Australia - EU Free Trade Agreement

PREAMBLE

The European Union, hereinafter referred to as "the Union" or "the EU", and

Australia,

hereinafter referred to jointly as the "Parties" or individually as a "Party";

RECOGNISING their longstanding and strong partnership based on the common principles and values reflected in the Framework Agreement between the European Union and its Member States, of the one part, and Australia, of the other part, done at Manila on 7 August 2017, and their important economic, trade and investment relationship;

RECOGNISING the importance of global cooperation to address issues of shared interest;

RECOGNISING the importance of transparency in international trade and investment to the benefit of all stakeholders;

SEEKING to establish a stable and predictable environment with clear and mutually advantageous rules governing trade and investment between the Parties and to reduce or eliminate related barriers; DESIRING to raise living standards, promote economic growth and stability, create new employment opportunities and improve the general welfare of their peoples and, to this end, affirming their commitment to promote trade and investment liberalisation;

CONVINCED that this Agreement will create an expanded and secure market for goods and services, thus enhancing the competitiveness of their firms in global markets;

DETERMINED to strengthen their economic, trade and investment relations, taking into account the objective of sustainable development in its economic, social and environmental dimensions, and to promote trade and investment with due regard to relevant international standards, international agreements to which both Parties are party and the aim of high levels of environmental and labour protection;

RECOGNISING the benefits of enhancing consumer welfare through policies that ensure a high level of consumer protection and economic well-being;

DETERMINED to address the particular challenges faced by small and medium-sized enterprises in contributing to the development of trade and investment, and to support their growth by enhancing their ability to participate in and benefit from the opportunities created by this Agreement;

AFFIRMING the Parties' right to regulate within their territories in pursuit of legitimate public policy objectives, such as the protection of health, social services, public education, safety, the environment, including climate change, public morals, social or consumer protection, animal welfare, privacy and data protection, security of energy supply, the promotion and protection of cultural diversity and, in the case of Australia, the promotion and protection of the rights and interests of Australian First Nations peoples;

RECOGNISING the importance of enhancing the ability of Australian First Nations peoples to participate in and benefit from the opportunities created by international trade and investment, including this Agreement;

AFFIRMING the principles expressed in the United Nations Declaration on the Rights of Indigenous Peoples, adopted by the General Assembly of the United Nations on 13 September 2007;

COMMITTED to communicate with all relevant civil society stakeholders, including the private sector, trade unions and other non-governmental organisations and, for Australia, representative organisations for Australian First Nations peoples;

REAFFIRMING their commitment to the Charter of the United Nations signed in San Francisco on 26 June 1945 and having regard to the principles articulated in the Universal Declaration of Human Rights adopted by the General Assembly of the United Nations on 10 December 1948;

BUILDING upon their respective rights and obligations under the Agreement Establishing the World Trade Organization,

done at Marrakesh on 15 April 1994, and other multilateral and bilateral instruments of cooperation to which both Parties are party;

Chapter 1. INITIAL PROVISIONS

Article 1.1. Objectives of the Agreement

The objectives of this Agreement are to liberalise and facilitate trade and investment, as well as to promote a closer economic relationship between the Parties.

Article 1.2. Establishment of a Free Trade Area

The Parties hereby establish a free trade area in conformity with Article XXIV of GATT 1994 and Article V of GATS.

Article 1.3. General Definitions

(a) "agricultural product" means a product listed in Annex 1 to the Agreement on Agriculture;

(b) "customs duty" means any duty or charge of any kind imposed on or in connection with the importation of a good but does not include any:

(i) charge equivalent to an internal tax imposed consistently with Article 2.4 (National treatment on internal taxation and regulation);

(ii) anti-dumping, special safeguard, countervailing or safeguard duty applied in conformity with GATT 1994, the Anti-dumping Agreement, the Agreement on Agriculture, the SCM Agreement, and the Safeguards Agreement, as appropriate; and

(iii) fee or other charge commensurate with the cost of the services rendered;

(XX) "covered enterprise" means [to be moved here from point (x) of Article 9.2 (Definitions);]

(c) "CPC" means the Provisional Central Product Classification (Statistical Papers Series M No.77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991);

(X) "customs authority" means:

(i) for the Union, the competent services of the European Commission responsible for customs matters or the customs administrations and any other authorities empowered in the Member States or at the level of the Union to apply and enforce customs legislation;

and

(ii) for Australia, the Department of Home Affairs, or its successor;

(d) "day" means a calendar day;

(e) "enterprise" means a juridical person or a branch or a representative office of a juridical person;

(f) "Framework Agreement" means the Framework Agreement between the European Union and its Member States, of the one part, and Australia, of the other Part, done at Manila on 7 August 2017;

(g) "good of a Party" means a domestic good as this is understood in the GATT 1994, and includes originating goods of that Party;

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

(i) "heading" means the first four digits in the tariff classification number under the Harmonized System;

(XX) "investor of a Party" means [to be moved here from point (x) of Article 9.2 (Definitions);]

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

(k) "measure" means any measure by a Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action, requirement or practice, or any other form; (1)

(1) For greater certainty, the term "measure" may include an omission.

(l) "Member State" means a Member State of the Union;

(m) "natural person of a Party" means:

(i) for the Union, a national of one of the Member States according to its law; (2) and

(2) The definition of natural person also includes persons permanently residing in the Republic of Latvia who are not citizens of the Republic of Latvia or any other state but who are entitled, under the law of the Republic of Latvia, to receive a non-citizen's passport.

(ii) for Australia, an Australian citizen under the law of Australia;

(n) "originating" means qualifying as originating under the rules of origin set out in Chapter 3

(Rules of origin and origin procedures);

(p) "Paris Agreement" means the Paris Agreement under the United Nations FrameworkConvention on Climate Change, done at Paris on 12 December 2015;

(q) "person" means a natural person or a juridical person;

(q) "preferential tariff treatment" means the rate of customs duty applicable to an originatinggood pursuant to the tariff elimination schedules in Annex 2-A (Tariff elimination schedules);

(r) "SDR" means special drawing right;

(s) "SPS measure" means any measure referred to in paragraph 1 of Annex A to the SPS Agreement;

(t) "service supplier" means a person that supplies or seeks to supply a service;

(u) "SME" means a small or medium-sized enterprise;

(v) "territory" means, with respect to each Party, the territory to which this Agreement applies in accordance with Article 1.5 (Territorial application);

(w) "TFEU" means the Treaty on the Functioning of the European Union;

(x) "third country" means a country or territory outside the territorial scope of application of this Agreement;

(y) "WCO" means the World Customs Organization;

(z) "WTO" means the World Trade Organization;

(XX) "UNCLOS" means United Nations Convention on Law of the Sea, done at Montego Bay on 10 December 1982; and

(X) "UNDRIP" means United Nations Declaration on the Rights of Indigenous Peoples, done at New York on 13 September 2007.

Article 1.4. WTO Agreements

For the purposes of this Agreement, the following definitions apply:

(a) "Agreement on Agriculture" means the Agreement on Agriculture, contained in Annex 1A to the WTO Agreement;

(b) "Anti-dumping Agreement" means the Agreement on Implementation of Article VI of the GATT 1994, contained in Annex 1A to the WTO Agreement;

(c) "Customs Valuation Agreement" means the Agreement on Implementation of Article VII of the GATT 1994, contained in Annex 1A to the WTO Agreement;

(d) "GATS" means the General Agreement on Trade in Services, contained in Annex 1B to the WTO Agreement;

(e) "GATT 1994" means the General Agreement on Tariffs and Trade 1994, contained in Annex A to the WTO Agreement;

(f) "Safeguards Agreement" means the Agreement on Safeguards, contained in Annex 1A to the WTO Agreement;

(g) "SCM Agreement" means the Agreement on Subsidies and Countervailing Measures, contained in Annex 1A to the WTO Agreement;

(h) "SPS Agreement" means the Agreement on the Application of Sanitary and Phytosanitary Measures, contained in Annex 1A to the WTO Agreement;

(i) "TBT Agreement" means the Agreement on Technical Barriers to Trade, contained in Annex 1A to the WTO Agreement;

(j) "TRIPS Agreement" means the Agreement on Trade-Related Aspects of Intellectual Property Rights, contained in Annex 1C to the WTO Agreement; and

(k) "WTO Agreement" means the Agreement Establishing the World Trade Organization, done at Marrakesh on 15 April 1994.

Article 1.5. Territorial Application

1. This Agreement applies:

(a) with respect to the Union, to the territories in which the Treaty on European Union and the Treaty on the Functioning of the European Union are applied and under the conditions laid down in those Treaties; and

(b) with respect to Australia, to the territory of Australia:

(i) excluding all external territories other than the Territory of Norfolk Island, the Territory of Christmas Island, the Territory of Cocos (Keeling) Islands, the Territory of Ashmore and Cartier Islands, the Territory of Heard Island and McDonald Islands, and the Coral Sea Islands Territory; and

(ii) including Australia’s territorial sea, contiguous zone, exclusive economic zone and continental shelf over which Australia exercises sovereign rights or jurisdiction in accordance with international law, particularly the United Nations Convention on the Law of the Sea, done at Montego Bay on 10 December 1982;

2. As regards those provisions concerning the tariff treatment of goods, including rules of origin and origin procedures, this Agreement also applies, with respect to the Union, to those areas of the Union customs territory, as defined by Article 4 of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code, not covered by point (a) of paragraph 1.

Chapter 2. TRADE IN GOODS

Article 2.1. Objective

The Parties shall progressively liberalise trade in goods in accordance with the provisions of this Agreement.

Article 2.2. Scope

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

Article 2.3. Definitions

For the purposes of this Chapter:

(a) “consular transactions” means the procedure of obtaining from a consul of the importing Party in the territory of the exporting Party, or in the territory of a third party, a consular invoice or a consular visa for a commercial invoice, certificate of origin, manifest, shipper's export declaration or any other customs documentation in connection with the importation of the good;

(b) “Customs Valuation Agreement” means the Agreement on Implementation of Article VII of GATT 1994 contained in Annex 1A to the WTO Agreement;

(c) “customs duty” means any duty or charge of any kind imposed on or in connection with the importation of a good. A ‘customs duty’ does not include any:

(i) charge equivalent to an internal tax imposed consistently with Article X.4 (National Treatment on Internal Taxation and Regulation)

(ii) anti-dumping, special safeguard, countervailing or safeguard duty applied in conformity with the GATT 1994, the Anti-dumping Agreement, the Agreement on Agriculture, the Agreement on Subsidies and Countervailing Measures and the Agreement on Safeguards, as appropriate.

(iii) fee or other charge commensurate with the cost of services rendered.

(d) “good of a Party” means a domestic good as this is understood in the GATT 1994, and includes originating goods.

(e) “Harmonized System” means the Harmonized Commodity Description and Coding System, including its General Rules of Interpretation, Section Notes and Chapter Notes, as adopted and administered by the World Customs Organisation and implemented by the Parties in their respective tariff laws;

(f) “Import Licensing Procedure” means an administrative procedure used for the operation of an importing licensing regime 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 importation into the territory of the importing Party;

(g) “Export Licensing Procedure” means an administrative procedure used for the operation of an exporting licensing regime 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;

(h) “Repair” means any processing operation undertaken on a good to remedy operating defects or material damage and entailing the re-establishment of the good to its original function or to ensure compliance with technical requirements for its use, without which the good could no longer be used in the normal way for the purposes for which they were intended. Repair of goods includes restoration and maintenance but does not include an operation or process that:

(i) destroys the essential characteristics of a good, or creates a new or commercially different good;

(ii) transforms an unfinished good into a finished good; or

(iii) is used to substantially change the function of a good.

(i) “Remanufactured good” means a good classified in HS Chapters 84, 85, 86, 87 (except 8703 870120, 8702, 8704, 8711, 8716), 88, 89, 90 or 9402 that:

(i) is entirely or partially comprised of parts obtained from used goods;

(ii) has similar performance and working conditions compared to the equivalent good in new condition; and

(iii) is given the same warranty as the equivalent good in new condition.

(j) “Originating good” means a good qualifying under the rules of origin set out in (Protocol on Rules of Origin);

(k) “Staging category” means the timeframe for the elimination of customs duties ranging from 0 to 7 years, after which a good is free of customs duty (unless otherwise specified in the Schedules);

(l) “Performance requirement” means a requirement that:

(i) a given quantity, value or percentage of goods be exported;

(ii) goods of the Party granting an import licence be substituted for imported goods;

(iii) a person benefiting from an import licence purchase other goods in the territory of the Party granting the import licence, or accord a preference to domestically produced goods;

(iv) a person benefiting from an import licence produce goods in the territory of the Party granting the import licence, with a

given quantity, value or percentage of domestic content; or

(v) relates in whatever form to the volume or value of imports, to the volume or value of exports or to the amount of foreign exchange inflows.

Article 2.4. National Treatment on Internal Taxation and Regulation

1. Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of the GATT 1994, including its Notes and Supplementary Provisions (1). To this end, Article III of the GATT 1994 and its Notes and Supplementary Provisions is incorporated into and made part of this Agreement, mutatis mutandis.

(1) note: Reference to notes and supplementary provisions to be included, unless the matter is dealt with more generally in other parts of the text (ex. final provisions).

Article 2.5. Elimination of Customs Duties

1. Except as otherwise provided for in this Agreement, each Party shall reduce or eliminate customs duties on goods originating in the other Party in accordance with its Schedule in Annex [X-x] (Tariff Elimination Schedules).

2. For the purpose of paragraph 1, the base rate of customs duties shall be the one specified for each good in the Schedules in Annex [X-x] (Tariff Elimination Schedules).

3. If a Party reduces an applied most favoured nation customs duty rate, that duty rate shall apply to the originating good of the other Party for as long as it is lower than the customs duty rate for that good determined pursuant to its Schedule in Annex [X-x] (Tariff Elimination Schedules).

4. No earlier than 2 years after the date of entry into force of this Agreement, on the request of a Party, the Parties shall, within the Committee on Trade in Goods, consult to consider accelerating, or broadening the scope of, the reduction or elimination of customs duties set out in the Schedules in Annex [X-x] (Tariff Elimination Schedules) between the Parties. Accordingly, the Trade Committee may take a decision to amend Annex [X-x] (Tariff Elimination Schedules).

Article 2.6. Standstill

1. Except as otherwise provided in this Agreement, neither Party shall increase any customs duty set as base rate in Annex [X-x] (Tariff Elimination Schedule) or introduce a new customs duty on a good originating in the other Party.

2. For greater certainty, a Party may raise a customs duty to the level set out in Annex [X-x] (Tariff Elimination Schedule) for the respective [year] [option, if staging is not annual use: staging period] following a unilateral reduction.

Article 2.7. Export Duties, Taxes or other Charges

1. No Party shall introduce or maintain any duty, tax or other charge of any kind imposed on, or in connection with, the exportation of a good to the other Party, or any internal tax or other charge on a good exported to the other Party that is in excess of the tax or charge that would be imposed on like goods when destined for domestic consumption.

2. Nothing in this Article shall prevent a Party from imposing on the exportation of a good a fee or charge that is permitted under Article X.8 (Fees and Formalities).

Article 2.8. Fees and Formalities

1. Each party shall ensure, in accordance with Article VIII:1 of GATT 1994 that all fees and charges of whatever character (other than customs duties, charges equivalent to an internal tax or any other internal charges applied consistently with Article III:2 of 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 an indirect protection to domestic goods or a taxation of imports or exports for fiscal purposes.

2. Each Party shall make publically available, including through publication, a current list of fees and charges it imposes in connection with importation and exportation.

3. No Party shall require consular transactions, including related fees and charges, in connection with the importation of any

good of the other Party.

Article 2.9. Repaired Goods

1. Neither Party shall apply a customs duty to a good, regardless of its origin, that re-enters the Party's customs territory after that good has been temporarily exported from its customs territory to the customs territory of the other Party for repair. (2)

(2) In the EU, the outward processing procedure as laid down in Regulation (EU) No 952/2013 is used for the purpose of this paragraph.

2. Paragraph 1 does not apply to a good imported in bond, into free trade zones, or in similar status, that is then exported for repair and is not re-imported in bond, into free trade zones, or in similar status.

3. Neither Party shall apply a customs duty to a good, regardless of its origin, imported temporarily from the customs territory of the other Party for repair. (3)

(3) In the EU, the inward processing procedure as laid down in Regulation (EU) No 952/2013 is used for the purpose of this paragraph.

Article 2.10. Remanufactured Goods

1. Neither party shall accord to remanufactured goods of the other Party a treatment that is less favourable than that it accords to equivalent goods in new condition. [footnote: Paragraph 1 shall not apply to consumer guarantees provided for in a Party's laws and regulations.]

2. Article [X] (Import and Export Restrictions) shall apply to import and export prohibition and restrictions on remanufactured goods. If a Party adopts or maintains import and export prohibitions or restrictions to used goods, it shall not apply those measures to remanufactured goods.

3. Subject to its obligations under this Agreement and the WTO Agreement, a Party may require that remanufactured goods be identified as such for distribution or sale in its territory and that they meet all applicable technical requirements that apply to equivalent goods in new condition.

Article 2.11. Import and Export Restrictions

1. Neither Party shall adopt or maintain any prohibition or restriction on the importation of any good of the other Party or on the exportation or sale for export of any good destined for the territory of the other Party, except in accordance with Article XI of GATT 1994, including its Notes and Supplementary Provisions. To this end, Article XI of the GATT 1994 and its Notes and Supplementary Provisions are incorporated into and made part of this Agreement, mutatis mutandis.

2. Accordingly, no Party shall adopt or maintain:

(a) export and import price requirements (1), except as permitted in enforcement of countervailing and antidumping duty orders and undertakings; or

(1) For greater certainty, this provision is not meant to prevent a Party from relying on the price of imports in order to determine the applicable rate of a customs duty [in accordance with this Agreement].

