade or investment between the Parties.

2. A Party shall not have recourse to this Article or dispute settlement under Chapter 27 (Dispute Settlement) for a matter arising under Article 14.12.

3. The Parties shall endeavour to agree on the interpretation and application of this Section, and shall make every effort, including through dialogue, consultation, exchange of information and cooperation, to resolve any matter that might affect the operation of this Section.

4. A Party (the requesting Party) may request consultations with the other Party (the responding Party) by delivering a written request for consultations to the Agreement Coordinator designated under Article 26.6 (Administrative and Institutional

Provisions – Agreement Coordinators). The requesting Party shall include in its request information that is specific and sufficient to enable the responding Party to respond.

5. Unless the Parties decide otherwise, the Parties shall enter into consultations within 90 days of the date of receipt by the responding Party of the request referred to in paragraph 4. These consultations shall take place through the Joint Committee and the Parties shall make every effort to arrive at a mutually satisfactory resolution.

6. With respect to the consultations referred to in paragraph 4, each Party shall provide sufficient information that is reasonably available to it to the other Party to enable a full examination of the matter.

7. All consultations, unless otherwise decided by the Parties, shall be confidential.

8. A Party shall not have recourse to dispute settlement under Chapter 27 (Dispute Settlement) for a matter arising under this Section without first seeking to resolve the matter in accordance with this Article.

Section D: Responsible Business Conduct

Article 14.15: Responsible Business Conduct

1. Each Party recognizes the importance of responsible business conduct and commits to collaborate with relevant stakeholders to develop, adopt, promote, strengthen and implement policies that support a responsible business environment.

2. Each Party recognizes the contribution of responsible business conduct in promoting competitive markets, and achieving inclusive economic growth, gender equality and sustainable development.

3. Each Party recognizes the importance of encouraging enterprises to publicly disclose timely and accurate information on the actual or potential adverse impacts of their activities on people and the environment, with particular consideration for proactive engagement with marginalized groups in order to mitigate or prevent any adverse impacts on them.

4. Each Party affirms that enterprises operating within its jurisdiction are required to comply with all applicable laws, including laws concerning human rights, the rights of Indigenous Peoples, gender equality, environmental protection and labour.

5. Each Party shall encourage enterprises organized or constituted under its laws or operating in its territory to incorporate into their business practices and internal policies the internationally recognized standards, guidelines and principles of responsible business conduct that have been endorsed or are supported by that Party, including the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, as amended, or the United Nations Guiding Principles on Business and Human Rights, as amended. These standards, guidelines and principles may address issues such as labour, the environment, gender equality, human rights and corruption.

6. Canada shall provide, on an annual basis, a report on its activities to encourage any enterprise organized or constituted under its laws that is operating in Ecuador to observe principles of responsible business conduct.

Chapter 15. INVESTMENT

Section A. Definitions

Article 15.1. Definitions

For the purpose of this Chapter:

claimant means an investor of a Party that makes a claim under Article 15.23;

covered investment means, with respect to a Party, an investment:

(a) in its territory;

(b) made in accordance with the applicable domestic law of the Party at the time the investment is made;

(c) directly or indirectly owned or controlled by an investor of the other Party; and

(d) existing on the date of entry into force of this Agreement, or made or acquired thereafter;

designated appointing authority means the Secretary-General of the Permanent Court of Arbitration (1) established by the Conventions for the Pacific Settlement of International Disputes, done at The Hague, 29 July 1899 and 18 October 1907;

(1) For greater certainty, the participation of the Secretary-General of the Permanent Court of Arbitration in proceedings under this Chapter does not entail the adoption of investor-State dispute settlement mechanisms other than the one established by this Chapter.

disputing parties means the claimant and the respondent Party;

disputing party means either the claimant or the respondent Party;

enterprise means an enterprise as defined in Article 1.7 (Initial Provisions and General Definitions – General Definitions) and a branch of an enterprise;

intellectual property rights means copyright and related rights, trademark rights, rights in geographical indications, rights in industrial designs, patent rights, rights in layout designs of integrated circuits, rights in relation to protection of undisclosed information, and plant breeders' rights;

investment means every kind of asset that an investor owns or controls, and that has the characteristics of an investment, including such characteristics as the commitment of capital or other resources, the expectation of gain or profit, or the assumption of risk.

Forms that an investment may take include:

(a) an enterprise;

(b) a share, stock and other form of equity participation in an enterprise;

(c) a bond, debenture or other debt instrument of an enterprise, and a loan to an enterprise; (2)

(2) Some forms of debt, such as bonds, debentures, and long-term notes, are more likely to have the characteristics of an investment, while other forms of debt, such as claims to payment that are immediately due, are less likely to have those characteristics.

(d) a turnkey, construction, management, production, concession, revenue-sharing or other similar contract;

(e) intellectual property rights; and

(f) any other tangible or intangible, moveable or immovable, property and related property rights acquired in the expectation of or used for the purpose of economic benefit or other business purpose;

but investment does not mean:

(g) a claim to money that arises solely from:

(i) a commercial contract for the sale of a good or service by a national or enterprise in the territory of a Party to an enterprise in the territory of the other Party; or

(ii) the extension of credit in connection with a commercial transaction, such as trade financing;

(h) an order or judgment in a judicial or administrative action; or

(i) any other claim to money that does not involve the kinds of interests set out in subparagraphs (a) to (f);

investor of a Party means a Party, or a national or an enterprise of a Party, that seeks to make, (3) is making or has made an investment. For the purpose of this definition, enterprise of a Party means:

(3) For greater certainty, the Parties understand that, for the purposes of the definition of "investor of a Party", an investor "seeks to make" an investment when that investor has taken concrete action to make an investment, such as channelling resources or capital in order to set up a business, or applying for a permit or license.

(a) an enterprise that is constituted or organized under the law of that Party and that has substantial business activities in the territory of that Party. A determination of whether an enterprise has substantial business activities in the territory of a Party requires a case-by-case, fact-based inquiry; or

(b) an enterprise that is constituted or organized under the law of that Party, and is directly or indirectly owned or controlled by a national of that Party or by an enterprise mentioned under subparagraph (a);

national means a national as defined in Article 1.8 (Initial Provisions and General Definitions – Country-Specific Definitions), except that:

(a) a natural person who is a dual citizen of Canada and Ecuador shall be deemed to be exclusively a national of the Party of their dominant and effective nationality; and

(b) a natural person who is a citizen of one Party and a permanent resident of the other Party shall be deemed to be exclusively a national of the Party of their citizenship;

New York Convention means the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York, 10 June 1958;

non-disputing Party means a Party that is not a disputing party to an investment dispute;

respondent Party means a Party against which a claim is made under Article15.23;

third-party funding means any funding or other equivalent support provided by a person who is not a disputing party in order to finance part or all of the cost of the proceedings including through a donation or grant, or in return for remuneration dependent on the outcome of the dispute;

Tribunal means an arbitration tribunal established under Section D or Section E;

UNCITRAL Transparency Rules means the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration.

Section B. Investment Protections

Article 15.2. Scope

1. This Chapter applies to a measure adopted or maintained by a Party relating to:

(a) an investor of the other Party;

(b) a covered investment; and

(c) with respect to Article 15.5, Article 15.12, and Article 15.15, an investment in its territory.

2. A Party's obligations under this Chapter apply to measures adopted or maintained by:

(a) the central level of government, the regional level of government or other governments of that Party; and

(b) any person, including a state enterprise or any other body, when it exercises any governmental authority delegated to it by the central level of government, the regional level of government or other governments of that Party.

3. This Chapter does not bind a Party in relation to an act or fact that took place or a situation that ceased to exist before the date of entry into force of this Agreement.

Article 15.3. Relation to other Chapters

1. In the event of any inconsistency between this Chapter and another Chapter of this Agreement, the other Chapter prevails to the extent of the inconsistency.

2. A requirement of a Party that a service supplier of the other Party post a bond or other form of financial security as a condition for the cross-border supply of a service does not of itself make this Chapter applicable to measures adopted or maintained by the Party relating to the cross-border supply of the service. This Chapter applies to measures adopted or maintained by the Party relating to the posted bond or financial security, to the extent that the bond or financial security is a covered investment.

3. This Chapter does not apply to a measure adopted or maintained by a Party to the extent that it is covered by Chapter 18 (Financial Services).

4. Article 16.5 (Cross-Border Trade in Services – Market Access) (4) is incorporated into and made part of this Chapter and applies to measures adopted or maintained by a Party relating to the supply of a service in its territory by a covered investment.

(4) It is understood by the Parties that any reservation taken by a Party pursuant to Article 16.7 (Cross-Border Trade in Services – Non-Conforming Measures) against Article 16.5 (Cross-Border Trade in Services – Market Access) applies to measures of that Party covered under paragraph 4.

Article 15.4. Right to Regulate

The Parties reaffirm the right of each Party to regulate within its territory to achieve legitimate policy objectives, such as with respect to: the protection of the environment and addressing climate change; social or consumer protection; or the promotion and protection of health, safety, rights of Indigenous Peoples, gender equality, and cultural diversity.

Article 15.5. Non-Derogation

The Parties recognize that it is not appropriate to encourage investment by relaxing domestic measures relating to health, safety, the environment, other regulatory objectives, or the rights of Indigenous Peoples. Accordingly, a Party shall not relax, waive or otherwise derogate from, or offer to relax, waive or otherwise derogate from, these measures in order to encourage the establishment, acquisition, expansion or retention of an investment in its territory. If a Party considers that the other Party has offered such an encouragement, it may request consultations with the other Party and the two Parties shall consult with a view to avoiding the encouragement.

Article 15.6. National Treatment

1. Each Party shall accord to an investor of the other Party treatment no less favourable than that it accords, in like circumstances, to its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments in its territory.

2. Each Party shall accord to a covered investment treatment no less favourable than that it accords, in like circumstances, to investments of its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments in its territory.

3. The treatment accorded by a Party under paragraphs 1 and 2 means, with respect to a government other than at the central level, treatment accorded, in like circumstances, by that government to investors, and to investments of investors, of the Party of which it forms a part.

4. Whether treatment is accorded in like circumstances depends on the totality of the circumstances, including whether the relevant treatment distinguishes between investors or investments on the basis of legitimate policy objectives.

5. Paragraphs 1 and 2 prohibit discrimination based on nationality. A difference in treatment accorded to an investor or covered investment and a Party's own investors or investments of its own investors does not, in and of itself, establish discrimination based on nationality.

Article 15.7. Most-Favoured-Nation Treatment

1. Each Party shall accord to an investor of the other Party treatment no less favourable than that it accords, in like circumstances, to investors of a non-Party with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments in its territory.

2. Each Party shall accord to a covered investment treatment no less favourable than that it accords, in like circumstances, to investments of investors of a non-Party with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments in its territory.

3. The treatment accorded by a Party under paragraphs 1 and 2 means, with respect to a government other than at the central level, treatment accorded, in like circumstances, by that government to investors, and to investments of investors, of a non-party.

4. Whether treatment is accorded in like circumstances depends on the totality of the circumstances, including whether the relevant treatment distinguishes between investors or investments on the basis of legitimate policy objectives.

5. Paragraphs 1 and 2 prohibit discrimination based on nationality. A difference in treatment accorded to an investor or covered investment and a non-party's investors or investments of a non-Party's investors does not, in and of itself, establish discrimination based on nationality.

6. The treatment referred to in paragraphs 1 and 2 does not include procedures for the resolution of investment disputes between investors and states provided for in other international investment treaties and other trade agreements.

7. Substantive obligations in other international investment treaties and other trade agreements do not in themselves constitute treatment, and thus cannot give rise to a breach of this Article, absent measures adopted or maintained by a Party pursuant to those obligations.

Article 15.8. Treatment In Case of Armed Conflict, Civil Strife or Natural Disaster

1. Notwithstanding Article 15.18.5(b), each Party shall accord to an investor of the other Party and to a covered investment treatment no less favourable than it accords to its own investors or their investments, or to the investors or the investments of investors of a non-party, whichever is more favourable to the investors or investments concerned, with respect to measures it adopts or maintains relating to restitution, indemnification, compensation or other settlement for losses incurred by investments in its territory as a result of armed conflict, civil strife or a natural disaster.

2. Notwithstanding paragraph 1, if an investor of a Party, in a situation referred to in paragraph 1, suffers a loss in the territory of the other Party resulting from:

(a) requisitioning of its covered investment or part thereof by the latter's forces or authorities; or

(b) destruction of its covered investment or part thereof by the latter's forces or authorities, which was not required by the necessity of the situation;

the latter Party shall provide the investor restitution, compensation or both, as appropriate, for that loss.

3. Paragraph 1 does not apply to an existing subsidy or grant provided by a Party, including a government-supported loan, guarantee or insurance that would be inconsistent with Article 15.6 but for Article 15.18.5(b).

Article 15.9. Minimum Standard of Treatment

1. Each Party shall accord in its territory to a covered investment and to an investor with respect to their covered investment treatment in accordance with the customary international law minimum standard of treatment of aliens. A Party breaches this obligation only if a measure constitutes:

(a) denial of justice in criminal, civil or administrative proceedings;

(b) fundamental breach of due process in judicial and administrative proceedings;

(c) manifest arbitrariness; (5)

(5) A measure is manifestly arbitrary when it is evident that the measure is not rationally connected to a legitimate policy objective, such as when a measure is based on prejudice or bias rather than on reason or fact.

(d) targeted discrimination on manifestly wrongful grounds such as gender, race or religious beliefs;

(e) abusive treatment of investors, such as physical coercion, duress and harassment; or

(f) a failure to provide full protection and security. (6)

(6) For greater certainty, full protection and security refers only to the physical security of an investor and their covered investment.

2. A determination that there has been a breach of another provision of this Agreement, or of a separate international agreement, does not establish that there has been a breach of this Article.

3. The fact that a measure breaches domestic law does not establish a breach of this Article.

Article 15.10. Expropriation

1. A Party shall not expropriate a covered investment either directly or indirectly, except:

(a) for a public purpose; (7)

(7) The Parties recognize that the meaning of “public purpose” may apply differently for the purposes of an Indigenous government.

(b) in accordance with due process of law;

(c) in a non-discriminatory manner; and

(d) on payment of compensation in accordance with paragraph 5.

2. A direct expropriation under paragraph 1 occurs only when a covered investment is taken by a Party through formal transfer of title or outright seizure.

3. An indirect expropriation under paragraph 1 may occur when a measure or a series of measures of a Party has an effect equivalent to direct expropriation without formal transfer of title or outright seizure. A non-discriminatory measure of a Party that is adopted and maintained in good faith to protect legitimate public welfare objectives, such as health, safety and the environment, does not constitute an expropriation. The determination of whether a measure or a series of measures of a Party has an effect equivalent to direct expropriation requires a case-by-case, fact-based inquiry that shall consider:

(a) the economic impact of the measure or the series of measures, although the sole fact that a measure or a series of measures of a Party has an adverse effect on the economic value of a covered investment does not establish that an indirect expropriation has occurred;

(b) the duration of the measure or series of measures of a Party;

(c) the extent to which the measure or the series of measures interferes with distinct, reasonable investment-backed expectations; and

(d) the character of the measure or the series of measures.

4. A measure of a Party cannot violate this Article unless it expropriates a covered investment that is a tangible or intangible property right under the domestic law of the Party in which the investment was made. This determination requires the consideration of relevant factors, such as the nature and scope of the tangible or intangible property right under the applicable domestic law of the Party in which the investment was made.

5. The compensation referred to in paragraph 1 shall:

(a) be paid without delay in a freely convertible currency;

(b) be equivalent to the fair market value of the expropriated investment immediately before the expropriation took place (date of expropriation). Appropriate valuation criteria include going concern value, asset value including the declared tax value of tangible property, and other criteria, which may be appropriate or relevant under the circumstances, to determine fair market value;

(c) not reflect any change in value occurring because the intended expropriation had become known earlier;

(d) include interest at a commercially reasonable rate for that currency from the date of the expropriation until the date of payment; and

(e) be freely transferable.

6. A measure of a Party that would otherwise constitute an expropriation of an intellectual property right under this Article does not constitute a breach of this Article if it is consistent with the TRIPS Agreement and any waiver or amendment of the TRIPS Agreement accepted by both Parties.

Article 15.11. Transfer of Funds

1. Each Party shall permit all transfers of funds relating to a covered investment to be made freely, and without delay, into and out of its territory. Those transfers include:

(a) contributions to capital;

(b) profits, dividends, interest, capital gains, royalty payments, management fees, technical assistance and other fees;

(c) proceeds from the sale or liquidation of the whole or part of the covered investment;

(d) payments made under a contract entered into by the investor or the covered investment, including payments made

pursuant to a loan agreement;

(e) payments made under Article 15.8 and Article 15.10;

(f) earnings and other remuneration of foreign personnel working in connection with the covered investment; and

(g) payments arising out of a dispute.

2. Each Party shall permit transfers of funds relating to a covered investment to be made in a freely convertible currency at the market rate of exchange in effect at the time of transfer.

3. Each Party shall permit transfers of returns in kind relating to a covered investment to be made as authorized or specified in a written agreement between the Party and an investor of the other Party or a covered investment.

4. A Party shall not require its investors to transfer, or penalize one of its investors for failing to transfer the income, earnings, profits or other amounts derived from, or attributable to, an investment in the territory of the other Party.

5. Notwithstanding paragraphs 1, 2, 3 and 4, a Party may prevent or limit a transfer through the equitable, non-discriminatory and good faith application of its domestic law relating to:

(a) bankruptcy, insolvency or the protection of the rights of a creditor;

(b) issuing, trading or dealing in securities, including futures, options or derivatives;

(c) criminal or penal offences;

(d) financial reporting or record keeping of transfers, if necessary to assist law enforcement or financial regulatory authorities;

(e) ensuring compliance with an order or judgment in judicial or administrative proceedings; or

(f) social security, public retirement or compulsory savings programmes.

6. Notwithstanding paragraph 3, a Party may restrict transfers of returns in kind in circumstances in which it could otherwise restrict those transfers under the WTO Agreement and as set out in paragraph 5.

Article 15.12. Performance Requirements

1. A Party shall not, in connection with the establishment, acquisition, expansion, management, conduct, operation, or sale or other disposition of an investment in its territory, impose or enforce a requirement, or enforce a commitment or undertaking:

(a) to export a given level or percentage of a good or service;

(b) to achieve a given level or percentage of domestic content;

(c) to purchase, use, or accord a preference to a good produced or service provided in its territory, or to purchase a good or service from a person in its territory;

(d) to relate the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with that investment;

(e) to restrict sales of a good or service in its territory that the investment produces or provides by relating those sales to the volume or value of its exports or foreign exchange earnings;

(f) to transfer technology, a production process, source code of software, or other proprietary knowledge to a person in its territory;

(g) (i) to purchase, use, or accord a preference to, in its territory, technology of the Party or of a person of the Party, (8) or

(8) For the purposes of this Article, the term “technology of the Party or of a person of the Party” includes technology that is owned by the Party or a person of the Party, and technology for which the Party or a person of the Party holds an exclusive license.

(ii) that prevents the purchase or use of, or the according of a preference to, in its territory, a technology; or

(h) to supply exclusively from the territory of the Party a good that the investment produces or a service it provides to a specific regional market or to the world market.

2. A Party shall not condition the receipt or continued receipt of an advantage, in connection with the establishment, acquisition, expansion, management, conduct, operation, or sale or other disposition of an investment in its territory, on compliance with a requirement:

(a) to achieve a given level or percentage of domestic content;

(b) to purchase, use, or accord a preference to a good produced in its territory, or to purchase a good from a producer in its territory;

(c) to relate the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with that investment; or

(d) to restrict sales of a good or service in its territory that the investment produces or provides by relating those sales to the volume or value of its exports or foreign exchange earnings.

3. The provisions of:

(a) paragraph 2 do not prevent a Party from conditioning the receipt or continued receipt of an advantage, in connection with any investments, on compliance with a requirement to locate production, provide a service, train or employ workers, construct or expand particular facilities, or carry out research and development in its territory;

(b) paragraphs 1(a), 1(b) 1(c), 2(a) and 2(b) do not apply to a qualification requirement for a good or service with respect to export promotion and foreign aid programs;

(c) paragraphs 1(b), 1(c), 1(f), 1(g), 1(h), 2(a) and 2(b) do not apply to procurement by a Party;

(d) paragraphs 2(a) and 2(b) do not apply to a requirement imposed by an importing Party relating to the content of a good necessary to qualify for a preferential tariff or preferential quota;

(e) paragraphs 1(f) and 1(g) do not apply:

(i) if a Party authorizes use of an intellectual property right in accordance with Article 31 (9) of the TRIPS Agreement, or to a measure requiring the disclosure of proprietary information that falls within the scope of, and is consistent with, Article 39 of the TRIPS Agreement, or

(9) The reference to “Article 31” includes any waiver or amendment to the TRIPS Agreement implementing paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health (WT/MIN(01)/DEC/2).

(ii) if the requirement is imposed or the requirement, commitment, or undertaking is enforced by a court, administrative tribunal or competition authority to remedy an alleged violation of domestic competition law;

(f) paragraphs 1(b), 1(c), 1(f), 1(g), 2(a) and 2(b) shall not prevent a Party from adopting or maintaining a measure to achieve a legitimate policy objective, provided that the measure:

(i) is not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade, and

(ii) does not impose restrictions greater than are required to achieve the objective;

(g) paragraph 1(f) do not preclude a regulatory body or judicial authority of a Party from requiring a person of the other Party to preserve and make available the source code of software, or an algorithm expressed in that source code, to the regulatory body for a specific investigation, inspection, examination, enforcement action, or judicial proceeding (10), subject to safeguards against unauthorized disclosure.

(10) This disclosure shall not be construed to negatively affect the software source code’s status as a trade secret, if that status is claimed by the trade secret owner.

Article 15.13. Senior Management and Boards of Directors

1. A Party shall not require that an enterprise of that Party that is a covered investment appoint to a senior management position an individual of any particular nationality.

2. A Party may require that up to a majority of the board of directors, or a committee thereof, of an enterprise of that Party that is a covered investment be of a particular nationality or resident in the territory of the Party, provided that the requirement does not materially impair the ability of the investor to exercise control over its investment.

3. A Party should encourage enterprises to consider greater diversity in senior management positions or on boards of directors, which may include a requirement to nominate women.

Article 15.14. Subrogation

If a Party or an agency of a Party makes a payment to one of its investors under a guarantee or a contract of insurance, or other form of indemnity it has entered into in respect of a covered investment:

(a) the other Party in whose territory the covered investment was made shall recognize the validity of the subrogation or transfer of any rights the investor would have possessed with respect to the covered investment but for the subrogation or transfer. The subrogated or transferred right or claim shall not be greater than the investor's original right or claim; and

(b) the investor shall be precluded from pursuing these rights to the extent of the subrogation or transfer, unless a Party or an agency of a Party authorizes the investor to act on its behalf.

Article 15.15. Responsible Business Conduct

1. The Parties reaffirm that investors and their investments shall comply with domestic laws and regulations of the host state, including laws and regulations on human rights, the rights of Indigenous Peoples, gender equality, environmental protection and labour.

2. Each Party reaffirms the importance of internationally recognized standards, guidelines and principles of responsible business conduct that have been endorsed or are supported by that Party, including the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct and the United Nations Guiding Principles on Business and Human Rights, and shall encourage investors and enterprises operating within its territory or subject to its jurisdiction to voluntarily incorporate these standards, guidelines and principles into their business practices and internal policies. These standards, guidelines and principles address areas such as labour, environment, gender equality, human rights, community relations and anti-corruption.

3. Each Party should encourage investors and enterprises operating within its territory to undertake and maintain meaningful engagement and dialogue, in accordance with international responsible business conduct standards, guidelines and principles that have been endorsed or are supported by that Party, with Indigenous Peoples and local communities.

Article 15.16. Denial of Benefits

A Party may, within a reasonable time and no later than its counter-memorial in an arbitration under this Chapter, deny the benefits of this Chapter to an investor of the other Party that is an enterprise of that Party and to an investment of that investor if:

(a) an investor of a non-party owns or controls the enterprise; and

(b) the denying Party adopts or maintains a measure with respect to the non-party or investors of the non-party that prohibits transactions with the enterprise or would be violated or circumvented if the benefits of this Chapter were accorded to the enterprise or to its investment.

Article 15.17. Special Formalities and Information Requirements

1. Article 15.6 does not prevent a Party from adopting or maintaining any measure that prescribes special formalities in connection with covered investments, such as a requirement that investors be residents of the Party, that an investor register or otherwise notify the appropriate authorities of its covered investment, or that covered investments be legally constituted under the laws or regulations of the Party, provided that these formalities do not materially impair the protection afforded by a Party to investors of the other Party and covered investments pursuant to this Chapter.

2. Notwithstanding Articles 15.6 and 15.7, a Party may require an investor of the other Party or a covered investment to

provide information concerning that investment solely for informational or statistical purposes. The Party shall protect such information that is confidential from any disclosure that would prejudice the competitive position of the investor or the covered investment. This paragraph does not prevent a Party from obtaining or disclosing information in connection with the equitable and good faith application of its law.

Section C. Reservations, Exceptions, Exclusions

Article 15.18. Non-Conforming Measures

1. Article 15.6, Article 15.7, Article 15.12 and Article 15.13 do not apply to:

(a) any existing non-conforming measure maintained in the territory of a Party:

(i) at the central level of government, as set out by that Party in its Schedule to Annex I;

(ii) at the regional level of government, as set out by that Party in its Schedule to Annex I; or

(iii) by a government other than the central or regional levels;

(b) the continuation or prompt renewal of any non-conforming measure referred to in subparagraph (a); or

(c) an amendment to any non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Article 15.6, Article 15.7, Article 15.12 and Article 15.13.

2. Article 15.6, Article 15.7, Article 15.12 and Article 15.13 do not apply to a measure that a Party adopts or maintains with respect to sectors, subsectors or activities, as set out in its schedule to Annex II.

3. A Party shall not, under any measure adopted after the date of entry into force of this Agreement and covered by its Schedule to Annex II, require an investor of the other Party, by reason of its nationality, to sell or otherwise dispose of an investment existing at the time the measure becomes effective.

4. Article 15.6 and Article 15.7 do not apply to a measure that relates to the protection of intellectual property rights (11) that is consistent with:

(11) For the purpose of this paragraph, “protection of intellectual property rights” includes matters affecting the availability, acquisition, scope, maintenance, use, and enforcement of intellectual property rights.

(a) the TRIPS Agreement, and any amendment thereto that is in force for both Parties; or

(b) any waiver to the TRIPS Agreement that is in force pursuant to the WTO Agreement.

5. Article 15.6, Article 15.7 and Article 15.13 do not apply to:

(a) procurement by a Party; or

(b) a subsidy or grant provided by a Party, including a government-supported loan, guarantee or insurance.

Article 15.19. Article 15.19: Exclusions

1. Section D and Section E do not apply to the matters set out in Annex 15-A.

2. A Party shall not have recourse to dispute settlement under Chapter 27 (Dispute Settlement) for a matter arising under Annex 15-A.

Section D. Investor-State Dispute Settlement

Article 15.20. Scope and Purpose

1. Without prejudice to the rights and obligations of the Parties under Chapter 27 (Dispute Settlement), the Parties establish in this Section a mechanism for the settlement of investment disputes.

2. Under this Section, an investor of a Party may submit a claim that the other Party has breached an obligation under

Section B, other than Article 15.3.4, Article 15.5, Article 15.12, Article 15.13.3 or Article 15.15.

Article 15.21. Request for Consultations

1. In the event of an investment dispute under this Agreement, an investor of a Party shall seek to resolve the dispute through consultations, which may include the use of non-binding, third-party procedures, such as good offices, conciliation or mediation.

2. An investor of a Party shall deliver to the other Party a written request for consultations, which shall specify:

(a) whether the investor intends to claim under Article 15.23.1 or 15.23.2;

(b) the name and address of the investor and evidence to establish that the investor is an investor of the other Party;

(c) the investment at issue and evidence to establish that the investor owns or controls the investment, including, if the investment is an enterprise, the name, address, and place of incorporation of the enterprise;

(d) for each claim:

(i) the provision of this Agreement alleged to have been breached, and

(ii) the factual basis for the alleged breach, including the measure at issue; and

(e) the relief sought and the approximate amount of damages claimed.

3. An investor of a Party may, when submitting a request for consultations, propose to hold the consultations by videoconference, telephone or similar means of communication as appropriate. The other Party should give sympathetic consideration to that request, in particular if the investor is a micro, small, or medium-sized enterprise.

4. The request for consultations shall be submitted to the other Party under this Article no later than:

(a) three years from the date on which the investor or, as applicable, the enterprise referred to in Article 15.23.2, first acquired or should have first acquired knowledge of the alleged breach and knowledge that the investor or, as applicable, the enterprise, has incurred loss or damage by reason of, or arising out of, that breach; or

(b) if the investor or, as applicable, the enterprise, has initiated a claim or proceeding before an administrative tribunal or court under the law of a Party with respect to the measure at issue in the investor's request for consultations delivered pursuant to paragraph 2, two years after:

(i) the investor or, as applicable, the enterprise, ceases to pursue that claim; or

(ii) when that proceeding has otherwise ended;

provided that it is no later than seven years after the date on which the investor or, as applicable, the enterprise, first acquired or should have first acquired knowledge of the alleged breach and knowledge that the investor or, as applicable, the enterprise, has incurred loss or damage by reason of, or arising out of, that breach.

5. Neither a continuing breach nor the occurrence of similar or related acts or omissions may renew or interrupt the periods set out in paragraphs 4(a) and 4(b).

6. Unless otherwise agreed, consultations shall be held within 90 days of the delivery of the request for consultations pursuant to paragraph 2.

7. Unless otherwise agreed, the place of consultations shall be the capital city of the respondent Party.

8. If the investor has not submitted a claim under Article 15.23 within one year of the delivery of the request for consultations, the investor is deemed to have withdrawn its request for consultations and shall not submit a claim under this Section with respect to the same measure. This period may be extended by agreement between the investor of a Party and the other Party.

Article 15.22. Mediation

The disputing parties may at any time agree to have recourse to mediation. A respondent Party shall give sympathetic consideration to a request for mediation made by a micro, small, or medium-sized enterprise. Recourse to mediation is without prejudice to the legal position or rights of the disputing parties under this Section and is governed by the rules

agreed to by the disputing parties, including any applicable rules for mediation adopted by the Joint Committee. If the disputing parties agree to have recourse to mediation, Article 15.21.4 and 15.21.7 and all timelines pursuant to an arbitration under this section are suspended from the date on which the disputing parties agreed to have recourse to mediation, and shall resume on the date on which either disputing party decides to terminate the mediation. A decision by a disputing party to terminate the mediation shall be transmitted by way of letter to the mediator and the other disputing party.

Article 15.23. Submission of a Claim to Arbitration

1. An investor of a Party may make a claim that the other Party has breached an obligation in accordance with Article 15.20 (12), and that the investor has incurred loss or damage by reason of, or arising out of, that breach, only if:

(12) For greater certainty, the scope of a claim under this Article is strictly confined to Article 15.20 and thereby excludes the settlement of contractual or commercial disputes not governed by this Chapter.

(a) the investor has fulfilled the requirements of Article 15.21;

(b) 180 days have elapsed since the receipt by the other Party of a request for consultations under Article 15.21;

(c) the claim relates to measures identified in the investor's request for consultations under Article 15.21;

(d) the investor consents to dispute settlement in accordance with the procedures set out in this Agreement; and

(e) the investor and, if the claim is for loss or damage to an interest in an enterprise of the other Party that is a juridical person that the investor owns or controls directly or indirectly, the enterprise, waives its right to initiate or continue before any administrative tribunal or court under the law of any Party, or other dispute settlement procedure, any proceeding with respect to the measure of the other Party that is alleged to be a breach referred to in Article 15.21.2, except for a proceeding for injunctive, declaratory or other extraordinary relief, not involving the payment of damages, before an administrative tribunal or court under the law of the other Party.

2. An investor of a Party, on behalf of an enterprise of the other Party that is a juridical person that the investor owns or controls directly or indirectly, may make a claim that the other Party has breached an obligation in accordance with Article 15.20, and that the enterprise has incurred loss or damage by reason of, or arising out of, that breach, only if:

(a) the investor has fulfilled the requirements of Article 15.21;

(b) 180 days have elapsed since the receipt by the other Party of a request for consultations under Article 15.21;

(c) the claim relates to measures identified in the investor's request for consultations under Article 15.21;

(d) the investor consents to dispute settlement in accordance with the procedures set out in this Agreement; and

(e) both the investor and the enterprise waive their right to initiate or continue before an administrative tribunal or court under the law of any Party, or other dispute settlement procedure, any proceeding with respect to the measure of the other Party that is alleged to be a breach referred to in Article 15.21.2, except for a proceeding for injunctive, declaratory or other extraordinary relief, not involving the payment of damages, before an administrative tribunal or court under the law of the other Party.

3. A consent and waiver required by this Article shall be in writing, shall be delivered to the respondent Party, and shall be included in the submission of a claim to arbitration.

4. Notwithstanding paragraph 3, a waiver from the enterprise under paragraph 1(e) or 2(e) is not required if the other Party has deprived the investor of control of the enterprise.

5. If an investor of a Party makes a claim under paragraph 2 and the investor or a non-controlling investor in the enterprise makes a claim under paragraph 1 arising out of the same events or circumstances, and two or more of the claims are submitted to dispute settlement under this Article, the claims should be heard together by a Tribunal constituted under Article 15.29, unless the Tribunal finds that the interests of a disputing party would be prejudiced thereby.

6. A claim submitted to arbitration under this Article shall be governed by the provisions of this Chapter, including the procedures set out in Annex 15-B.

7. An investor of a Party may, when submitting a claim under this Article, propose that a sole member of a Tribunal should

hear the claim. The respondent Party may give sympathetic consideration to that request, in particular if the investor is a micro, small, or medium-sized enterprise or the compensation or damages claimed are relatively low.

8. A claim is submitted to arbitration under this Article when the notice of arbitration is received by the respondent Party.

Article 15.24. Consent to Arbitration

1. Each Party consents to the submission of a claim to arbitration under this Section in accordance with the provisions of this Agreement, including the requirements of Article 15.21 and Article 15.23.

2. The consent under paragraph 1 and the submission of a claim to arbitration under Article 15.23 shall satisfy the requirement of Article II of the New York Convention for an “agreement in writing”.

Article 15.25. Discontinuance

If the claimant fails to take a step in the proceeding within 180 days of the submission of a claim to arbitration under Article 15.23, or any other time period as agreed to by the disputing parties, the claimant is deemed to have withdrawn its claim and to have discontinued the proceeding. The Tribunal, if constituted, shall, at the request of the respondent Party, and after notice to the disputing parties, in an order take note of the discontinuance. After the order has been rendered, the authority of the Tribunal shall cease.

Article 15.26. Arbitrators

1. Except in respect of a Tribunal established under Article 15.29, and unless the disputing parties agree otherwise, the Tribunal shall be composed of three arbitrators. Each disputing party shall appoint one arbitrator, and the third arbitrator, who will be the presiding arbitrator, shall be appointed by agreement of, or pursuant to an appointment process agreed to by, the disputing parties. The disputing parties are encouraged to consider greater diversity in arbitrator appointments, including through the appointment of women.

2. A national of a Party shall not be appointed as an arbitrator in proceedings arising under this Chapter.

3. Arbitrators should have expertise or experience in public international law, international investment law or international trade law, or dispute resolution arising under international investment or international trade agreements.

4. Arbitrators shall be independent of, and not be affiliated with or take instructions from, a Party or the disputing investor.

5. If the disputing parties do not agree on the remuneration of the arbitrators before the Tribunal is constituted, the rate shall be set by the designated appointing authority.

6. If a Tribunal, other than a Tribunal established under Article 15.29, has not been constituted within 90 days of the submission of a claim to arbitration, a disputing party may ask the designated appointing authority to appoint the arbitrator or arbitrators not yet appointed. In accordance with this Article, the designated appointing authority shall make the appointment at their own discretion and, to the extent practicable, shall make this appointment in consultation with the disputing parties.

7. Arbitrators shall abide by Annex 15-C.

Article 15.27. Applicable Law and Interpretation

1. A Tribunal constituted under this Section shall apply this Agreement as interpreted in accordance with the Vienna Convention on the Law of Treaties, done at Vienna, 23 May 1969, and other rules and principles of international law applicable between the Parties.

2. If serious concerns arise as regards matters of interpretation, the Joint Committee may adopt an interpretation of this Agreement. An interpretation adopted by the Joint Committee shall be binding on a Tribunal.

3. A Tribunal has no jurisdiction to determine the legality of a measure, alleged to constitute a breach of this Agreement, under the domestic law of a Party. In determining the consistency of a measure with this Agreement, the Tribunal may consider, as appropriate, the domestic law of a Party as a matter of fact. In doing so, the Tribunal shall follow the prevailing interpretation given to the domestic law by the courts or authorities of that Party. Any meaning given to domestic law by the Tribunal is not binding on the courts or authorities of that Party.

4. If an investor of a Party submits a claim to arbitration under Article 15.23, including a claim that a Party breached Article 15.9, the investor has the burden of proving all elements of its claim, consistent with the general principles of international law applicable to international arbitration.

Article 15.28. Preliminary Objections

1. Without prejudice to a Tribunal's authority to address other questions as a preliminary objection, a Tribunal shall address and decide as a preliminary question an objection by the respondent Party that, as a matter of law, a claim submitted is not a claim for which an award in favour of the investor may be made under this Agreement, including that a dispute is not within the competence of the Tribunal, or that a claim is manifestly without legal merit.

2. An objection under paragraph 1 shall be submitted to the Tribunal within 60 days of constitution of the Tribunal. The Tribunal shall suspend any proceeding on the merits and issue a decision or award on the objection, stating the grounds therefore, within

180 days of the objection. However, if a disputing party requests a hearing, the Tribunal may take an additional 30 days to issue the decision or award. Regardless of whether a disputing party requests a hearing, a Tribunal may, on a showing of extraordinary cause, delay issuing its decision or award by an additional brief period, which may not exceed 30 days.

3. When deciding an objection under paragraph 1, the Tribunal shall assume to be true the factual allegations in the claim to arbitration under Article 15.23, or any amendment to that claim. The Tribunal may also consider relevant facts not in dispute.

4. Whether or not the respondent Party raises an objection under paragraph 1 concerning the competence of the Tribunal, the respondent Party shall have the right to raise, and the Tribunal the authority to address and decide, a question pertaining to its competence in the course of the proceedings.

5. The provisions on costs in Article 15.35 apply to decisions or awards issued under this Article.

Article 15.29. Consolidation

1. If two or more claims have been submitted separately to arbitration under Article 15.23 and the claims have a question of law or fact in common and arise out of the same events or circumstances, a disputing party may seek a consolidation order in accordance with the agreement of all the disputing parties sought to be covered by the order or in accordance with the terms of paragraphs 2 through 10.

2. A disputing party that seeks a consolidation order under this Article shall deliver, in writing, a request to the designated appointing authority to establish a Tribunal and shall specify in the request:

(a) the name of the respondent Party, or the investors, against which the order is sought;

(b) the nature of the order sought; and

(c) the grounds for the order sought.

3. The disputing party shall deliver a copy of the request to the respondent Party, or the investors, against which the order is sought.

4. Unless the disputing parties sought to be covered by the order agree to a different appointment process, the designated appointing authority shall, within 60 days of receiving the request, establish a Tribunal composed of three arbitrators in accordance with the qualifications under Article 15.26.

5. A Tribunal established under this Article shall conduct its proceedings in accordance with the provisions of this Agreement, including the procedures set out in Annex 15-B.

6. If a Tribunal established under this Article is satisfied that the claims submitted to arbitration under Article 15.23 have a question of law or fact in common, the Tribunal may, in the interest of fair and efficient resolution of the claims and after hearing the disputing parties, by order:

(a) assume jurisdiction over, and hear and determine together, all or part of the claims; or

(b) assume jurisdiction over, and hear and determine one or more of the claims, the determination of which it believes would assist in resolving the other claims.

7. If a Tribunal has been established under this Article, an investor that has submitted a claim to arbitration under Article 15.23 and that has not been named in a request made under paragraph 2 may make a written request to the Tribunal that it be included in an order made under paragraph 6. The request shall specify:

(a) the name and address of the investor;

(b) the nature of the order sought; and

(c) the grounds on which the order is sought.

8. An investor referred to in paragraph 7 shall deliver a copy of its request to the disputing parties named in a request under paragraph 1.

9. A Tribunal established under Article 15.23 does not have jurisdiction to decide a claim, or a part of a claim, over which a Tribunal established under this Article has assumed jurisdiction.

10. On application of a disputing party, a Tribunal established under this Article, pending its decision under paragraph 6, may order that the proceedings of a Tribunal established under Article 15.23 be stayed unless the latter Tribunal has already adjourned its proceedings.

Article 15.30. Seat of Arbitration

The disputing parties may agree on the seat of arbitration under the arbitration rules applicable under Article 15.23 or Article 15.29. If the disputing parties fail to agree, the Tribunal shall determine the seat of arbitration, provided that the legal seat of arbitration shall be in the territory of a State that is a party to the New York Convention. (13)

(13) For greater certainty, the determination of the seat of arbitration does not entail the adoption of investor-State dispute settlement mechanisms other than the one established by this Chapter.

Article 15.31. Transparency of Proceedings

1. The UNCITRAL Transparency Rules, as modified by this Agreement, apply in connection with proceedings under this Section.

2. The agreement to mediate, the notice of intent to challenge a member of the Tribunal, the decision on challenge to a member of the Tribunal, and the request for consolidation shall be included in the list of documents to be made available to the public under Article 3(1) of the UNCITRAL Transparency Rules.

3. Exhibits shall be included in the list of documents to be made available to the public under Article 3(2) of the UNCITRAL Transparency Rules.

4. Prior to the constitution of the Tribunal, the respondent Party shall make publicly available in a timely manner relevant documents pursuant to paragraph 2, subject to the redaction of confidential information. That documentation may be made publicly available by communication to the repository referred to in paragraph 9.

5. A disputing party may disclose to other persons in connection with the proceedings, including witnesses and experts, unredacted documents that it considers necessary to disclose in the course of proceedings under this Section. However, the disputing party shall ensure that those persons protect the confidential information in those documents as directed by the Tribunal.

6. A Party may disclose to government officials and officials of a government other than at the central level, if applicable, unredacted documents that it considers necessary to disclose in the course of proceedings under this Section. However, that Party shall ensure that those persons protect the confidential information in those documents as directed by the Tribunal.

7. Hearings shall be open to the public. The Tribunal shall determine, in consultation with the disputing parties, the appropriate logistical arrangements to facilitate public access to the hearings. If the Tribunal determines that there is a need to protect confidential information, it shall make the appropriate arrangements to hold in private that part of the hearing requiring that protection.

8. This Agreement does not require a respondent Party to withhold from the public information required to be disclosed by the respondent Party's law. To the extent that a Tribunal's confidentiality order designates information as confidential and a

Party's law on access to information requires public access to that information, the Party's law on access to information shall prevail. The respondent Party should apply its law in a manner sensitive to protecting from disclosure information that has been designated as confidential information.

9. The administering authority of a dispute under this Section shall be the repository of information published pursuant to this Article.

Article 15.32. Participation of the Non-Disputing Party

1. The UNCITRAL Transparency Rules apply with respect to the participation of a non-disputing Party in proceedings under this Section, except as modified by this Agreement.

2. The respondent Party shall deliver to the non-disputing Party:

(a) a claim submitted pursuant to Article 15.23, a request for consolidation, and any document that is appended to those documents;

(b) on request:

(i) a request for consultations;

(ii) pleadings, memorials, briefs, requests, and other submissions made to the Tribunal by a disputing party;

(iii) written submissions made to the Tribunal pursuant to Article 4 of the UNCITRAL Transparency Rules;

(iv) minutes or transcripts of hearings of the Tribunal, if available;

(v) orders, awards, and decisions of the Tribunal; and

(c) on request and at the cost of the non-disputing Party, all or part of the evidence that has been tendered to the Tribunal, unless the requested evidence is publicly available.

3. The non-disputing Party receiving materials pursuant to paragraph 2 shall treat the information as if it were the respondent Party.

4. The Tribunal shall accept or, after consultation with the disputing parties, may invite, oral or written submissions from the non-disputing Party regarding the interpretation of this Agreement. The non-disputing Party may attend a hearing held under this Section.

5. The Tribunal shall not draw any inference from the absence of a submission pursuant to paragraph 4.

6. The Tribunal shall ensure that the disputing parties are given a reasonable opportunity to present their observations on a submission by the non-disputing Party.

Article 15.33. Expert Reports

The Tribunal may, at the request of a disputing party or, unless the disputing parties disapprove, on its own initiative, appoint one or more experts to report to it in writing on any factual issue, including the rights of Indigenous Peoples or scientific matters raised by a disputing party in a proceeding, subject to any terms and conditions agreed on by the disputing parties.

Article 15.34. Interim Measures of Protection

1. A Tribunal may order an interim measure of protection to preserve the rights of a disputing party or to ensure that the Tribunal's jurisdiction is made fully effective, including an order to preserve evidence in the possession or control of a disputing party or to protect the Tribunal's jurisdiction. A Tribunal shall not order attachment or enjoin the application of the measure alleged to constitute a breach referred to in Article 15.23. For the purposes of this paragraph, an order includes a recommendation.

2. At the request of a disputing party, the Tribunal may order the claimant to provide security for all or part of the costs, if there are reasonable grounds to believe that there is a risk the claimant may not be able to honour a potential costs award against it. In considering that request, the Tribunal may take into account evidence of third-party funding. If the security for costs is not posted in full within 30 days of the Tribunal's order, or within any other time period set by the Tribunal, the Tribunal shall so inform the disputing parties and may order the suspension or termination of the proceedings.

Article 15.35. Final Award

1. If a Tribunal makes a final award against the respondent Party, in respect of its finding of liability, the Tribunal may award, separately or in combination, only:

(a) monetary damages and any applicable interest; and

(b) restitution of property, in which case the award shall provide that the respondent Party may pay monetary damages and any applicable interest in lieu of restitution.

2. Subject to paragraph 1, if a claim is made under Article 15.23.2:

(a) an award of monetary damages and any applicable interest shall provide that the sum be paid to the enterprise;

(b) an award of restitution of property shall provide that restitution be made to the enterprise;

(c) an award of costs in favour of the investor shall provide that the sum be paid to the investor; and

(d) the award shall provide that it is made without prejudice to a right that a person, other than a person which has provided a waiver pursuant to Article 15.23, may have in monetary damages or property awarded under a Party's domestic law.

3. The Tribunal shall make an order with respect to the costs of the arbitration, which shall in principle be borne by the unsuccessful disputing party or parties. In determining the appropriate apportionment of costs, the Tribunal shall consider all relevant circumstances, including:

(a) the outcome of any part of the proceeding, including the number or extent of the successful parts of the claims or defences;

(b) the disputing parties' conduct during the proceeding, including the extent to which they acted in an expeditious and cost-effective manner;

(c) the complexity of the issues; and

(d) the reasonableness of the costs claimed.

4. The Tribunal and the disputing parties shall make every effort to ensure the dispute settlement process is carried out in a timely manner. The Tribunal shall issue its final award within 12 months of the final date of the hearing on the merits. A Tribunal may, with good cause and notice to the disputing parties, delay issuing its final award by an additional brief period.

5. Monetary damages in an award:

(a) shall not be greater than the loss or damage incurred by the investor, or, as applicable, by the enterprise referred to in Article 15.23.2, as valued on the date of the breach; (14)

(14) In the case of a breach of Article 15.10, the valuation of the loss or damage incurred by the investor, or, as applicable, by the enterprise referred to in Article 15.23.2, as valued on the date of the breach, shall be made in accordance with Article 15.10.5.

(b) shall only reflect loss or damage incurred by reason of, or arising out of, the breach; and

(c) shall be determined with reasonable certainty, and shall not be speculative or hypothetical.

6. In making an award under paragraph 5, the Tribunal shall calculate monetary damages based only on the submissions of the disputing parties, and shall consider, as applicable:

(a) contributory fault, whether deliberate or negligent;

(b) failure to mitigate damages;

(c) prior damages or compensation received for the same loss; or

(d) restitution of property, or repeal or modification of the measure.

7. The Tribunal may award monetary damages for lost future profits only insofar as those damages satisfy the requirements under paragraph 5. This determination requires a case-by-case, fact-based inquiry that takes into consideration, among

other factors, whether a covered investment has been in operation in the territory of the respondent Party for a sufficient period of time to establish a performance record of profitability.

8. The Tribunal may award pre-award and post-award interest at a reasonable rate of return compounded annually.

9. The Tribunal shall not award punitive damages.

10. The Tribunal shall not award monetary damages under Article 15.23.1 for loss or damage incurred by the investment.

Article 15.36. Finality and Enforcement of an Award

1. An award made by a Tribunal has no binding force except between the disputing parties and in respect of that particular case.

2. Subject to paragraph 3 and the applicable review procedure for an interim award, a disputing party shall abide by and comply with an award without delay.

3. A disputing party shall not seek enforcement of a final award until:

(a) 90 days have elapsed from the date the award was rendered and no disputing party has commenced a proceeding to revise, to set aside or to annul the award; or

(b) a court has dismissed or allowed an application to revise, set aside, or annul the award, and there is no further appeal.

4. Each Party shall provide for the enforcement of an award in its territory.

5. If a respondent Party fails to abide by or comply with a final award, the Joint Committee, on delivery of a request by a Party whose investor was a disputing party to the arbitration, shall establish a panel under Article 27.7 (Dispute Settlement – Request for the Establishment of a Panel). The requesting Party may seek in those proceedings:

(a) a determination that the failure to abide by or comply with the final award is inconsistent with the obligations of this Agreement; and

(b) a recommendation that the Party abide by or comply with the final award.

6. A claim submitted to arbitration under Article 15.23 shall be considered to arise out of a commercial relationship or transaction for the purposes of Article I of the New York Convention.

Article 15.37. Third-Party Funding

1. A claimant benefiting from a third-party funding arrangement shall disclose to the respondent Party and to the Tribunal the name and address of the third-party funder.

2. The claimant shall make the disclosure under paragraph 1 at the time of the submission of a claim to arbitration under Article 15.23, or, if the third-party funding is arranged after the submission of a claim, within ten days of the date on which the third-party funding was arranged.

3. The claimant shall have a continuing obligation to disclose any changes to the information referred to in paragraph 1 occurring after its initial disclosure, including termination of the third-party funding arrangement.

Article 15.38. Service of Documents

Each Party shall promptly make publicly available, and notify the other Party by diplomatic note, the location for delivery of notice and other documents, including any subsequent change to the location for delivery. Investors shall ensure that service of documents to a Party is made to the appropriate location.

Article 15.39. Receipts Under Insurance or Guarantee Contracts

In an arbitration under this Section, a respondent Party may not assert as a defence, counterclaim, right of set-off, or otherwise, that the claimant has received or will receive, under an insurance or guarantee contract, indemnification or other compensation for all or part of its alleged damages.

Article 15.40. Establishment of a First Instance Investment Tribunal or an Appellate

Mechanism for Investor-State Dispute Settlement

If an investor-state dispute settlement mechanism, consisting of a first instance investment tribunal or an appellate mechanism, is developed under other institutional arrangements and is open to the Parties for acceptance, the Parties shall consider whether, and to what extent, a dispute under this Section should be decided pursuant to that investor-state dispute settlement mechanism.

Article 15.41. Committee on Investment

1. The Parties hereby establish a Committee on Investment composed of representatives from each Party responsible for matters falling under the scope of this Chapter.

2. The Committee on Investment shall provide a forum for the Parties to consult on issues relating to this Chapter, including:

(a) difficulties which may arise in the implementation of this Chapter; and

(b) possible improvements of this Chapter, in particular in the light of experience and developments in other international fora and under the Parties' other agreements.

3. The Committee on Investment may, after completion of any internal requirements and procedures that may be applicable to each Party:

(a) recommend to the Joint Committee the adoption of interpretations pursuant to Article 15.27.2;

(b) recommend to the Joint Committee that the dispute settlement rules and procedures set out in this Chapter and Annex 15-B, as well as the applicable rules on transparency, be amended in accordance with the procedure set out in Article 29.2 (Final Provisions – Amendments); and

(c) take any other action as the Parties may decide.

4. The Committee on Investment shall meet, in person or by any other technological means available, within one year after the entry into force of this Agreement, and thereafter at the request of a Party.

Section E. Expedited Arbitration

Article 15.42. Consent to Expedited Arbitration

1. The disputing parties to an arbitration under Section D may consent to expedite the arbitration in accordance with this Section, when the damages claimed do not exceed CAD 10 million, by following the procedure in paragraph 2.

2. The disputing parties shall jointly notify the designated appointing authority in writing of their consent to an expedited arbitration in accordance with this Section. The notice must be received within 20 days of the submission of a claim to arbitration under Article 15.23.6(a) or (b).

3. Section D and Annex 15-B, as modified by this Section, apply to the investment dispute, except for Article 15.28, which does not apply.

Article 15.43. Mediation

1. The disputing parties may consent to have recourse to mediation in accordance with this Section. Recourse to mediation is without prejudice to the legal position or rights of a disputing party under this Section.

2. If the disputing parties jointly agree to have recourse to mediation, the disputing parties shall appoint a mediator to facilitate the resolution of the dispute within 20 days of the notification provided under Article 15.42.2.

3. If the disputing parties do not select a mediator within the time period provided for in paragraph 2, the designated appointing authority shall select the mediator within 20 days of the expiration of that time period.

4. The disputing parties may hold mediation sessions by videoconference, telephone or similar means of communication as appropriate.

5. If the disputing parties fail to reach a resolution of the dispute within 60 days of the appointment of the mediator, the dispute shall proceed to arbitration in accordance with this Section.

Article 15.44. Constitution of the Tribunal

1. The Tribunal in an expedited arbitration shall consist of a sole arbitrator appointed pursuant to paragraphs 2 to 7 of this Article.

2. The disputing parties shall jointly appoint the sole arbitrator within 30 days of the notification delivered under Article 15.42.2. The sole arbitrator shall have the qualifications under Article 15.26.

3. If the disputing parties do not appoint the sole arbitrator within the time period under paragraph 2, the designated appointing authority shall appoint the sole arbitrator in the manner specified in Rule 3(2) of Annex 15-B.

4. The sole arbitrator shall have expertise or experience as an arbitrator of investor-State disputes arising under international investment agreements.

5. The sole arbitrator shall be prepared to meet the shorter timeframes provided for in this Section.

6. The sole arbitrator's fees shall be fixed according to the scales of administrative expenses and arbitrator's fees for the expedited procedure set out in Appendix III of the Arbitration Rules of the International Chamber of Commerce.

7. The sole arbitrator shall abide by Annex 15-C.

Article 15.45. First Session In Expedited Arbitration

1. The sole arbitrator shall hold a first session within 30 days of the constitution of the Tribunal under Article 15.44.

2. The sole arbitrator shall hold the first session by videoconference, telephone or similar means of communication, unless both disputing parties and the sole arbitrator agree it shall be held in person.

Article 15.46. Procedural Schedule for Expedited Arbitration

1. The following schedule for written submissions and the hearing shall apply in the expedited arbitration:

(a) the claimant shall file, within 90 days of the first session, a memorial, of no more than 150 pages;

(b) the respondent Party shall file, within 90 days of the claimant's filing of its memorial pursuant to subparagraph (a), a counter-memorial, of no more than 150 pages;

(c) the claimant shall file, within 90 days of the respondent Party's filing of its counter-memorial pursuant to subparagraph (b), a reply of no more than 100 pages;

(d) the respondent Party shall file, within 90 days of the claimant's filing of the reply pursuant to subparagraph (c), a rejoinder of no more than 100 pages;

(e) a non-disputing Party may file, within 60 days of the respondent Party's filing of the rejoinder pursuant to subparagraph (d), a written submission regarding the interpretation of this Agreement pursuant to Article 15.32;

(f) the sole arbitrator shall hold the hearing within 120 days of the respondent Party's filing of the rejoinder pursuant to subparagraph (d);

(g) each disputing party shall file a statement of costs within 30 days of the last day of the hearing referred to in subparagraph (f); and

(h) the sole arbitrator shall render the award as soon as possible, and in any event within 180 days of the last day of the hearing referred to in subparagraph (f).

2. The sole arbitrator may grant a claimant in default a grace period not exceeding 30 days, otherwise the claimant is deemed to have withdrawn its claim and to have discontinued the proceedings. The sole arbitrator, if appointed, shall, at the request of the respondent Party, and after notice to the disputing parties, in an order take note of the discontinuance. After the order has been rendered, the authority of the Tribunal shall cease.

3. The sole arbitrator may grant a respondent Party in default a grace period not exceeding 30 days, otherwise the claimant may request that the sole arbitrator address the questions submitted to it and render an award.

4. At the request of a disputing party, the sole arbitrator may grant limited requests for specifically identifiable documents

that the requesting disputing party knows, or has good cause to believe, exist and are in the possession, custody or control of the other disputing party, and shall adjust the schedule under paragraph 1 as appropriate.

5. The sole arbitrator may, after consulting the disputing parties, limit the number, length, or scope of written submissions or written witness evidence (both fact witnesses and experts).

6. The sole arbitrator may, following a joint request by the disputing parties, decide the dispute solely on the basis of the documents submitted by the disputing parties, with no hearing and no or a limited examination of witnesses or experts. If the sole arbitrator holds a hearing under paragraph 1(f), the sole arbitrator may conduct the hearing by videoconference, telephone or similar means of communication.

7. The sole arbitrator shall, following a joint request by the disputing parties, but no later than the date of filing of the respondent Party's counter-memorial referred to in paragraph 1(b), decide that this Section shall no longer apply to the case.

8. The sole arbitrator may, at the request of a disputing party, but no later than the date of filing of the respondent Party's counter-memorial referred to in paragraph 1(b), decide that this Section shall no longer apply to the case. The disputing party that has made the request shall bear the costs of the expedited arbitration.

9. If, pursuant to paragraph 7 or 8, the sole arbitrator decides that this Section no longer applies to the case, and unless the disputing parties agree otherwise, the sole arbitrator appointed pursuant to Article 15.44 shall be appointed as presiding arbitrator of the Tribunal constituted under Section D.

Article 15.47. Consolidation

When two or more claims falling under Article 15.42 have a question of law or fact in common and arise out of the same events or circumstances, Article 15.29 applies.

Annex 15-A. Exclusions from Dispute Settlement

1. Section D, Section E and Chapter 27 (Dispute Settlement) of this Agreement do not apply to a measure adopted or maintained relating to a review under the Investment Canada Act, R.S.C. 1985, c. 28, with respect to whether or not to permit an investment that is subject to review.

2. In the event that Ecuador adopts legislation analogous to the Investment Canada Act, R.S.C. 1985, c. 28, it may submit a request to the Committee on Investment that the legislation be included in this Annex. Canada shall give positive consideration to the request if it considers that the inclusion of this legislation in this Annex would result in equivalent commitments from both Parties. In determining whether acceding to this request would result in equivalent commitments, Canada may take into account any available evidence relating to how the legislation has been implemented.

3. Section D and Section E of this Chapter do not apply to a tobacco control measure adopted or maintained by a Party. A "tobacco control measure" means a measure of a Party related to the production or consumption of manufactured tobacco products (including products made or derived from tobacco), their distribution, labelling, packaging, advertising, marketing, promotion, sale, purchase, or use, as well as enforcement measures, such as inspection, recordkeeping, and reporting requirements.

A measure with respect to tobacco leaf that is not in the possession of a manufacturer of tobacco products, or that is not part of a manufactured tobacco product, is not a tobacco control measure.

Annex 15-B. Arbitration Rules

Section I. Introductory Rules

Scope of application

Rule 1

1. Investment disputes under Section D of this Chapter shall be settled in accordance with these Rules, except where there is a conflict between these Rules and a provision of the Chapter, the provision of the Chapter shall prevail.

2. Any procedural question not provided for in this Chapter or these Rules shall be decided by the Tribunal.

Authorities of the designated appointing authority

Rule 2

1. In exercising its functions under this Chapter and these Rules, the designated appointing authority may require from any disputing party and the arbitrators the information it deems necessary and it shall give the disputing parties and, where appropriate, the arbitrators, an opportunity to present their views in any manner it considers appropriate. All those communications to and from the designated appointing authority shall also be provided by the sender to all disputing parties.

2. When the designated appointing authority is requested to appoint an arbitrator, the disputing party making the request shall provide the designated appointing authority with a copy of the notice of arbitration and, if it exists, any response to the notice of arbitration.

Section II. Composition of the Tribunal

Appointment of arbitrators

Rule 3

1. If the disputing parties agree that a sole arbitrator is to be appointed but do not reach agreement on the selection of the arbitrator within 30 days, a sole arbitrator shall, at the request of a disputing party, be appointed by the designated appointing authority.

2. The designated appointing authority shall appoint the sole arbitrator as promptly as possible and in accordance with the qualifications under Article 15.26. In making the appointment, the designated appointing authority shall use the following list-procedure, unless the disputing parties agree that the list-procedure should not be used or unless the designated appointing authority determines in its discretion that the use of the list-procedure is not appropriate for the case:

(a) the designated appointing authority shall transmit a list of five candidates for appointment as the sole arbitrator to the disputing parties within

30 days of receipt of the request by a disputing party under paragraph 1;

(b) each disputing party may strike one candidate from the list, and shall rank the remaining candidates in order of preference and transmit such ranking to the designated appointing authority within 14 days of receipt of the list;

(c) the designated appointing authority shall inform the disputing parties of the result of the rankings on the next business day after receipt of the rankings, and shall appoint the candidate with the best ranking. If two or more candidates share the best ranking, the designated appointing authority shall select one of them;

(d) the designated appointing authority shall send the request for acceptance of the appointment to the selected candidate, and request a reply within 10 days of receipt;

(e) if the selected candidate does not accept the appointment, the designated appointing authority shall appoint the next highest-ranked candidate; and

(f) if for any reason the appointment cannot be made according to this list-procedure, the designated appointing authority may exercise its discretion in appointing the sole arbitrator.

Rule 4

For the purposes of Article 15.26, where three arbitrators are to be appointed and there are multiple parties as claimant, unless the disputing parties have agreed to another method of appointment of arbitrators, these multiple parties shall jointly appoint an arbitrator.

Disclosures by and challenge of arbitrators

Rule 5

1. Any arbitrator may be challenged if circumstances exist that give rise to justifiable doubts as to the arbitrator's impartiality or independence, including a failure to abide by Annex 15-C.

2. A disputing party may challenge the arbitrator appointed by it only for reasons of which it becomes aware after the appointment has been made.

3. In the event that an arbitrator fails to act or in the event of the de jure or de facto impossibility of their performing their functions, the procedure in respect of the challenge of an arbitrator as provided in Rule 6 shall apply.

Rule 6

1. A disputing party that intends to challenge an arbitrator shall send notice of its challenge within 15 days after it has been notified of the appointment of the challenged arbitrator, or within 15 days after the circumstances mentioned in Rule 5 became known to that disputing party.

2. The notice of challenge shall be communicated to all other disputing parties, to the arbitrator who is challenged and to the other arbitrators. The notice of challenge shall state the reasons for the challenge.

3. When an arbitrator has been challenged by a disputing party, all disputing parties may agree to the challenge. The arbitrator may also, after the challenge, withdraw from their office. In neither case does this imply acceptance of the validity of the grounds for the challenge.

4. If, within 15 days from the date of the notice of challenge, all disputing parties do not agree to the challenge or the challenged arbitrator does not withdraw, the disputing party making the challenge may elect to pursue it. In that case, within 30 days from the date of the notice of challenge, it shall seek a decision on the challenge by the designated appointing authority.

Replacement of an arbitrator

Rule 7

1. Subject to paragraph 2, in any event where an arbitrator has to be replaced during the course of the arbitral proceedings, a substitute arbitrator shall be appointed or chosen pursuant to the procedure provided for in the Chapter or the Rules that was applicable to the appointment or choice of the arbitrator being replaced. This procedure shall apply even if during the process of appointing the arbitrator to be replaced, a disputing party had failed to exercise its right to appoint or to participate in the appointment.

2. If, at the request of a disputing party, the designated appointing authority determines that, in view of the exceptional circumstances of the case, it would be justified for a disputing party to be deprived of its right to appoint a substitute arbitrator, the designated appointing authority may, after giving an opportunity to the disputing parties and the remaining arbitrators to express their views: (a) appoint the substitute arbitrator in accordance with the qualifications under Article 15.26; or (b) after the closure of the hearings, authorize the other arbitrators to proceed with the arbitration and make any decision or award.