(b) import licensing conditioned on the fulfilment of a performance requirement (2);

(2) For greater certainty, this paragraph does not apply to temporary admission pursuant to Article X.14 (Temporary Admission) of Chapter X (Customs and Trade Facilitation), duty drawback or duty deferral programs, including but not limited to measures governing foreign-trade zones, bonded warehouses, and inward processing programs.

Article 2.12. Import and Export Monopolies

No Party shall designate or maintain a designated import or export monopoly. For the purposes of this Article, import or export monopoly means the exclusive right or grant of authority by a Party to an entity to import a good from, or export a

good to, the other Party.

Article 2.13. Origin Marking

1. Where Australia requires a mark of origin on the importation of goods other than those listed in Annex XX (Origin Marking Product List), Australia shall accept the origin mark "Made in the EU" under conditions that are no less favourable than those applied to marks of origin of Member States of the Union.

2. At the request of the Union, the Parties shall periodically review the product coverage of Annex XX (Origin Marking Product List), and the Trade Committee may decide on potential additional goods for which Australia shall accept the origin mark "Made in the EU" in accordance with this Article.

3. For the purposes of the origin mark "Made in the EU", Australia shall treat the Union as a single territory.

Article 2.14. Import Licensing Procedures

1. Articles 1 to 3 of the Agreement on Import Licensing Procedures are incorporated into and made part of this Agreement, mutatis mutandis.

2. A Party that institutes licensing procedures, or changes to existing licensing procedures, shall notify the other Party of such within 60 days of publication. The notification shall include the information specified in Article 5(2) of the Agreement on Import Licensing Procedures. A Party shall be deemed to be in compliance with this provision if it has notified the relevant import licensing procedure, or any modifications thereof, to the Committee on Import Licensing provided for in Article 4 of the Import Licensing Agreement, including the information specified in Article 5(2) of that Agreement.

3. Upon request of a Party, the other Party shall promptly provide any relevant information, including the information specified in Article 5(2) of the Agreement on Import Licensing Procedures, regarding any import licensing procedure that it intends to adopt, has adopted or maintains, or changes to existing licensing procedures.

Article 2.15. Export Licensing Procedures

1. Each Party shall publish any new export licensing procedure, or any modification to an existing export licensing procedure, in such a manner as to enable governments, traders and other interested parties to become acquainted with them. Such publication shall take place as early as possible before the procedure or modification takes effect, and no later than the date such procedure or modification takes effect. Notwithstanding this, in exceptional and urgent cases, such publication may take place no later than 10 days after the procedure or modification comes into effect.

2. The publication of export licensing procedures shall include the following information:

(a) the texts of its export licensing procedures, including any modifications it makes to those procedures;

(b) the goods subject to each licensing procedure;

(c) for each procedure, a description of the process for applying for a license and any criteria an applicant must meet to be eligible to apply for a license, such as possessing an activity license, establishing or maintaining an investment, or operating through a particular form of establishment in a Party’s territory;

(d) a contact point or points from which interested persons can obtain further information on the conditions for obtaining an export license;

(e) the administrative body or bodies to which an application for a license or other relevant documentation must be submitted;

(f) a description of or citation to a publication reproducing in full any measure or measures that the export licensing procedure is designed to implement;

(g) the period during which each export licensing procedure will be in effect, unless the procedure will remain in effect until withdrawn or revised in a new publication;

(h) if the Party intends to use a licensing procedure to administer an export quota, the overall quantity and, if applicable, the value of the quota and the opening and closing dates of the quota; and

(i) any exemptions or exceptions available to the public that replace the requirement to obtain an export license, how to

request or use those exemptions or exceptions, and the criteria for granting them.

3. Within 30 days after the date of entry into force of this Agreement, each Party shall notify the other Party of the publications in which its export licensing procedures, if any, are set out, including addresses of relevant government websites.

4. For greater certainty, nothing in this Article requires a Party to grant an export license, or prevents a Party from implementing its obligations under any international agreement, including but not limited to those under United Nations Security Council Resolutions, as well as its commitments under multilateral non-proliferation regimes and export control arrangements, including but not limited to the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, the Australia Group, the Nuclear Suppliers Group, and the Missile Technology Control Regime. Accordingly, if a Party has published, provided information on, or notified any export licensing procedure pursuant to another bilateral agreement with the other Party, or under an international agreement or arrangement to which both Parties are a party, it shall be deemed to have met the requirements of this article.

Article 2.16. Customs Valuation

Each Party shall determine the customs value of goods of the other Party imported into their territory in accordance with Article VII of the GATT 1994 and the Customs Valuation Agreement. To this 0end, Article VII of the GATT 1994, including its Notes and Supplementary Provisions, and Articles 1 to 9 and 15 of the Customs Valuation Agreement, including its General Introductory Commentary and Interpretative Notes, are incorporated into and made part of this Agreement, mutatis mutandis.

Article 2.17. Non-tariff Measures

1. The Parties recognise the importance of preventing and reducing non-tariff measures, consistently with this Agreement, in facilitating trade between the Parties and contributing to an open and transparent trading system.

2. Without prejudice to Chapter X [Dispute Settlement], a Party may request that a non-tariff measure relating to trade in goods is discussed within the Committee on Trade in Goods, with a view to ensuring that it does not constitute an unnecessary or unjustified obstacle to trade between the Parties (4).

(4) For greater certainty, such discussion within the Committee on Trade in Goods shall take place after the measure has been considered by the relevant specialised committee, or jointly with such committee, unless otherwise agreed between the Parties.

Article 2.18. Preference Utilisation

1. For the purpose of monitoring the functioning of the Agreement and calculating preference utilisation rates, the Parties shall annually exchange non-confidential import statistics for a period starting one year from the date of entry into force of this Agreement until 10 years after tariff elimination is completed for all goods in accordance with each Party's Schedule in Annex [X-x] (Tariff Elimination Schedules). Unless the [Trade Committee] decides otherwise, this period shall be automatically extended for five years, and thereafter the Committee may decide to extend it.

2. The exchange of import statistics shall cover data pertaining to the most recent year available, including value and, where applicable, volume, at the tariff line level for imports of all goods of the other Party and identify those imports:

(a) benefitting from preferential duty treatment under this Agreement;

(b) that received non-preferential treatment, including under the different regimes used by the Parties upon importation; and

(c) as appropriate, benefitting from other relevant international preference systems.

3. These import statistics as well as preference utilisation rates may be discussed in the Committee of Trade in Goods and presented to the Trade Committee for an exchange of views.

Article 2.19. Specific Measures Concerning the Management of Preferential Treatment

1. The Parties shall co-operate in preventing, detecting and combating breaches of customs legislation, including breaches by individual traders and systematic breaches, related to the relevant preferential treatment granted under this Chapter, in

accordance with their obligations under the Chapter on Rules of Origin and the Protocol on Mutual Administrative Assistance in Customs Matters.

2. A Party may, in accordance with the procedure laid down in paragraphs 3 to 8, temporarily suspend the relevant preferential treatment of the goods concerned when:

(a) a Party has made a finding, on the basis of objective, compelling and verifiable information, that systematic breaches of customs legislation related to the preferential treatment granted under this Chapter have been committed, which results in a significant loss of revenue to that Party; and

(b) the other Party repeatedly and unjustifiably refuses or fails to comply with the obligations referred to in paragraph 1.

3. A Party that has made a finding referred to in paragraph 2 (the Importing Party) shall, without undue delay, notify that finding to the [Trade Committee] and provide the related information. Following the notification, both Parties shall enter into consultations within the [Trade Committee] with a view to reaching a mutually acceptable solution.

4. If during the consultations, the conditions set out in paragraph 2(a) and 2(b) remain and the Parties fail to agree on a mutually acceptable solution within three months after the date of the notification, the Importing Party may decide to suspend temporarily the relevant preferential treatment of the goods concerned. This includes the temporary suspension of preferential treatment for all traders of the goods concerned, if the Importing Party deems it necessary to combat the breaches in customs legislation.

5. The Importing Party shall notify the [Trade Committee] of the temporary suspension including the start date, once determined, and the period during which it intends the temporary suspension to apply, without undue delay. The temporary suspension referred to in this Article shall apply only for such a period as necessary to counteract the breaches of customs legislation and to protect the financial interests of the Importing Party, and in any event not longer than six months.

6. The Parties shall keep the situation under review. Where the conditions as set out in paragraph 2(a) or 2(b) that gave rise to the temporary suspension are no longer met, the Importing Party shall cease the temporary suspension without undue delay before the end of the period notified to the [Trade Committee].

7. Where the conditions as set out in paragraphs 2(a) and 2(b), that gave rise to the temporary suspension persist at the expiry of the six-month period, the Importing Party may decide to renew the temporary suspension pursuant to paragraphs 5 and 6. The Importing Party shall notify the [Trade Committee] prior to the renewal of the measure including the additional period of the temporary suspension. The Parties shall review, on a periodic basis, any pending temporary suspension through consultations within the [Trade Committee].

8. The Importing Party shall publish, in accordance with its internal procedures, notices to importers about any decision concerning temporary suspensions referred to in this Article.

9. Notwithstanding paragraphs 4 to 7, if an importer satisfies the Importing Party's customs authority that its goods comply with the Importing Party's customs legislation, the requirements of this Agreement, and any other appropriate conditions related to the temporary suspension established by the Importing Party in accordance with its laws and regulations, the Importing Party shall allow the importer to apply for preferential treatment and recover any customs duties paid in excess of the applicable preferential customs duties when the goods were imported.

Article 2.20. Committee on Trade In Goods

1. This Article complements and further specifies Article 21.6 (Functions of specialised committees).

2. The functions of the Committee with respect to this Chapter shall include:

a. promoting trade in goods between the Parties, including through consultations on accelerating tariff elimination under this Agreement;

b. discussing non-tariff measures in accordance with Article X.17 (Non-Tariff Measures);

c. addressing issues relating to each Party's administration of its tariff rate quotas, [or the application of product specific safeguard measures], including to promote transparency in their administration;

d. considering any necessary amendments to Annex XX (Tariff Elimination Schedules) in order to reflect, as appropriate, future amendments to the Harmonised System; and

e. if tasked by the Trade Committee, considering amendments to Annex XX (Tariff Elimination Schedule) that may be necessary to take into account potential effects of the accession of a third country to the Union.

Chapter 3. RULES OF ORIGIN AND ORIGIN PROCEDURES

SECTION A RULES OF ORIGIN

Article ARTICLE 3.1

Definitions

For the purposes of this Chapter, the following definitions apply:

"chapters" and "headings" and "subheadings" mean the chapters, the headings and subheadings used in the nomenclature which makes up the Harmonized System;

"classified" refers to the classification of a product or material under a particular chapter, heading, or subheading of the Harmonized System;

"consignment" means a product that is either sent simultaneously from a consignor to a consignee or covered by a single transport document covering a shipment from the consignor to the consignee or, in the absence of such a document, by a single invoice;

"exporter" means a person, located in a Party, who, in accordance with the requirements set out in the laws and regulations of that Party, exports or produces the originating product and makes out a statement on origin;

"importer" means a person who imports the originating product and claims preferential tariff treatment for it;

"material" means any substance used in the production of a product, including any ingredient, raw material, component or part;

"product" means the result of production, even if it is intended for use as a material in the production of another product, and shall be understood as a good referred to in Chapter 2 (Trade in goods); and

"production" means any kind of working or processing, including such operations as growing, mining, raising, harvesting, fishing, trapping, hunting, assembly or disassembly of a product.

General requirements for originating products

Provided that the product satisfies all other applicable requirements of this Chapter, a product shall be considered as originating in a Party if it is:

wholly obtained in that Party within the meaning of Article 3.4 (Wholly obtained products);

produced entirely in that Party exclusively from originating materials pursuant to this Chapter; or

produced incorporating non-originating materials provided they satisfy the requirements of Annex 3-B (Product-specific rules of origin).

If a product has acquired originating status, the non-originating materials used in the production of that product shall not be considered non-originating when that product is incorporated as a material in another product.

The acquisition of originating status shall be fulfilled without interruption in Australia or the Union.

Cumulation of origin

A product originating in a Party is considered as originating in the other Party if it is used as a material in the production of another product in that other Party.

Paragraph 1 does not apply if the production carried out in the other Party does not go beyond one or more of the operations referred to in Article 3.6 (Insufficient working or processing).

Wholly obtained products

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

a mineral or naturally occurring substance extracted or taken from a Party;

a plant or plant product grown, cultivated, picked, gathered or harvested in a Party;

a live animal born and raised in a Party;

a product obtained from live animals raised in a Party;

a product obtained from slaughtered animals born and raised in a Party;

a product obtained by hunting, trapping, fishing, gathering or capturing, conducted there but not beyond the outer limits of the Party's territorial sea;

a product obtained from aquaculture there, if aquatic organisms, including fish, molluscs, crustaceans, other aquatic invertebrates and aquatic plants are born or raised from seed stock, such as eggs, roes, fry, fingerlings or larvae, by intervention in the rearing or growth processes to enhance production, such as regular stocking, feeding or protection from predators;

a product of sea fishing and other products taken from the sea outside any territorial sea by a vessel of a Party;

a product made aboard a factory ship of a Party exclusively from the products referred to in point (h);

a product other than fish, shellfish and other marine life extracted from the seabed or subsoil thereof outside any territorial sea provided that the Party or a person of that Party has the right to work that seabed or subsoil in accordance with international law;1

waste or scrap derived from production in a Party;

waste or scrap derived from used products collected in a Party, provided that those products are fit only for the recovery of raw materials; and

a product produced there exclusively from the products specified in points (a) to (l) or from their derivatives.

The terms "vessel of a Party" and "factory ship of a Party" in points (h) and (i) of paragraph 1 apply only to a vessel or a factory ship that:

1 This point does not apply to the Greater Sunrise Special Regime area, established under the Treaty between Australia and the Democratic Republic of Timor-Leste Establishing Their Maritime Boundaries in the Timor Sea, done in New York on 6 March 2018, in which Australia and Timor-Leste jointly exercise continental shelf rights as coastal states.

is registered in a Member State or in Australia;

sails under the flag of a Member State or of Australia; and

satisfies one of the following conditions:

is at least 50% owned by one or more natural persons of a Party; or

is owned by one or more juridical persons:

which have their head office and main place of business in a Member State or in Australia; and

which are at least 50% owned by a person of a Party.

Tolerances

If the non-originating materials used in the production of a product do not satisfy the requirements of Annex 3-B (Product-specific rules of origin), the product shall be considered as originating in a Party, provided that it satisfies all the other applicable requirements of this Chapter and:

except for products classified under Chapters 50 to 63 of the Harmonized System, the total value of such non-originating materials does not exceed 10 % of the ex-works or free on board price of those products; or

for products classified under Chapters 50 to 63 of the Harmonized System, tolerance applies as stipulated in Notes 6 to 8 of Annex 3-A (Introductory notes to product-specific rules of origin).

Paragraph 1 does not apply if:

the value or weight of non-originating materials used in the production of a product exceeds any of the percentages for the maximum value or weight of non-originating materials as specified in Annex 3-B (Product-specific rules of origin); or

the product is subject to a regional value content rule, the value of originating materials does not satisfy the minimum regional value content requirement as specified in Annex 3-B (Product-specific rules of origin).

Paragraph 1 does not apply to products wholly obtained in a Party within the meaning of Article 3.4 (Wholly obtained products). If Annex 3-B (Product-specific rules of origin) requires that the materials used in the production of a product are wholly obtained in a Party within the meaning of Article 3.4 (Wholly obtained products), paragraphs 1 and 2 apply.

Insufficient working or processing

Notwithstanding point (c) of Article 3.2(1) (General requirements for originating products), a product shall not be considered as originating in a Party if the production of the product in a Party consists of only one or more of the following operations conducted exclusively on non-originating materials:

preserving operations the sole purpose of which is to ensure that the products remain in good condition during transport and storage;

breaking-up or assembly of packages;

washing, cleaning, removal of dust, oxide, oil, paint or other coverings;

ironing or pressing of textiles and textile articles;

simple painting and polishing operations;

husking and partial or total milling of rice;

polishing and glazing of cereals and rice;

operations to colour or flavour sugar or form sugar lumps;

partial or total milling of crystal sugar;

peeling, stoning and shelling, of fruits, nuts and vegetables;

sharpening, simple grinding or simple cutting;

sifting, screening, sorting, classifying, grading or matching including the making-up of sets of articles;

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

affixing or printing marks, labels, logos and other like distinguishing signs on the product or its packaging;

simple mixing of product, whether or not of different kinds;

mixing of sugar with any material;

simple addition of water or dilution or dehydration or denaturation of the product;

simple assembly of parts of articles to constitute a complete article or disassembly of the product into parts; or

slaughter of animals.

For the purposes of paragraph 1, operations shall be considered simple if neither special skills nor machines, apparatus or equipment especially produced or installed are needed for carrying out those operations.

Unit of qualification

The unit of qualification for the application of this Chapter shall be the particular product which is considered as the basic unit when classifying the product under the Harmonized System.

If a consignment consists of identical products classified under the same heading of the Harmonized System, each individual product shall be taken into account when applying this Chapter.

Packing materials and containers for shipment

Packing materials and containers for shipment that are used to transport or protect a product during transportation shall be disregarded in determining whether that product is originating in a Party.

Packaging materials and containers for retail sale

Packaging materials and containers in which a product is packaged for retail sale, if classified with that product, shall be disregarded in determining whether all the non-originating materials used in the production of the product have undergone the applicable change in tariff classification or a specific production or processing operation set out in Annex 3-B (Product-specific rules of origin), or whether the product is wholly obtained in a Party within the meaning of Article 3.4 (Wholly obtained products).

If a product is subject to a value requirement set out in Annex 3-B (Product-specific rules of origin), the value of the packaging materials and containers in which the product is packaged for retail sale, if classified with that product, shall be taken into account as originating or non-

originating, as the case may be, in the calculation of the value requirement applicable to the product.