Repetition of hearings in the event of the replacement of an arbitrator

Rule 8

If an arbitrator is replaced, the proceedings shall resume at the stage where the arbitrator who was replaced ceased to perform their functions, unless the Tribunal decides otherwise.

Save for intentional wrongdoing, the disputing parties waive, to the fullest extent permitted under the applicable law, any claim against the arbitrators, the designated appointing authority and any person appointed by the Tribunal based on any act or omission in connection with the arbitration.

Section III. Arbitral Proceedings

General provisions

Rule 10

1. Subject to this Chapter and these Rules, the Tribunal may conduct the arbitration in such manner as it considers appropriate, provided that the disputing parties are treated with equality and that at an appropriate stage of the proceedings each disputing party is given a reasonable opportunity of presenting its case. The Tribunal, in exercising its discretion, shall conduct the proceedings so as to avoid unnecessary delay and expense and to provide a fair and efficient process for resolving the disputing parties' dispute.

2. As soon as practicable after its constitution and after inviting the disputing parties to express their views, the Tribunal shall establish the provisional timetable of the arbitration. The Tribunal may, at any time, after inviting the disputing parties to express their views, extend or abridge any period of time prescribed under these Rules or agreed by the disputing

parties.

3. If at an appropriate stage of the proceedings any disputing party so requests, the Tribunal shall hold hearings for the presentation of evidence by witnesses, including expert witnesses, or for oral argument. In the absence of a request under this paragraph, the Tribunal shall decide whether to hold these hearings or whether the proceedings shall be conducted on the basis of documents and other materials.

4. All communications to the Tribunal by one disputing party shall be communicated by that disputing party to all other disputing parties. Those communications shall be made at the same time, except as otherwise permitted by the Tribunal if it may do so under the applicable law.

Language

Rule 11

1. Subject to an agreement by the disputing parties, the Tribunal shall, promptly after its appointment, determine the language or languages to be used in the proceedings. This determination shall apply to written pleadings and, if oral hearings take place, to the language or languages to be used in those hearings.

2. The Tribunal may order that any documents or exhibits submitted in the course of the proceedings, delivered in their original language, shall be accompanied by a translation into the language or languages agreed upon by the disputing parties or determined by the Tribunal.

Written Submissions

Rule 12

During the course of the arbitral proceedings, a disputing party may amend or supplement its claim unless the Tribunal considers it inappropriate to allow that amendment or supplement having regard to the delay in making it or prejudice to other disputing parties or any other circumstances. However, a claim may not be amended or supplemented in a manner that the amended or supplemented claim falls outside the jurisdiction of the Tribunal.

Rule 13

1. The disputing parties shall file the following written submissions:

(a) a memorial by the claimant;

(b) a counter-memorial by the respondent Party; and, unless the disputing parties agree otherwise:

(c) a reply by the claimant; and

(d) a rejoinder by the respondent Party.

2. A memorial shall contain a statement of the relevant facts, law and arguments, and the request for relief. A counter-memorial shall contain a statement of the relevant facts, including an admission or denial of facts stated in the memorial, and any necessary additional facts, a statement of law in reply to the memorial, arguments and the request for relief. A reply and rejoinder shall be limited to responding to the previous written submission and addressing any relevant facts that are new or could not have been known prior to filing the reply or rejoinder.

3. A Party may file unscheduled written submissions, observations or supporting documents only after obtaining leave of the Tribunal, unless the filing of those documents is provided for by these Rules. The Tribunal may grant leave upon a timely and reasoned application if it finds those written submissions, observations or supporting documents are necessary in view of all relevant circumstances.

Pleas as to the jurisdiction of the Tribunal

Rule 14

1. The Tribunal shall have the power to rule on its own jurisdiction.

2. A plea that the Tribunal does not have jurisdiction shall be raised no later than in the counter-memorial. A disputing party is not precluded from raising such a plea by the fact that it has appointed, or participated in the appointment of, an arbitrator. A plea that the Tribunal is exceeding the scope of its authority shall be raised as soon as the matter alleged to be beyond the scope of its authority is raised during the arbitral proceedings. The Tribunal may, in either case, admit a later plea if it considers the delay justified.

3. The Tribunal may rule on a plea referred to in paragraph 2 either as a preliminary objection pursuant to Article 15.28, a preliminary question, or in an award on the merits. The Tribunal may continue the arbitral proceedings and make an award, notwithstanding any pending challenge to its jurisdiction before a court.

Evidence

Rule 15

1. Each disputing party shall have the burden of proving the facts relied on to support its claim or defence.

2. Witnesses, including expert witnesses, who are presented by the disputing parties to testify to the Tribunal on any issue of fact or expertise may be any individual, notwithstanding that the individual is a disputing party or in any way related to a disputing party. Unless otherwise directed by the Tribunal, statements by witnesses, including expert witnesses, may be presented in writing and signed by them.

3. At any time during the arbitral proceedings the Tribunal may require the disputing parties to produce documents, exhibits or other evidence within a period of time that the Tribunal shall determine.

4. The Tribunal shall determine the admissibility, relevance, materiality and weight of the evidence offered.

Hearings

Rule 16

1. In the event of an oral hearing, the Tribunal shall give the disputing parties adequate advance notice of the date, time and place of the hearing.

2. Witnesses, including expert witnesses, may be heard under the conditions and examined in the manner set by the Tribunal.

3. The Tribunal may require the retirement of any witness or witnesses, including expert witnesses, during the testimony of such other witnesses, except that a witness, including an expert witness, who is a disputing party shall not, in principle, be asked to retire.

4. The Tribunal may direct that witnesses, including expert witnesses, be examined through means of telecommunication that do not require their physical presence at the hearing (such as videoconference).

Experts appointed by the Tribunal

Rule 17

1. Pursuant to Article 15.33, the Tribunal may appoint one or more independent experts to report to it, in writing, on specific issues to be determined by the Tribunal. A copy of the expert's terms of reference, established by the Tribunal, shall be communicated to the disputing parties.

2. The expert shall, in principle before accepting appointment, submit to the Tribunal and to the disputing parties a description of their qualifications and a statement of their impartiality and independence. Within the time ordered by the Tribunal, the disputing parties shall inform the Tribunal whether they have any objections as to the expert's qualifications, impartiality or independence. The Tribunal shall decide promptly whether to accept any of those objections. After an expert's appointment, a disputing party may object to the expert's qualifications, impartiality or independence only if the objection is for reasons of which the disputing party becomes aware after the appointment has been made. The Tribunal shall decide promptly what, if any, action to take.

3. The disputing parties shall give the expert any relevant information or produce for their inspection any relevant documents or goods that they may require of them. Any dispute between a disputing party and the expert as to the relevance of the required information or production shall be referred to the Tribunal for decision.

4. Upon receipt of the expert's report, the Tribunal shall communicate a copy of the report to the disputing parties, which shall be given the opportunity to express, in writing, their opinion on the report. A disputing party shall be entitled to examine any document on which the expert has relied in their report.

5. At the request of a disputing party, the expert, after delivery of the report, may be heard at a hearing where the disputing parties shall have the opportunity to be present and to interrogate the expert. At this hearing, a disputing party may present expert witnesses in order to testify on the points at issue. The provisions of Rule 16 shall be applicable to those proceedings.

Default

Rule 18

1. If, within the period of time fixed by the Tribunal, without showing sufficient cause:

(a) The claimant has failed to advance its claim, the Tribunal shall issue an order for the termination of the arbitral proceedings, unless there are remaining matters that may need to be decided and the Tribunal considers it appropriate to do so;

(b) The respondent Party has failed to submit a counter-memorial or rejoinder, the Tribunal shall order that the proceedings continue, without treating

such failure in itself as an admission of the claimant's allegations;

2. If a disputing party, duly notified, fails to appear at a hearing, without showing sufficient cause for the failure, the Tribunal may proceed with the arbitration.

3. If a disputing party, duly invited by the Tribunal to produce documents, exhibits or other evidence, fails to do so within the established period of time, without showing sufficient cause for the failure, the Tribunal may make the award on the evidence before it.

Closure of hearings

Rule 19

1. The Tribunal may inquire of the disputing parties if they have any further proof to offer or witnesses to be heard or submissions to make and, if there are none, it may declare the hearings closed.

2. The Tribunal may, if it considers it necessary owing to exceptional circumstances, decide, on its own initiative or upon application of a disputing party, to reopen the hearings at any time before the award is made.

Waiver of right to object

Rule 20

A failure by a disputing party to object promptly to any non-compliance with these Rules or with any requirement of Sections D and E of this Chapter shall be deemed to be a waiver of the right of that disputing party to make the objection, unless that disputing party can show that, under the circumstances, its failure to object was justified.

Section IV. The Award

Decisions

Rule 21

1. When there is more than one arbitrator, any award or other decision of the Tribunal shall be made by a majority of the arbitrators.

2. In the case of questions of procedure, when there is no majority or when the Tribunal so authorizes, the presiding arbitrator may decide alone, subject to revision, if any, by the Tribunal.

Form and effect of the award

Rule 22

1. The Tribunal may make separate awards on different issues at different times.

2. All awards shall be made in writing and shall be final and binding on the disputing parties. The disputing parties shall carry out all awards without delay.

3. The Tribunal shall state the reasons upon which the award is based, unless the disputing parties have agreed that no reasons are to be given.

4. An award shall be signed by the arbitrators and it shall contain the date on which the award was made and indicate the seat of arbitration. Where there is more than one arbitrator and any of them fails to sign, the award shall state the reason for the absence of the signature.

5. Copies of the award signed by the arbitrators shall be communicated to the disputing parties by the Tribunal.

Settlement or other grounds for termination

Rule 23

1. If, before the award is made, the disputing parties agree on a settlement of the dispute, the Tribunal shall either issue an order for the termination of the arbitral proceedings or, if requested by the disputing parties and accepted by the Tribunal, record the settlement in the form of an arbitral award on agreed terms. The Tribunal is not obliged to give reasons for that arbitral award.

2. If, before the award is made, the continuation of the arbitral proceedings becomes unnecessary or impossible for any reason not mentioned in paragraph 1, the Tribunal shall inform the disputing parties of its intention to issue an order for the termination of the proceedings. The Tribunal shall have the power to issue that order unless there are remaining matters that may need to be decided and the Tribunal considers it appropriate to do so.

3. Copies of the order for termination of the arbitral proceedings or of the arbitral award on agreed terms, signed by the arbitrators, shall be communicated by the Tribunal to the disputing parties. Where an arbitral award on agreed terms is made, the provisions of Rule 22, paragraphs 2 and 4, shall apply.

Interpretation of the award

Rule 24

1. Within 30 days after the receipt of the award, a disputing party, with notice to the other disputing parties, may request that the Tribunal give an interpretation of the award.

2. The interpretation shall be given in writing within 45 days after the receipt of the request. The interpretation shall form part of the award and the provisions of Rule 22, paragraphs 2 to 5, shall apply.

Correction of the award

Rule 25

1. Within 30 days after the receipt of the award, a disputing party, with notice to the other disputing parties, may request the Tribunal to correct in the award any error in computation, any clerical or typographical error, or any error or omission of a similar nature. If the Tribunal considers that the request is justified, it shall make the correction within 45 days of receipt of the request.

2. The Tribunal may within 30 days after the communication of the award make those corrections on its own initiative.

3. Those corrections shall be in writing and shall form part of the award. The provisions of Rule 22, paragraphs 2 to 5, shall apply.

Additional award

Rule 26

1. Within 30 days after the receipt of the termination order or the award, a disputing party, with notice to the other disputing parties, may request the Tribunal to make an award or an additional award as to claims presented in the arbitral proceedings but not decided by the Tribunal.

2. If the Tribunal considers the request for an award or additional award to be justified, it shall render or complete its award within 60 days after the receipt of the request. The Tribunal may extend, if necessary, the period of time within which it shall make the award.

3. When that award or additional award is made, the provisions of Rule 22, paragraphs 2 to 5, shall apply.

Definition of costs

Rule 27

1. Pursuant to Article 15.35.3, the Tribunal shall fix the costs of arbitration in the final award and, if it deems appropriate, in another decision.

2. The term “costs” includes only:

(a) the fees of the Tribunal to be stated separately as to each arbitrator and to be fixed pursuant to Article 15.26.5;

(b) the reasonable travel and other expenses incurred by the arbitrators;

(c) the reasonable costs of expert advice and of other assistance required by the Tribunal;

(d) the reasonable travel and other expenses of witnesses to the extent those expenses are approved by the Tribunal;

(e) the legal and other costs incurred by the disputing parties in relation to the arbitration to the extent that the Tribunal determines that the amount of those costs is reasonable; and

(f) any fees and expenses of the designated appointing authority.

3. In relation to interpretation, correction or completion of any award under Rules 24 to 26, the Tribunal may charge the costs referred to in paragraphs 2(b) to (f), but no additional fees.

Annex 15-C. Arbitrator Code of Conduct for Investor-State Dispute Settlement (Code of Conduct)

Definitions

1. For the purposes of this Code of Conduct:

arbitrator means a member of a Tribunal constituted pursuant to Article 15.26;

assistant means a person who, under the terms of appointment of an arbitrator, conducts research or provides support for the arbitrator;

candidate means a person who is under consideration for selection as an arbitrator to settle an investment dispute under this Chapter;

expert means a person appointed pursuant to Article 15.33 or applicable arbitration rules;

family member means the spouse or partner of an arbitrator or candidate; the parent, child, grandparent, grandchild, sister, brother, aunt, uncle, niece or nephew of the arbitrator or candidate or spouse or partner of the arbitrator or candidate (including whole and half blood relatives and step relatives), or the spouse or partner of that person; or a resident of the arbitrator's or candidate's household whom the arbitrator or candidate treats as a member of their family; and

staff, in respect of an arbitrator, means individuals under the direction and control of the arbitrator other than assistants.

Responsibilities to the Dispute Settlement Process

2. Each candidate, arbitrator, and former arbitrator shall avoid impropriety and the appearance of impropriety, and shall observe high standards of conduct so that the integrity and impartiality of the dispute settlement process is preserved.

Governing Principles

3. Each arbitrator shall be independent and impartial, and shall avoid direct or indirect conflicts of interest.

4. Each arbitrator and former arbitrator shall respect the confidentiality of Tribunal proceedings.

5. Each candidate or arbitrator shall disclose the existence of any interest, relationship, or matter that is likely to affect the candidate's or arbitrator's independence or impartiality, or that might reasonably create an appearance of impropriety or an apprehension of bias. An appearance of impropriety or an apprehension of bias is created when a reasonable person, with knowledge of all the relevant circumstances that a reasonable inquiry would disclose, would conclude that a candidate's or arbitrator's ability to carry out the duties with integrity, impartiality, and competence is impaired.

6. Upon appointment, an arbitrator shall refrain, for the duration of the proceeding, from acting as counsel or party-appointed expert or witness in any pending or new investment dispute under this Agreement or any other international investment treaty.

7. This Code of Conduct shall be interpreted in a manner consistent with other internationally recognized standards or guidelines regarding direct or indirect conflicts of interest, such as the International Bar Association IBA Guidelines on Conflicts of Interest in International Arbitration.

8. In the event of an alleged breach of this Code of Conduct, Annex 15-B shall apply to any challenge, disqualification, or

replacement of an arbitrator.

Disclosure Obligations

9. Throughout the Tribunal proceeding, each candidate or arbitrator has a continuing obligation to disclose any interest, relationship, or matter that may bear on the integrity or impartiality of the dispute settlement process.

10. The disputing parties or the designated appointing authority shall provide a candidate a copy of this Code of Conduct and the Initial Disclosure Statement Form set out in Appendix 15-C.1 to this Code of Conduct.

11. A candidate shall submit the Initial Disclosure Statement Form set out in Appendix 15-C.1 to this Code of Conduct to the disputing parties or the designated appointing authority as soon as possible and no later than seven days from receipt of that Initial Disclosure Statement Form.

12. 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 an apprehension of bias in the Tribunal proceeding. To this end, a candidate shall make all reasonable efforts to become aware of any such interest, relationship or matter. Therefore, a candidate shall disclose, at a minimum, the following interests, relationships and matters:

(a) any financial or personal interest of the candidate in:

(i) the Tribunal proceeding or its outcome; and

(ii) an administrative proceeding, a domestic judicial proceeding, or any other international dispute settlement proceeding that involves issues that may be decided in the Tribunal proceeding for which the candidate is under consideration;

(b) any financial interest of the candidate's employer, business partner, business associate, or family member in:

(i) the Tribunal proceeding or its outcome; and

(ii) an administrative proceeding, a domestic judicial proceeding, or any other international dispute settlement proceeding that involves issues that may be decided in the Tribunal proceeding for which the candidate is under consideration;

(c) any past or current financial, business, professional, family, or social relationship with any interested parties (15) in the Tribunal proceeding or their counsel, or involving a candidate's employer, business partner, business associate, or family member; and

(15) For greater certainty, "interested parties" includes the home State of the investors.

(d) any public advocacy or legal or other representation concerning an issue in dispute in the Tribunal proceeding or involving the same investment.

13. Once appointed, an arbitrator shall continue to make all reasonable efforts to become aware of any interest, relationship, or matter referred to in paragraph 12, and shall disclose them. The obligation to disclose is a continuing duty that requires an arbitrator to disclose that interest, relationship, or matter that may arise during any stage of the Tribunal proceeding.

14. In the event of any uncertainty regarding whether an interest, relationship, or matter must be disclosed under paragraph 12 or 13, a candidate or arbitrator should err in favour of disclosure. Disclosure of an interest, relationship or matter is without prejudice as to whether the interest, relationship or matter is covered by paragraph 12 or 13, or whether it warrants recusal, amelioration or disqualification.

15. The disclosure obligations set out in paragraphs 9 through 14 should not be interpreted so that the burden of detailed disclosure makes it impractical for individuals in the legal or business community to serve as arbitrators, thereby depriving the disputing parties of the services of those who might be best qualified to serve as arbitrators. Thus, a candidate or arbitrator should not be called upon to disclose an interest, relationship, or matter whose bearing on the candidate's or arbitrator's role in the Tribunal proceeding would be trivial.

Performance of Duties by Candidates and Arbitrators

16. A candidate who accepts an appointment as an arbitrator shall be available to perform, and shall perform, once the arbitrator is appointed, an arbitrator's duties thoroughly, fairly, diligently, and expeditiously throughout the course of the Tribunal proceeding.

17. An arbitrator shall ensure that they are contactable, at all reasonable times, by the designated appointing authority, disputing parties, administering authority in charge of the proceeding, and other arbitrators of the Tribunal in order to conduct Tribunal work.

18. An arbitrator shall comply with the provisions of Section D and Section E, as applicable, and Annex 15-B.

19. An arbitrator shall not deny other arbitrators the opportunity to participate in all aspects of the Tribunal proceeding.

20. An arbitrator shall consider only those issues raised in the Tribunal proceeding and necessary to make a decision, order, or award.

21. An arbitrator shall not delegate the duty to make a decision, order, or award to any other person.

22. An arbitrator shall take all reasonable steps to ensure that their assistants and staff comply with paragraphs 2, 9, 12, 13, 15, 18, 23, 24 and 34 through 37 of this Code of Conduct.

23. An arbitrator shall not engage in any ex parte contact concerning the Tribunal proceeding.

24. A candidate or arbitrator shall only communicate matters concerning actual or potential violations of this Code of Conduct, or if necessary to ascertain whether that candidate or arbitrator has violated or may violate this Code of Conduct, to the designated appointing authority, the disputing parties and arbitration institution in charge of the proceedings.

25. Each arbitrator shall keep a record and render a final account of the time devoted to the Tribunal proceeding and of their expenses, as well as the time and expenses of their staff and assistants.

Independence and Impartiality of Arbitrators

26. An arbitrator shall be independent and impartial. An arbitrator shall act in a fair manner and shall not create an appearance of impropriety or an apprehension of bias.

27. An arbitrator shall not be influenced by self-interest, outside pressure, political considerations, public clamour, loyalty to a disputing party or a non-disputing Party, or fear of criticism.

28. An arbitrator 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 their duties.

29. An arbitrator shall not use their position on the Tribunal to advance any personal or private interests. An arbitrator shall avoid actions that may create the impression that others are in a special position to influence the arbitrator. An arbitrator shall make every effort to prevent or discourage others from representing themselves as being in that position.

30. An arbitrator shall not allow past or ongoing financial, business, professional, family, or social relationships or responsibilities to influence their conduct or judgment.

31. An arbitrator shall avoid entering into any relationship, or acquiring any financial interest, that is likely to affect their impartiality or that might reasonably create an appearance of impropriety or an apprehension of bias.

32. If an interest, relationship, or matter of a candidate or arbitrator is inconsistent with paragraphs 26 through 31, the candidate may accept appointment to a Tribunal, and an arbitrator may continue to serve on a Tribunal, if the disputing parties waive the violation or if, after the candidate or arbitrator has taken steps to ameliorate the violation, the disputing parties determine that the inconsistency has ceased.

Duties of Former Arbitrators

33. A former arbitrator shall avoid actions that may create the appearance that the arbitrator was biased in carrying out their duties or would benefit from the decision, order or award of the Tribunal.

Maintenance of Confidentiality

34. An arbitrator or former arbitrator shall not at any time disclose or use any non-public information concerning the Tribunal proceeding or acquired during the Tribunal proceeding, except for the purposes of the Tribunal proceeding and shall not, in any case, disclose or use that information to gain a personal advantage, or an advantage for another person, or to adversely affect the interest of another person.

35. An arbitrator shall not disclose a decision, order, or award, or a part thereof, prior to its publication in accordance with Section D.

36. An arbitrator or former arbitrator shall not at any time disclose the deliberations of the Tribunal, or any arbitrator's view. (16)

(16) For greater certainty, this paragraph does not apply to the arbitrator's view in a decision, order, award or opinion.

37. An arbitrator shall not make a public statement regarding the merits of a pending Tribunal proceeding.

Responsibilities of Experts, Assistants and Staff

38. Paragraphs 2, 9, 12, 13, 14, 15, 18, 23, 24, and 33 through 37 of this Code of Conduct shall also apply to experts, assistants, and staff.

Review

39. A Party may request to review and amend this Code of Conduct to take into account, as appropriate, relevant developments concerning investor-State dispute settlement.

Appendix 15-C.1. Appendix to the Arbitrator Code of Conduct for Investor-State Dispute Settlement: Initial Disclosure Statement Form

1. I acknowledge having received a copy of the Arbitrator Code of Conduct for Investor-State Dispute Settlement (Code of Conduct).

2. I acknowledge having read and understood the Code of Conduct.

3. I understand that I have a continuing obligation, while participating in the Tribunal proceeding, to disclose an interest, relationship, or matter that may bear on the integrity or impartiality of the dispute settlement process. As a part of this continuing obligation, I am making the following initial disclosures:

(a) My financial interest in the Tribunal proceeding for which I am under consideration or in its outcome is as follows:

(b) My financial interest in any administrative proceeding, domestic judicial proceeding, or other international dispute settlement proceeding that involves issues that may be decided in the Tribunal proceeding is as follows:

(c) The financial interests that any employer, business partner, business associate, or family member of mine may have in the Tribunal proceeding or in its outcome are as follows:

(d) The financial interests that any employer, business partner, business associate, or family member of mine may have in any administrative proceeding, domestic judicial proceeding or other international dispute settlement proceeding that involves issues that may be decided in the Tribunal proceeding are as follows:

(e) My past or current financial, business, professional, family, and social relationships with any interested party in the Tribunal proceeding, or their counsel, are as follows:

(f) The past or current financial, business, professional, family, and social relationships with any interested party in the Tribunal proceeding, or their counsel, involving any employer, business partner, business associate, or family member of mine are as follows:

(g) My public advocacy or legal or other representation concerning an issue in dispute in the Tribunal proceeding or involving the same investment is as follows:

(h) My other interests, relationships and matters that may bear on the integrity or impartiality of the dispute settlement process and that are not disclosed in paragraphs 3(a) through (g) above are as follows:

Signed on this day of , 20 .

By:

Signature

Name

Chapter 16. CROSS-BORDER TRADE IN SERVICES

Article 16.1: Definitions

For the purposes of this Chapter:

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;

cross-border trade in services or cross-border supply of services means the supply of a service:

(a) from the territory of a Party into the territory of the other Party;

(b) in the territory of a Party to a person of the other Party; or

(c) by a national of a Party in the territory of the other Party,

but does not include the supply of a service in the territory of a Party by a covered investment;

enterprise means an enterprise as defined in Article 1.7 (Initial Provisions and General Definitions – General Definitions), or a branch of an enterprise;

enterprise of a Party means an enterprise constituted or organized under the domestic law of a Party, or a branch of an enterprise located in the territory of a Party and carrying out business activities in that territory;

professional service means a service, the provision of which requires specialized education, or equivalent training or experience, and for which the right to practice is granted or restricted by a Party, but does not include a service provided by a tradesperson, or a vessel or aircraft crew member;

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;

service supplied in the exercise of governmental authority means, for a Party, any service that is supplied neither on a commercial basis nor in competition with one or more service suppliers; and

service supplier of a Party means a person of a Party that seeks to supply or supplies a service.

Article 16.2: Scope

1. This Chapter applies to measures adopted or maintained by a Party relating to cross-border trade in services by a service supplier of the other Party, including a measure relating to:

(a) the production, distribution, marketing, sale or delivery of a service, including by electronic means;

(b) the purchase or use of, or payment for, a service, including by electronic means;

(c) the access to or use of distribution, transport, or telecommunications networks or services in connection with the supply of a service; or

(d) the presence in the Party's territory of a service supplier of the other Party for the supply of a service.

2. This Chapter does not apply to:

(a) financial services as defined in Article 18.1 (Financial Services – Definitions);

(b) government procurement;

(c) services supplied in the exercise of governmental authority;

(d) subsidies or grants provided by a Party or a state enterprise, including government-supported loans, guarantees, and insurance.

3. This Chapter does not apply to air services, including domestic and international air transport services, whether scheduled or non-scheduled, or to related service in support of air services, other than the following:

(a) aircraft repair and maintenance services during which an aircraft is withdrawn from service, excluding so-called line maintenance;

(b) the selling and marketing of air transport services; and

(c) computer reservation system services.

4. In the event of any inconsistency between this Agreement and a bilateral, plurilateral, or multilateral air services agreement to which both Parties are party, the air services agreement prevails in determining the rights and obligations of the Parties.

5. If the Parties have the same obligations under this Agreement and a bilateral, plurilateral, or multilateral air services agreement, they may invoke the dispute settlement procedures of this Agreement only after any dispute settlement procedures in the other agreement have been exhausted.

6. If the Annex on Air Transport Services of GATS is amended, the Parties shall jointly review any new definitions with a view to aligning the definitions in this Agreement with those definitions, as appropriate.

7. This Chapter does not impose an obligation on a Party with respect to a national of the other Party who seeks access to its employment market or who is employed on a permanent basis in its territory, and does not confer any right on that national with respect to that access or employment.

Article 16.3: National Treatment

1. Each Party shall accord to a service or service supplier of the other Party treatment no less favourable than that it accords, in like circumstances, to its own services and service suppliers.

2. The treatment to be accorded by a Party under paragraph 1 means, with respect to a government other than at the central level, treatment accorded, in like circumstances, by that government to services or service suppliers of the Party of which it forms a part.

3. For greater certainty, whether treatment referred to in paragraph 1 is accorded in “like circumstances” depends on the totality of the circumstances, including whether the relevant treatment distinguishes between services or services suppliers on the basis of legitimate policy objectives.

Article 16.4: Most-Favoured-Nation Treatment

1. Each Party shall accord to a service or service supplier of the other Party treatment no less favourable than that it accords, in like circumstances, to services and service suppliers of a non-party.

2. The treatment to be accorded by a Party under paragraph 1 means, with respect to a government other than at the central level, treatment accorded, in like circumstances, by that government in its territory to services or service suppliers of a non-party.

3. For greater certainty, whether treatment referred to in paragraph 1 is accorded in “like circumstances” depends on the totality of the circumstances, including whether the relevant treatment distinguishes between services or services suppliers on the basis of legitimate policy objectives.

Article 16.5: Market Access

A Party shall not adopt or maintain, either on the basis of a regional subdivision or on the basis of its entire territory, a measure that:

(a) imposes a limitation on:

(i) the number of service suppliers, whether in the form of a numerical quota, monopoly, exclusive service suppliers or the requirement of an economic needs test;

(ii) the total value of service transactions or assets in the form of a numerical quota or the requirement of an economic needs test;

(iii) the total number of service operations or the total quantity of service output expressed in terms of a designated numerical unit in the form of a quota or the requirement of an economic needs test;1 or

(iv) 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 a numerical quota or the requirement of an economic needs test; or

(b) restricts or requires a specific type of legal entity or joint venture through which a service supplier may supply a service.

Article 16.6: Formal Requirements

1. Article 16.3 does not prevent a Party from adopting or maintaining a measure that prescribes formal requirements in connection with the supply of a service, provided these requirements are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination. These measures include requirements:

(a) to obtain a licence, registration, certification, or authorization in order to supply a service or as a membership requirement of a particular profession, such as requiring membership in a professional organization or participation in collective compensation funds for members of professional organizations;

(b) for a service supplier to have a local representative for service or maintain a local address;

(c) to speak a national language or hold a driver's licence; or

(d) that a service supplier:

(i) post a bond or other form of financial security;

(ii) establish or contribute to a trust account;

(iii) maintain a particular type and amount of insurance;

(iv) provide other similar guarantees; or

(v) provide access to records.

1 Subparagraph (a)(iii) does not cover measures of a Party which limit inputs for the supply of services.

Article 16.7: Non-Conforming Measures

1. Article 16.3, Article 16.4, and Article 16.5 do not apply to:

(a) an existing non-conforming measure that is maintained by a Party at:

(i) the central level of government, as set out by that Party in its Schedule to Annex I;

(ii) the regional level of government, as set out by that Party in its Schedule to Annex I; or

(iii) a level of government other than at the central and regional level;

(b) the continuation or prompt renewal of a non-conforming measure referred to in subparagraph (a); or

(c) an amendment to a non-conforming measure referred to in subparagraph (a), to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Article 16.3, Article 16.4, or Article 16.5.

2. Article 16.3, Article 16.4 and Article 16.5 do not apply to any measure that a Party adopts or maintains with respect to sectors, sub-sectors or activities, as set out by that Party in its Schedule to Annex II.

Article 16.8: Recognition

1. For the purposes of the fulfilment, in whole or in part, of a Party's standards or criteria for the authorization, licensing, or certification of service suppliers, and subject to the requirements of paragraph 4, a Party may recognize the education or experience obtained, requirements met, or licences or certifications granted in a particular country. This recognition, which may be achieved through harmonization or otherwise, may be based upon an agreement or arrangement with the country concerned, or may be accorded autonomously.

2. If a Party recognizes, autonomously or by agreement or arrangement, the education or experience obtained, requirements met or licences or certifications granted in the territory of a non-party, Article 16.4 is not to be construed to require the Party to accord recognition to the education or experience obtained, requirements met, or licences or certifications granted in the territory of the other Party.

3. Each Party shall endeavour to publish, by electronic means, relevant information, including appropriate descriptions, concerning a recognition agreement or arrangement of the type referred to in paragraph 1, that the Party or relevant bodies or authorities in its territory have concluded.

4. A Party that is party to an agreement or arrangement of the type referred to in paragraph 1, whether existing or future, shall afford adequate opportunity for the other Party, if the other Party is interested, to negotiate accession to that agreement or arrangement or to negotiate a comparable one. If a Party accords recognition autonomously, it shall afford

adequate opportunity for the other Party to demonstrate that education, experience, licences or certifications obtained, or requirements met in that other Party's territory should be recognized.

5. A Party shall not accord recognition in a manner that would constitute a means of discrimination between countries in the application of its standards or criteria for the authorization, certification or licensing of service suppliers, or a disguised restriction on trade in services.

6. The Parties should seek to ensure that recognition does not require citizenship or any form of residency, or education, experience, or training in the territory of the host jurisdiction.

7. As set out in Annex 16-A, the Parties shall endeavour to facilitate trade in professional services including through the establishment of a Professional Services Working Group.

Article 16.9: Denial of Benefits

1. A Party may deny the benefits of this Chapter to a service supplier of the other Party if the service supplier is an enterprise owned or controlled by a person of a non-party, and the denying Party adopts or maintains a measure 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 enterprise.

2. A Party may deny the benefits of this Chapter to a service supplier of the other Party if the service supplier is an enterprise:

(a) that is owned or controlled by a person of a non-party, or by a person of the denying Party; and

(b) that has no substantial business activities in the territory of the other Party.

Article 16.10: Payments and Transfers

1. Each Party shall permit all transfers and payments that relate to the cross-border supply of services to be made freely and without delay into and out of its territory.

2. Each Party shall permit transfers and payments that relate to the cross-border supply of services to be made in a freely convertible currency at the market rate of exchange that prevails at the time of transfer.

3. Notwithstanding paragraphs 1 and 2, a Party may prevent or delay a transfer or payment through the equitable, non-discriminatory, and good faith application of its laws that relate to:

(a) bankruptcy, insolvency, or the protection of the rights of creditors;

(b) issuing, trading, or dealing in securities and derivatives including futures and options;

(c) financial reporting or record keeping of transfers when necessary to assist law enforcement or financial regulatory authorities;

(d) criminal or penal offenses; or

(e) ensuring compliance with orders or judgments in judicial or administrative proceedings.

Annex 16-A Professional Services

General Provisions

1. Each Party shall consult with relevant professional bodies or authorities in its territory to seek to identify professional services if the Parties are mutually interested in establishing a dialogue on issues that relate to the recognition of professional qualifications, licensing or registration.

2. If a professional service described in paragraph 1 is identified, each Party shall encourage its relevant bodies or authorities to establish dialogues with the relevant bodies or authorities of the other Party, with a view to facilitating trade in professional services. The dialogues may consider, as appropriate:

(a) recognition of professional qualifications and facilitating licensing and registration procedures through mutual recognition agreements or arrangements;

(b) autonomous recognition of the education or experience obtained by a candidate in the territory of the other Party, for the purposes of fulfilling some or all of the licensing or examination requirements of that profession;

(c) the development of mutually acceptable standards and criteria for authorization of professional service suppliers from the territory of the other Party, including for education, examinations, experience, continuous professional development and re-certification, scope of practice, conduct and ethics, local knowledge and consumer protection;

(d) temporary or project-specific qualification, licensing or registration based on a foreign supplier's home license or recognized professional body membership, without the need for further written examination;

(e) the form of association and procedures whereby a foreign-licensed supplier may work in association with a professional service supplier of the Party; or

(f) any other approaches to facilitate authorization to provide services by professionals licensed in the other Party, including by reference to international standards and criteria.

3. If relevant bodies or authorities enter into discussions for the purpose of creating a mutual recognition agreement or arrangement pursuant to paragraph 2(a), those discussions may be guided by Appendix 16-A.1 for the negotiation of that agreement or arrangement.

4. If a mutual recognition agreement or arrangement has been entered into by a relevant body at the national level, each Party shall work with the relevant body to encourage the application and implementation of the agreement.

5. Any temporary or project-specific qualification, licensing or registration of the type referred to in paragraph 2(d) should not operate to prevent a foreign service supplier from gaining a local licence once that service supplier satisfies the applicable local licensing requirements.

6. If applicable, each Party shall encourage its relevant bodies or authorities to recognize through electronic means education or experience obtained or requirements met in the territory of the other Party, including through online portals to apply for recognition, online courses, online registers of licensed individuals, as well as online platforms for continuous professional education and development.

7. Further to any dialogue referred to in paragraph 2(a) through (f), each Party shall encourage its respective relevant bodies or authorities to consider undertaking any related activity within a mutually agreed time as well as through electronic means.

Professional Services Working Group

8. The Parties hereby establish a Professional Services Working Group ("Working Group"), composed of representatives of each Party.

9. The Working Group shall liaise, as appropriate, to support the Parties' relevant bodies or authorities in pursuing the activities listed in paragraphs 2 and 4. This support may include providing points of contact, facilitating meetings, and providing information regarding regulation of professional services in the Parties' territories.

10. The Working Group shall meet within one year of the date of entry into force of this Agreement, and thereafter as decided by the Parties, to discuss activities covered by this Annex.

11. The Working Group shall report to the Joint Commission progress undertaken by the Parties pursuant to this Annex, and on the future direction of its work, within 60 days after each meeting.

Appendix 16-A.1

Guidelines for Mutual Recognition Agreements or Arrangements for the Professional Services Sector

Introductory Notes

This Appendix provides practical guidance for governments, relevant bodies, or authorities entering into mutual recognition negotiations for a regulated professional services sector. These guidelines are non-binding and are intended to be used on a voluntary basis. They do not modify or affect the rights and obligations of the Parties under this Agreement.

The objective of these guidelines is to facilitate the negotiation of mutual recognition agreements or arrangements ("MRAs").

The guidelines listed under this Appendix are provided by way of illustration. The listing of these guidelines is indicative and is intended neither to be exhaustive, nor as an endorsement of the application of these measures by the Parties.

Section A: Conduct of Negotiations and Relevant Obligations

Opening of Negotiations

1. Entities intending to enter into negotiations towards an MRA are encouraged to inform the Professional Services Working Group established under Annex 16-A. The following information may be supplied:

(a) the entities involved in negotiations such as governments, organizations in professional services sector or other entities which have authority, statutory or otherwise, to enter into those negotiations;

(b) a contact point to obtain further information;

(c) the subject of the negotiations (specific activity covered); and

(d) the expected time of the start of negotiations.

Focal Points for Negotiations

2. Entities entering into negotiations towards an MRA are encouraged to establish a single point of contact for negotiations.

Results

3. Upon the conclusion of an MRA, the parties to the MRA are encouraged to inform the Professional Services Working Group, and may supply the following information in their notification:

(a) the content of a new MRA; or

(b) the significant modifications to an existing MRA.

Follow-up Actions

4. As a follow-up action to a conclusion of an MRA, parties to the MRA are encouraged to inform the Professional Services Working Group of the following:

(a) that the MRA complies with the provisions of this Chapter and Chapter 17 (Development and Administration of Measures);

(b) measures and actions taken regarding the implementation and monitoring of the MRA; and

(c) that the text of the MRA is publicly available.

Section B: Form and Content of MRAs

Introductory Note

This Section sets out various issues that may be addressed in MRA negotiations and, if so agreed during the negotiations, included in the MRA. It includes some basic ideas on what a Party might require of foreign professionals seeking to take advantage of an MRA.

Participants

5. The MRA should identify clearly:

(a) the parties to the MRA, such as governments, organizations in the professional services sectors, or other entities who have authority;

(b) competent authorities or organizations other than the parties to the MRA, if any, and their position in relation to the MRA; and

(c) the status and area of competence of each party to the MRA.

Purpose of the MRA

6. The purpose of the MRA should be clearly stated.

Scope of the MRA

7. The MRA should set out clearly:

(a) its definitions;

(b) its scope in terms of the specific profession or titles and professional activities it covers in the territories of the parties;

(c) who is entitled to use the professional titles concerned;

(d) whether the recognition mechanism is based on qualifications, on the license or registration obtained in the jurisdiction of origin or on some other requirement; and

(e) whether it covers temporary access, including a range of possible duration and conditions for renewal, if applicable, permanent access, or both, to the profession concerned.

MRA Provisions

8. The MRA should clearly specify the qualifications, licensing or registration conditions, and their equivalences, to be met for recognition between the parties to the MRA. If the requirements of the various sub-national jurisdictions under an MRA are not identical, the difference and the modalities for the recognition of qualifications between sub-national jurisdictions should be clearly presented.

9. The MRA should seek to ensure that recognition does not require citizenship or any form of residency, or education, experience, or training in the jurisdiction of the host party as a condition for recognition by that host party.

10. The requirements and procedures under the MRA should not discriminate based on age, gender or race.

Eligibility for Recognition – Qualifications

11. If the MRA is based on recognition of qualifications, it should, where applicable, state:

(a) the minimum level of education required (including entry requirements, length of study, and subjects studied);

(b) the minimum level of experience required, including location, length, and conditions of practical training or supervised professional practice prior to licensing, and framework of ethical and disciplinary standards;

(c) examinations required, especially examinations of professional competence;

(d) the extent to which home jurisdiction qualifications are recognised in the jurisdiction of the host party; and

(e) the qualifications which the parties to the MRA are prepared to recognize, for instance, by listing particular diplomas or certificates issued by certain institutions, or by reference to particular minimum requirements to be certified by the authorities of the jurisdiction of origin, including whether the possession of a certain level of qualification would allow recognition for some activities but not others.

Eligibility for Recognition – Licensing, Membership or Registration

12. If the MRA is based on recognition of the licensing, membership, or registration decision made by regulators in the jurisdiction of origin, it should specify the mechanism by which eligibility for such recognition may be established.

Eligibility for recognition – Additional Requirements for Recognition in the Jurisdiction of the Host Party (Compensatory Measures)

13. If it is considered necessary to provide for additional requirements in order to ensure the quality of the service, the MRA should set out the conditions under which those requirements may apply, for example, in case of shortcomings in relation to qualification requirements in the jurisdiction of the host party or knowledge of local law, practice, standards, and regulations. This knowledge should be essential for practice in the jurisdiction of the host party or required because there are differences in the scope of licensed practice.

14. If additional requirements are deemed necessary, the MRA should set out in detail what they entail, for example, examination, aptitude test, additional practice in the jurisdiction of the host party or in the jurisdiction of origin, practical training and language used for examination.

Mechanisms for Implementation

15. The MRA should state:

(a) the rules and procedures to be used to monitor and enforce the provisions of the MRA;

(b) the mechanisms for dialogue and administrative cooperation between the parties to the MRA; and

(c) the means of dispute settlement under the MRA.

16. As a guide to the treatment of individual applicants, the MRA should include details on:

(a) the focal point of contact in each party to the MRA, for information on all issues relevant to the application, such as the name and address, licensing formalities, and information on additional requirements which need to be met in the jurisdiction of the host party;

(b) the duration of procedures for the processing of applications by the relevant authorities of the jurisdiction of the host party;

(c) the documentation required of applicants and the form, including by electronic means, in which it should be presented and any time limits for applications;

(d) acceptance of documents and certificates, including by electronic means if applicable, issued in the jurisdiction of origin in relation to qualifications and licensing;

(e) the procedures of appeal to or review by the relevant authorities in case of the rejection of an individual application for recognition; and

(f) the fees that might be reasonably required.

17. The MRA should also include the following commitments:

(a) that requests about the measures will be promptly dealt with;

(b) that adequate preparation time will be provided if necessary;

(c) that any exams or tests will be arranged with reasonable periodicity and accessibility;

(d) that fees to applicants seeking to take advantage of the terms of the MRA will be in proportion to the cost to the jurisdiction of the host party or organization; and

(e) that information on any assistance programmes in the jurisdiction of the host party for practical training, and any commitments of the jurisdiction of the host party in that context, be supplied.

Licensing and Other Provisions in the Jurisdiction of the Host Party

18. If applicable:

(a) the MRA should also set out the means by which, and the conditions under which, a license is actually obtained following the establishment of eligibility, and what such license entails, such as a license and its content, membership of a professional body, and use of professional or academic titles;

(b) a licensing requirement, other than qualifications and experience, may include, for example:

(i) proof of payment of any required application fees;

(ii) a language proficiency requirement;

(iii) proof of good conduct and financial standing;

(iv) professional indemnity insurance in accordance with the laws of the jurisdiction of the host party;

(v) demonstrate local knowledge of occupational legislation, such as laws, regulations and codes in the host jurisdiction;

(vi) compliance with the host party's requirements for use of trade or firm names; and

(vii) compliance with the host party's ethics, for instance independence and incompatibility.

19. The MRA may require the parties to the MRA to communicate to their counterpart any new requirements or modifications to existing requirements that might have an impact on the recognition of qualifications under the MRA.

Revision of the MRA

20. If the MRA includes terms under which it can be reviewed or revoked, the details of these terms should be clearly stated.

Chapter 17. DEVELOPMENT AND ADMINISTRATION OF MEASURES

Article 17.1: Definitions

For the purposes of this Chapter:

authorization means the granting of permission by a competent authority to supply a service referred to in Articles 17.2.1(a) and (b), resulting from a procedure to which a person of a Party must adhere in order to demonstrate compliance with licensing requirements or qualification requirements; and

competent authority means a government of a Party, or non-governmental body in the exercise of powers delegated by a government of a Party, that grants an authorization.

Article 17.2: Scope1

1. This Chapter applies to a measure adopted or maintained by a Party with respect to authorization requirements and procedures relating to:

(a) the cross-border supply of services as defined in Article 16.1 (Cross-Border Trade in Services – Definitions); and

(b) the supply of a service in the territory of that Party by a covered investment.

2. This Chapter does not apply to the aspects of a measure set out in an entry to a Party's Schedule to Annex I, or to a measure that a Party adopts or maintains with respect to sectors, sub-sectors, or activities as set out by that Party in its Schedule to Annex II.

3. This Chapter does not apply to a measure of a Party that is excluded from the scope of:

(a) Chapter 16 (Cross-Border Trade in Services) pursuant to Article 16.2.2 and Article 16.2.3 (Cross-Border Trade in Services – Scope); and

(b) Chapter 15 (Investment) pursuant to Article 15.3.3 (Investment – Relation to other Chapters.

1 This Chapter does not prescribe or impose any particular regulatory provisions regarding the implementation of its disciplines.

Article 17.3: Right to Regulate

The Parties recognize the right of each Party to regulate economic activity within its territory with regard to a matter under this Chapter in order to meet its legitimate policy objectives, such as with respect to: the protection of the environment and addressing climate change; social or consumer protection; or the promotion and protection of health, safety, rights of Indigenous Peoples, gender equality, and cultural diversity.

Article 17.4: Development of authorization requirements and procedures

If a Party adopts or maintains a measure within the scope of this Chapter, that Party shall, with respect to that measure:

(a) ensure that requirements and procedures are based on criteria that:

(i) are objective and transparent, such as competence and ability to supply a service, including to do so in a manner consistent with the Party's regulatory requirements, such as those relating to health and the protection of the environment; and

(ii) are established in advance and made publicly accessible;2

(b) ensure that procedures do not in themselves unduly prevent fulfilment of a requirement; and

(c) ensure that the measure does not discriminate against a natural person on the basis of gender.3

Article 17.5: Administration of authorization requirements and procedures

1. Each Party shall ensure that its measures of general application within the scope of this Chapter are administered in a reasonable, objective and impartial manner.

2. Each Party shall ensure that authorization procedures used by the competent authority and decisions of the competent authority in the authorization process are impartial with respect to all applicants. The competent authority should reach its decisions in an independent manner and, in particular, should not be accountable to any person supplying a service for which the authorization is required.

2 For Canada, the exercise of statutory discretion conferred on a minister with respect to a decision on the granting of an authorization in the public interest is not inconsistent with subparagraph 1(a)(ii), provided that it is exercised consistently

with the object of the applicable statute and not in an arbitrary manner, and that its exercise is not otherwise inconsistent with this Agreement.

3 Differential treatment on the basis of gender that is reasonable and objective, and aims to achieve a legitimate policy objective, and adoption of temporary special measures aimed at accelerating gender equality, shall not be considered discrimination for the purposes of this provision.

3. To the extent practicable, each Party shall avoid requiring an applicant to approach more than one competent authority for each application for authorization.4

4. If a Party requires an authorization, the competent authority of that Party shall:

(a) to the extent practicable, permit an applicant to submit an application at any time;5

(b) allow a reasonable period for the submission of an application when specific time periods for applications exist;

(c) initiate the processing of an application without undue delay;

(d) ensure that the processing of an application, including reaching a final decision, is completed within a reasonable timeframe from the submission of a complete application;

(e) at the request of an applicant, provide, without undue delay, information concerning the status of their application;

(f) if an examination is required, schedule that examination at reasonably frequent intervals, and provide a reasonable period of time to enable an applicant to request to take an examination;

(g) if possible, accept an application, including an examination, through electronic means under similar conditions of authenticity as a paper submission at all stages of the authorization process; and

(h) accept an authenticated copy in place of an original document, unless the original document is required to protect the integrity of the authorization process.

5. Each Party shall ensure that an authorization is granted as soon as the competent authority determines that the conditions for the authorization have been met, and once granted, that the authorization enters into effect without undue delay, in accordance with the terms and conditions specified therein.

6. If an application for an authorization is considered incomplete, the competent authority shall, within a reasonable period of time, inform the applicant, and at the request of the applicant, identify the additional information required to complete the application, and provide the applicant an opportunity to correct deficiencies.

7. If the competent authority rejects an application for an authorization, it shall inform the applicant in writing, including by electronic means, and without undue delay. On request of the applicant, the competent authority shall also inform the applicant of the reasons the application was rejected and, to the extent practicable, of the timeframe for an appeal or review against the decision. An applicant should be permitted, within reasonable time limits, to resubmit an application.

4 For greater certainty, a Party may require multiple applications for authorization if a service is within the jurisdiction of multiple competent authorities.

5 In the case of professional services, each Party shall ensure that there are domestic procedures in place to assess the competency of those professionals.

Article 17.6: Fees

1. Each Party shall ensure that the authorization fees charged by a competent authority are reasonable, transparent and do not restrict the supply of the relevant service. Having regard to the cost and administrative burden, each Party is encouraged to accept payment of authorization fees by electronic means.

2. Authorization fees do not include fees for the use of natural resources, royalties, payments for auction, tendering or other non-discriminatory means of awarding concessions or mandated contributions to provide a universal service.

Article 17.7: Review of administrative decisions6

Each Party shall maintain or institute judicial, arbitral, or administrative tribunals or procedures that provide, at the request of a service supplier of a Party, as defined in Article 16.1 (Cross-Border Trade in Services – Definitions), or an investor of a Party, as defined in Article 15.1 (Investment – Definitions), a prompt review of, and if justified, appropriate remedies for, an administrative decision relating to the supply of a service. If the review procedures are not independent of the competent

authority entrusted with the administrative decision concerned, each Party shall ensure that the review procedures are applied in a way that provides for an objective and impartial review.

Article 17.8: Transparency

If a Party requires an authorization, that Party shall promptly publish,7 or otherwise make publicly available in writing, the information necessary to comply with the requirements and procedures for obtaining, maintaining, amending and renewing that authorization. This information shall include, but is not limited to, if it exists:

(a) authorization fees;

(b) contact information of relevant competent authorities;

(c) procedures for appeal or review of decisions concerning applications;

(d) procedures for monitoring or enforcing compliance with the terms and conditions of authorizations;

(e) opportunities for public involvement, such as through hearings or comments;

(f) indicative timeframes for processing of an application; and

(g) the requirements and procedures.

6 This Article does not require a Party to institute procedures where this would be inconsistent with its constitution and laws.

7 For the purposes of this Article, “publish” means to include in an official publication, such as an official journal, or on an official website.

Chapter 18. FINANCIAL SERVICES

Article 18.1: Definitions

For the purposes of this Chapter:

cross-border financial service supplier of a Party means a person of a Party that is engaged in the business of supplying a financial service within the territory of the Party and that seeks to supply or supplies a financial service through the cross-border supply of that service;

cross-border trade in financial services or cross-border supply of financial services means the supply of a financial service:

(a) from the territory of a Party into the territory of the other Party;

(b) in the territory of a Party to a person of the other Party; or

(c) by a national of a Party in the territory of the other Party,

but does not include the supply of a financial service in the territory of a Party by an investment in that territory;

financial institution means a financial intermediary or other enterprise that is authorized to do business and regulated or supervised as a financial institution under the law of the Party in whose territory it is located;

financial institution of the other Party means a financial institution, including a branch, located in the territory of a Party that is controlled by a person of the other Party;

financial service means a service of a financial nature. Financial services include all insurance and insurance-related services, and all banking and other financial services (excluding insurance), as well as services incidental or auxiliary to a service of a financial nature. Financial services include the following activities:

Insurance and insurance-related services

(a) direct insurance (including co-insurance):

(i) life; and

(ii) non-life;

(b) reinsurance and retrocession;

(c) insurance intermediation, such as brokerage and agency; and

(d) services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services;

Banking and other financial services (excluding insurance)

(a) acceptance of deposits and other repayable funds from the public;

(b) lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction;

(c) financial leasing;

(d) all payment and money transmission services, including credit, charge and debit cards, travellers cheques and bankers drafts;

(e) guarantees and commitments;

(f) trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:

(i) money market instruments (including cheques, bills, certificates of deposits);

(ii) foreign exchange;

(iii) derivative products, including futures and options;

(iv) exchange rate and interest rate instruments, including products such as swaps, forward rate agreements;

(v) transferable securities; and

(vi) other negotiable instruments and financial assets, including bullion;

(g) participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to those issues;

(h) money broking;

(i) asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;

(j) settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;

(k) provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services; and

(l) advisory, intermediation and other auxiliary financial services on all the activities listed in subparagraphs (a) through (k), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy;

financial service supplier of a Party means a person of a Party that is engaged in the business of supplying a financial service within the territory of that Party;

investment means “investment” as defined in Article 15.1 (Investment – Definitions), except that, with respect to “loans” and “debt instruments” referred to in that Article:

(a) a loan to or debt instrument issued by a financial institution is an investment only if it is treated as regulatory capital by the Party in whose territory the financial institution is located; and

(b) a loan granted by or debt instrument owned by a financial institution, other than a loan to or debt instrument issued by a financial institution referred to in subparagraph (a), is not an investment,

for greater certainty, a loan granted by or debt instrument owned by a cross-border financial service supplier, other than a loan to or debt instrument issued by a financial institution, is an investment for the purposes of Chapter 15 (Investment), if the loan or debt instrument meets the criteria for investments set out in Article 15.1 (Investment – Definitions);

investor of a Party means a Party, or a person of a Party, that seeks to make1, is making or has made an investment in the territory of the other Party. For the purposes of this

definition, a “person of a Party” that is an enterprise of a Party means:

(a) an enterprise that is constituted or organized under the law of that Party and that has substantial business activities in the territory of that Party. A determination of whether an enterprise has substantial business activities in the territory of a Party requires a case-by-case, fact-based inquiry; or

(b) an enterprise that is constituted or organized under the law of that Party, and is directly or indirectly owned or controlled by a national of that Party or by an enterprise mentioned under subparagraph (a);

national means a “national” as defined in Article 1.8 (Initial Provisions and General Definitions – Country-Specific Definitions), except that:

(a) a natural person who is a dual citizen of Canada and Ecuador shall be deemed to be exclusively a national of the Party of their dominant and effective nationality; and

(b) a natural person who is a citizen of one Party and a permanent resident of the other Party shall be deemed to be exclusively a national of the Party of their citizenship;

new financial service means a financial service not supplied in the Party’s territory that is supplied within the territory of the other Party, and includes any new form of delivery of a financial service or the sale of a financial product that is not sold in the Party’s territory;

person of a Party means a national of a Party or an enterprise of a Party and, for greater certainty, does not include a branch of an enterprise of a non-party;

1 For greater certainty, the Parties understand that for the purposes of the definition of an “investor of a Party”, an investor “seeks to make” an investment when that investor has taken concrete action or actions to make an investment, such as channelling resources or capital in order to set up a business, or applying for a permit or license.

public entity means a central bank or monetary authority of a Party, or a financial institution that is owned or controlled by a Party; and

self-regulatory organization means any non-governmental body, including any securities or futures exchange or market, clearing agency, or other organization or association, that exercises regulatory or supervisory authority over financial service suppliers or financial institutions by statute or delegation from central or regional government.

Article 18.2: Scope

1. This Chapter applies to measures adopted or maintained by a Party relating to:

(a) financial institutions of the other Party;

(b) investors of the other Party, and investments of those investors, in financial institutions in the Party’s territory; and

(c) cross-border trade in financial services.

2. Chapter 15 (Investment) and Chapter 16 (Cross-Border Trade in Services) apply to measures described in paragraph 1 only to the extent that those Chapters or Articles of those Chapters are incorporated into this Chapter.

(a) Article 15.4 (Investment – Right to Regulate), Article 15.5 (Investment – Non-Derogation), Article 15.8 (Investment – Treatment in Case of Armed Conflict, Civil Strife or Natural Disaster), Article 15.9 (Investment – Minimum Standard of Treatment), Article 15.10 (Investment – Expropriation), Article 15.11 (Investment – Transfer of Funds),

Article 15.15 (Investment – Responsible Business Conduct), Article 15.16 (Investment – Denial of Benefits), Article 15.17 (Investment – Special Formalities and Information Requirements), Article 15.19 (Investment – Exclusions) and Article 16.9 (Cross-Border Trade in Services – Denial of Benefits) are hereby incorporated into and made a part of this Chapter.

(b) Section D and Section E of Chapter 15 (Investment) are hereby incorporated into and made a part of this Chapter2 solely for claims that a Party has breached Article 15.8 (Investment – Treatment in Case of Armed Conflict, Civil Strife or Natural Disaster), Article 15.10 (Investment – Expropriation), Article 15.11 (Investment – Transfer of Funds), Article 15.16 (Investment – Denial of Benefits) or Article 15.17 (Investment – Special Formalities and Information Requirements) incorporated into this Chapter under subparagraph (a).

(c) Article 16.10 (Cross-border Trade in Services – Payments and Transfers) is incorporated into and made a part of this Chapter to the extent that

cross-border trade in financial services is subject to obligations pursuant to Article 18.6.

2 For greater certainty, Section D of Chapter 15 (Investment) does not apply to cross-border trade in financial services.

3. This Chapter does not apply to measures adopted or maintained by a Party relating to:

(a) activities or services forming part of a public retirement plan or statutory system of social security; or

(b) activities or services conducted for the account or with the guarantee or using the financial resources of the Party, including its public entities,

except that this Chapter applies to the extent that a Party allows any of the activities or services referred to in subparagraph (a) or (b) to be conducted by its financial institutions in competition with a public entity or a financial institution.

4. This Chapter does not apply to government procurement of financial services.

5. This Chapter does not apply to subsidies or grants with respect to the cross-border supply of financial services, including government-supported loans, guarantees and insurance.

Article 18.3: National Treatment

1. Each Party shall accord to investors of the other Party treatment no less favourable than that it accords to its own investors, in like circumstances, with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of financial institutions and investments in financial institutions in its territory.

2. Each Party shall accord to financial institutions of the other Party, and to investments of investors of the other Party in financial institutions, treatment no less favourable than that it accords to its own financial institutions, and to investments of its own investors in financial institutions, in like circumstances, with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of financial institutions and investments.

3. For the purposes of the national treatment obligations in Article 18.6, a Party shall accord to cross-border financial service suppliers of the other Party treatment no less favourable than that it accords to its own financial service suppliers, in like circumstances, with respect to the supply of the relevant service.

4. The treatment accorded by a Party under paragraphs 1, 2 and 3 means, with respect to a government other than at the central level of government, treatment accorded, in like circumstances, by that government to financial institutions of the Party, investors of the Party, and investments of those investors, in financial institutions, of the Party of which it forms a part.

5. For greater certainty, whether treatment is accorded in “like circumstances” under this Article depends on the totality of the circumstances, including whether the relevant treatment distinguishes between investors in financial institutions, investments in financial institutions, financial institutions, financial services or financial service suppliers on the basis of legitimate public policy objectives.

6. Paragraphs 1, 2 and 3 prohibit discrimination based on nationality. A difference in treatment accorded to an investor of the other Party, or their investments, in a financial institution, or a financial institution of the other Party and a Party’s own investors, or their investments, in a financial institution, or financial institutions does not, in and of itself, establish discrimination based on nationality.

Article 18.4: Most-Favoured-Nation Treatment

1. Each Party shall accord to:

(a) investors of the other Party, treatment no less favourable than that it accords to investors of a non-party, in like circumstances;

(b) financial institutions of the other Party, treatment no less favourable than that it accords to financial institutions of a non-party, in like circumstances;

(c) investments of investors of the other Party in financial institutions, treatment no less favourable than that it accords to investments of investors of a non-party in financial institutions, in like circumstances; and

(d) cross-border financial service suppliers of the other Party and the financial services they supply, treatment no less

favourable than that it accords to cross-border financial service suppliers of a non-party and the financial services they supply, in like circumstances.

2. The treatment to be accorded by a Party under paragraph 1 means, with respect to a government other than at the central level, treatment accorded, in like circumstances, by that government to: financial institutions of a non-party; investors of a non-party, and investments of those investors, in financial institutions; or financial services or cross-border financial service suppliers of a non-party.

3. The treatment referred to in paragraphs 1 and 2 does not include procedures for the resolution of investment disputes between investors and states provided for in other international investment treaties and other trade agreements.

4. Substantive obligations in other international investment treaties and other trade agreements do not in themselves constitute treatment, and cannot give rise to a breach of this Article, absent measures adopted or maintained by a Party pursuant to those obligations.

5. For greater certainty, whether treatment is accorded in like circumstances under this Article depends on the totality of the circumstances, including whether the relevant treatment distinguishes between investors in financial institutions, investments in financial institutions, financial institutions, financial services or financial service suppliers on the basis of legitimate public policy objectives.

6. Paragraph 1 prohibits discrimination based on nationality. A difference in treatment accorded to an investor of the other Party, or their investments, in a financial institution, or a financial institution of the other Party and a non-party's investors, or their investments, in a financial institution, or financial institutions does not, in and of itself, establish discrimination based on nationality.

Article 18.5: Market Access for Financial Institutions

A Party shall not adopt or maintain with respect to financial institutions of the other Party or investors of the other Party seeking to establish those institutions, either on the basis of a regional subdivision or on the basis of its entire territory, measures that:

(a) impose limitations on:

(i) the number of financial institutions, whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirement of an economic needs test;

(ii) the total value of financial service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;

(iii) the total number of financial service operations or the total quantity of financial services output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test;3or

(iv) the total number of natural persons that may be employed in a particular financial service sector or that a financial institution may employ and who are necessary for, and directly related to, the supply of a specific financial service in the form of numerical quotas or the requirement of an economic needs test; or

(b) restrict or require specific types of legal entity or joint venture through which a financial institution may supply a service.

Article 18.6: Cross-Border Trade

1. Each Party shall permit, under terms and conditions that accord national treatment, cross-border financial service suppliers of the other Party to supply the financial services specified in Annex 18-A.

3 Subparagraph (a)(iii) does not cover measures of a Party which limit inputs for the supply of financial services.

2. Article 18.5 applies to the treatment of cross-border financial service suppliers supplying the financial services specified in Annex 18-A. The measures that a Party shall not adopt or maintain with respect to financial institutions of the other Party or investors of the other Party under Article 18.5 means measures relating to cross-border financial service suppliers of the other Party supplying the financial services specified in Annex 18-A.

3. Each Party shall permit persons located in its territory, and its nationals wherever located, to purchase financial services from cross-border financial service suppliers of the other Party located in the territory of the other Party. This obligation does not require a Party to permit those suppliers to do business or solicit in its territory. Each Party may

define "doing business" and "solicitation" for the purposes of this obligation provided that those definitions are not

inconsistent with paragraph 1.

4. A Party shall not require a cross-border financial service supplier of the other Party to establish or maintain a representative office or an enterprise, or to be resident, in its territory as a condition for the cross-border supply of a financial service, with respect to the financial services as specified by the Party in Annex 18-A.

5. Without prejudice to other means of prudential regulation of cross-border trade in financial services, a Party may require the registration or authorization of cross-border financial service suppliers of the other Party and of financial instruments.

Article 18.7: New Financial Services4

Each Party shall permit a financial institution of the other Party to supply a new financial service that the Party would permit its own financial institutions, in like circumstances, to supply without adopting a law or modifying an existing law.5 Notwithstanding Article 18.5(b), a Party may determine the institutional and juridical form through which the new financial service may be supplied and may require authorization for the supply of the service. If a Party requires a financial institution to obtain authorization to supply a new financial service, the Party shall decide within a reasonable period of time whether to issue the authorization and may refuse the authorization only for prudential reasons.

Article 18.8: Treatment of Certain Information

This Chapter does not require a Party to furnish or allow access:

(a) to information related to the financial affairs and accounts of individual customers of financial institutions or cross-border financial service suppliers; or

4 The Parties understand that this Article does not prevent a financial institution of a Party from applying to the other Party to request that it authorize the supply of a financial service that is not supplied in either Party's territory. That application shall be subject to the law of the Party to which the application is made and, for greater certainty, shall not be subject to this Article.

5 For greater certainty, a Party may issue a new regulation or other subordinate measure in permitting the supply of the new financial service.

(b) to any information, the disclosure of which would be contrary to its law, or would impede law enforcement, or otherwise be contrary to the public interest, or prejudice legitimate commercial interests of a person.