Accessories, spare parts and tools

Accessories, spare parts, tools and instructional or other information materials shall be regarded as one with the product in question if they are:

classified and delivered with, but not invoiced separately from, the product; and

of the type, quantity and value that are customary for that product.

Accessories, spare parts, tools and instructional or other information materials referred to in paragraph 1 shall be disregarded in determining the origin of the product except for the purposes of calculating the value of non-originating materials if a product is subject to a maximum value of non-originating materials or a minimum regional value content as set out in Annex 3-B (Product-specific rules of origin).

Sets

A set, classified pursuant to points (b) and (c) of Rule 3 of the General Rules for the Interpretation of the Harmonized System, shall be considered as originating in a Party if all of its components are originating components.

If a set is composed of originating and non-originating components, it shall, as a whole, be considered as originating in a Party, provided that the value of the non-originating components does not exceed 15 % of the ex-works or free on board price of the set.

Neutral elements

In order to determine whether a product is originating in a Party, the origin of the following neutral elements shall be disregarded:

energy and fuel;

plant and equipment, including goods used for their maintenance;

machines, tools, dies and moulds;

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

lubricants, greases, compounding materials and other materials used in production or used to operate equipment and buildings;

gloves, glasses, footwear, clothing, safety equipment and supplies;

equipment, devices and supplies used for testing or inspecting the product;

catalysts and solvents; and

other materials used in production that are neither incorporated into the product nor intended to be incorporated into the final composition of the product.

Fungible materials and accounting segregation

For the purposes of this Article, "fungible materials" means materials that:

are of the same kind and commercial quality;

have the same technical and physical characteristics; and

cannot be distinguished from one another once they are incorporated into the finished product.

Originating and non-originating fungible materials shall be physically segregated during storage in order to maintain their originating and non-originating status, as the case may be. These materials may be used in the working or processing of a product without being physically segregated provided an accounting segregation method is used.

The accounting segregation method referred to in paragraph 2 shall be applied in conformity with a stock management method under accounting principles which are generally accepted in the Party where the accounting segregation method is used. The accounting segregation method shall ensure that, at any time, the number of materials which could be considered as originating in a Party is the same as the number that would have been obtained by physical segregation of the stocks.

A Party may require, under conditions set out in its laws or regulations, that the use of an accounting segregation method is subject to prior authorisation by the customs authority of that Party. The customs authority of the Party may withdraw the authorisation if the producer makes improper use of the accounting segregation or fails to fulfil any of the other conditions set out in this Chapter.

Returned products

If an originating product of a Party exported from that Party to a third country returns to that Party, it shall be considered as non-originating unless the returned product:

is the same product as that exported; and

has not undergone any operation other than that necessary to preserve it in good condition while in that third country or while being exported.

Non-alteration

An originating product declared for home use in the importing Party shall not have, after exportation from the exporting Party and prior to being declared for home use, been altered, transformed in any way or subjected to operations other than to preserve it in good condition or adding or affixing marks, labels, seals or any other documentation to ensure compliance with specific domestic requirements of the importing Party.

Originating products may be stored or exhibited in a third country, provided that those products are not cleared for home use in that third country.

A consignment of originating products may be split in a third country, provided that those originating products are not cleared for home use in that third country.

In case of doubt as to whether the requirements in paragraphs 1 to 3 are complied with, the customs authority of the importing Party may request the importer to provide evidence of compliance, which may be given by any means, including contractual transport documents, such as bills of lading, or evidence based on marking or numbering of packages or any evidence related to the product itself.

Article ARTICLE 3.16

Claim for preferential tariff treatment

The importing Party shall grant preferential tariff treatment to an originating product on the basis of a claim by an importer for preferential tariff treatment. The importer shall bear the

responsibility for the correctness of the claim for preferential tariff treatment and for compliance with the requirements provided for in this Chapter.

A claim for preferential tariff treatment shall be based on:

a statement on origin that the product is originating, made out by the exporter; or

the importer's knowledge that the product is originating.

A claim for preferential tariff treatment shall be included in the customs import declaration in accordance with the laws and regulations of the importing Party.

If the claim for preferential tariff treatment is based on a statement on origin, the importer shall keep the statement on origin and, when required by the customs authority of the importing Party, provide a copy thereof to that authority.

Post-importation claim for preferential tariff treatment

If the importer did not make a claim for preferential tariff treatment at the time of importation, but subsequently makes such a claim in accordance with Article 3.16 (Claim for preferential tariff treatment), the importing Party shall grant preferential tariff treatment and repay, refund or remit any excess customs duty paid, provided that the product would have qualified for preferential tariff treatment when it was imported into that Party.

As a condition for granting preferential tariff treatment under paragraph 1, the importing Party may require that the importer makes a claim for preferential tariff treatment in accordance with Article 3.16 (Claim for preferential tariff treatment), no later than three years after the date of importation, or such longer time period as specified in the laws and regulations of that Party.

Statement on origin

A statement on origin shall be made out by an exporter of a product on the basis of information demonstrating that the product is originating, including, if applicable, information on the originating status of materials used in the production of that product. The exporter shall bear the responsibility for the correctness of the statement on origin.

A statement on origin shall be made out in one of the linguistic versions included in Annex 3-D (Text of the statement on origin) on an invoice, on any other commercial document or on a document that refers to an accompanying commercial document provided that the originating product is described in sufficient detail to enable its identification.2 The importing Party shall not require the importer to submit a translation of the statement on origin.3

A statement on origin shall be valid for one year from the date that it was made out.

A statement on origin may apply to:

a single shipment of a product into a Party; or

multiple shipments of identical products into a Party within the period specified in the statement on origin not exceeding 12 months.

The customs authority of the importing Party may, subject to its requirements, allow a single statement on origin to be used for unassembled or disassembled products within the meaning of point (a) of General Rule 2 of the General Rules for the Interpretation of the Harmonized System that are classified under Sections XV to XXI of the Harmonized System, when imported by instalments.

2 For greater certainty, there is no requirement regarding either the identity or the place of establishment of the person issuing the invoice or any other document, insofar as that document clearly identifies the exporter.

3 For greater certainty, this limitation only applies to the text of the statement on origin.

Discrepancies and minor errors

The customs authority of the importing Party shall not reject a claim for preferential tariff treatment solely on the ground of minor errors or discrepancies in the statement on origin.

Importer's knowledge

An importer's knowledge that a product is originating shall be based on information available to the importer demonstrating that the product is originating and satisfies the requirements of this Chapter.

Record-keeping requirements

An importer making a claim for preferential tariff treatment for a product imported into the importing Party shall, for a minimum of three years, or such longer period as required by the laws and regulations of the importing Party, after the date on which the claim for preferential tariff treatment was made, keep:

if the claim was based on a statement on origin, the statement on origin made out by the exporter, the information mentioned in point (b) of Article 3.23(2) (Verification) if this was provided by the exporter and any other information as

referred to in Article 3.23(4) (Verification); or

if the claim was based on the importer's knowledge that the product is originating, all records demonstrating that the product satisfies the requirements to obtain originating status.

An exporter who has made out a statement on origin shall, for a minimum of four years, or such longer period as required by the laws and regulations of the exporting Party, after the date on which that statement on origin was made out by the exporter, keep a copy of the statement on origin and all other records demonstrating that the product satisfies the requirements to obtain originating status.

Records kept in accordance with this Article may be held in electronic form.

Waiver of procedural requirements

By way of derogation from Articles 3.16 (Claim for preferential tariff treatment) to 3.20 (Importer's knowledge), the importing Party shall grant preferential tariff treatment to the originating products specified in paragraphs 2 and 4 if those products satisfy the requirements of this Chapter, provided that the customs authority of the importing Party has no doubts as to the veracity of such declaration under the conditions set out below.

For the Union, the derogation applies to a product the total value of which does not exceed:

EUR 500 if sent in a small package from private persons to private persons; or

EUR 1200 if forming part of a traveller's personal luggage.

For the purposes of this paragraph, the amounts to be used in a given national currency shall be the equivalent in that currency of the amounts expressed in euro as at the first working day of October. The exchange rates shall be those published for that day by the European Central Bank, unless a different exchange rate is communicated to the European Commission by 15 October, and shall apply from 1 January the following year. The European Commission shall notify Australia of the relevant exchange rates.

Paragraph 2 does not apply to a product imported by way of trade. The Union shall not consider occasional imports consisting solely of products for the personal use of the recipients or

travellers or their families as imports by way of trade if it is evident from the nature and quantity of the products that they are not intended for commercial use.

For Australia, the derogation applies to:

products where the customs value of the importation does not exceed AUD 1 000; or

an importation of a product for which Australia has waived the requirement or does not require the importer to present documentary evidence of origin.

This Article does not apply to products whose importation forms part of a series of importations that may reasonably be considered to have been made separately for the purpose of avoiding the requirements of Article 3.16 (Claim for preferential tariff treatment).

The record-keeping requirements set out in Article 3.21 (Record-keeping requirements) shall not apply to the importer under this Article unless such records are otherwise required to be kept by the laws and regulations of the importing Party.

Verification

The customs authority of the importing Party may conduct a verification4 to determine whether a product is originating or other requirements of this Chapter are satisfied, based on risk assessment methods which may include random selection. Such verification may be conducted by means of a request for information to the importer who made the claim for preferential tariff treatment at the time the import declaration is submitted, either before or after the release of the products.

The information requested pursuant to paragraph 1 shall cover no more than the following elements:

4 This is without prejudice to the respective import verification procedures (including for post-importation transactions) of the Parties.

if a statement on origin was the basis of the claim referred to in point (a) of Article 3.16(2) (Claim for preferential tariff treatment), that statement on origin; and

if the origin criterion is:

wholly obtained, the applicable category (such as harvesting, mining, fishing) and place of production;

based on a change in tariff classification, a list of all the non-originating materials including their tariff classification (in two, four or six digit format, depending on the origin criterion);

based on a value method, the value of the final product as well as the value of all the non-originating materials used in the production;

based on weight, the weight of the final product as well as the weight of the relevant non-originating materials used in the final product; and

based on a specific production process, a description of that process.

If the claim for preferential tariff treatment is based on the importer's knowledge referred to in point (b) of Article 3.16(2) (Claim for preferential tariff treatment), the customs authority of the importing Party conducting the verification may send a request for information to the importer, including information pursuant to point (b) of paragraph 2 to verify the originating status of the product or whether the other requirements of this Chapter are met. The customs authority of the importing Party may request the importer for specific documentation and information, where appropriate.

When providing the requested information, the importer may include any other information that it considers relevant for the purposes of verification.

If the customs authority of the importing Party decides to suspend the granting of preferential tariff treatment to the products concerned while awaiting the results of the verification, release of the products shall be offered to the importer. As a condition for such release, the Party may require

the payment of the duty, a guarantee or other appropriate precautionary measure. Any suspension of preferential tariff treatment shall be terminated as soon as possible after the customs authority of the importing Party has ascertained the originating status of the products concerned, or the fulfilment of the other requirements of this Chapter. Where the products are determined to be originating, any guarantee shall be released or duties paid shall be refunded, repaid, or remitted to the importer.

Administrative cooperation

In order to ensure the proper application of this Chapter, the Parties shall cooperate, through the customs authority of each Party, in verifying whether a product is originating and in compliance with the other requirements provided for in this Chapter.

If the claim for preferential tariff treatment is based on a statement on origin, the customs authority of the importing Party may, after requesting information in accordance with Article 3.23(1) and (2) (Verification), request additional information, including specific documentation, where appropriate, for the purposes of verification or for determining whether other requirements provided for in this Chapter are met, from the customs authority of the exporting Party within two years after the date on which the claim for preferential tariff treatment was made.

The customs authority of the importing Party shall include in the request referred to in paragraph 2:

the statement on origin;

the identity of the customs authority issuing the request;

the name of the exporter;

the subject and scope of the verification; and

if appropriate, any relevant documentation.

The customs authority of the exporting Party may, in accordance with its laws and regulations, request documentation from the exporter, call for relevant evidence or visit the premises of the exporter to review records and observe the facilities used in the production of the product.

The customs authority of the exporting Party shall provide in response to the request referred to in paragraph 2:

the requested documentation, if available;

if it considers appropriate, an opinion on the originating status of the product;

the description of the product subject to examination and the tariff classification relevant to the application of the rules of origin;

a description and explanation of the production process to support the originating status of the product;

information on the manner in which the examination was conducted; and

supporting documentation, if appropriate.

The customs authority of the exporting Party shall not transmit information referred to in paragraph 5 to the customs authority of the importing Party without the consent of the exporter.

Each Party shall provide to the other Party the contact details of its customs authority. A Party shall notify the other Party of any change to those contact details within 30 days after such change.

The customs authorities of the Parties shall enter into discussions if there has been an unusual increase in cooperation requests, including consideration of respective workloads and operational priorities.

Denial of preferential tariff treatment

Without prejudice to paragraph 3, the customs authority of the importing Party may deny preferential tariff treatment and recover unpaid customs duty in accordance with its laws and regulations if:

for claims for preferential tariff treatment based on a statement on origin referred to in Article 3.16(2)(a), within three months after the date of a request for information referred to in Article 3.23(1) (Verification):

no reply is provided by the importer; or

the statement on origin was not provided;

for claims for preferential tariff treatment based on the importer's knowledge referred to in Article 3.16(2)(b), within three months after the date of a request for information referred to in Article 3.23(2)(b) (Verification) and Article 3.23(3) (Verification);

no reply is provided by the importer; or

the information provided by the importer is inadequate to confirm that the product is originating; or

within 10 months after the date of a request for information pursuant to Article 3.24(2) (Administrative cooperation):

no reply is provided by the customs authority of the exporting Party; or

the information provided by the customs authority of the exporting Party is inadequate to confirm that the product is originating.

The customs authority of the importing Party may deny preferential tariff treatment to a product for which an importer claims preferential tariff treatment where the importer fails to comply with requirements of this Chapter.

If the customs authority of the importing Party has sufficient justification to deny preferential tariff treatment in accordance with paragraph 1, in cases where the customs authority of the exporting Party provided an opinion pursuant to point (b) of Article 3.24(5) (Administrative cooperation) asserting the originating status of the product, the customs authority of the importing Party shall notify the customs authority of the exporting Party of its intention to deny the preference within two months after the date of receiving the opinion.

In the circumstances referred to in paragraph 3, a Party may request consultations. Such consultations shall be held within a period of three months after the date of the notification referred to in paragraph 3. The period for consultations may be extended by mutual agreement between the customs authorities of the Parties. The consultations shall take place in accordance with the procedure decided by the Committee on Customs pursuant to point (b) of Article 3.29 (Committee on Customs).

Upon the expiry of the period for consultation, if the customs authority of the importing Party cannot confirm that the product is originating, it may deny the preferential tariff treatment if it has a sufficient justification for doing so and after having granted the importer the right to be heard.

The customs authority of the importing Party shall not deny preferential tariff treatment to a product on the sole ground that Article 3.24(5) has been applied.

Confidentiality

Each Party shall maintain, in accordance with its laws and regulations, the confidentiality of information provided to it by the other Party, pursuant to this Chapter, and shall protect that information from disclosure.

Information obtained by the customs authority of the importing Party pursuant to this Chapter may only be used by such authority for the purposes of this Chapter. It may be used by the importing Party in administrative, judicial or quasi-judicial proceedings instituted for failure to comply with this Chapter. The importing Party shall notify the person or customs authority of the exporting Party who provided the information in advance of any such proceeding.

A Party shall ensure that confidential information collected under this Chapter shall not be used for purposes other than the administration and enforcement of decisions and determinations relating to origin and to customs matters, except with the permission of the other Party who provided the confidential information. If information obtained by the customs authority of the importing Party pursuant to this Chapter is required to be used or disclosed for other purposes to comply with a Party's laws and regulations, that Party shall take appropriate measures available to it to protect the confidentiality of the information and, if permitted by its laws and regulations, notify the other Party who provided it with the information, in advance of, or on the day of, using or disclosing such information. The notification shall include the legal grounds for the requirement of the importing Party to use or disclose the information for that other purpose.

Administrative measures and sanctions

Each Party shall ensure the effective enforcement of this Chapter. Each Party shall ensure that its competent authorities are able to impose, in accordance with its law, administrative measures and, if appropriate, sanctions for violations of the obligations under this Chapter.

Article ARTICLE 3.28

Ceuta and Melilla

For the purpose of this Chapter, the term "Union" does not include Ceuta and Melilla.

Products originating in Australia, when imported into Ceuta and Melilla, shall in all respects be subject to the same customs regime, including preferential tariff treatment, as that which is

applied to products originating in the customs territory of the Union under Protocol 2 concerning the Canary Islands and Ceuta and Melilla of the 1985 Act of Accession.5 Australia shall apply to imports of products covered by this Agreement and originating in Ceuta and Melilla the same customs regime, including preferential tariff treatment, as that which is applied to products imported from and originating in the Union.

The rules of origin applicable to Australia under this Chapter shall apply in determining the origin of products exported from Australia to Ceuta and Melilla. The rules of origin applicable to the Union under this Chapter shall apply in determining the origin of products exported from Ceuta and Melilla to Australia.

Ceuta and Melilla shall be considered as a single territory.

The Spanish customs authorities shall be responsible for the application of this Chapter in Ceuta and Melilla.

Committee on Customs

The Committee on Customs is established pursuant to Article 22.5(1) (Specialised committees)

In addition to the functions specified in Article 22.6 (Functions of the specialised committees), the Committee on Customs shall, with respect to this Chapter, have the following functions:

considering possible amendments to this Chapter and its Annexes, including those arising from the review of the Harmonized System;

adopting, by decisions, explanatory notes to facilitate the implementation of this Chapter; and

adopting a decision to establish the consultation procedure referred to in Article 3.25(4) (Denial of preferential tariff treatment).