Article 18.9: Senior Management and Boards of Directors

1. A Party shall not require financial institutions of the other Party to engage natural persons of any particular nationality as senior managerial or other essential personnel.

2. A Party shall not require that more than a simple majority of the board of directors of a financial institution of the other Party be composed of nationals of the Party, persons residing in the territory of the Party, or a combination thereof.

3. A Party may encourage financial institutions operating within its territory, or subject to its jurisdiction, to nominate women to senior management positions or to boards of directors.

Article 18.10: Non-Conforming Measures

1. Articles 18.3 through 18.6 and Article 18.9 do not apply to:

(a) any existing non-conforming measure that is maintained by a Party:

(i) at the central level of government, as set out by that Party in Section A of its Schedule to Annex III;

(ii) at the regional level of government, as set out by that Party in Section A of its Schedule to Annex III; or

(iii) by a government other than the central or regional levels;

(b) the continuation or prompt renewal of any non-conforming measure referred to in subparagraph (a); or

(c) an amendment to any non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the measure as it existed:

(i) immediately before the amendment, with Article 18.3, Article 18.4,

Article 18.5 or Article 18.9; or

(ii) on the date of entry into force of this Agreement for the Party applying the non-conforming measure, with Article 18.6.

2. Articles 18.3 through 18.6 and Article 18.9 do not apply to any measure that a Party adopts or maintains with respect to sectors, subsectors or activities, as set out by that Party in Section B of its Schedule to Annex III.

3. A non-conforming measure, set out in a Party's Schedule to Annex I or II as not subject to Article 15.6 (Investment – National Treatment), Article 15.7 (Investment – Most-Favoured-Nation Treatment), Article 15.13 (Investment – Senior Management and Boards of Directors), Article 16.3 (Cross-border Trade in Services – National Treatment) or Article 16.4 (Cross-Border Trade in Services – Most-Favoured-Nation Treatment), shall be treated as a non-conforming measure not subject to Article 18.3, Article 18.4 or Article 18.9, as the case may be, to the extent that the measure, sector, subsector or activity set out in the entry is covered by this Chapter.

4. Article 18.3 and Article 18.4 do not apply to a measure that relates to the protection of intellectual property rights6 that is in conformity with:

(a) the TRIPS Agreement, and any amendment thereof that is in force for both Parties; or

(b) any waiver to the TRIPS Agreement that is in force pursuant to the WTO Agreement.

Article 18.11: Exceptions

1. Notwithstanding any other provisions of this Chapter and this Agreement except for Chapter 2 (National Treatment and Market Access for Goods), Chapter 3 (Rules of Origin), Chapter 4 (Origin Procedures), Chapter 5 (Customs and Trade Facilitation), Chapter 6 (Sanitary and Phytosanitary Measures), Chapter 7 (Technical Barriers to Trade) and Chapter 8 (Emergency Action), a Party shall not be prevented from adopting or maintaining measures for prudential reasons,7 including for the protection of investors, depositors, policy holders, or persons to whom a fiduciary duty is owed by a financial institution or cross-border financial service supplier, or to ensure the integrity and stability of the financial system. If these measures do not conform with the provisions of this Agreement to which this exception applies, they shall not be used as a means of

avoiding the Party's commitments or obligations under those provisions.

2. This Chapter, Chapter 15 (Investment), Chapter 16 (Cross-Border Trade in Services), Chapter 20 (Telecommunications), including specifically Article 20.26 (Telecommunications – Relation to Other Chapters), and Chapter 21 (Digital Trade), do not apply to non-discriminatory measures of general application taken by any public entity in pursuit of monetary and related credit policies or exchange rate policies. This paragraph does not affect a Party's obligations under Article 15.12 (Investment – Performance Requirements) with respect to measures covered by Chapter 15 (Investment), under Article 15.11 (Investment –Transfer of Funds) or Article 16.10 (Cross-border Trade in Services – Payments and Transfers).

6 For the purposes of this paragraph, "protection of intellectual property rights" includes matters affecting the availability, acquisition, scope, maintenance, use and enforcement of intellectual property rights.

7 The Parties understand that the term "prudential reasons" includes the maintenance of the safety, soundness, integrity, security, or financial responsibility of individual financial institutions or cross-border financial service suppliers, the safety, security and financial and operational integrity of payment and clearing systems, and addressing threats to the integrity and security of financial institutions and cross-border financial service suppliers, included threats arising from foreign interference.

3. Notwithstanding Article 15.11 (Investment – Transfer of Funds) and Article 16.10 (Cross-border Trade in Services – Payments and Transfers), as incorporated into this Chapter, a Party may prevent or limit transfers by a financial institution or cross-border financial service supplier to, or for the benefit of, an affiliate of or person related to that institution or supplier, through the equitable, non-discriminatory and good faith application of measures relating to maintenance of the safety, soundness, integrity, or financial responsibility of financial institutions or cross-border financial service suppliers. This paragraph does not prejudice any other provision of this Agreement that permits a Party to restrict transfers.

4. For greater certainty, this Chapter does not prevent a Party from adopting or enforcing measures necessary to secure compliance with laws or regulations that are not inconsistent with this Chapter, including those relating to the prevention of deceptive and fraudulent practices or to deal with the effects of a default on financial services contracts, subject to the requirement that those measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on investment in financial institutions or cross-border trade in financial services as covered by this Chapter.

Article 18.12: Recognition

1. A Party may recognize prudential measures of the other Party or a non-party in the application of measures covered by this Chapter. That recognition may be:

(a) accorded autonomously;

(b) achieved through harmonization or other means; or

(c) based upon an agreement or arrangement with the other Party or a non-party.

2. A Party that accords recognition of prudential measures under paragraph 1 shall provide adequate opportunity to the other Party to demonstrate that circumstances exist in which there are or would be equivalent regulation, oversight, implementation of regulation and, if appropriate, procedures concerning the sharing of information between the Parties.

3. If a Party accords recognition of prudential measures under paragraph 1(c) and the circumstances set out in paragraph 2 exist, that Party shall provide adequate opportunity to the other Party to negotiate accession to the agreement or arrangement, or to negotiate a comparable agreement or arrangement.

4. For greater certainty, Article 18.4 does not require a Party to accord recognition to prudential measures of the other Party.

Article 18.13: Transparency

1. Chapter 17 (Development and Administration of Measures), Chapter 25 (Good Regulatory Practices), and Section B (Transparency) of Chapter 14 (Transparency,

Anti- corruption, and Responsible Business Conduct) do not apply to a measure relating to this Chapter.

2. The Parties recognize that transparent regulations and policies governing the activities of financial institutions and cross-border financial service suppliers are

important in facilitating their ability to gain access to and operate in each other's markets.

Each Party commits to promote regulatory transparency in financial services.

3. Each Party shall ensure that all measures of general application to which this Chapter applies are administered in a reasonable, objective and impartial manner.

4. Each Party shall, to the extent practicable:

(a) publish in advance any regulation that it proposes to adopt and the purpose of the regulation; and

(b) provide interested persons and the other Party with a reasonable opportunity to comment on that proposed regulation.

5. At the time that it adopts a final regulation, a Party should, to the extent practicable, address in writing the substantive comments received from interested persons with respect to the proposed regulation.8

6. To the extent practicable, each Party should allow a reasonable period of time between publication of a final regulation of general application and the date when it enters into effect.

7. Each Party shall ensure that the rules of general application adopted or maintained by a self-regulatory organization of the Party are promptly published or otherwise made available in a manner that enables interested persons to become acquainted with them.

8. Each Party shall maintain or establish appropriate mechanisms for responding to inquiries from interested persons regarding measures of general application covered by this Chapter.

Article 18.14 Processing of Applications

1. If a Party requires authorization for the supply of a financial service, it shall ensure that its competent authorities:

(a) to the extent practicable, permit an applicant to submit an application at any time throughout the year;9

(b) allow a reasonable period for the submission of an application if specific time periods for applications exist;

(c) provide to service suppliers and persons seeking to supply a service the information necessary to comply with the requirements and procedures for obtaining, maintaining, amending, and renewing that authorization;

8 For greater certainty, a Party may address those comments collectively on an official government website.

9 Competent authorities are not required to start considering applications outside of their official working hours and working days.

(d) to the extent practicable, provide an indicative timeframe for the processing of an application;

(e) at the request of the applicant, provide without undue delay information concerning the status of the application;

(f) to the extent practicable, ascertain without undue delay the completeness of an application for processing under the Party's laws and regulations;

(g) endeavor to accept applications in electronic format;

(h) accept copies of documents that are authenticated in accordance with the Party's laws and regulations, in place of original documents, unless the competent authorities require original documents to protect the integrity of the authorization process;

(i) in the case of an application considered complete under the Party's laws and regulations10 within a reasonable period of time, after the submission of the application, ensure that:

(i) the processing of an application is completed; and

(ii) the applicant is informed of the decision concerning the application, to the extent possible in writing;11

(j) in the case of an application considered incomplete under the Party's laws and regulations, within a reasonable period of time, to the extent practicable:

(i) inform the applicant that the application is incomplete;

(ii) at the request of the applicant, identify the additional information required to complete the application, provide guidance on why the application is considered incomplete; and

(iii) provide the applicant with the opportunity12 to provide the additional information that is required to complete the application,

or, if none of the above is practicable, and the application is rejected due to incompleteness, ensure that the applicant is informed within a reasonable period of time;

(k) if an application is rejected, to the extent practicable, either on their own initiative or on request of the applicant, inform the applicant of the reasons for rejection and, if applicable, the procedures for resubmission of an application. An applicant should not be prevented from submitting another application13 solely on the basis of an application has been previously rejected; and

10 Competent authorities may require that all information is submitted in a specific format to consider it "complete for processing".

11 "In writing" may include in electronic form.

12 For greater certainty, that opportunity does not require a competent authority to provide extensions of deadlines.

13 Competent authorities may require that the content of an application be revised.

(l) ensure that authorization, once granted, enters into effect without undue delay, subject to applicable terms and conditions.14

2. Each Party shall ensure that its competent authorities with respect to an authorization fee15 they charge provide an applicant with a schedule of fees or information on how fee amounts are calculated, and do not use the fees as a means of avoiding the Party's commitments or obligations under this Chapter.

3. If a Party adopts or maintains measures with respect to authorization requirements and procedures for the supply of a financial service, the Party shall ensure that:

(a) the competent authority reaches and administers its decisions in a manner independent from any suppliers of the services for which authorization is required;16

(b) the measures are based on objective and transparent criteria;17

(c) the procedures are impartial, and that the procedures are adequate for applicants to demonstrate whether they meet

the requirements, if those requirements exist;

(d) the procedures do not in themselves unjustifiably prevent fulfilment of requirements; and

(e) the measures do not discriminate against natural persons on the basis of gender.18

Article 18.15: Self-Regulatory Organizations

If a Party requires a financial institution or a cross-border financial service supplier of the other Party to be a member of, participate in, or have access to, a self-regulatory organization in order to provide a financial service in or into its territory, it shall ensure that the self-regulatory organization observes the obligations contained in this Chapter.

14 Competent authorities are not responsible for delay due to reasons outside their competence.

15 An authorization fee does not include a fee for the use of natural resources, payments for auction, tendering or other non-discriminatory means of awarding concessions, or mandated contributions to universal service provision.

16 This provision does not mandate a particular administrative structure; it refers to the decision-making process and administering of decisions.

17 Those criteria may include competence and the ability to supply a service, including to do so in a manner consistent with a Party's regulatory requirements. Competent authorities may assess the weight to be given to each criterion.

18 For greater certainty, legitimate differentiation, as well as the adoption of temporary special measures aimed at accelerating de facto gender equality, shall not be considered discrimination for the purposes of this provision.

Article 18.16: Payment and Clearing Systems

Under terms and conditions that accord national treatment, each Party shall grant financial institutions of the other Party established in its territory access to payment and clearing systems operated by public entities, and to official funding and refinancing facilities available in the normal course of ordinary business. This Article is not intended to confer access to the Party's lender of last resort facilities.

Article 18.17: Expedited Availability of Insurance Services

The Parties recognize the importance of maintaining and developing regulatory procedures to expedite the offering of insurance services by licensed suppliers. These procedures may include: allowing introduction of products unless those products are disapproved within a reasonable period of time; not requiring product approval or authorization of insurance lines for insurance other than insurance sold to individuals or compulsory insurance; or not imposing limitations on the number or frequency of product introductions. If a Party maintains regulatory product approval procedures, that Party shall endeavour to maintain or improve those procedures.

Article 18.18: Performance of Back-Office Functions

1. Each Party recognizes that the performance of the back-office functions of a financial institution in its territory by the head office or an affiliate of the financial institution, or by an unrelated service supplier, either inside or outside its territory, is important to the effective management and efficient operation of that financial institution. While a Party may require financial institutions to ensure compliance with any domestic requirements applicable to those functions, the Parties recognize the importance of avoiding the imposition of arbitrary requirements on the performance of those functions.

2. For greater certainty, paragraph 1 does not prevent a Party from requiring a financial institution in its territory to retain certain functions.

Article 18.19 Electronic Payment Card Services

1. A Party shall allow the supply of electronic payment services for payment card transactions19 into its territory from the territory of the other Party by a person of that other Party. A Party may condition the cross-border supply of electronic payment services on one or more of these requirements that a service supplier of the other Party:

(a) register with or be authorized20 by relevant authorities;

(b) be a supplier who supplies those services in the territory of the other Party; or

(c) designate an agent office or maintain a representative or sales office in the Party's territory,

provided that those requirements are not used as a means to avoid a Party's obligation under this Article.

2. For the purposes of this Article, electronic payment services for payment card transactions do not include the transfer of funds to and from transactors' accounts. Furthermore, electronic payment services for payment card transactions include only those payment network services that use proprietary networks to process payment transactions. These services are provided on a business-to-business basis.

3. This Article does not prevent a Party from adopting or maintaining measures for legitimate policy objectives, provided that these measures are not used as a means to avoid the Party's obligation under this Article. For greater certainty, those measures may include:

(a) measures to protect personal data, personal privacy and the confidentiality of individual records, transactions and accounts, such as restricting the collection by, or transfer to, the cross-border service supplier of the other Party, of information concerning cardholder names;

(b) the regulation of fees, such as interchange or switching fees; and

(c) the imposition of fees as may be determined by a Party's authority, such as those to cover the costs associated with supervision or regulation or to

facilitate the development of the Party's payment system infrastructure.

19 For greater certainty, the electronic payment services for payment card transactions referred to in this commitment fall within subparagraph (d) of the "banking and other financial services (excluding

insurance)" category in the definition of "financial service" in Article 18.1, and within subcategory 71593 of the United Nations Central Product Classification, Version 2.1, and include only the processing of financial transactions such as verification of financial balances, authorization of transactions, notification of banks (or credit card issuers) of individual transactions and the provision of daily summaries and instructions regarding the net financial position of relevant institutions for authorized transactions.

20 The registration, authorization and continued operation, for new and existing suppliers can be conditioned, for example: (i) on supervisory cooperation with the home country supervisor; and (ii) the supplier in a timely manner providing a Party's relevant financial regulators with the ability to examine, including onsite, the systems, hardware, software and records specifically related to that supplier's cross-border supply of electronic payment services into the Party.

4. For the purposes of this Article, payment card means:

(a) For Canada, a "payment card" as defined under the Payment Card Networks Act as of January 1, 2015. For greater certainty, physical and electronic forms of credit and debit cards are included in the definition. For greater certainty, credit cards include pre-paid cards.

(b) For Ecuador, a "payment card" as defined under Ecuadorian laws and regulations.

Article 18.20: Portfolio Management

1. A Party shall allow a financial institution organized in the territory of the other Party to provide the following services to a collective investment scheme located in its territory:

(a) investment advice; and

(b) portfolio management services, excluding:

(i) trustee services; and

(ii) custodial services and execution services that are not related to managing a collective investment scheme.

2. Paragraph 1 is subject to Article 18.6.

3. For greater certainty, a Party may require a collective investment scheme or a

person of a Party involved in the operation of the scheme located in the Party's territory to retain ultimate responsibility for the management of the collective investment scheme.

4. For the purposes of paragraph 1, collective investment scheme means:

(a) For Canada, an "investment fund" as defined under the relevant Securities Act.21

(b) For Ecuador, “an investment fund” as defined under the Código Orgánico Monetario y Financiero, Libro II, Ley de Mercado de Valores (Organic Monetary and Financial Code Book II, Securities Market Law).

21 In Canada, a financial institution organized in the territory of the other Party can only provide custodial services to a collective investment scheme located in Canada if the financial institution has shareholders equity equivalent to at least CAD 100 million.

Article 18.21: Transfer of Information

A Party shall not prevent a financial institution or a cross-border financial services supplier of the Party from transferring information, including personal information, into and out of the Party’s territory by electronic or other means when this activity is for the conduct of business within the scope of the license, authorization, or registration of that financial institution or cross-border financial services supplier of the other Party. This Article does not restrict the right of a Party to adopt or maintain measures to protect personal data, personal privacy and the confidentiality of individual records and accounts, provided that those measures are not used to circumvent this Article.

Article 18.22: Financial Services Committee

1. The Parties hereby establish a Financial Services Committee. The principal

representative of each Party shall be an official of the Party’s authority responsible for financial services22 set out in Annex 18-B.

2. The Financial Services Committee shall:

(a) supervise the implementation of this Chapter and its further elaboration;

(b) consider issues regarding financial services that are referred to it by a Party;23 and

(c) participate in the dispute settlement procedures in accordance with Article 18.25.

3. The Financial Services Committee shall meet as the Parties decide to assess the functioning of this Agreement as it applies to financial services. The Financial Services Committee shall inform the Joint Committee of the results of any meeting.

4. The Financial Services Committee shall endeavour to encourage the participation of women when undertaking its functions, such as by seeking to establish a gender balance among their membership.

Article 18.23: Consultations

1. A Party may request, in writing, consultations with the other Party regarding any matter arising under this Agreement that affects financial services. The other Party shall give sympathetic consideration to the request to hold consultations. The consulting Parties shall report the results of their consultations to the Financial Services Committee.

2. Consultations under this Article shall include officials of the authorities specified in Annex 18-B.

22 For Ecuador, the Financial Services Committee may comprise officials of other related institutions.

23 The Parties confirm their shared understanding that the Financial Services Committee shall endeavour, subject to available resources, to carry out a dialogue which may include best practices in respect of the regulation and supervision of financial institutions and cross-border financial service suppliers.

3. For greater certainty, this Article does not require a Party to derogate from its law regarding sharing of information between financial regulators or the requirements of an agreement or arrangement between financial authorities of the Parties, or to require a regulatory authority to take any action that would interfere with specific regulatory, supervisory, administrative or enforcement matters.

Article 18.24: Dispute Settlement

1. Chapter 27 (Dispute Settlement) shall apply as modified by this Article to the settlement of disputes arising under this Chapter.

2. Consultations under Article 27.5 (Dispute Settlement – Consultations) shall include officials of the authorities specified in Annex 18-B.

3. For disputes arising under this Chapter or a dispute in which a Party invokes Article 18.11, when selecting panellists to compose a panel under Article 27.8 (Dispute Settlement – Panel Composition), each Party shall select panellists so that:

(a) the chairperson has expertise or experience in financial services law or practice, such as the regulation of financial institutions, and meets the qualifications set out in Article 27.9 (Dispute Settlement – Qualifications of Panellists); and

(b) each of the other panellists:

(i) has expertise or experience in financial services law or practice, such as the regulation of financial institutions, and meets the qualifications set out in paragraph 1(b) through 1(f) of Article 27.9 (Dispute Settlement – Qualifications of Panellists); or

(ii) meets the qualifications set out in Article 27.9 (Dispute Settlement – Qualification of Panellists).

4. If a Party seeks to suspend benefits in the financial services sector, a panel that reconvenes to make a determination on the proposed suspension of benefits, in accordance with Article 27.15 (Dispute Settlement – Non-Implementation – Suspension of Benefits), shall seek the views of financial services experts, as necessary.

5. Notwithstanding Article 27.15 (Dispute Settlement – Non-Implementation – Suspension of Benefits), when a panel's determination is that a Party's measure is inconsistent with this Agreement and the measure affects:

(a) only a sector other than the financial services sector, the complaining Party may not suspend benefits in the financial services sector; or

(b) the financial services sector and another sector, the complaining Party may not suspend benefits in the financial services sector that have an effect that exceeds the effect of the measure in the complaining Party's financial services sector.

Article 18.25: Investment Disputes in Financial Services

1. If a dispute under Section D of Chapter 15 (Investment) involves a measure referred to in Article 15.2 (Investment – Scope), arbitrators shall be selected in accordance with Article 15.26 (Investment – Arbitrators) as modified in this Article, such that:

(a) the presiding arbitrator has expertise or experience in financial services law or practice, such as the regulation of financial institutions, and meets the qualifications set out in Article 15.26 (Investment – Arbitrators); and

(b) each of the other arbitrators of the tribunal:

(i) meets the qualifications set out in Article 15.26 (Investment –

Arbitrators); or

(ii) have expertise or experience in financial services law or practice, such as the regulation of financial institutions, and meet the qualifications set out in paragraphs 2, 4 and 7 of Article 15.26 (Investment – Arbitrators).

2. If an investor of a Party submits a claim to arbitration under Section D of Chapter 15 (Investment), and the respondent Party asserts a defence under Article 18.11, the respondent Party shall, no later than the date the tribunal fixes for the respondent Party to submit its principal submission on the merits, such as the counter-memorial, submit in writing to the authorities responsible for financial services of the Party of the claimant, as set out in Annex 18-B, a request for a joint determination by the financial authorities of the Parties on the issue of whether and to what extent Article 18.11 is a valid defence to the claim. The respondent Party shall provide the tribunal, if constituted, a copy of its request. The tribunal may proceed to hear the claim only as provided in paragraphs 4, 5 and 6.

3. With respect to the joint determination by the financial authorities of the Parties referred to in paragraph 2:

(a) the financial authorities of the Parties shall have 60 days from the date of the receipt of the request to exchange positions;

(b) the financial authorities of the Parties shall have 60 days from the exchange of positions in sub-paragraph (a) to make a joint determination;

(c) if a joint determination is made under sub-paragraph (b) the financial authorities of either Party shall transmit their decision to the disputing parties and the tribunal, if constituted; and

(d) if the financial authorities of the Parties have not made a joint determination under sub-paragraph (b), either Party may request, within 130 days of the receipt of the request for a joint determination, a panel to be established under Chapter 27 (Dispute Settlement) to decide

whether and to what extent the paragraph asserted is a valid defence to the claim. A Party may request the establishment of a panel without having to request consultations under Article 27.5 (Dispute Settlement – Consultations). The panel shall

transmit its decision to the Parties and to the tribunal, if constituted.

4. If it is determined in the joint determination referred to in paragraph 3(b) or the decision of the panel referred to in subparagraph 3(d) that the paragraph asserted is a valid defence to all parts of the claim, the investor is deemed to have withdrawn its claim and to have discontinued the proceeding, with prejudice. The tribunal, if constituted, shall take note of the discontinuance in an order, after which the authority of the tribunal shall cease.

5. If it is determined in the joint determination referred to in subparagraph 3(b) or the decision of the panel referred to in subparagraph 3(d) that the paragraph asserted is only a valid defence to a part of the claim, the investor is deemed to have withdrawn that part of the claim and to have discontinued that part of the proceedings, with prejudice. The tribunal shall take note of the discontinuance of that part of the claim in an order and shall not proceed with the part of the claim for which the paragraph asserted is determined to be a valid defence.

6. If the financial authorities of the Parties do not make a joint determination under subparagraph 3(b) and no request for the establishment of a panel has been made under paragraph 3(d), the tribunal may decide the matter, provided that:

(a) in addition to the disputing parties, the Party of the investor claimant may make oral or written submissions to the tribunal regarding the issue of whether and to what extent the paragraph asserted is a valid defence to the claim prior to the tribunal deciding this issue. Unless it makes a submission, the Party of the investor shall be presumed for the purposes of the arbitration, to take a position on the application of the paragraph asserted that is not inconsistent with that of the respondent Party; and

(b) the tribunal shall draw no inference regarding the application of the paragraph asserted from the fact that the financial authorities of the Parties have not made a joint determination as described in paragraph 3(b).

7. For the purposes of this Article, the definitions of the following terms set out in Article 15.1 (Investment – Definitions) are incorporated: “claimant”, “disputing parties”, “disputing party”, “non-disputing Party” and “respondent Party”.

Annex 18-A Cross-Border Trade

CANADA 24

Insurance and insurance-related services

1. Article 18.6 applies to the cross-border supply of or trade in financial services, as defined in subparagraph (a) of the definition of “cross-border supply of financial

services” in Article 18.1, with respect to:

(a) insurance of risks relating to:

(i) maritime transport and commercial aviation and space launching and freight, including satellites, with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods and any liability deriving therefrom; and

(ii) goods in international transit;

(b) reinsurance and retrocession;

(c) services auxiliary to insurance, as described in subparagraph (d) of the definition of “financial service” in Article 18.1; and

(d) insurance intermediation, such as brokerage and agency, as referred to in subparagraph (c) of the definition of “financial service” in Article 18.1, of insurance of risks related to services listed in subparagraphs (a) and (b) of this paragraph.

Banking and other financial services (excluding insurance)

2. Article 18.6 applies to the cross-border supply of or trade in financial services, as defined in subparagraph (a) of the definition of “cross-border supply of financial

services” in Article 18.1, with respect to:

(a) provision and transfer of financial information, and financial data processing, as referred to in subparagraph (k) of the banking and other financial services (excluding insurance) category in the definition of “financial service” in Article 18.1; and

(b) advisory and other auxiliary financial services, and credit reference and analysis, excluding intermediation, relating to banking and other financial services, as referred to in subparagraph (l) of the banking and other financial services (excluding

insurance) category in the definition of

“financial service” in Article 18.1.

24 For greater certainty, Canada requires that a cross-border financial services supplier maintain a local agent and records in Canada.

Insurance and insurance-related services

1. Article 18.6 applies to the cross-border supply of or trade in financial services as defined in subparagraph (a) of the definition of “cross-border supply of financial

services” in Article 18.1 with respect to:

(a) insurance of risks relating to:

(i) international maritime shipping, international commercial aviation and space launching and freight (including satellites), with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods, and any liability arising therefrom; and

(ii) goods in international transit;

(b) reinsurance and retrocession;

(c) consultancy, actuarial, risk assessment, and claim settlement services, related to services listed in subparagraph (a), as long as they are qualified by the supervisory authority;

(d) insurance intermediation related to services listed in subparagraphs (a) and (b).

Banking and other financial services (excluding insurance)

2. Article 18.6 applies to the cross-border supply of or trade in financial services as defined in subparagraph (a) of the definition of “cross-border supply of financial

services” in Article 18.1 with respect to:

(a) provision and transfer of financial information and financial data processing and related software as referred to in subparagraph (k) of the definition of financial service in Article 18.1, subject to prior authorization from the supervisory authority, when required; and

(b) advisory and other auxiliary services, excluding intermediation and credit reference and analysis, relating to banking and other financial services as referred to in subparagraph (l) of the definition of financial service in Article 18.1.

25 For greater certainty, Ecuador requires that a cross-border financial services supplier maintain a local representative and records in Ecuador.

Annex 18-B Authorities Responsible for Financial Services

The authorities for each Party responsible for financial services are:

(a) for Canada, the Department of Finance of Canada;

(b) for Ecuador, the Financial Policy and Regulation Board and the Ministry of Production, Foreign Trade and Investments or their successors.

Chapter 19. TEMPORARY MOVEMENT OF BUSINESS PERSONS

Article 19.1: Definitions

For the purposes of this Chapter:

business person means a citizen of a Party who is engaged in the trade in goods, the supply of services or the conduct of investment activities;

immigration formality means:

(a) for Canada, a permit authorizing work;

(b) for Ecuador, a visa, permit, pass or other document or electronic authority granting temporary entry; and

temporary entry means entry into the territory of a Party by a business person of the other Party without the intent to establish permanent residence.

Article 19.2: Scope

1. This Chapter applies to measures affecting the temporary entry of business persons of a Party into the territory of the other Party under the categories set out in Annex 19-A.

2. This Chapter does not apply to measures affecting natural persons seeking access to the employment market of the other Party, nor does it apply to measures regarding citizenship, nationality, residence or employment on a permanent basis.

3. This Agreement does not prevent a Party from applying immigration measures to regulate the entry of natural persons of the other Party into, or their temporary stay in, its territory, including measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across, its borders, provided that those measures are not applied in a manner as to nullify or impair the benefits accruing to the other Party under this Chapter.

4. The sole fact that a Party requires business persons of the other Party to obtain a visa or an equivalent requirement prior to entry shall not be regarded as nullifying or impairing the benefits accruing to the other Party under this Chapter.

Article 19.3: Grant of Temporary Entry

1. Each Party shall grant temporary entry to a business person of the other Party, who is otherwise qualified for entry under its immigration measures, including measures relating to public health and safety and national security, in accordance with this Chapter.

2. A Party may refuse to grant temporary entry or issue an immigration formality to a business person of the other Party if the temporary entry of that business person might adversely affect:

(a) the settlement of any labour dispute that is in progress at the intended place of employment; or

(b) the employment of any natural person who is involved in such dispute.

3. If a Party refuses to grant temporary entry or issue an immigration formality pursuant to paragraph 2, it shall provide written notice to the business person of the reasons for the refusal.

4. The sole fact that a Party grants temporary entry or issues an immigration formality to a business person of the other Party pursuant to this Chapter does not exempt that business person from meeting any applicable licensing or other requirements, including any mandatory codes of conduct, to practise a profession or otherwise engage in business activities.

Article 19.4: Application Procedures

1. Each Party shall, as expeditiously as possible following receipt of a complete application for an immigration formality, issue its decision on the application to the business person. If the application is approved, the decision shall specify the period of stay and other conditions.

2. At the request of an applicant, the Party that has received a complete application for an immigration formality shall endeavour to promptly provide information concerning the status of the application.

3. Each Party shall endeavor to accept and process applications for an immigration formality in electronic format.

4. Each Party shall limit its fees for processing applications for an immigration formality to the approximate cost of services rendered.

Article 19.5: Provision of Information

1. Further to Article 14.2 (Transparency, Anti-corruption and Responsible Business Conduct – Publication) and Article 14.3 (Transparency, Anti-corruption and Responsible Business Conduct – Notification and Provision of Information), each Party shall, no later than six months after the date of entry into force of this Agreement:

(a) make publicly available online explanatory material on its measures relating to this Chapter; and

(b) adopt or maintain appropriate mechanisms to respond to enquiries from interested persons regarding measures relating to temporary entry covered by this Chapter.

2. Each Party shall, subject to its domestic laws regarding the protection of private or personal information:

(a) collect and maintain statistical data respecting the granting of immigration formalities to business persons of the other Party; and

(b) on request of the other Party, make available the information referred to in subparagraph (a).

Article 19.6: Contact Points

1. The Parties designate the following Contact Points, or their successors:

(a) for Canada: Director General;

Temporary Workers Branch; Citizenship and Immigration Canada;

(b) for Ecuador:

Undersecretary of Negotiations;

Ministry of Production, Foreign Trade and Investments.

2. The Contact Points shall meet as required to exchange information as described in Article 19.5 and to consider matters pertaining to this Chapter, such as:

(a) the implementation and administration of this Chapter;

(b) the development and adoption of common criteria and interpretations for the implementation of this Chapter;

(c) the development of measures to further facilitate temporary entry of business persons on a reciprocal basis;

(d) proposed modifications to this Chapter; and

(e) any other issues of mutual interest related to this Chapter.

Article 19.7: Cooperation

1. The Parties shall endeavour, subject to available resources, to cooperate to strengthen the institutional capacity of immigration authorities, including by exchanging information and experiences on immigration regulations and the implementation of immigration programs and technology, including those related to the use of biometric technology, advanced information systems for passengers and security in travel documents.

2. The Parties shall endeavour to support the return and readmission of business persons staying in the territory of a Party in contravention of its laws.

Article 19.8: Dispute Settlement

1. A Party shall not have recourse to dispute settlement under Chapter 27 (Dispute Settlement) regarding a refusal to grant temporary entry to business persons under this Chapter unless:

(a) the matter involves a pattern of practice;

(b) the business person who has been refused temporary entry has exhausted the applicable administrative remedies; and

(c) the Contact Points have been unable to resolve the issue.

2. The remedies referred to in paragraph 1(b) shall be deemed to have been exhausted if a final determination in the matter has not been issued by the competent authority within one year of the institution of an administrative proceeding, and the failure to issue a determination is not attributable to delay caused by the business person.

Article 19.9: Relation to Other Chapters

1. This Agreement does not impose an obligation on a Party regarding its immigration measures, except as specifically provided in this Chapter or Chapter 14 (Transparency, Anti-corruption and Responsible Business Conduct).

2. This Chapter does not impose obligations or commitments on a Party with respect to other Chapters of this Agreement.

Article 19.10: Review of Commitments

Within three years following the entry into force of this Agreement, the Parties shall consider updating their commitments under Annex 19-A.

Annex 19-A

Canada's Schedule of Specific Commitments on Temporary Movement of Business Persons

1. The following sets out Canada's commitments in accordance with Article 19.3 in respect of the temporary entry of business persons.

2. For greater certainty, Canada's commitments do not impose any obligation on Canada's Temporary Resident Visa or any subsequent visa regime.

3. If an immigration formality is required, Canada reserves the right to require that the business person be remunerated at a level commensurate with other similarly qualified business persons within the industry in the region in Canada where the work is performed.

A. Business Visitors

Canada's commitments under this category apply to Ecuadorian business persons if Ecuador has made a reciprocal commitment in its Schedule for Business Visitors, at the activity level, without reserving the right to impose or maintain an economic needs test or numerical restriction.

Description of Category Conditions and Limitations (including length of stay)

A Business Visitor is a business person seeking to engage in one of the following covered business activities:

Marketing

Market researchers or analysts conducting research or analysis independently or for an enterprise located in the territory of the other Party.

Trade fairs and exhibition

Trade-fair or promotional personnel attending a trade convention.

Meetings and Consultations

Business persons attending meetings, seminars or conferences; or engaged in consultations with business associates. Canada shall grant temporary entry for a period of up to 180 days to an Ecuadorian business person seeking to enter Canada as a Business Visitor to engage in a covered business activity, without requiring that business person to obtain an immigration formality, on the condition that the business person provides evidence demonstrating that the proposed business activity is international in scope and the business person is not seeking to enter the local labour market.

The Ecuadorian business person must demonstrate that:

(a) the primary source of remuneration for the proposed business activity is outside Canada's territory; and

(b) the Business Visitor's principal place of business and the actual place of accrual of profits predominantly remain outside of Canada's territory.

Research and Design

Technical, scientific, or statistical researchers conducting independent research or research for an enterprise located in the territory of the other Party.

Sales

Sales representatives or agents taking orders or negotiating contracts for goods or services for an enterprise located in the territory of the other Party but not delivering goods or providing services.

This includes buyers purchasing goods or services for an enterprise located in the territory of the other Party.

Tourism

Tourism personnel of an enterprise located in the territory of the other Party, including tour and travel agents, tour guides, or tour operators, attending or participating in conventions, or conducting a tour that begins in the territory of the other

Party.

Translation

Translators or interpreters performing services for an enterprise located in the territory of the other Party. The Ecuadorian Business Visitor must comply with Canada's immigration measures applicable to temporary entry.

B. Intra-Company Transferees

Canada's commitments under this category apply to Ecuadorian business persons if Ecuador has made a reciprocal commitment in its Schedule for Intra-Company Transferees without reserving the right to impose or maintain an economic needs test or numerical restriction.

Description of Category Conditions and Limitations (including length of stay)

Intra-Company Transferee means a business person employed by an enterprise of the other Party who seeks to render services to that enterprise or its subsidiary or affiliate established in the territory of Canada as an executive, manager, or specialist as defined below:

(a) executive means a business person within an enterprise who:

(i) primarily directs the management of the enterprise or a major component or function of the enterprise;

(ii) establishes the goals and policies of the enterprise, or of a component or function of the enterprise; and

(iii) exercises wide latitude in decision-making and receives only general supervision or direction from higher-level executives, the board of directors or stockholders of the enterprise;

(b) manager means a business person within an enterprise who:

(i) primarily directs the enterprise or a department or sub-division of the enterprise;

(ii) supervises and controls the work of other supervisory, professional or managerial employees; Canada shall grant temporary entry and an immigration formality for a period of up to two years to an Ecuadorian Intra-Company Transferee. Extensions are possible.

The Ecuadorian Intra-Company Transferee must have been employed continuously by the enterprise for one year within the three-year period immediately preceding the date of the application for temporary entry.

The Ecuadorian Intra-Company Transferee must comply with Canada's immigration measures applicable to temporary entry and the issuance of an immigration formality.

(iii) has the authority to hire and fire or take other personnel actions (such as promotion or leave authorisation); and

(iv) exercises discretionary authority over day-to-day operations;

(c) specialist means a business person within an enterprise possessing advanced proprietary knowledge of the enterprise's products or services and their application in international

markets as well as of the enterprise's processes and procedures, and an advanced level of expertise.

C. Investors

Canada's commitments under this category apply to Ecuadorian business persons if Ecuador has made a reciprocal commitment in its Schedule for Investors without reserving the right to impose or maintain an economic needs test or numerical restriction.

Description of Category Conditions and Limitations (including length of stay)

Investor means a business person seeking to establish, develop, administer, or provide advice or key technical services to the operation of an investment to which the business person or the business person's enterprise has committed, or is in the process of committing, a substantial amount of capital in the territory of Canada in a capacity that is supervisory, executive or involves essential skills. Canada shall grant temporary entry and issue an immigration formality for a period of up to one year to an Ecuadorian Investor. Extensions are possible.

The Ecuadorian Investor or the Investor's enterprise must also have committed, or be in the process of committing, a substantial amount of capital in the territory of Canada.

The Ecuadorian Investor must comply with Canada's immigration measures applicable to temporary entry and the issuance of an immigration formality.

D. Professionals

Canada's commitments under this category apply to Ecuadorian business persons in the occupations identified below if Ecuador has made a reciprocal commitment in its Schedule for Professionals without reserving the right to impose or maintain an economic needs test.

Description of Category Conditions and Limitations (including length of stay)

Professional means a business person seeking to work in a covered occupation as set out below and has:

(a) a post-secondary degree of at least four years of study from a recognized institution as a minimum, and any additional requirements defined in Canada's National Occupation Classification (NOC) or its successor; and

(b) four years of paid work experience in the sector of activity of the contract.

The following occupations are covered:

(a) Engineers;

(b) Agrologists;

(c) Architects;

(d) Forestry Professionals;

(e) Geomatics

Professionals/Geoscientists;

(f) Land Surveyors;

(g) Foreign Legal Consultants;

(h) Urban and Land Use Planners;

(i) Senior Computer; Specialists/Information and Communications Technology Professionals; and

(j) Physicists. Canada shall grant temporary entry and an immigration formality for a period of up to one year to an Ecuadorian Professional in one of the covered occupations under this category. Extensions are possible.

The Ecuadorian business person seeking to enter the territory of Canada as a Professional must provide evidence demonstrating, prior to entry, that their services have been contracted in the field for which they have the appropriate qualifications.

The Ecuadorian Professional must comply with Canada's immigration measures applicable to temporary entry and the issuance of an immigration formality.

Canada reserves the right to impose a total annual quota of 500 immigration formalities for all Ecuadorian Professionals covered under this category of business person.

E. Spouses

Canada's commitments under this category apply to Ecuadorian business persons if Ecuador has made a reciprocal commitment for Spouses in its Schedule.

Canada does not take commitments for dependants.

Description of Category Conditions and Limitations (including length of stay)

Canada shall grant temporary entry and provide an immigration formality, upon request, to the Spouse of a business person granted temporary entry under Section B, Section C, or Section D of this Schedule, if the Spouse complies with immigration measures applicable to temporary entry and, as appropriate, the issuance of an immigration formality.

Canada shall not require economic needs tests or other procedures of similar intent as a condition for temporary entry and the issuance of an immigration formality under this category.

The length of stay for a Spouse, including extensions, shall be the same as that of the business person they are accompanying.

Annex 19-A

Ecuador's Schedule of Specific Commitments on Temporary Movement of Business Persons

1. The following sets out Ecuador's commitments in accordance with Article 19.3 in respect of the temporary entry of business persons.

2. For greater certainty, Ecuador may make changes to its Temporary Resident Visa, or any subsequent visa regime to the extent these are not inconsistent with this Chapter.

A. Business Visitors

Ecuador's commitments under this category apply to Canadian business persons if Canada has made a reciprocal commitment in its Schedule for Business Visitors, at the activity level, without reserving the right to impose or maintain an economic needs test or numerical restriction.

Description of Category Conditions and Limitations (including length of stay)

A Business Visitor is a business person seeking to engage in one of the following covered business activities:

Marketing

Market researchers and analysts conducting research or analysis independently or for an enterprise located in the territory of the other Party.

Trade Fairs and Exhibitions

Trade-fair and promotional personnel of a Party attending a trade convention.

Meetings and Consultations

Business persons of a Party attending meetings, seminars, or conferences, or engaged in consultations with business associates. Ecuador shall grant temporary entry for a period of up to 180 days to a Canadian business person seeking to enter Ecuador as a Business Visitor to engage in a covered business activity, without requiring that business person to obtain an employment authorization, on the condition that the business person provides proof of citizenship, evidence demonstrating that the proposed business activity is international in scope and the business person is not seeking to enter the local labour market.

The entry period may be granted only once in each 12-month period from the date of issuance.

The Canadian business person must demonstrate that:

(a) the primary source of remuneration for the proposed business activity is outside Ecuador´s territory; and

Research and Design

Technical, scientific, and statistical researchers conducting independent research or research for an enterprise located in the territory of the other Party.

Sales

Sales representatives and agents taking orders or negotiating contracts for goods or services for an enterprise located in the territory of the other Party but not delivering goods or providing services. This includes buyers purchasing goods or services for an enterprise located in the territory of the other Party.

Tourism

Tourism personnel of an enterprise located in the territory of the other Party, including tour and travel agents, tour guides, or tour operators, attending or participating in conventions, or conducting a tour that begins in the territory of the other Party.

Translation

Translators or interpreters performing services for an enterprise located in the territory of the other Party. (b) the Business

Visitor's principal place of business and the actual place of accrual of profits predominantly remain outside of Ecuador´s territory.

The proof that a Party may require to demonstrate the matters mentioned in subparagraph (b) shall be reasonable and not more burdensome than necessary.

The Canadian Business Visitor must comply with Ecuador's immigration

measures applicable to temporary entry.

B. Intra-Company Transferees

Ecuador's commitments under this category apply to Canadian business persons if Canada has made a reciprocal commitment in its Schedule for Intra-Company Transferees without reserving the right to impose or maintain an economic needs test or numerical restriction.

Description of Category Conditions and Limitations (including length of stay)

Intra-company transferee means a business person employed by an enterprise of the other Party who seeks to render services to that enterprise or its subsidiaries, branches, or designated affiliates established in the territory of Ecuador and who has been so employed for a period not less than one year immediately preceding the date of the application for temporary entry, and who is an executive, manager, or specialist as defined below:

(a) executive means a business person within an enterprise who primarily directs the management of the enterprise, exercises wide latitude in decision-making, and receives only general supervision or direction from higher level executives, the board of directors, or stockholders of the enterprise;

(b) manager means a business person within an enterprise who primarily directs the enterprise or a department or sub-division of the enterprise, supervises, and controls the work of other supervisory, professional, or managerial employees; has the authority to hire and fire or recommend hiring, firing, or other personnel actions; and exercises discretionary authority over day-to-day operations; and Ecuador shall grant temporary entry and provide confirming documentation to a Canadian intra-company transferee, who otherwise complies with immigration measures applicable to temporary entry.

Ecuador shall grant the Canadian Intra-company transferees who enter Ecuador a period of stay of up to two years. Extensions are possible.

(c) specialist means a business person within an enterprise who possesses continued expertise and proprietary knowledge, at an advanced level, of the services, research, equipment, techniques, or management of the enterprise.

C. Investors

Ecuador's commitments under this category apply to Canadian business persons if Canada has made a reciprocal commitment in its Schedule for Investors without reserving the right to impose or maintain an economic needs test or numerical restriction.

Description of Category Conditions and Limitations (including length of stay)

Investor means a business person seeking to establish, develop, administer, or provide advice or key technical services to the operation of an investment to which the business person or the business person's enterprise has committed, or is in the process of committing, a substantial amount of capital, in a capacity that is supervisory, executive or involves essential skills. Ecuador shall grant temporary entry and provide confirming documentation to a Canadian Investor who otherwise complies with immigration measures applicable to temporary entry.

Ecuador shall grant the Canadian Investor who enters Ecuador a period of stay of up to one year. Extensions are possible.

The Canadian Investor or the Investor's enterprise must also have committed, or be in the process of committing, a substantial amount of capital in the territory of Ecuador.

D. Professionals

Ecuador's commitments under this category apply to Canadian business persons in the occupations identified below if Canada has made a reciprocal commitment in its Schedule for Professionals without reserving the right to impose or maintain an economic needs test.

Description of Category Conditions and Limitations (including length of stay)

Professional means a business person seeking to work in a covered occupation as set out below and:

(a) is engaged in a specialized occupation that requires theoretical and practical application of specialized knowledge; and

(b) possesses the necessary academic and professional qualifications to perform an occupation in accordance with the laws and regulations.

The following occupations are covered:

(a) Engineers

(b) Agrologists

(c) Architects

(d) Forestry Professionals

(e) Geomatics Professionals/Geoscientists

(f) Land Surveyors

(g) Foreign Legal Consultants

(h) Urban and Land Use Planners

(i) Senior Computer Specialists / Information and Communications Technology Professionals

(j) Physicist Ecuador shall grant temporary entry and provide confirming documentation to a Canadian Professional, provided that the business person otherwise complies with immigration measures applicable to temporary entry, on presentation of:

(a) documentation demonstrating, prior to entry, that their services have been contracted in the field for which they have the appropriate

qualifications; and

(b) post-secondary degree of at least four years of studies from a recognized institution as a minimum and at least four years of paid work experience.

A Canadian Professional who enters Ecuador shall be granted a period of stay of up to one year. Extensions are possible.

Ecuador reserves the right to impose an annual numerical restriction of 500 Canadian Professionals covered

under this category of business person.

E. Spouses

Ecuador’s commitments under this category apply to Canadian business persons if Canada has made a reciprocal commitment for Spouses in its Schedule.

Ecuador does not take commitments for dependants.

Description of Category Conditions and Limitations (including length of stay)

Ecuador shall grant temporary entry and provide confirming documentation, upon request, to the Spouse of a business person granted temporary entry under Section B, Section C, or Section D of this Schedule, if the Spouse complies with immigration measures applicable to temporary entry.

Ecuador shall not require economic needs tests or other procedures of similar intent as a condition for temporary entry and the issuance of an employment authorization under this category.

The length of stay for a Spouse, including extensions, shall be the same as that of the business person they are accompanying.

Chapter 20. TELECOMMUNICATIONS

Article 20.1: Definitions

For the purposes of this Chapter:

cost-oriented means based on cost, and may include a reasonable profit, and may involve different cost methodologies for different facilities or services;

end-user means a final consumer of or subscriber to a public telecommunications service, including a service supplier other than a supplier of public telecommunications services;

enterprise means an “enterprise” as defined in Article 1.7 (Initial Provisions and General Definitions – General Definitions) and a branch of an enterprise;

essential facilities means facilities of a public telecommunications network or service that:

(a) are exclusively or predominantly provided by a single or a limited number of suppliers; and

(b) cannot feasibly be economically or technically substituted in order to supply a service;

interconnection means linking with suppliers providing public telecommunications services to allow a user of one supplier to communicate with a user of another supplier and to access services provided by another supplier;

leased circuit means a telecommunications facility between two or more designated points that is set aside for the dedicated use of, or availability to, particular users;

licence means any authorisation that a Party may require of a person, in accordance with its laws and regulations, in order for that person to offer a telecommunications service, including concessions, permits or registrations;

major supplier means a supplier that has the ability to materially affect the terms of participation, having regard to price and supply, in the relevant market for public telecommunications services as a result of:

(a) control over essential facilities; or

(b) the use of its position in the market;

network element means a facility or equipment used in supplying a public telecommunications service, including features, functions and capabilities provided by means of that facility or equipment;

non-discriminatory means according treatment no less favourable than that accorded to any other user of like public telecommunications networks or services in like circumstances;

number portability means the ability of an end-user of public telecommunications services to retain the same telephone numbers when switching between suppliers of public telecommunications services;

physical co-location means access to space in order to install, maintain or repair equipment at premises owned or controlled and used by a major supplier to supply public telecommunications services;

public telecommunications network means telecommunications infrastructure used to provide public telecommunications services between and among defined network termination points;

public telecommunications service means a telecommunications service that a Party requires, explicitly or in effect, to be offered to the public generally that involves the real-time transmission of customer-supplied information between two or more points

without any end-to-end change in the form or content of the customer's information. This service may include telephone and data transmission;

reference interconnection offer means an interconnection offer extended by a major supplier and filed with, approved by or determined by a telecommunications regulatory body that sufficiently details the terms, rates and conditions for interconnection so that a supplier of public telecommunications services that is willing to accept it may obtain interconnection with the major supplier on that basis, without having to engage in negotiations with the major supplier concerned;

telecommunications means the transmission and reception of signals by electromagnetic means;

telecommunications regulatory body means any body or bodies responsible for the regulation of telecommunications;

user means an end-user or a supplier of public telecommunications services; and

virtual co-location means an arrangement whereby a requesting supplier that seeks co-location may specify equipment to be used in the premises of a major supplier but does not obtain physical access to those premises and allows the major supplier to install, maintain and repair that equipment.

Article 20.2: Scope

1. This Chapter applies to a measure of a Party affecting trade in public telecommunications services, including:

(a) a measure adopted or maintained by a Party in relation to access to and use of a public telecommunications service;

(b) a measure adopted or maintained by a Party relating to an obligation of a supplier of a public telecommunications service; and

(c) any other measure adopted or maintained by a Party relating to a public telecommunications service.

2. This Chapter does not apply to any measure affecting the cable or broadcast distribution of radio or television programming, except to ensure that a cable or broadcast service supplier have access to and use of public telecommunications networks and services.

3. This Chapter does not:

(a) require a Party to authorize an enterprise of the other Party to establish, construct, acquire, lease, operate, or supply a telecommunications network or service, other than that Party's commitments under Chapter 16 (Cross-Border Trade in Services);

(b) require a Party, or require a Party to oblige an enterprise under its jurisdiction, to establish, construct, acquire, lease, operate, or supply a telecommunications network or service not provided to the public generally;

(c) require a Party to compel any enterprise exclusively engaged in the broadcast or cable distribution of radio or television programming to make available its broadcast or cable facilities as a public telecommunications network; or

(d) prevent a Party from prohibiting a person who operates a private network from using that private network to supply a public telecommunications network or service to third persons.

Article 20.3: Approaches to Regulation

1. The Parties recognise the value of competitive markets to deliver a wide choice in the supply of telecommunications services and to enhance consumer welfare, and that regulation may not be needed if there is effective competition. Accordingly, the Parties recognise that regulatory needs and approaches differ market by market, and that each Party may determine how to implement its obligations under this Chapter.

2. In this respect, the Parties recognise that a Party may:

(a) engage in direct regulation either in anticipation of an issue that the Party expects may arise or to resolve an issue that has already arisen in the market;

(b) rely on the role of market forces, particularly with respect to market segments that are, or are likely to be, competitive or that have low barriers to entry, such as services provided by suppliers of telecommunications services that do not own network facilities; or

(c) use any other appropriate means that benefit the long-term interest of end-users.

Article 20.4: Access to and Use of Public Telecommunications Networks or Services

1. Each Party shall ensure that an enterprise of the other Party is accorded access to and use of public telecommunications networks and services, including leased circuits, offered in its territory or across its borders, and on terms and conditions that are reasonable and non-discriminatory. This obligation shall be applied to paragraphs 2 through 6.

2. Subject to paragraphs 5, 6 and 7, each Party shall ensure that an enterprise of the other Party is permitted to:

(a) purchase or lease, and attach terminal or other equipment that interfaces with a public telecommunications network and that is necessary to supply its services;

(b) connect leased or owned circuits with public telecommunications networks and services, or with circuits leased or owned by another enterprise;

(c) use operating protocols of its choice; and

(d) perform switching, signalling, processing and conversion functions.

3. Each Party shall ensure that an enterprise of the other Party may use public telecommunications networks and services for the movement of information in its territory or across its borders, including for intra-corporate communications, and for access to information contained in a database or otherwise stored in machine-readable form in the territory of the other Party.

4. Notwithstanding paragraph 3, a Party may take measures that are necessary to ensure the security and confidentiality of messages and to protect the personal information of end-users of public telecommunications networks or services, provided that those measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade in services.

5. Each Party shall ensure that no condition is imposed on access to and use of public telecommunications networks and services, other than as necessary to:

(a) safeguard the public service responsibilities of suppliers of public telecommunications networks and services, in particular their ability to make their networks or services available to the public generally; or

(b) protect the technical integrity of public telecommunications networks or services.

6. For greater certainty, a Party may impose a condition on access to and use of public telecommunications networks and services pursuant to Article 28.2 (Exceptions and General Provisions – Security Exception).

7. Provided that they satisfy the criteria set out in paragraph 5, conditions for access to and use of public telecommunications networks and services may include:

(a) a requirement to use a specific technical interface, including an interface protocol, for connection with public telecommunications networks and services;

(b) a requirement, if necessary, for the inter-operability of public telecommunications networks and services;

(c) type approval of terminal or other equipment that interfaces with public telecommunications networks and technical requirements relating to the attachment of that equipment to public telecommunications networks;

(d) a restriction on connection of leased or owned circuits with public telecommunications networks or services or with circuits leased or owned by other service suppliers; or

(e) a requirement for notification and licensing.

Article 20.5: Number Portability

Each Party shall ensure that a supplier of public telecommunications services in its territory provides mobile number portability without impairment to quality and reliability for mobile services, on a timely basis, and on terms and conditions that are reasonable and non-discriminatory.

Article 20.6: Competitive Safeguards

1. Each Party shall adopt or maintain appropriate measures for the purpose of preventing suppliers of public telecommunications services that, alone or together, are a major supplier from engaging in or continuing anticompetitive practices.

2. The anti-competitive practices referred to in paragraph 1 include, in particular:

(a) engaging in anti-competitive cross-subsidisation;

(b) using information obtained from competitors with anti-competitive results; and

(c) not making available to other suppliers of public telecommunications services, on a timely basis, technical information about essential facilities and commercially relevant information that are necessary for them to provide services.

Article 20.7: Treatment by Major Suppliers

Each Party shall ensure that a major supplier in its territory accords to suppliers of public telecommunications services of the other Party treatment no less favourable than that major supplier accords in like circumstances to its subsidiaries, its

affiliates or non-affiliated service suppliers regarding:

(a) the availability, provisioning, rates or quality of like public telecommunications services; and

(b) the availability of technical interfaces necessary for interconnection.

Article 20.8: Resale

A Party may determine, in accordance with its laws and regulations, which public telecommunications services must be offered for resale by a major supplier based on the need to promote competition or to benefit the long-term interests of end-users. If a Party has determined that a service must be offered for resale by a major supplier, that Party shall ensure that any major supplier in its territory does not impose unreasonable or discriminatory conditions or limitations on the resale of that service.

Article 20.9: Interconnection Obligations Relating to Suppliers of Public Telecommunications Services

1. Each Party shall ensure that a supplier of public telecommunications services in its territory provides, directly or indirectly, interconnection with suppliers of public telecommunications services of the other Party.

2. Each Party shall provide its telecommunications regulatory body with the authority to require interconnection at reasonable rates.

3. In carrying out paragraph 1, each Party shall ensure that a supplier of public telecommunications services in its territory takes reasonable steps to protect the confidentiality of commercially sensitive information of, or relating to, suppliers and end-users of public telecommunications services obtained as a result of interconnection arrangements and only uses that information for the purpose of providing these services.

4. A Party may require a supplier of public telecommunications services in its territory to file all interconnection agreements to which it is party with its telecommunications regulatory body.

Article 20.10: Interconnection Obligations Relating to Major Suppliers

1. Each Party shall ensure that a major supplier in its territory provides interconnection for the facilities and equipment of suppliers of public telecommunications services of the other Party at any technically feasible point in the major supplier's network. This interconnection shall be provided:

(a) under non-discriminatory terms, conditions, including technical standards and specifications, and rates;

(b) of a quality no less favourable than that provided by the major supplier for its own like services, for like services of non-affiliated service suppliers, or for its subsidiaries or other affiliates;

(c) on a timely basis, and on terms and conditions, including technical standards and specifications, and at cost-oriented rates, that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the supplier of public telecommunications services of the other Party does not need to pay for network elements or facilities that it does not require for the service to be provided; and

(d) on request, at points in addition to the network termination points offered to the majority of suppliers of public telecommunications services, subject to charges that reflect the cost of construction of necessary additional facilities.

2. Each Party shall ensure that a major supplier in its territory provides suppliers of public telecommunications services of the other Party with the opportunity to interconnect their facilities and equipment with those of the major supplier through at least one of the following options:

(a) a reference interconnection offer containing the rates, terms and conditions that the major supplier offers generally to suppliers of public telecommunications services;

(b) the terms and conditions of an interconnection agreement that is in effect; or

(c) a new interconnection agreement through commercial negotiation.

3. Each Party shall ensure that the procedures applicable for interconnection to a major supplier are made publicly available.

4. Each Party shall provide means for suppliers of the other Party to obtain the rates, terms and conditions necessary for interconnection offered by a major supplier. Those means include, at a minimum, ensuring the public availability of:

(a) interconnection agreements that are in effect between a major supplier in its territory and other suppliers of public telecommunications services in its territory;

(b) rates, terms and conditions for interconnection with a major supplier set by the telecommunications regulatory body or other competent body; or

(c) a reference interconnection offer.

The services for which rates, terms and conditions are made publicly available do not need to include all interconnection-related services offered by a major supplier, as determined by a Party under its laws and regulations.

Article 20.11: Unbundling of Network Elements

Each Party shall provide its telecommunications regulatory body with the authority to require a major supplier in its territory to offer public telecommunications service suppliers access to network elements on an unbundled basis on terms and conditions, and at cost-oriented rates, that are reasonable, non-discriminatory and transparent for the supply of public telecommunications services. A Party may determine, in accordance with its laws and regulations, the network elements required to be made available in its territory and the suppliers that may obtain those elements.

1. Each Party shall ensure that a major supplier in its territory provides service suppliers of the other Party leased circuits services that are public telecommunications services in a reasonable period of time on terms and conditions, and at rates, that are reasonable, and based on a generally-available offer.

2. Further to paragraph 1, each Party shall provide its telecommunications regulatory body with the authority to require a major supplier in its territory to offer leased circuits services that are public telecommunications services to service suppliers of the other Party at capacity-based and cost-oriented prices.

Article 20.13: Co-location

1. Each Party shall ensure that a major supplier that has control over essential facilities in its territory allows suppliers of public telecommunications services of the other Party physical co-location of their equipment necessary for interconnection or access to unbundled network elements, based on a generally-available offer, on a timely basis, and on terms and conditions including technical feasibility and space availability if applicable, and at rates, that are reasonable, non-discriminatory and transparent.

2. Where physical co-location is not practical for technical reasons or because of space limitations, each Party shall endeavour to ensure that a major supplier in its territory provides an alternative solution, such as facilitating virtual co-location, based on a generally available offer, on a timely basis, and on terms and conditions, and at cost-oriented rates, that are reasonable, non-discriminatory and transparent.

3. A Party may determine, in accordance with its laws and regulations, which premises owned or controlled by major suppliers in its territory are subject to

paragraphs 1 and 2, having regard to factors such as the state of competition in the market where colocation is required, and whether those premises can feasibly be economically or technically substituted in order to provide a competing service.

Article 20.14: Access to Poles, Ducts, Conduits and Rights-of-Way 1

Each Party shall ensure that a major supplier in its territory provides access, subject to technical feasibility, to poles, ducts, conduits, rights-of-way and any other structures as determined by the Party, owned or controlled by the major supplier, to suppliers of public telecommunications services of the other Party in the Party's territory on a timely basis, on terms and conditions, and at rates, that are reasonable, non-discriminatory and transparent.

1 For the purposes of this Article, a supplier of mobile services in a Party's territory is not a major supplier unless a Party determines that the supplier meets the definition of "major supplier" set out in Article 20.1.

Article 20.15: International Submarine Cable Systems

If a Party has authorised a major supplier in its territory to operate an international submarine cable system as a public telecommunications service, that Party shall ensure that the major supplier accords a supplier of public telecommunications services of the other Party access to the international submarine cable system on reasonable and

non-discriminatory terms and conditions.

Article 20.16: Independent Telecommunications Regulatory Body

1. Each Party shall ensure that its telecommunications regulatory body is separate from, and not accountable to, any supplier of public telecommunications services. With a view to ensuring the independence and impartiality of telecommunications regulatory bodies, each Party shall ensure that its telecommunications regulatory body does not hold a financial interest or maintain an operating or management role in any supplier of public telecommunications services.

2. Each Party shall ensure that the regulatory decisions of, and the procedures used by, its telecommunications regulatory body are impartial with respect to all market participants.

Article 20.17: Universal Service

Each Party has the right to define the kind of universal service obligations it wishes to maintain. These obligations shall not be regarded as anti-competitive in themselves, provided that they are administered in a transparent, non-discriminatory and competitively neutral manner, and are not more burdensome than necessary for the kind of universal service defined by the Party.

Article 20.18: Licensing

1. If a Party requires a supplier of public telecommunications services to have a licence, the Party shall ensure the public availability of:

(a) all the licensing criteria and procedures that it applies;

(b) the period normally required to reach a decision concerning an application for a licence; and

(c) the terms and conditions of all licences in effect.

2. The Party shall notify an applicant of the outcome of its application without undue delay after a decision has been taken.

3. Each Party shall ensure that, on request, an applicant or a licensee is provided with the reasons for the:

(a) denial of a licence;

(b) imposition of supplier-specific conditions on a licence;

(c) refusal to renew a licence; or

(d) revocation of a licence.

Article 20.19: Allocation and Use of Scarce Resources

1. Each Party shall administer its procedures for the allocation and use of scarce resources related to telecommunications, including frequencies, numbers and rights-of-way, in an objective, timely, transparent and non-discriminatory manner.

2. Each Party shall make publicly available the current state of frequency bands allocated and assigned to specific suppliers, but shall not be required to provide detailed identification of frequencies allocated for specific government uses.

3. For greater certainty, a measure of a Party that allocates or assigns spectrum or manages frequency is not in itself inconsistent with Article 16.5 (Cross-border Trade in Services – Market Access), either as it applies to cross-border trade in services or to a covered investment of the other Party. Accordingly, each Party retains the right to adopt and maintain spectrum and frequency management policies that may have the effect of limiting the number of suppliers of public telecommunications networks or services, provided that the Party does so in a manner that is consistent with this Agreement. This includes the ability to allocate frequency bands, taking into account current and future needs and spectrum availability.

4. When making a spectrum allocation for commercial telecommunications services, each Party shall endeavour to rely on an open and transparent process that considers the public interest, including the promotion of competition. Each Party shall endeavour to rely generally on market-based approaches in assigning spectrum for terrestrial commercial telecommunications services, if appropriate. To this end, a Party may use mechanisms such as auctions, administrative incentive pricing or unlicensed use, if appropriate, to assign spectrum for commercial use.

Article 20.20: Transparency

1. Further to Article 14.2 (Transparency, Anti-Corruption and Responsible Business Conduct – Publication), each Party shall endeavour to ensure that when its telecommunications regulatory body seeks input on a proposal for a regulation, that body provides relevant suppliers of public telecommunications networks or services of the other Party operating in its territory an opportunity to comment. That body shall:

(a) make the proposal public or otherwise available to any interested persons;

(b) include an explanation of the purpose of and reasons for the proposal;

(c) provide interested persons with adequate public notice of the ability to comment and reasonable opportunity for comment;

(d) to the extent practicable, make publicly available all relevant comments filed with it; and

(e) respond to all significant and relevant issues raised in comments filed, in the course of issuance of the final regulation.

2. Each Party shall ensure that relevant information on conditions affecting access to and use of public telecommunications networks or services are publicly available, including:

(a) tariffs and other terms and conditions of service;

(b) specifications of technical interfaces with those networks and services;

(c) information on bodies responsible for the preparation and adoption of standards affecting that access and use;

(d) conditions for attaching terminals or other equipment; and

(e) requirements for notification or licensing, if any.