Transitional provisions for products in transit or storage

The Parties shall apply the provisions of this Agreement to an originating product that:

on the date of entry into force of this Agreement:

is in transit from the exporting Party to the importing Party; or

has not been cleared for home use in the importing Party; and

otherwise complies with the provisions of this Chapter.

A product referred to in paragraph 1 is subject to an importer making a claim for preferential tariff treatment as referred to in Article 3.16 (Claim for preferential tariff treatment) within 12 months after the date of entry into force of this Agreement.

Chapter 4. CUSTOMS AND TRADE FACILITATION

Article ARTICLE 4.1

Objectives

The objectives of this Chapter are to:

facilitate trade in goods between the Parties, consistent with the WTO Agreement on Trade Facilitation, while ensuring effective customs control, taking into account the evolution of trade practices;

ensure transparency of each Party's customs laws and regulations;

ensure predictable, consistent and non-discriminatory application by each Party of its customs laws and regulations;

promote simplification and modernisation of each Party's customs procedures and practices consistent with international agreements to which both Parties are party and relevant international standards which are applied by both Parties; and

enhance cooperation between the Parties in the field of customs matters and trade facilitation.

In the event of any inconsistency between this Chapter and Chapter 6 (Sanitary and phytosanitary measures) or Chapter 8 (Technical barriers to trade), Chapter 6 (Sanitary and

phytosanitary measures) and Chapter 8 (Technical barriers to trade), as applicable, shall prevail to the extent of the inconsistency.

Definitions

For the purposes of this Chapter, the following definitions apply:

"customs laws and regulations" means any laws and regulations applicable in the territory of either Party governing the import, export and transit of goods as well as other customs

procedures, and including measures of prohibition, restriction and control, usually administered, applied or enforced by the customs authorities of the Parties; and

"SAFE Framework" means the WCO Framework of Standards to Secure and Facilitate Global Trade.

Customs cooperation and mutual administrative assistance

The Parties shall cooperate on customs matters with a view to facilitating the effective operation of this Agreement, including by:

exchanging information concerning customs laws and regulations and their implementation, and customs procedures, including best practices, particularly in the following areas:

simplification and modernisation of customs procedures;

enforcement of intellectual property rights by their respective customs authorities;

facilitation of transit movements and transhipment;

relations with the business community; and

supply chain security and risk management.

working together on the customs-related aspects of securing and facilitating international trade supply chains in accordance with the SAFE Framework;

developing joint initiatives, as appropriate, relating to import, export and other customs procedures and ensuring an effective service to the business community;

strengthening their cooperation in the field of customs in international organisations such as the WTO and the WCO;

endeavouring to harmonise their data requirements for import, export and other customs procedures by implementing common data standards and elements in accordance with the WCO Customs Data Model or other relevant international standards;

strengthening their cooperation on risk management techniques, including:

sharing best practices;

sharing, where appropriate, risk information and control results; and

considering, where relevant and appropriate, mutual recognition of risk management techniques, risk standards and security controls;

establishing, where relevant and appropriate, mutual recognition of Authorised Economic Operator programmes and customs controls, including equivalent trade facilitation measures;

fostering cooperation between customs and other government authorities or agencies in relation to Authorised Economic Operator programmes, including by aligning requirements, facilitating access to benefits and minimising unnecessary duplication; and

where relevant and appropriate and without prejudice to exchanges of information that may take place between the Parties pursuant to the Protocol on mutual administrative assistance in

customs matters (hereinafter referred to as "the Protocol"), putting in place mutually agreed arrangements for structured and recurrent exchanges of information and communication between the Parties on certain categories of customs-related information for specific purposes, including the exchange of information for the purposes of improving risk management and the effectiveness of customs control, targeting high-risk goods, and facilitating legitimate trade.

Without prejudice to other forms of cooperation envisaged in this Agreement, the customs authorities of the Parties shall provide each other with mutual administrative assistance in customs matters in accordance with the provisions of the Protocol. Any exchange of information between the Parties under this Chapter shall be subject to Article 12 (Information exchange and confidentiality) of the Protocol, mutatis mutandis.

The Parties shall cooperate under this Article in accordance with their respective laws and regulations and subject to available resources.

Customs laws, regulations and procedures

Each Party shall ensure that its customs laws and regulations and procedures, as well as their application:

give effect to, as appropriate, international agreements to which both Parties are party and international standards in the area of customs and trade which are applied by both Parties, including the substantive elements of the Revised Kyoto Convention on the Simplification and Harmonisation of Customs Procedures, done at Brussels on 26 June 1999, the International Convention on the Harmonized Commodity Description and Coding System, done at Brussels on 14 June 1983, as well as the SAFE Framework and the WCO Customs Data Model;

protect and facilitate legitimate trade; and

provide safeguards against fraud and illicit trade.

Each Party shall ensure that any penalty imposed for breaches of its customs laws and regulations and procedures depends on the facts and circumstances of the case and is commensurate with the degree and severity of the breach.

Each Party shall ensure that its customs procedures avoid arbitrary and unwarranted procedural obstacles and that they

facilitate trade, including through the expeditious clearance of goods. Each Party shall also ensure that its customs laws and regulations and procedures are administered in a predictable, consistent, transparent and impartial manner.

Each Party shall periodically review its customs fees and charges with a view to reducing their number and diversity, where practicable. Each Party shall also periodically review its customs procedures with a view to simplifying them, to facilitate legitimate trade flows between the Parties and to reduce unnecessary regulatory burdens on economic operators, including small and medium-sized businesses, while ensuring effective enforcement of its customs laws and regulations and procedures .

Each Party shall work towards further simplification and standardisation of data and documentation required by its customs authority and, to the extent possible, other agencies.

Release of goods

Each Party shall adopt or maintain customs procedures that:

provide for the prompt release of goods within a period that is no longer than necessary to ensure compliance with its laws and regulations;

provide for advance electronic submission and processing of documentation and any other required information prior to the arrival of the goods, to enable the release of goods upon arrival provided all requirements for release have been met; and

allow for the release of goods prior to the final determination of customs duties, taxes, fees and charges, if such a determination is not done prior to, or upon arrival, or as rapidly as possible after arrival and provided that all other regulatory requirements have been met.

As a condition for the release of goods prior to a final determination, each Party may require:

payment of customs duties, taxes, fees and charges determined prior to or upon arrival of goods and a guarantee for any amount not yet determined in the form of a surety, a deposit or another appropriate instrument provided for in its laws and regulations; or

a guarantee in the form of a surety, a deposit or another appropriate instrument provided for in its laws and regulations.

A guarantee referred to in paragraph 2 shall not be greater than the amount the Party requires to ensure payment of customs duties, taxes, fees and charges ultimately due for the goods covered by the guarantee and shall be discharged when it is no longer required.

Transit and transhipment

Each Party shall ensure the facilitation and effective control of transhipment operations and transit movements through its territory.

Each Party shall ensure that its authorities and agencies responsible for border controls and procedures dealing with the transit and transhipment of goods cooperate and coordinate their activities in order to facilitate trade.

Each Party shall allow goods intended for import to be moved within its territory under customs control from a customs office of entry to another customs office in its territory from where the goods would be released or cleared.

Risk management

Each Party shall adopt or maintain a risk management system for customs control.

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

Each Party shall focus customs control and, to the extent possible, other relevant border controls, on high-risk consignments and expedite the release of low-risk consignments. Each Party may also select, on a random basis, consignments for such controls as part of its risk management.

Each Party shall base risk management on an assessment of risk through appropriate selectivity criteria.

Post-clearance audit

With a view to expediting the release of goods, each Party shall adopt or maintain post-clearance audit processes to ensure

compliance with customs and other related laws and regulations.

Each Party shall select a person or a consignment for post-clearance audit in a risk-based manner, which may include appropriate selectivity criteria. Each Party shall conduct post-clearance audits in a transparent manner. When an audit has been concluded, the Party shall, without delay,

notify the person whose record is audited of the results, the person’s rights and obligations and the

reasons for the results.

The Parties shall, wherever practicable, use the results of a post-clearance audit in applying risk management.

Authorised economic operators

Each Party shall establish or maintain a trade facilitation partnership programme for operators who meet specified criteria (hereinafter referred to as "Authorised Economic Operators") in accordance with the SAFE Framework.

The specified criteria to qualify as an Authorised Economic Operator shall be related to compliance with requirements specified in each Party’s laws and regulations or procedures. These criteria, which shall be published, may include:

demonstration by the applicant of a satisfactory record of compliance with customs and other related laws and regulations;

demonstration by the applicant of a satisfactory record of compliance with tax laws and regulations;

demonstration by the applicant of a high level of control of their operations and of the flow of goods, by means of a system of managing commercial and, where appropriate, transport records, which allows appropriate customs control;

financial solvency, which shall be deemed to be proven where the applicant has good financial standing, which enables them to fulfil their commitments, with due regard to the characteristics of the type of business activity concerned;

proven competences or professional qualifications directly related to the activity carried out; and

appropriate security and safety standards, which shall be considered as fulfilled where the applicant demonstrates, to the satisfaction of the competent authorities, appropriate measures to ensure the security and safety of the international supply chain, including in the areas of physical integrity and access controls, logistical processes and handling of specific types of goods, personnel and identification of the applicant’s business partners.

The specified criteria to qualify as an Authorised Economic Operator shall not be designed or applied in a manner that arbitrarily or unjustifiably discriminates between operators where the same conditions prevail and shall allow the participation of SMEs.

The partnership programme shall include benefits in accordance with each Party’s laws and regulations and procedures .

Publication and availability of information

Without prejudice to Article 21.3 (1) (Publication - Transparency Chapter), each Party shall promptly publish:

where relevant and appropriate, explanatory documents related to its customs laws, regulations and procedures;

importation, exportation and transit procedures (including port, airport, and other entry-point procedures) and required forms and documents;

applied rates of duties and taxes of any kind imposed on or in connection with importation or exportation;

fees and charges imposed by or for governmental agencies on or in connection with importation, exportation or transit;

rules for the classification or valuation of products for customs purposes;

laws, regulations and administrative rulings of general application relating to rules of origin;

import, export or transit restrictions or prohibitions;

penalty provisions against breaches of import, export or transit formalities;

procedures for appeal or review;

agreements or parts thereof with a third country relating to importation, exportation or transit;

procedures relating to the administration of tariff quotas;

hours of operation for customs offices at ports and border crossing points; and

contact points for information enquiries.

Without prejudice to Article 21.3(3) (Publication – Transparency Chapter), each Party shall endeavour to provide for sufficient time between the publication and the entry into force of customs laws and regulations, except where it is not possible on grounds of urgency. This provision does not apply in relation to administrative rulings.

Each Party shall make publicly available online, and update as appropriate, the following:

a description of its importation, exportation and transit procedures, including appeal procedures, informing of the practical steps needed for import and export and transit;

the forms and documents required for importation into, exportation from, or transit through the territory of that Party; and

contact information of enquiry points.

Each Party shall establish or maintain one or more enquiry points to answer, within a reasonable time, enquiries of traders and other interested parties on customs matters. The Parties shall endeavour not to charge a fee for answering enquiries.

Advance rulings

On receipt of an application containing all necessary information, a Party shall issue an advance ruling setting out the treatment to be accorded to the goods concerned. Advance rulings shall be issued in writing, including in electronic format, and within a reasonable timeframe.

An advance ruling shall be valid for a period of at least three years unless the advance ruling is revoked, modified, invalidated or annulled. A Party may revoke, modify, invalidate or annul an advance ruling if there is a change in the law, facts or circumstances on which the ruling was based, if the ruling was based on inaccurate or false information or if the ruling was in error.

A Party may refuse to issue an advance ruling if the question raised in the application is the subject of administrative or judicial review, or if the application does not relate to any intended use of the advance ruling or any intended use of a customs procedure. If a Party declines to issue an advance ruling, it shall promptly notify the applicant in writing, setting out the relevant facts and the basis for its decision.

Each Party shall publish at least:

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

the time period within which it may issue an advance ruling; and

the length of time for which the advance ruling is valid.

If a Party revokes, modifies, invalidates or annuls an advance ruling, it shall provide written notice to the applicant setting out the relevant facts and the basis for its decision. Notwithstanding paragraph 2, if the Party revokes, modifies, invalidates or annuls an advance ruling with retroactive effect, it may only do so if the ruling was based on incomplete, incorrect, false or misleading information.

An advance ruling issued by a Party shall be binding on that Party in respect of the applicant that sought it. The Party may provide that the advance ruling is binding on the applicant.

Each Party shall provide, upon written request from the applicant, a review of the advance ruling or of the decision to modify, revoke, invalidate or annul it.1

Subject to any confidentiality requirements in its laws and regulations, a Party may publish its advance rulings, including online.

Advance rulings shall be issued with regard to:

the tariff classification of goods;

whether a good qualifies as an originating good in accordance with Chapter 3 (Rules of origin and origin procedures);

the appropriate method or criteria, and the application thereof, to be used for determining the customs value under a

particular set of facts, if permitted by a Party's laws and regulations; and

any other matter that the Parties may agree.

Customs brokers

A Party shall not require the mandatory use of customs brokers. Each Party shall publish its measures on the use of customs brokers and shall promptly publish any subsequent modifications to

1 Under this paragraph:

a review may be provided by the official, office, or authority that issued the ruling, a higher or independent administrative authority or a judicial authority, either before or after the ruling has been acted on; and

a Party is not required to provide the applicant access to the review procedures referred to in Article 4.13 (Review and appeal) or Article 21.6 (Review and appeal – Transparency Chapter).

these measures. Each Party shall apply transparent and objective rules when licensing customs brokers.

Review and appeal

Each Party shall provide a right of appeal or review to any person to whom an administrative decision has been addressed by its customs authority.

Each Party shall provide procedures for appeal against the administrative actions, rulings and decisions of its customs authority that affect import or export of goods or goods in transit.

Without prejudice to Chapter 21 (Transparency), each Party shall provide that any person to whom its customs authority issue an administrative decision has access to:

administrative appeal or review by an administrative authority higher than or independent of the official or office that issued of the decision; or

judicial appeal or review of the decision.

Each Party shall ensure that, in a case where the decision on appeal or review referred to point

of paragraph 3 is not given within the period of time provided for in its laws and regulations or without undue delay, the applicant has the right to further administrative or judicial appeal or review or any other recourse to a judicial authority according to the laws and regulations of that Party.

Each Party shall ensure that the petitioner is provided with the reasons for the administrative decision so as to enable such a person to have recourse to appeal or review procedures where necessary.

Relations with the business community

Each Party shall, as appropriate, provide for regular consultations on customs and trade facilitation issues, including legislative and regulatory proposals, with interested parties involved in customs related activities in the Parties, including the business community.

Temporary admission

For the purposes of this Article, "temporary admission" means the customs procedure under which certain goods, including means of transport, can be brought into a customs territory of a Party conditionally relieved from payment of customs duties or taxes, provided that such goods are imported for a specific purpose and are intended for re-exportation within a specified period and without having undergone any change except normal depreciation due to the use made of them.

Each Party shall grant temporary admission, subject to its laws and regulations, to the following goods:

goods intended for display or demonstration at exhibitions, fairs, meetings or similar events, and goods intended for use in connection with the display of foreign products at such events;

professional equipment;

commercial samples and advertising films and recordings;

containers, packing and pallets that are in use or are to be used in the international shipment of goods; and

personal effects (all articles, new or used, which a traveller may reasonably require for their personal use during the journey, taking into account all the circumstances of the journey, but excluding any goods imported for commercial purposes).

For the temporary admission of the goods referred to in points (a) and (c) of paragraph 2 and regardless of their origin, each Party shall accept A.T.A. carnets issued in the other Party, endorsed there and guaranteed by an association forming part of the international guarantee chain, certified by the competent authorities and valid in the customs territory of the importing Party.

Committee on Customs The Committee on Customs may adopt decisions:

in relation to the customs matters listed in Article 4.3(1) (Customs cooperation and mutual administrative assistance), including for the purposes of implementing points (g) and (i) of that paragraph; and

to put in place the practical measures and arrangements referred to in Article 15(1) (Implementation) of the Protocol, including in order to establish the arrangements relating to the automatic exchange of information referred to in Article 10 (Automatic and advance exchange of information).

Chapter 5. TRADE REMEDIES

SECTION A

ANTI-DUMPING AND COUNTERVAILING DUTIES ARTICLE X.1

General provisions

Each Party affirms its rights and obligations under the Anti-dumping Agreement and the SCM Agreement.

For the purpose of this Section, origin shall be determined in accordance with the non-preferential rules of origin of the Parties.

Transparency

Each Party shall conduct anti-dumping and countervailing duty investigations in a fair and transparent manner in accordance with the requirements in the Anti-dumping Agreement and the SCM Agreement.

Both parties shall ensure that meaningful disclosure is made at the imposition of provisional measures and before final determination is made. Parties shall ensure any disclosure:

at the provisional stage, includes at least sufficient explanations of the reasons in fact and law which have led to arguments being accepted or rejected;

at the final stage, is a full and meaningful disclosure of all essential facts and considerations, which form the basis for the decision to apply definitive measures;

is made in writing and allows interested parties sufficient time to make their comments.

Both parties reaffirm that non-confidential summaries shall be in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence. This article is without prejudice to Article 6.5 of the Anti-dumping Agreement and Article 12.4 of the SCM Agreement.

Provided it does not unnecessarily delay the conduct of the investigation, each interested party shall be granted the possibility to provide information orally in order to express their views during trade remedy investigations. The parties reaffirm their rights and obligations under Article 6.2 of the Anti-dumping Agreement relating to hearings and the right to provide information orally.

When making a final determination, the parties shall take into account the information duly provided by all interested parties considered as such, including the domestic industry, importers and their representative associations, representative users and representative consumer organisations pursuant to each Party’s domestic legal framework.

Lesser duty rule

Should a Party decide to impose an anti-dumping duty, the amount of such duty shall not exceed the margin of dumping

and, subject to each Party's domestic legislation, be in principle less than that margin of dumping if such lesser duty would be adequate to remove the injury to the domestic industry.

Dispute Settlement

This section shall not be subject to Chapter 24 (Dispute Settlement).

SECTION B

GLOBAL SAFEGUARD MEASURES

Article ARTICLE X.5

General provisions

Each Party affirms its rights and obligations under Article XIX of GATT 1994, the Safeguards Agreement and Article 5 of the Agreement on Agriculture.

Further to paragraph 1, each Party shall conduct global safeguard investigations in a fair and transparent manner in accordance with the relevant WTO requirements.

Transparency

Notwithstanding Article X.5 (General provisions – Global Safeguard Measures) at the request of the other Party, the Party initiating a safeguard investigation or intending to take safeguard measures shall immediately provide ad hoc written notification in electronic format of all pertinent information leading to the initiation of a safeguard investigation or the imposition of global safeguard measures including on the provisional findings, where relevant. This is without prejudice to Article 3.2 of the Safeguards Agreement.

To the extent permitted by the Safeguards Agreement, when imposing safeguard measures, the Parties shall endeavour to impose them in a way that least affects bilateral trade.

For the purpose of paragraph 2, if one Party considers that the legal requirements are met for the imposition of definitive safeguard measures, the Party intending to apply such measures shall notify the other Party and give the possibility to hold bi-lateral consultations. If no satisfactory solution has been reached within 30 days of the notification, the importing Party may adopt the appropriate measures to remedy the problem.

Dispute Settlement

This section shall not be subject to Chapter 24 (Dispute Settlement).

BILATERAL SAFEGUARD MEASURES ARTICLE X.8

Definitions

For the purposes of this Chapter:

"bilateral safeguard measure" means a measure described in Article X.9(2) (Application of a bilateral safeguard measure);

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

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

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

"transition period" means:

seven years from the date of entry into force of this Agreement; or

for products subject to preferential tariff treatment set out in Appendix 2-A-1 in the form of a tariff rate quota, an additional period of five years commencing immediately after the completion of the staging period.

Application of a bilateral safeguard measure

Notwithstanding Section B (Global safeguard measures), if as a result of the reduction, or elimination of a customs duty or preferential treatment set out in Appendix 2-A-1 in the form of a tariff rate quota under this Agreement, a product originating in a Party and identified in a Party's tariff schedule to this Agreement is being imported into the territory of the other Party in such increased quantities, in absolute terms or relative to domestic production, and under such conditions as to cause or threaten to cause serious injury to the domestic industry that produces like or directly

competitive goods, the importing Party may apply a bilateral safeguard measure under the conditions and in accordance with the procedures laid down in this Section.

If the conditions in paragraph 1 are met, the safeguard measures of the importing Party may only consist of one of the following:

suspension of the further reduction of the rate of customs duty or of the preferential treatment set out in Appendix 2-A-1 in the form of a tariff rate quota on the product concerned provided for under this Agreement; or

increase in the rate of customs duty on the product concerned up to a level which does not exceed the lesser of1:

the most-favoured nation applied rate of customs duty on the product in effect at the time the measure is applied; or

the most-favoured nation applied rate of customs duty on the product in effect on the day immediately preceding the date of entry into force of this Agreement.

Without prejudice to paragraph 2, for products subject to preferential treatment set out in Appendix 2-A-1 in the form of a tariff rate quota under this Agreement, the rate of customs duty shall be set at a level calculated by the importing Party and applicable, when possible, to the quantities necessary to prevent or remedy the situation described in Article X.9(1) and to facilitate adjustment.

Conditions and limitations

1 For greater certainty, where the conditions are met to increase the rate of customs duty under this article, the rate may be set below the most-favoured nation applied rate in a) or b).

A bilateral safeguard measure may only be applied:

to the extent, and for such time, as may be necessary to prevent or remedy the situation described in Articles X.9 (Application of a bilateral safeguard measure), or X.13 (Outermost regions) and to facilitate adjustment;

for a period not exceeding two years. The period may be extended by another 1 year if the competent authorities of the importing Party determine, in conformity with the procedures specified in this Sub-Section, that the measure continues to be necessary to prevent or remedy the situations described in paragraph (a) and to facilitate adjustment, provided that the total period of application of a safeguard measure, including the period of initial application and any extension thereof, does not exceed 3 years; and

during the transition period, except with the consent of the other Party.

When a Party ceases to apply a bilateral safeguard measure, the rate of customs duty shall be the rate that would have been in effect for the product, according to the Schedule of that Party.

2bis. In order to facilitate adjustment, in a situation where the expected duration of a bilateral safeguard measure is over one year, the Party that applies the measure shall progressively liberalise it at regular intervals during the period of application.

No bilateral safeguard measure or provisional measure referred to in this Section shall be applied to the import of a product that has previously been subject to such a measure for a period of time equal to the duration of the previous bilateral safeguard measure or one year, whichever is longer. No bilateral safeguard measure may be applied more than twice on the same product.

Neither Party shall apply, with respect to the same product and during the same period:

a bilateral safeguard measure or a provisional safeguard measure provided in this Agreement; and

a safeguard measure under Article XIX of the GATT 1994 and the WTO Agreement on Safeguards, and

a special SFG under Article 5 of the Agreement on Agriculture.

Provisional measures

In critical circumstances where delay would cause damage that would be difficult to repair, a Party may apply a bilateral safeguard measure on a provisional basis, pursuant to a preliminary determination that there is clear evidence that imports of a product originating in the other Party have increased as a result of the reduction or elimination of a customs duty under this Agreement, and that such imports have caused or are threatening to cause serious injury to the domestic industry that produces like or directly competitive goods and the situation[s] described in X.13 (Outermost regions).

The duration of such a provisional measure shall not exceed two hundred days, during which time the applying Party shall comply with the pertinent requirements of Article X.10 (Application of a bilateral safeguard measure), Article X.10 (Conditions and Limitations), Article X.11 (Provisional Measures), Article X.14 (Procedural rules for bilateral safeguard measures) and Article

X.15 (Notification and consultations). The applying Party shall promptly refund any additional customs duties collected as a result of a provisional measure if the investigation described in Article

X.17 does not result in a finding that the requirements of Article X.9 or Article X.13 (Outermost regions) have been met. The duration of any provisional measure shall be counted as part of the period described in point (b) of Article X.11(1). A Party shall notify the other Party before taking a provisional measure and initiate consultations immediately after the measure is taken.

Compensation and suspension of concessions

A Party proposing to apply or extend a bilateral safeguard measure shall provide the other Party with mutually agreed adequate means of trade compensation in the form of concessions of customs duties, which are substantially equivalent to the value of the additional customs duties expected to result from the bilateral safeguard measure.

If the Parties are unable to agree on the compensation within 30 days after the commencement of the consultations under paragraph 4 of Article X.15 (Notification and consultations), the Party to whose originating good the bilateral safeguard measure is applied may suspend the application of substantially equivalent concessions with respect to originating goods of the Party applying the bilateral safeguard measure. The Party exercising the right of suspension may suspend the application of concessions of customs duties only for the minimum period necessary to achieve the substantially equivalent effects and only while the bilateral safeguard measure is maintained.

The right of suspension in paragraph 2 shall not be exercised for the first two years that the safeguard measure is in effect provided that the bilateral safeguard measure has been applied as a result of an absolute increase in imports and that such a measure conforms to this Section. The limit on exercising the right of suspension shall not apply when a bilateral safeguard is applied for a second time to the same product.

Outermost regions

Notwithstanding Section B (Global safeguard measures) and Article X.9 (Application of a bilateral safeguard measure), the European Union may, in exceptional circumstances and after examining alternative solutions, apply a safeguard measure limited to the territory of an outermost region2 if, as a result of the reduction or elimination of a customs duty under this Agreement, a

2 At the entry into force of this Agreement, the outermost regions of the EU are: Guadeloupe, French Guiana, Martinique, Reunion, Mayotte, St. Martin, the Azores, Madeira and the Canary Islands. This Article shall also apply to a country or an overseas territory that changes

product originating in Australia and identified in the European Union’s tariff schedule to this Agreement is being imported from Australia directly into the territory of an outermost region of the European Union in such increased quantities and under such conditions as to cause or threaten to cause serious deterioration in the economic situation of the outermost region concerned that produces like or directly competitive goods.

A safeguard measure applied pursuant to this Article shall be applied in accordance with the procedures laid down in this Section. Any reference to "serious injury" in this Section shall be understood as "serious deterioration" for the purposes of this article.

For the purpose of paragraph 1, serious deterioration shall mean major difficulties in a sector of the economy producing like or directly competitive products. The determination of deterioration shall be based on objective factors, including the following elements:

the increase in the volume of imports in absolute or relative terms to domestic production; and

the effect of such imports on the situation of the relevant industry or the economic sector concerned, including inter alia on the levels of sales, production, financial situation and employment.

Procedural rules for bilateral safeguard measures

its status to an outermost region by a decision of the European Council in accordance with the procedure set out in Article 355 (6) of the Treaty on the Functioning of the EU from the date of adoption of that decision. In the event that an outermost region of the EU changes its status as such by the same procedure, this Article shall cease to be applicable from the European Council's decision accordingly. The EU shall notify the other Parties of any change in the territories considered as outermost regions of the EU.

A Party may apply a bilateral safeguard measure only after an investigation has been carried out by the competent authorities of that Party in accordance with the same procedures as those provided for in Article 3 and Article 4.2(c) of the Safeguards Agreement.

In the investigation referred to in paragraph 1, to determine whether increased imports of an originating good have caused or are threatening to cause serious injury to a domestic industry under the terms of this Section, the competent authorities of a Party who carry out the investigation shall evaluate all relevant factors of an objective and quantifiable nature having a bearing on the situation of that domestic industry, in particular, the rate and amount of the increase in imports of the originating good in absolute and relative terms, the share of the domestic market taken by the increased imports of the originating good, and the changes in the level of sales, production, productivity, capacity utilisation, profits and losses, and employment.

The determination that increased imports of an originating good have caused or are threatening to cause serious injury to a domestic industry shall not be made unless the investigation referred to in paragraph 1 demonstrates, on the basis of objective evidence, the existence of a causal link between increased imports of the originating good and serious injury or threat thereof. When factors other than increased imports of the originating good of the other Party as a result of the elimination or reduction of a customs duty under this Agreement are causing injury to the domestic industry at the same time, such injury shall not be attributed to the increased imports of the originating good.

Notification and consultations

The importing Party shall immediately notify the other Party in writing, upon:

initiating an investigation under Article X.14 (Procedural rules for bilateral safeguard measures);

making a finding of serious injury or threat thereof caused by increased imports, as set out in Article X.9 (Application of a bilateral safeguard measure) and X.13 (Outermost regions);

taking a decision to apply, modify or extend a bilateral safeguard measure;

applying a provisional measure.

The importing Party notifying the other Party in paragraph 1 shall provide the other Party with all pertinent information, which shall include:

in the written notice referred to in point (a) of paragraph 1, the reason for the initiation of the investigation, a precise description of the specified good subject to the investigation including its heading or subheading under the HS Code, the period of investigation and the date of initiation of the investigation; and

in the written notice referred to in points (b), (c) and (e) of paragraph 1, evidence of serious injury or threat thereof to the domestic industry that produces like or directly competitive goods caused by increased imports of the specified good as a result of the reduction or elimination of a customs duty pursuant to this Agreement, a precise description of the specified good subject to the proposed bilateral safeguard measure including its heading or subheading under the HS Code, the details of the proposed bilateral safeguard measure, and the proposed date of introduction, duration and timetable for progressive liberalisation of the measure, if such timetable is applicable.

In the case of an extension of a bilateral safeguard measure, the Party delivering the written notice referred to in paragraph 1 shall also provide the other Party with evidence that the domestic industry concerned is adjusting.

A Party proposing to apply or extend a bilateral safeguard measure shall provide adequate opportunity for prior consultations with the other Party with a view to reviewing the information provided under paragraphs 2 and 3, exchanging views on the safeguard measure and reaching

understanding on compensation set forth in Article X.12 (Compensation and suspension of concessions).

The notification and information referred to in paragraphs 2 and 3, and invitation for consultations referred to in paragraph 4 shall be provided at least 30 days before definitive measures are expected to be applied or extended. No definitive measures shall be applied or extended in the absence of such notification, information, and adequate opportunity for consultations, in accordance with paragraph 4.

Upon request, the Party applying or extending a bilateral safeguard measure shall, to the extent possible, provide additional information as the other Party may consider necessary.

DISCLAIMER: The Commission and Australia are publishing the texts of the Agreement following the announcement of conclusion of the negotiations on 24 March 2026. The texts are published in view of the public interest in the Agreement, for information purposes only and they may undergo further minor modifications, including as a result of the process of legal and linguistic revision. These texts are without prejudice to the final outcome of the Agreement between the EU and Australia. The texts will be final upon signature. The Agreement will become binding on the Parties under international law only after completion by each Party of its applicable legal requirements and procedures necessary for the entry into force of the Agreement.

Chapter 6. SANITARY AND PHYTOSANITARY MEASURES

Article ARTICLE 6.1

Objectives

The objectives of this Chapter are to:

protect human, animal and plant life or health in the territory of each Party while facilitating bilateral trade between the Parties;

ensure that the Parties' sanitary and phytosanitary ("SPS") measures do not create unjustified barriers to trade and promote resolution of SPS issues that may affect trade;

reinforce and build upon the implementation of the SPS Agreement;

promote the implementation by each Party of international standards, guidelines and recommendations;

promote greater transparency in and understanding of the application of each Party's SPS measures;

strengthen communication, consultation and cooperation between the Parties, including in international standard setting bodies.

provide direction for the identification, prioritisation, management and resolution of technical market access requests and other issues.

Article ARTICLE 6.2

Scope

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

Article ARTICLE 6.3

Definitions

For the purposes of this Chapter

"competent authority" means an authority listed in Annex 6-A (Competent authorities);

"protected zone" means an officially defined geographical area in the European Union in which a specified regulated pest is not established in spite of favourable conditions for its establishment and its presence in other parts of the European Union.

The definitions set out in Annex A of the SPS Agreement shall apply.

The Parties may take into consideration the glossaries and definitions of the relevant international organisations, such as the Codex Alimentarius Commission ("Codex"), the World Organisation for Animal Health ("OIE") and

the International Plant Protection Convention ("IPPC"). In the event of an inconsistency between these glossaries and definitions and the definitions set out in the SPS Agreement, the definitions set out in the SPS Agreement shall prevail.

Article ARTICLE 6.4

Relationship with the SPS Agreement

The Parties affirm their rights and obligations with respect to each other under the SPS Agreement, in particular that the Parties shall ensure that their SPS measures are based on risk assessment in accordance with Article 5 and other relevant provisions of the SPS Agreement. The Parties further affirm that in cases that where relevant scientific evidence is insufficient, a Party may provisionally adopt SPS measures on the basis of

available pertinent information, including that from the relevant international organisations. In such circumstances, the Party adopting the measure shall seek to obtain the additional information necessary for a more objective assessment of risk, and review the measure accordingly within a reasonable period of time.

Nothing in this Chapter shall affect the rights and obligations of each Party under the SPS Agreement.

Article ARTICLE 6.5

Trade conditions and approval procedures

The importing Party shall make publicly available its general SPS import requirements.

Each Party shall ensure that all sanitary and phytosanitary control, inspection, assessment and approval procedures are undertaken and completed without undue delay including, if needed, audits and the necessary legislative or administrative measures to complete the approval procedure. Each Party shall in particular avoid unnecessary or unduly burdensome information requests, which shall be limited to what is necessary and take into account information already available in the importing Party, such as on the legislative framework and audit reports of the exporting Party.

If the Parties jointly identify a specific good or goods as a priority, the importing Party shall establish specific import requirements for that those good, unless the Parties decide otherwise. In identifying which specific goods are priorities, the Parties shall cooperate within the framework of the SPS Committee to ensure the efficient management of their available resources.

Except as provided for in Article 6.8 (Adaptation to Regional Conditions), each Party shall apply its sanitary or phytosanitary import conditions to the entire territory of the other Party.

Where an export request is received in relation to a specific product1 which has previously been approved for import, the importing party shall, without undue delay, assess the risk profile and, if determined to be the same, complete the approval procedure expeditiously, without undue delay, and if possible no later than 12 months, from when the importing party makes its determination, other than in duly justified circumstances.

The Parties shall follow any specific guidelines and procedures they may decide to set out in Annex 6-B (Trade conditions and approval procedures).

1 For greater certainty, in the case of the EU this would mean a specific product from a Member State or group of Member States.

Article ARTICLE 6.6

Plant health-related conditions

In accordance with applicable standards agreed under the IPPC, the Parties shall exchange information on their pest status in their territory in order to justify the categorisation of pests and related phytosanitary measures.

To assist in maintaining confidence in each other’s categorisation of quarantine pest and related phytosanitary measures each party shall make publicly available information concerning pests for which a phytosanitary concern exists. This information may include, as appropriate:

the quarantine pests not present within any part of its territory;

the quarantine pests present but not widely distributed and under official control;

the protected zone quarantine pests not present in a specific part of its territory (protected zone); and

the regulated non-quarantine pests in plants for planting.

Each Party shall limit its import requirements for plants or plant products to measures that provide assurance that the plants or plant products can be considered free from quarantine pests2, or the applicable tolerance for regulated non-quarantine pests in plants for planting is respected. Such import requirements shall be applicable to the entire territory of the exporting Party taking into account regional conditions.

Consignments of products on which phytosanitary conditions apply shall be accepted without pre-clearance programmes.

The Parties shall follow any specific guidelines and procedures they may decide to set out in Annex 6-B (Trade conditions and approval procedures).