Article 20.21: Enforcement

Each Party shall provide its competent authority with the authority to enforce the Party's measures relating to the obligations set out in Article 20.4, Article 20.5, Article 20.6, Article 20.7, Article 20.8, Article 20.9, Article 20.10, Article 20.11,

Article 20.12, Article 20.13, Article 20.14 and Article 20.15. That authority shall include the ability to impose effective sanctions, which may include financial penalties, injunctive relief (on an interim or final basis), or the modification, suspension or revocation of licences.

Article 20.22: Resolution of Telecommunications Disputes

1. Each Party shall ensure that an enterprise of the other Party has timely recourse to a telecommunications regulatory body or other relevant body of the Party to resolve disputes with a supplier of public telecommunications services relating to a matter covered by this Chapter.

2. Each Party shall ensure that any supplier of public telecommunications services aggrieved by a final determination or decision of its relevant telecommunications regulatory body may obtain a review of that determination or decision in accordance with its laws and regulations.

3. A Party shall not permit the making of an application for review to constitute grounds for non-compliance with the determination or decision of its telecommunications regulatory body unless its relevant body determines otherwise.

Article 20.23: Promoting and Improving Telecommunications Connectivity

1. The Parties recognize the importance of promoting and improving connectivity to public telecommunications networks and services so that all users can participate in, contribute to and benefit from international trade that relies on the use of telecommunications.

2. Further to paragraph 1, each Party shall endeavour to promote and improve connectivity to public telecommunications networks and services within its territory, which may be achieved through the removal of existing barriers or the implementation of policies and programs that can support improved access for marginalized groups, including small and medium-sized enterprises, women, rural communities and Indigenous Peoples.

3. The Parties shall endeavour to exchange information on any action a Party takes related to paragraph 2 using existing cooperation mechanisms, such as the International Telecommunications Union, to the extent practicable.

Article 20.24: Relation to International Organizations

The Parties recognise the importance of international standards for global compatibility and interoperability of telecommunications networks and services, and undertake to promote these standards through the work of relevant international bodies.

Article 20.25: Technical Cooperation

1. The Parties shall endeavour to cooperate:

(a) in the exchange of experiences and information regarding telecommunications policies, regulations and standards; and

(b) on the promotion of government-to-government training programs for developing specialized skills in telecommunications.

2. The Parties intend to share relevant contact points in order to facilitate the cooperation outlined in paragraph 1.

Article 20.26: Relation to Other Chapters

In the event of any inconsistency between this Chapter and another Chapter of this Agreement, this Chapter prevails to the extent of the inconsistency.

Chapter 21. DIGITAL TRADE

Article 21.1. Definitions

For the purposes of this Chapter:

algorithm means a defined sequence of steps, taken to solve a problem or obtain a result;

commercial electronic message means an electronic message in any form intended to directly or indirectly promote goods, works, or services, or the business reputation of a person engaged in an economic or independent professional activity;

computing facility means a computer server or storage device for processing or storing information for commercial use;

covered person means:

(a) a covered investment as defined in Article 15.1 (Investment – Definitions);

(b) an investor of a Party as defined in Article 15.1 (Investment – Definitions); or

(c) a service supplier of a Party as defined in Article 16.1 (Cross-Border Trade in Services – Definitions),

but does not include a financial institution or a cross-border financial service supplier of a Party as defined in Article 18.1 (Financial Services – Definitions);

digital product means a computer program, text, video, image, sound recording, or other product that is digitally encoded, produced for commercial sale or distribution, and that can be transmitted electronically, but does not include a digitized representation of a financial instrument, including money; (1)

(1) This definition should not be understood to reflect a Party's view that a digital product is a good or a service.

electronic address means an address used in connection with the transmission of an electronic message to an electronic mail account, instant messaging account, telephone account, or any similar account;

electronic authentication means the process or act of verifying the identity of a party to an electronic communication or transaction and ensuring the integrity of an electronic communication;

electronic message means a message sent by any means of telecommunication, including a text, sound, voice, or image message;

electronic signature means data in electronic form that is in, affixed to, or logically associated with, an electronic document or message, and that may be used to identify the signatory in relation to the electronic document or message and indicate the signatory's approval of the information contained in the electronic document and message;

enterprise means an entity constituted or organized under applicable law, whether or not for profit, and whether privately-owned or governmentally-owned or controlled, including a corporation, trust, partnership, sole proprietorship, joint venture, association or similar organization, and a branch of an enterprise;

government data means data held by the central government, disclosure of which is not restricted under a Party' law, and which a Party makes digitally available for public access and use;

metadata means structural or descriptive information about data, such as content, format, source, rights, accuracy,

provenance, frequency, periodicity, granularity, publisher or responsible party, contact information, method of collection, and context;

personal data means any information, including data, relating to an identified or identifiable natural person;

significant harm includes bodily harm, humiliation, damage to reputation or relationships, loss of employment, business or professional opportunities, financial loss, identity theft, negative effects on the credit record, and damage to or loss of property.

unsolicited commercial electronic message means an electronic message that is sent for commercial or marketing purposes to an electronic address without the consent of the recipient or against the explicit rejection of the recipient; and

Article 21.2. Scope

1. This Chapter applies to measures adopted or maintained by a Party that affect trade by electronic means.

2. This Chapter does not apply to:

(a) government procurement; or

(b) information held or processed by or on behalf of a Party, or measures related to that information, including measures related to its collection, except for paragraphs 6 through 8 of Article 21.7, and Article 21.13.

3. For greater certainty, a measure that affects the supply of a service delivered or performed electronically is subject to the relevant provisions of Chapter 15 (Investment), Chapter 16 (Cross-Border Trade in Services) and Chapter 18 (Financial Services).

4. Articles 21.10 and 21.11 do not apply to the non-conforming aspects of measures adopted or maintained in accordance with Article 15.18 (Investment – Non-Conforming Measures), Article 16.7 (Cross-Border Trade in Services – Non-Conforming Measures) or Article 18.10 (Financial Services – Non-Conforming Measures).

Article 21.3. Access to and Use of the Internet for Digital Trade

The Parties recognize that it is beneficial for consumers in their territories to be able to:

(a) access and use services and applications of a consumer's choice available on the Internet;

(b) connect end-user devices of a consumer's choice to the Internet, provided that those devices do not harm the network; and

(c) access information on the network management practices of a consumer's Internet access service supplier.

Article 21.4. Domestic Electronic Transactions Framework

1. Each Party shall maintain a legal framework governing electronic transactions consistent with the principles of the UNCITRAL Model Law on Electronic Commerce 1996.

2. Each Party shall endeavour to:

(a) avoid unnecessary regulatory burden on electronic transactions; and

(b) facilitate input by interested persons in the development of its legal framework for electronic transactions.

3. Except in circumstances provided for under its law, a Party shall not deny the legal validity of a transaction, including any document or contract related to the transaction, solely on the basis that it is in electronic form.

Article 21.5. Electronic Authentication and Electronic Signatures

1. Except in circumstances provided for under its law, a Party shall not deny the legal validity of a signature solely on the basis that the signature is in electronic form.

2. A Party shall not adopt or maintain measures for electronic authentication and electronic signatures that would:

(a) prohibit parties to an electronic transaction from mutually determining the appropriate authentication methods or

electronic signatures for that transaction; or

(b) prevent parties to an electronic transaction from having the opportunity to establish before judicial or administrative authorities that their transaction complies with a legal requirement with respect to authentication or electronic signatures.

3. Notwithstanding paragraph 2, a Party may require that, for a particular category of transactions, the method of authentication or electronic signature meets certain performance standards or is certified by an authority accredited in accordance with its law.

4. Each Party shall encourage the use of interoperable electronic authentication.

Article 21.6. Online Consumer Protection

1. The Parties recognize the importance of adopting and maintaining transparent and effective measures to protect consumers from fraudulent, misleading, or deceptive commercial activities (2)when they engage in digital trade.

(2) For the purposes of this Article, the Parties understand that fraudulent, misleading, or deceptive commercial activities include activities that cause harm or potential harm to consumers engaged in online commercial activities. Examples of fraudulent, misleading, or deceptive commercial activities may include unfair contract terms, misrepresentation of material facts in advertising, the practice of failing to deliver goods or services, and charging consumers' financial accounts without authorization.

2. Each Party shall adopt or maintain consumer protection laws that address fraudulent, misleading or deceptive commercial activities that cause harm or potential harm to consumers engaged in online commercial activities.

3. The Parties recognize the importance of, and public interest in, cooperation between their respective national consumer protection authorities or other relevant bodies on activities related to cross-border digital trade and fraudulent, misleading, or deceptive commercial activities including the exchange of consumer complaints and other enforcement information as appropriate, in order to enhance consumer protection and their welfare.

Article 21.7. Personal Data Protection

1. The Parties recognize the economic and social benefits of protecting personal data of users of digital trade and the contribution that this makes to enhancing consumer confidence in digital trade.

2. To this end, each Party shall adopt or maintain a legal framework that provides for the protection of the personal data of the users of digital trade, taking into account the principles and guidelines of relevant international bodies. These principles include limitation on collection, choice, data quality, purpose specification, use limitation, security safeguards, transparency, individual participation, and accountability.

3. Each Party shall adopt or maintain non-discriminatory practices in protecting users of digital trade from personal data protection violations within its jurisdiction.

4. Each Party shall publish information on the personal data protections it provides to users of digital trade as part of its legal framework, including how:

(a) a natural person can access their own personal data; (3)

(3) For greater certainty, a Party may permit a natural person to access, rectify, update or delete their personal data in accordance with its laws and regulations.

(b) a natural person can pursue a remedy; and

(c) an enterprise can comply with legal requirements.

5. Recognizing that the Parties may take different legal approaches to protecting personal data, each Party should encourage the development of mechanisms to promote compatibility between these different regimes. The Parties shall endeavour to exchange information on the mechanisms applied in their jurisdictions and explore ways to extend these or other suitable arrangements to promote compatibility between them.

6. A Party shall not use the personal data of natural persons obtained from an enterprise operating within its jurisdiction in a manner that constitutes targeted discrimination on manifestly wrongful grounds such as race, colour, sex, sexual

orientation, gender, language, religion, political or other opinion, national or social origin, property, medical, birth, or other status, genetic identity, age, ethnicity or disability.

7. Each Party shall ensure that any personal data disclosed to a government authority by an enterprise is protected against loss or theft, as well as unauthorized access, disclosure, copying, use or modification.

8. Each Party shall ensure that any personal data disclosed to a government authority by an enterprise is not collected, created, accessed, disclosed, used, retained, or modified by a government authority in a manner that can reasonably be expected to cause significant harm to a natural person. (4)

(4) For greater certainty, the public disclosure of personal data that can reasonably be expected to cause significant harm does not constitute a violation of this obligation provided that it is not inconsistent with paragraph 6 of this Article and that it is done for the purposes of legitimate law enforcement activities, judicial proceedings, compliance with regulatory requirements or national security.

9. The Parties acknowledge that their respective legal frameworks provide a suitable level of protection for personal information, including for personal information transferred between their jurisdictions.

10. Unless a modification to the other Party's existing measures results in a materially lower standard of protection of personal information, a Party shall not adopt or maintain a measure for the protection of personal information that applies solely to cross-border transfers of personal information required for the conduct of business between the jurisdictions of the Parties, in a manner that modifies the conditions of competition to the detriment of service suppliers or enterprises of the other Party.

Article 21.8. Unsolicited Commercial Electronic Messages

1. Each Party shall adopt or maintain measures providing for the limitation of unsolicited commercial electronic messages.

2. Each Party shall adopt or maintain measures regarding unsolicited commercial electronic messages that:

(a) require suppliers of unsolicited commercial electronic messages to facilitate the ability of recipients to prevent the ongoing reception of those messages; and

(b) require the consent, as specified in the measures of each Party, of recipients to receive commercial electronic messages.

3. The Parties shall endeavour to cooperate in cases of mutual concern regarding the regulation of unsolicited commercial electronic messages.

Article 21.9. Prohibition of Customs Duties on Digital Products Transmitted Electronically

1. A Party shall not impose customs duties on a digital product transmitted electronically between a person of one Party and a person of the other Party.

2. For greater certainty, paragraph 1 does not prevent a Party from imposing internal taxes, fees, or other charges on a digital product transmitted electronically, provided that those taxes, fees or charges are imposed in a manner consistent with this Agreement.

Article 21.10. Non-Discriminatory Treatment of Digital Products

1. A Party shall not accord less favourable treatment to a digital product created, produced, published, contracted for, commissioned, or first made available on commercial terms in the territory of the other Party, or to a digital product of which the author, performer, producer, developer, or owner is a person of the other Party, than it accords to other like digital products.

2. This Article does not apply to:

(a) a subsidy or grant provided by a Party, including a government-supported loan, guarantee or insurance; or

(b) broadcasting.

Article 21.11. Cross-Border Transfer of Information by Electronic Means

1. A Party shall not prohibit or restrict the cross-border transfer of information by electronic means, including personal data, if this activity is for the conduct of the business of a covered person.

2. This Article does not prevent a Party from adopting or maintaining a measure inconsistent with paragraph 1 that is necessary to achieve a legitimate public policy objective, provided that the measure:

(a) is not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade; and

(b) does not impose restrictions on transfers of information greater than are necessary to achieve the objective.

Article 21.12. Location of Computing Facilities

1. A Party shall not require a covered person to use or locate computing facilities in that Party's territory as a condition for conducting business in that territory.

2. This Article does not prevent a Party from adopting or maintaining a measure inconsistent with paragraph 1 that is necessary to achieve a legitimate public policy objective, provided that the measure:

(a) is not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade; and

(b) does not impose restrictions on the use or location of computing facilities greater than are necessary to achieve the objective.

Article 21.13. Source Code

1. A Party shall not require the transfer of, or access to, source code of software owned by a person of the other Party, or to an algorithm expressed in that source code, as a condition for the import, distribution, sale, or use of that software, or of products containing that software, in its territory.

2. This Article does not preclude a regulatory body (5) or judicial authority of a Party from requiring a person of the other Party to preserve and make available the source code of software, or an algorithm expressed in that source code, for a specific investigation, inspection, examination, enforcement action, or judicial proceeding (6), subject to safeguards against unauthorized disclosure.

(5) For greater certainty and for the purposes of this Article, "a regulatory body" includes any authority that has responsibility under the Party's laws and regulations for the specific investigation, inspection, examination, or enforcement action.

(6) This disclosure shall not be construed to negatively affect the software source code's status as a trade secret, if that status is claimed by the trade secret owner.

Article 21.14. Open Government Data

1. The Parties recognize the benefit of making data held by a regional or local government digitally available for public access and use in a manner consistent with paragraphs 2 through 4.

2. The Parties recognize that facilitating public access to and use of government data fosters economic and social development, competitiveness, and innovation. To this end, each Party shall endeavour to expand the coverage of that data, such as through engagement and consultation with interested stakeholders.

3. To the extent that a Party chooses to make government data digitally available for public access and use, it shall endeavour, to the extent practicable, to ensure that this data is:

(a) made available in a machine-readable and open format;

(b) searchable and retrievable;

(c) updated, as applicable, in a timely manner; and

(d) accompanied by metadata that is, to the extent possible, based on commonly used formats that allow the user to

understand and utilise the data.

A Party shall further endeavour to make this data generally available at no cost or at a reasonable cost to the user.

4. To the extent that a Party chooses to make government data digitally available for public access and use, it shall endeavour to avoid imposing conditions (7) that unduly prevent or restrict the user of that data from:

(7) For greater certainty, this paragraph does not prevent a Party from requiring a user of that data to link to original sources.

(a) reproducing, redistributing, or republishing the data;

(b) regrouping the data; or

(c) using the data for commercial and non-commercial purposes, including in the process of production of a new product or service.

5. The Parties shall endeavour to cooperate on matters that facilitate and expand public access to and use of open government data, including exchanging information and experiences on practices and policies, with a view to encouraging the development of digital trade and creating business opportunities, especially for small and medium-sized enterprises.

Article 21.15. Digital Inclusion

1. The Parties recognize the importance of digital inclusion to ensure that all people and businesses can participate in, contribute to, and benefit from digital trade. To this end, the Parties recognize the importance of expanding and facilitating digital trade opportunities by removing barriers to participation in digital trade.

2. The Parties shall endeavour to cooperate on matters relating to digital inclusion, including the participation of underrepresented groups, such as women, rural populations, low socio-economic groups, Indigenous Peoples, and other groups and individuals that disproportionately face barriers to digital trade. This cooperation may include:

(a) identifying and addressing barriers in accessing digital trade opportunities;

(b) sharing methods and procedures for developing datasets related to participation in digital trade; and

(c) improving digital skills and access to online business tools.

3. The Parties recognize the role played by small and medium-sized enterprises (8), including women-owned and Indigenous-owned enterprises, in economic growth and job creation, and the need to address the barriers to participation in digital trade for those enterprises. To this end, the Parties shall endeavour to:

(8) For greater certainty, for Ecuador paragraph 3 applies to the actors of the Popular and Solidarity Economy as identified in Ecuador's definition of SMEs in Article 23.1 (Small and Medium-Sized Enterprises – Definitions).

(a) promote cooperation on digital trade between small and medium-sized enterprises of the Parties;

(b) encourage their small and medium-sized enterprises to participate in online platforms that could help them link with international suppliers, buyers and other potential business partners; and

(c) share best practices in improving digital skills, leveraging digital tools and technology, and other areas that could help small and medium-sized enterprises adapt to digital trade.

Chapter 22. TRADE AND GENDER EQUALITY

Article 22.1: General Understandings

1. The Parties acknowledge the importance of incorporating a gender perspective into, and an intersectional approach to, the promotion of inclusive economic growth, and the key role that coherent gender responsive domestic and international trade policies can play in achieving sustainable socioeconomic development. Inclusive economic growth aims to distribute benefits across the entire population by providing equitable opportunities for the participation of diverse groups of women and men in business, industry, and the labour market.

2. The Parties affirm the importance of promoting gender equality policies and practices, building and strengthening the

capacity of the Parties in this area, including in non-government sectors, to promote equal rights, equal treatment and opportunities between men and women, and the elimination of all forms of discrimination and gender-based violence.

3. The Parties acknowledge that international trade and investment are engines of economic prosperity and sustainable development, and that improving women's access to opportunities, eliminating discrimination against women, and removing gender-related and other barriers to international trade and investment, enhance women's participation in national and international economies and contribute to sustainable economic development.

4. Each Party affirms its commitment to adopt, maintain, implement, enhance and enforce its gender equality laws, regulations, policies and practices in order to advance the empowerment of women and girls. The Parties recognize the right of each Party to set its gender equality priorities and to adopt or modify its laws, regulations, policies and practices in a manner consistent with this Agreement and with the international agreements to which it is party.

5. The Parties affirm that all women, and gender and sexually diverse people, have the right to the full range of economic rights under their law without the consent of another person in any relationship capacity, including the right to receive equal remuneration, open and manage a bank account, start a business, sign a legally binding contract, work in safe conditions, conduct international trade, gain and utilize digital and financial literacy skills, access, own, inherit and control economic resources such as land, and to be free from gender-based violence given that it is an impediment to women's economic development and participation in and ability to benefit from trade.

Article 22.2: International Instruments

1. Each Party affirms its commitment to implement its obligations under the Convention on the Elimination of All Forms of Discrimination Against Women done at New York on18 December 1979, and to give due consideration to the general recommendations made under its Committee.

2. The Parties recognize Goal 5 of the Sustainable Development Goals in the United Nations 2030 Agenda for Sustainable Development, which is to achieve gender equality and empower all women and girls.

3. Each Party affirms its commitment to implement its obligations under the Convention on the Rights of Persons with Disabilities done at New York on

13 December 2006, and to give due consideration to the general recommendations made by its Committee.

4. The Parties recognize the importance to promote the objectives of the Beijing Declaration and Platform for Action, adopted in 1995 by the Fourth United Nations World Conference on Women in Beijing, in particular its strategic objective to promote women's economic rights and independence.

5. Each Party affirms its commitment to implement the obligations addressing gender equality or women's rights under any other international agreement to which it is party.

6. For the purpose of this Agreement, the Parties shall use the definitions to the extent possible of women-owned business, women-led business, and women-led cooperative established on 8 March 2021 by the International Organisation for Standardisation and the International Trade Centre.

Article 22.3: Non-Derogation

Each Party shall implement its gender equality laws, and shall not weaken or reduce the protection afforded to women, and gender and sexually diverse people, in its gender equality laws, regulations and policies in order to encourage trade or investment between the Parties or between them and a non-party.

Article 22.4: Public Awareness

Each Party shall domestically promote public knowledge of its gender equality laws, regulations, policies and practices, including by making them publicly available online.

Article 22.5: Information Sharing

1. Each Party shall establish or maintain a publicly accessible webpage containing information regarding this Agreement, including:

(a) a summary of the provisions of this Agreement that are relevant to trade and gender; and

(b) a list of key provisions of this Agreement relevant to gender.

2. Each Party shall include in its webpage referred to in paragraph 1 links to:

(a) the equivalent webpage of the other Party;

(b) the work plan referred to in Article 22.7;

(c) reports of activities implemented by the Committee; and

(d) the websites or webpages of its own government agencies and other appropriate entities that provide information the Party considers useful to women interested in trading, investing, or doing business in that Party's territory.

3. The information described in paragraph 2(d) may include:

(a) registration procedures for national and international certification as a women-owned business;

(b) information on training programs to help women entrepreneurs learn about trade practices, benefit from mentoring, gain trade skills and expertise, including in digitalization and e-commerce, improve their leadership and access various opportunities;

(c) financing, mentoring, training and support programs aimed at helping women entrepreneurs from visible minority groups succeed in trade;

(d) financing programs for women-owned businesses, including export financing and insurance services and venture capital;

(e) information on calls for bids and government procurement opportunities encouraging women-owned businesses candidacies;

(f) information on supplier diversity programs to which women-owned businesses and other groups have preferential access;

(g) women entrepreneur's networks, programs and organizations promoting women's access to trade-related sectors, including financial, scientific and technical sectors;

(h) information and procedures on establishing and governing cooperatives, including accessing global markets;

(i) women-owned business success stories;

(j) procedures and financing programs for recruiting foreign workers;

(k) think tanks conducting research relevant to trade and gender, such as the WTO's Gender Research Hub and Canada's Women Entrepreneurship Knowledge Hub; and

(l) statistics of economic relevance and other macro data of interest about trade and gender.

Article 22.6: Cooperation Activities

1. The Parties acknowledge the benefit of sharing their respective experiences and practices in designing, implementing, monitoring, evaluating and strengthening policies and programs to encourage women's participation in national and international economies.

2. The Parties shall carry out cooperation activities designed to improve the capacity and conditions for women workers, women-owned businesses, women-led businesses, and women-led cooperatives, to access and fully benefit from the opportunities created by this Agreement. The Parties shall carry out these activities with the inclusive participation of women in all their diversity.

3. The Parties shall be proactive and results-oriented in carrying out cooperation activities under this Chapter and shall be guided by the principles of:

(a) equity, diversity, inclusivity, intersectionality and gender balance;

(b) evidence-based decision-making;

(c) stakeholder engagement;

(d) accountability and transparency; and

(e) openness, flexibility, and reasonableness.

4. The Parties shall carry out cooperation activities on issues and topics determined by the Parties through the interaction of

their respective government institutions, businesses, labour unions, education and research organizations, other non-governmental organizations, and their representatives, as appropriate.

5. Areas of cooperation may include:

(a) developing programs to promote women's full participation and advancement in the economy and society by encouraging capacity-building and skills enhancement of women at work, in business, and at senior levels in all sectors of society, including on corporate boards;

(b) improving women's access to, and participation and leadership in, science, technology, and innovation, including education in science, technology, engineering, mathematics, and business;

(c) promoting financial inclusion, education, and training for women as well as promoting access to financial assistance and financing, including export financing, venture capital, and micro-finance, for women to start-up and scale-up their businesses and go global;

(d) promoting business development services for women and programs to improve women's digital skills and access to online business tools;

(e) advancing women's leadership and developing women's networks;

(f) developing better practices to promote gender equality within public and private institutions and enterprises;

(g) fostering women's representation in decision-making positions in the public, private and not-for-profit sectors;

(h) promoting female entrepreneurship, including activities to support the internationalization of women-owned business, women-led business, and women-led cooperative;

(i) enhancing women-owned businesses, women-led businesses, and women-led cooperatives' participation in government procurement markets;

(j) promoting the use of diverse suppliers, including women-owned businesses;

(k) developing trade missions for business women and women entrepreneurs;

(l) advancing care policies and programs with a gender and shared social responsibility perspective, including parenting and other family co-responsibilities;

(m) supporting economic opportunities for under-represented women, including Indigenous, LGBTQI, disabled, youth, rural, remote, newcomers, and other women;

(n) enhancing the competitiveness of women-owned businesses, women-led businesses, and women-led cooperatives to increase their ability to participate and compete in local, regional, and global supply chains;

(o) promoting women's participation in standards development and sharing best practices on how to take into account biological and cultural differences in standards development and implementation in order to make progress on gender responsive standards;

(p) conducting an intersectional gender assessment, including of policies and programs to support women's entrepreneurship, and sharing best practices;

(q) sharing methods and procedures for the collection of sex-disaggregated data, the use of indicators, and the analysis of gender-focussed statistics related to trade;

(r) sharing information and best practices on policies and programs that aim to close the gender digital divide and advance the use of e-commerce as a tool to support women's economic empowerment;

(s) sharing information and best practices on policies and programs that aim to close the gender wage gap, such as pay equity and pay transparency legislation;

(t) sharing information on establishing and promoting women-led cooperatives and facilitating their access to international networks, markets, and supply chains;

(u) sharing information and best practices on eliminating gender-based violence so that all women can participate in and benefit from the economy and trade; and

(v) any other issues as decided by the Parties.

6. The Parties may carry out activities in the cooperation areas set out in paragraph 5 through:

(a) workshops, seminars, dialogues and other forums for exchanging knowledge, experiences and best practices;

(b) internships, visits, and research studies to document and study policies and practices;

(c) collaborative research and development of best practices in subject matters of mutual interest;

(d) exchanges of technical knowledge and technical assistance, and of sex-disaggregated data and gender-sensitive data, as appropriate; and

(e) other means as decided by the Parties.

7. The Parties shall decide the priorities for cooperation activities based on their interests and available resources.

8. The Parties acknowledge the importance of initiatives, efforts, and work on trade and gender in multilateral fora, such as the WTO, and the importance of taking into consideration their findings, recommendations, and activities to ensure effective coordination and implementation of cooperation activities. The Parties shall work together in international and multilateral fora to advance trade and gender issues, knowledge and awareness, when possible, including at the WTO and as provided in the Global Trade and Gender Arrangement signed on 5 August 2020.

9. The Parties shall endeavour to share their respective experiences relating to

policies and programs to encourage women's full and equal participation in national and international economies through voluntary reporting during the WTO Trade Policy Review Mechanism as part of their national reports.

Article 22.7: Committee on Trade and Gender Equality

1. The Parties hereby establish a Trade and Gender Equality Committee (the "Committee") composed of representatives from each Party's government institutions, including gender equality experts as appropriate.

2. The Committee shall:

(a) establish a work plan of priority activities to be implemented and take steps to carry them out;

(b) decide, organize, and facilitate the cooperation activities under Article 22.6;

(c) report and make recommendations, as appropriate, to the Joint Committee on any matter related to this Chapter;

(d) facilitate the exchange of information on each Party's experiences and best practices with respect to the establishment and implementation of policies and programs that address trade and gender-related issues in order to achieve the greatest possible benefit under this Agreement;

(e) facilitate the exchange of information on the Parties' experiences and lessons learned through the cooperation activities carried out under Article 22.6;

(f) discuss joint proposals to support policies and other initiatives on trade and gender;

(g) invite international donor institutions, private sector entities, non-governmental organizations or other relevant institutions, as

appropriate, to assist with the development and implementation of cooperation activities;

(h) encourage multilateral and regional organizations to finance projects that enable women-owned businesses, women-led businesses, and women-led cooperatives to export goods and services;

(i) consider matters related to the implementation and operation of this Chapter;

(j) at the request of a Party, consider and discuss any matter that may arise related to the interpretation and application of this Chapter; and

(k) carry out other duties as determined by the Parties.

3. The Committee shall meet to consider any matter arising under this Chapter within the first year following the entry into force of this Agreement, or as decided by the Parties, and annually thereafter or as otherwise decided by the Parties, in

person or by any other technological means available.

4. In the performance of its duties, the Committee may work with any other body established under this Agreement. In the context of this work, the Committee shall encourage efforts by these bodies to integrate gender-related considerations, activities and commitments into their work.

5. The Committee may request that the Joint Committee refer work to be conducted under this Article to any other body established under this Agreement.

6. The Parties may decide to invite experts or relevant organizations to Committee meetings to provide information.

7. The Committee shall periodically review the cooperation activities carried out under Article 22.6, as well as the implementation of this Chapter and gender-related provisions of this Agreement. The Committee shall report and make recommendations to the Joint Committee on this review and other matters as necessary.

Article 22.8: Contact Points

1. Each Party shall designate a contact point from its relevant authorities within 90 days of entry into force of this Agreement, in order to facilitate communication between the Parties on any matter relating to this Chapter. Each Party shall notify the other Party of the contact details of its contact point and shall promptly notify the other Party in the event of any change to its contact point or those contact details. Until both contact points are designated, the Agreement Coordinators shall facilitate communication between the Parties on any matter relating to this Chapter.

2. Contact points shall:

(a) facilitate regular communication and coordination between the Parties;

(b) attend the Committee meetings;

(c) report to the Committee, as appropriate; and

(d) work jointly, including with other appropriate agencies of their governments, to develop and implement activities in the areas of cooperation.

Article 22.9: Provisions in this Agreement that Benefit Women or Advance Gender Equality

The Parties recognize that in addition to the provisions in this Chapter, there are provisions in other Chapters of this Agreement that seek to enhance cooperation among the Parties on trade and gender issues or that otherwise may contribute to further enhance the participation of women in trade and investment opportunities derived from this Agreement. These include:

(a) Article 7.6 (Technical Barriers to Trade – Gender Responsive Technical Regulations and Standards);

(b) Canada's Schedule to Annex 11-A (Schedule of Canada – Section F: General Notes);

(c) Article 12.2 (Environment – Context and Objectives); Article 12.8 (Environment – Climate Change); Article 12.17 (Environment – Cooperation);

(d) Article 14.15 (Transparency, Anti-Corruption and Responsible Business Conduct – Responsible Business Conduct);

(e) Article 15.4 (Investment – Right to Regulate); Article 15.9 (Investment – Minimum Standard of Treatment); Article 15.13 (Investment – Senior Management and Boards of Directors); Article 15.15 (Investment – Responsible Business Conduct); Article 15.26 (Investment – Arbitrators);

(f) Appendix 16-A.1 (Guidelines for Mutual Recognition Agreements or Arrangements for the Professional Services Sector);

(g) Article 17.3 (Development and Administration of Measures – Right to Regulate); Article 17.4 (Development and Administration of Measures – Development of authorisation requirements and procedures);

(h) Article 18.9 (Financial Services – Senior Management and Boards of Directors); Article 18.22 (Financial Services – Financial Services Committee);

(i) Article 20.23 (Telecommunications – Promoting and Improving Telecommunications Connectivity);

(j) Article 21.7 (Digital Trade – Personal Data Protection); Article 21.15 (Digital Trade – Digital Inclusion);

(k) Article 23.2 (Small and Medium-Sized Enterprises – General Provisions); Article 23.3 (Small and Medium-Sized Enterprises

– Information Sharing); Article 23.4 (Small and Medium-Sized Enterprises – Cooperation Activities on SMEs); Article 23.5 (Small and Medium-Sized Enterprises – Committee on SMEs);

(l) Article 27.9 (Dispute Settlement – Qualifications of Panelists); and

(m) Annex IV (Non-Conforming Activities – Schedule of Ecuador – Entity: Corporación Financiera Nacional B.P.).

Article 22.10: Dispute Settlement

1. The Parties shall endeavour to agree on the interpretation and application of this Chapter, and shall make every effort, including through dialogue, consultation, exchange of information and cooperation, to resolve any matter that might affect the operation of this Chapter.

2. A Party (the "requesting Party") may request consultations with the other Party (the "responding Party") with respect to any matter arising under this Chapter by

delivering a written request for consultations to the responding Party's Contact Point designated pursuant to Article 22.8. The requesting Party shall include in its request information that is specific and sufficient to enable the responding Party to respond.

3. Unless the Parties decide otherwise, they shall enter into consultations promptly and no later than 30 days after the date of receipt by the responding Party of the request referred to in paragraph 2. These consultations shall take place through the Committee and the Parties shall make every effort to arrive at a mutually satisfactory resolution.

4. With respect to the consultations referred to in paragraph 2, each Party shall provide sufficient information that is reasonably available to it to the other Party to enable a full examination of the matter.

5. If the Parties fail to resolve the matter through consultations referred to in paragraph 3, the requesting Party may refer the matter to the Joint Committee by delivering a written request for consultations to the Committee. Unless the Parties decide otherwise, these consultations shall take place no later than 120 days after the date of receipt of the request by the Committee.

6. All consultations, unless otherwise decided by the Parties, shall be confidential.

7. A Party shall not have recourse to dispute settlement under Chapter 27 (Dispute Settlement) for a matter arising under this Chapter without first seeking to resolve the matter in accordance with this Article.

Chapter 23. SMALL AND MEDIUM-SIZED ENTERPRISES

Article 23.1: Definitions

For the purposes of this Chapter:

SME means:

(a) For Canada, SMEs include micro enterprises, self-employed persons, and entrepreneurs.

(b) For Ecuador, SMEs include micro enterprises, self-employed persons, entrepreneurs, and the actors of the Popular and Solidarity Economy as identified in the Constitution of the Republic of Ecuador and Article 1 of La Ley Orgánica de la Economía Popular y Solidaria (Organic Law of the Popular and Solidarity Economy), provided these actors comply with the employment or sales criteria for SMEs under Ecuador's law.

Article 23.2: General Provisions

1. The Parties acknowledge the importance of promoting an environment that facilitates and supports the development, growth and competitiveness of SMEs, including those owned by Indigenous Peoples and those organized as cooperatives and social enterprises. The Parties also recognize the participation of SMEs in domestic markets as well as in international trade and investment, and their contribution in achieving inclusive economic growth, sustainable development and enhanced productivity.

2. The Parties recognize the fundamental role of SMEs in creating and maintaining dynamism and enhancing competitiveness of the economies of the Parties. The Parties also recognize the importance of identifying and removing barriers to international trade and investment for SMEs. Accordingly, the Parties shall develop and promote cooperation on SMEs, with the purpose of contributing to the expansion, diversification and deepening of economic and commercial ties

between the Parties.

3. The Parties recognize that international trade and investment are boosters of economic growth, and the Parties acknowledge that improving the ability of SMEs to participate in trade and investment will enhance their competitiveness.

4. The Parties recognize the importance of deepening integration in the trade of goods, services, and investment through regional and global value chains to modernize and expand the bilateral economic relationship between the Parties. The Parties also recognize that the insertion of SMEs in regional and global value chains contributes to a better distribution of resources and economic benefits derived from international trade, including trade diversification and an increase in the added value of exports.

5. The Parties recognize the importance of innovation for SMEs' competitiveness and of their enhanced access to information, financing and networking in facilitating the innovation process.

6. The Parties also acknowledge that SMEs legally owned or operated by equity-deserving groups1 may require additional or targeted support to enhance their growth and competitiveness and access to international trade and investment to ensure that they can fully participate in and benefit from this Agreement.

7. Each Party shall encourage SMEs operating within its territory or subject to its jurisdiction to observe and incorporate into their internal policies and practices internationally recognized standards, guidelines and principles of responsible business conduct that have been endorsed, supported, or observed by the Parties, including the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct and the United Nations Guiding Principles on Business and Human Rights.

8. The Parties affirm their commitments under and recognize the importance of current initiatives on SMEs developed in the WTO, the International Trade Centre, the United Nations Conference on Trade and Development, the International Labour Organization, and any other relevant forums in which both Parties participate. The Parties also affirm the importance of taking into account the findings and recommendations of those forums, as appropriate.

Article 23.3: Information Sharing

1. Each Party shall establish or maintain a publicly accessible webpage containing information regarding this Agreement, including:

(a) the text of this Agreement, including annexes, tariff schedules and product specific rules of origin;

(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 the Party considers useful for SMEs interested in benefitting from the opportunities provided by this Agreement.

2. Each Party shall include in its webpage referred to in paragraph 1, links to:

(a) the equivalent webpage of the other Party; and

1 For Canada, equity-deserving groups include women, Indigenous Peoples, visible minorities, persons with disabilities, youth, and Lesbian, Gay, Bisexual, Transgender, Intersex, gender diverse persons and other underrepresented groups.

For Ecuador, equity-deserving groups include groups that require special consideration due to historical inequalities and exclusion, discrimination, diverse types of violence including domestic violence, age, health or disability; and includes women, Indigenous Peoples, seniors, girls, boys, adolescents, pregnant women, people with disabilities, people in prison, and people who suffer from catastrophic, terminal or chronic complex illnesses, and other underrepresented groups under Ecuadorian law.

(b) the websites or webpages of its own government agencies and other appropriate entities that provide information the Party considers useful to any person interested in trading, investing or doing business in that Party's territory.

3. The information described in paragraph 2(b) may include:

(a) customs regulations and procedures;

(b) regulations and procedures concerning intellectual property rights;

(c) information and programs to help SMEs improve cybersecurity practices, including cybersecurity and privacy regulations, standards, cybersecurity controls and conformity assessment measures relating to the cybersecurity posture of the SME;

(d) technical regulations, standards, conformity assessment procedures, and sanitary and phytosanitary measures relating to importation and exportation, and related enquiry points;

(e) foreign investment regulations;

(f) registration and governance procedures of business, including small and medium-sized cooperatives;

(g) trade promotion programs;

(h) start-ups promotion programs;

(i) competitiveness programs;

(j) SME financing programs, including export financing and insurance services and venture capital;

(k) employment regulations, including pay equity and pay transparency regulations;

(l) taxation information, if possible;

(m) information related to the temporary entry of business persons;

(n) government procurement opportunities;

(o) statistics of economic relevance and other macro data of interest about SMEs;

(p) information related to foreign trade zones;

(q) information and procedures on establishing and governing cooperatives, including accessing global markets; and

(r) procedure and financing programs for recruiting foreign workers.

4. Each Party shall ensure that the webpage referred to in this Article is accessible within one year after this Agreement enters into force.

5. Each Party shall regularly review the information and links on the webpage referred to in this Article to ensure the information and links are up-to-date and accurate.

6. Each Party shall ensure that the information set out in this Article is presented in a manner that is easily accessible for SMEs.

7. Each Party shall, as appropriate, ensure the information on the webpage referred to in paragraph 1 is available in its own official languages.

Article 23.4: Cooperation Activities on SMEs

1. The Parties recognize the importance of cooperation activities between the Parties to support the objectives of this Chapter.

2. The Parties also recognize the importance of involving the private sector and SME-related support agencies in the development and implementation of the Parties' cooperation activities, if appropriate.

3. The Parties shall collaborate to identify and remove barriers to international trade for SMEs, support productive sectors in which SMEs operate, and promote the growth and creation of higher paying, more productive jobs by SMEs.

4. The Parties shall ensure that gender equality is a horizontal priority and a key consideration in the identification and implementation of their cooperation activities.

5. Cooperation activities may include:

(a) facilitating the exchange of best practices concerning public policies and programs, as well as the exchange of relevant information, such as market research and the collection and analysis of gender disaggregated data to support and assist SMEs in adapting to changing market conditions;

(b) promoting SMEs' participation in international trade and government procurement opportunities, as well as business growth in local and regional markets, and enhancing integration into global value chains;

(c) promoting a favorable environment for the development of SMEs by encouraging relevant private and governmental agencies to support the capacity-building of SMEs;

(d) exchanging experiences on developing entrepreneurial capacity and culture, and on fostering entrepreneurs;

(e) promoting the participation of SMEs legally owned by equity deserving groups and promoting partnerships and networks for these SMEs and their participation in international trade and investment;

(f) exchanging information and best practices on improving SMEs' access to capital and credit, including government financing instruments;

(g) exchanging information on funding programs, innovative funding mechanisms, training and capacity building activities or any other mechanism for SMEs that may increase trade and investment opportunities;

(h) exploring opportunities to facilitate the Parties' work in developing and enhancing SME export counselling, assistance and training programs;

(i) encouraging investment in SMEs of both Parties to promote their development and access to international trade and investment;

(j) encouraging SMEs' participation in platforms, such as web-based platforms, for business entrepreneurs and counsellors to share information and best practices to help SMEs link with international suppliers, buyers and other potential business partners;

(k) supporting SMEs' digital-related skills development to enhance their participation in electronic commerce and digital trade in order to take advantage of the opportunities resulting from this Agreement and rapidly access new markets;

(l) promoting the organization of trade promotion networks and business forums, and the joint implementation of seminars, conferences, symposiums, business roundtables or other related activities to explore business, industrial and technical opportunities and to inform SMEs of the benefits available to them under this Agreement;

(m) exchanging information on the development and implementation of incubators, accelerators, and SME support centers;

(n) facilitating the exchange of information on entrepreneurship education programs for equity-deserving groups designed to promote the entrepreneurial environment in the territories of the Parties;

(o) improving SMEs' access to participation in leadership, entrepreneurship, science, technology, and innovation-related business and trade, including education in science, technology, engineering, mathematics and business, particularly SMEs owned or operated by women and other equity deserving groups;

(p) sharing best practices and information on establishing and promoting SMEs, and micro, small and medium sized cooperatives, access to international networks, markets and supply chains;

(q) exchanging information and best practices on SME-related cybersecurity programs, cybersecurity and privacy regulations, standards, controls and conformity assessment measures to improve SMEs' cybersecurity posture;

(r) developing initiatives to identify the attributes that SMEs must develop to be inserted in regional and global value chains;

(s) promoting greater access to information about the opportunities that regional and global value chains offer for SMEs;

(t) facilitating the joint generation of a list of sectors or activities with the potential to provide SMEs with the opportunity to participate in productive supply chains; and

(u) identifying priority sectors for business opportunities in the territory of the Parties, and developing strategies to identify opportunities, such as economic sectors with the potential for insertion into regional and global value chains and the development of productive chains.

6. The Parties shall collaborate within existing international forums in which both Parties participate to promote and advance the interests of SMEs and SMEs participation in international trade and investment, including at the WTO.

Article 23.5: Committee on SMEs

1. The Parties hereby establish a Committee on SMEs ("Committee") composed of government representatives from each Party. The Committee shall consider gender equality while carrying out its activities, with the inclusive participation of women, including by seeking gender balance among Committee members.

2. To ensure ongoing engagement between the Parties, each Party shall promptly appoint a contact point and share the contact-related information with the other Party.

3. The Committee shall:

(a) identify ways to assist SMEs of each Party to take advantage of the commercial opportunities under this Agreement, including SMEs organized as cooperatives and SMEs that are legally owned by equity-deserving groups, and to strengthen SMEs' competitiveness;

(b) exchange and discuss each Party's experiences and best practices in supporting and assisting SME exporters with respect to, among other things, training programs, trade education, trade finance, trade missions, trade facilitation, electronic commerce and digital trade, cooperative business practices, identifying commercial partners in the other Party, and establishing good business credentials;

(c) recommend additional information that a Party may include on the webpage referred to in Article 23.3;

(d) review and coordinate the Committee's work program with the work of other committees, subcommittees, working groups, contact points and any other body established under this Agreement, as well as the work of other relevant international bodies, to avoid duplication of work programs and to identify appropriate opportunities for cooperation to improve the ability of SMEs to engage in trade and investment opportunities resulting from this Agreement;

(e) collaborate with and encourage committees, subcommittees, working groups, contact points and any other body established under this Agreement to consider integrating SME-related activities into their work;

(f) review the implementation and operation of this Chapter and 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 programs as appropriate;

(g) report on its activities or make appropriate recommendations to the Joint Committee, as appropriate, when the Joint Committee meets under Article

26.4 (Administrative and Institutional Provisions – Rules of Procedure of the Joint Committee);

(h) discuss current issues relating to SMEs; and

(i) consider any other matter pertaining to SMEs as the Committee may decide, including issues raised by SMEs regarding their ability to benefit from this Agreement.

4. The Committee shall convene, in person or by any other technological means available, within one year after this Agreement enters into force, and thereafter meet annually, unless the Parties decide otherwise.

5. The Committee may seek to collaborate with appropriate experts, international donor organizations, SMEs, including workers and business advocacy representatives and associations, in developing and carrying out its programs and activities.

Article 23.6: Provisions in the Agreement that Benefit SMEs

The Parties recognize that in addition to the provisions in this Chapter, there are provisions in other Chapters of this Agreement that seek to enhance cooperation among the Parties on SME issues or that otherwise may be of particular benefit to SMEs. These consist of:

(a) Annex IV (Non-Conforming Activities);

(b) Article 11.21 (Government Procurement – Facilitation of Participation by Small and Medium Sized Enterprises); Annex 11-A (Schedule for Ecuador: Section F: General Notes); Annex 11-A (Schedule for Canada: Section F: General Notes);

(c) Article 14.11 (Transparency, Anti-Corruption and Responsible Business Conduct – Participation of Private Sector and Society);

(d) Section E (Investment - Expedited Arbitration), Article 15.21 (Investment – Request for Consultations); Article 15.22 (Investment – Mediation); Article 15.23 (Investment – Submission of a Claim to Arbitration);

(e) Article 20.23 (Telecommunications – Promoting and Improving Telecommunications Connectivity);

(f) Article 21.14 (Digital Trade – Open Government Data); Article 21.15 (Digital Trade – Digital Inclusion); and

(g) Article 25.2 (Good Regulatory Practices – General Provisions); Article 25.4 (Good Regulatory Practices – Internal

Coordination of Regulatory Development); Article 25.6 (Good Regulatory Practices – Regulatory Impact Assessment); Article 25.11 (Good Regulatory Practices – Cooperation).

Article 23.7: Non-Application of Dispute Settlement

A Party shall not have recourse to dispute settlement under Chapter 27 (Dispute Settlement) for any matter arising under this Chapter. The Parties shall make all possible efforts, through dialogue, consultations and cooperation, to resolve any matter that may arise in regard to the interpretation and application of this Chapter.

Chapter 24. TRADE AND INDIGENOUS PEOPLES

Article 24.1: General Provisions

1. For the purposes of this Chapter, Indigenous Peoples means "Indigenous Peoples" as defined in Article 1.8 (Initial Provisions and General Definitions – Country-Specific Definitions).

2. The Parties acknowledge that improving Indigenous Peoples' access to international trade and investment opportunities enhances Indigenous Peoples' ability to participate in and benefit from economic activity.

3. Each Party recognize the importance of identifying, reducing and removing barriers to the participation of Indigenous Peoples in international trade and investment, and of ensuring the coherence, coordination and implementation of its respective measures, policies, programs and projects to increase international trade and investment opportunities for, by and between Indigenous Peoples.

4. The Parties recognize and respect the significance of national and regional particularities and the various historical and cultural backgrounds of Indigenous Peoples, as well as the need to respect, protect and promote the full enjoyment of the rights of Indigenous Peoples as recognized under applicable international or domestic law, including those relating to:

(a) the maintenance and development of Indigenous Peoples' economic systems and activities;

(b) Indigenous knowledge, heritage, traditions, cultural expressions and identities;

(c) resources, lands and territories; and

(d) being free from discrimination, including with respect to their participation in international trade.

5. The Parties affirm their commitment to respect, promote, and advance the rights of Indigenous Peoples in accordance with the United Nations Declaration on the Rights of Indigenous Peoples, adopted by the United Nations General Assembly on 13 September 2007.

6. The Parties affirm their commitment to the United Nations 2030 Agenda for Sustainable Development and the importance of achieving the Sustainable Development Goals given their relevance for Indigenous Peoples, including how they relate to the protection of lands, waters, and natural resources and how they support the conditions for sustainable and inclusive economic development.

Article 24.2: Non-Derogation

A Party shall not weaken or reduce protections for Indigenous Peoples in its laws and regulations, so as to encourage international trade and investment between the Parties, or between the Parties and a non-party.

Article 24.3: Responsible Business Conduct and Indigenous Peoples

1. Each Party shall encourage businesses operating within its territory or subject to its jurisdiction to incorporate into their internal policies and practices those internationally recognised standards, guidelines, and principles of responsible business conduct that have been endorsed, supported, or observed by that Party.

2. The Parties recognize that businesses operating within the territory of a Party or subject to a Party's jurisdiction must comply with the laws and regulations of the host

State concerning the rights of Indigenous Peoples that are recognized and affirmed in this Agreement and under international treaties and agreements to which a Party is a party.

Article 24.4: Cooperation Activities to Facilitate Indigenous Peoples' Participation in Trade and Investment

1. The Parties acknowledge the importance of implementing measures designed to foster and enhance the active

participation of Indigenous Peoples in domestic and international economic activity to fully access and benefit from the opportunities created by this Agreement.

2. The Parties recognize the benefit of sharing their respective experiences and the experiences of Indigenous Peoples in designing, implementing, monitoring, and strengthening policies and programs to promote and enhance Indigenous Peoples' participation in international trade and investment, including government procurement opportunities.

3. The Parties shall undertake cooperation based on the following principles:

(a) reconciliation;

(b) respect and partnership;

(c) equity, diversity and gender balance;

(d) accountability and transparency; and

(e) openness, flexibility, pragmatism and decision-making.

4. The Parties shall undertake cooperation activities that are designed to facilitate dialogue, and to enhance the ability of Indigenous businesses to fully access and benefit from the opportunities created by this Agreement.

5. The Parties shall endeavour to facilitate joint activities between their relevant government bodies and Indigenous organizations or other groups as appropriate, so that the opportunities created by this Agreement may more effectively support the objectives, priorities, and interests of Indigenous Peoples. These cooperation activities may include:

(a) exchanging information, expertise, and best practices to foster and enhance the participation of Indigenous owned micro, small and medium-sized enterprises in international trade, including with respect to clean technology;

(b) collaborating to improve the capacity of, and conditions for, Indigenous Peoples, including workers and entrepreneurs, to access supply chains, as well as digital, financial, and trade literacy knowledge and skills;

(c) collaborating to promote the development of Indigenous Peoples' capacity to undertake market research, as well as sharing best practices related to export readiness;

(d) exchange best practices on promoting Indigenous women-owned businesses and entrepreneurs, including activities to support the internationalization of small and medium-sized enterprise, including cooperatives and social enterprises;

(e) working with Indigenous Peoples in identifying barriers to their participation in international trade and investment, designing strategies to reduce or remove those barriers, and improving access to capital and financing, including export financing;

(f) advancing Indigenous Peoples' use of digital trade to sell Indigenous products and services domestically and internationally;

(g) exploring opportunities facilitated by each Party, to work on developing and enhancing export counselling, market research, training and networking programs, such as trade missions and events;

(h) considering ways to encourage and facilitate trading relationships between Indigenous Peoples, including through the promotion of international trade and investment, the design of programs to encourage capacity building and skills enhancement;

(i) discussing ways to promote and facilitate investment in Indigenous communities to support their growth, infrastructure, and businesses;

(j) exchanging expertise and best practices to advance and promote responsible business conduct practices in a manner that integrates considerations important to Indigenous Peoples;

(k) exchanging information, expertise, and best practices on approaches for the development of domestic instruments or processes that facilitate the ability of Indigenous Peoples to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions as well as the manifestations of their sciences, technologies and cultures;

(l) exploring opportunities for the promotion and development of responsible and sustainable tourism among public and private sectors and local communities;

(m) sharing methods and best practices for monitoring and assessing Indigenous Peoples' participation in international trade; and

(n) any other activity as decided by the Parties.

6. The Parties shall invite Indigenous organizations and other relevant institutions,1 as appropriate, to assist with the development and implementation of cooperation activities. The Parties may also invite international donor institutions, multilateral institutions, foundations, private sector companies, non-governmental organizations, as appropriate, to assist with the development and implementation of cooperation activities.

7. Within one year of the entry into force of this Agreement, each Party shall publish information on a webpage to promote the awareness of the opportunities created by this Agreement for Indigenous Peoples, including a list of activities planned or undertaken under this Article, and regularly update and maintain the webpage, as appropriate.

8. The Parties may seek to cooperate in international and multilateral fora to advance the participation of Indigenous Peoples in international trade, including at the WTO.

Article 24.5: Trade and Indigenous Peoples Committee

1. The Parties hereby establish a Trade and Indigenous Peoples Committee, composed of representatives from each Party, responsible for matters covered by this Chapter. Each Party shall invite representatives of Indigenous institutions, as appropriate, including Indigenous rights holders and partners to participate in activities of the Committee.

2. The Trade and Indigenous Peoples Committee shall consider any matters related to the implementation and operation of this Chapter.

3. The Trade and Indigenous Peoples Committee shall aim to integrate gender-related commitments, considerations, and activities into its work.

1 For Ecuador, "Indigenous organizations" also include Afro-Ecuadorian people and Montubios organizations.

For Canada, "Indigenous organizations" also includes Modern Treaty and Self-Governing Nations.

4. The Trade and Indigenous Peoples Committee shall convene, in person or by any other technological means available, within one year after the date of the entry into force of this Agreement, and thereafter as decided by the Parties to consider any matters arising under this Chapter.

5. In carrying out its activities, the Trade and Indigenous Peoples Committee shall:

(a) determine and facilitate the joint activities under Article 24.4;

(b) monitor the progress in the implementation of the cooperation initiatives undertaken under Article 24.4, and facilitate the exchange of information, expertise, and best practices on the Parties' and Indigenous Peoples' experiences and lessons learned through those activities;

(c) exchange information, expertise, and best practices on each Party's experiences with respect to the establishment, implementation, and evaluation of policies, programs, and projects or other measures in order to achieve the greatest possible benefit under this Chapter;

(d) exchange information, expertise, and best practices on each Party's experiences and best practices in supporting Indigenous Peoples engaged in international trade and investment with respect to, among other things, the promotion of international trade and investment between Indigenous Peoples, training programs, trade education, trade finance, trade missions, trade facilitation, digital trade, identifying commercial partners in the other Party, and establishing good business credentials and expertise;

(e) consider inviting public submissions, as appropriate, from interested persons and organizations on issues relating to Indigenous Peoples and international trade and investment;

(f) if required, invite relevant experts or representatives of organizations to the Trade and Indigenous Peoples Committee meetings to provide information and advice, including with respect to the development and implementation of joint activities; and, if requested, provide advice and guidance to other committees or subsidiary bodies established under this Agreement regarding matters related to Indigenous Peoples and international trade and investment;

(g) consider any other matter pertaining to international trade and investment and Indigenous Peoples as the Trade and Indigenous Peoples Committee may decide and in collaboration with other subsidiary bodies, including issues raised by

Indigenous Peoples or their representatives, with respect to the operation of this Agreement.

6. The Trade and Indigenous Peoples Committee shall make its reports publicly available with respect to its activities under this Chapter.

7. In carrying out its activities, the Trade and Indigenous Peoples Committee may work with subsidiary bodies established under this Agreement and may seek to establish dialogue with Indigenous organizations and groups with respect to matters arising under this Chapter.

Article 24.6: Contact Points

1. Each Party shall designate a contact point from its relevant authorities within 90 days of the entry into force of this Agreement, in order to facilitate communication between the Parties on any matter relating to this Chapter. Each Party shall notify the other Party of the contact details of its contact point and shall promptly notify any change to its contact point or those contact details. Until both contact points are designated, the Agreement Coordinators shall facilitate communication between the Parties on any matter relating to this Chapter.

2. Contact points shall:

(a) facilitate regular communication and coordination between the Parties;

(b) attend the Trade and Indigenous Peoples Committee meetings;

(c) report to the Trade and Indigenous Peoples Committee, as appropriate; and

(d) work jointly, including with other appropriate agencies of their governments, to develop and implement activities and areas of cooperation.

Article 24.7: Provisions in the Agreement that Benefit Indigenous Peoples

The Parties recognize that in addition to the provisions in this Chapter, there are provisions in other Chapters of this Agreement that seek to enhance cooperation among the Parties on Indigenous economic issues or that otherwise may contribute to further enhance the participation of Indigenous Peoples in international trade and investment opportunities derived from this Agreement.

Article 24.8: Non-Application of Dispute Settlement Mechanism

1. The Parties shall make all possible efforts, through dialogue, consultations, and cooperation within the Trade and Indigenous Peoples Committee, to resolve any matter that may arise relating to this Chapter.

2. A Party shall not have recourse to dispute settlement under Chapter 27 (Dispute Settlement) for a matter arising under this Chapter.

Chapter 25. GOOD REGULATORY PRACTICES

Article 25.1: Definitions

For the purposes of this Chapter:

good regulatory practices means the use of best practices in the process of planning, developing, issuing, implementing and reviewing regulations in order to facilitate the achievement of domestic policy objectives;

regulation means a measure of general application adopted, issued, or maintained by a regulatory authority with which compliance is mandatory, except as set out in Annex 25-A; and

regulatory authority means an administrative authority or agency at the Party's central level of government that develops, proposes or adopts a regulation, except as set out in Annex 25-A, and does not include legislatures or courts.

Article 25.2: General Provisions

1. The Parties recognize that implementation of government-wide practices to promote regulatory quality through greater transparency, objective analysis, accountability, and predictability can facilitate international trade, investment, and economic growth, while contributing to each Party's ability to achieve its policy objectives (including health, safety, and environmental goals) at the level of protection it considers appropriate. The Parties also recognize that the application of good regulatory practices can support the development of compatible regulatory approaches between the Parties, and

reduce or eliminate unnecessarily burdensome, duplicative, or divergent regulatory requirements.

2. The Parties recognize the importance of:

(a) good regulatory practices in facilitating the increase of trade in goods and services, and investment between the Parties, as well as in maintaining and enhancing the benefits of cooperation promoted by the Parties under this Agreement;

(b) each Party's sovereign right to identify its regulatory priorities and to establish and implement regulations to address these priorities, in the areas and levels of government that the Party considers appropriate;

(c) the role that regulation plays in achieving public policy objectives;

(d) taking into account input from interested persons in the development of regulations; and

(e) promoting and maintaining measures to minimize unintended inequities or disparities between groups of people likely to be impacted by a proposed regulation, including underrepresented groups in trade, as well as to minimize adverse impacts on the environment and small and medium-sized enterprises.

Article 25.3: Central Regulatory Coordinating Body or Mechanism

1. Recognizing that institutional arrangements are particular to each Party's system of governance, the Parties note the important role of central regulatory coordinating bodies and mechanisms in promoting good regulatory practices; performing key advisory, coordination, and review functions to improve the quality of regulations; and developing improvements to their regulatory systems.

2. Each Party shall maintain its central regulatory coordinating body or mechanism, within its mandate and consistent with its law.

Article 25.4: Internal Coordination of Regulatory Development

1. The Parties recognize that internal processes or mechanisms providing for consultation, coordination, and review within and among domestic authorities in the development of regulations may vary between Parties. Accordingly, each Party shall endeavour to make descriptions of the operation of these mechanisms or processes publicly available, preferably online. The mechanisms or processes of each Party should have as overarching characteristics the ability to:

(a) review the Party's proposed regulations to determine whether the Party has considered good regulatory practices in the preparation of the regulations, which may include, but are not limited to those set out in this Chapter, and make recommendations based on that review;

(b) strengthen consultation and coordination among domestic authorities to identify potential overlap and duplication and prevent the creation of inconsistent requirements across authorities;

(c) make recommendations for government-wide regulatory improvements;

(d) publicly report on regulations that have been reviewed and on any proposals for government-wide regulatory improvement;

(e) review regulations early in the development process to support compliance with international trade and investment obligations undertaken by the Party, including, as appropriate, consideration of relevant international standards, guides, and recommendations; and

(f) promote consideration of regulatory impacts of information collection and implementation, including burdens on small and medium-sized enterprises.

Article 25.5: Early Planning

Each Party shall publish online on an annual basis a list of regulations that it reasonably expects its regulatory authorities to adopt or propose to adopt within the following 12 months. Each regulation identified in the list should be accompanied by:

(a) a concise description of the planned regulation;

(b) a point of contact for a knowledgeable individual in the regulatory authority responsible for the regulation;

(c) an indication, if known, of sectors to be affected and whether there is any expected significant effect on international trade or investment; and

(d) timetables for subsequent actions, to the extent available.

Article 25.6: Regulatory Impact Assessment

1. Each Party shall endeavour to encourage its regulatory authorities, in accordance with its law, to conduct regulatory impact assessments when developing proposed regulations that exceed a certain level of economic impact or meet other criteria established by the Party, to assist it in developing regulations that best achieve the objectives pursued by that Party.

2. Recognizing that differences in the Parties' institutional, social, cultural, legal and developmental circumstances may result in specific regulatory approaches, each Party shall endeavour to ensure that its regulatory impact assessment, among other things:

(a) assesses the need for a proposed regulation, that includes a description of the nature and significance of the problem intended to be addressed by the regulation;

(b) identifies and examines feasible alternatives to the proposed regulation, including the alternative of not regulating and, to the extent possible and consistent with its law, the corresponding costs and benefits of the proposed regulation, recognizing that some costs and benefits of regulating are difficult to quantify;

(c) provides an explanation of the reasons for concluding that the alternative selected achieves the policy objectives in an efficient manner, including, if appropriate, reference to its costs and benefits and its potential for managing risks; and

(d) relies on the best reasonably available information within the boundaries of the authorities, mandates, capacities, and resources of the particular regulatory authority.

3. When conducting regulatory impact assessments, a Party's regulatory authorities should take into consideration the potential impact of the proposed regulation on small and medium-sized enterprises.

Article 25.7: Public Consultations and Transparency

1. When preparing a regulation, each Party shall endeavour to:

(a) publish online the proposed regulation to allow any person to assess whether and how its interests might be significantly affected;

(b) publish online the regulatory impact assessment associated with the proposed regulation; and

(c) offer reasonable opportunities for any person, on a non-discriminatory basis, to provide input on the proposed regulation.

2. If a proposed regulation is expected to have a significant impact on international trade, the Party should normally provide a comment period of at least 60 days from the date on which the regulation is published.

3. A Party shall take into account input received on the proposed regulation under paragraph 1 and shall endeavour to make publicly available a summary of the results of consultations, except to the extent necessary to protect confidential information or withhold personal data or inappropriate content.

Article 25.8: Use of Plain Language

Each Party shall endeavour to ensure that any regulation it proposes or adopts is plainly written, concise, organized, and easy to understand, recognizing that some regulations address technical issues requiring specialized knowledge to understand and apply them.

Article 25.9: Public Access

Consistent with its law, each Party shall ensure that its relevant regulatory authorities provide public access to any regulation it adopts or maintains and, to the extent possible, make this information available on a government website, except with respect to any standards that have been incorporated by reference into a regulation.

Article 25.10: Review of Regulations Currently in Effect

1. Each Party shall endeavour to review its regulations at intervals it deems appropriate, to determine whether they should be modified or repealed to make its regulatory regime more effective in achieving its policy objectives.

2. Each Party shall endeavour to publish, to the extent possible, the official plans and results of reviews referred to in paragraph 1, and to make this information publicly available, preferably online.

Article 25.11: Cooperation

1. The Parties shall endeavour to cooperate to implement this Chapter and maximize the benefits arising from it. The Parties' cooperation activities should take into

consideration each Party's needs, and may include:

(a) information exchange, dialogues or meetings with the other Party;

(b) information exchange, dialogues or meetings with interested persons, including the small and medium-sized enterprises of the other Party, and international organizations;

(c) training programs, seminars and other assistance initiatives;

(d) strengthening cooperation and other relevant activities with the regulatory authorities of the other Party; and

(e) other cooperation activities that the Parties may decide.

2. To the extent appropriate and consistent with its law, when developing regulations, each Party should encourage its relevant regulatory authorities to cooperate and consider regulations of the other Party, as well as relevant developments in international, regional and other forums.

Article 25.12: Report of Implementation and Review

1. For the purposes of transparency, and to serve as a basis for cooperation activities, each Party shall submit a report on the implementation of this Chapter ("implementation report") within three years of the date of entry into force of this Agreement, and at least once every three years thereafter, unless the Parties decide otherwise. Each Party shall circulate this report to the other Party through the contact point designated under

Article 25.13.

2. In its first implementation report, each Party shall describe the actions it has taken to implement this Chapter since the date of entry into force of this Agreement and the actions it plans to take in the future to implement this Chapter, including those that:

(a) encourage its regulatory authorities to conduct regulatory impact assessments in accordance with Article 25.6;

(b) ensure that any regulations it adopts or maintains are accessible, in accordance with Article 25.9;

(c) review regulations in effect, in accordance with Article 25.10; and

(d) make publicly available the list of regulations that are intended to be issued or amended during the next 12 months, in accordance with Article 25.5.