Article ARTICLE 6.7

Procedure for listing establishments

The exporting Party shall ensure that establishments, facilities and products eligible for export meet the applicable sanitary requirements of the importing Party.

2 For greater certainty, 'considered to be free from quarantine pests' has the meaning set out in ISPM 12.

If the importing Party maintains a list of authorised establishments or facilities for the import of a specific product, it shall approve an establishment or facility situated in the territory of the exporting Party without prior inspection of that establishment or facility if the exporting Party has requested such an approval and the importing Party has authorised the import of the product on the basis of an evaluation of the control system on animal health and food safety conditions applied by the competent authorities of the exporting Party.

The importing Party shall include the establishment or facility on the list of authorised establishments without undue delay. Subject to its laws and regulations, the list may be made publicly available by at least one of the Parties. In duly justified circumstances, the importing Party may refuse the approval of an establishment or facility that is not in compliance with its import requirements. In such cases, the importing Party shall notify the competent authority of the exporting Party and provide a justification for the refusal.

The Parties shall follow any specific guidelines and procedures they may decide to set out in Annex 6-B (Trade conditions and approval procedures).

Article ARTICLE 6.8

Adaptation to Regional Conditions

The Parties recognise that adaptation of SPS measures to regional conditions is an important means of facilitating trade.

Each Party shall, in adapting its SPS measures to regional conditions, consider relevant international standards, guidelines and recommendations.

Accordingly, the Parties shall endeavour to cooperate on the recognition of pest- or disease-free areas, protected zones 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.

With respect to live animals, animal products and animal by-products, when an importing Party establishes or maintains a sanitary measure applicable to the exporting Party, the exporting Party may request the importing Party recognise its regional conditions for any animal disease.

When the importing Party establishes or maintains a phytosanitary measure applicable to the exporting Party, the importing Party shall, on request of the exporting Party, take into account, inter alia, the pest status of an area, such as a pest-free area, pest-

free place of production, pest free production site, area of low pest prevalence and protected zone that the exporting Party has established.

In its request, the exporting Party shall provide an explanation and supporting data as provided for in the relevant IPPC International Standards for Phytosanitary Measures (ISPM) and any other relevant information it considers appropriate.

Where an importing Party determines that the information provided by the exporting Party with its request is sufficient it shall initiate an assessment within a reasonable period of time as to whether it can accept the exporting party's determination of regional conditions. During the assessment process the Party shall also inform the other Party of the status of the assessment, when requested to do so.

Where the importing Party has accepted an exporting Party's determination of regional conditions and the exporting Party modifies those regional conditions, the importing Party may continue to accept the determination of regional conditions and allow trade to continue, provided that the importing Party is satisfied that its ALOP will be maintained. The importing Party may apply any other measure or measures to meet its appropriate level of protection (ALOP). An agreed recognition of disease status and any additional measure may be set out in Annex 6-C (Recognition of sanitary and phytosanitary measures).

If an importing Party adopts a measure that recognises specific regional conditions of an exporting Party, the importing Party shall implement the measure within a reasonable period of time and inform the exporting party trade can commence.

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

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

The Parties may discuss in advance the risk management measures that will apply to trade between them in the event of a change of status.

Article ARTICLE 6.9

Equivalence

The Parties acknowledge that recognition of the equivalence of SPS measures is an important means of facilitating trade.

The importing Party shall accept equivalence of the individual SPS measure, group of measures or systems of the exporting Party if the exporting Party objectively demonstrates to the importing Party that its measure achieves the importing Party's appropriate level of protection based on relevant supporting science-based and technical information. If required, reasonable access shall be given by the exporting Party, upon request, to the importing Party for inspection, testing and other relevant procedures. The final determination of equivalence rests with the importing Party.

The determination of the equivalence shall be based on relevant international standards, guidelines and recommendations and any specific guidelines and procedures set out in Annex 6-C (Recognition of sanitary and phytosanitary measures).

Where the importing Party has concluded an equivalence determination of the exporting Party's measures, the importing Party shall notify the determination to the exporting Party in writing, and undertake any implementation activities to give effect to the determination within a reasonable period of time.

Each Party shall accept the measures listed in Annex 6-C (Recognition of sanitary and phytosanitary measures) as equivalent to its own under the terms sets out therein.

If a Party adopts, modifies, repeals or removes an SPS measure including a special condition, included in Annex 6-C (Recognition of sanitary and phytosanitary measures), which it considers may affect an equivalence arrangement between the Parties, it shall, where possible, notify the other Party. The importing Party shall continue to accept the determination of equivalence unless it considers that the equivalence arrangement is no longer sufficient to meet its ALOP. If the importing Party considers that equivalence can be maintained under special conditions it shall consult with the exporting Party on their development.

Article ARTICLE 6.10

Audit and verification3

For the purpose of maintaining confidence in an exporting Party's ability to provide required assurances and to comply with the SPS import requirements and related control measures of the importing Party, the importing Party shall have the right to carry out an audit of all or part of the control system of the competent authority of the exporting Party.

3 For the purpose of this Article, the term "audit" is understood to include an audit or verification or both, as

appropriate.

If possible, audits shall take a systems-based approach which relies on the examination of a sample of system procedures, documents or records and, where required, on-site inspections of facilities within the scope of the audit.

Prior to the commencement of an audit the Parties shall discuss the objectives and scope of the audit, the criteria or requirements against which the exporting Party will be assessed, and if the importing Party decides to carry out an audit visit to the exporting Party, agree on the itinerary and procedures for conducting the audit which shall be laid down in an audit plan. Unless otherwise agreed by the Parties, the importing Party shall endeavour to provide the exporting Party an audit plan 60 days prior to the commencement of the audit.

The importing Party shall provide a draft audit report including its findings, conclusions and recommendations, if any, to the exporting Party, normally within 60 days of the conclusion of the audit.

The importing Party shall provide the exporting Party with the opportunity to comment or seek clarifications on the draft report, before the importing Party finalises its assessment. The exporting Party may make proposals for corrective actions to respond to the findings and conclusions in the draft audit report.

The importing Party shall provide a final report in writing to the exporting Party normally within 60 days of the date of receipt of the exporting Party's comments, unless otherwise agreed by the Parties.

The nature and frequency of audits shall be determined by the importing Party, taking into account its laws and regulations, the inherent risks of the product, past import checks and other available information, such as audits and inspections previously undertaken.

The Parties shall aim to minimise the frequency and number of audit visits. Where an export request is received in relation to a specific product4 which has previously been subject to an audit or is already being exported to it, the importing Party shall carry out an audit visit to the exporting Party only in duly justified circumstances and shall provide an explanation to the exporting Party as to why it is required.

The costs incurred by the importing Party to conduct an audit shall be borne by the importing Party, unless the Parties agree that additional assistance from the exporting Party is appropriate.

4 For greater certainty, in the case of the EU this would mean a specific product from a Member State.

Measures taken by the importing Party as a consequence of an audit shall be supported by objective evidence, taking into account the importing Party's knowledge of, relevant experience with and confidence in, the exporting Party, and shall not be more trade restrictive than necessary to achieve the importing Party's appropriate level of protection.

Article ARTICLE 6.11

Certification

If a Party requires import certification, it shall ensure that the requirement for certification is applied only to the extent necessary to meet its SPS objectives and shall take into account guidance of the WTO SPS Committee and relevant international standards, guidelines and recommendations.

If the importing Party has accepted the relevant sanitary or phytosanitary measures of the exporting Party as equivalent to its own with respect to animals, animal products, plants, plant products and other objects, the exporting Party may include the model health attestation or declaration, as appropriate, set out in Section 1 of Annex 6-D (Certification) on the official certificate.

If an importing Party determines that a special condition included in Annex 6-C (Recognition of sanitary and phytosanitary measures) is no longer necessary, this special condition shall, within a reasonable period of time, be removed from the relevant import certificate of that Party.

If an importing party amends or repeals legislation referred to in Annex 6-C (Recognition of sanitary and phytosanitary measures), the relevant import certificate shall, where applicable and practicable, refer to the most recent version of that legislation.

The Parties shall follow the guidelines and procedures set out in Annex 6-D (Certification) on export certification.

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

Article ARTICLE 6.12

Import checks and fees

The importing Party shall have the right to carry out import checks based on the sanitary and phytosanitary risks associated with imports. These checks shall be carried out without undue delay and with minimum trade disrupting effects.

If import checks reveal non-compliance with the relevant import requirements, the action taken by the importing Party shall be based on an assessment of the risk involved and not be more trade-restrictive than required to achieve the Party's appropriate level of protection.

The importing Party shall notify the importer or its representative of a non-compliant consignment including the reason for non-compliance, and subject to its laws and regulations, provide them with an opportunity for a review of the decision. The importing Party shall consider any relevant information submitted to assist in the review.

Any fees imposed shall be in accordance with paragraph 1(f) of Annex C to the SPS Agreement.

The Parties shall follow any specific guidelines and procedures they may decide to set out in Annex 6-E (Import checks and fees).

Article ARTICLE 6.13

Emergency SPS measures

If a Party adopts an emergency measure that is necessary for the protection of human, animal or plant life or health, the Party shall promptly notify the other Party of that measure through its contact point as soon as possible and in any case no later than 48 hours after adoption of the measure.

On request of the other Party, a Party adopting an emergency measure shall engage in technical consultations under Article 6.15 (Technical Consultations) within 10 days of the receipt of the request.

The importing Party shall consider any information provided in a timely manner by the exporting Party when making decisions with respect to one or more consignments that, at the time of adoption of the emergency SPS measure, are being transported between the Parties.

If a Party adopts an emergency measure, it shall commence a science-based review of the measure within a reasonable period of time, with the aim of developing a revised SPS measure that would permit trade to recommence. The Party shall then review the need for the emergency measure at least every six months thereafter and provide, on request, the justification for maintaining the emergency measure.

Article ARTICLE 6.14

Transparency and information exchange

Each Party shall designate a contact point to facilitate communication between the Parties on matters arising under this Chapter.

The Parties shall promptly inform each other's contact points of any significant:

change to plant pest or animal disease status of relevance to trade between the Parties;

food safety issue related to a good traded between the Parties;

change to the structure or organisation of a Party's competent authority; and

matter related to SPS measures arising under this Chapter that may affect trade between the Parties, and any other pertinent information for the adequate implementation of this Chapter.

Unless the Trade Committee decides otherwise, when the information referred to in paragraph 2 has been made available via notification to the WTO's Central Registry of Notifications, or to the relevant international standard-setting body, in accordance with its relevant rules, the requirements in paragraph 2 shall be deemed to have been fulfilled.

If a Party provides information to the other Party under this Chapter, the Party receiving the information shall maintain the confidentiality of the information, except where such information is:

disclosed for the purposes of complying with the legal requirements of the receiving Party;

transmitted pursuant to points (a) or (b) of Article 14 (2) of this Chapter;

publicly available; or

Identified as non-confidential by the providing Party

If point (a) applies, the Party that has received the information shall give notice to the other Party, wherever possible in advance of any such disclosure. Such notice shall identify the legal requirements of the Party requiring disclosure.

Article ARTICLE 6.15

Technical consultations

If a Party has specific trade concerns regarding SPS measures proposed or implemented by the other Party, it may request technical consultations.

The Parties shall hold such technical consultations within 30 days of the request, unless otherwise agreed by the Parties.

The Parties shall endeavour to provide all relevant information necessary to avoid disruption to trade and to reach a mutually acceptable solution.

If the Parties do not reach a mutually agreed solution within 30 days after the date of the commencement of technical consultations, either Party may refer the specific trade concern to the SPS Committee.

Article ARTICLE 6.16

Committee on SPS measures

For the purpose of the effective implementation and operation of this Chapter, the parties hereby establish a Committee on Sanitary and Phytosanitary Measures (“the Committee”).

The functions of the Committee shall include:

monitoring implementation and considering any matter related to this Chapter;

providing direction for the identification, prioritisation, management and resolution of technical market access requests and other issues.

establishing a work program that reflects inter alia the direction provided under subparagraph (b).

providing a forum to exchange information on each Party’s regulatory system, including the scientific and risk assessment basis for SPS measures.

serving as the primary forum to resolve specific trade concerns where the Parties have been unable to reach a mutually agreed solution through technical consultations pursuant to Article 6.15 (Technical Consultations), without prejudice to Chapter 23 (Dispute settlement).

The Committee may, among other things:

identify opportunities for cooperation, including trade facilitation initiatives and further work on eliminating unnecessary barriers to trade between the Parties;

facilitate understanding between the Parties on the implementation of the SPS Agreement, and promote cooperation on SPS issues in multilateral fora, including the WTO Committee on Sanitary and Phytosanitary Measures and international standard-setting bodies, as appropriate;

provide an opportunity for the Parties to update each other at an early stage on regulatory developments related to SPS measures; and

The Committee may establish ad hoc working groups.

A Party may refer any issue to the Committee. The Committee shall consider the issue as expeditiously as possible. If the Committee is unable to resolve an issue it shall, at the request of a Party, report to the Trade Committee.

The Committee shall meet no later than one year following the entry into force of this Agreement, and thereafter it shall meet at least once a year or as agreed by the Parties.

The Committee shall meet at such venues and times and by such means as may be agreed by the Parties, and it may also address issues by correspondence.

The Committee shall report annually on its activities and work programme to the Trade Committee.

Article ARTICLE 6.17

Cooperation on scientific robustness and transparency on authorisation processes relating to the food chain

The Parties emphasise the importance of robust, science-based and appropriately transparent safety approval and authorisation processes in the food chain in building and maintaining public trust and confidence.

The Parties recognise the value of exchanging information, expertise and experiences, and identifying areas of mutual interest in respect of safety approval and authorisation processes in the food chain. The Parties shall cooperate on increasing the robustness and transparency of these processes where practicable and appropriate to do so.

DISCLAIMER: The Commission and Australia are publishing the texts of the Agreement following the announcement of conclusion of the negotiations on 24 March 2026. The texts are published in view of the public interest in the Agreement, for information purposes only and they may undergo further minor modifications, including as a result of the process of legal and linguistic revision. These texts are without prejudice to the final outcome of the Agreement between the EU and Australia. The texts will be final upon signature. The Agreement will become binding on the Parties under international law only after completion by each Party of its applicable legal requirements and procedures necessary for the entry into force of the Agreement.

Chapter 7. SUSTAINABLE AGRICULTURE AND FOOD SYSTEMS

Article ARTICLE 7.1

Objectives

The Parties, recognising the importance of strengthening policies and defining priorities that contribute to the development of sustainable, inclusive, healthy and resilient agri-food systems agree to establish close cooperation in the ongoing transition towards sustainable agri-food systems.

The Parties recognise that agri-food systems are diverse and context-specific, encompassing a range of actors and their interlinked activities across all areas of the agri-food system, including all agricultural, fisheries, aquaculture production, harvesting, processing, manufacturing, packaging, transport, storage, distribution, sale, consumption, recycling and disposal of agri-food products. The Parties also acknowledge that the advancement of sustainable agri-food systems requires coordination with key enabling sectors. These include sectors involved in the development of knowledge and skills exchange, research and innovation, data collection and analysis and financing.

Scope

This Chapter applies without prejudice to the Chapters of this Agreement related to agri-food systems or sustainability, in particular Chapter 6 (Sanitary and phytosanitary measures), Chapter 8 (Technical barriers to trade) and Chapter 18 (Trade and sustainable development).

This Chapter applies to the cooperation between the Parties to improve the sustainability and resilience of their respective agri-food systems. Article 7.4 (Cooperation to improve the sustainability of food systems), Article 7.6 (Animal welfare) and Article 7.7 (Cooperation in fighting antimicrobial resistance) set out indicative areas of cooperation.

The Parties recognise that priorities for cooperation may change over time as the domestic and international understanding and treatment of agri-food systems develop. The Committee on Trade in Goods and Technical Barriers to Trade will identify priorities for cooperation and related activities.

Definition of sustainable agri-food systems

For the purposes of this Chapter, and acknowledging that definitions of sustainable agri-food systems can adapt over time, the Parties consider sustainable agri-food systems to be food systems that ensure continuous access to safe, nutritious, sufficient and affordable food in such a way that the economic, social, cultural, and environmental bases to generate food

security and nutrition for future generations are not compromised.

Cooperation to improve the sustainability of agri-food systems

The Parties recognise the importance of cooperation under this Chapter as a mechanism to facilitate and strengthen their trade and investment relations.

Taking into account their respective priorities and circumstances, the Parties shall cooperate to address matters of mutual interest related to the implementation of this Chapter.

The cooperation referred to in paragraph 2 may take place bilaterally or in international fora, through:

the exchange of information, expertise, experiences and best practices;

collaborative research, development and innovation related to areas of mutual interest;

dialogues, workshops, seminars, conferences, collaborative projects, and technical assistance to promote and facilitate cooperation and training; and

any other form the representatives of the Parties to the Trade in Goods and Technical Barriers to Trade Committee may consider appropriate.

To achieve the objectives set out in Article 7.1, the Parties may cooperate on topics that include:

agri-food production methods and practices that aim to improve sustainability;

natural resource stewardship, including the efficient use of natural resources and agricultural inputs, and reducing the use and risk of pesticides and fertilisers where appropriate and according to differences in circumstances and agronomic conditions;

assessing and reducing the negative environmental and climate impacts of agri-food systems, including on greenhouse gas emissions, carbon sinks, water, soil and air quality, biodiversity and marine health;

contingency plans to ensure the security and resilience of agri-food supply chains and trade in times of crisis or ongoing environmental stress;

promoting global food security based on multilateral trade rules;

healthy, sustainable, nutritious and culturally-appropriate diets;

food loss and waste;

reducing the adverse environmental effects of policies and measures linked to the agri-food system;

best practices approaches to the monitoring and measurement of environmental, social and economic sustainability outcomes; and

addressing agri-food fraud1 practices that mislead consumers or pose a risk to health of humans, animals or plants or a biosecurity risk to the environment.

Australian First Nations peoples and sustainable agri-food systems

Recognising the importance of participation and leadership of Australian First Nations

peoples in the sustainability of Australia's agri-food systems, and that their knowledge and cultural practices can improve the sustainability, diversity and resilience of agri-food systems, the Parties shall endeavour to cooperate in accordance with Article 7.4 (Cooperation to improve the sustainability of agri-food systems) to:

integrate Australian First Nations peoples' knowledge, cultural practices and stewardship approaches into agri-food systems, where appropriate, with a view to improving sustainability, diversity and resilience of agri-food systems; and

create new opportunities for Australian First Nations peoples to participate in agri-food trade, including with respect to native bushfoods and botanicals.

The Parties may consider the views and participation of Australian First Nations peoples in relevant cooperation activities under this Chapter.

1 For greater certainty, for the purposes of this Chapter, the term "agri-food fraud" does not include misrepresentation of geographical indications. This footnote is without prejudice to Chapter 17 (Intellectual property).

Animal welfare

The Parties recognise that animals are sentient beings and that there is a connection between improved animal welfare and sustainable agri-food production systems.

The Parties shall cooperate in international fora to promote the development of the best possible animal welfare practices for animals farmed for food production and support the implementation of such practices. In particular, the Parties shall cooperate on areas of mutual interest in support of international work on animal welfare standards with a focus on animals farmed for food production.

The Parties shall, where practicable and appropriate, exchange information, expertise and experiences in the field of animal welfare related to, in particular, the treatment on the farm, during transport and at slaughter of animals farmed for food production, with the aim of improving the understanding and implementation of their respective animal welfare standards, laws and regulations.

The Parties shall encourage cooperation on research in the area of animal welfare in particular related to the treatment on the farm, during transport and at slaughter of animals farmed for food production.

Cooperation in fighting antimicrobial resistance

The Parties recognise that antimicrobial resistance is a serious global threat to human health, animal health and the environment, and that the nature of the threat requires a transnational and One Health approach.

The Parties shall facilitate the exchange of information, expertise and experiences in the field of antimicrobial resistance and animal health and production and shall identify common views, interests, priorities and policies in that field.

Each Party shall promote:

strengthened surveillance and monitoring of antimicrobial resistance and antimicrobial use under the 'One Health' approach, and collection and analysis of data on the use of antimicrobial agents in animal production;

guidance and initiatives for veterinarians and animal producers:

on the prudent use of antimicrobial agents in animal production, good animal husbandry practices and biosecurity measures; and

explaining inter alia the societal costs and benefits of different strategies for combatting antimicrobial resistance; and

initiatives on the reduced need for and responsible use of antimicrobial agents in animal production and health, including the phasing out, in the absence of risk analysis, of the use of antimicrobial agents which are critically important for human medicine as growth promoters in animal production.

The Parties shall cooperate in relevant international organisations to further develop and support the implementation of agreed codes, guidelines, standards, recommendations, actions and other international initiatives with a view to promoting the reduced need for, and appropriate use of, antimicrobial agents which are critically important for human medicine including the phasing out, in the absence of risk analysis, of the use of such antimicrobial agents as growth promoters in animal production.

Right to regulate and independence of national and regional agencies

The cooperation activities under this Chapter shall be without prejudice to the independence

of each Party’s national or regional agencies.

Consistently with each Party's right to regulate, nothing in this Chapter shall be construed to oblige a Party to:

modify its import requirements;

deviate from its procedures for preparing and adopting regulatory measures;

take action that would undermine or impede the timely adoption of regulatory measures to achieve its public policy objectives; or

adopt any particular regulatory outcome.

Committee on Trade in Goods and Technical Barriers to Trade

The Committee on Trade in Goods and Technical Barriers to Trade is established pursuant to Article 22.5(1) (Specialised committees).

In addition to the functions specified in Article 22.6 (Functions of the specialised committees), with respect to this Chapter, the Committee on Trade in Goods and Technical Barriers to Trade shall have the following functions:

establish priorities for cooperation between the Parties and work to implement them; and

promote cooperation between the Parties in multilateral fora.

The Committee on Trade in Goods and Technical Barriers to Trade may establish working groups consisting of representatives of the Parties with expertise on matters covered by this Chapter.

The Committee on Trade in Goods and Technical Barriers to Trade shall meet within one year after the date of entry into force of this Agreement and thereafter as agreed by the co-chairs of the Committee on Trade in Goods and Technical Barriers to Trade.

Contact points

Within 90 days after the date of entry into force of this Agreement, each Party shall:

designate a contact point responsible for facilitating communication between the Parties on matters covered by this Chapter; and

promptly notify the other Party of the contact details of its contact point.

Each Party shall promptly notify the other Party of any changes to the contact details of its contact point.

Chapter 8. TECHNICAL BARRIERS TO TRADE

Article ARTICLE 8.1

Objectives

The objective of this Chapter is to facilitate trade in goods between the Parties including by preventing, identifying and minimising unnecessary technical barriers to trade, enhancing transparency, promoting cooperation and good regulatory practice.

Scope

This Chapter applies to the preparation, adoption and application of all standards, technical regulations and conformity assessment procedures which may affect trade in goods between the Parties.

Unless otherwise provided in this Chapter, each Party shall, in accordance with the TBT Agreement, take such reasonable measures as may be available to it to ensure compliance by local government and non-governmental bodies within their territories with the relevant provisions of this Chapter.

Nothing in this Chapter shall be construed as limiting the right of a Party to prepare, adopt or apply standards, technical regulations or conformity assessment procedures necessary to fulfil a legitimate objective, in accordance with its rights and obligations under the TBT Agreement. Such legitimate objectives include, inter alia, national security requirements, the prevention of deceptive practices, protection of human health or safety, animal or plant life or health, or the environment.

This Chapter does not apply to:

purchasing specifications prepared by governmental bodies for production or consumption requirements of such bodies; or

sanitary or phytosanitary measures as defined in Annex A of the SPS Agreement.

Definitions

For the purposes of this Chapter, the following definitions apply:

"economic operator" means a manufacturer, importer, exporter, authorised representative or distributor;

"ISO" means International Organization for Standardization;

"market surveillance" means activities conducted and measures taken by public authorities, including those taken in cooperation with economic operators, on the basis of procedures of a Party, to enable that Party to monitor or address safety of products or their compliance with the requirements set out in its laws and regulations; and

"supplier's declaration of conformity" means a declaration made by the manufacturer or, where applicable, importer, that the product supplied is compliant with the relevant technical

regulations. The manufacturer or importer is responsible for the supplier's declaration of conformity. Such declaration does not include mandatory third-party assessment.

Relation to the TBT Agreement

The Parties affirm their rights and obligations under the TBT Agreement.

The following provisions of the TBT Agreement are incorporated into and made part of this Agreement, mutatis mutandis:

Article Articles 2 to 9;

Annex 1; and

Annex 3.

Technical regulations

The Parties acknowledge that consideration of whether regulatory or non-regulatory measures may fulfil the Party's legitimate objectives, in accordance with Article 2.2 of the TBT Agreement, would normally be part of the process of developing technical regulations.

Each Party shall use relevant international standards as a basis for its technical regulations, except if such international standards would be an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued. Where a relevant international standard exists, if a Party did not use that international standard as a basis for a technical regulation which may have a significant effect on trade of the other Party, it shall, in accordance with Article 2 of the TBT

Agreement, on request of the other Party, justify that non-use. Such justification may include identifying the substantive deviation from the relevant international standard, explaining why the international standard was considered to be ineffective or inappropriate in that instance, and providing the supporting information on which this judgement was based.

When reviewing its technical regulations, each Party shall, subject to its laws and regulations, take into account, inter alia, any new developments in the relevant international standards and any changes in the circumstances that have resulted in divergences from any relevant international standard.

International standards

A standard developed by the ISO, the International Electrotechnical Commission, the International Telecommunication Union, or the Codex Alimentarius Commission shall be considered to be a relevant international standard within the meaning of Articles 2 and 5 of, and Annex 3 to, the TBT Agreement.

A Party may also consider a standard developed by another international organisation as a relevant international standard within the meaning of Articles 2 and 5 of, and Annex 3 to, the TBT Agreement, provided that it has been developed, at least, in accordance with the WTO TBT Committee Decision on Principles for the Development of International Standards, Guides and Recommendations with relation to Articles 2 and 5 of, and Annex 3 to, the TBT Agreement.

Standards and standardising bodies

With a view to harmonising standards on as wide a basis as possible, each Party shall encourage its standardising bodies, as well as the regional standardising bodies of which the Party or its standardising bodies are members, to:

cooperate, where practicable and appropriate, with relevant standardising bodies of the other Party bilaterally, regionally or internationally on areas of mutual interest; and

when reviewing national and regional standards that are not based on relevant international standards, take into account,

inter alia, any new developments in relevant international standards and any changes in the circumstances that have resulted in a divergence from those international standards.

The Parties may exchange information on:

the use of standards in support of technical regulations; and

processes used for developing standards, and the extent to which the Parties have based their national standards on international standards or regional standards.

If national and regional standards are made mandatory through incorporation into or by reference in a draft technical regulation or conformity assessment procedure, the transparency obligations set out in Article 8.9 (Transparency), and in Articles 2 or 5 of the TBT Agreement shall apply.

Conformity assessment

The Parties acknowledge that consideration of whether regulatory or non-regulatory measures may fulfil the Party's legitimate objectives in accordance with Article 5.1.2 of the TBT Agreement is normally part of the process of developing conformity assessment procedures. Such consideration should include the type and appropriateness of conformity assessment procedure to be applied.

Each Party shall use relevant international standards, guides or recommendations issued by international standardising bodies, or the relevant parts of them, as a basis for its conformity assessment procedures, except if such international standards, guides or recommendations would be an ineffective or inappropriate means for fulfilling the Party's legitimate objectives. If a Party does not use an international standard as a basis for a technical regulation which may have a significant effect on trade of the other Party it shall, on request of the other Party and further to Article 5.4 of the TBT Agreement, justify the non-use.

When reviewing their conformity assessment procedures, each Party shall, subject to its laws and regulations, take into account, inter alia, any new developments in the relevant international standards, guides or recommendations, and any changes in the circumstances that have resulted in divergences from those relevant international standards, guides or recommendations.

If a Party requires conformity assessment as a positive assurance that a product conforms with a technical regulation, when selecting a conformity assessment procedure it shall:

take into account the risks that non-conformity would create, while ensuring, inter alia, that its conformity assessment procedures are not stricter or applied more strictly than is necessary to give that Party adequate confidence that products conform with the applicable technical regulations or standards;

consider a supplier's declaration of conformity as an option; and

upon request, provide information to the other Party on the reasons for selecting the conformity assessment procedures for specific products.

If a Party requires third-party conformity assessment as a positive assurance that a product conforms with a technical regulation, and it has not reserved that task to a governmental body as specified in paragraph 6, it shall:

use accreditation as the preferred means to qualify conformity assessment bodies;

use international standards for accreditation and conformity assessment1;

encourage accreditation bodies and conformity assessment bodies in its territory to join relevant international agreements or arrangements that facilitate acceptance of conformity assessment results;

ensure that its laws and regulations do not unnecessarily restrict choice amongst the conformity assessment bodies designated or authorised by its authorities for a particular product or set of products;

ensure that conformity assessment bodies operate independently from economic operators and that there are no conflicts of interest between accreditation bodies and conformity assessment bodies, or that potential conflicts are identified and managed;

allow conformity assessment bodies to use subcontractors to perform testing or inspections in relation to the conformity assessment, including subcontractors located in the territory of the other Party. Nothing in this point shall be construed as to prohibit a Party from requiring subcontractors to meet the same requirements that the conformity assessment body to

which they are contracted would be required to meet in order to perform the contracted tests or inspection itself; and

endeavour to ensure that a list of the bodies that it has designated or authorised to perform such conformity assessment and the scope of each such body's designation or authorisation is published online.

Nothing in this Article shall preclude a Party from requiring a government authority of the Party to perform conformity assessment procedures in relation to specific products. In such cases, the Party shall:

limit the conformity assessment fees to the approximate cost of the services rendered; and

1 For greater certainty, point (b) of paragraph 5 does not imply that international standards are the sole basis regulators may use for accreditation and conformity assessment.

make information about the conformity assessment fees, including how they are set, publicly available.

Notwithstanding the provisions of paragraphs 4, 5, and 6 of this Article, a Party shall, subject to its laws and regulations, accept supplier's declarations of conformity as proof of compliance with existing technical regulations for the fields covered by Annex 8-A (Conformity assessment). If Australia requires mandatory third-party conformity assessment as an assurance that a field covered by Annex 8-A (Conformity assessment) conforms with its requirements, it shall, in accordance with the modalities specified in that Annex and its laws and regulations, accept a conformity assessment report from an appropriately accredited conformity assessment body based in the Union.

The Parties acknowledge the trade facilitating role of the Agreement on mutual recognition in relation to conformity assessment, certificates and markings between the European Community and Australia, done at Canberra on 24 June 1998, and shall continue to cooperate on mutual recognition in relation to conformity assessment in accordance with that agreement. The Parties may also decide, through the Joint Committee established under Article 12 of that agreement, may decide to review and amend that agreement, as appropriate.

Transparency

Each Party shall allow a period of at least 60 days after the date of notification to the WTO Central Registry of Notifications of proposed technical regulations and conformity assessment procedures for the other Party to provide written comments except, inter alia, where urgent problems of safety, health, environmental protection or national security arise or threaten to arise. A Party shall give positive consideration to a reasonable request from the other Party to extend that comment period.

If a Party receives written comments on its proposed technical regulation or conformity assessment procedure from the other Party, it shall:

if requested by the other Party, discuss the written comments, where possible with the participation of its relevant regulatory authority, at a time when amendments can still be introduced and comments can be taken into account; and

reply in writing to the comments without undue delay.

Each Party shall, no later than the date of publication of a final technical regulation or conformity assessment procedure that may have a significant effect on trade, make publicly available, if feasible online, its responses to significant or substantive issues set out in the comments received on the notified proposal for the technical regulation or conformity assessment procedure.

Each Party shall, if requested by the other Party, provide information regarding the objectives of, and rationale for, a technical regulation or conformity assessment procedure that may have a significant effect on trade between the Parties, which the Party has adopted or is proposing to adopt.

Each Party shall ensure that its adopted technical regulations and conformity assessment procedures are publicly available on official websites free of charge.2

Each Party shall provide the date of the adoption and the date of entry into force of a technical regulation or conformity assessment procedure, and the adopted final text, through an addendum to the original notification to the WTO.

Each Party shall provide a reasonable interval between the publication of technical regulations and their entry into force to allow economic operators of the other Party to adapt to the requirements. For greater certainty, the term "reasonable interval" means a period of not less than six months, except when this would be ineffective in fulfilling the legitimate objectives pursued.

A Party shall consider a reasonable request from the other Party, received prior to the end of the comment period referred to in paragraph 1 following the notification to the WTO Central

2 This paragraph does not apply in respect of standards referenced in technical regulations or conformity assessment procedures.

Registry of Notifications, to extend the period of time between the adoption of the technical regulation and its entry into force, except where this would be ineffective in fulfilling the legitimate objectives pursued.

Marking and labelling

In respect of technical regulations that include or deal exclusively with marking or labelling requirements, each Party shall, in accordance with Article 2.2 of the TBT Agreement, ensure that such technical regulations are not prepared, adopted or applied with a view to, or with the effect of, creating unnecessary obstacles to international trade. For this purpose, such technical regulations shall not be more trade-restrictive than necessary to fulfil a legitimate objective, such as, inter alia, national security requirements, the prevention of deceptive practices, the protection of human health or safety, animal or plant life or health, or the environment.

If a Party requires mandatory marking or labelling of products, it shall:

endeavour to minimise the requirements for marking or labelling to information that is relevant to consumers or users of the product or that indicates the product's conformity with mandatory technical requirements;

if it requires the use of a unique identification number by economic operators, issue such a number to the economic operators of the other Party without undue delay and on a non-discriminatory basis;

if it requires prior approval, registration or certification of the labels or markings of products, or any fee disbursements for placing on its market products that otherwise comply with its mandatory technical requirements, grant such approval, registration or certification or process such fee disbursements, without undue delay and on a non-discriminatory basis; and

endeavour to accept:

non-permanent or detachable labels;

marking or labelling in the accompanying documentation instead of marking or labelling attached to the product;

as appropriate, electronic labelling, such as a QR code or similar, if the relevant link is to information on a website; and

corrections to labelling taking place in designated areas in the country of import, subject to the country of import's laws and regulations.

A Party may require that information on the markings or labels be in a specified language. If an international system of nomenclature, pictograms, symbols or graphics has been accepted by the Parties, such elements may be used. The simultaneous use of additional languages shall not be prohibited, provided that the information in the additional languages does not constitute a contradictory, confusing, misleading or deceptive statement regarding the product.

Cooperation

With a view to enhancing the mutual understanding of each other's regulatory and quality infrastructure systems and facilitating bilateral trade, the Parties shall, subject to available resources, explore opportunities to strengthen their cooperation on standards, technical regulations and conformity assessment. Such cooperation may include:

exchanging information regarding technical regulations, standards, conformity assessment procedures and good regulatory practices;

enhancing cooperation and dialogue on mutually agreed regulatory issues;

increasing coordination, as appropriate, in relevant regional and international bodies relating to the development and application of standards and conformity assessment procedures, and other relevant regional and international bodies; and

other areas as agreed by the Parties.

Cooperation on market surveillance, safety, and compliance of non-food products

The Parties recognise the importance of cooperation on market surveillance, safety, and compliance of non-food products for facilitating trade, and for the protection of consumers and other users. The Parties also recognise the importance of building mutual trust based on shared information.

The Parties shall ensure the independence and impartiality of market surveillance authorities in their control or supervision

of economic operators.