3. In its subsequent implementation reports, each Party shall describe the actions it has taken to implement this Chapter since the submission of its previous reports, and the actions that it plans to take in the future to implement this Chapter.

Article 25.13: Contact Point

1. Each Party shall designate and notify a contact point for matters arising under this Chapter. A Party shall promptly notify the other Party of any changes to its contact point.

2. Each contact point shall be responsible for:

(a) providing information relating to the implementation of this Chapter, at the request of the other Party, through the contact point of the other Party;

(b) consulting and coordinating with the Party's regulatory authorities, as appropriate, on matters arising under this Chapter;

(c) facilitating cooperation activities that may be undertaken by the Parties under Article 25.11; and

(d) circulating the implementation report submitted by the Party in accordance with Article 25.12.

Article 25.14: Relationship to Other Chapters

In the event of inconsistency between this Chapter and another Chapter of this Agreement, the other Chapter shall prevail to the extent of the inconsistency.

Article 25.15: Dispute Settlement

A Party shall not have recourse to dispute settlement under Chapter 27 (Dispute Settlement) for a matter arising under this Chapter.

Annex 25-A

Additional Provisions Concerning the Scope of “Regulation” and “Regulatory Authority”

1. The following measures are not regulations for the purposes of this Chapter:

(a) for the Parties: general statements of policy or guidance that do not prescribe legally enforceable requirements;

(b) for Canada:

(i) a measure concerning:

(A) a military, foreign affairs, or national security function of the Government of Canada;

(B) public sector management, personnel, pensions, public property, loans, grants, benefits, or contracts;

(C) departmental organization, procedure, or practice;

(D) taxation, financial services or anti-money laundering measures; or

(E) federal, provincial, territorial relations and agreements and relations with Aboriginal Peoples; or

(ii) a measure that does not constitute a regulation under the Statutory Instruments Act;

(c) for Ecuador:

(i) presidential decrees; and

(ii) a measure concerning:

(A) a military or foreign affairs function of the Government of Ecuador;

(B) public sector management, personnel, public property, budgetary execution, loans, grants, benefits, or contracts;

(C) public sector organization, procedure, or practice;

(D) financial services or anti-money laundering measures;

(E) taxation measures; or

(F) monetary and exchange rate policies.

2. For Canada, the Governor in Council is not a regulatory authority for the purposes of this Chapter.

Chapter 26. ADMINISTRATIVE AND INSTITUTIONAL PROVISIONS

Article 26.1: Establishment of the Joint Committee

The Parties hereby establish the Canada – Ecuador Joint Committee (“Joint Committee”), composed of government representatives of the Parties. The Joint Committee shall be co-chaired by government representatives of each Party at the level of Ministers or their designees.

Article 26.2: Functions of the Joint Committee

1. The Joint Committee shall:

(a) supervise the implementation of this Agreement;

(b) review the general functioning of this Agreement;

(c) consider any proposal to amend or modify this Agreement;

(d) supervise the work of the subsidiary bodies established under this Agreement;

(e) seek to prevent or resolve any problems, differences, or disputes that may arise regarding the interpretation or application of this Agreement, without prejudice to Chapter 27 (Dispute Settlement); and

(f) consider any matter of interest relating to an area covered by this Agreement.

2. The Joint Committee may:

(a) establish, merge, or dissolve subsidiary bodies and determine their composition, functions, and duties, to improve the functioning of this Agreement;

(b) delegate responsibilities to the Agreement Coordinators designated under Article 26.6;

(c) seek the advice of a non-governmental person or entity;

(d) consider matters raised by a subsidiary body;

(e) adopt, subject to completion of applicable legal procedures by each Party, a modification to this Agreement of:

(i) the Schedules to Annex 2-B (Tariff Commitments), by accelerating or improving tariff commitments;

(ii) the product specific rules of origin established in Annex 3-A (Product Specific Rules of Origin);

(iii) the procuring entities listed in Annex 11-A (Government Procurement);

(f) adopt interpretative decisions concerning this Agreement binding on panels established under Chapter 27 (Dispute Settlement) and on tribunals established under Section D of Chapter 15 (Investment – Investor-State Dispute Settlement);

(g) provide views on an issue of interpretation or application of this Agreement for the purposes of Article 27.20 (Dispute Settlement – Referral of matters from Judicial or Administrative Proceedings);

(h) evaluate the outcomes of the application of this Agreement; and

(i) take any other action as the Parties may decide.

Article 26.3: Decision-Making

The Joint Committee and subsidiary bodies shall take decisions and make recommendations by consensus.

Article 26.4: Rules of Procedure of the Joint Committee

1. The Joint Committee shall meet within one year of the date of entry into force of this Agreement and thereafter as the Parties may decide, or at the request in writing of a Party.

2. Unless the Parties decide otherwise, meetings of the Joint Committee shall be held in person alternately in the territory of each Party, or virtually by any means available.

3. Each Party shall treat confidential information exchanged in relation to a meeting of the Joint Committee or a subsidiary body established under this Agreement on the same basis as the Party providing the information.

4. The Joint Committee may establish additional rules of procedure. Subsidiary bodies may establish their own rules of procedure.

Article 26.5: Subsidiary Bodies and Contact Points

1. The following provisions establish, or commit the Parties to establish, subsidiary bodies under this Agreement:

(a) Article 2.13 (National Treatment and Market Access for Goods – Committee on Trade in Goods) and Article 2.19 (National Treatment and Market Access for Goods – Sub-Committee on Agriculture);

(b) Article 4.17 (Origin Procedures – Committee on Rules of Origin and Origin Procedures);

(c) Article 5.20 (Customs and Trade Facilitation – Committee on Trade Facilitation);

(d) Article 6.14 (Sanitary and Phytosanitary Measures – Committee on Sanitary and Phytosanitary Measures);

(e) Article 7.12 (Technical Barriers to Trade – Committee on Technical Barriers to Trade);

(f) Article 11.23 (Government Procurement – Committee on Government Procurement);

(g) Article 15.41 (Investment – Committee on Investment);

(h) Article 18.22 (Financial Services – Financial Services Committee);

(i) Article 22.7 (Trade and Gender Equality – Committee on Trade and Gender Equality);

(j) Article 23.5 (Small and Medium-Sized Enterprises – Committee on SMEs); and

(k) Article 24.5 (Trade and Indigenous Peoples – Trade and Indigenous Peoples Committee).

2. The following provisions establish, or commit the Parties to establish, contact points under this Agreement:

(a) Article 5.18 (Customs and Trade Facilitation – Customs Cooperation);

(b) Article 6.16 (Sanitary and Phytosanitary Measures – Competent Authorities and Contact Points);

(c) Article 7.13 (Technical Barriers to Trade – Contact Points);

(d) Article 10.9 (State-Owned Enterprises and Designated Monopolies – Contact Point);

(e) Article 12.18 (Environment – Institutional Provisions and Contact Points);

(f) Article 17.8 (Development and Administration of Measures – Transparency);

(g) Article 19.6 (Temporary Movement of Business Persons – Contact Points);

(h) Article 20.25 (Telecommunication – Technical Cooperation);

(i) Article 22.8 (Trade and Gender Equality – Contact Points);

(j) Article 23.5 (Small and Medium-Sized Enterprises – Committee on SMEs);

(k) Article 24.6 (Trade and Indigenous Peoples – Contact Points);

(l) Article 25.13 (Good Regulatory Practices – Contact Point).

Article 26.6: Agreement Coordinators

1. Each Party shall designate an Agreement Coordinator and notify the other Party in writing no later than 60 days after the date of entry into force of this Agreement.

2. Each Party shall promptly notify the other Party, in writing, of any changes to its Agreement Coordinator.

3. The Agreement Coordinators shall:

(a) monitor the work of the subsidiary bodies established under this Agreement, referred to in Article 26.5;

(b) coordinate preparations for Joint Committee meetings;

(c) follow up on any decisions taken by the Joint Committee, as appropriate;

(d) respond to information requests, as required, pursuant to Article 14.3 (Transparency, Anti-Corruption and Responsible Business Conduct – Notification and Provision of Information);

(e) receive all notifications and information provided pursuant to this Agreement and, as necessary, facilitate communications between the Parties on any matter covered by this Agreement; and

(f) consider any other matter that may affect the operation of this Agreement as mandated by the Joint Committee.

4. The Agreement Coordinators shall meet and communicate as often as required. Meetings may be in person or held virtually.

5. A Party may request in writing at any time that a special meeting of the Agreement Coordinators be held. The Agreement Coordinators shall endeavour to meet within 30 days after a Party receives a request to meet by the other Party.

Article: 26.7 Bilateral cooperation

1. Recognizing the importance of bilateral dialogue and cooperation on issues related to this Agreement, the Parties may, subject to the availability of resources, undertake cooperation or technical assistance on issues of common interest, as set

out in Annex 26-A.

2. The Parties may engage in cooperation on any other issues under this Agreement, following a decision of the Joint Committee.

Annex 26-A Cooperation

Section A: Cultural cooperation

1. The Parties may cooperate in the arts, heritage, and cultural industry sectors with a view to identify priorities and specific needs, and to support the development of their respective cultural industries, including in the application of digital and other new technologies.

2. The Parties may, to the extent possible, engage in cooperation activities and technical assistance aimed at:

(a) facilitating the exchange of information, expertise, and best practices, including information on management models for museums, cultural centers, libraries, and best practices on heritage conservation;

(b) seeking opportunities to collaborate on cultural events such as festivals, fairs, competitions, workshops, seminars, and training programs;

(c) building capacity on providing opportunities for professional exchanges and training of professionals; and

(d) identifying opportunities for Ecuadorian artists and other cultural professionals and practitioners in the Canadian marketplace.

Section B: Intellectual Property Cooperation and Technical Assistance

1. The Parties recognize the importance of intellectual property rights in promoting innovation, and social, economic, and cultural development, as well as economic competitiveness in a knowledge-based economy.

2. The Parties recognize their mutual interest in developing their understanding of each other's intellectual property rights system.

3. The Parties shall discuss, through their respective contact points, the development of a work plan of cooperation and technical assistance activities to enhance and strengthen bilateral exchanges and cooperation in the field of intellectual property rights.

4. Any work plan developed under paragraph 3 must be subject to the availability of resources and must include, unless otherwise decided by the Parties, Canada sharing information on its geographical indication and trademarks system with Ecuador taking into account the following principles:

(a) transparency;

(b) capacity building; and

(c) education.

5. The Parties shall discuss, through their respective contact points, any topic of interest related to intellectual property rights.

Section C: Technical assistance on international trade law and dispute settlement

Recognizing Ecuador's constraints in building its capacity and expertise in international trade law and dispute settlement proceedings, the Parties may undertake technical assistance activities, when feasible and appropriate, including through workshops, seminars, and dialogues on international dispute settlement processes, procedures and best practices.

Chapter 27. DISPUTE SETTLEMENT

Article 27.1: Definitions

For the purposes of this Chapter:

complaining Party means a Party that requests the establishment of a panel under Article 27.7;

designated office means the office that a Party designates under Article 27.19 to provide administrative assistance to a

panel established under this Chapter;

expert means a person or body providing information or technical advice to the panel under Article 27.12;

panel means a panel established under Article 27.7;

panellist means a member of a panel established under Article 27.7;

perishable goods means perishable agricultural and fish goods classified in HS Chapters 1 through 24;

responding Party means a Party that has been complained against under Article 27.7; and

responsible office means the designated office of the responding Party.

Article 27.2: Cooperation

The Parties shall at all times endeavour to agree on the interpretation and application of this Agreement, and shall make every attempt, in good faith, through cooperation and discussion to reach a mutually satisfactory resolution to any matter that might affect its operation.

Article 27.3: Scope

Except as otherwise provided in this Agreement, this Chapter applies to the settlement of any disputes between the Parties regarding the interpretation or application of this Agreement or wherever a Party considers that:

(a) an actual or proposed measure of the other Party is or would be inconsistent with an obligation of this Agreement;

(b) the other Party has otherwise failed to carry out an obligation of this Agreement; or

(c) there is nullification or impairment in the sense of Annex 27-A.

Article 27.4: Choice of Forum

1. Subject to paragraphs 2 and 3, if a dispute arises regarding a matter that is covered by this Agreement and the WTO Agreement or any other trade agreement to which the Parties are party, the complaining Party may select the forum in which to settle the dispute.

2. In any dispute referred to in paragraph 1, if the responding Party claims that a matter is subject to Article 1.2.4 (Initial Provisions and General Definitions – Relation to Other Agreements) and requests in writing, no later than 10 days after the request for the establishment of a panel is made, that the matter be considered under this Agreement, the complaining Party, in respect of that matter, may have recourse to dispute settlement procedures only under this Agreement.

3. In any dispute referred to in paragraph 1, if the responding Party claims that the measure at issue is justifiable under paragraphs (b) or (g) of Article XX of the

GATT 1994, or paragraph (c) of Article XIV of the GATS, as incorporated into

Article 28.1 (Exceptions and General Provisions – General Exceptions), and requests in writing, no later than 10 days after the request for the establishment of a panel is made, that the matter be considered under this Agreement, the complaining Party may, with respect to that matter, thereafter have recourse to dispute settlement solely under this Agreement.

4. If a complaining Party requests the establishment of a panel under this Agreement or its equivalent under an agreement referred to in paragraph 1, the forum selected shall be used to the exclusion of the other, unless the responding Party makes a request under paragraph 2 or 3, or the forum selected first fails to make findings on the matter in dispute for jurisdictional or procedural reasons.

Article 27.5: Consultations

1. A Party may request consultations with the other Party regarding any matter referred to in Article 27.3.

2. The Party requesting consultations shall deliver the request in writing, and shall set out the reasons for the request, including the identification of the measure, proposed measure, or other matter at issue under Article 27.3, and an indication of the legal basis for the complaint.

3. Unless the Parties decide otherwise, they shall enter into consultations no later than:

(a) 30 days of the date of receipt of the request for consultations; or

(b) 15 days of the date of receipt of the request for consultations in cases of urgency, including those involving perishable goods or other goods or services that lose their quality or commercial value in a short period of time.

4. The Parties shall make every attempt to reach a mutually satisfactory resolution of a matter through consultations under this Article. To this end, each Party shall:

(a) provide sufficient information to enable a full examination of the measure, proposed measure, or other matter at issue under Article 27.3;

(b) treat any information received in the course of consultations that is designated by a Party as confidential or proprietary in nature on the same basis as the Party providing the information; and

(c) make available personnel of its governmental agencies or other regulatory bodies that are responsible for, or have expertise in, the subject matter of the consultations.

5. Consultations are confidential and without prejudice to the rights of the Parties in any other proceedings.

6. Consultations may be held in person or by any other means decided by the Parties. If held in person, consultations shall take place in the territory of the Party to which the request for consultations was made, unless the Parties decide otherwise.

Article 27.6: Good Offices, Conciliation, and Mediation

1. The Parties may at any time decide to undertake an alternative dispute resolution procedure, such as good offices, conciliation, or mediation.

2. A Party may suspend or terminate alternative dispute resolution procedures at any time.

3. Alternative dispute resolution procedures are confidential and without prejudice to the rights of the Parties in any other proceedings.

4. If the Parties decide, alternative dispute resolution procedures may continue in parallel while a dispute proceeds for resolution before a panel established under Article 27.7.

Article 27.7: Request for the Establishment of a Panel

1. The complaining Party may request the establishment of a panel if:

(a) the Parties fail to enter into consultations within the relevant time period set out in Article 27.5;

(b) the Parties fail to resolve the matter through consultations within:

(i) 25 days after the date of receipt of the request for consultations for matters referred to in paragraph 3 (b) of Article 27.5; or

(ii) 45 days after the date of receipt of the request for consultations; or

(c) the Parties decide not to enter into consultations.

2. The complaining Party shall deliver a written request for the establishment of a panel to the responding Party. In the request, the complaining Party shall identify the measure or other matter at issue under Article 27.3 and provide a brief summary of the legal basis of the complaint sufficient to present the problem clearly.

3. Upon delivery of the request, the panel is established.

4. A panel shall not be established to review a proposed measure.

Article 27.8: Panel Composition

1. The panel shall comprise three panellists.

2. Within 30 days after the date of receipt of the request for the establishment of the panel, each Party shall appoint a panelist, propose up to four candidates to serve as the chair of the panel and notify each other in writing of the appointments and its proposed candidates to serve as the chair. If a Party fails to appoint a panellist within this time, the other Party shall appoint the panellist from the candidates proposed by the other Party for chair.

3. The Parties shall endeavour to decide on the chair from among the candidates proposed within 45 days after the date of receipt of the request for the establishment of the panel. If the Parties fail to decide on the chair within this time period,

within a further seven days the Parties shall select the chair by lot from the candidates proposed and appoint the chair to the panel, unless the Parties decide otherwise.

4. If a panellist withdraws, is removed, or becomes unable to serve, all time periods applicable to that panel's proceedings shall be suspended until the date a replacement panellist is appointed. The Parties shall appoint the replacement as follows:

(a) for a panellist appointed by a Party, that Party shall appoint a replacement within 15 days, failing which the replacement shall be appointed in accordance with the second sentence of paragraph 2;

(b) for a chair, the Parties shall select a replacement within 15 days, failing which the replacement shall be appointed in accordance with the second sentence of paragraph 3; and

(c) if an appointment in subparagraph (a) or (b) would require selecting from the chair candidates and there are no remaining chair candidates, each Party shall propose up to three additional candidates within 15 days and the Parties shall then follow the applicable procedure in sub-paragraph (a) or (b).

5. If a Party believes that a panellist is in violation of the Code of Conduct referenced in subparagraph 1(f) of Article 27.9, the Parties shall consult. If the Parties concur on removing the panellist, the panellist shall be removed and a new panellist shall be selected in accordance with this Article.

6. If a Party believes that a panellist or a candidate for chair does not meet the requirements in Article 27.9, the Parties shall consult within 10 days after that individual was appointed or proposed. If the Parties concur that a panellist does not meet the requirements, the panellist shall be removed, and a new panellist shall be selected in accordance with paragraph 4 of this Article. If the Parties concur that a candidate for chair does not meet the requirements, the candidate shall be withdrawn, and a new candidate proposed within 10 days.

Article 27.9: Qualifications of Panellists

1. Each panellist shall:

(a) have expertise or experience in law, international trade, other matters covered by this Agreement, or in the settlement of disputes arising under international trade agreements;

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

(c) be independent, serve in their individual capacity, not be affiliated with or employed by any Party, and not take instructions from any Party or organization;

(d) not be a national of any Party, nor have their usual place of residence in the territory of any Party;

(e) not have dealt with the matter at issue in any capacity, including involvement in any alternative dispute resolution proceedings referred to in Article 27.6; and

(f) comply with the Code of Conduct set out in Annex 27-C.

2. The Parties shall endeavour to include greater diversity in panel appointments, including through the increased representation of women and other under-represented groups, when selecting individuals for panel appointments.

3. For a dispute arising under Chapter 12 (Environment) or Chapter 13 (Labour), each Party shall select panellists in accordance with the following requirements, in addition to those set out in paragraphs 1 and 2:

(a) in any dispute arising under Chapter 12 (Environment), panellists other than the chair shall have expertise or experience in environmental law or practice; and

(b) in any dispute arising under Chapter 13 (Labour), panellists other than the chair shall have expertise or experience in labour law or practice.

Article 27.10: Terms of Reference

1. Unless the Parties decide otherwise, within 15 days of the date of the establishment of the panel, the terms of reference shall be:

"To examine, in the light of the relevant provisions of this Agreement, the matter referred to in the request for the establishment of the panel and to make findings, determinations, and recommendations as provided in Article 27.13."

2. If a complaining Party claims that there is nullification or impairment of benefits in the sense of Annex 27-A, the terms of

reference shall so indicate.

3. If a complaining Party requests the panel to make findings as to the degree of adverse trade effects on a Party of any measure found:

(a) to be inconsistent with the obligations in this Agreement, or

(b) to have caused nullification or impairment in the sense of Annex 27-A, the terms of reference shall so indicate.

Article 27.11: Functions of a Panel

1. The panel shall make an objective assessment of the matter before it, including an objective assessment of the facts of the matter and the applicability of and conformity with this Agreement. The panel shall also undertake any additional or other functions that the Parties request.

2. The panel may rule on its own jurisdiction.

3. The panel may, in consultation with the Parties, modify any time period applicable in the panel proceedings and make other procedural or administrative adjustments as may be required for the fairness or efficiency of the proceedings.

4. The panel shall endeavour to make its findings, determinations, and recommendations by consensus. If the panel is unable to reach consensus, it shall make its findings, determinations, and recommendations by a majority of its members.

5. Panellists may provide separate opinions on matters not unanimously agreed. A panel or panellist may not disclose which panellists are associated with a majority or minority opinion.

6. The panel shall interpret this Agreement in accordance with the customary rules of interpretation of public international law, including as reflected in the Vienna Convention on the Law of Treaties. When interpreting an obligation under this Agreement that is incorporated by reference from the WTO Agreement, the panel shall take into account any relevant interpretations in WTO panel and Appellate Body reports adopted by the WTO Dispute Settlement Body as well as any authoritative interpretations adopted by the WTO General Council under Article IX of the WTO Agreement.

7. Unless the Parties decide otherwise, the panel shall perform its functions and conduct its proceedings in a manner consistent with this Chapter and the Rules of Procedure.

Article 27.12: Information and Technical Advice

On the request of a Party, or on its own initiative, a panel may seek information or technical advice from any expert that it deems appropriate, subject to the relevant Rules of Procedure and any additional terms and conditions as the Parties may decide. The Parties shall have an opportunity to comment on information or technical advice obtained.

Article 27.13: Panel Reports

1. Unless the Parties decide otherwise, the panel shall issue its report in accordance with this Chapter.

2. The panel shall base its report on this Agreement, applied and interpreted in accordance with Article 27.11, the submissions and arguments of the Parties and on any information or technical advice put before it under Article 27.12.

3. The findings, determinations and recommendations of the panel must not add to or diminish the rights and obligations of the Parties under this Agreement.

4. The panel shall issue an interim report to the Parties within 150 days of the date the last panellist is appointed or, in cases of urgency, within 120 days. The interim report must contain:

(a) findings of fact;

(b) a determination as to whether a responding Party has conformed with its obligations under this Agreement and any other finding or determination requested in the terms of reference; and

(c) recommendations for resolution of the dispute, if requested by a Party.

5. The interim report is confidential.

6. A Party may submit written comments to the panel on its interim report, subject to time limits that may be set by the panel. After considering any written comments, the panel may, on its own initiative or on the request of a Party:

(a) request the views of a Party;

(b) reconsider its interim report; or

(c) make any further examination that it considers appropriate.

7. In exceptional cases, if the panel considers that it cannot issue its report within the time period in paragraph 4, it shall inform the Parties of the reasons for the delay together with an estimate of when it will issue its report. The panel shall not exceed an additional period of 30 days, unless the Parties decide otherwise.

8. The panel shall issue a final report to the Parties within 30 days of the issuance of the interim panel report or, in cases of urgency, within 15 days.

9. Unless the Parties decide otherwise, each Party shall make the final report publicly available 15 days after it is issued, subject to the protection of information designated for confidential treatment.

Article 27.14: Implementation of the Panel's Report

1. On receipt of the final report of a panel, the Parties shall decide on the resolution of the dispute. Unless the Parties decide otherwise, the resolution shall be in conformity with the determinations and any recommendations of the panel.

2. If possible, the resolution shall be:

(a) removal of a measure or other matter found by the panel to be inconsistent or otherwise not in conformity with an obligation of this Agreement; or

(b) removal of the nullification or impairment in the sense of Annex 27-A.

3. If the Parties are unable to decide on a resolution within 45 days of the date the final report was issued to the Parties, or within any other period as the Parties may decide, the responding Party shall, if so requested by the complaining Party, enter into negotiations with a view to deciding mutually satisfactory compensation.

Article 27.15: Non-Implementation – Suspension of Benefits

1. A complaining Party may, subject to paragraph 5, suspend the application to a responding Party of benefits of equivalent effect until such time as that the Parties have reached a decision on a resolution of the dispute if:

(a) in its final report a panel has determined that a measure or other matter is inconsistent with the obligations of this Agreement or that there is nullification or impairment in the sense of Annex 27-A; and

(b) no decision on compensation has been reached under paragraph 3 of Article 27.14 within 30 days of the date of that complaining Party's request;

(c) 45 days have passed following the issuance of the final report, unless a complaining Party has requested compensation under paragraph 3 of Article 27.14; or

(d) the Parties have decided on the resolution of the dispute or on compensation, and the complaining Party considers that the responding Party has failed to observe the terms of that decision.

2. A complaining Party may suspend benefits under paragraph 1 no sooner than

10 days after providing a written notice to the responding Party that specifies the level of benefits that the complaining Party proposes to suspend.

3. In considering which benefits to suspend under paragraph 1:

(a) the complaining Party should first seek to suspend benefits or other obligations in the same sector as that affected by the measure or other matter that the panel has found to be inconsistent with the obligations of this Agreement or to have caused nullification or impairment in the sense of Annex 27-A; and

(b) the complaining Party that considers it is not practicable or effective to suspend benefits or other obligations in the same sector may suspend benefits in another sector.

4. The level of nullification and impairment shall be calculated starting from the date the panel issued its final report to the Parties.

5. A complaining Party shall suspend benefits temporarily, and only until:

(a) the measure or other matter found to be inconsistent with the obligations of this Agreement or otherwise nullifying or

impairing benefits in the sense of Annex 27-A has been brought into conformity with this Agreement, including as a result of the panel process described in Article 27.13; or

(b) the Parties have otherwise reached a mutually satisfactory resolution.

Article 27.16: Review of Compliance and Suspension of Benefits

1. A responding Party may, by written notice to the other Party, request that a panel be reconvened to make a determination with respect to:

(a) whether the level of benefits suspended by a complaining Party under paragraph 1 of Article 27.15 is manifestly excessive; or

(b) a disagreement between the Parties as to the existence or consistency with this Agreement of a measure taken to comply with the determinations or recommendations of the previously established panel.

2. In the written notice of the request referred to in paragraph 1, the responding Party shall identify the measure or other matter at issue under Article 27.3, and provide a brief summary of the legal basis of the complaint sufficient to present the problem clearly.

3. The panel shall be reconvened either:

(a) upon receipt by the other Party of a written notice referred to in paragraph 1; or

(b) in the event that any original panellist is unable to serve on the panel, on the date on which a replacement panel member is appointed in accordance with Article 27.8.

4. Articles 27.10 and 27.13 apply to procedures adopted and reports issued by the panel reconvened under this Article, with the exception that the panel shall:

(a) present a final report within 45 days of being reconvened where the request concerns subparagraph 1(a) only, and otherwise within 120 days; and

(b) present an interim report 15 days prior to presenting a final report.

5. A panel reconvened under this Article may include in its final report a recommendation, if appropriate, that any suspension of benefits be terminated or that the amount of benefits suspended be modified.

6. If a Party has suspended benefits pursuant to Article 27.15, that Party may continue to suspend those benefits during the proceedings under this Article.

Article 27.17: Suspension or Termination of Proceedings

1. On the request of the complaining Party, the panel shall suspend its work for a period not to exceed 12 consecutive months.

2. The panel shall resume proceedings:

(a) at any time, on request of the Parties; or

(b) at the end of the suspension period, on request of a Party.

3. A request under paragraph 2 shall be notified to the panel and, if made under paragraph 2(b), the other Party.

4. In the event of a suspension, the time periods in this Chapter and the Rules of Procedure shall be extended by the period of time for which proceedings are suspended.

5. If proceedings are suspended for more than a period of 12 consecutive months, the authority of the panel shall lapse and proceedings shall terminate, unless the Parties decide otherwise.

6. The panel shall terminate its proceedings if the Parties requests it to do so.

Article 27.18: Mutually Agreed Solution

1. The Parties may reach a mutually agreed solution with respect to any dispute under this Agreement at any time.

2. If a mutually agreed solution is reached during panel proceedings, the Parties shall promptly notify the agreed solution to

the panel. Upon receipt of the notification, the panel shall immediately cease its work and the proceedings will be deemed to have been terminated.

Article 27.19: Administration of the Dispute Settlement Proceedings

1. Each Party shall designate an office to provide administrative assistance to a panel established under this Chapter and notify the other Party of the contact details for its designated office. Each Party shall promptly notify the other Party of any change to the designated office or the contact details.

2. The Parties may decide to entrust an external body with providing support for certain administrative tasks in proceedings under this Chapter.

3. Each Party shall be responsible for the operation and costs of its designated office.

Article 27.20: Referrals of Matters from Judicial or Administrative Proceedings

1. If an issue of interpretation or application of this Agreement arises in any domestic judicial or administrative proceedings of a Party that a Party considers would merit its intervention, or if a court or administrative body solicits the views of a Party, that Party shall notify the other Party. The Joint Committee shall endeavour to decide on an appropriate response as expeditiously as possible.

2. The Party in whose territory the court or administrative body is located shall submit any agreed interpretation of the Joint Committee to the court or administrative body in accordance with the rules of that forum.

3. If the Joint Committee is unable to agree, a Party may submit its own views to the court or administrative body in accordance with the rules of that forum.

Article 27.21: Private Rights

A Party shall not provide for a right of action under its domestic law against the other Party on the ground that the other Party has failed to conform with one of its obligations under this Agreement.

Annex 27-A

Non-Violation Nullification or Impairement

1. If a Party considers that any benefit it could reasonably have expected to accrue to it under any provision of:

(a) Chapter 2 (National Treatment and Market Access for Goods);

(b) Chapter 3 (Rules of Origin);

(c) Chapter 4 (Origin Procedures);

(d) Chapter 5 (Customs and Trade Facilitation);

(e) Chapter 6 (Sanitary and Phytosanitary Measures);

(f) Chapter 7 (Technical Barriers to Trade); or

(g) Chapter 11 (Government Procurement),

is being nullified or impaired as a result of any measure that is not inconsistent with this Agreement, the Party may have recourse to dispute settlement under this Chapter.

2. A Party may not invoke paragraph 1 with respect to a measure subject to the exception under Article 28.4 (Exceptions and General Provisions – Cultural Industries).

Annex 27-B Rules of Procedure

Definitions

1. For the purposes of this Annex:

adviser means a person retained by a Party to advise or assist that Party in connection with the panel proceedings;

assistant means a person who, under the terms of appointment of a panellist, conducts research or provides assistance to that panellist;

authorized person means a person who is:

(a) an authorized representative of a Party designated under Appendix 27-B.2;

(b) an authorized employee of the responsible office;

(c) a member of the panel;

(d) an assistant to a panellist designated under Appendix 27-B.2; or

(e) an expert;

authorized employee of the responsible office means an individual employed or appointed by the responsible office, including interpreters, translators, court reporters or other individuals that it retains for the purposes of a panel proceeding, who the responsible office has authorized to work on the dispute;

legal holiday means every Saturday and Sunday and any other day officially designated by a Party as a public holiday for the purposes of this Annex; and

representative means an employee of a government department or agency or of any other government entity of a Party, or any person appointed or retained by a government department or agency, or any other government entity of a Party, who represents, advises or assists that Party for the purposes of a dispute under this Chapter.

Application

2. The rules of procedure (Rules) set out in this Annex apply to dispute settlement proceedings under this Chapter, unless the Parties decide otherwise.

Contact Information to be Provided to the Other Party

3. Each Party shall provide to the other Party and its designated office under Article 27.19, no later than 30 days after the date of entry into force of this Agreement, the following information:

(a) e-mail addresses to be used for electronic delivery of documents;

(b) a service address for delivery of documents that cannot be delivered electronically; and

(c) the normal business hours of that Party's designated office and of any legal holidays on which that designated office is closed.

4. Each Party shall, at the earliest possible opportunity, advise the other Party and its designated office of any changes to the information provided in paragraph 3.

Notifications

5. Notifications, documents and requests shall be deemed to be received on the date upon which the electronic version of them is received.

Procedures to Select Chair by Lot

6. Unless the Parties decide otherwise, the following procedures apply for the purposes of selecting a chair by lot pursuant to Article 27.8.3:

(a) The complaining Party shall give the responding Party at least five days advance notice of the date and the place at which the selection will take place, and shall invite a representative of the responding Party to be present. Unless the Parties decide otherwise, the selection shall take place in the capital of the host Party;

(b) The complaining Party shall prepare a container with sealable envelopes, with each envelope containing the name of a candidate proposed by the Parties pursuant to Article 27.8.2. There shall be one envelope corresponding to each candidate, which shall be verified by the responding Party and then sealed prior to the random selection;

(c) A representative of the responding Party shall remove from the container one envelope, randomly and without being able to discern the identity of the candidate to whom the envelope corresponds until the envelope is unsealed and opened;

(d) The candidate to whom the envelope corresponds shall be the chair.

7. If, following notification under paragraph 1(a), no representative of the responding Party is present at the appointed place

and time for the random selection, or if this representative is present but refuses to remove an envelope under paragraph 1(c), the host Party may conduct the random selection by itself.

Organisational Meeting

8. Unless the Parties decide otherwise, the Parties and the panel shall meet within seven working days of the date on which the last panellist is appointed in order to consult on the timetable for the proceedings and determine matters that the Parties or the panel deem appropriate. The panellists and representatives of the Parties may take part in this meeting by telephone, video conference, or electronic means.

9. No later than 10 days after the last panellist is appointed, and after consulting the Parties, the panel shall issue a timetable for the proceedings.

Terms of Reference

10. If the Parties decide on the terms of reference under 27.10, within 15 days of the date of the establishment of the panel, the complaining Party shall promptly deliver those terms of reference to the responsible office. The responsible office shall deliver them by the most expeditious means practicable to the panel on the appointment of the last panellist.

11. If the Parties have not decided on the terms of reference within 15 days of the date of the establishment of the panel, the complaining Party may notify the responsible office. On receipt of that notification, the responsible office shall deliver by the most expeditious means practicable the terms of reference set out in Article 27.10.1 to the panel on appointment of the last panellist.

Computation of Time

12. Time periods are in calendar days unless provided otherwise.

13. When this Agreement, this Annex, or the panel requires anything to be done before or after a date or event, the time period does not include the day of that date or event.

14. If, by reason of application of this Annex, a Party receives a document on a date other than the date on which the same document is received by the other Party, the period of time that is calculated on the basis of the date of receipt of that document shall be calculated from the last date of receipt of that document.

15. If the last day for delivery of a document falls on a legal holiday or on any other day on which the government offices of that Party are closed by order of the government or by force majeure, the document may be delivered on the next business day.

16. When a time period for submission of a document is extended in accordance with paragraph 15, all subsequent time periods provided for in these Rules shall be extended by the amount of time that the time period was extended.

Procedures for Written Submissions and Other Documents

17. A Party shall submit all documents relating to a dispute, including any notice, request, written submissions, written versions of oral statements, and written responses to panel questions, by e-mail or other electronic means to the panel through the responsible office.1

18. A Party submitting a document to the panel shall deliver a copy of the document by e-mail or other electronic means to the responsible office and, on the same day, to the other Party.

19. If it is not possible to deliver a document (or any part thereof, including any exhibit) in electronic form in accordance with paragraphs 17 and 18, the Party submitting the document shall advise the responsible office and the other Party of its inability to do so. That Party shall deliver the document by the most expeditious means practicable to the responsible office and to the other Party.

20. When the responsible office receives a document submitted by a Party, the responsible office shall distribute by e-mail or other electronic means a copy of the document to the panel on the same day. If it is not possible to deliver by e-mail or other electronic means a document, the responsible office shall deliver the document to the panel by the most expeditious means practicable.

21. A document delivered by electronic means must be in searchable format. If that is not feasible at the time of submission, the relevant Party shall file a searchable version as soon as possible unless it is not technically possible to do so.

1 For greater certainty, no document may be considered as having been submitted to the panel unless it is submitted to the

panel through the responsible office pursuant to paragraph 17.

22. A Party may at any time correct minor errors of a clerical nature in any written submission or other document related to the panel proceedings by delivering a new document clearly indicating the changes. Any difference of views as to whether the correction is of a clerical nature shall be resolved by the panel in consultation with the Parties.

23. When a Party delivers a document to the responsible office, the responsible office shall provide that Party with a confirmation of receipt, indicating the title of the document and the date of receipt.

24. If an original version of an exhibit is not in English, the Party submitting the exhibit shall provide the exhibit together with an English translation.

25. The Parties, with the assistance of the designated office, shall endeavor to use a common electronic platform for electronic filing of submissions.

Treatment of Confidential Information

26. Paragraphs 27 and 28 of this Annex and Appendix 27-B.1 apply to information that a Party or expert submits during panel proceedings and designates as confidential. However, they do not apply to a Party or expert with respect to confidential information first submitted by itself, including in derivative form.

27. Each Party, designated office and other persons in connection with the panel proceedings shall treat as confidential the information that the submitting Party or expert has designated as confidential information under Appendix 27-B.1. These Rules do not preclude a Party from disclosing its own information to the public.

28. After consulting the Parties, the panel may establish any procedure that it considers necessary to protect confidential information in order to encourage disclosure for the purposes of the panel proceedings and facilitate the fact-finding process.

Public Release of Documents

29. A Party making a request under Article 27.5 or Article 27.7 shall release a copy of the request or notification to the public no later than seven days after it delivers that request or notification.

30. Subject to the designation of information as confidential, each Party shall make available to the public its written submissions, written versions of an oral statement and written responses to requests or questions from the panel, as soon as possible after those documents are submitted to the panel, and at the latest by the time the final report is issued.

31. If the Party required to release a document publicly under paragraphs 29 and 30 has not done so at the end of the required period, at the direction of the other Party, its designated office or the responsible office shall release the document publicly. Before those documents are made available to the public they shall be redacted to remove any information designated for confidential treatment by a Party pursuant to Appendix 27-B.1.

32. If the Parties decide, the responsible office shall make the hearing transcript available to the public after the Parties have proposed any corrections under paragraph 75 of this Annex, and at the latest 15 days after the final report of the panel is published. Before the transcript is made available to the public, it shall be redacted to remove any information designated for confidential treatment by a Party pursuant to Appendix 27-B.1.

33. A Party shall not publicly disclose the content of an interim report presented to the Parties under Article 27.13 or the content of any comments made on an interim report.

34. To the extent it considers necessary to protect confidential information, a Party may designate any factual information it includes in a written submission that is not in the public domain as confidential under Appendix 27-B.1. To the extent possible, confidential information should be contained in an exhibit or annex to the submission. Each Party shall exercise the utmost restraint in designating information as confidential.

35. If a Party designates information contained in a document as confidential, it shall also prepare and deliver a redacted non-confidential version of the document no later than 10 days after the date of submission of the document that contained the confidential information.

36. If a Party redacts confidential information, the non-confidential version of the document shall indicate clearly each place that the information has been redacted.

Written submissions

37. The complaining Party shall submit its initial written submission to the responsible office no later than 15 days after the date on which the last panellist is appointed. The responding Party shall, in turn, deliver its initial written submission no later than 31 days after the date on which the initial written submission of the complaining Party is due.

38. The initial written submission of the complaining Party shall state clearly that Party's claim, including the identification of the measures at issue and the legal basis for the complaint, and shall also include a statement of the relevant facts and circumstances.

39. The initial written submission of the responding Party shall state the facts and arguments upon which its defense is based.

40. The initial written submission of the complaining Party and the initial written submission of the Responding Party shall include all evidence that the Party intends to rely on in support of the factual and legal arguments it advances, including any expert or technical advice. The Parties shall only submit additional factual evidence if necessary for the purposes of rebuttals, answers to questions, or comments to answers provided by the other Party. Upon good cause being shown, the panel may grant exceptions to this Rule.

41. The panel shall establish, in consultation with the Parties, dates for the delivery of any subsequent written rebuttal submissions of the Parties and any other written submissions that the panel and the Parties decide are appropriate.

Written Submission by a Non-Governmental Entity

42. Each Party shall, no later than 14 days after the date of the establishment of the panel, make public:

(a) the establishment of the panel;

(b) the opportunity for non-governmental entities in each Party's territory to submit requests to provide written views in the dispute; and

(c) the procedures and requirements for making those submissions, consistent with this Annex.

43. A panel may, on application made by a non-governmental entity located in the territory of a Party, grant leave to that non-governmental entity to file a written submission that may assist the panel in evaluating the submissions and arguments of the Parties.

44. The application for leave must:

(a) contain a description of the non-governmental entity, including, as applicable, a statement of its nationality or place of establishment, membership, sources of financing, legal status, and the nature of its activities;

(b) identify the specific issues of fact and law the non-governmental entity will address in its submission;

(c) explain how the non-governmental entity's submission would assist the panel in the determination of the factual or legal issue related to the dispute by bringing a perspective, particular knowledge, or insight that is different from that of the Parties and why its views would be unlikely to repeat legal and factual arguments that a Party has made or is expected to make;

(d) contain a statement disclosing:

(i) whether the non-governmental entity has or had any relationship, direct or indirect, with a Party;

(ii) whether the non-governmental entity received or will receive assistance, financial or otherwise, in the preparation of its application for leave or its submission; and

(iii) if the non-governmental entity has received assistance referred to in subparagraph (ii), the Party or person providing the assistance and the nature of that assistance;

(e) be made in writing, dated and signed by an official of the non-governmental entity, and include the address and other contact details of the official;

(f) be no longer than 1000 words; and

(g) be made in the language or languages of the proceedings as decided pursuant to paragraphs 94 or 95.

45. The responsible office shall promptly provide any request to the panel and each Party, and make the request available to the public. The panel shall, after consulting the Parties, decide within seven days of the date of its receipt of the request

whether to grant the non-governmental entity leave to submit a written submission in whole or in part. The responsible office shall promptly notify the non-governmental entity of the panel's decision and make the decision available to the public.

46. The panel shall set a reasonable date by which the Parties may comment on the application for leave.

47. If the panel has granted leave to a non-governmental entity to file a written submission, it shall ensure that:

(a) the written submission does not introduce new issues to the dispute and is within the terms of reference of the dispute;

(b) the non-governmental entity follows the rules in this Chapter and any rules adopted by the panel for the filing of those written submissions;

(c) the written submission avoids disrupting the proceedings and preserves the equality of the Parties; and

(d) the Parties have an appropriate opportunity to provide comments to the panel on the written submission.

48. A panel shall set the date for delivery of the non-governmental entity's written submission, and the date for delivery of any responses to that submission by the Parties.

49. A panel is not required to address in its report any issue raised in a written submission by a non-governmental entity.

50. The responsible office shall make written submissions by non-governmental entities public as soon as possible after they are submitted to the panel and at the latest by the time the final report is issued.

Operation of Panels

51. The chair of the panel shall preside at all of its meetings. A panel may delegate to the chair authority to make administrative and procedural decisions. These decisions shall be notified to the other panellists and, if appropriate, to the Parties.

52. The panel may conduct its business by any appropriate means, including by telephone, videoconference or electronic means.

53. The panel may hear witnesses or experts only in the presence of the Parties.

54. The deliberations of the panel shall be confidential. Only panellists may take part in the deliberations of the panel. The panel may permit assistants, personnel from the responsible office, interpreters or translators, or court reporters as may be required for the proceedings to be present during those deliberations if the panel determines that their presence is necessary. The members of the panel and the persons employed by the panel shall maintain the confidentiality of the panel's deliberations and any information that is protected pursuant to paragraph 33 or has been designated as confidential by a Party or an expert under Appendix 27-B.1.

55. The drafting of any ruling shall remain the exclusive responsibility of the panel and shall not be delegated.

56. A panel may, on request of a Party or on its own initiative, adopt supplementary rules of procedure that do not conflict with this Chapter or this Annex. The panel shall consult with the Parties before adopting any supplementary rules of procedure.

Burden of Proof

57. A complaining Party asserting that:

(a) a measure of the other Party is inconsistent with this Agreement,

(b) the other Party has failed to carry out its obligations under this Agreement, or

(c) a benefit the complaining Party could reasonably have expected to accrue to it is being nullified or impaired in the sense of Article 27.3,

shall have the burden of establishing that inconsistency, failure, nullification or impairment. In cases where the responding Party declines to participate in the panel proceedings, the panel shall only find that the complaining Party has satisfied its burden if the complaining Party establishes a prima facie case of that inconsistency, failure, or nullification or impairment.

58. A Party asserting that a measure is subject to an exception or affirmative defence under this Agreement shall have the burden of establishing that the exception or defence applies.

Rules of Evidence

59. The panel may request, on its own initiative or at the request of a Party, that a Party make available documents or other information relevant to the dispute, and may take a failure to comply with this request and any of the reasons given for this failure into account in its decision.

60. The Parties may, in a manner that is consistent with the procedures established by the panel, submit witness testimony in person or via declaration, affidavit, report, teleconference, or videoconference.

61. The other Party shall have the opportunity to rebut or test the veracity of testimony or evidence. The panel has the right to test the veracity of testimony or evidence.

62. In appropriate circumstances, a Party may submit anonymous testimony and redacted evidence. The Party submitting anonymous testimony may disclose exclusively to the panel the source of the anonymous testimony and redacted evidence on its own initiative or at the request of the panel, provided that the panel takes appropriate steps to safeguard the identity of the witness.

Hearings

63. The Parties shall have a right to at least one hearing before the panel.

64. The chair of the panel shall fix the date and time of the initial hearing and any subsequent hearings in consultation with the Parties and the panellists, and then notify the responsible office in writing of those dates and times. This information shall be made publicly available by the responsible office.

65. All panellists shall be present during the entirety of any hearings. If a replacement panellist has been selected or appointed after the initial hearing has been held, the panel shall hold a new hearing if a Party requests it and after consultation with the other Party, or if the panel considers a new hearing to be appropriate. The new hearing could be limited to particular issues.

66. The location of hearings shall alternate between the territories of the Parties with the first hearing to take place in the territory of the responding Party.

67. No later than five days before the date of a hearing, each Party shall deliver to the responsible office and the other Party a list of the names of those persons who will make oral arguments, presentations, or provide witness testimony at the hearing on behalf of that Party and of other representatives or advisers who will be attending the hearing.

68. No later than 30 days before the date of the hearing, the Parties may submit to the panel an agreed statement of facts that the Parties consider are not in dispute. If an agreed statement of facts is submitted, the panel shall accept the facts stipulated by the Parties.

69. Hearings shall be open to the public, except as necessary to protect information designated by either Party for confidential treatment. The panel shall, in consultation with the Parties, adopt appropriate logistical arrangements and procedures to ensure that hearings are not disrupted by the attendance of the public. Those procedures may include the use of live web broadcasting or of closed-circuit television.

70. A Party that wishes to submit or discuss confidential information during a hearing shall provide prior notice to the panel, the other Party, and the responsible office. To the extent possible, the notifying Party shall provide the notice at least 10 days before the first day of the hearing.

71. Hearings shall be held in closed session for the duration of any discussion of information designated as confidential. Only authorized persons may attend a session of the hearing that is closed.

72. If a Party submits witness testimony at a hearing, the Parties and the panel may test the veracity of that witness testimony.

73. The panel shall conduct the hearing in the following manner, ensuring that each Party is afforded equal time:

Argument

(a) Argument of the complaining Party;

(b) Argument of the responding Party;

Rebuttal Argument

(c) Reply of the complaining Party;

(d) Counter-reply of the responding Party;

Closing Statement

(e) Closing statement of the complaining Party; and

(f) Closing statement of the responding Party.

74. The panel may direct questions to a Party or its witnesses at any time during a hearing.

75. The responsible office shall arrange for a transcript of each hearing to be prepared and shall, as soon as possible after any transcripts are prepared, deliver a copy to each Party and the panel. The Parties may propose corrections to the transcript no later than

21 days after its delivery. In case of disagreement, the Parties shall seek guidance from the panel.

Supplementary Written Submissions

76. The panel may at any time during the proceedings address questions in writing to the Parties and set a reasonable time period for the submission of their responses. The panel shall deliver a copy of the written questions by electronic means to each Party.

77. A Party to whom the panel addresses written questions shall deliver its written reply to the panel and the other Party via the responsible office by the deadline fixed by the panel.

78. Each Party shall be given the opportunity to provide written comments on the other Party's response within a time period to be determined by the panel.

79. With the agreement of the panel, a Party may submit a supplementary written submission responding to any matter that arose during the hearing.

Information and Technical Advice

80. If a panel decides to seek information or technical advice under Article 27.12, it shall notify the Parties of its intent at the earliest possible time and no later than 15 days after the last day of the hearing.

81. If a Party considers that a panel should seek information or technical advice under Article 27.12, it shall notify the panel at the earliest possible time and no later than

15 days after the last day of the hearing.

82. No later than 15 days after the date of the notification under paragraphs 80 or 81, the panel shall consult the Parties to seek their views on the scope of the request for information or technical advice and which person should be selected as an expert.

83. No later than five days after the selection of a person under paragraph 82, the panel shall circulate the draft terms and conditions of the request for information or technical advice and provide the Parties with seven days to comment on that draft.

84. No later than 15 days after the selection of the person under paragraph 82, the panel shall deliver a copy of the terms and conditions of the inquiry to the responsible office which, in turn, shall provide for the delivery of copies by electronic means to the Parties via the responsible office and to the person selected under paragraph 82. The responsible office shall make the request available to the public, subject to the protection of any confidential information.

85. The expert selected under paragraph 82 shall deliver the information or technical advice to the responsible office on the date decided by the panel and the Parties, which normally shall be within 30 days of the date of the receipt of the panel's request.

86. The responsible office shall deliver the information or technical advice to the panel and the Parties by electronic means and shall make it available to the public, subject to the protection of confidential information. The panel shall establish a date for the Parties to provide comments on the information or technical advice. That date shall normally be within 14 days of the date of delivery of the information or technical advice.

87. If a notification is made under paragraph 80 or 81, any time period applicable to the panel proceedings shall be

suspended for a period beginning on the date of the notification and ending on the date of delivery of the comments on the information or technical advice under paragraph 86, or on any other date that the Parties provide.

88. If the information or technical advice is delivered before the hearing is held, the panel may request, at the request of a Party, or on its own initiative, that the expert attend the hearing in order to provide an opportunity for the panel and the Parties to ask questions regarding the information or technical advice delivered by that expert. If the information or technical advice is delivered after the hearing is held, the panel may arrange, at the request of a Party, or on its own initiative, a hearing, including through a teleconference or videoconference, in order to provide the opportunity for the panel and the Parties to ask questions regarding the information or technical advice delivered by that expert.

Ex Parte Contacts

89. A Party shall not communicate with the panel or individual panellists without notifying the other Party. The panel or individual panellists shall not communicate with a Party in the absence of, or without notifying, the other Party.

90. A panellist shall not discuss any aspect of the substantive subject matter of the proceedings with the Parties in the absence of the other panellists.

91. A panellist shall not meet, or have discussions concerning matters under consideration by the panel, with a person or body providing information or technical advice under paragraph 85.

Suspension of Benefits Panels

92. If a responding Party requests that a panel be reconvened pursuant to

Article 27.16, the responsible office shall promptly notify the panellists. If a panellist is unavailable, the Parties shall select a new panellist in accordance with Article 27.8. The responsible office shall promptly notify the Parties that the panel has been reconvened or that a new panellist has been selected. The panel is reconvened when all panellists are confirmed to be available.

93. Paragraph 92 applies to a panel established under Article 27.16 except that:

(a) the Party that requests the establishment of the panel shall deliver its initial written submission to the responsible office within seven days of the date on which the panel is reconvened;

(b) the responding Party shall deliver its rebuttal written submission to the responsible office within 14 days of the date of delivery of the initial written submission;

(c) the panel shall fix the time period for delivering any further written submissions, including rebuttal written submissions, so as to provide each Party with the opportunity to make an equal number of written submissions subject to the time period for panel proceedings set out in this Agreement and these Rules; and

(d) the panel may decide not to convene a hearing unless a Party requests a hearing.

Working language for the proceedings, translation and interpretation

94. During the consultations on the composition of the panel referred to in

Article 27.8, and no later than the meeting referred to in paragraph 8, the Parties shall endeavour to decide on a common working language for the panel proceedings.

95. If the Parties are unable to decide on a common working language, each Party shall arrange for and bear the costs of the translation of its written submissions into the language chosen by the other Party. The responsible office shall arrange for the interpretation of oral submissions into the languages chosen by the Parties.

96. A panel report or ruling shall be issued in the language or languages chosen by the Parties. If the responsible office is required to arrange for the translation of panel report or ruling in one or more languages, it shall not deliver that report or ruling to the Parties until all translated versions of that report or ruling have been prepared.

97. Any time period applicable to the panel proceedings shall be suspended for the period necessary to complete the translation of any written submissions or report.

98. Any costs incurred for translation of a panel ruling into the language or languages chosen by the Parties shall be borne equally by the Parties.

99. A Party may provide, within five days of the date of its receipt, comments on the accuracy of the translation of any

translated version of a written submission, panel report or ruling.

Responsible Office

100. The responsible office shall:

(a) provide administrative assistance to the panel and any expert selected by the panel to provide information or technical advice pursuant to

Article 27.12;

(b) arrange for the payment of remuneration to, and provide administrative assistance to, panellists, assistants, experts, interpreters, translators, court reporters or other individuals that it retains for the purposes of a panel proceeding;

(c) make available to the panellists, on confirmation of their appointment, copies of this Agreement and other documents relevant to the panel proceedings, such as these Rules and the Code of Conduct;

(d) organize and coordinate the logistics required for hearings;

(e) retain permanently a copy of the complete record of the panel proceedings;

(f) release to the public the documents provided for under paragraphs 29 and 30, if not already released, by the time the final report of the panel is issued; and

(g) act in a strictly impartial manner.

Remuneration and Payment of Expenses

101. The Parties shall bear equally the remuneration and expenses of panellists, assistants, and experts and all administrative expenses of the panel.

102. Unless the Parties decide otherwise, remuneration for panellists shall be paid at the rate for non-governmental panellists used by the WTO on the date a Party makes a written request for the establishment of a panel under Article 27.7.

103. Unless the Parties decide otherwise, expenses shall be paid at the Daily Subsistence Allowance rate for the location of the hearing established by the United Nations International Civil Service Commission on the date a Party makes a written request for the establishment of a panel under Article 27.7.

104. Each panellist may hire one assistant to provide research, translation, or interpretation support, unless a panellist requires an additional assistant and the Parties decide that, due to exceptional circumstances, the panellist should be permitted to hire an additional assistant. Each assistant shall be paid at a rate of one fifth the rate for a panellist.

105. Each panellist shall keep a record and render a final account of all time devoted to, and expenses incurred in connection with, the proceedings, and those of any assistant to the responsible office, and shall keep a record and render a final account to the responsible office of all administrative expenses. Each panellist and assistant shall submit this account, including relevant supporting documentation, such as invoices, consistent with the administrative guidelines of the responsible office. A panellist or assistant may submit requests for payment of remuneration or reimbursement for expenses during the proceedings.

106. All requests for payment shall be subject to review by the responsible office. The responsible office shall make payments for the remuneration of panellists and assistants and for expenses, consistent with the administrative guidelines applied by the responsible office, using resources provided equally by the Parties, and in coordination with the Parties. These Rules do not oblige a responsible office to pay any remuneration or expense in connection with the panel proceedings prior to receiving the contributions of the Parties.

107. The responsible office shall submit to the Parties a final report on payments made in connection with a dispute. On request of a Party, the responsible office shall submit to the Parties a report of payments made to date at any time during the panel proceedings.

108. In case of resignation or removal of a panellist or assistant, or if the Parties reach a mutually satisfactory resolution or the complaining Party withdraws its request for establishment of a panel, the responsible office shall make payment of the remuneration and expenses owed, using resources provided equally by the Parties, on submission of the panellist's or assistant's final account of time or expenses, following the procedures in paragraph 105.

Appendix 27-B.1 Confidential Information

1. A Party or expert shall identify confidential information by:

(a) clearly marking information recorded in paper and electronic records with the notation “CONFIDENTIAL INFORMATION” on the cover page of the record, including the timeframe during which the information shall be kept confidential, and on each page where confidential information appears, and by enclosing the confidential information in double square brackets;

(b) clearly marking information recorded in an electronic file which is used to store an electronic record, with the notation “CONFIDENTIAL INFORMATION” in the name of the electronic file and in any electronic transmission of the information and clearly indicating the confidential information where it appears in the electronic record that is stored on the electronic file as described in subparagraph (a); and

(c) declaring spoken information to be “confidential information” prior to its disclosure.

2. If a Party submits confidential information first submitted by the other Party, it shall identify that information as confidential information by:

(a) clearly marking the information pursuant to paragraph 1(a) and (b); and with the name of the Party that first submitted the information on the cover page; and

(b) prior to its disclosure, declaring spoken information to be “confidential information” and identifying the Party that first submitted the information.

3. Only authorized persons designated under Appendix 27-B.2 may view or hear confidential information. No authorized person who views or hears confidential information may disclose it, or allow it to be disclosed to any other person except authorized persons.

4. An authorized person shall take all necessary precautions to safeguard confidential information when a record containing that information is in use or being stored.

5. Authorized persons who view or hear confidential information shall use that information only for the purposes of the panel proceedings.

6. The panel shall not disclose confidential information in its report, but may state conclusions drawn from that information.

7. After the conclusion of the panel proceedings, each Party shall, in a manner consistent with its domestic law:

(a) destroy any record provided by the other Party containing the confidential information and promptly notify the panel and the other Party when the confidential information has been destroyed;

(b) return any record containing confidential information to the Party that submitted the information, unless the Party that first submitted the confidential information decides otherwise, and promptly notify the panel and the other Party when the confidential information has been returned; or

(c) maintain the confidentiality of any record containing confidential information.

8. After consulting the Parties, the panel may establish additional procedures that it considers necessary to protect confidential information.

9. The panel may, at the request of the Parties, or with the consent of the Parties, modify or waive any part of the procedures set out in this Appendix for treatment of confidential information. In that case, each authorized person must sign and submit to the panel a modified Declaration of Non-Disclosure, as appropriate.

Appendix 27-B.2

Authorized Persons

1. Each Party shall submit to the panel and the other Party a list of its authorized representatives who need access to confidential information submitted by a Party and whom it wishes to have the panel designate as authorized persons.

2. The responsible office shall submit to the panel and the Parties a list of the authorized employees of the responsible office who need access to confidential information in the panel proceedings and whom it wishes to have the panel designate as authorized persons.

3. Each Party and the responsible office shall keep the number of persons on its list as limited as possible and may each submit amendments to its list at any time. A Party or the responsible office may submit a modification to its list at any time.

4. In no circumstances shall a Party or the responsible office nominate as an authorized person any person, or any employee, officer or agent of any entity, who could reasonably be expected to benefit outside of panel proceedings under this Chapter from the receipt of confidential information.

5. A Party may object to the designation by the panel of a person as an authorized person within seven days after the date of delivery of the list or amendments to the list, or within seven days of becoming aware of information that would establish a violation of the Code of Conduct. Within seven days of the date of delivery of an objection, the panel shall decide on the objection, having regard to any potential harm arising from the designation to the interests of the owners or sources of confidential information.

6. If the panel designates a person as an authorized person after a Party makes an objection, confidential information may not be disclosed to that authorized person until the Party submitting the information has had a reasonable opportunity to:

(a) withdraw the information, in which case the panel shall return any record containing the information to the Party submitting it and each Party shall, in a manner consistent with its domestic law, either:

(i) destroy any record containing the information, or

(ii) return that record to the Party submitting the information; or

(b) withdraw the designation of the information as confidential information.

7. Subject to any decision on an objection to designate a person as an authorized person, the panel shall designate the persons on the lists submitted under paragraphs 1 and 2 as authorized persons for the dispute. Each authorized person must sign and submit to the panel the Declaration of Non-Disclosure set out in Appendix 27-B.3.

Appendix 27-B.3

Declaration of Non-Disclosure

1. I acknowledge having received a copy of the Rules of Procedure governing the treatment of confidential information (the “Rules”).

2. I acknowledge having read and understood the Rules.

3. I agree to be bound by, and to adhere to, the Rules and, accordingly, without limitation, to treat confidentially all confidential information that I may view or hear from time to time in accordance with the Rules and to use that information solely for the purposes of the panel proceedings.

Executed on this day of , 20 .

By:

(Name)

(Signature)

Annex 27-C

Code of Conduct

Definitions

1. For the purposes of this Annex:

assistant means a person who, under the terms of appointment of a panellist, conducts research for or provides other legal or technical support to that panellist;

candidate means an individual who has been chosen by a Party for appointment as a panellist pursuant to Article 27.8.2, proposed by a Party to serve as Chair pursuant to Article 27.8.2 or proposed by a Party to serve as panellist or Chair pursuant to paragraph 27.8.6;

family member means the spouse of a candidate or panellist; or a parent, child, grandparent, grandchild, sister, brother, aunt, uncle, niece or nephew of the candidate or panellist, including whole and half blood relatives and step relatives; or the spouse of that individual. A family member also includes any resident of a candidate’s or panellist’s household whom the candidate or panellist treats as a member of their family; and

staff, in respect of a panellist, means persons under the direction and control of the member, other than assistants.

Responsibilities to the Process

2. Each candidate, panellist and former panellist shall avoid impropriety and the appearance of impropriety and shall observe high standards of conduct so that the integrity and impartiality of the dispute settlement process is preserved.

Disclosure Obligations

3. Prior to confirmation of their appointment as a panellist under Article 27.8, 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 an apprehension of bias in the proceedings. An appearance of impropriety or an apprehension of bias is created where a reasonable person, with knowledge of all the relevant circumstances that a reasonable inquiry would disclose, would conclude that a candidate's or panellist's ability to carry out the duties with integrity, impartiality, and competence is impaired. To this end, a candidate shall make all reasonable efforts to become aware of those interests, relationships, and matters.

4. A candidate or panellist shall communicate matters concerning actual or potential violations of this Annex to the Parties for consideration by them.

5. Without limiting the generality of the disclosure requirement in paragraph 3, a candidate shall disclose the following interests, relationships, and matters:

(a) any financial interest of the candidate in:

(i) the proceedings or in its outcome, and

(ii) any administrative proceedings, domestic judicial proceedings, or other international dispute settlement proceedings that involve issues that may be decided in the proceedings for which the candidate is under consideration;

(b) any financial interest of the candidate's employer, business partner, business associate, or family member in:

(i) the proceedings or in its outcome, and

(ii) any administrative proceedings, domestic judicial proceedings, or other international dispute settlement proceedings that involve issues that may be decided in the proceedings for which the candidate is under consideration;

(c) any past or existing financial, business, professional, family, or social relationship by the candidate, the candidate's employer, business partner, business associate, or family member with any interested parties in the proceedings, or their counsel, and

(d) any public advocacy or legal or other representation provided by the candidate concerning an issue in dispute in the proceedings or concerning a dispute involving the same good, service, investment, or government procurement that is the subject of the dispute in the proceedings.

6. Prior to confirmation of their appointment as a panellist under this Chapter, a candidate shall complete and submit to the Parties the Undertaking and Initial Disclosure Statement set out in the Appendix to this Annex. To this end, before a candidate's appointment is confirmed, the nominating Party shall provide that candidate with a copy of this Code of Conduct and Undertaking and Initial Disclosure Statement. The candidate shall complete the Undertaking and Initial Disclosure Statement and submit it to the Parties no later than seven days of the date on which they receive the documents from the nominating Party.

7. Once appointed, a panellist shall continue to make all reasonable efforts to become aware of interests, relationships, or matters referred to in paragraph 3 of this Annex and shall disclose them. The obligation to disclose is a continuing duty that requires a panellist to disclose those interests, relationships, and matters that may arise during any stage of the proceedings. The panellist shall promptly disclose those interests, relationships, and matters by informing the Parties, in writing, for consideration by them.

8. In the event of any uncertainty regarding whether an interest, relationship, or matter shall be disclosed, a candidate or panellist should err in favor of disclosure. Disclosure of an interest, relationship, or matter is without prejudice as to whether the interest, relationship, or matter is covered by paragraph 3, 5, 6 or 7, or whether it warrants recusal, disqualification, or other remedial measures.

9. The disclosure obligations set out in paragraphs 3 through 8 should not be interpreted so that the burden of detailed disclosure makes it impractical for individuals in the legal or business community to serve as panellists, thereby depriving

the Parties of the services of those who might be best qualified to serve as panellists. These disclosure obligations do not require candidates or panellists to disclose interests, relationships or matters whose bearing on a panellist's role in the proceedings would be trivial.

10. This Annex does not determine whether or under what circumstances the Parties will disqualify a candidate or panellist from being appointed to, or serving as a member of, a panel on the basis of disclosures made.

Performance of Duties by Panellists

11. Recognizing that the prompt settlement of disputes is essential to the effective functioning of this Agreement, a panellist shall:

(a) be available to perform, and shall perform, all duties thoroughly and expeditiously throughout the course of the proceedings and shall avoid unnecessary expense and delay;

(b) ensure that they can be contacted, at all reasonable times, for the purposes of conducting the work of the panel;

(c) carry out all duties fairly and diligently;

(d) comply with the provisions of this Chapter and Annex 27-B;

(e) not deny other panelists the opportunity to participate in all aspects of the proceedings;

(f) consider only those issues raised in the proceedings and necessary to make a decision;

(g) not delegate the duty to decide to any other person;

(h) take all reasonable steps to ensure that their assistants and staff comply with paragraphs 2 through 23 of this Annex.

Independence and Impartiality of Panellists

12. A panellist shall be independent and impartial and avoid creating an appearance of impropriety or bias and shall not be influenced by self-interest, outside pressure, political considerations, public opinion, and loyalty to a Party or fear of criticism. A panellist shall not take instructions from any organization or government or be affiliated to a government, including governmental organization, of a Party to this Agreement.

13. 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 their duties.

14. 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 them. A panellist shall make every effort to prevent or discourage others from representing themselves as being in that position.

15. A panellist shall not allow past or existing financial, business, professional, family, or social relationships or responsibilities to influence their conduct or judgment.

16. A panellist shall avoid entering into any relationship, or acquiring any financial interest, that is likely to affect their impartiality or that might reasonably create an appearance of impropriety or an apprehension of bias.

17. If the Parties decide that an interest, relationship, or matter of a panellist is inconsistent with paragraphs 12 through 16, the panellist may continue to serve on a panel if the Parties waive the inconsistency or if, after the panellist has taken steps to ameliorate the violation, the Parties determine that the inconsistency has ceased and decide the panellist should continue to serve.

Duties in Certain Situations

18. In any proceedings under this Chapter, a panellist shall refrain, for the duration of the proceedings, from acting as counsel or party-appointed expert witness in any new or pending dispute, under this Agreement or other international agreements, that directly addresses the same measure in dispute in, or arises out of the facts giving rise to, the proceedings under this Chapter.

19. A former panellist shall avoid actions that may create the appearance that the panellist was biased in carrying out their duties or would benefit from the decision of the panel.

Confidentiality

20. A panellist or former panellist shall not at any time disclose or use any non-public information concerning proceedings or acquired during proceedings except for the purposes of those proceedings and shall not, in any case, disclose or use this information to gain personal advantage or advantage for others or to affect adversely the interest of others.

21. A panellist shall not disclose a panel report or parts thereof prior to its issuance pursuant to Article 27.13.

22. A panellist or former panellist shall not disclose the deliberations of a panel, or the views of any member of the panel.

23. A panellist shall not make a public statement regarding the merits of pending proceedings.

Experts

24. The following conditions apply to an expert whose opinion is requested by the panel:

(a) They shall disclose any interest, relationship or matter that could affect their independence or impartiality. Experts shall act in their own capacity and shall not accept or seek instructions from any government or organization in delivering their opinion;

(b) They shall not engage in ex parte contacts in the course of the proceedings for which their opinion is requested;

(c) They shall not disclose or use any non-public information acquired during proceedings for which their opinion is requested except for the purposes of the proceedings and shall not, in any case, disclose or use this information to gain personal advantage or advantage for others or to adversely affect the interest of others;

(d) Unless the Parties decide otherwise, they shall not disclose to the public their opinion or parts thereof prior to the publication of the panel award; and

(e) They shall keep a record and render a final account of their expenses for the purposes of the proceedings.

25. The opinion of an expert presented to the panel shall be accompanied, or preceded, by a declaration by the expert confirming their commitment to abide by the obligations described in paragraph 24, as applicable.

Responsibilities of Experts, Assistants and Staff

26. Paragraphs 2 through 23 of this Annex also apply to experts, assistants and staff.

Appendix 27-C.1

Undertaking and Initial Disclosure Statement

1. By means of this Undertaking and Initial Disclosure Statement I accept the appointment and confirm my availability to serve as a panellist in accordance with Chapter 27 of the Canada-Ecuador Free Trade Agreement. If my appointment as a panellist is confirmed, I undertake to act in accordance with Chapter 27 (Dispute Settlement), including Annex 27-B (Rules of Procedure) and Annex 27-C (Code of Conduct).

2. I acknowledge having received a copy of the Code of Conduct set out as Annex 27-C to Chapter 27 of the Canada-Ecuador Free Trade Agreement.

I acknowledge having read and understood the Code of Conduct and hereby undertake to fully comply with my obligations under the Code of Conduct.

3. I understand that I have a continuing obligation, while participating in the proceedings, to disclose interests, relationships and matters that may undermine the integrity or impartiality of the dispute settlement process. As a part of this continuing obligation, I am making the following initial disclosures:

(a) My financial interest in the proceedings or in its outcome is as follows:

(b) My financial interest in any administrative proceedings, domestic judicial proceedings or other international dispute settlement proceedings that involve issues that may be decided in the proceedings is as follows:

(c) The financial interest that any employer, business partner, business associate or family member of mine may have in the proceedings or in its outcome are as follows:

(d) The financial interest that any employer, business partner, business associate or family member of mine may have in any administrative proceedings, domestic judicial proceedings or other international dispute settlement proceedings that involve issues that may be decided in the proceedings are as follows:

(e) My past or current financial, business, professional, family and social relationships with any interested parties in the proceedings, or their counsel, are as follows:

(f) The past or current financial, business, professional, family and social relationships with any interested parties in the proceedings, or their counsel, involving any employer, business partner, business associate or family member of mine are as follows:

(g) My public advocacy or legal or other representation concerning an issue in dispute in the proceedings or involving the same goods, services, investments or government procurement is as follows:

(h) My other interests, relationships and matters that may undermine the integrity or impartiality of the dispute settlement process and that are not disclosed in subparagraphs (a) through (g) above are as follows:

Signed on this day of , 20 .

By:

(Name)

(Signature)

Chapter 28. EXCEPTIONS AND GENERAL PROVISIONS

Section A. Exceptions

Article 28.1. General Exceptions

1. For the purposes of Chapters 2 (National Treatment and Market Access for Goods), 3 (Rules of Origin), 4 (Origin Procedures), 5 (Customs and Trade Facilitation), 7 (Technical Barriers to Trade) and 10 (State-Owned Enterprises and Designated Monopolies), Article XX of the GATT 1994, is incorporated into and made part of this Agreement.

2. The Parties understand that:

(a) the measures referred to in Article XX(b) of the GATT 1994 include environmental measures necessary to protect human, animal or plant life or health; and

(b) Article XX(g) of the GATT 1994 applies to measures relating to the conservation of living and non-living exhaustible natural resources.

3. For the purposes of Chapters 10 (State-Owned Enterprises and Designated Monopolies), 16 (Cross-Border Trade in Services), 18 (Financial Services), 19 (Temporary Movement of Business Persons), 20 (Telecommunications), and

21 (Digital Trade), the chapeau, as well as paragraphs (a), (b), and (c) of Article XIV of the GATS are incorporated into and made part of this Agreement.

4. The Parties understand that the measures referred to in Article XIV(b) of the GATS include environmental measures necessary to protect human, animal or plant life or health.

5. The Parties recognize that the measures under Article XX(b) and (g) of the GATT 1994 and Article XIV(b) of the GATS include measures taken by the Parties to address climate change, and may include measures taken to implement multilateral environmental agreements.

6. This Agreement does not prevent a Party from taking action, including maintaining or increasing a customs duty, that is authorized by the Dispute Settlement Body of the WTO or is taken as a result of a decision by a dispute settlement panel under a free trade agreement to which the Party taking action and the Party against which the action is taken are party.

Article 28.2. Security Exceptions

This Agreement does not:

(a) require a Party to furnish or allow access to information if that Party determines that the disclosure of the information would be contrary to its essential security interests; or

(b) prevent a Party from taking an action that it considers necessary to protect its essential security interests:

(i) related to traffic in arms, ammunition and implements of war and to traffic and transactions in other goods and materials carried out, directly or indirectly, for the purpose of supplying a military or other security establishment;

(ii) related to the supply of services and technology, and to economic activities, carried out directly or indirectly for the purpose of supplying a military or other security establishment;

(iii) relating to the implementation of national policies or international agreements respecting the non-proliferation of biological weapons, chemical weapons, nuclear weapons, or other nuclear explosive devices; or

(iv) taken in time of war or other emergency in international relations; or

(c) prevent a Party from taking action in pursuance of its international obligations for the maintenance of international peace and security.

Article 28.3. Taxation

1. For the purposes of this Article:

designated authorities means:

(a) for Canada, the Assistant Deputy Minister for Tax Policy, Department of Finance; and

(b) for Ecuador, the Ecuadorian Revenue Service (“SRI”);

or any successor of these designated authorities as notified in writing to the other Party;

tax convention means a convention for the avoidance of double taxation or other international taxation agreement or arrangement; and

taxes and taxation measures include excise duties, but do not include:

(a) a “customs duty” as defined in Article 2.1 (National Treatment and Market Access for Goods – Definitions); or

(b) the measures listed in subparagraphs (a), (b), (c) and (d) of that definition.

2. Except as provided in this Article, this Agreement does not apply to taxation measures.

3. This Agreement does not affect the rights and obligations of either Party under any tax convention. In the event of any inconsistency between this Agreement and any tax convention, that convention prevails to the extent of the inconsistency.

4. In the case of a tax convention between the Parties, if an issue arises as to whether any inconsistency exists between this Agreement and the tax convention, the issue shall be referred to the designated authorities of the Parties. The designated authorities of the Parties shall have six months from the date of referral of the issue to make a determination as to the existence and extent of any inconsistency. If those designated authorities agree, the period may be extended up to 12 months from the date of referral of the issue. No procedures concerning the measure giving rise to the issue may be initiated under Chapter 27 (Dispute Settlement) or Article 15.23 (Investment – Submission of a Claim to Arbitration) until the expiry of the six-month period, or any other period as may have been agreed by the designated authorities. A panel or tribunal established to consider a dispute related to a taxation measure shall accept as binding a determination of the designated authorities of the Parties made under this paragraph.

5. Notwithstanding paragraph 3, Article 2.3 (National Treatment and Market Access for Goods – National Treatment) and other provisions of this Agreement as are necessary to give effect to that Article apply to taxation measures to the same extent as does Article III of the GATT 1994.

6. Subject to paragraph 3:

(a) Article 16.3 (Cross-Border Trade in Services – National Treatment) and Article 18.3 (Financial Services – National Treatment) apply to taxation measures on income, on capital gains, on the taxable capital of corporations, or on the value of an investment or property (1) (but not on the transfer of that investment or property), that relate to the purchase or consumption of particular services, except that this subparagraph does not prevent a Party from conditioning the receipt or continued receipt of an advantage that relates to the purchase or consumption of particular services on requirements to provide the service in its territory;

(1) This is without prejudice to the methodology used to determine the value of that investment or property under Parties’ respective laws.

(b) Article 15.6 (Investment – National Treatment), Article 15.7 (Investment – Most-Favoured Nation Treatment), Article 16.3 (Cross-Border Trade in Services – National Treatment), Article 16.4 (Cross-Border Trade in Services – Most-Favoured Nation Treatment), Article 18.3 (Financial Services – National Treatment), Article 18.4 (Financial Services – Most-Favoured Nation Treatment) and Article 21.10 (Digital Trade – Non-Discriminatory Treatment of Digital Products) apply to all taxation measures, other than those on income, on capital gains, on the taxable capital of corporations, on the value of an investment or property (2) (but not on the transfer of that investment or property), or taxes on estates, inheritances, gifts and generation-skipping transfers; and

(2) This is without prejudice to the methodology used to determine the value of that investment or property under the Parties' respective laws.

(c) Article 21.10 (Digital Trade – Non-Discriminatory Treatment of Digital Products) applies to taxation measures on income, on capital gains, on the taxable income of corporations, or on the value of an investment or property (3) (but not on the transfer of that investment or property), that relate to the purchase or consumption of particular digital products, except that this subparagraph does not prevent a Party from conditioning the receipt or continued receipt of an advantage relating to the purchase or consumption of particular digital products on requirements to provide the digital product in its territory,

(3) This is without prejudice to the methodology used to determine the value of that investment or property under the Parties' respective laws.

but the Articles referred to in subparagraphs (a), (b) and (c) do not apply to:

(d) any most-favoured nation obligation with respect to an advantage accorded by a Party pursuant to a tax convention;

(e) a non-conforming provision of any existing taxation measure;

(f) the continuation or prompt renewal of a non-conforming provision of any existing taxation measure;

(g) an amendment to a non-conforming provision of any existing taxation measure to the extent that the amendment does not decrease its conformity, at the time of the amendment, with any of those Articles;

(h) the adoption or enforcement of any new taxation measure aimed at ensuring the equitable or effective imposition or collection of taxes, including any taxation measure that differentiates between persons based on their place of residence for tax purposes, provided that the taxation measure does not arbitrarily discriminate between persons, goods or services of the Parties; (4)

(4) The Parties understand that this subparagraph must be interpreted by reference to the footnote to Article XIV(d) of the GATS as if the Article was not restricted to services or direct taxes.

(i) a provision that conditions the receipt or continued receipt of an advantage relating to the contributions to, or income of, a pension trust, pension plan, superannuation fund or other arrangement to provide pension, superannuation or similar benefits, on a requirement that the Party maintain continuous jurisdiction, regulation or supervision over that trust, plan, fund or other arrangement.

7. Subject to paragraph 3, and without prejudice to the rights and obligations of the Parties under paragraph 5, paragraphs 2 and 3 of Article 15.12 (Investment – Performance Requirements) apply to taxation measures.

8. Article 15.10 (Investment – Expropriation) applies to taxation measures. However, no investor may invoke Article 15.10 (Investment – Expropriation) as the basis for a claim if it has been determined pursuant to this paragraph that the measure is not an expropriation. An investor that seeks to invoke Article 15.10 (Investment – Expropriation) with respect to a taxation measure must first refer to the designated authorities of the Party of the investor and the respondent Party, at the time that it gives its notice of intent under Article 15.23 (Investment – Submission of a Claim to Arbitration), the issue of whether that taxation measure is not an expropriation. If the designated authorities do not agree to consider the issue or, having agreed to consider it, fail to agree that the measure is not an expropriation within a period of six months of the referral, the investor may submit its claim to arbitration under Article 15.23 (Investment – Submission of a Claim to Arbitration).

Article 28.4. Cultural Industries

1. For the purposes of this Article:

cultural industry means a person engaged in the following activities:

(a) the publication, distribution, or sale of books, magazines, periodicals or newspapers in print or machine readable form but not including the sole activity of printing or typesetting any of the foregoing;

(b) the production, distribution, sale or exhibition of film or video recordings;

(c) the production, distribution, sale or exhibition of audio or video music recordings;

(d) the publication, distribution or sale of music in print or machine readable form;

(e) radiocommunications in which the transmissions are intended for direct reception by the general public, and all radio, television and cable broadcasting undertakings and all satellite programming and broadcast network services.

2. This Agreement does not apply to a measure adopted or maintained by a Party with respect to a cultural industry except as specifically provided in Article 2.5 (National Treatment and Market Access for Goods – Reduction or Elimination of Customs Duties on Imports).

Article 28.5. Balance of Payments

1. This Agreement does not prevent a Party from adopting or maintaining a restrictive measure with regard to payments or transfers for current account transactions in the event of serious balance of payments and external financial difficulties or threats thereof.

2. This Agreement does not prevent a Party from adopting or maintaining a restrictive measure with regard to payments or transfers relating to the movements of capital:

(a) in the event of serious balance of payments and external financial difficulties or threats thereof; or

(b) if, in exceptional circumstances, payments or transfers relating to capital movements cause or threaten to cause serious difficulties for macroeconomic management.

3. Any measure adopted or maintained under paragraph 1 or 2 shall:

(a) not be inconsistent with Article 15.6 (Investment – National Treatment), Article 15.7 (Investment – Most-Favoured-Nation Treatment), Article 16.3 (Cross-Border Trade in Services – National Treatment), Article 16.4 (Cross-Border Trade in Services – Most-Favoured-Nation Treatment), Article 18.3 (Financial Services – National Treatment) and Article 18.4 (Financial Services – Most-Favoured-Nation Treatment); (5)

(5) Without prejudice to the general interpretation of Article 15.6 (Investment – National Treatment), Article 15.7 (Investment – Most-Favoured-Nation Treatment), Article 16.3 (Cross-Border Trade in Services – National Treatment), Article 16.4 (Cross-Border Trade in Services – Most-Favoured-Nation Treatment), Article 18.3 (Financial Services – National Treatment) and Article 18.4 (Financial Services – Most-Favoured-Nation Treatment), the fact that a measure adopted or maintained pursuant to paragraph 1 or 2 differentiates between investors on the basis of residency does not necessarily mean that the measure is inconsistent with Article 15.6 (Investment – National Treatment), Article 15.7 (Investment – Most-Favoured-Nation Treatment), Article 16.3(Cross-Border Trade in Services – National Treatment), Article 16.4 (Cross-Border Trade in Services – Most-Favoured-Nation Treatment), Article 18.3 (Financial Services – National Treatment) and Article 18.4 (Financial Services – Most-Favoured-Nation Treatment).

(b) be consistent with the Articles of Agreement of the International Monetary Fund, done at Bretton Woods, on 22 July 1944;

(c) avoid unnecessary damage to the commercial, economic and financial interests of the other Party;

(d) not exceed those measures necessary to deal with the circumstances described in paragraph 1 or 2;

(e) be temporary and be phased out progressively as the situations specified in paragraph 1 or 2 improve and shall not exceed 18 months in duration. In exceptional circumstances, a Party may extend that measure for additional periods of one year, by notifying the other Party in writing within 30 days of the extension, unless after consultations the other Party advises, in writing, within 30 days of receiving the notification that they do not agree that the extended measure is designed and applied to satisfy subparagraphs (c) and (d), in which case the Party imposing the measure shall remove the measure, or otherwise modify the measure to bring it into conformity with subparagraphs (c) and (d), taking into account the views of the other Party, within 90 days of receiving notification that the Party does not agree;

(f) not be inconsistent with Article 15.10 (Investment – Expropriation). (6)

(6) For greater certainty, measures referred to in paragraph 1 or 2 may be non-discriminatory measures by a Party that are adopted and maintained in good faith to protect legitimate public welfare objectives as referred to in Article 15.10 (Investment – Expropriation).

4. A Party shall endeavour to provide that any measure adopted or maintained under paragraph 1 or 2 be price-based, and if that measure is not price-based, the Party shall explain the rationale for using quantitative restrictions when it notifies the other Party of the measure.

5. In the case of trade in goods, Article XII of the GATT 1994 and the Understanding on the Balance of Payments Provisions of the General Agreement on Tariffs and Trade 1994, set out in Annex 1-A to the WTO Agreement are incorporated into and made part of this Agreement. Any measure adopted or maintained under this paragraph shall not impair the relative benefits accorded to the other Party under this Agreement as compared to the treatment of a non-party.

6. With respect to trade in services, this Agreement does not prevent a Party from adopting a trade restrictive measure in order to safeguard its external financial position or balance of payments. This restrictive measure shall be compatible with the GATS.

7. A Party adopting or maintaining a measure under paragraph 1, 2 or 6 shall:

(a) notify, in writing, the other Party of the measure, including any changes therein, along with the rationale for its imposition, within 30 days of its adoption;

(b) present, as soon as possible, either a time schedule or the conditions necessary for its removal;

(c) promptly publish the measure; and

(d) promptly begin consultations with the other Party, with the purpose of reviewing the measure maintained or previously adopted by it, provided that consultations related to the measure are not being carried out before the WTO or under a trade agreement to which both Parties are party.

8. For the purposes of the consultations under this Article, the Parties shall accept all statistical or other factual findings presented by the International Monetary Fund on exchange, monetary reserves and balance of payments issues, and the conclusions shall be based on the evaluation made by the International Monetary Fund about the external financial and balance of payments situation of the Party subject to consultations.

Article 28.6. Indigenous Peoples Rights

Provided that the measure is not used as a means of arbitrary or unjustified discrimination against persons of the other Party or as a disguised restriction on trade in goods, services or investment, this Agreement does not prevent a Party from adopting or maintaining a measure it considers necessary to fulfill its legal obligations to Indigenous Peoples. (7)

(7) For Canada, legal obligations include those recognized and affirmed by section 35 of the Constitution Act, 1982, or those set out in self-government agreements between central or regional levels of government and Aboriginal Peoples. For Ecuador, legal obligations include those recognized and affirmed by the Constitution of Ecuador to Indigenous Peoples from articles 57 to 60.

Article 28.7. WTO Waivers

If the WTO Ministerial Conference decides to waive a right or obligation in the WTO Agreement pursuant to Article IX:3 of the WTO Agreement, the corresponding right or obligation in this Agreement shall also be waived for the Parties under the same terms and conditions that govern the application and duration of the WTO waiver.

Section B. General Provisions

Article 28.8. Disclosure of Information

This Agreement does not require a Party to furnish or allow access to information, the disclosure of which would be contrary to its law, or would impede law enforcement, or otherwise be contrary to the public interest, or which would prejudice the legitimate commercial interests of a public or private enterprise.

Chapter 29. FINAL PROVISIONS

Article 29.1. Integral Parts of this Agreement

The Annexes, Appendices, and footnotes to this Agreement constitute integral parts of this Agreement.

Article 29.2. Amendments

The Parties may agree, in writing, to amend this Agreement. An amendment shall enter into force after the Parties exchange written notifications certifying that they have completed their respective applicable legal requirements and procedures, on the date agreed by the Parties.

Article 29.3. Entry Into Force

Each Party shall notify the other Party, in writing, once it has completed its internal procedures required for the entry into force of this Agreement. This Agreement shall enter into force on the first day of the second month following the latter notification.

Article 29.4. Termination

This Agreement shall remain in force unless terminated by either Party by giving notice in writing to the other Party of its intention to terminate this Agreement. This Agreement shall terminate six months after the date of receipt of that notice.

Article 29.5. Authentic Texts

The English, French, and Spanish texts of this Agreement are equally authentic, except as otherwise provided in Annex 2-B (Tariff Commitments).

Annex I.

Annex I Schedule of Canada

Introductory Notes

1. The Schedule of a Party to this Annex sets out, pursuant to Articles 15.18 (Investment – Non-Conforming Measures) and 16.7 (Cross-Border Trade in Services – Non-Conforming Measures), the specific sectors, subsectors or activities for which that Party may maintain existing measures that do not conform with obligations imposed by:

(a) Article 15.6 (Investment – National Treatment) or 16.3 (Cross-Border Trade in Services – National Treatment);

(b) Article 15.7 (Investment – Most-Favored-Nation Treatment) or 16.4 (Cross-Border Trade in Services – Most-Favored-Nation Treatment);

(c) Article 15.12 (Investment – Performance Requirements);

(d) Article 15.13 (Investment – Senior Management and Boards of Directors); or

(e) Article 16.5 (Cross-Border Trade in Services – Market Access).

2. Each Schedule entry sets out the following elements:

(a) Sector refers to the sector for which the entry is made;

(b) Sub-Sector, where referenced, refers to the specific subsector for which the entry is made;

(c) Obligations Concerned specifies the obligations referred to in

Article 15.18 (Investment – Non-Conforming Measures) and Article 16.7 (Cross-Border Trade in Services – Non-Conforming

Measures) that do not apply to the listed measures;

(d) Level of Government indicates the level of government maintaining the listed measure(s);

(e) Description provides a general non-binding description of the measure for which the entry is made;

(f) Measures identifies the laws, regulations or other measures for which the entry is made. A measure cited in the Measures element:

(i) means the measure as amended, continued, or renewed as of the date of entry into force of this Agreement; and

(ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure.

3. In the interpretation of an entry, all elements of the entry shall be considered. An entry shall be interpreted in light of the relevant provisions of the Chapters against which the entry is taken. To the extent that:

(a) the Measures element is qualified by a liberalization commitment from the Description element, the Measures element as so qualified prevails over all other elements; and

(b) the Measures element is not so qualified, the Measures element prevails over other elements, unless a discrepancy between the Measures element and the other elements considered in their totality is so substantial and material that it would be unreasonable to conclude that the Measures element prevails, in which case the other elements prevail to the extent of that discrepancy.

Reservation I-C-1

Sector: All Sectors

Sub-Sector:

Obligations Concerned: National Treatment (Article 15.6)

Performance Requirements (Article 15.12)

Senior Management and Boards of Directors (Article 15.13)

Level of Government: Central

Measures: Investment Canada Act, R.S.C. 1985, c. 28 (1st Supp.)

Investment Canada Regulations, SOR/85-611

Description: Investment

1. Except as set out in paragraphs 5 and 9, the Director of Investments will review a direct “acquisition of control”, as defined in the Investment Canada Act, of a Canadian business by a WTO investor if the value of the Canadian business is not less than CAD 1.326 billion, adjusted in accordance with the applicable methodology in January of each subsequent year, starting in 2025, as set out in the Investment Canada Act.

2. Notwithstanding the definition of “investor of a Party” in Article 15.1 (Investment – Definitions), only WTO investors or entities controlled by WTO investors as provided for in the Investment Canada Act may benefit from the CAD 1.326 billion threshold.

3. Except as set out in paragraphs 5 and 9, the Director of Investments will review a direct “acquisition of control”, as defined in the Investment Canada Act, of a Canadian business by a trade agreement investor if the value of the Canadian business is not less than CAD 1.989 billion, adjusted in accordance with the applicable methodology in January of each subsequent year, starting in 2025, as set out in the Investment Canada Act.

4. Notwithstanding the definition of “investor of a Party” in Article 15.1 (Investment – Definitions), only a trade agreement investor or an entity controlled by a trade agreement investor as provided for in the Investment Canada Act may benefit from the CAD 1.989 billion threshold.

5. The higher threshold in paragraphs 1 and 3 does not apply to a direct acquisition of control by a state-owned enterprise of a Canadian business. These acquisitions are subject to review by the Director of Investments if the value of the Canadian business is not less than CAD 528 million in 2024, adjusted in accordance with the applicable methodology in January of each subsequent year as set out in the Investment Canada Act.

6. An investment subject to review under the Investment Canada Act may not be implemented unless the Minister responsible for the Investment Canada Act advises the applicant that the investment is likely to be of net benefit to Canada. This determination is made in accordance with six factors described in the Investment Canada Act, summarized as follows:

(a) the effect of the investment on the level and nature of economic activity in Canada, including the effect: on employment; on the use of parts, components, and services produced in Canada; and on exports from Canada;

(b) the degree and significance of participation by Canadians in the investment;

(c) the effect of the investment on productivity, industrial efficiency, technological development, and product innovation in Canada;

(d) the effect of the investment on competition within an industry in Canada;

(e) the compatibility of the investment with national industrial, economic, and cultural policies, taking into consideration industrial, economic, and cultural policy objectives enunciated by the government or legislature of a province likely to be significantly affected by the investment; and

(f) the contribution of the investment to Canada's ability to compete in world markets.

7. In making a net benefit determination, the Minister, through the Director of Investments, may review plans under which the applicant demonstrates the net benefit to Canada of the proposed acquisition. An applicant may also submit an undertaking to the Minister in connection with a proposed acquisition that is the subject of review. In the event of noncompliance with an undertaking by an applicant, the Minister may seek a court order directing compliance or any other remedy authorized under the Investment Canada Act.

8. A non-Canadian who establishes or acquires a Canadian business, other than those that are subject to review, must notify the Director of Investments.

9. The review thresholds set out in paragraphs 1, 3, and 5 do not apply to an acquisition of a cultural business, as defined in the Investment Canada Act. The review thresholds related to the acquisition of control of a Canadian cultural business are based on the value of total Canadian assets and are fixed by the Investment Canada Act at CAD 5 million for direct acquisitions and CAD 50 million for indirect acquisitions, respectively. All other investments by non-Canadians in the cultural sector, namely below threshold value acquisitions as well as establishments of a new Canadian cultural business, are subject to notification under the Investment Canada Act and are not reviewable unless ordered by the Governor in Council.

10. In addition, the specific acquisition or establishment of a new business in designated types of business activities relating to Canada's cultural heritage or national identity, which are normally notifiable, may be subject to review if the Governor in Council authorises a review in the public interest.

11. An indirect "acquisition of control" of a Canadian business by an investor of Ecuador, other than a cultural business, is not reviewable.

12. Notwithstanding Article 15.12 (Investment – Performance Requirements), Canada may impose requirements or enforce a commitment or undertaking in connection with the establishment, acquisition, expansion, conduct, operation, or management of an investment of an investor of Ecuador or of a non-Party for the transfer of technology, production process, or other proprietary knowledge to a national or enterprise, affiliated to the transferor, in Canada in connection with the review of an acquisition of an investment under the Investment Canada Act.

13. Except for requirements, commitments, or undertakings relating to technology transfer as set out in paragraph 12 of this entry, Article 15.12 (Investment – Performance Requirements) applies to requirements, commitments, or undertakings imposed or enforced under the Investment Canada Act.

14. For the purposes of this entry:

(a) a non-Canadian means an individual, government or agency thereof, or an entity that is not Canadian; and

(b) Canadian means a Canadian citizen or permanent resident, a government in Canada or agency thereof, or a Canadian-controlled entity as described in the Investment Canada Act.

Reservation I-C-2

Sector: All Sectors

Sub-Sector:

Obligations Concerned: National Treatment (Article 15.6)

Senior Management and Boards of Directors (Article 15.13)

Level of Government: Central

Measures: As set out in the Description element.

Description: Investment

1. Canada, or a province or territory of Canada, when selling or disposing of its equity interests in, or the assets of, an existing government enterprise or an existing governmental entity, may prohibit or impose limitations on the ownership of these interests or assets and on the ability of owners of these interests or assets to control a resulting enterprise by investors of Ecuador or of a non-Party or their investments. With respect to a sale or other disposition, Canada, or a province or territory of Canada, may adopt or maintain a measure relating to the nationality of senior management or members of the board of directors.

2. For the purposes of this entry:

(a) a measure maintained or adopted after the date of entry into force of this Agreement that, at the time of sale or other disposition, prohibits or imposes a limitation on the ownership of equity interests or assets or imposes a nationality requirement described in this entry is an existing measure; and

(b) government enterprise means an enterprise owned or controlled through ownership interests by Canada, or a province or territory of Canada, and includes an enterprise established after the date of entry into force of this Agreement solely for the purposes of selling or disposing of equity interests in, or the assets of, an existing state enterprise or governmental entity.

Reservation I-C-3

Sector: All Sectors

Sub-Sector:

Obligations Concerned: National Treatment (Article 15.6)

Level of Government: Central

Measures: Canada Business Corporations Act, R.S.C. 1985, c. C-44

Canada Business Corporations Regulations, 2001, SOR/2001-512

Canada Cooperatives Act, S.C. 1998, c. 1

Canada Cooperatives Regulations, SOR/99-256

Description: Investment

1. A corporation may place constraints on the issue, transfer, and ownership of shares in a federally incorporated corporation. The object of those constraints is to permit a corporation to meet Canadian ownership or control requirements, under certain laws set out in the Canada Business Corporations Regulations, 2001, in sectors where Canadian ownership or control is required as a condition to receive licences, permits, grants, payments, or other benefits. In order to maintain certain Canadian ownership levels, a corporation is permitted to sell shareholders' shares without the consent of those shareholders, and to purchase its own shares on the open market.

2. The Canada Cooperatives Act provides that constraints may be placed on the issue or transfer of investment shares of a cooperative to persons not resident in Canada, to permit cooperatives to meet Canadian ownership requirements to obtain a licence to carry on a business, to become a publisher of a Canadian newspaper or periodical, or to acquire investment shares of a financial intermediary and in sectors where ownership or control is a required condition to receive licences, permits, grants, payments, and other benefits.

Where the ownership or control of investment shares would adversely affect the ability of a cooperative to maintain a level of Canadian ownership or control, the Canada Cooperatives Act provides for the limitation of the number of investment shares that may be owned or for the prohibition of the ownership of investment shares.

3. For the purposes of this entry, Canadian means "Canadian" as defined in the Canada Business Corporations Regulations,

2001 or in the Canada Cooperatives Regulations.

Reservation I-C-4

Sector: All Sectors

Sub-Sector:

Obligations Concerned: National Treatment (Article 15.6)

Level of Government: Central

Measures: Agricultural and Recreational Land Ownership Act, R.S.A. 1980, c. A-9

Citizenship Act, R.S.C. 1985, c. C-29

Foreign Ownership of Land Regulations, SOR/79-416

Description: Investment

1. The Foreign Ownership of Land Regulations are made pursuant to the Citizenship Act and the Agricultural and Recreational Land Ownership Act. In Alberta, an ineligible person or foreign-owned or controlled corporation may only hold an interest in controlled land consisting of a maximum of two parcels containing, in the aggregate, a maximum of 20 acres.

2. For the purposes of this entry:

(a) ineligible person means:

(i) a natural person who is not a Canadian citizen or permanent resident;

(ii) a foreign government or agency thereof; or

(iii) a corporation incorporated in a country other than Canada; and

(b) controlled land means land in Alberta but does not include:

(i) land of the Crown in right of Alberta;

(ii) land within a city, town, new town, village, or summer village; and

(iii) mines or minerals.

Reservation I-C-5

Sector: All Sectors

Sub-Sector:

Obligations Concerned: National Treatment (Article 15.6)

Level of Government: Central

Measures: Canadian Arsenals Limited Divestiture Authorization Act, S.C. 1986, c. 20

Eldorado Nuclear Limited Reorganization and Divestiture Act, S.C. 1988, c. 41

Nordion and Theratronics Divestiture Authorization Act, S.C. 1990, c. 4

Description: Investment

1. A “non-resident” or “non-residents” may not own more than a specified percentage of the voting shares of the corporation to which each Act applies.

For some companies the restrictions apply to individual shareholders, while for others the restrictions may apply in the aggregate. If there are limits on the percentage that an individual Canadian investor can own, these limits also apply to non-residents. The restrictions are as follows:

(a) Cameco Limited (formerly Eldorado Nuclear Limited): 15 percent per non-resident natural person, 25 percent in the aggregate;

(b) Nordion International Inc.: 25 percent in the aggregate;

(c) Theratronics International Limited: 49 percent in the aggregate; and

(d) Canadian Arsenals Limited: 25 percent in the aggregate.

2. For the purposes of this entry, non-resident includes:

(a) a natural person who is not a Canadian citizen and not ordinarily resident in Canada;

(b) a corporation incorporated, formed, or otherwise organized outside Canada;

(c) the government of a foreign State or a political subdivision of a government of a foreign State, or a person empowered to perform a function or duty on behalf of that government;

(d) a corporation that is controlled directly or indirectly by a person or an entity referred to in subparagraphs (a) through (c);

(e) a trust:

(i) established by a person or an entity referred to in subparagraphs (b) through (d), other than a trust for the administration of a pension fund for the benefit of natural persons the majority of whom are resident in Canada; or

(ii) in which a person or an entity referred to in subparagraphs (a) through (d) has more than 50 percent of the beneficial interest; and

(f) a corporation that is controlled directly or indirectly by a trust referred to in subparagraph (e).

Reservation I-C-6

Sector: All Sectors

Sub-Sector:

Obligations Concerned: National Treatment (Article 16.3)

Level of Government: Central

Measure: Export and Import Permits Act, R.S.C. 1985, c. E-19

Description: Cross-Border Trade in Services

Only a natural person who ordinarily resides in Canada, an enterprise with its head office in Canada, or a branch office in Canada of a foreign enterprise may apply for and be issued an import or export permit or transit authorization certificate for a good or related service subject to controls under the Export and Import Permits Act.

Reservation I-C-7

Sector: Communications services

Sub-sector: Telecommunications Transport Networks and Services Radiocommunications

Obligations Concerned: National Treatment (Article 15.6)

Senior Management and Boards of Directors (Article 15.13)

Level of Government: Central

Measures: Telecommunications Act, S.C. 1993, c. 38

Canadian Telecommunications Common Carrier Ownership and Control Regulations, SOR/94-667

Radiocommunication Act, R.S.C. 1985, c. R-2

Radiocommunication Regulations, SOR/96-484

Description: Investment

1. Foreign investment in a facilities-based telecommunications service supplier is restricted to a maximum, cumulative total of 46.7 percent voting interest, based on 20 percent direct investment and 33.3 percent indirect investment.

2. A facilities-based telecommunications service supplier must be controlled in fact by Canadians.

3. At least 80 percent of the members of the board of directors of a facilities-based telecommunications service suppliers must be Canadians.

4. Notwithstanding the restrictions described above:

(a) foreign investment is allowed up to 100 percent for suppliers conducting operations under an international submarine cable licence;

(b) mobile satellite systems of a foreign service supplier may be used by a Canadian service supplier to supply services in Canada;

(c) fixed satellite systems of a foreign service supplier may be used to provide services between points in Canada and all points outside Canada;

(d) foreign investment is allowed up to 100 percent for a supplier conducting operations under a satellite authorization; and

(e) foreign investment is allowed up to 100 percent for a facilities-based telecommunications service supplier that has revenues, including those of its affiliates, from the supply of a telecommunications service in Canada representing less than 10 percent of the total telecommunications services' annual revenues in Canada. A facilities-based telecommunications service supplier that previously had annual revenues, including those of its affiliates, from the supply of a telecommunication service in Canada representing less than 10 percent of the total telecommunications services annual revenues in Canada may increase to 10 percent or beyond as long as the increase in revenues did not result from the acquisition of control of, or the acquisition of assets used to supply telecommunications services by, another facilities-based telecommunications service supplier that is subject to the legislative authority of the Parliament of Canada.

Reservation I-C-8

Sector: Business Services Industries

Sub-Sector:

Obligations Concerned: National Treatment (Articles 15.6 and 16.3)

Senior Management and Boards of Directors (Article 15.13)

Level of Government: Central

Measures: Customs Act, R.S.C. 1985, c. 1 (2nd Supp.)

Customs Brokers Licensing Regulations, SOR/86-1067

Description: Investment and Cross-Border Trade in Services

To be a licensed customs broker in Canada, in addition to meeting all other licensing requirements:

(a) a natural person must be a Canadian national;

(b) a corporation must be incorporated in Canada with a majority of its directors being Canadian nationals; and

(c) a partnership must be composed of persons who are Canadian nationals who meet all other licensing requirements, or corporations incorporated in Canada with a majority of their directors being Canadian nationals who meet all other licensing requirements.

Reservation I-C-9

Sector: Business Services Industries

Sub-Sector: Duty Free Shops

Obligations Concerned: National Treatment (Articles 15.6 and 16.3)

Level of Government: Central

Measures: Customs Act, R.S.C. 1985, c. 1 (2nd Supp.)

Duty Free Shop Regulations, SOR/86-1072

Description: Investment and Cross-Border Trade in Services

1. In addition to all other licensing requirements, to be a licensed duty free shop operator at a border crossing in Canada, a natural person must be a Canadian national.

2. In addition to all other licensing requirements, to be a licensed duty free shop operator at a border crossing in Canada, a corporation must be incorporated in Canada and have all of its shares beneficially owned by Canadian nationals who meet all other licensing requirements.

Reservation I-C-10

Sector: Business Services Industries

Sub-Sector: Examination Services relating to the Export and Import of Cultural Property

Obligations Concerned: National Treatment (Article 16.3)

Level of Government: Central

Measure: Cultural Property Export and Import Act, R.S.C. 1985, c. C-51

Description: Cross-Border Trade in Services

1. Only a resident of Canada or an institution in Canada may be designated as an expert examiner of cultural property for the purposes of the Cultural Property Export and Import Act.

2. For the purposes of this entry:

(a) institution means an entity that is publicly owned and operated solely for the benefit of the public, that is established for educational or cultural purposes, and that conserves objects and exhibits them; and

(b) resident of Canada means a natural person who ordinarily resides in Canada, or a corporation that has its head office in Canada or maintains an establishment in Canada to which employees employed in connection with the business of the corporation ordinarily report for work.

Reservation I-C-11

Sector: Professional Services

Sub-Sector: Patent Agents

Patent Agents supplying Legal Advisory and Representation Services Industry:

Obligations Concerned: National Treatment (Article 16.3)

Level of Government: Central

Measures: Patent Act, R.S.C. 1985, c. P-4

Patent Rules, SOR/2019-251

College of Patent Agents and Trademark Agents Act, S.C.2018, c.27, s.247

College of Patent Agents and Trademark Agents Regulations, SOR/2021-129

By-laws of the College of Patent Agents and Trademark Agents, SOR/2023-73

Description: Cross-Border Trade in Services

To represent a person in the prosecution of a patent application or in other business before the Patent Office, a patent agent must be resident in Canada and licensed by the College of Patent Agents and Trademark Agents.

Reservation I-C-12

Sector: Professional Services

Sub-Sector: Trademark Agents

Trademark Agents supplying Legal Advisory and Representation Services in Statutory Procedures

Obligations Concerned: National Treatment (Article 16.3)

Level of Government: Central

Measures: Trademarks Act, R.S.C. 1985, c. T-13

Trademarks Regulations, SOR/2018-227

College of Patent Agents and Trademark Agents Act, S.C.2018, c.27, s.247

College of Patent Agents and Trademark Agents Regulations, SOR/2021-129

By-laws of the College of Patent Agents and Trademark Agents, SOR/2023-73

Description: Cross-Border Trade in Services

To represent a person in the prosecution of an application for a trademark or in other business before the Office of the Registrar of Trademarks, a trademark agent must be resident in Canada and licensed by the College of Patent Agents and Trademark Agents.

Reservation I-C-13

Sector: Energy

Sub-Sector: Oil and Gas

Obligations Concerned: National Treatment (Article 15.6)

Level of Government: Central

Measures: Canada Petroleum Resources Act, R.S.C. 1985, c. 36 (2nd Supp.)

Territorial Lands Act, R.S.C. 1985, c. T-7

Federal Real Property and Federal Immovables Act, S.C. 1991, c. 50

Canada-Newfoundland and Labrador Atlantic Accord Implementation Act, S.C. 1987, c. 3

Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act, S.C. 1988, c. 28

Description: Investment

1. This reservation applies to a production licence issued for “frontier lands” and “offshore areas” (areas not under provincial jurisdiction) as defined in the applicable measures.

2. A person who holds an oil and gas production licence or shares therein must be a corporation incorporated in Canada.

Reservation I-C-14

Sector: Energy

Sub-Sector: Oil and Gas

Obligations Concerned: National Treatment (Article 16.3)

Performance Requirements (Article 15.12)

Level of Government: Central

Measures: Canada Oil and Gas Operations Act, R.S.C. 1985, c. O-7

Canada - Nova Scotia Offshore Petroleum Resources Accord Implementation Act, S.C. 1988, c. 28

Canada - Newfoundland and Labrador Atlantic Accord Implementation Act, S.C. 1987, c. 3

Measures implementing the Canada-Yukon Oil and Gas Accord, including the Canada-Yukon Oil and Gas Accord Implementation Act, S.C. 1998, c.5, s. 20, and the Oil and Gas Act, RSY 2002, c. 162

Measures implementing the Northwest Territories Oil and Gas Accord, including implementing measures that apply to or

are adopted by Nunavut as the successor territories to the former Northwest Territories.

Measures implementing the Accord between the Government of Canada and the Government of Yukon, the Government of the Northwest Territories and the Inuvialuit Regional Corporation for the joint management of petroleum resources in the western Arctic offshore.

Measures implementing the Accord between the Government of Canada and the Government of Quebec for the joint management of petroleum resources in the Gulf of St. Lawrence, or any other similar federal-provincial accords related to the joint management of petroleum resources.

Description: Investment and Cross-Border Trade in Services

1. Under the Canada Oil and Gas Operations Act, a “benefits plan” must be approved by the Minister in order to be authorized to proceed with an oil and gas development project.

2. A benefits plan means a plan for the employment of Canadians and for providing Canadian manufacturers, consultants, contractors, and service companies with a full and fair opportunity to participate on a competitive basis in the supply of goods and services used in proposed work or activity referred to in the benefits plan.

3. The benefits plan contemplated by the Canada Oil and Gas Operations Act permits the Minister to impose on the applicant an additional requirement to ensure that disadvantaged individuals or groups have access to training and employment opportunities or can participate in the supply of goods and services used in proposed work referred to in the benefits plan.

4. Provisions continuing those set out in the Canada Oil and Gas Operations Act are included in laws that implement the Canada-Yukon Oil and Gas Accord, and the Northwest Territories Lands and Resources Devolution Agreement.

5. Provisions continuing those set out in the Canada Oil and Gas Operations Act will be included in laws or regulations to implement accords with various provinces and territories, including implementing legislation by provinces and territories (for example, the Northwest Territories Oil and Gas Accord, the Canada-Quebec Gulf of St. Lawrence Petroleum Resources Accord, the Western Arctic-Tariuq (Offshore) Accord and the New Brunswick Oil and Gas Accord). For the purposes of this reservation, these accords and implementing legislation shall be deemed, once concluded, to be existing measures.

6. The Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act and the Canada-Newfoundland and Labrador Atlantic Accord Implementation Act have the same requirement for a benefits plan but also require that the benefits plan ensures that:

(a) the corporation or other body submitting the plan establishes in the applicable province an office where appropriate levels of decision-making are to take place, prior to carrying out work or an activity in the offshore area;

(b) expenditures be made for research and development to be carried out in the province, and for education and training to be provided in the province; and

(c) first consideration be given to goods produced or services provided from within the province, where those goods or services are competitive in terms of fair market price, quality, and delivery.

7. The boards administering the benefits plan under the Acts referred to in paragraph 6 may also require that the plan include provisions to ensure that disadvantaged individuals or groups, or corporations owned or cooperatives operated by them, participate in the supply of goods and services used in proposed work or activity referred to in the plan. Furthermore, these boards may also impose or enforce expenditure and other requirements relating to research and development and education and training to be carried out in the province.

8. In addition, Canada may impose a requirement or enforce a commitment or undertaking for the transfer of technology, a production process, or other proprietary knowledge to a person of Canada in connection with the approval of development projects under the applicable Acts.

Reservation I-C-15

Sector: Energy

Sub-Sector: Oil and Gas

Obligations Concerned: Performance Requirements (Article 15.12)

Level of Government: Central

Measures: Hibernia Development Project Act, S.C. 1990, c. 41

Canada-Newfoundland and Labrador Atlantic Accord Implementation Act, S.C. 1987, c. 3

Description: Investment

1. Under the Hibernia Development Project Act, Canada and the Hibernia Project Owners may enter into agreements. Those agreements may require the Project Owners to undertake to perform certain work in Canada and Newfoundland and Labrador and to use their best efforts to achieve specific

Canadian and Newfoundland and Labrador target levels in relation to the provisions of a "benefits plan" required under the Canada-Newfoundland and Labrador Atlantic Accord Implementation Act. "Benefits plans" are further described in I-C-14.

2. In addition, Canada may impose in connection with the Hibernia Project a requirement or enforce a commitment or undertaking for the transfer of technology, a production process, or other proprietary knowledge to a national or enterprise in Canada.

Reservation I-C-16

Sector: Energy

Sub-Sector: Uranium

Obligations Concerned: National Treatment (Article 15.6)

Most-Favoured-Nation Treatment (Article 15.7)

Level of Government: Central

Measures: Investment Canada Act, R.S.C. 1985, c. 28 (1st Supp.)

Investment Canada Regulations, SOR/85-611

Policy on Non-Resident Ownership in the Uranium Mining Sector, 1987

Description: Investment

1. Ownership by "non-Canadians", as defined in the Investment Canada Act, of a uranium mining

property is limited to 49 percent at the stage of first production. Exceptions to this limit may be

permitted if it can be established that the property is in fact "Canadian-controlled", as defined in the

Investment Canada Act.

2. Exemptions from the Non-Resident Ownership

Policy in the Uranium Mining Sector are permitted, subject to approval of the Governor in Council, only in cases where Canadian participants in the

ownership of the property are not available.

Investments in properties by non-Canadians, made prior to 23 December 1987, and that are beyond the permitted ownership level, may remain in place. No increase in non-Canadian ownership is permitted.

Sector: Transportation

Sub-Sector: Air Transportation

Obligations Concerned: National Treatment (Article 15.6)

Most-Favoured-Nation Treatment (Article 15.7)

Senior Management and Board of Directors (Article 15.13)

Level of Government: Central

Measures: Canada Transportation Act, S.C. 1996, c. 10 Aeronautics Act, R.S.C. 1985, c. A-2 Canadian Aviation Regulations, SOR/96-433

Part II, Subpart 2 – “Aircraft Marking and Registration”; Part IV “Personnel Licensing and Training”; and

Part VII “Commercial Air Services”

Description: Investment

1. Only Canadians may provide the following commercial transportation air services:

(a) domestic services (air services between

points, or from and to the same point, in the territory of Canada, or between a point in

the territory of Canada and a point not in the territory of another country);

(b) scheduled international services (scheduled air services between a point in the territory of Canada and a point in the territory of another country) where those services have been reserved to Canadian carriers under existing or future air services agreements;

(c) non-scheduled international services (non-

scheduled air services between a point in the territory of Canada and a point in the territory of another country) where those

services have been reserved to Canadian carriers under the Canada Transportation Act; and

(d) specialty air services (including, but not

limited to aerial mapping, aerial surveying, aerial photography, forest fire management, fire-fighting, aerial advertising, glider towing, parachute jumping, aerial

construction, heli-logging, aerial inspection, aerial surveillance, flight training, aerial

sightseeing, and aerial crop spraying).

2. For the purposes of 1(a), (b), and (c), the Canada Transportation Act, in section 55, defines

“Canadian” in the following manner:

(a) a Canadian citizen or permanent resident as defined in subsection 2(1) of the

Immigration and Refugee Protection Act,

S.C. 2001, c.27;

(b) a government in Canada or an agent or mandatary of that government; or

(c) a corporation or entity that is incorporated or formed under the laws of Canada or a

province, that is controlled in fact by

Canadians and of which at least 51 percent of the voting interests are owned and

controlled by Canadians and where:

(i) no more than 25 percent of the

voting interests are owned directly or indirectly by any single non-

Canadian, either individually or in affiliation with another person; and

(ii) no more than 25 percent of the

voting interests are owned directly or indirectly by one or more non-

Canadians authorized to provide an air service in any jurisdiction, either individually or in affiliation with another person.

3. Regulations made under the Aeronautics Act include distinct definitions of “Canadian” referenced in

paragraphs 2 and 4. These Regulations require that a Canadian operator of commercial air services

operate Canadian-registered aircraft. These Regulations require an operator to be Canadian in order to obtain a Canadian Air Operator Certificate and to qualify to register aircraft as “Canadian”.

4. For the purposes of paragraph 1(d), the Canadian Aviation Regulations define “Canadian” in the following manner:

(a) a Canadian citizen or permanent resident as defined in subsection 2(1) of the

Immigration and Refugee Protection Act;

(b) a government in Canada or an agent or mandatary of that government; or

(c) a corporation or entity that is incorporated or formed under the laws of Canada or a

province, that is controlled in fact by

Canadians and of which at least 75 percent of the voting interests are owned and

controlled by Canadians.

5. No foreign individual is qualified to be the

registered owner of a Canadian-registered aircraft.

6. Further to the Canadian Aviation Regulations, a corporation incorporated in Canada, but that does not meet the Canadian ownership and control

requirements, may only register an aircraft for

private use where a significant majority of use of the aircraft (at least 60 percent) is in Canada.

7. The Canadian Aviation Regulations also have the effect of limiting foreign-registered private aircraft registered to non-Canadian corporations to be

present in Canada for a maximum of 90 days per

twelve-month period. The foreign-registered private aircraft shall be limited to private use, as would be

the case for Canadian-registered aircraft requiring a private operating certificate.

Sector: Transportation

Sub-Sector: Air Transportation

Obligations Concerned: National Treatment (Article 16.3)

Most-Favoured-Nation Treatment (Article 16.4)

Level of Government: Central

Measures: Aeronautics Act, R.S.C. 1985, c. A-2 Canadian Aviation Regulations, SOR/96-433, Part IV “Personnel Licensing and Training”; Part V “Airworthiness”;

Part VI “General Operating and Flight Rules”; and Part VII “Commercial Air Services”

Description: Cross-Border Trade in Services

Aircraft and other aeronautical product repair, overhaul, or maintenance activities required to maintain the

airworthiness of Canadian-registered aircraft and other aeronautical products must be performed by a person

meeting Canadian aviation regulatory requirements (that is, approved maintenance organizations and aircraft

maintenance engineers). A certification is not provided for persons located outside Canada, except sub-organizations of approved maintenance organizations that themselves are located in Canada.

Sector: Transportation

Sub-Sector: Land Transportation

Obligations Concerned: National Treatment (Article 16.3)

Level of Government: Central

Measures: Motor Vehicle Transport Act, R.S.C. 1985, c. 29 (3rd Supp.), as amended by S.C. 2001, c. 13.

Canada Transportation Act, S.C. 1996, c. 10

Customs Tariff, S.C. 1997, c. 36

Description: Cross-Border Trade in Services

Only a person of Canada using Canadian-registered and either Canadian-built or duty-paid trucks or buses may

provide truck or bus services between points in the territory of Canada.

Sector: Transportation

Sub-Sector: Water Transportation

Obligations Concerned: National Treatment (Articles 15.6 and 16.3)

Level of Government: Central

Measures: Canada Shipping Act, 2001, S.C. 2001, c. 26

Description: Investment and Cross-Border Trade in Services

1. To register a vessel in Canada, the owner of that

vessel or the person who has exclusive possession of that vessel must be:

(a) a Canadian citizen or permanent resident as defined in subsection 2(1) of the

Immigration and Refugee Protection Act,

S.C. 2001, c.27;

(b) a corporation incorporated under the laws of Canada or a province or territory; or

(c) when the vessel is not already registered in another country, a corporation incorporated under the laws of a country other than

Canada if one of the following is acting with respect to all matters relating to the vessel,

namely:

(i) a subsidiary of that corporation that is incorporated under the law of Canada or a province or territory;

(ii) an employee or director in Canada of any branch office of that corporation that is carrying on business in

Canada; or

(iii) a ship management company incorporated under the law of Canada or a province or territory.

2. A vessel registered in a foreign country which has

been bareboat chartered may be listed in Canada for the duration of the charter while the vessel's

registration is suspended in its country of registry, if the charterer is:

(a) a Canadian citizen or permanent resident, as defined in subsection 2(1) of the

Immigration and Refugee Protection Act,

S.C. 2001, c.27; or

(b) a corporation incorporated under the law of Canada or a province or territory.

Sector: Transportation

Sub-Sector: Water Transportation

Obligations Concerned: National Treatment (Article 16.3)

Level of Government: Central

Measures: Canada Shipping Act, 2001, S.C. 2001, c. 26

Marine Personnel Regulations, SOR/2007-115

Description: Cross-Border Trade in Services

Masters, mates, engineers, and certain other seafarers must hold certificates granted by the Minister of Transport as a requirement of service on Canadian registered vessels.

These certificates may be granted only to Canadian citizens or permanent residents.

Sector: Transportation

Sub-Sector: Water Transportation

Obligations Concerned: National Treatment (Article 16.3)

Level of Government: Central

Measures: Pilotage Act, R.S.C., 1985, c. P-14

General Pilotage Regulations, SOR/2000-132

Description: Cross-Border Trade in Services

Subject to Canada's Reservation II-C-11, a licence or a pilotage certificate issued by the Minister of Transport is required to provide pilotage services in the compulsory

pilotage waters of the territory of Canada. Only a Canadian citizen or permanent resident may obtain a licence or

pilotage certificate. A permanent resident of Canada who

has been issued a pilot's licence or pilotage certificate must become a Canadian citizen within five years of receipt of

that licence or pilotage certificate in order to retain it.

Sector: Transportation

Sub-Sector: Water Transportation Services by Sea-going and Non-sea-

going Vessels

Obligations Concerned: National Treatment (Article 16.3)

Level of Government: Central

Measures: Shipping Conferences Exemption Act, 1987, R.S.C. 1985,

c.17 (3rd Supp.)

Description: Cross-Border Trade in Services

Members of a shipping conference must maintain jointly an office or agency in the region of Canada where they

operate. A shipping conference is an association of ocean carriers that has the purpose or effect of regulating rates and conditions for the transportation by those carriers of goods by water.

Sector: Transportation

Sub-Sector: Water Transportation

Obligations Concerned: Most-Favoured-Nation Treatment (Article 16.4)

Level of Government: Central

Measures: Coasting Trade Act, S.C. 1992, c.31

Description: Cross-Border Trade in Services

The prohibitions under the Coasting Trade Act, set out in Reservation II-C-10, do not apply to any vessel that is

owned by the U.S. Government when used solely for the purpose of transporting goods owned by the Government of the United States from the territory of Canada to supply

Distant Early Warning sites.

Sector: All Sectors

Sub-Sector:

Obligations Concerned: National Treatment (Articles 15.6 and 16.3)

Most-Favoured-Nation Treatment (Articles 15.7 and 16.4) Performance Requirements (Article 15.12)

Senior Management and Boards of Directors (Article 15.13)

Level of Government: Regional

Measures: Any existing non-conforming measure of a Province and Territory.

Description: Investment and Cross-Border Trade in Services

Annex I.

Schedule of Ecuador

Introductory Notes

1. The Schedule of a Party to this Annex sets out, pursuant to 15.18 (Investment –

Non-Conforming Measures) and Articles 16.7 (Cross-Border Trade in Services – NonConforming Measures), the Party's existing measures that are not subject to some or all

of the obligations imposed by:

(a) Article 15.6 (Investment – National Treatment) or 16.3 (Cross-Border

Trade in Services – National Treatment);

(b) Article 15.7 (Investment – Most-Favored-Nation Treatment) or 16.4

(Cross-Border Trade in Services – Most-Favored-Nation Treatment);

(c) Article 16.5 (Cross-Border Trade in Services – Market Access);

(d) Article 15.12 (Investment – Performance Requirements); or

(e) Article 15.13 (Investment – Senior Management and Boards of Directors).

2. Each Schedule entry sets out the following elements:

(a) Sector refers to the sector for which the entry is made;

(b) Sub-Sector, where referenced, refers to the specific sector for which the

entry is made;

(c) Obligations Concerned specifies the obligations referred to in

paragraph 1 that, pursuant to Articles 15.18 (Investment – NonConforming Measures) and 16.7 (Cross-Border Trade in Services – NonConforming Measures), do not apply to the non-conforming aspects of the

law, regulation, or other measure, as set out in paragraph 3;

(d) Level of Government indicates the level of government maintaining the scheduled measure(s);

(e) Description sets out commitments, if any, for liberalization on the date of entry into force of the Agreement, and the remaining non-conforming aspects of the measure for which the entry is made; and

(f) Measures identifies the laws, regulations, or other measures for which the entry is made. A measure cited in the Measures element:

(i) means the measure as amended, continued, or renewed as of the date of entry into force of this Agreement; and

(ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure.

Annex I - ECUADOR-2

3. In the interpretation of an entry, all elements of the entry shall be considered. An entry shall be interpreted in light of the relevant articles of the Chapters against which the entry is made. To the extent that:

(a) the Measures element is qualified by a liberalization commitment from the Description element, the Measures element as so qualified shall prevail over all other elements; and

(b) the Measures element is not so qualified, the Measures element shall prevail over all other elements, unless any discrepancy between the Measures element and the other elements considered in their totality is so substantial and material that it would be unreasonable to conclude that the Measures element should prevail, in which case the other elements shall prevail to the extent of that discrepancy.

Annex I - ECUADOR-3

1. Sector: All Sectors

Sub-Sector:

Obligations Concerned: National Treatment (Article 15.6)

Level of Government: Central

Measures: Constitución de la República del Ecuador (Constitution of the Republic of Ecuador), Official Gazette 449, 20 October 2008 (last reform on 30 May 2024), Title VII (Good living regime), Chapter II (Biodiversity and natural resources), Section three Natural heritage and ecosystems.

Ley de Seguridad Pública y del Estado (Law on Public and State Security), Official Gazette Supplement 35, 28 September 2009 (last reform on 29 March 2023), Title VII (On security zones: Border security zones and reserved security areas).
Código Orgánico del Ambiente (Organic Code on the Environment), Official Gazette Supplement 983, 14 March 2017 (last reform on 21 December 2021), Title II (Of in situ conservation), Chapter II (Of the system of Protected Areas).
Ley Orgánica de Tierras Rurales y Territorios Ancestrales (Organic Law of Rural Lands and Ancestral Territories), Official Gazette Supplement 711, 14 March 2016 (last reform on 25 March 2022), Preliminary Title.
Reglamento a Ley Orgánica de Tierras Rurales y Territorios Ancestrales (Regulation to the Organic Law of Rural Lands and Ancestral Territories), Official Gazette Supplement 920, 11 January 2017 (last reform on 19 May 2022), Preliminary Title, Chapter II (General Rules).
Description: Investment
Foreign persons may not acquire land or concessions in protected areas by any title.
Annex I - ECUADOR-4
Foreign persons are prohibited from possessing, acquiring and be granted land in security zones.
Foreign public companies require authorization from the national agrarian authority to acquire, lease or take in usufruct, rural land in the national territory for agricultural production projects. The participation of foreign public companies in agrarian projects of national interest with national public companies, mixed economy companies, private natural or legal persons, communities or

community companies, is possible as long as they
maintain ownership of the land.
Annex I - ECUADOR-5
2. Sector: Strategic Sectors and Public Services
Sub-Sector:
Obligations Concerned: National Treatment (Article 15.6 and 16.3)
Senior Management and Boards of Directors
(Article 15.13)
Market Access (Article 16.5)
Level of Government: Central
Measures: As set out in the Description element
Description: Investment and Cross-Border Trade in Services
1. Consistent with Articles 313, 314, 315 and
316 of the Constitución de la República del
Ecuador (Constitution of the Republic of
Ecuador), Ecuador may take the following
measures:
(a) guarantee a preferential right to a
State-Owned Enterprise to manage
strategic sectors or provide public
services; or
(b) delegate the management of strategic
sectors and the provision of public
services to an enterprise in which
Ecuador and private capital
participate jointly (Empresa
Mixta); and
(c) in the case of paragraph (b), Ecuador
must hold at least a 51% interest in
the jointly established enterprise.
2. For the purposes of this reservation, “public
services” means services for drinking water,
irrigation, sanitation, roads, port and airport
infrastructures; and “strategic sectors”
means sectors concerning energy in all its

forms, non-renewable natural resources, and the transportation and refining of hydrocarbons and water.

Annex I - ECUADOR-6

3. Sector: Artisanal Fishery

Sub-Sector:

Obligations Concerned: National Treatment (Articles 15.6)

Level of Government: Central

Measures: Ley Orgánica para el Desarrollo de la Acuicultura y Pesca (Organic Law for the Development of Aquaculture and Fisheries), Official Gazette Supplement 187, 21 April 2020 (last reform on 8 May 2023), Preliminary Title, Chapter I (General Provisions), Title IV (Of the fisheries sector), Chapter II (Phases of the fishing activity), Section I - Extractive fisheries, Paragraph I - Special rules for artisanal fishing, Chapter V (Illegal and incidental fishing).

General Regulations for the Development of Aquaculture and Fisheries, Official Gazette Supplement 19, 11 March 2022 (last reform on 21 September 2023).

Description: Investment

1. Artisanal fishing activity, whose activity is carried out in coastal, oceanic, fluvial zones, inland waters and within the areas reserved for this purpose, is reserved for national fishermen individually or through social associations.

2. For the purposes of this reservation, “artisanal fishing” means the fishing and harvesting activity carried out predominantly manually, to improve the quality of life of those who carry it out and contribute to food sovereignty, with or

without the use of an artisanal boat.

Annex I - ECUADOR-7

4. Sector: Mining

Sub-Sector: Artisanal Mining

Level of Government: Central

Obligations Concerned: National Treatment (Article 15.6)

Measures: Ley de Minería (Law on Mining), Official Gazette Supplement 517, 29 January 2009 (last reform on 20 December 2023), Title II (On Mining Rights), Chapter II (On the Mining Concession), Title IX (On the special regimes), Chapter I (Artisanal and livelihood mining).

Description: Investment

1. Natural and legal persons who are in the category of artisanal miners may not have foreign companies as partners or shareholders.

2. Artisanal mining includes and is applied to popular economic units, understood as single-person, family and domestic enterprises that carry out work in free mining areas, as defined in the Ley de Minería (Law on Mining), are characterized by the use of machinery and equipment with limited load and production capacities, intended to obtain minerals, whose commercialization in general allows to cover the needs of those who carry them out according to the following production capacities and processing:

(a) For metallic ores: Up to 10 tons per day in underground mining and 120 cubic meters per day in alluvial mining;

(b) For non-metallic minerals: Up to

50 tons per day;

(c) For construction materials: Up to

100 cubic meters per day for alluvial

mining or unconsolidated materials;

and, 50 metric tons per day in openpit mining in hard rocks.

Annex I - ECUADOR-8

5. Sector: Professional Services1

Sub-Sector: Architectural Services

Engineering Services

Obligations Concerned: National Treatment (Article 16.3)

Level of Government: Central

Measures: Ley del Ejercicio Profesional de la Arquitectura

(Law on the Professional Practice of Architecture),

Official Gazette Supplement 708,

24 December 1974 (last reform on 4 August 2008).

Ley del Ejercicio Profesional de la Ingeniería (Law

on the Professional Practice of Engineering),

Official Gazette 590, 30 September 1983 (last

reform on 4 August 2008), Chapter III (On

professional practice).

Ley del Ejercicio Profesional de la Ingeniería Civil

(Law on the Professional Practice of Civil

Engineering), Official Gazette Supplement 590,

30 September 1983 (last reform on 4 August 2008),

Chapter II (On Professional Practice).

As qualified by the liberalisation commitment set

out by Description element.

Description: Cross-Border Trade in Services

National or foreign companies constituted for the

execution of engineering or architecture works must

employ Ecuadorian engineers or architects in a

percentage not less than 80% of the qualified

employees or specialists. This limitation does not

apply to employers with a staff of up to

10 employees.

1 For greater certainty, this entry does not apply to architectural and engineering services, as established in the Schedules of Specific Commitments of Ecuador under the GATS (GATS/SC/98, GATS/SC/98/Suppl.1, and GATS/SC/98 /Suppl.2).

Annex I - ECUADOR-9

6. Sector: Professional Services2

Sub-Sector: Accounting Services

Obligations Concerned: National Treatment (Article 16.3)

Level of Government: Central

Measures: Ley de Contadores (Law on Accountants), Official Gazette 157, 10 November 1966 (last reform on 14 May 2008), Chapter I (Of the Professionals).

Description: Cross-Border Trade in Services

The associations or partnerships of accountants, for the joint exercise of the profession, may be conformed only by nationals, or by nationals and foreigners and, in this case, must be integrated with at least two thirds of Ecuadorian accountants, and the capital, if any, must keep the same proportion.

2 For greater certainty, this entry does not apply to accounting services, as established in the Schedules of Specific Commitments of Ecuador under the GATS (GATS/SC/98, GATS/SC/98/Suppl.1, and GATS/SC/98 /Suppl.2).

Annex I - ECUADOR-10

7. Sector: Professional Services3

Sub-Sector: Auditing Services

Obligations Concerned: National Treatment (Article 16.3)

Level of Government: Central

Measures: Ley de Compañías (Companies Law), Official Gazette 312, 5 November 1999 (last reform on 23 November 2023), Section IX (External Auditing).

Código Orgánico Monetario y Financiero (Monetary and Financial Organic Code), Official Gazette, Supplement 332, 12 September 2014 (last reform on 29 July 2024), Book I, Chapter 3 (Common provisions for the national financial system), Section 8 (Control and Audits), Book II,

Title XXI (External Audit), and Book III, Title II (Constitution, Organization, Activities and Operation), Chapter VI (External Auditors).

Codification of the Rules of the Superintendency of Banks, Book I (Control Standards for Entities of the Public and Private Financial Sectors), Title XVII (Authorizations granted by the Superintendency of Banks), Chapter I (Rules for the hiring and operation of external auditors who carry out their activities in entities subject to the control of the Superintendency of Banks) and Chapter II (Control standard for the qualification of internal auditors of entities in the public and private financial sectors).

Description: Cross-Border Trade in Services

Only natural persons residing in Ecuador or legal persons domiciled in Ecuador may perform external auditing activities.

3 For greater certainty, this entry does not apply to auditing services, as established in the Schedules of Specific Commitments of Ecuador under the GATS (GATS/SC/98, GATS/SC/98/Suppl.1, and GATS/SC/98 /Suppl.2).

Annex I - ECUADOR-11

8. Sector: Customs Agents Services

Sub-Sector:

Obligations Concerned: National Treatment (Article 16.3)

Level of Government: Central

Measures: Reglamento que Regula el Ejercicio de la Actividad de los Agentes de Aduana y de sus Auxiliares, (Regulation that Controls the Exercise of Customs Agents and Auxiliaries), issued by the Servicio Nacional de Aduana del Ecuador (“SENAE”) (Resolución SENAE-SENAE-2019-0077-RE), 13 September 2019, published in Registro Oficial E.E. No. 74, 20 September 2019 (last reform on 2 March 2023), Chapter I (General Provisions), Chapter VII (Auxiliary of the customs agent).

Procedimiento General Para la Autorización, Renovación, Cambio de Domicilio, Modificación de Áreas e Incorporación de Partidas, de los Operadores de Comercio Exterior (General Procedure for Authorization, Renewal, Change of Adress, Modification of Areas and Incorporation of Items, of Foreign Trade Operators), issued by the Servicio Nacional de Aduana del Ecuador ("SENAE") (Resolución SENAE-SENAE-2023-0006-RE), 2 March 2023, published in Registro Oficial Suplemento No. 260, 2 March 2023 (last reform on 15 April 2024), Annexes 3A and 3B.

Description: Cross-Border Trade in Services
Domicile in Ecuador is required to exercise professional services of customs agents and auxiliaries of customs agents.

Annex I - ECUADOR-12

9. Sector: Legal Services4

Sub-Sector:

Obligations Concerned: Most-Favored-Nation Treatment (Article 16.4)

Level of Government: Central

Measures: Código Orgánico de la Función Judicial (Organic Code of the Judicial Function), Official Gazette Supplement 544, 9 March 2009 (last reform on 29 March 2023), Title VII (Lawyers), Chapter I (Lawyers in sponsorship of cases), Chapter III (Preprofessional practice for graduates of the faculties of jurisprudence, law and legal sciences).

Description: Cross-Border Trade in Services
Foreign lawyers may practice the profession, provided that their degree is recognized in Ecuador under the conditions prescribed by law, and with observance of the principle of reciprocity.

4 For greater certainty, this entry does not apply to advisory services on foreign legislation and international law, as established in the Schedules of Specific Commitments of Ecuador under the GATS (GATS/SC/98, GATS/SC/98/Suppl.1, and GATS/SC/98 /Suppl.2).

Annex I - ECUADOR-13

10. Sector: Professional Services

Sub-Sector: Notarial Services

Obligations Concerned: National Treatment (Articles 15.6 and 16.3)

Level of Government: Central

Measures: Código Orgánico de la Función Judicial (Organic Code of the Judicial Function), Official Gazette Supplement 544, 9 March 2009 (last reform on 29 March 2023), Title VI (Auxiliary Organs of the Judicial Function), Chapter I (Notaries).

Description: Investment and Cross-Border Trade in Services

To be a notary, it is necessary to be a national of Ecuador and be in enjoyment of the rights of political participation, as defined in the Constitución de la República del Ecuador (Constitution of the Republic of Ecuador).

Annex I - ECUADOR-14

11. Sector: Leasing or Rental Services without Operator

Sub-Sector: Leasing or Rental Services, with or without Purchase Option, concerning Private Cars without Operator

Leasing or Rental Services, with or without Purchase Option, concerning Goods Transport Vehicles without Operator

Leasing or Rental Services, with or without Purchase Option, concerning Other Land Transport Equipment without Operator

Obligations Concerned: National Treatment (Articles 15.6 and 16.3)

Level of Government: Central

Measures: Ley Orgánica de Transporte Terrestre, Tránsito y Seguridad Vial (Organic Law on Land Transport, Traffic and Road Safety), Official Gazette Supplement 398, 7 September 2008 (last reform on 25 March 2024), Title V (Of the enabling titles of land transport), Chapter II (Of the Administrative

Regime), Section II (Of the vehicle rental and leasing companies), Section IV (Of the application of the administrative sanctions for the vehicle rental and leasing companies).

Regulation for the Operation of Vehicle Rental or Leasing Companies, Official Gazette 599, 16 December 2021 (last reform on 12 July 2022), Title II (Of the authorization and operation of the vehicle rental companies), Chapter II (Corporate Purpose).

Description: Investment and Cross-Border Trade in Services

1. Only national juridical persons whose main corporate purpose is the rental or leasing of vehicles for land transportation may provide these services. Those companies are prohibited from:

(a) providing services directly and with a driver. The vehicles rented to the companies may be used in the transfer of people and goods only and exclusively by the natural or legal persons who rent them, without them receiving an economic compensation for the transport; and

(b) performing public or commercial transport service.

Annex I - ECUADOR-15

12. Sector: Telecommunication Services5

Sub-Sector:

Obligations Concerned: National Treatment (Articles 15.6 and 16.3)

Market Access (16.5)

Level of Government: Central

Measures: Constitución de la República del Ecuador (Constitution of the Republic of Ecuador), Official Gazette 449, 20 October 2008 (last reform on

30 May 2024), Title VI (Development regime),
Chapter V (Strategic sectors, services and stateowned enterprises), Chapter VI (Labor and
production), Section Six (Savings and Investment),
Title VII (Good living regime), Chapter I (Inclusion
and equity), Chapter II (Biodiversity and natural
resources).
Código Orgánico Administrativo (Organic
Administrative Code), Official Gazette
Supplement 31, 7 July 2017 (last reform on
25 March 2024), Title I (The administrative
organization), Chapter Three (Exercise of powers).
Ley de Compañías (Companies Law), Official
Gazette 312, 5 November 1999 (last reform on
23 November 2023), Section I (General provisions),
Section XIII (On foreign companies).
Ley Orgánica de Telecomunicaciones (Organic Law
on Telecommunications), Official Gazette
Supplement 439, 18 February 2015 (last reform on
29 March 2023), Title II (Networks and Provision of
Telecommunications Services), Chapter II
(Provision of Telecommunications Services), Title V
(Enabling Titles), Chapter I (Enabling Titles for the
Provision of Telecommunications Services), and
Chapter II (Use and Exploitation of the Radio
Spectrum), Title XI (Scarce Resources and
Occupation of Goods), Chapter I (Allocation of the
radio spectrum).
5 For greater certainty, this entry does not apply to C. Telecommunication Services literals (h) to (n), as established in the Schedules of Specific Commitments of Ecuador under the GATS (GATS/SC/98, GATS/SC/98/Suppl.1, and GATS/SC/98 /Suppl.2).
Annex I - ECUADOR-16
Reglamento General de la Ley Orgánica de
Telecomunicaciones (General Regulations to the
Organic Law on Telecommunications), Official
Gazette Supplement 676, 25 January 2016 (last

reform on 11 July 2023), Title III (Enabling Titles), Chapter II (Provisions for Enabling Titles by Delegation), Title VII (On the Service Contract Regime), Chapter IV (On the Rights and Obligations of Service Providers), Title IX Of the Tariff Regime for the Provision of Services.
Regulation of Enabling Titles for Telecommunications and Frequencies, Official Gazette Special Edition 144, 29 November 2019 (last reform on 11 December 2023), Book I (Granting of Enabling Titles), Title I (Granting of Enabling Titles for Telecommunications Services), Chapter I (Enabling Titles Granted under the Modality of General Authorization).
Description: Investment and Cross-Border Trade in Services
1. Operating licenses are required for:
(a) the provision of telecommunications services, including the provision of broadcasting services.
(b) use or exploitation of radio spectrum.
(c) establishment and operation of telecommunications networks.
2. To obtain operating licenses, natural persons must be residents, and the foreign legal persons must be domiciled in Ecuador.
These operating licenses are subject to economic need tests.
3. Public companies providing telecommunications services shall have a preferential right to the use and exploitation of the radio spectrum, to ensure the provision of the universal telecommunications service in isolated rural sectors, marginal urban sectors and to lowerincome population groups, under conditions that do not affect the provision of such

scarce resource for access and participation of private operators in the market of commercial interest.

Annex I - ECUADOR-17

4. Public companies for the provision of telecommunications services shall be obliged to pay duties, tariffs, contributions and other obligations, except for the following: i) for the granting or renewal of operating licenses; and, ii) for the granting or renewal of authorization of frequencies for their use and exploitation. However, public companies must accrue these exemptions in their entirety, through the fulfillment of obligations of a social nature of universal service or the execution of resolutions provided by ARCOTEL (the Telecommunications Regulatory and Control Agency), subject to the public policies issued by the Ministry of Telecommunications.

5. Cross subsidies are not allowed to telecommunications services providers that have enabling titles by delegation, including subscription broadcasting; wherea s telecommunications services providers that have an enabling title by authorization may apply such subsidies, only in the case of universal service, in order to comply with their constitutional obligations, observing for this purpose the concepts of social profitability.6

6 For greater certainty, enabling titles by delegation are granted to private telecommunication services suppliers; and enabling titles by authorization are granted to public telecommunication companies.

Annex I - ECUADOR-18

13. Sector: Postal and Mail Services

Sub-Sector: Postal Services

Obligations Concerned: National Treatment (Article 16.3)

Level of Government Central

Measures: Ley General de los Servicios Postales (General Law on Postal Services), Official Gazette Supplement 603, 7 October 2015, Chapter I (Preliminary Provisions), Chapter III (Postal Services and their Enabling Titles).

Reglamento de la Ley General de los Servicios Postales (General Regulations to the Law on Postal Services), Official Gazette Supplement 854, 4 October 2016, Chapter VII (Enabling Titles).

Description: Cross-Border Trade in Services

1. In Ecuador, the provision of postal services will be carried out under the authorization of the respective entity either by means of a permit or an enabling title. To receive this authorization, the foreign natural person or the foreign legal person must be domiciled in the country.

2. Postal services consist of executing one or more of the processes of admission, classification, distribution, and delivery of postal items within the national territory and from or to abroad. These services include: expedited courier or courier, postal orders provided by air, land, sea or river transport, and parcel shipments through land transport companies and everything related to electronic commerce in postal matters.

3. This entry does not apply to postal services included in the Universal Postal Service.

Annex I - ECUADOR-19

14. Sector: Prepaid Health Care Services7

Sub-Sector:

Obligations Concerned: National Treatment (Article 16.3)

Market Access (Article 16.5)

Level of Government: Central

Measures: Ley Orgánica que Regula a las Compañías que Financien Servicios de Atención Integral de Salud Prepagada y a las de Seguros que Oferten Cobertura de Seguros de Asistencia Médica (Organic Law that Regulates Companies that Finance Comprehensive Prepaid Health Care Services and Insurance Companies that Offer Coverage of Insurance Medical Assistance), Official Gazette Supplement 863, 17 October 2016 (last reform on 19 October 2021), Chapter II (Incorporation and Functioning of Companies that Finance Comprehensive Prepaid Health Care Services and of Insurance Companies that Offer Coverage of Insurance Medical Assistance).

Description: Cross-Border Trade in Services

Only national juridical persons constituted as stock companies may provide prepaid health care services.

7 For greater certainty, this entry does not apply to hospital services, as established in the Schedules of Specific Commitments of Ecuador under the GATS (GATS/SC/98, GATS/SC/98/Suppl.1, and GATS/SC/98 /Suppl.2).

Annex I - ECUADOR-20

15. Sector: Tourist Guides Services

Sub-Sector:

Obligations Concerned: National Treatment (Article 16.3)

Level of Government: Central

Measures: Ley de Turismo (Law on Tourism), Official Gazette Supplement 733, 27 December 2002 (last reform on 25 March 2024).

Reglamento General para la Ley de Turismo (General Regulations to the Tourism Law), Official Gazette Supplement 244, 5 January 2004 (last

reform on 15 July 2024).

Tourist Guidance Regulation, Official Gazette 343,

3 December 2020 (last reform on

13 September 2023).

Description: Cross-Border Trade in Services

For registration and obtaining a local tourist guide

credential, it is required to certify residence of at

least three years in the town where the activity will

be carried out.

Annex I - ECUADOR-21

16. Sector: Construction and Operation of Aerodromes

Sub-Sector:

Obligations Concerned: National Treatment (Articles 15.6 and 16.3)

Level of Government: Central

Measures: Código Aeronáutico (Aeronautical Code), Official

Gazette Supplement 435, 11 January 2007 (last

reform on 26 July 2024), Title II (Of the

Infrastructure of Aerodromes and Airports),

Chapter II (Construction and Operation).

Description: Investment and Cross-Border Trade in Services

Authorization to build and operate aerodromes will

only be granted to Ecuadorian natural persons or

legal entities domiciled in Ecuador.

Annex I - ECUADOR-22

17. Sector: Air Transport8

Sub-Sector: Aerial Work and Related Activities

Obligations Concerned: National Treatment (Articles 15.6 and 16.3)

Level of Government: Central

Measures: Código Aeronáutico (Aeronautical Code), Official

Gazette Supplement 435, 11 January 2007 (last

reform on 26 July 2024), Title VIII (Concessions

and Operating Permits), Chapter I (Generalities).

Regulations on Operating Permits for Air Work

Services, Related Activities and Private Air Services,

Official Gazette Supplement 913, 30 December

2016), Chapter I (Scope and Definitions), Chapter II
(Requirements for Obtaining Operating Permits).
Description: Investment and Cross-Border Trade in Services
1. Only national juridical persons may be
eligible for an operating permit for aerial
work or related activities.
2. Aerial work services and related activities
include: aerial aerophotography,
firefighting, advertising flights, glider
towing, parachute jumping, external cargo
transport, aerial inspection and surveillance,
fumigation, aerial spraying, predatory
species control, rainfall control, air tourism,
initial training schools for aeronautical
personnel, aeronautical training centers; and
aircraft construction and assembly, or repair
station, or aircraft maintenance.
8 For greater certainty, non-conforming measures that affect Article 16.3 (Cross-Border Trade in Services – National Treatment) apply exclusively to services covered under Article 16.2.3 (a) (CrossBorder Trade in Services – Scope).
Annex I - ECUADOR-23
18. Sector: Transport Services
Sub-Sector: Domestic Air Transport Services
Obligations Concerned: National Treatment (Articles 15.6)
Level of Government: Central
Measures: Código Aeronáutico (Aeronautical Code), Official
Gazette Supplement 435, 11 January 2007 (last
reform on 26 July 2024), Title VIII (On the Granting
of Concessions and Operating Permits), Chapter I
(Generalities).
Ley de Aviación Civil (Civil Aviation Law), Official
Gazette Supplement 435, 11 January 2007 (last
reform on 2 July 2019), Title of Civil
Aeronavigation and its Agencies, Chapter III (Of the
Directorate General for Civil Aviation), Title IV
(General Provisions).

Description: Investment

1. Commercial air services to be carried out exclusively in Ecuador may only be operated by natural persons of Ecuadorian nationality or by national juridical persons.

2. For the provision of these services, an aircraft must be operated by a natural or legal person, Ecuadorian, duly certified, who has authorization granted by the National Council of Civil Aviation or by the Director, and be manned by Ecuadorian civilian personnel.

3. An aircraft of foreign registration, to be operated by an Ecuadorian company in commercial aviation activities within, to and from Ecuadorian territory, must be manned by Ecuadorian civilian personnel.

Annex I - ECUADOR-24

19. Sector: Aeronautical Personnel9

Sub-Sector:

Obligations Concerned: National Treatment (Article 16.3)

Level of Government: Central

Measures: Código Aeronáutico (Aeronautical Code), Official Gazette Supplement 435, 11 January 2007 (last reform on 26 July 2024), Title IV (Of the Aeronautical Personnel), Chapter I (Aeronautical Technical Personnel).

Ley de Aviación Civil (Civil Aviation Law), Official Gazette Supplement 435, 11 January 2007 (last reform on 2 July 2019), Title IV (General Provisions).

Description: Cross-Border Trade in Services

1. In Ecuadorian companies, only aeronautical technical personnel of Ecuadorian nationality may carry out remunerated

aeronautical activities in the country.

2. The employment of foreign technicians or instructors of Ecuadorian technical personnel will be authorized, when necessary for the performance or improvement of an aeronautical service. These authorizations will be granted by the Directorate General for Civil Aviation or the authority that is designated competent, for a period not exceeding six months, that could be renewed for the same period, if the need persists and is verified. Within these deadlines, the hired personnel will have the obligation to give due training to the Ecuadorian personnel who will replace them.

3. The above-mentioned conditions extend to any natural person legally authorized to carry out aeronautical activities in the country.

4. Any national natural or legal person and foreign person with an operations and maintenance center in Ecuador will hire, as the case may be, Ecuadorian citizens for the services of pilots, on-board crew, technicians, professionals and administrative personnel.

9 For greater certainty, these measures apply exclusively to services covered under Article 16.2.3 (a), (b) and (c) (Cross-Border Trade in Services – Scope).

Annex I - ECUADOR-25

5. The Directorate General for Civil Aviation may authorize the hiring of foreign personnel for the functions specified in the previous paragraph, only when it is reliably proven that there are no Ecuadorian

technical personnel authorized and available
for this purpose. The natural or legal person
who hires foreign personnel is obliged to
give due training to the Ecuadorian
personnel who will replace it, within the
period set by the aeronautical authority for
each case.
Annex I - ECUADOR-26
20. Sector: Transport Services
Sub-Sector: Road Transport Services
Obligations Concerned: National Treatment (Article 16.3)
Market Access (Article 16.5)
Level of Government: Central
Measures: La Ley Orgánica de Transporte Terrestre, Tránsito
y Seguridad Vial (Organic Law on Road Transport,
Traffic and Road Safety), Official Gazette
Supplement 398, 7 August 2008 (last reform on
25 March 2024), Book Two (Of the Automotive
Land Transport), Title II (Of the Transport
Services), Chapter I (Of the Classes of Land
Transport Services), Title V (Of the Enabling Titles
of Land Transport), Chapter I (Generalities).
Reglamento sobre la Ley Orgánica de Transporte
Terrestre, Tránsito y Seguridad Vial (Regulation on
the Law on Road Transport, Traffic and Road
Safety), Official Gazette Supplement 731,
25 June 2012 (last reform on 15 July 2024), Title II
(Of the Ground Transportation Service), Chapter I
(Of the Constitution of Ground Transportation
Companies and Cooperatives), Chapter VIII
(Enabling Titles of Ground Transportation),
Section I (General Information), Section II (Of the
Requirements for Obtaining Enabling Titles).
Reglamento en Transporte Terrestre Turístico
(Regulation on Commercial Tourist Road

Transportation), Official Gazette Supplement 442,
22 November 2023 (last reform on 8 August 2024),
Chapter II (Study of Needs and Allocation of Quotas
for Commercial Tourist Land Transport), Chapter III
(Feasibility Report Prior to Legal Establishment).
Description: Cross-Border Trade in Services
1. For the provision of road transport services
in all its modalities, enabling titles will be
required. Enabling road transport titles are
the operating contracts, operating permits
and authorizations which will be granted by
the competent authority. Those enabling
titles are subject to economic need tests.
Annex I - ECUADOR-27
2. In the case of companies, the transport
operators may be constituted, exclusively as
private limited company, stock company or
a mixed economy company. In the case of
natural persons, it is required permanent
residence.
3. For clarity, the modes of road transport
include: international transport, transport in
national territory, cross-border transport,
commercial transport, and transport on own
account.
Annex I - ECUADOR-28
21. Sector: Transport Services
Sub-Sector: Maritime Transport Services
Inland Waterway Transport Services
Obligations Concerned: National Treatment (Articles 15.6 and 16.3)
Level of Government: Central
Measures: Ley General de Transporte Marítimo y Fluvial
(General Law on Maritime and River Transport,
Official Gazette 406, 01 February 1972.
Ley Orgánica de Navegación, Gestión de la

Seguridad y Protección de los Espacios Acuáticos en Ecuador (Organic Law on Navigation, Safety Management, Maritime and River Protection in Aquatic Spaces), Official Gazette Supplement 472, 14 June 2021, Title II (Of navigation), Chapter IV (Of the formation and training of seafarers, fishing people and river personnel).

Reglamento de la Ley Orgánica de Navegación, Gestión de la Seguridad y Protección de los Espacios Acuáticos en Ecuador (Regulation on the Organic Law on Navigation, Safety Management, Maritime and River Protection in Aquatic Spaces), Official Gazette Supplement 343, 30 June 2023, Title II (Of Navigation, Forced Arrival, Free Practique and Dispatch of Ships), Chapter IX (Minimum Safety Crew).

Resolution DIRNEA 017/17 (Principles Related to the Minimum-Safety Crew of Ships), Official Gazette Supplement 77, 12 September 2017.

Resolution No. ARE-DIRNEA-SPM-004-2023, (Requirements for Obtaining and Renewing Enabling Documents for Seafarers, Fisheries, River, Lacustre and Underwater Activities Personnel Who Work on Board of Ecuadorian Flag and Foreign Flag Vessels with Contract of Chartering or Association), Official Gazette 332, 15 June 2023, VII. Recognition of Foreign Titles for Seafarers, Auxiliary Services and Passenger Ships and IX. Issuance of Registration for Foreign Personnel.

Description: Investment and Cross-Border Trade in Services

1. Only natural persons residing or legal persons domiciled in Ecuador may register ships and naval artifacts of Ecuadorian flag.

2. Ecuadorian-flagged ships and naval artifacts must be commanded by a Captain of Ecuadorian nationality, and the crew must be mostly Ecuadorian. The National Directorate of Aquatic Spaces ("DIRNEA") or the authority that is designated as competent will authorize the hiring of foreign personnel for justified technical or operational reasons, in the case of ships whose management requires specialized functions and there is a lack of qualified Ecuadorian personnel available.

3. Ecuadorian-flagged vessels will only be under the command of captains of Ecuadorian nationality, if they are their owners, provided that they are authorized by the National Directorate of Aquatic Spaces or the authority that is designated as competent.

4. Foreign-flagged vessels of gross tonnage greater than or equal to 50 GRT, operating in Ecuadorian waters under an association contract, charter party for more than six months or in the process of nationalization must be manned by no less than fifty percent (50%) of Ecuadorian maritime personnel; and, in the case of ships under bareboat charter contract, no less than seventy percent (70%), to occupy functions according to the minimum-security manning document. In both cases the captain may be a foreigner legally resident in Ecuador.

Annex I - ECUADOR-30

22. Sector: Maritime and River Transport

Sub-Sector: Ship Agent

Obligations Concerned: National Treatment (Article 16.3)

Level of Government: Central

Measures: Ley General de Transporte Marítimo y Fluvial (General Law on Maritime and River Transport). Ley Orgánica de Navegación, Gestión de la Seguridad y Protección de los Espacios Acuáticos en Ecuador (Organic Law on Navigation, Safety Management, Maritime and River Protection in Aquatic Spaces), Official Gazette Supplement 472, 14 June 2021, Title II (Of navigation), Chapter IV (Of the formation and training of seafarers, fishing people and river personnel). Regulation No. MTOP-SPTM-2016-0126-R, Rules for the Correct Application of Chapter XII of the Regulation on Maritime Activity – Shipping Agencies, Official Gazette 892, 29 November 2016. Regulation No. MTOP-SPTM-2016-0111-R, Rules for the Correct Application of Chapter XII of the Regulation on Maritime Activity Shipowners, Official Gazette 880, 12 November 2016.

Description: Cross-Border Trade in Services

Only resident natural persons and legal persons domiciled in Ecuador may exercise activities as ship agents, for which they require an authorization granted by the Undersecretariat of Ports, Maritime and River Transport or the authority designated as competent.

Annex I - ECUADOR-31

23. Sector: Maritime and River Transport

Sub-Sector: Port Services

Obligations Concerned: National Treatment (Articles 15.6 and 16.3)

Level of Government: Central

Measures: Resolution No. MTOP-SPTM-2016-0060-R, Official Gazette 732, 13 April 2016 (last reform on 29 November 2023), Rules that regulate port

services in Ecuador.

Description: Investment and Cross-Border Trade in Services

Only national juridical persons can provide port services, for which they must obtain the respective registration.

Annex I - ECUADOR-32

24. Sector: Maritime Transport

Sub-Sector: National Water Transport

Obligations Concerned: National Treatment (Article 16.3)

Level of Government: Central

Measures: Ley de Facilitación de las Exportaciones y del Transporte Acuático (Law on Export and Water Transport Facilitation), Official Gazette 901, 25 March 1992 (last reform on 21 May 2008), Chapter II (Water Transport).

Resolution No. 116/01, Requirements for the chartering or leasing, in exceptional cases, of vessels of other flags that will be used by national shipping companies (shipowners) in cabotage traffic, Official Gazette 399, 28 August 2021, Chapter II (Water Transport).

Resolution No. MTOP-SPTM-2021-0034-R, Regulations for the application of Chapter IX of the Regulation to Maritime Activity regarding the issuance of the national and international traffic permit, internal trajectory and exceptional authorizations, for Ecuadorian flag vessels and foreign flag vessels sailing in national waters, Official Gazette Supplement 472, 14 June 2021, Chapter VI (Exceptional authorization for the provision of transport services for foreign-flagged vessels).

Description: Cross-Border Trade in Services

1. The internal water transport of passengers and cargo is reserved exclusively for

Ecuadorian-flagged vessels.

2. An exceptional authorization may be granted to foreign-flagged vessels for the provision of internal water transport services for passengers and cargo.

Annex I - ECUADOR-33

25. Sector: Maritime Transport

Sub-Sector: Hydrocarbons Loading, Unloading and Storage

Obligations Concerned: National Treatment (Articles 15.6 and 16.3)

Most-Favored-Nation Treatment (Articles 15.7 and 16.4)

Market Access (Article 16.5)

Level of Government: Central

Measures: Ley de Facilitación de las Exportaciones y del Transporte Acuático (Law on Export and Water Transport Facilitation), Official Gazette 901, of 25 March 1992 (last reform on 21 May 2008), Chapter II (Water Transport).

Description: Investment and Cross-Border Trade in Services

The loading, unloading and storage of hydrocarbons, except by the principle of reciprocity, is assigned exclusively to national, Ecuadorian State or mixed shipping companies in which the Ecuadorian State has a participation of at least 51% of the share capital.

Annex I - ECUADOR-34

26. Sector: Transportation Services

Sub-Sector: International Maritime Transport

Obligations Concerned: National Treatment (Articles 15.6 and 16.3)

Most-Favored-Nation Treatment (Articles 15.7 and 16.4)

Market Access (Article 16.5)

Level of Government: Central

Measures: Ley de Facilitación de las Exportaciones y del Transporte Acuático (Law on the Facilitation of

Exports and Water Transport), Official Gazette 901,
of 25 March 1992 (last reform on 21 May 2008),
Chapter II (Water Transport).
Reglamento de Ley de Facilitación de las
Exportaciones y del Transporte Acuático
(Regulation on the Law on the Facilitation of
Exports and Water Transport), Official Gazette
Supplement 956, of 12 June 1992 (last reform on
27 March 1997).
Description: Investment and Cross-Border Trade in Services
1. In international maritime transport to and
from Ecuador, the principle of effective
reciprocity shall be complied with. Effective
reciprocity is understood as the access that
foreign vessels have for the transport of
import and export cargo that Ecuador
generates, under the same conditions of
access that are granted to ships of
Ecuadorian flag or to ships chartered or
operated by national shipping companies, by
the respective foreign country.
2. The Undersecretariat of Ports and Maritime
and River Transport may temporarily
establish restrictions against companies or
vessels flying the flag of third countries,
when the counterpart countries impose them
on ships owned, chartered or operated by
Ecuadorian shipping companies. In any
case, free competition in export shipping
will not be affected.
Annex I - ECUADOR-35
27. Sector: Free Zones
Sub-Sector:
Obligations Concerned: Performance Requirements (Articles 15.12)
Level of Government: Central

Measures: Código Orgánico de la Producción (Organic Code on Production, Trade and Investment), Official Gazette Supplement 351, of 29 December 2010 (last reform on 30 January 2024), Title IV (Free Zones), Chapter IX (Control of Free Zones), Section 3 (Customs regime and foreign trade).

Description: Investment

All merchandise imported into the national territory from the Free Zones will be subject to the corresponding applicable legal system for the payment of taxes on foreign trade. The user will be able to sell up to twenty percent (20%) of the goods and services produced in the Free Zone to the national territory, complying with the corresponding customs obligations.

Annex II.

Schedule of Canada

Introductory Notes

1. The Schedule of a Party to this Annex sets out, pursuant to Articles 15.18 (Investment – Non-Conforming Measures) and 16.7 (Cross-Border Trade in

Services – Non-Conforming Measures), the specific sectors, subsectors or activities for which that Party may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

(a) Article 15.6 (Investment – National Treatment) or 16.3 (Cross-Border Trade in Services – National Treatment);

(b) Article 15.7 (Investment – Most-Favored-Nation Treatment) or 16.4 (Cross-Border Trade in Services – Most-Favored-Nation Treatment);

(c) Article 15.12 (Investment – Performance Requirements);

(d) Article 15.13 (Investment – Senior Management and Boards of Directors); or

(e) Article 16.5 (Cross-Border Trade in Services – Market Access).

2. Each Schedule entry sets out the following elements:

(a) Sector refers to the sector for which the entry is made;

(b) Sub-Sector, where referenced, refers to the specific subsector for which the entry is made;

(c) Obligations Concerned specifies the obligation(s) referred to in paragraph 1 that, pursuant to Articles 15.18(1)(a) (Investment – Non-Conforming Measures) and 16.7(1)(a) (Cross-Border Trade in Services – Non-Conforming Measures), do not apply to the sectors, subsectors, or activities listed in the entry;

(d) Description sets out the scope or nature of the sectors, subsectors, or activities covered by the entry to which the reservation applies; and

(e) Existing Measures identifies, for transparency purposes, a non-exhaustive list of existing measures that apply to the sectors, subsectors, or activities covered by the entry.

3. For greater certainty, in the interpretation of an entry, all elements of the entry shall be considered, and the Description element prevails over all other elements.

4. In accordance with Articles 15.18(2) (Investment – Non-Conforming Measures) and 16.7(2) (Cross-Border Trade in Services – Non-Conforming Measures), the articles of this Agreement specified in the Obligations Concerned element of an entry do not apply to the sectors, subsectors, and activities identified in the Description element of that entry.

Sector: Aboriginal Affairs

Sub-sector:

Obligations Concerned: National Treatment (Articles 15.6 and 16.3)

Most-Favoured-Nation Treatment (Articles 15.7 and 16.4) Performance Requirements (Article 15.12)

Senior Management and Boards of Directors (Article 15.13)

Description: Investment and Cross-Border Trade in Services

Canada reserves the right to adopt or maintain measures with respect to the rights or preferences provided to Aboriginal peoples, including those recognized and affirmed by section 35 of the Constitution Act, 1982 or those set out in self-government agreements between a central or regional level of government and Indigenous Peoples.

Existing Measures: Constitution Act, 1982, being Schedule B of the Canada

Act 1982 (U.K.), 1982, c. 11, as well as land claims

agreements and self-government agreements that have been implemented by statute.

Sector: All Sectors

Sub-sector:

Obligations Concerned: National Treatment (Article 15.6)

Description: Investment

Canada reserves the right to adopt or maintain a measure relating to residency requirements for the ownership of oceanfront land by an investor of Ecuador or its

investments.

Existing Measures:

Sector: Fisheries

Sub-Sector: Fishing and Services Incidental to Fishing

Obligations Concerned: National Treatment (Articles 15.6 and 16.3)

Most-Favoured Nation Treatment (Articles 15.7 and 16.4)

Description: Investment and Cross-Border Trade in Services

Canada reserves the right to adopt or maintain any measure with respect to licensing or otherwise authorizing fishing or fishing related activities, including entry of foreign fishing vessels to Canada's exclusive economic zone, territorial

sea, internal waters, or ports, and use of any services therein.

Existing Measures: Fisheries Act, R.S.C. 1985, c. F-14

Coastal Fisheries Protection Act, R.S.C. 1985, c.33

Coastal Fisheries Protection Regulations, C.R.C. 1978,

c. 413

Commercial Fisheries Licensing Policy

Policy on Foreign Investment in the Canadian Fisheries Sector, 1985

Sector: Government Finance

Sub-sector: Securities

Obligations Concerned: National Treatment (Article 15.6)

Description: Investment

Canada reserves the right to adopt or maintain a measure relating to the acquisition, sale, or other disposition by a

national of Ecuador of bonds, treasury bills, or other kinds of debt securities issued by the Government of Canada or a Canadian sub-national government.

Existing Measures: Financial Administration Act, R.S.C. 1985, c. F-11

Sector: Minority Affairs

Sub-sector:

Obligations Concerned: National Treatment (Articles 15.6 and 16.3)

Performance Requirements (Article 15.12)

Senior Management and Boards of Directors (Article 15.13)

Description: Investment and Cross-Border Trade in Services

Canada reserves the right to adopt or maintain a measure conferring rights or privileges to a socially or economically disadvantaged minority.

Existing Measures:

Sector: Social Services

Sub-sector:

Obligations Concerned: National Treatment (Articles 15.6 and 16.3)

Most-Favoured-Nation Treatment (Articles 15.7 and 16.4) Performance Requirements (Article 15.12)

Senior Management and Boards of Directors (Article 15.13)

Description: Investment and Cross-Border Trade in Services

Canada reserves the right to adopt or maintain a measure with respect to the supply of public law enforcement and correctional services, as well as the following services to

the extent they are social services established or maintained for a public purpose: income security or insurance; social

security or insurance; social welfare; public education; public training; health; and child care.

Existing Measures:

Sector: All Sectors

Sub-sector:

Obligations Concerned: National Treatment (Articles 15.6)

Description: Investment

Canada reserves the right to adopt or maintain any measure relating to the acquisition, purchase, or ownership of

residential property.

Existing Measures:

Sector: Transportation

Sub-sector: Air Transportation

Obligations Concerned: Most-Favoured-Nation Treatment (Article 16.4)

Description: Cross-Border Trade in Services

Canada reserves the right to selectively negotiate agreements or arrangements with other States,

organisations of States, aeronautical authorities or service

suppliers to recognise their accreditation of repair, overhaul and maintenance facilities and certification by these

facilities of work performed on Canadian-registered aircraft and other related aeronautical products.

Sector: Transportation

Sub-Sector: Air transportation

Obligations Concerned: National Treatment (Article 15.6 and Article 16.3)

Most-Favoured-Nation Treatment (Article 15.7 and Article 16.4)

Description: Investment and Cross-Border Trade in Services

Canada reserves the right to adopt or maintain a measure relating to the selling and marketing of air transportation services.

Sector: Transportation

Sub-sector: Water Transportation

Obligations Concerned: National Treatment (Articles 15.6 and 16.3)

Most-Favoured-Nation Treatment (Articles 15.7 and 16.4) Performance Requirements (Article 15.12)

Senior Management and Boards of Directors (Article 15.13)

Description: Investment and Cross-Border Trade in Services

1. Canada reserves the right to adopt or maintain a measure affecting the investment in or supply of marine cabotage services, including:

(a) the transportation of goods or passengers by vessel between points in the territory of Canada or above the continental shelf of Canada, directly or by way of a place

outside Canada; but with respect to waters above the continental shelf of Canada, the

transportation of goods or passengers only in relation to the exploration, exploitation, or

transportation of the mineral or non-living natural resources of the continental shelf of Canada; and

(b) engaging by vessel in any other marine activity of a commercial nature in the territory of Canada and, with respect to

waters above the continental shelf, in these other marine activities of a commercial

nature that are in relation to the exploration, exploitation, or transportation of the mineral or non-living natural resources of the

continental shelf of Canada.

2. This reservation relates, among other things, to limitations and conditions for services suppliers

entitled to participate in these activities, to criteria for the issuance of a temporary cabotage licence to foreign vessels, and to limits on the number of

cabotage licences issued to foreign vessels.

3. For greater certainty, this reservation applies, among other things, to marine activities of a

commercial nature undertaken by or from a vessel, including feeder services and repositioning of

empty containers.

Existing Measures: Coasting Trade Act, S.C. 1992, c. 31

Canada Shipping Act, 2001, S.C. 2001, c.26

Customs Act, R.S.C. 1985, c.1 (2nd Supp.)

Customs and Excise Offshore Application Act, R.S.C. 1985,

c. C-53

Sector: Transportation

Sub-Sector: Water Transportation

Obligations Concerned: Most-Favoured-Nation Treatment (Article 16.4)

Description: Cross-Border Trade in Services

Canada reserves the right to adopt or maintain a measure relating to the implementation of an agreement,

arrangement, or other formal or informal undertaking with other countries with respect to maritime activities in waters of mutual interest in areas such as pollution control

(including double hull requirements for oil tankers), safe navigation, barge inspection standards, water quality,

pilotage, salvage, drug abuse control, or maritime communications.

Existing Measures:

Sector: Transportation

Sub-sector: Water Transportation (Technical Testing and Analysis

Services)

Obligations Concerned: National Treatment (Articles 15.6 and 16.3)

Most-Favoured-Nation Treatment (Articles 15.7 and 16.4)

Description: Investment and Cross-Border Trade in Services

1. Canada reserves the right to adopt or maintain a measure affecting the statutory inspection and certification of a vessel on behalf of Canada.

2. For greater certainty, only a person, classification society, or other organization authorized by

Canada may carry out statutory inspections and issue Canadian Maritime Documents to

Canadian-registered vessels and their equipment on behalf of Canada.

Existing Measures:

Sector: All Sectors

Sub-sector:

Obligations Concerned: Most-Favoured-Nation Treatment (Articles 15.7 and 16.4)

Description: Investment and Cross-Border Trade in Services

1. Canada reserves the right to adopt or maintain a measure that accords differential treatment to

countries under any international agreement in force or signed prior to the date of entry into force of this Agreement.

2. Canada reserves the right to adopt or maintain a measure that accords differential treatment to

countries under any international agreement in force or signed after the date of entry into force of this Agreement involving:

(a) aviation;

(b) fisheries; or

(c) maritime matters, including salvage.

Existing Measures:

Sector: All Sectors

Sub-sector:

Obligations Concerned: Market Access (Article 16.5)

Description: Cross-Border Trade in Services

1. Canada reserves the right to adopt or maintain a measure that is not inconsistent with:

(a) Canada's obligations under Article XVI of GATS, including obligations resulting from future amendments to Canada's Schedule to Article XVI of GATS; and

(b) Canada's Schedule of Specific

Commitments under GATS (GATS/SC/16, GATS/SC/16/Suppl.1,

GATS/SC/16/Suppl.1/Rev.1, GATS/SC/16/Suppl.2,

GATS/SC/16/Suppl.2/Rev.1, GATS/SC/16/ Suppl.3, GATS/SC/16/Suppl.4 and GATS/SC/16/Suppl.4/Rev.1).

2. This entry applies to measures adopted or

maintained that affect the supply of a service by a covered investment pursuant to Article 16.5

(Cross-Border Trade in Services – Market Access). For purposes of this entry only, Canada's Schedule of Specific Commitments is modified as indicated in Appendix I of this Annex.

Existing Measures:

For the following sectors, Canada's obligations under Article XVI of GATS are modified as described.

Sector/Sub-sector Market Access Improvements

Accounting, auditing, and book-keeping

services Under Mode 1 remove:

Auditing

- Commercial presence requirement: Nova Scotia.

- Citizenship requirement for accreditation: Manitoba, Quebec.

- Permanent residence requirement for accreditation: Ontario. Under Mode 2 remove:

Auditing

- Commercial presence requirement: Nova Scotia.

- Citizenship requirement for accreditation: Manitoba, Quebec.

- Permanent residence requirement for accreditation: Ontario.

Architectural services Under Mode 1 remove:

Architects

- Citizenship requirement for accreditation: Quebec.

Engineering services Under Mode 1 remove:

Consulting Engineers

- Commercial presence requirement for accreditation: Manitoba.

Engineers

- Permanent residence requirement for accreditation: Newfoundland and Labrador, Nova Scotia.

- Citizenship requirement for accreditation: Quebec.

Under Mode 2 remove:

Consulting Engineers

- Commercial presence requirement for accreditation: Manitoba.

Engineers

- Permanent residence requirement for accreditation: Newfoundland and Labrador, Nova Scotia.

- Citizenship requirement for accreditation: Quebec.

Integrated

engineering services Under Mode 1 remove:

Consulting Engineers

- Commercial presence requirement for accreditation: Manitoba.

Engineers

- Permanent residence requirement for accreditation: Newfoundland and Labrador, Nova Scotia.

- Citizenship requirement for accreditation: Quebec.

Under Mode 2 remove:

Consulting Engineers

- Commercial presence requirement for accreditation: Manitoba.

Engineers

- Permanent residence requirement for accreditation: Newfoundland and Labrador, Nova Scotia.

- Citizenship requirement for accreditation: Quebec.

Urban planning and landscape

architectural services Under Mode 1 remove:

Community/Urban Planning

- Citizenship requirement for use of title: Quebec.

Real estate services Under Mode 1 remove:

Chartered Appraisers

- Citizenship requirement for use of title: Quebec.

Management

consulting services Under Mode 1 remove:

Agrologists

- Citizenship requirement for accreditation: Quebec.

Professional Administrators and Certified Management Consultants

- Citizenship requirement for use of title: Quebec Professional Corporation of Administrators.

Industrial Relations Counsellors

- Citizenship requirement for use of title: Quebec. Under Mode 2 remove:

Agrologists

- Citizenship requirement for accreditation: Quebec.

Investigation and security services Under Mode 3 remove:

Business and Personnel Information Investigations

- Foreign ownership restriction to 25 percent in total and 10 percent by any individual holding shares: Ontario.

Related scientific and technical consulting services Under Mode 1 remove:

Land Surveyors

- Citizenship requirement for accreditation: Nova Scotia, Quebec.

Subsurface Surveying Services

- Citizenship requirement for accreditation: Quebec. Professional Technologist

- Citizenship requirement for accreditation: Quebec. Chemists

- Citizenship requirement for accreditation: Quebec. Under Mode 2 remove:

Land Surveyors

- Citizenship requirement for accreditation: Nova Scotia, Quebec.

Subsurface Surveying Services

- Citizenship requirement for accreditation: Quebec.

Other business services Under Mode 1 remove:

Certified Translators and Interpreters

- Citizenship requirement for use of title: Quebec. Under Mode 2 remove:

Certified Translators and Interpreters

- Citizenship requirement for use of title: Quebec. Under Mode 3 remove:

Collection Agencies

- Foreign ownership restriction to 25 percent in total and 10 percent by any individual: Ontario.

Courier services Under Mode 3 remove:

- Economic needs test (Criteria related to approval include: examination of the adequacy of current levels of service; market conditions establishing the requirement for expanded service; the effect of new entrants on public convenience,

including the continuity and quality of service; and the fitness, willingness, and ability of the applicant to supply proper

service.): Nova Scotia, Manitoba.

General construction work for civil

engineering Under Mode 3 remove:

Construction

- An applicant and holder of a water power site development permit must be incorporated in Ontario.

Wholesale trade services Under Mode 1 remove:

Marketing of Fish Products (Nova Scotia): Nova Scotia

residents require ministerial approval to enter into agreements with non-residents.

Railway passenger and freight transport Under Mode 1 remove:

- cabotage limitation

Road passenger transportation Under Mode 3 remove:

Interurban bus transport and scheduled services:

- Public convenience and needs test (Criteria related to approval include: examination of the adequacy of current levels of service; market conditions establishing the requirement for expanded service; the effect of new entrants on public

convenience, including the continuity and quality of service; and the fitness, willingness, and ability of the applicant to

supply proper service.): Prince Edward Island.

Road freight

transportation Under Mode 3 remove:

Highway freight transportation

- Public convenience and needs test (Criteria related to approval include: examination of the adequacy of current levels of service; market conditions establishing the requirement for expanded service; the effect of new entrants on public

convenience, including the continuity and quality of service; and the fitness, willingness, and ability of the applicant to

supply proper service.): British Columbia, Manitoba, Ontario, Prince Edward Island, Nova Scotia.

Telecommunications Under Mode 3 remove:

Nova Scotia: no person may vote more than 1,000 shares of Maritime Telegraph and Telephone Ltd.

Annex II.

Schedule of Ecuador

Introductory Notes

1. The Schedule of a Party to this Annex sets out, pursuant to Article

15.18 (Investment – Non-Conforming Measures) and Article 16.7 (Cross-Border Trade in

Services – Non-Conforming Measures), the specific sectors, sub-sectors or activities for

which that Party may maintain existing or adopt new or more restrictive measures that do

not conform with obligations imposed by:

(a) Article 15.6 (Investment – National Treatment) or 16.3 (Cross-Border

Trade in Services – National Treatment);

(b) Article 15.7 (Investment – Most-Favored-Nation Treatment) or

16.4 (Cross-Border Trade in Services – Most-Favored-Nation Treatment);

(c) Article 15.12 (Investment – Performance Requirements);

(d) Article 15.13 (Investment – Senior Management and Boards of

Directors); or

(e) Article 16.5 (Cross-Border Trade in Services – Market Access).

2. Each Schedule entry sets out the following elements:

(a) Sector refers to the sector for which the entry is made;

(b) Sub-sector, where referenced, refers to the specific sector for which the entry is made;

(c) Obligations Concerned specifies the articles referred to in paragraph 1 that, pursuant to Article 15.18 (Investment – Non-Conforming Measures) and 16.7 (Cross-Border Trade in Services – Non-Conforming Measures), do not apply to the sectors, sub-sectors, or activities scheduled in the entry;

(d) Level of Government indicates the level of government maintaining the measures, on which a reservation is taken;

(e) Description sets out the scope of the sectors, sub-sectors or activities covered by the entry; and

(f) Existing Measures identifies, for transparency purposes, existing measures that apply to the sectors, sub-sectors or activities covered by the entry.

3. In the interpretation of a Schedule entry, all elements of the entry shall be considered. The Description element shall prevail over the other elements.

Annex II - ECUADOR-2

4. In accordance with Articles 15.18 (Investment – Non-Conforming Measures) and 16.7 (Cross-Border Trade in Services – Non-Conforming Measures), the articles of this Agreement specified in the Obligations Concerned element of an entry do not apply to the sectors, sub-sectors and activities identified in the Description element of that entry.

Annex II - ECUADOR-3

1. Sector: Certain Sectors

Sub-Sector:

Obligations Concerned: National Treatment (Articles 15.6 and 16.3)

Level of Government: Central

Description: Investment and Cross-Border Trade in Services

1. Ecuador reserves the right to adopt or maintain any measure on:

(a) Universal Postal Service; and

(b) pipeline transportation services.

Existing Measures:

Annex II - ECUADOR-3

2. Sector: Railways

Sub-Sector:

Obligations Concerned: National Treatment (Articles 15.6 and 16.3)

Most-Favored-Nation Treatment (Articles 15.7

and 16.4)

Performance Requirements (Article 15.12)

Senior Management and Boards of Directors

(Article 15.13)

Market Access (Article 16.5)

Level of Government: Central

Description: Investment and Cross-Border Trade in Services

Ecuador reserves the right to adopt or maintain any

measure related to railways considered cultural and

historical heritage, excluding modern railway

infrastructure.

Existing Measures:

Annex II - ECUADOR-4

3. Sector: Minority Affairs

Sub-Sector:

Obligations Concerned: National Treatment (Articles 15.6 and 16.3)

Performance Requirements (Article 15.12)

Senior Management and Boards of Directors

(Article 15.13)

Level of Government: Central

Description: Investment and Cross-Border Trade in Services

Ecuador reserves the right to adopt or maintain any

measure that grants rights or preferences to

disadvantaged social or economic groups.

Existing Measures:

Annex II - ECUADOR-5

4. Sector: Indigenous Affairs

Sub-Sector:

Obligations Concerned: National Treatment (Articles 15.6 and 16. 3)

Most-Favoured-Nation Treatment (Articles 15.7
and 16.4)
Performance Requirements (Article 15.12)
Senior Management and Board of Directors
(Article 15.13)
Market Access (Article 16.5)
Level of Government: Central
Description: Investment and Cross-Border Trade in Services
Ecuador reserves the right to adopt or maintain any
measure that grants rights or preferences to
Indigenous Peoples.
Existing Measures:
Annex II - ECUADOR-6
5. Sector: Education Services - Pre-primary, Primary,
Secondary, Higher and Other Education
Sub-Sector:
Obligations Concerned: National Treatment (Articles 15.6 and 16.3)
Most-Favored-Nation Treatment (Articles 15.7
and 16.4)
Performance Requirements (Article 15.12)
Senior Management and Boards of Directors
(Article 15.13)
Level of Government: Central
Description: Investment and Cross-Border Trade in Services
Ecuador reserves the right to adopt or maintain any
measure with respect to pre-primary, primary and
secondary education; higher education; distance
education at all education levels (except adult
education services, provided that those services do
not confer academic credit, diplomas or degrees);
and other education services.
Existing Measures:
Annex II - ECUADOR-7
6. Sector: All Sectors
Sub-Sector:

Obligations Concerned: Most-Favored-Nation Treatment (Articles 15.7
and 16.4)
Level of Government: Central
Description: Investment and Cross-Border Trade in Services
1. Ecuador reserves the right to adopt or
maintain any measure that accords
differential treatment to countries under any
bilateral or multilateral international
agreement in force or signed prior to the
date of entry into force of this Agreement.
2. Ecuador reserves the right to adopt or
maintain any measure that accords
differential treatment to countries under any
bilateral or multilateral international
agreement in force or signed after the date of
entry into force of this Agreement in the
matter of:
(a) aviation;
(b) fishing;
(c) maritime matters, including
salvage; and
(d) road transport services.
Existing Measures:
Annex II - ECUADOR-8
7. Sector: All Sectors
Sub-Sector:
Obligations Concerned: National Treatment (Article 15.6)
Senior Management and Boards of Directors
(Article 15.13)
Level of Government: Central
Description: Investment
1. When transferring or disposing of its stake
in the capital, or assets of an existing stateowned enterprise or existing government
entity, Ecuador reserves the right to prohibit
or impose limitations on the ownership of

such stake in the capital or assets, and on the
right of foreign investors or their
investments to control any resulting stateowned enterprise by investors from Canada
or a non-Party country or their investments.
Regarding the transfer or disposition,
Ecuador may adopt or maintain any measure
related to the nationality of senior
management executives and members of the
board of directors.
2. For purposes of this reservation:
(a) any measure maintained or adopted
after the date of entry into force of
this Agreement which, at the time of
the sale or other form of disposition,
prohibits or imposes limitations on
participation in equity or assets or
imposes nationality requirements
described in this reserve, shall be
deemed to be a measure that is in
force.
(b) state-owned enterprise means a
public enterprise owned or controlled
by Ecuador or a joint venture,
through a stake in its ownership and
includes an enterprise established
after the date of entry into force of
this Agreement solely for the
purpose of selling or disposing of the
equity interest in, or in the assets of,
a state-owned enterprise or an
existing government entity.
Annex II - ECUADOR-9
A joint venture is one in which the
State, the municipalities, the
provincial councils and the entities

or organizations of the public sector
participate, together with the private
capital, in the capital and in the
social management of this company.
Existing Measures:
Annex II - ECUADOR-10
8. Sector: Social Services
Sub-Sector:
Obligations Concerned: National Treatment (Articles 15.6 and 16.3)
Most-Favored-Nation Treatment (Article 15.7
and 16.4)
Performance Requirements (Article 15.12)
Senior and Management Boards of Directors
(Article 15.13)
Level of Government: Central
Description: Investment and Cross-Border Trade in Services
Ecuador reserves the right to adopt or maintain any
measure related to the execution of public laws, and
of the following services, to the extent that they are
social services that are established or maintained for
reasons of public interest: social rehabilitation,
unemployment insurance, social security services or
insurance, social welfare, education and public
training, health and care for children, people with
disabilities and the elderly.
Existing Measures: Constitución de la República del Ecuador
(Constitution of the Republic of Ecuador), Official
Gazette 449, 20 October 2008 (last reform on
30 May 2024).
Annex II - ECUADOR-11
9. Sector: All Sectors
Sub-Sector:
Obligations Concerned: National Treatment (Articles 15.6 and 16.3)
Performance Requirements (Article 15.12)
Market Access (Article 16.5)

Level of Government: Central and Local

Description: Investment and Cross-Border Trade in Services

Considering that the province of Galapagos has a special regime of governance and that its planning and development is organized according to a strict adherence to the principles of conservation of its natural heritage, Ecuador reserves the right to maintain and adopt any measure with respect to the special regime of the province of Galapagos regarding granting tourist operation permits, hiring personnel, and infrastructure and environmental protection, among others.

Existing Measures: Constitución de la República del Ecuador (Constitution of the Republic of Ecuador), Official Gazette 449, 20 October 2008 (last reform on 30 May 2024).

Ley de Turismo (Law on Tourism), Official Gazette Supplement 733, 27 December 2002 (last reform on 25 March 2024).

Ley Orgánica de Régimen Especial de la Provincia de Galápagos (Organic Law of Special Regime for the Province of Galapagos), Official Gazette Supplement 520, 11 June 2015 (last reform on 11 January 2023).

Reglamento General de Aplicación de la Ley de Turismo (General Regulations to Tourism Law), Official Gazette Supplement 244, 5 January 2004 (last reform on 15 July 2024).

Annex II - ECUADOR-12

10. Sector: Firearms, Ammunition, Explosives, Aerosol Gases and Electroshock Devices

Sub-Sector:

Obligations Concerned: National Treatment (Article 15.6 and 16.3)

Most-Favored-Nation Treatment (Articles 15.7 and 16.4)

Performance Requirements (Article 15.12)

Senior Management and Boards of Directors

(Article 15.13)

Level of Government: Central

Description: Investment and Cross-Border Trade in Services

Ecuador reserves the right to adopt or maintain any measure concerning firearms, ammunition, explosives, aerosol gases and electroshock devices, including the manufacture, use, sale, storage, transportation, import, export, and possession of firearms, ammunition, explosives, and similar devices.

Existing Measures:

Annex II - ECUADOR-13

11. Sector: Leisure, Cultural and Sports Services

Sub-Sector: Gambling

Obligations Concerned: National Treatment (15.6 and 16.3)

Performance Requirements (Article 15.12)

Senior Management and Boards of Directors

(Article 15.13)

Market Access (16.5)

Level of Government: Central

Description: Investment and Cross-Border Trade in Services

Ecuador reserves the right to adopt or maintain any measure relating to investment in, or the provision of gambling services, such as casinos, betting houses, gaming halls, among others.

Existing Measures: Executive Decree 873: Reglamento de Juegos de Azar Practicados en Casinos y Salas de Juego (Regulation of Transitional Regime of the Games of Chance Practiced in Casinos and Gaming Rooms), Official Gazette 536, 16 September 2011 (last reform on 3 October 2011).

Annex II - ECUADOR-14

12. Sector: Fisheries and Services Incidental to Fishing

Sub-Sector:

Obligations Concerned: National Treatment (Articles 15. 6 and 16.3)

Performance Requirements (Article 15.12)

Senior Management and Boards of Directors

(Article 15.13)

Level of Government: Central

Description: Investment and Cross-Border Trade in Services

Ecuador reserves the right to adopt or maintain any

measure related to fishing and services incidental to

fishing.

Existing Measures:

Annex II - ECUADOR-15

13. Sector: All Sectors

Sub-Sector:

Obligations Concerned: National Treatment (Articles 15.6)

Level of Government: Central

Description: Investment

Ecuador reserves the right to adopt or maintain any

measure relating to the acquisition, purchase or

ownership of residential property.

Existing Measures:

Annex II - ECUADOR-16

14. Sector: All

Sub-Sector:

Obligations Concerned: Market Access (Article 16.5)

Level of Government: Central

Description: Cross-Border Trade in Services

1. Ecuador reserves the right to adopt or

maintain any measure that is not inconsistent

with the Ecuador’s obligations under

Article XVI of the General Agreement on

Trade in Services as set out in the Ecuador’s

Schedule of Specific Commitments under

the GATS (GATS/SC/98,

GATS/SC/98/Suppl.1, and

GATS/SC/90/Suppl.2).

2. For purposes of this entry only, Ecuador's Schedule is subject to the following modifications:

(a) for any sector and sub-sector with regard to which Ecuador's Annex I of this Agreement contains an entry (other than an entry with regard to "All Sectors") that does not list Market Access as one in the Obligations Concerned element, "None" is inscribed in the Market Access column for modes 1, 2, and 3, and "Unbound except as indicated in the Horizontal commitments section" is inscribed for mode 4;

(b) for any sector and sub-sector with regard to which Ecuador's Annex I contains an entry (other than an entry with regard to "All Sectors") that lists a limitation to the Market Access obligation, that limitation is inscribed in the Market Access column with regard to the appropriate mode of supply; and

(c) for any sector and sub-sector listed in Appendix I-A of this Agreement, Ecuador's Schedule is modified as indicated in the Appendix I-A.

Existing Measures:

Annex II - ECUADOR-17

Appendix I-A

For the following Sectors, Ecuador's obligations under Article XVI of the General Agreement on Trade in Services as set out in the Ecuador's Schedule of Specific Commitments under the GATS (GATS/SC/98, GATS/SC/90/Suppl.1, and

GATS/SC/98/Suppl.2) are improved as described.

Sector/Sub-Sector Market Access Improvements

1. Business Services

A. Professional Services1

Integrated engineering services

(CPC 8673)

Insert new commitments with “None” for modes 1, 2 and 3 and “Unbound except as indicated in the Horizontal Commitments section.” for mode 4.

Technical testing and analysis services

(CPC 8676)

Insert new commitments with “None” for modes 1, 2 and 3 and “Unbound except as indicated in the Horizontal Commitments section.” for mode 4.

Medical and dental services (CPC 9312)

Insert new commitments with “None” for modes 1 and 2; “Unbound” for mode 3 and “Unbound except as indicated in the Horizontal Commitments section.” for mode 4.

Other services

Religious services (CPC 95910)

Insert new commitments with “None” for modes 1, 2 and 3 and “Unbound except as indicated in the Horizontal Commitments section.” for mode 4.

B. Computer and Related Services

Consultancy services related to the installation of computer hardware

(CPC 841)

Insert new commitments with “None” for modes 1, 2 and 3 and “Unbound except as indicated in the Horizontal Commitments

section." for mode 4.

Software implementation services

(CCP 842)

Insert new commitments with "None" for

modes 1, 2 and 3 and "Unbound except as

indicated in the Horizontal Commitments

section." for mode 4.

1 To practice a profession in Ecuador, it is necessary to have a degree recognized or revalidated by the competent authority. There are special requirements that health professionals must meet.

Annex II - ECUADOR-18

Sector/Sub-Sector Market Access Improvements

Data processing services (CCP 843)

Insert new commitments with "None" for

modes 1, 2 and 3 and "Unbound except as

indicated in the Horizontal Commitments

section." for mode 4.

Data base services (CPC 844)

Insert new commitments with "None" for

modes 1, 2 and 3 and "Unbound except as

indicated in the Horizontal Commitments

section." for mode 4.

Maintenance and repair services of office

machinery and equipment including

computers (CPC 845)

Insert new commitments with "None" for

modes 1, 2, and 3 and "Unbound except as

indicated in the Horizontal Commitments

section." for mode 4.

Other computer services (CPC 849)

Insert new commitments with "None" for

modes 1, 2, and 3 and "Unbound except as

indicated in the Horizontal Commitments

section." for mode 4.

C. Research and Development Services

Research and development services on

natural sciences (CPC 851)

Insert new commitments with “None” for modes 1, 2, and 3 and “Unbound except as indicated in the Horizontal Commitments section.” for mode 4.

Research and development services on social sciences and humanities (CPC 852)

Insert new commitments with “None” for modes 1, 2 and 3 and “Unbound except as indicated in the Horizontal Commitments section.” for mode 4.

Interdisciplinary research and development services (CPC 853)

Insert new commitments with “None” for modes 1, 2, and 3 and “Unbound except as indicated in the Horizontal Commitments section.” for mode 4.

D. Real Estate Services

Real estate services involving own or leased property (CPC 821)

Insert new commitments with “None” for modes 1, 2, and 3 and “Unbound except as indicated in the Horizontal Commitments section.” for mode 4.

Annex II - ECUADOR-19

Sector/Sub-Sector Market Access Improvements

Real state services on a fee or contract basis (CPC 822)

Insert new commitments with “Unbound” for mode 1, “None” for modes 2 and 3 and “Unbound except as indicated in the Horizontal Commitments section” for mode 4.

E. Leasing or rental services without

operator

Leasing or rental services, with or without purchase option, concerning vessels without operator (CPC 83103)

Insert new commitments with “None” for modes 1, 2 and 3 and “Unbound except as indicated in the Horizontal Commitments section.” for mode 4.

Leasing or rental services, with or without purchase option, concerning aircraft (CPC 83104)

Insert new commitments with “None” for modes 1, 2 and 3 and “Unbound except as indicated in the Horizontal Commitments section.” for mode 4.

Leasing or rental services, with or without purchase option, concerning agricultural machinery and equipment without operator (CPC 83106)

Insert new commitments with “None” for modes 1, 2 and 3 and “Unbound except as indicated in the Horizontal Commitments section.” for mode 4.

Leasing or rental services concerning office machinery and equipment (including computers) without operator (CPC 83108)

Insert new commitments with “None” for modes 1, 2 and 3 and “Unbound except as indicated in the Horizontal Commitments section.” for mode 4.

Leasing or rental services concerning other machinery and equipment without operator (CPC 83109)

Insert new commitments with “None” for

modes 1, 2 and 3 and “Unbound except as indicated in the Horizontal Commitments section.” for mode 4.

Leasing or rental services, with or without purchase option, concerning televisions, radios, video cassette recorders and related equipment and accessories (CPC 83201)

Insert new commitments with “None” for modes 1, 2 and 3 and “Unbound except as indicated in the Horizontal Commitments section.” for mode 4.

Leasing or rental services concerning other personal or household goods (CPC 83209)

Insert new commitments with “None” for modes 1, 2 and 3 and “Unbound except as indicated in the Horizontal Commitments section.” for mode 4.

Annex II - ECUADOR-20

Sector/Sub-Sector Market Access Improvements

F. Other Business Services

Market research and public opinion polling services (CPC 864)

Insert new commitments with “None” for modes 1, 2 and 3 and “Unbound except as indicated in the Horizontal Commitments section.” for mode 4.

Technical testing and analysis services (CPC 8676)

Insert new commitments with “None” for modes 1, 2 and 3 and “Unbound except as indicated in the Horizontal Commitments section.” for mode 4.

Services incidental to agriculture, hunting

and forestry

- Services incidental to agriculture (CPC 8811 limited to professional services related to agriculture)
- Services incidental to animal husbandry (CPC 8812 limited to professional services related to animal husbandry)
- Services incidental to forestry and logging (CPC 8814)

Insert new commitments with “None” for modes 1, 2 and 3 and “Unbound except as indicated in the Horizontal Commitments section.” for mode 4.

Services related to manufacturing except the manufacture of metal products, machinery and equipment (CPC 884) (only for consulting and advisory services)

Insert new commitments with “None” for modes 1 and 2 and 3 and “Unbound except as indicated in the Horizontal Commitments section.” for mode 4.

Secondary services for the manufacture of metal products, machinery and equipment (CPC 885) (only for consulting and advisory services)

Insert new commitments with “None” for modes 1, 2 and 3 and “Unbound except as indicated in the Horizontal Commitments section.” for mode 4.

Placement and supply services of personnel (CPC 872)

Insert new commitments with “None” for modes 1, 2 and 3 and “Unbound except as indicated in the Horizontal Commitments

section.” for mode 4.

Related scientific and technical consulting services (CPC 8675)

Insert new commitments with “None” for modes 1, 2 and 3 and “Unbound except as indicated in the Horizontal Commitments section.” for mode 4.

Annex II - ECUADOR-21

Sector/Sub-Sector Market Access Improvements

Maintenance and repair services for equipment (excluding vessels, aircraft and other transport equipment)

- Repair services of machinery and equipment n.e.c., on a fee or contract basis (CPC 8862)
- Repair services of medical, precision and optical instruments, watches and clocks, on a fee or contract basis (CPC 8866)

Repair services of personal and household goods (CPC 633)

Insert new commitments with “None” for modes 1, 2 and 3 and “Unbound except as indicated in the Horizontal Commitments section.” for mode 4.

Building-cleaning services (CPC 874)

Insert new commitments with “None” for modes 1, 2 and 3 and “Unbound except as indicated in the Horizontal Commitments section.” for mode 4.

Packaging services (CPC 876)

Insert new commitments with “Unbound” for modes 1 and 2, “None” for mode 3 and “Unbound except as indicated in the Horizontal Commitments section” for

mode 4.

Services provided on the occasion of assemblies or conventions (CPC 87909*)

Insert new commitments with “Unbound” for modes 1, “None” for modes 2 and 3 and “Unbound except as indicated in the Horizontal Commitments section” for mode 4.

Others

Telephone answering services (CPC 87903)

Insert new commitments with “None” for modes 1, 2 and 3 and “Unbound except as indicated in the Horizontal Commitments section.” for mode 4.

Photocopying and similar services (CPC 87904)

Insert new commitments with “None” for modes 1, 2 and 3 and “Unbound except as indicated in the Horizontal Commitments section” for mode 4.

Translation and interpretation services (CPC 87905)

Insert new commitments with “None” for modes 1, 2 and 3 and “Unbound except as indicated in the Horizontal Commitments section” for mode 4.

Annex II - ECUADOR-22

Sector/Sub-Sector Market Access Improvements

Mailing list compilation and mailing services (CPC 87906)

Insert new commitments with “None” for modes 1, 2 and 3 and “Unbound except as indicated in the Horizontal Commitments section.” for mode 4.

Specialty design services (CPC 87907)

Insert new commitments with “None” for modes 1, 2 and 3 and “Unbound except as indicated in the Horizontal Commitments section” for mode 4.

Laundry collection services (CPC 97011)

Insert new commitments with “Unbound” for mode 1, “None” for modes 2 and 3 and “Unbound except as indicated in the Horizontal Commitments section” for mode 4.

2. Communication Services

B. Courier services (CPC 7512)

Insert new commitments with “Unbound” for mode 1, “None, except for those authorizations required by the competent authorities for mode 3” for modes 2 and 3, and “Unbound except as indicated in the Horizontal Commitments section” for mode 4.

C. Telecommunication services

Consulting services (CPC75440)

Insert new commitments with “None” for modes 1, 2 and 3 and “Unbound except as indicated in the Horizontal Commitments section” for mode 4.

3. Construction and Related Engineering Services

General construction work for buildings (CPC 512) excluding construction work for: one- and two-dwelling buildings; multi-dwelling buildings and educational buildings. (CPC 5121, 5122, and 5127)

Insert new commitments with “None” for modes 1, 2 and 3 and “Unbound except as

indicated in the Horizontal Commitments section" for mode 4.

Installation and assembly work (CPC 514 and 516)

Insert new commitments with "None" for modes 1, 2 and 3 and "Unbound except as indicated in the Horizontal Commitments section" for mode 4

Annex II - ECUADOR-23

Sector/Sub-Sector Market Access Improvements

Building completion and finishing work (CPC 517)

Insert new commitments with "None" for modes 1, 2 and 3 and "Unbound except as indicated in the Horizontal Commitments section" for mode 4

Other (CPC 511, 515 and 518)

Insert new commitments with "None" for modes 1, 2 and 3 and "Unbound except as indicated in the Horizontal Commitments section" for mode 4.

4. Distribution Services

Commission agents' services (CPC 621)

Insert new commitments with "None" for modes 1, 2 and 3 and "Unbound except as indicated in the Horizontal Commitments section" for mode 4.

Wholesale trade services (CPC 622)

Insert new commitments with "None" for modes 1, 2 and 3 and "Unbound except as indicated in the Horizontal Commitments section" for mode 4.

Retailing services (CPC 631, 632, 6111, 6113 and 6121)

Insert new commitments with "None" for

modes 1, 2 and 3 and “Unbound except as indicated in the Horizontal Commitments section” for mode 4.

Franchising (CPC 8929)

Insert new commitments with “None” for modes 1, 2 and 3 and “Unbound except as indicated in the Horizontal Commitments section” for mode 4.

5. Educational Services

Adult education services (CPC 924)

Insert new commitments with “None” for modes 1, 2 and 3 and “Unbound except as indicated in the Horizontal Commitments section” for mode 4.

11. Transport Services

A. Maritime Transport Services

Freight transportation (CPC 7212, excluding national cabotage transport) (includes the movement of empty containers as long as it does not represent income for the provider)

Insert new commitments with “None” for mode 2; “None, except as set out in Annex I” for modes 1 and 3; and “Unbound except as indicated in the Horizontal Commitments section” for mode 4.

Annex II - ECUADOR-24

Sector/Sub-Sector Market Access Improvements

Air Transport Services

Computerized reservation system

Insert new commitments with “None” for modes 1, 2 and 3 and “Unbound except as indicated in the Horizontal Commitments section” for mode 4.

F. Road Transport Services

Passenger transportation (CPC 7121 and 7122)

Insert new commitments with “Unbound” for mode 1; “None, except as set out in Annex I” for modes 2 and 3; and “Unbound except as indicated in the Horizontal Commitments section” for mode 4.

H. Services auxiliary to transport maritime services

Maritime Cargo Handling Services

Storage and warehousing services (part of CPC 742)

Customs clearance services

Container station and depot services

Maritime agency services

Maritime freight forwarding services, excluding national cabotage transport

Rental of vessels without crew (CPC 7213)

Pushing and towing services (CPC 7214)

Supporting services for maritime transport (part of CPC 745)

Other supporting and auxiliary services (part of CPC 749)

Insert new commitments with “None” for modes 1, 2 and 3, except that the unloading and storage of hydrocarbons shall be assigned exclusively to national, Stateowned or mixed shipping companies of which the State holds at least 51% of the share capital and “Unbound” except as indicated in the Horizontal Commitments section” for mode 4.

Annex II - ECUADOR-25

Sector/Sub-Sector Market Access Improvements

12. Other Services

Footwear and leather goods repair

services (CPC 63301)

Repair services of electrical household

appliances (CPC 63302)

- Watches, clocks and jewelry repair

services (CPC 63303)

Watches, clocks and jewelry specialized

repair services (CPC 63303)

Helmet repair and cleaning services

(CPC 63304)

Bicycle repair services (CPC 63309)

Locksmith trade (CPC 63309)

Insert new commitments with “None” for

modes 1, 2 and 3 and “Unbound except as

indicated in the Horizontal Commitments

section” for mode 4.

Annex III.

Schedule of Canada

Introductory Notes

1. For Canada, in the interpretation of a reservation in Section A, all elements of the reservation shall be considered. A reservation shall be interpreted in the light of the relevant provisions of the Chapter against which the reservation is taken. To the extent that:

(a) the Measures element is qualified by a specific reference in the Description element as so qualified shall prevail over all other elements and

(b) the Measures element is not so qualified, the Measures element shall prevail over all other elements, unless any discrepancy between the Measures element and the other elements considered in their totality is so substantial and material that it would be unreasonable to conclude that the Measures element should prevail, in which case the other elements shall prevail to the extent of that discrepancy.

2. For Canada, in the interpretation of a reservation in Section B, all elements of the reservation shall be considered. The Description element shall prevail over all other elements.

Headnotes

1. Commitments under this Agreement, in the subsectors listed in this Schedule, are undertaken subject to the limitations and conditions set forth in these headnotes and in the Schedule below.

2. To clarify Canada’s commitment with respect to Article 18.5 (Financial

Services – Market Access for Financial Institutions), juridical persons supplying financial services and constituted under the laws of Canada are subject to non-discriminatory limitations on juridical form1.

3. Article 18.10.1(c) (Financial Services – Non-Conforming Measures) shall not apply to non-conforming measures relating to Article 18.5(b) (Financial Services – Market Access for Financial Institutions).

1 For example, partnerships and sole proprietorships are generally not acceptable juridical forms for financial institutions in Canada. This headnote is not itself intended to affect, or otherwise limit, a choice by a financial institution of the other Party between branches or subsidiaries.

A-1.

Sector: Financial Services

Sub-Sector: Banking and other financial services (excluding insurance) Obligations Concerned: Market Access for Financial Institutions (Article 18.5) Level of Government: Central

Measures: Bank Act, S.C. 1991, c.46, s. 524

Description: In order to establish a bank branch, a foreign bank must be

a bank in the jurisdiction under whose laws it is incorporated.

Sector: Financial Services

Sub-Sector: Banking and other financial services (excluding insurance)

Obligations Concerned: National Treatment (Article 18.3)

Market Access for Financial Institutions (Article 18.5)

Level of Government: Central

Measures: Bank Act, S.C. 1991, c.46 s. 520, 524, 540, 545

Sales or Trades (Authorized Foreign Banks) Regulations, SOR/2000-52

Description: A foreign bank must establish a subsidiary as a condition

for accepting retail deposits. Foreign lending branches may not accept deposits.

Sector: Financial Services

Sub-Sector: All

Obligations Concerned: Market Access for Financial Institutions (Article 18.5)

Level of Government: Central

Measures: Trust and Loan Companies Act, S.C. 1991, c.45 Bank Act, S.C. 1991, c.46

Cooperative Credit Associations Act, S.C. 1991, c.48 Insurance Companies Act, S.C. 1991, c.47

Description: Federal laws do not permit a trust and loan company, credit

union, or fraternal benefit society in Canada to be established through branches of corporations organised under a foreign country's law.

Sector: Financial Services

Sub-Sector: All

Obligations Concerned: Market Access for Financial Institutions (Article 18.5)

Level of Government: Central

Measures: Bank Act, S.C. 1991, c.46 s. 510, 522.16, 524

Insurance Companies Act, S.C. 1991, c.47 s. 574, 581

Description: A bank branch must be established directly under the authorised foreign bank incorporated in the jurisdiction where the authorised foreign bank principally carries on business.

A foreign entity authorised to insure, in Canada, risks must be established directly under the foreign insurance company incorporated in the jurisdiction where the foreign insurance company, either directly or through a subsidiary, principally carries on business.

Sector: Financial Services

Sub-Sector: Banking and other financial services (excluding insurance)

Obligations Concerned: National Treatment (Article 18.3)

Market Access for Financial Institutions (Article 18.5)

Level of Government: Central

Measures: Bank Act, S.C. 1991, c.46 s. 520, 540, 545

Schedule I and Schedule II to the Bank Act

Canada Deposit Insurance Corporation Act, R.S.C. 1985, c, C-3 s. 2, 8, 17

Description: Full service foreign bank branches and lending foreign

bank branches are prohibited from becoming member institutions of the Canada Deposit Insurance Corporation.

Sector: Financial Services

Sub-Sector: Banking and other financial services (excluding insurance)

Obligations Concerned: National Treatment (Article 18.3)

Market Access for Financial Institutions (Article 18.5)

Level of Government: Central

Measures: Canadian Payments Act, R.S.C. 1985, c. C-21 s. 2, 4 Bank Act, S.C. 1991, c.46 s. 524, 540

Description: Lending branches of foreign banks are prohibited from

being members of the Canadian Payments Association.

Sector: Financial Services

Sub-Sector: All

Obligations Concerned: National Treatment (Article 18.3)

Most Favoured Nation Treatment (Article 18.4) Cross-Border Trade (Article 18.6)

Senior Management and Boards of Directors (18.9)

Level of Government: Regional

Measures:

Description: All existing non-conforming measures of all provinces and

territories.

B-1.

Sector: Financial Services

Sub-Sector: All

Obligations Concerned: National Treatment (Article 18.3)

Level of Government: Central

Description: With regard to the Canada Mortgage and Housing Corporation and its subsidiaries, Canada reserves the right to adopt or maintain any measure that grants advantages to that entity or any new, reorganised or transferee entity having

similar functions and objectives with respect to housing finance.

Sector: Financial Services

Sub-Sector: All

Obligations Concerned: Market Access for Financial Institutions (Article 18.5)

Level of Government: Regional

Description: Canada reserves the right to adopt or maintain any measure

that is not inconsistent with Canada's obligations under Article XVI of GATS.

Sector: Financial Services

Sub-Sector: All

Obligations Concerned: Most-Favoured Nation Treatment (Article 18.4)

Level of Government: Central

Description: Canada reserves the right to accord differential treatment to

a financial institution of a non-Party, or a cross-border financial service supplier of a non-Party that is subject to regulation, supervision and licensing, authorization or registration by a financial regulatory authority of Canada with regards to the use or location of computing facilities.

Schedule of Ecuador

Introductory Notes

1. The Schedule of Ecuador to this Annex sets out:

(a) headnotes or introductory notes that limit or clarify the commitments of Ecuador with respect to the obligations described in subparagraphs (b) and (c);

(b) in Section A, pursuant to Article 18.10 (Financial Services – Non-Conforming Measures), the existing measures of Ecuador that do not conform with some or all of the obligations imposed by:

(i) Article 18.3 (Financial Services – National Treatment);

(ii) Article 18.4 (Financial Services – Most-Favored-Nation Treatment);

(iii) Article 18.5 (Financial Services – Market Access for Financial Institutions);

(iv) Article 18.6 (Financial Services – Cross-Border Trade); or

(v) Article 18.9 (Financial Services – Senior Management and Boards of Directors); and

(c) in Section B, pursuant to Article 18.10 (Financial Services – Non-Conforming Measures), the specific sectors, subsectors, or activities for which Ecuador may maintain existing, or adopt new or more restrictive, measures that do not conform with the obligations imposed by:

(i) Article 18.3 (Financial Services – National Treatment);

(ii) Article 18.4 (Financial Services – Most-Favored-Nation Treatment);

(iii) Article 18.5 (Financial Services – Market Access for Financial Institutions);

(iv) Article 18.6 (Financial Services – Cross-Border Trade); or

(v) Article 18.9 (Financial Services – Senior Management and Boards of Directors).

2. Each entry in Section A sets out the following elements:

(a) Sector refers to the general sector for which the entry is made;

(b) Sub-Sector, when referenced, refers to the specific sector for which the entry is made;

(c) Obligations Concerned specifies the articles referred to in paragraph 1(b) that, pursuant to Article 18.10.1(a) (Financial Services – Non-Conforming Measures), do not apply to the non-conforming aspects of the law, regulation or other measures, as set out in paragraph 4;

(d) Level of Government indicates the level of government maintaining the listed measure;

(e) Measures identifies the laws, regulations or other measures for which the entry is made. A measure cited in the Measures element:

(i) means the measure as amended, continued, or renewed as of the date of entry into force of this Agreement; and

(ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure; and

(f) Description provides a general non-binding description of the measure for which the entry is made.

3. Each entry in Section B sets out the following elements:

(a) Sector refers to the general sector for which the entry is made;

(b) Sub-Sector, when referenced, refers to the specific sector for which the entry is made;

(c) Obligations Concerned specifies the articles referred to in paragraph 1(c) that, pursuant to Article 18.10 (Financial Services – Non-Conforming Measures), do not apply to the sectors, subsectors, or activities scheduled in the entry;

(d) Level of Government indicates the level of government maintaining the listed measure;

(e) Description sets out the scope of the sectors, subsectors, or activities covered by the entry; and

(f) Existing Measures identifies, for transparency purposes, a non-exhaustive list of existing measures that apply to the sectors, subsectors, or activities covered by the entry.

4. In the interpretation of a non-conforming measure in Section A, all elements shall be considered. A non-conforming measure shall be interpreted in the light of the relevant provisions of the Chapter with respect to which the entry is taken. To the extent that:

(a) the Measures element is qualified by a specific reference in the Description element, the Measures element as so qualified shall prevail over all other elements; and

(b) the Measures element is not so qualified, the Measures element shall prevail over all other elements, unless a discrepancy between the Measures element and the other elements considered in their totality is so substantial and material that it would be unreasonable to conclude that the Measures element should prevail, in which case the other elements shall prevail to the extent of that discrepancy.

5. In the interpretation of a non-conforming measure in Section B, all elements shall be considered. The Description element shall prevail over all other elements.

Headnotes

1. Commitments in these sub-sectors under this Agreement are made subject to the limitations and conditions set out in these headnotes and in this Schedule.

2. For greater clarity regarding the commitments of Ecuador under Article 18.5 (Financial Services – Market Access for Financial Institutions), financial institutions incorporated under the law of Ecuador are subject to non-discriminatory limitations on juridical form.

3. Article 18.10.1(c) (Financial Services – Non-Conforming Measures) does not apply to non-conforming measures related to Article 18.5 (Financial Services – Market Access for Financial Institutions) with respect to specific types of juridical form.

4. For greater certainty, institutions in the private financing system and their directors must not, either directly or indirectly, hold shares and interest in undertakings or commercial companies outside the financial sector, with presence or activity in the Ecuadorian market. This prohibition does not apply to shareholders, that individually or together through economic, corporate or family business ties, hold less than 25 percent of the share capital of a financial institution, who may, either directly or indirectly, hold shares and interest in undertakings or commercial companies outside the financial sector.

Section A

1. Sector: Financial Services

Sub-Sector: All

Obligations Concerned: National Treatment (Article 18.3)

Market Access for Financial Institutions (Article 18.5)

Level of Government: Central

Measures: Código Orgánico Monetario y Financiero (Monetary and Financial Organic Code), Official Gazette, Supplement 332, of 12 September 2014 (last reform of 29 July 2024), Book I:

Articles 14.1(f), 162, 179, and 194, Book II.

Description: Foreign financial institutions that intend to establish branches in Ecuador, to exercise financial activities or to constitute representative offices, must obtain prior authorization from national control bodies.

Following authorization, branches must register their domicile in Ecuador.

Ecuadorian law does not permit institutions authorized to operate in the securities market to be established as branches. These institutions include brokerage houses (casas de valores), funds management companies (administradoras de fondos), and stock exchanges (bolsas de valores).

The representative offices of foreign financial institutions may only act as information centres to their clients. They must not solicit funds or deposits in Ecuador to be placed abroad, neither must they offer or invest in Ecuador securities issued abroad.

The Financial Policy and Regulation Board has the power to establish non-discriminatory moratoriums for the constitution of new entities in the financial, securities and insurance sectors.

2. Sector: Financial Services

Sub-Sector: All

Obligations Concerned: Market Access for Financial Institutions

(Article 18.5)

Level of Government: Central

Measures: Monetary and Financial Organic Code), Official

Gazette, Supplement 332, of 12 September 2014

(last reform of 29 July 2024), Book I: Articles 389,

428, and 434, Book II: Articles 44, 56, 97, 98

and 176, Book III: Articles 2, 3, 4, and 5.

Resolution No. SCVS-INS-2016-002, De las

calificaciones otorgadas por la Superintendencia de

Compañías, Valores y Seguros (Of the ratings

issued by the Superintendency of Companies,

Securities and Insurance), of the Superintendency

of Companies, Securities and Insurance.

Description: Private financial entities and financial services

entities shall be constituted at the Superintendency

of Banks as stock companies (sociedades

anonimas), and, auxiliary service entities shall be incorporated as stock companies or limited companies (compañías limitadas).

The same provision with respect to the legal form of a stock company applies to insurance and reinsurance companies, insurance intermediary companies, stock exchanges, brokerage houses, fund administrators and trusts, and central securities depositories for securities clearance and settlement.

In order to be eligible to issue ratings in the securities and insurance sectors, risk rating agencies shall be constituted as stock companies or limited companies.

When a financial institution owns shares in an auxiliary service company, apart from exceptional cases subject to the authorization of the Superintendency of Banks, that auxiliary service company may only provide services to natural or legal persons within the national financial system.

3. Sector: Financial Services

Sub-Sector: Credit Reference Services

Obligations Concerned: Market Access for Financial Institutions (Article 18.5)

Level of Government: Central

Measures: Código Orgánico Monetario y Financiero (Monetary and Financial Organic Code), Official Gazette, Supplement 332, of 12 September 2014 (last reform of 29 July 2024), Book I: Article 357.

Resolution No. 485-2018-F, Modifíquese la Codificación de Resoluciones Monetarias, Financieras, de Valores y Seguros (Modify the Codification of Monetary, Financial, Valuation and Insurance Resolutions), Official Gazette 408, of 17 January 2019.

Description: Credit reference services can be provided only

by: a) Superintendency of Banks, or b) authorised

legal entities whose sole object, as stipulated in the

articles of incorporation, is the provision of credit

reference services

4. Sector: Insurance and Insurance Related Services

Sub-Sector:

Obligations Concerned: National Treatment (Article 18.3)

Cross-Border Trade (Article 18.6)

Level of Government: Central

Measures: Código Orgánico Monetario y Financiero (Monetary and Financial Organic Code), Official Gazette, Supplement 332, of 12 September 2014 (last reform of 29 July 2024), Book III: Article 66.

Description: It is forbidden to enter into the following insurance contracts, in Ecuadorian territory, with insurance companies not constituted or organized under the country's law:

(a) insurance of persons, when the insured is in Ecuador at the time the contract is concluded;

(b) fire insurance and additional risks insurance for property located in the national territory;

(c) hull insurance for sea vessels or aircrafts, when they are under Ecuadorian registration;

(d) insurance for the transportation of merchandise or goods imported into the country; and

(e) insurance of the other branches against risks that may occur in Ecuadorian territory.

In the event that insurance companies authorized to operate in the country cannot assume a certain risk, the interested party, with the prior authorization of the Superintendent of Companies, Securities and Insurance, may take out insurance for that risk abroad.

5. Sector: Financial Services

Sub-Sector: Fund and Trust Administrators

Obligations Concerned: National Treatment (Article 18.3)

Cross-Border Trade (Article 18.6)

Level of Government: Central

Measures: Código Orgánico Monetario y Financiero (Monetary and Financial Organic Code), Official Gazette, Supplement 332, of 12 September 2014 (last reform of 29 July 2024), Book II: Article 77.

Description: An investment fund constituted outside of Ecuador requires a fund administrator constituted under Ecuadorian law in order to receive investments from residents of Ecuador. The fund administrator must comply with all requirements of the Superintendency of Companies, Securities, and Insurance, which includes representation agreements, information requirements, and fiduciary responsibility.

The administrators of funds and trusts constituted in Ecuador are the only institutions authorised to manage or represent international funds.

6. Sector: Financial Services

Sub-Sector: Investment Banking

Obligations Concerned: National Treatment (Article 18.3)

Market Access for Financial Institutions (Article 18.5)

Level of Government: Central

Measures: Código Orgánico Monetario y Financiero (Monetary and Financial Organic Code), Official Gazette, Supplement 332, of 12 September 2014 (last reform of 29 July 2024), Book II: First Article that is not numbered after Article 59.

Description: Only brokerage houses (casas de valores) constituted under Ecuadorian law and the Bank of the Ecuadorian Social Security Institute may carry out investment banking activities in Ecuador.

Section B

1. Sector: Financial Services

Sub-Sector: All

Obligations Concerned: National Treatment (Article 18.3)

Level of Government: Central

Description: Ecuador reserves the right to maintain or adopt measures that grant advantages or exclusive rights to public financial institutions owned by the State of Ecuador, with the goal of promoting national and regional productive development, innovation, infrastructure and social protection projects, food sovereignty, economic inclusion, the promotion of the arts, culture and innovation.

Existing Measures: Código Orgánico Monetario y Financiero

(Monetary and Financial Organic Code), Official Gazette, Supplement 332, of 12 September 2014 (last reform of 29 July 2024), Book I: Article 386.

2. Sector: Financial Services

Sub-Sector: All

Obligations Concerned: National Treatment (Article 18.3)

Most-Favored-Nation Treatment (Article 18.4)

Market Access for Financial Institutions (Article 18.5)

Senior Management and Boards of Directors (Article 18.9)

Level of Government: Central

Description: Ecuador reserves the right to limit, not permit, or otherwise restrict the establishment or expansion of institutions in the “popular and solidarity financial sector” (el sector financiero popular y solidario).

Ecuador reserves the right to adopt or maintain a measure that grants differentiated and preferential treatment to institutions in the popular and solidarity financial sector to the extent that these institutions promote the development of the popular and solidarity economy.

Existing Measures: Constitución de la República del Ecuador

(Constitution of the Republic of Ecuador), Official Gazette 449, of 20 October 2008, Article 311.

Código Orgánico Monetario y Financiero (Monetary and Financial Organic Code), Official Gazette, Supplement 332, of 12 September 2014 (last reform of 29 July 2024), Book I: Articles 160 and 163.

3. Sector: Financial Services

Sub-Sector: Insurance and Reinsurance

Obligations Concerned: National Treatment (Article 18.3)

Cross-Border Trade (Article 18.6)

Level of Government: Central

Description: Ecuador reserves the right to limit, not permit, or otherwise restrict the establishment of representative offices of insurance and reinsurance and intermediaries of insurance and reinsurance companies organised under a foreign country’s law.

Annex IV.

Non-Conforming Activities

Explanatory Note

1. The Schedule of a Party to this Annex sets out, pursuant to Article 10.10.1 (State-Owned Enterprises and Designated Monopolies – Party-Specific Annexes), the non-conforming activities of a state-owned enterprise or designated monopoly, with respect to which some or all of the following obligations shall not apply:

(a) Article 10.3 (State-Owned Enterprises and Designated Monopolies – Non-Discriminatory Treatment and Commercial Considerations);

(b) Article 10.5 (State-Owned Enterprises and Designated Monopolies –

Adverse Effects); and

(c) Article 10.6 (State-Owned Enterprises and Designated Monopolies – Injury).

2. Each Schedule entry sets out the following elements:

(a) Obligations Concerned specifies the obligations referred to in

paragraph 1 that, pursuant to Article 10.10.1 (State-Owned Enterprises and Designated Monopolies – Party-Specific Annexes), shall not apply to the non-conforming activities of the state-owned enterprise or designated monopoly, as set out in paragraph 3;

(b) Entity identifies the state-owned enterprise or designated monopoly that undertakes the non-conforming activities for which the entry is made;

(c) Scope of Non-conforming Activities provides a description of the scope of non-conforming activities of the state-owned enterprise or designated monopoly for which the entry is made; and

(d) Measures identifies, for transparency purposes, a non-exhaustive list of the laws, regulations, or other measures pursuant to which the state-owned enterprise or designated monopoly engages in the non-conforming activities for which the entry is made.

3. In accordance with Article 10.10.1 (State-Owned Enterprises and Designated Monopolies – Party-Specific Annexes), the articles of this Agreement specified in

the Obligations Concerned element of an entry shall not apply to the non-conforming activities (identified in the Scope of Non-conforming Activities element of that entry) of the state-owned enterprise or designated monopoly (identified in the Entity element of that entry).

SCHEDULE OF CANADA

Obligations Concerned: Article 10.3.1(a) (State-Owned Enterprises and Designated Monopolies – Non-Discriminatory Treatment and Commercial Considerations)

Article 10.3.1(c)(i) (State-Owned Enterprises and Designated Monopolies – Non-Discriminatory Treatment and Commercial Considerations)

Article 10.5.1(b) (State-Owned Enterprises and Designated Monopolies – Adverse Effects)

Entity: Canadian Commercial Corporation, or any new, reorganized, or transferee enterprise, with similar functions and objectives.

Scope of Non-Conforming Activities: With respect to Article 10.3.1(a) (State-

Owned Enterprises and Designated Monopolies – Non-Discriminatory Treatment and Commercial Considerations), the Entity or Entities may restrict the sale of services associated with facilitating the import or export of goods or services to enterprises located within Canada as set out in applicable laws, regulations, policies, and practices.

With respect to Article 10.3.1(c)(i) (State-Owned Enterprises and Designated Monopolies – Non-Discriminatory Treatment and Commercial Considerations), the Entity or Entities may accord preferences in the sale of services associated with facilitating the import or export of goods or services to or from certain countries based on bilateral arrangements with the

relevant country.

With respect to Article 10.5.1(b) (State-Owned Enterprises and Designated Monopolies – Adverse Effects), Canada may provide the Entity or Entities with non-commercial assistance with respect to its supply of a service from Canada into the territory of Ecuador associated with facilitating the import or export of goods and services, as set out in applicable laws, regulations, and policies.

Measures: Canadian Commercial Corporation Act,

R.S.C. 1985, c. C-14 (and regulations thereof).

Obligations Concerned: Article 10.5.1(a) (State-Owned Enterprises and Designated Monopolies – Adverse Effects)

Article 10.5.1(b) (State-Owned Enterprises and Designated Monopolies – Adverse Effects)

Article 10.6.1(a) (State-Owned Enterprises and Designated Monopolies – Injury)

Article 10.6.1(b) (State-Owned Enterprises and Designated Monopolies – Injury)

Entity: Canadian Dairy Commission, or any new, reorganized, or transferee enterprise, with similar functions and objectives.

Scope of Non-Conforming Activities: With respect to Article 10.5.1(a) (State-

Owned Enterprises and Designated Monopolies – Adverse Effects), Canada may provide the Entity or Entities with non-commercial assistance that may cause adverse effects with respect to the production and sale of dairy products in the territory of Canada pursuant to the Canadian Dairy Commission Act.

With respect to Article 10.5.1(b) (State-Owned Enterprises and Designated Monopolies – Adverse Effects), Canada may provide the Entity or Entities with non-commercial assistance that may cause adverse effects regarding services related to the cross-border trade of dairy products (export and import) such as shipping, insuring, and wholesale trade and distribution, pursuant to the Canadian Dairy Commission Act.

With respect to Article 10.6.1(a) (State-Owned Enterprises and Designated Monopolies – Injury), the Entity or Entities may provide Canada's state-owned enterprises with non-commercial assistance that may cause adverse effects with respect to the production and sale of dairy products in the territory of Canada pursuant to the Canadian Dairy Commission Act.

With respect to Article 10.6.1(b) (State-Owned Enterprises and Designated Monopolies – Injury), the Entity or Entities may provide Canada's state-owned enterprises with non-commercial assistance that may cause adverse effects with respect to services related to the cross-border trade of dairy products (export and import) such as shipping, insuring, and wholesale trade and distribution, pursuant to the Canadian Dairy Commission Act.

Measures: Canadian Dairy Commission Act,

R.S.C. 1985, c. C-15 (and regulations thereof).

Obligations Concerned: Article 10.3.1(a) (State-Owned Enterprises and Designated Monopolies – Non-Discriminatory Treatment and Commercial Considerations)

Article 10.3.1(b)(i) (State-Owned Enterprises and Designated Monopolies – Non-Discriminatory Treatment and Commercial Considerations)

Article 10.3.1(c)(i) (State-Owned Enterprises and Designated Monopolies – Non-Discriminatory Treatment and Commercial Considerations)

Entity: Canada Mortgage and Housing Corporation and Canada Housing Trusts, or any new, reorganized, or transferee enterprise, with similar functions and objectives.

Scope of Non-Conforming Activities: With respect to Article 10.3.1(a) (State-

Owned Enterprises and Designated Monopolies – Non-Discriminatory Treatment and Commercial Considerations), the Entity or Entities may take into account factors other than commercial considerations in the provision of financial or housing-related services such as:

(a) guarantees, mortgage insurance, loans and mortgage-backed securities; and

(b) management of nursing homes, retirement homes, on-reserve and rental housing and ancillary infrastructure,

in furtherance of the mandate to support housing needs and housing affordability in Canada as set out in laws, regulations, policies, or programs.

With respect to Articles 10.3.1(b)(i) and 10.3.1(c)(i) (State-Owned Enterprises and Designated Monopolies – Non-Discriminatory Treatment and Commercial Considerations), and as set out in applicable laws, regulations, policies, or programs, the Entity or Entities may:

(a) provide financial or housing-related services such as mortgage insurance, loans, and advisory services only to enterprises in Canada or provide those services to enterprises in certain other countries; and

(b) purchase financial or housing-related services from enterprises in certain other countries.

Measures: Canada Mortgage and Housing Corporation Act, R.S.C. 1985, c. C-7 National Housing Act, R.S.C. 1985, c. N-11 (and regulations thereof).

Obligations Concerned: Article 10.3.1(a) (State-Owned Enterprises and Designated Monopolies – Non-Discriminatory Treatment and Commercial Considerations)

Article 10.3.1(b) (State-Owned Enterprises and Designated Monopolies – Non-Discriminatory Treatment and Commercial Considerations)

Entity: All existing and future state-owned enterprises

Scope of Non-Conforming Activities: With respect to Article 10.3.1(a) (Non-

Discriminatory Treatment and Commercial Considerations), the Entity or Entities may accord more favorable treatment to indigenous persons and organizations in the purchase of a good or service.

With respect to Article 10.3.1(b) (State-Owned Enterprises and Designated Monopolies – Non-Discriminatory Treatment and Commercial Considerations), the Entity or Entities may accord more favorable treatment to indigenous persons and organizations in the purchase of a good or service.

Measures: Constitution Act, 1982, being Schedule B of the Canada Act 1982 (U.K.), 1982, c. 11

SCHEDULE OF ECUADOR

Obligations Concerned: Article 10.3.1 (State-Owned Enterprises and Designated Monopolies – Non-discriminatory Treatment and Commercial Considerations)

Article 10.5.1(b) (State-Owned Enterprises and Designated Monopolies – Adverse Effects)

Article 10.5.1(c) (State-Owned Enterprises and Designated Monopolies – Adverse Effects)

Entity: Corporación Financiera Nacional B.P., its existing subsidiaries, or any new, reorganized or successor enterprise.

Scope of Non-Conforming Activities: With respect to Article 10.3.1(b) (State-

Owned Enterprises and Designated Monopolies – Non-discriminatory Treatment and Commercial Considerations), the Entity, pursuant to laws, regulations, policies or programs, may accord preferential treatment in its purchase of goods or services to national goods of comparable technical condition and quality or that incorporate a higher component of Ecuadorian origin. Additionally, Ecuador may require the Entity to prioritize the purchase of goods and services from Ecuadorian small and medium-sized enterprises and actors of the Popular and Solidarity Economy to foster local economic development and support the growth of the national market.

With respect to Articles 10.3.1(a) and 10.3.1(c) (State-Owned Enterprises and Designated Monopolies – Non-discriminatory Treatment and Commercial Considerations), the Entity may, pursuant to laws, regulations, policies or programs, take into account factors other than commercial considerations and accord preferential treatment only to underserved segments of the population of Ecuador, such as women, indigenous peoples and small and medium-sized enterprises, in the sale of its financial services related to programs oriented to promote access to credit.

The services provided by the Entity are not intended to displace or impede financial services provided by privately owned enterprises from the relevant market.

With respect to Articles 10.5.1 and 10.5.2 (State-Owned Enterprises and Designated Monopolies – Adverse Effects), Ecuador may provide the Entity with non-commercial assistance for the supply of financial services to underserved segments of the population of Ecuador.

Measures: Constitución de la República del

Ecuador, 2008 (Constitution of the Republic of Ecuador, 2008, Official Gazette 449,

20 October 2008 (last reform

on 30 May 2024)

Código Orgánico Monetario y Financiero (Monetary and Financial Organic Code), Official Gazette, Supplement 332,

12 September 2014 (last reform on

29 July 2024) and its implementing measures

Código Orgánico de Planificación y Finanzas Públicas (Planning and Public Finances Organic Code), Official Gazette, Supplement 306, 22 October 2010 (last reform on 13 October 2025) and its implementing measures

Ley Orgánica del Sistema Nacional de Contratación Pública (Organic Law of Government Procurement), Official Gazette, Supplement 395, 4 August 2008 (last reform on 7 October 2025) and its implementing measures

Obligations Concerned: Article 10.3.1(b) (State-Owned Enterprises and Designated Monopolies – Non-discriminatory Treatment and Commercial Considerations)

Article 10.3.1(c) (State-Owned Enterprises and Designated Monopolies – Non-discriminatory Treatment and Commercial Considerations)

Entity: Banco de Desarrollo del Ecuador B.P. (BDE), its existing subsidiaries, or any new, reorganized or successor enterprise.

The purpose of the Entity is to finance

pre-investment, investment, public services programs, housing programs and any public or private project, mainly of social interest, that contributes to the economic and social development of the country, prioritizing the execution of the projects of the subcentral and local governments.

Scope of Non-Conforming Activities: With respect to Article 10.3.1(b) (State-

Owned Enterprises and Designated Monopolies – Non-discriminatory Treatment and Commercial Considerations), the Entity, pursuant to laws, regulations, policies or programs, may accord preferential treatment in its purchase of goods or services to national goods of comparable technical condition and quality or that incorporate a higher component of Ecuadorian origin. Additionally, Ecuador may require the Entity to prioritize the purchases of goods and services from Ecuadorian small and medium-sized enterprises and actors of the Popular and Solidarity Economy to foster local economic development and support the growth of the national market

With respect to Article 10.3.1(c) (State-Owned Enterprises and Designated Monopolies – Non-discriminatory Treatment and Commercial Considerations), the Entity may, pursuant to laws, regulations, policies, or programs, accord preferential treatment in its sale of financial services to private enterprises established in Ecuador investing in social interest housing and public interest housing projects.

Measures: Constitución de la República del Ecuador, 2008 (Constitution of the Republic of Ecuador, 2008), Official Gazette 449, 20 October 2008 (last reform on 30 May 2024)

Código Orgánico Monetario y Financiero (Monetary and Financial Organic Code), Official Gazette, Supplement 332, 12 September 2014 (last reform on 29 July 2024) and its implementing measures

Código Orgánico de Planificación y Finanzas Públicas (Planning and Public Finances Organic Code), Official Gazette, Supplement 306, 22 October 2010 (last reform on 13 October 2025) and its implementing measures

Ley Orgánica del Sistema Nacional de Contratación Pública (Organic Law of Government Procurement), Official Gazette, Supplement 395, 4 August 2008 (last reform on 7 October 2025) and its implementing measures

Obligations Concerned: Article 10.3.1 (State-Owned Enterprises and Designated Monopolies – Non-discriminatory Treatment and Commercial Considerations)

Entity: BANECUADOR B.P., its existing subsidiaries, or any new, reorganized or successor enterprise.

The purpose of the Entity, as a development bank, is to supply financial services, mainly to Ecuadorian micro, small and

medium-sized businesses and non-financial cooperatives engaged in productive sectors, with a focus on, but not limited to, agribusiness, commerce and services.

Scope of Non-Conforming Activities: With respect to Article 10.3.1(a) (State-Owned Enterprises and Designated Monopolies – Non-discriminatory Treatment and Commercial Considerations), the Entity, pursuant to laws, regulations, policies or programs, may take into account factors other than commercial considerations in the sale of financial services to underserved segments of the population in Ecuador, provided that these financial services are not intended to displace or impede financial services provided by privately owned enterprises from the relevant market.

With respect to Article 10.3.1(b) (State-Owned Enterprises and Designated Monopolies – Non-discriminatory Treatment and Commercial Considerations), the Entity, pursuant to laws, regulations, policies or programs, may accord preferential treatment in its purchase of goods or services to national goods of comparable technical condition and quality or that incorporate a higher component of Ecuadorian origin. Additionally, Ecuador may require the Entity to prioritize the purchase of goods and services from Ecuadorian small and medium-sized enterprises and actors of the Popular and Solidarity Economy to foster local economic development and support the growth of the national market.

With respect to Article 10.3.1(c) (State-Owned Enterprises and Designated Monopolies – Non-discriminatory Treatment and Commercial Considerations), the Entity may, pursuant laws, regulations, policies or programs, accord preferential treatment in the sale of its financial services to Ecuadorian single person productive units, family productive units, Ecuadorian non-financial cooperatives and associations, micro, small and medium enterprises; Ecuadorian entrepreneurs, mainly located in rural or marginal urban areas, provided that these financial services are not intended to displace or impede financial services provided by privately owned enterprises from the relevant market.

Measures: Constitución de la República del Ecuador, 2008 (Constitution of the Republic of Ecuador, 2008) Official Gazette 449, 20 October 2008 (last reform on 30 May 2024)

Código Orgánico Monetario y Financiero (Monetary and Financial Organic Code), Official Gazette, Supplement 332, 12 September 2014 (last reform on 29 July 2024) and its implementing measures

Código Orgánico de Planificación y Finanzas Públicas (Planning and Public Finances Organic Code), Official Gazette, Supplement 306, 22 October 2010 (last reform on 13 October 2025) and its implementing measures

Ley Orgánica del Sistema Nacional de Contratación Pública (Organic Law of Government Procurement), Official Gazette, Supplement 395, 4 August 2008 (last reform on 7 October 2025) and its implementing measures

Obligations Concerned: Article 10.3.1 (State-Owned Enterprises and Designated Monopolies – Non-discriminatory Treatment and Commercial Considerations)

Article 10.5.1(a) (State-Owned Enterprises and Designated Monopolies – Adverse Effects)

Article 10.5.2(a) (State-Owned Enterprises and Designated Monopolies – Adverse Effects) with respect to the production, sale, or purchase of a good or service

Entity: Empresa Nacional Minera (ENAMI E.P.), its existing subsidiaries, or any new, reorganized or successor enterprise that manage the mining activity, which includes, prospecting, exploration, exploitation, extraction, beneficiation and smelting, refining, commercialization and mine closure.

Scope of Non-Conforming Activities: With respect to Articles 10.3.1(a) and 10. 3.1(b) (State-Owned Enterprises and Designated Monopolies – Non-discriminatory Treatment and Commercial Considerations), the Entity may, pursuant to laws or regulations, take into account other than commercial considerations and accord preferential treatment in its purchases of minerals to artisanal and small-scale mining Ecuadorian producers.

With respect to Articles 10.3.1(a) and 10.3.1(c)(i) (State-Owned Enterprises and Designated Monopolies – Non-discriminatory Treatment and Commercial Considerations), the Entity may, pursuant to laws or regulations, provide technical support and financial services under preferential terms, to artisanal and small-scale mining Ecuadorian producers.

With respect to Article 10.3.1(b) (State-Owned Enterprises and Designated Monopolies – Non-discriminatory Treatment and Commercial Considerations), the Entity may accord preferential treatment in its purchase of goods or services to artisanal and small-scale mining Ecuadorian producers to promote legal mining activities and to foster local economic development and support the growth of the national market.

With respect to Articles 10.5.1 and 10.5.2 (State-Owned Enterprises and Designated Monopolies – Adverse Effects), Ecuador may provide the Entity non-commercial assistance for the purpose of maintaining its activities in support of artisanal and small-scale mining Ecuadorian producers through the purchase of minerals and the supply of technical support and

financial services.

Measures: Constitución de la República del Ecuador, 2008 (Constitution of the Republic of Ecuador, 2008), Official Gazette 449, 20 October 2008 (last reform on 30 May 2024)

Ley Orgánica de Empresas Públicas (Organic Law on Public Companies), Official Gazette, Supplement 78, 16 October 2009 and its implementing acts

Ley de Minería (Mining Law), Official Gazette, Supplement 517, 29 January 2009 (last reform on 28 August 2025) and its implementing acts

Decreto Ejecutivo No. 203, de 31 de diciembre de 2009 (Executive Decree No. 203, 31 December 2009)

Decreto Ejecutivo No. 151, de 5 de agosto de 2021 (Executive Decree No. 151, 5 August 2021)

Obligations Concerned: Article 10.3.1(a) (State-Owned Enterprises and Designated Monopolies – Non-discriminatory Treatment and Commercial Considerations)

Article 10.3.1(b) (State-Owned Enterprises and Designated Monopolies – Non-discriminatory Treatment and Commercial Considerations)

Article 10.3.2 (a), (b) and (c) (State-Owned Enterprises and Designated Monopolies – Non-discriminatory Treatment and Commercial Considerations)

Article 10.5.1 (State-Owned Enterprises and Designated Monopolies – Adverse Effects)

Article 10.5.2 (State-Owned Enterprises and Designated Monopolies – Adverse Effects)

Article 10.6.1 (State-Owned Enterprises and Designated Monopolies – Injury)

Entity: Empresa Pública de Hidrocarburos del Ecuador (PETROECUADOR E.P.), its existing subsidiaries, or any new, reorganized or successor enterprise that manage the strategic sector of hydrocarbons, which includes upstream, midstream and downstream plus commercialization in the various phases of the oil and gas.

Scope of Non-Conforming Activities: With respect to Article 10.3.1(a) (State-Owned Enterprises and Designated Monopolies – Non-discriminatory Treatment and Commercial Considerations), the Entity may take into account factors other than commercial considerations when engaging in:

(a) the purchase of gas for industrial purposes, electricity generation, or any other use in order to ensure the sustainable use of the natural resources;

(b) the transportation of oil and gas to ensure affordable prices and supply;

(c) the sale of oil and gas and their byproducts to specific segments of the economy or to the general public to promote economic development and assure affordable prices;

(d) the sale of the byproducts of oil and gas at below-market rates to guarantee an adequate supply and affordable prices for the general population in the Ecuadorian market.

With respect to Article 10.3.1(b) (State-Owned Enterprises and Designated Monopolies – Non-discriminatory Treatment and Commercial Considerations), the Entity may accord preferential treatment in its purchase of goods or services to national goods of comparable technical condition and quality or that incorporate a higher component of Ecuadorian origin.

Additionally, Ecuador may require the Entity to prioritize the procurement of goods and services from Ecuadorian small and medium-sized enterprises to foster local economic development and support the growth of the national market.

With respect to Articles 10.3.2 (a), (b) and (c) (State-Owned Enterprises and Designated Monopolies – Non-discriminatory Treatment and Commercial Considerations) the Entity may act not in accordance with its non-discriminatory treatment and commercial considerations obligations, when engaging in, but not limited to, the supply of fuels to dealers in Ecuador, as a governmental monopoly, to ensure proper managing of the origin and use of gas and oil and their byproducts.

Additionally, to effectively manage the hydrocarbon sector, the Ecuadorian State may request that the Entity consider other factors besides commercial considerations when purchasing or selling oil and gas and its byproducts.

With respect to Articles 10.5.1, 10.5.2 (State-Owned Enterprises and Designated Monopolies – Adverse Effects), and 10.6.1 (State-Owned Enterprises and Designated Monopolies – Injury), Ecuador may provide the Entity with non-commercial

assistance for the exercise of its business activities, which may include the sustainable use of natural resources, guaranteeing the supply of fuels for the national market, and other activities considered to be of national priority.

Measures: Constitución de la República del Ecuador, 2008 (Constitution of the Republic of Ecuador, 2008), Official Gazette 449, 20 October 2008 (last reform on 30 May 2024)

Ley Orgánica de Empresas Públicas (Organic Law of Public Companies), Official Gazette, Supplement 78, 16 October 2009 and its implementing acts

Ley de Hidrocarburos (Hydrocarbons Law), Official Gazette, Supplement 711, 15 November 1978 (last reform on 3 October 2025) and its implementing acts

Obligations Concerned: Article 10.3.2(a) (State-Owned Enterprises and Designated Monopolies – Non-discriminatory Treatment and Commercial Considerations)

Article 10.3.2(b) (State-Owned Enterprises and Designated Monopolies – Non-discriminatory Treatment and Commercial Considerations)

Article 10.5.1 (State-Owned Enterprises and Designated Monopolies – Adverse Effects)

Article 10.6.1 (State-Owned Enterprises and Designated Monopolies – Injury)

Entity: Empresa Pública Flota Petrolera Ecuatoriana -E.P. (FLOPEC), its existing subsidiaries or their successors or any new or reorganized enterprise that manage the maritime transportation of hydrocarbons from and to Ecuador, provides commercial, maritime and river transportation services for hydrocarbons and their byproducts and other related activities.

Scope of Non-Conforming Activities: With respect to Article 10.3.2(a) (State-Owned Enterprises and Designated Monopolies – Non-discriminatory Treatment and Commercial Considerations), the Entity may, pursuant to laws or regulations, may take into account factors other than commercial considerations when transporting crude oil from Ecuador to other countries to ensure the competitiveness of Ecuadorian crude oil. Also, the Entity may, pursuant to laws or regulations, take into account factors other than commercial considerations when transporting hydrocarbon byproducts.

Also, with respect to Article 10.3.2(a) (State-Owned Enterprises and Designated Monopolies – Non-discriminatory Treatment and Commercial Considerations), the Entity may, pursuant to laws or regulations, take into account factors other than commercial considerations when transporting oil byproducts to adjust the price of these products that enter the Ecuadorian territory and ensure its supply.

With respect to Article 10.3.2(a) (State-Owned Enterprises and Designated Monopolies – Non-discriminatory Treatment and Commercial Considerations), the Entity or their successors, pursuant to laws or regulations, may take into account factors other than commercial considerations when performing cabotage activities for the transportation of crude oil and oil byproducts from national refineries.

With respect to Article 10.3.2(b) (State-Owned Enterprises and Designated Monopolies – Non-discriminatory Treatment and Commercial Considerations), the Entity or their successors, pursuant to laws or regulations, may accord preferential treatment in its purchase of goods or services to national goods of comparable technical condition and quality or that incorporate a higher component of Ecuadorian origin. Additionally, Ecuador may require the Entity to prioritize the purchase of goods and services from Ecuadorian small and medium-sized enterprises and the actors of the Popular and Solidarity Economy to foster local economic development and support the growth of the national market.

With respect to Articles 10.5.1, 10.5.2 (State-Owned Enterprises and Designated Monopolies – Adverse Effects), and 10.6.1 (State-Owned Enterprises and Designated Monopolies – Injury), Ecuador may provide the Entity with non-commercial assistance for its business activities, which may include the supply of services in remote or undeserved areas of Ecuador or the assurance of energy sovereignty.

Measures: Constitución de la República del Ecuador, 2008 (Constitution of the Republic of Ecuador, 2008), Official Gazette 449, 20 October 2008 (last reform on 30 May 2024)

Ley de Facilitación de las Exportaciones y del Transporte Acuático (Export Facilitation and Water Transport Facilitation Law), Official Gazette, Supplement 901, 25 March 1992 (last reform on 9 June 1997) and its implementing measures

Convenio Interinstitucional entre PETROECUADOR y FLOPEC (Inter-institutional Agreement between PETROECUADOR and FLOPEC)

Ley Orgánica de Empresas Públicas (Organic Law of Public Companies), Official Gazette, Supplement 78, 16 October 2009 and its implementing measures

Ley Orgánica del Sistema Nacional de Contratacion Publica (Organic Law on Government Procurement), Official Gazette, Supplement 395, 4 August 2008 (last reform on 7 October 2025) and its implementing measures

Reglamento a la Ley Orgánica del Sistema Nacional de Contratación Pública (Regulations to the Government Procurement Law), Official Gazette, Supplement 153, 28 October 2025 (last reform on 30 January 2026)

Resolución No. R.E-SERCOP-2023-0134 (Resolution No. R.E-SERCOP-2023-0134)

Ley de Régimen Tributario Interno (Law on Internal Tax Regime), Official Gazette, Supplement 463, 17 November 2004 (last reform on 30 December 2025)

Código Orgánico Tributario (Tax Regime Code), Official Gazette, Supplement 38, 14 June 2005 (last reform on 3 October 2025)

Obligations Concerned: Article 10.3.1(b) (State-Owned Enterprises and Designated Monopolies – Non-discriminatory Treatment and Commercial Considerations)

Article 10.3.1(c) (State-Owned Enterprises and Designated Monopolies – Non-discriminatory Treatment and Commercial Considerations)

Article 10.5.1 (State-Owned Enterprises and Designated Monopolies – Adverse Effects)

Article 10.5.2 (State-Owned Enterprises and Designated Monopolies – Adverse Effects)

Article 10.6.1 (State-Owned Enterprises and Designated Monopolies – Injury)

Entity: Corporación Nacional de Telecomunicaciones (CNT EP), or its successors, business units, existing subsidiaries and affiliates.

Scope of Non-Conforming Activities: With respect to Article 10.3.1(b) (State-Owned Enterprises and Designated Monopolies – Non-discriminatory Treatment and Commercial Considerations), the Entity may accord preferential treatment in its purchase of goods or services to national goods of comparable technical condition and quality or that incorporate a higher component of Ecuadorian origin.

Additionally, Ecuador may require the Entity to prioritize the procurement of goods and services from Ecuadorian small and medium-sized enterprises and the actors of the Popular and Solidarity Economy to foster local economic development and support the growth of the national market.

With respect to Article 10.3.1(c) (State-Owned Enterprises and Designated Monopolies – Non-discriminatory Treatment and Commercial Considerations), the Entity, pursuant to laws, regulations, policies or programs, may accord preferential treatment to underserved segments of the population of Ecuador when supplying telecommunications services in rural, remote, or isolated areas.

With respect to Articles 10.5.1, 10.5.2 (State-Owned Enterprises and Designated Monopolies – Adverse Effects) and 10.6.1 (State-Owned Enterprises and Designated Monopolies – Injury), Ecuador, its state enterprises or state-owned enterprises may provide non-commercial assistance to the Entity for the supply of public telecommunications services.

Additionally, Ecuador may provide non-commercial assistance to the Entity in its business operations aimed at optimizing state resources and expanding public services in areas with a deficit in those services or to attend underserved segments of the population in Ecuador.

Measures: Constitución de la República del Ecuador, 2008 (Constitution of the Republic of Ecuador, 2008), Official Gazette 449, 20 October 2008 (last reform on 30 May 2024)

Ley Orgánica de Telecomunicaciones (Telecommunications Law), Official Gazette, Supplement 439, 18 February 2015 (last reform on 13 June 2025) and its implementing measures

Ley Orgánica de Empresas Públicas (Organic Law of Public Companies), Official Gazette, Supplement 78, 16 October 2009 and its implementing measures

Ley Orgánica del Sistema Nacional de Contratación Pública (Organic Law on Government Procurement), Official Gazette, Supplement 395, 4 August 2008 (last reform on 7 October 2025) and its implementing measures

Reglamento de la Ley Orgánica del Sistema Nacional de Contratación Pública (Regulations to the Government Procurement Law), Official Gazette, Supplement 153, 28 October 2025 (last reform on 30 January 2026)

Resolución No. R.E-SERCOP-2023-0134 (Resolution No. R.E-SERCOP-2023-0134)

Ley de Régimen Tributario Interno (Law on Internal Tax Regime), Official Gazette, Supplement 463, 17 November 2004 (last reform on 30 December 2025) and its implementing measures

Código Orgánico Tributario (Tax Regime Code), Official Gazette, Supplement 38, 14 June 2005 (last reform on 3 October 2025) and its implementing measures

Obligations Concerned: Article 10.3.1(a) (State-Owned Enterprises and Designated Monopolies – Non-discriminatory Treatment and Commercial Considerations)

Article 10.3.1(b) (State-Owned Enterprises and Designated Monopolies – Non-discriminatory Treatment and Commercial Considerations)

Article 10.3.1(c) (State-Owned Enterprises and Designated Monopolies – Non-discriminatory Treatment and Commercial Considerations)

Entity: Corporación Eléctrica del Ecuador (CELEC EP), its existing subsidiaries, business units, and affiliates or their successors.

Scope of Non-Conforming Activities: With respect to Article 10.3.1(a) (State-

Owned Enterprises and Designated Monopolies – Non-discriminatory Treatment and Commercial Considerations), the Entity, pursuant to laws, regulations, policies or programs, may take into account factors other than commercial considerations when engaging in the generation and sale of energy in isolated and island areas not connected to the national interconnected system.

With respect to Article 10.3.1(b) (State-Owned Enterprises and Designated Monopolies – Non-discriminatory Treatment and Commercial Considerations), the Entity, pursuant to laws, regulations, policies or programs, may accord preferential treatment in its purchase of goods or services to national goods of comparable technical condition and quality or that incorporate a higher component of Ecuadorian origin. Additionally, Ecuador may require the Entity to prioritize the procurement of goods and services from Ecuadorian small and medium-sized enterprises and the actors of the Popular and Solidarity Economy to foster local economic development and support the growth of the national market.

Also, the Entity, pursuant to laws, regulations, policies or programs, may accord preferential treatment in its purchase of energy from the countries of the Andean Community of Nations (CAN).

With respect to Article 10.3.1(c) (State-Owned Enterprises and Designated Monopolies – Non-discriminatory Treatment and Commercial Considerations), the Entity may accord preferential treatment in its sale of goods or services related to the generation and sale of energy to state-owned enterprises and government entities in isolated or marginalized areas.

Measures: Constitución de la República del Ecuador, 2008 (Constitution of the Republic of Ecuador, 2008), Official Gazette 449, 20 October 2008 (last reform on 30 May 2024)

Ley Orgánica del Servicio Público de Energía Eléctrica (Organic Law on Public Electricity Services), Official Gazette, Supplement 418, 16 January 2015 (last reform on 10 December 2024) and its implementing measures

Ley Orgánica de Competitividad Energética (Organic Law on Energy Competitiveness), Official Gazette, Supplement 475, 11 January 2024 (last reform on 10 December 2024) and its implementing measures

Ley Orgánica de Empresas Públicas (Organic Law of Public Companies), Official Gazette, Supplement 78, 16 October 2009 and its implementing measures

Ley Orgánica del Sistema Nacional de Contratación Pública (Organic Law on Government Procurement), Official Gazette, Supplement 395, 4 August 2008 (last reform on 7 October 2025) and its implementing measures

Reglamento de la Ley Orgánica del Sistema Nacional de Contratación Pública (Regulations to the Government Procurement Law), Official Gazette, Supplement 153, 28 October 2025 (lastreform on 30 January 2026)

Resolución No. R.E-SERCOP-2023-0134 (Resolution No. R.E-SERCOP-2023-0134)

Ley de Régimen Tributario Interno (Law on Internal Tax Regime), Official Gazette, Supplement 463, 17 November 2004 (last reform on 30 December 2025)

Código Orgánico Tributario (Tax Regime Code), Official Gazette, Supplement 38, 14 June 2005 (last reform on 3 October 2025)

Obligations Concerned: Article 10.3.1(b) (State-Owned Enterprises and Designated Monopolies – Non-discriminatory Treatment and Commercial Considerations)

Article 10.3.1(c) (State-Owned Enterprises and Designated Monopolies – Non-discriminatory Treatment and Commercial Considerations)

Entity: Corporación Nacional de Electricidad (CNEL EP) or its successors, its existing subsidiaries, business units and affiliates.

Scope of Non-Conforming Activities: With respect to Article 10.3.1(b) (State-Owned Enterprises and Designated Monopolies – Non-discriminatory Treatment and Commercial Considerations), the Entity, pursuant to laws, regulations, policies or programs, may accord preferential treatment in its purchase of goods or services to national goods of comparable technical condition and quality or that incorporate a higher component of Ecuadorian origin. Additionally, Ecuador may require the Entity to prioritize the purchase of goods and services from Ecuadorian small and medium-sized enterprises and actors of the Popular and Solidarity Economy to foster local economic development and support the growth of the national market

With respect to Article 10.3.1(c) (State-Owned Enterprises and Designated Monopolies – Non-discriminatory Treatment and Commercial Considerations), the Entity may accord preferential treatment in its sale of goods or services related to the generation and sale of energy to state-owned enterprises and government entities in isolated or marginalized areas.

Measures: Constitución de la República del Ecuador, 2008 (Constitution of the Republic of Ecuador, 2008), Official Gazette 449, 20 October 2008 (last reform on 30 May 2024)

Ley Orgánica del Servicio Público de Energía Eléctrica (Organic Law on Public Electricity Services), Official Gazette, Supplement 418, 16 January 2015 (last reform on 10 December 2024) and its implementing measures

Ley Orgánica de Competitividad Energética (Organic Law on Energy Competitiveness), Official Gazette, Supplement 475, 11 January 2024 (last reform on 10 December 2024) and its implementing measures

Ley Orgánica de Empresas Públicas (Organic Law of Public Companies), Official Gazette, Supplement 78, 16 October 2009 and its implementing measures

Ley Orgánica del Sistema Nacional de Contratación Pública (Organic Law on Government Procurement), Official Gazette, Supplement 395, 4 August 2008 (last reform on 7 October 2025) and its implementing measures

Reglamento de la Ley Orgánica del Sistema Nacional de Contratación Pública (Regulations to the Government Procurement Law), Official Gazette, Supplement 153, 28 October 2025 (last reform on 30 January 2026)

Resolución No. R.E-SERCOP-2023-0134 (Resolution No. R.E-SERCOP-2023-0134)

Ley de Régimen Tributario Interno (Law on Internal Tax Regime), Official Gazette, Supplement 463, 17 November 2004 (last reform on 30 December 2025)

Código Orgánico Tributario (Tax Regime Code), Official Gazette, Supplement 38, 14 June 2005 (last reform on 3 October 2025)

Obligations Concerned: Article 10.3.1(a) (State-Owned Enterprises and Designated Monopolies – Non-Discriminatory Treatment and Commercial Considerations)

Article 10.3.1(b) (State-Owned Enterprises and Designated Monopolies – Non-Discriminatory Treatment and Commercial Considerations)

Entity: All existing and future state-owned enterprises

Scope of Non-Conforming Activities: With respect to Article 10.3.1(a) (State-Owned Enterprises and Designated Monopolies – Non-Discriminatory Treatment and Commercial Considerations), the Entity or Entities may accord more favorable treatment to indigenous peoples and organizations in the purchase of a good or service.

With respect to Article 10.3.1(b) (State-Owned Enterprises and Designated Monopolies – Non-Discriminatory Treatment and Commercial Considerations), the Entity or Entities may accord more favorable treatment to indigenous peoples and organizations in the purchase of a good or service.

Measures: Constitución de la República del Ecuador, 2008 (Constitution of the Republic of Ecuador, 2008), articles 56 to 60 and its implementing measures