The Parties may cooperate and exchange information on market surveillance, safety, and compliance of non-food products, in particular with respect to the following:

market surveillance and enforcement activities and measures;

risk assessment methods and product testing;

coordinated product recalls or other similar actions;

scientific, technical and regulatory matters, aiming to improve non-food product safety and compliance;

emerging issues of significant health and safety relevance;

standardisation-related activities; and

exchange of officials.

The Union may provide Australia with selected information from its Rapid Alert System for dangerous non-food products with respect to consumer products as referred to in

Directive 2001/95/EC of the European Parliament and of the Council or its successor system, and Australia may provide the Union with selected information on the safety of consumer products and on preventive, restrictive and corrective measures taken with respect to consumer products.3 The information exchange may take the form of:

ad hoc exchanges, in duly justified cases, excluding personal data; or

systematic exchanges.

Building on the existing Administrative Arrangement for Information Sharing on Consumer Policy and Protection between the Government of Australia and the European Commission, done at Brussels on 21 March 2002, the Parties may establish appropriate arrangements between their relevant agencies to facilitate exchanges of information, including by electronic means.

Each Party shall use the information obtained pursuant to paragraphs 3, 4 and 5 for the sole purpose of the protection of consumers, health, safety or the environment.

Each Party shall treat the information obtained pursuant to paragraphs 3, 4 and 5 as confidential.

Any arrangements shall specify the type of information to be exchanged, the modalities for the exchange and the application of confidentiality and personal data protection rules pursuant to the laws and regulations of each Party.

3 For greater certainty, for the purposes of exchanges under paragraph 4, the term "consumer products" means goods intended for, or likely to be used for personal or domestic use, excluding food, medical devices and medicinal products.

Technical discussions and consultations

A Party may request a discussion on any draft or proposed technical regulation or conformity assessment procedure of the other Party, which the Party considers may significantly adversely affect trade between the Parties. The request shall be made in writing and identify:

the draft or proposed technical regulation or conformity assessment procedure at issue;

the provisions of this Chapter to which the concerns relate; and

the requesting Party's concerns regarding the relevant draft or proposed technical regulation or conformity assessment procedure.

The requesting Party shall send its request to the contact point of the other Party.

At the further request of either Party, the Parties shall meet within 60 days after the date of the request to discuss the concerns raised in the request in person or by video or teleconference, and shall endeavour to resolve the matter as expeditiously as possible. If the requesting Party believes that the matter is urgent, it may request that any meeting take place within a shorter time frame. In such cases, the responding Party shall give positive consideration to such a request.

A Party may request consultations with the other Party regarding any matter arising under this Chapter by delivering a written request to the contact point for this Chapter of the other Party. The Parties shall make every attempt to arrive at a mutually satisfactory resolution of the matter and

may refer it to the Committee on Trade in Goods and Technical Barriers to Trade as appropriate for that purpose.

For greater certainty, this Article is without prejudice to a Party's rights and obligations under Chapter 23 (Dispute settlement).

Contact points

Within 90 days after the date of entry into force of this Agreement, each Party shall:

designate a contact point responsible for facilitating communication between the Parties on matters covered by this Chapter; and

promptly notify the other Party of the contact details of its contact point.

Each Party shall promptly notify the other Party of any changes to the contact details of its contact point.

The functions of the contact points shall be:

coordinating engagement with the work of the Committee on Trade in Goods and Technical Barriers to Trade;

facilitating the implementation of this Chapter, including in relation to relevant decisions of the Committee on Trade in Goods and Technical Barriers to Trade; and

answering all reasonable enquiries from the other Party regarding technical regulations, standards and conformity assessment procedures and, as appropriate, providing the other Party with other relevant information.

The contact points shall communicate with each other by any agreed method that is appropriate for the efficient and effective discharge of their functions.

Committee on Trade in Goods and Technical Barriers to Trade

In addition to the functions specified in Article 21.6 (Functions of the specialised committees), the Committee on Trade in Goods and Technical Barriers to Trade shall:

enhance cooperation on technical regulations, standards and conformity assessment procedures; and

undertake consultations on issues related to technical regulations, standards and conformity assessment procedures, including, if the Parties so decide, by establishing ad hoc working groups.

If a Party declines a request from the other Party to consult on an issue relevant to this Chapter, it shall, on request of the other Party, explain the reasons for its decision.

DISCLAIMER: The Commission and Australia are publishing the texts of the Agreement following the announcement of conclusion of the negotiations on 24 March 2026. The texts are published in view of the public interest in the Agreement, for information purposes only and they may undergo further minor modifications, including as a result of the process of legal and linguistic revision. These texts are without prejudice to the final outcome of the Agreement between the EU and Australia. The texts will be final upon signature. The Agreement will become binding on the Parties under international law only after completion by each Party of its applicable legal requirements and procedures necessary for the entry into force of the Agreement.

Chapter 9. SERVICES AND INVESTMENT

Section A. GENERAL PROVISIONS

Article 1.1. SCOPE

1. This Title shall apply to measures of a Party affecting trade in services, the establishment or operation to perform economic activities by investors, covered enterprises, and for performance requirements “any enterprise”, or the temporary entry of a natural person for business purposes.

2. This Title shall not apply to:

(a) air services or related services in support of air services (1), other than:

(1) For greater certainty, air services or related services in support of air services include, but are not limited to, the following services: air transportation; services provided by using an aircraft whose primary purpose is not the transportation of goods or passengers, such as aerial fire-fighting flight training, sightseeing, spraying, surveying, mapping, photography, parachute jumping, glider towing, helicopter-lift for logging and construction, and other airborne agricultural, industrial and inspection services; rental of aircraft with crew and airport operation services.

(i) aircraft repair and maintenance services when undertaken on an aircraft while it is withdrawn from service;

(ii) the following services provided using a manned aircraft: aerial fire-fighting, flight training, spraying, surveying, mapping, photography, and other airborne agricultural, industrial and inspection services (2)

(2) Subject to compliance with the Parties' respective laws and regulations governing the admission of aircrafts to, departure from and operation within, their territory.

(iii) computer reservation system services;

(iv) ground handling services; and

(v) the selling and marketing of air transport services.

(b) audio-visual services;

(c) national maritime cabotage (3);

(3) Without prejudice to the scope of activities which may be considered as cabotage under the relevant national legislation, national maritime cabotage under this Title covers, for the European Union, transportation of passengers or goods between a port or point located in a Member State of the European Union and another port or point located in that same Member State of the European Union, including on its continental shelf, as provided for in the United Nations Convention on the Law of the Sea, and traffic originating and terminating in the same port or point located in a Member State of the European Union. For greater certainty, feeder services, as defined in Section F International Maritime Transport, and repositioning of empty containers, shall not be considered as national maritime cabotage for the purpose of this Title. For Australia, national maritime cabotage under this Title includes maritime cabotage services and offshore transport services. For the purposes of this footnote, "cabotage" is defined as the transportation of passengers or goods between a port located in Australia and another port located in Australia and traffic originating and terminating in the same port located in Australia, and "offshore transport" refers to shipping services involving the transportation of passengers or goods between a port located in Australia and any location associated with or incidental to the exploration or exploitation of natural resources of the continental shelf of Australia, the seabed of the Australian coastal sea and the subsoil of that seabed.

(d) government procurement; and

(e) activities performed in the exercise of governmental authority.

3. In the context of a review of this Agreement, [conducted in accordance with Article X (Review) of Chapter X (Final Provisions)], the Parties may assess whether it is in their mutual interest to add other air transport services to the list in paragraph 2(a) in order to include them within the scope of the agreement.

4. This Title, except for Article 3.X (Performance Requirements), shall not apply to subsidies or grants provided by a Party, including government-supported loans, guarantees, and insurance.

Article 1.2. DEFINITIONS

For the purposes of this Title:

(a) "activities performed in the exercise of governmental authority" means activities which are performed, including services which are supplied, neither on a commercial basis nor in competition with one or more economic operators;

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

(c) "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;

(d) "covered enterprise" means an enterprise in the territory of a Party established in accordance with subparagraph (h), directly or indirectly, by an investor of the other Party, in accordance with the applicable law, existing on the date of entry into force of this Agreement or established thereafter;

(e) "cross-border trade in services" means the supply of a service:

(i) from the territory of a Party into the territory of the other Party; or

(ii) in the territory of a Party to the service consumer of the other Party;

but does not include the supply of a service in the territory of a Party by an investor of the other Party or a covered enterprise;

(f) "economic activity" means any activity of an industrial, commercial or professional character or activities of craftsmen, including the supply of services;

(g) "enterprise" means a juridical person or a branch or a representative office of a juridical person;

(h) "establishment" means the setting up of or the capital participation in a juridical person, or the creation of a branch or representative office, in the territory of a Party, with a view to creating or maintaining lasting economic links;

(i) "existing" means in effect on the date of entry into force of this Agreement;

(j) "ground handling services" means the supply at an airport, on a fee or contract basis, of the following services: airline representation, administration and supervision; passenger handling; baggage handling; ramp services; catering except the preparation of food; air cargo and mail handling; fuelling of an aircraft; aircraft servicing and cleaning; surface transport; and flight operations, crew administration and flight planning. Ground handling services do not include: self-handling; security; aircraft repair and maintenance; or management or operation of essential centralised airport infrastructure, such as de-icing facilities, fuel distribution systems, baggage handling systems and fixed intra airport transport systems;

(k) "investor of a Party" means a natural or juridical person of a Party that seeks to establish, is establishing or has established an enterprise in accordance with subparagraph (h), in the territory of the other Party;

(l) “juridical person” means any legal entity duly constituted or otherwise organised under the applicable law, whether for profit or otherwise, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, joint venture, sole proprietorship or association;

(m) "juridical person of a Party" means:

(i) for the European Union: a juridical person constituted or organised under the law of the European Union or of at least one of its Member States and engaged in substantive business operations (4) in the territory of the European Union; and

(4) In line with its notification of the Treaty establishing the European Community to the WTO (WT/REG39/1), the European Union understands that the concept of "effective and continuous link" with the economy of a Member State of the European Union enshrined in Article 54 of the TFEU is equivalent to the concept of "substantive business operations".

(ii) for Australia: a juridical person constituted or organised under the law of Australia and engaged in substantive business operations in the territory of Australia.

(n) "natural person of a Party" means:

(i) for the European Union, a national of one of the Member States of the European Union according to its law (5); and

(5) The definition of natural person also includes persons permanently residing in the Republic of Latvia who are not citizens of the Republic of Latvia or any other state but who are entitled, under the law of the Republic of Latvia, to receive a non-citizen’s passport.

(ii) for Australia, an Australian citizen or a permanent resident of Australia under the law of Australia

(o) "operation" means the conduct, management, maintenance, use, enjoyment, or sale or other form of disposal of an enterprise;

(p) "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, but not including the pricing of air transport services nor the applicable conditions;

(q) "service supplier" means any natural or juridical person that seeks to supply or supplies a service;

(r) "service supplier of a Party" means a natural or juridical person of a Party that seeks to supply or supplies a service;

(s) "service consumer of a Party" means a natural or juridical person of a Party that receives or uses a service;

Article 1.3. DENIAL OF BENEFITS

A Party may deny the benefits of this Title to an investor or service supplier of the other Party, or to a covered enterprise if:

(a) the denying Party adopts or maintains measures (6) related to the maintenance of international peace and security, including the protection of human rights (7), which:

(6) The Parties understand that "measures" referred to in this paragraph may be measures adopted by a Party pursuant to its autonomous sanctions regime.

(7) For greater certainty, such measures can be, inter alia, aimed at protecting the democratic process and the rule of law.

(i) prohibit transactions with that investor, service supplier or covered enterprise, or

(ii) would be violated or circumvented if the benefits of this Chapter were accorded to that investor, service supplier or covered enterprise, including where the measures prohibit transactions with a natural or juridical person who owns or controls any of them.

Section B. INVESTMENT LIBERALISATION

Article 9.4. SCOPE

1. This Chapter shall apply to measures of a Party affecting establishment or operation to perform economic activities by:

(a) investors of the other Party;

(b) covered enterprises; and

(c) for the purposes of Article 2.6 [Performance requirements], any enterprise in the territory of that Party.

Article 9.5. MARKET ACCESS

1. A Party shall not adopt or maintain, with regard to establishment of an enterprise by an investor of the other Party or a covered enterprise, or operation of a covered enterprise, either on the basis of its entire territory or on the basis of the territory of a national, territorial, regional or local level of government, measures that:

(a) impose limitations on:

(i) the number of enterprises that may carry out an economic activity, whether in the form of numerical quotas, monopolies, exclusive suppliers or the requirements of an economic needs test;

(ii) the total value of transactions or assets in the form of numerical quotas or the requirement of an economic needs test;

(iii) the total number of operations or on the total quantity of output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test;

(iv) the participation of foreign capital in terms of maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment; or

(v) the total number of natural persons that may be employed in a particular sector or that an enterprise may employ and who are necessary for, and directly related to, the performance of an economic activity, 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 an investor of the other Party may perform an economic activity.

Article 9.6. NATIONAL TREATMENT

1. Each Party shall accord to investors of the other Party and to covered enterprises treatment no less favourable than that it accords, in like situations, to its own investors and to their enterprises, with respect to establishment in its territory.

2. Each Party shall accord to investors of the other Party and to covered enterprises treatment no less favourable than that it accords, in like situations, to its own investors and to their enterprises, with respect to operation in its territory.

3. The treatment accorded by a Party under paragraphs 1 and 2 means:

(a) with respect to a regional or local level of government of Australia, treatment no less favourable than the most favourable treatment accorded, in like situations, by that regional or local level of government to investors of Australia and to their enterprises in its territory.

(b) with respect to a government of, or in, a Member State of the European Union, treatment no less favourable than the most favourable treatment accorded, in like situations, by that government to investors of that Member State and to their enterprises in its territory.

Article 9.7. MOST FAVOURED NATION TREATMENT

1. Each Party shall accord to investors of the other Party and to covered enterprises treatment no less favourable than that it accords, in like situations, to investors of a third country and to their enterprises, with respect to establishment and operation in its territory.

2. Paragraph 1 shall not be construed as obliging a Party to extend to investors of the other Party or to covered enterprises the benefit of any treatment resulting from measures providing for recognition, including of the standards or criteria for the authorisation, licencing, or certification of a natural person or enterprise to carry out an economic activity, or of prudential measures as referred to in paragraph 3 of the GATS Annex on Financial Services or Article 5.XX (Financial Services – Recognition).

3. For greater certainty, the “treatment” referred to in paragraphs 1 and 2 does not include international dispute resolution procedures or mechanisms, including investor-State dispute settlement, provided for in other international agreements.

4. Substantive obligations in other international agreements concluded by a Party with a third country do not in themselves constitute treatment under this Article. Measures of a Party in relation to those obligations can constitute treatment (1) and thus can give rise to a breach of this Article. (2)

(1) For greater certainty, investors of the other Party or their covered enterprises would be entitled to receive that treatment even in the absence of enterprises established by investors of the third country at the time when the comparison is made.

(2) For greater certainty, the process of implementing those obligations into domestic law, to the extent that it is necessary in order to incorporate them into the domestic legal order, does not in itself qualify as a measure.

Article 9.8. SENIOR MANAGEMENT AND BOARDS OF DIRECTORS

A Party shall not require a covered enterprise to appoint natural persons of any particular nationality as senior managers or members of boards of directors.

Article 9.9. PERFORMANCE REQUIREMENTS

1. A Party shall not impose or enforce any requirement, or enforce any commitment or undertaking, in connection with the establishment or operation of any enterprise in its territory (3):

(3) For greater certainty, a condition for the receipt or continued receipt of an advantage referred to in paragraph 2 does not constitute a

requirement or a commitment or undertaking for the purpose of paragraph 1.

(a) to export a given level or percentage of goods or services;

(b) to achieve a given level or percentage of domestic content;

(c) to purchase, use or accord a preference to goods produced in its territory, or to purchase goods from natural or juridical persons or any other entities in its territory;

(d) to relate in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with such enterprise;

(e) to restrict sales of goods or services in its territory that such enterprise produces or supplies, by relating those sales in any way to the volume or value of its exports or foreign exchange earnings;

(f) to transfer a particular technology, a production process or other proprietary knowledge to a natural or juridical person or any other entity in its territory;

(g) to supply exclusively from the territory of that Party a good produced or a service supplied by the enterprise to a specific regional or world market;

(h) to locate the headquarters for a specific region or the world market in its territory;

(i) to achieve a given level or value of research and development in its territory;

(j) to adopt:

(i) a rate or amount of royalty below a certain level; or

(ii) a given duration of the term of a licence contract (4)

(4) A "licence contract" referred to in this subparagraph means any contract concerning the licensing of technology, a production process, or other proprietary knowledge.

with regard to any licence contract in existence at the time the requirement is imposed or enforced, or any commitment or undertaking is enforced, or with regard to any future licence contract freely entered into between the enterprise and a natural or juridical person or any other entity in its territory, if the requirement is imposed or enforced or the commitment or undertaking is enforced, in a manner that constitutes a direct interference with that licence contract by an exercise of non-judicial governmental authority of a Party. (5)

(5) For greater certainty, subparagraph (l) does not apply when the licence contract is concluded between the enterprise and the Party.

2. A Party shall not condition the receipt, or continued receipt of an advantage, in connection with the establishment or operation of an enterprise in its territory, on compliance with any of the following requirements:

(a) to achieve a given level or percentage of domestic content;

(b) [to purchase, use or accord a preference to goods produced in its territory, or to purchase goods from natural or juridical persons or any other entity in its territory;]

(c) to relate in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with such enterprise;

(d) to restrict sales of goods or services in its territory that such enterprise produces or supplies by relating those sales in any way to the volume or value of its exports or foreign exchange inflows; or

3. Paragraph 2 shall not be construed as preventing a Party from conditioning the receipt or continued receipt of an advantage, in connection with the establishment or operation of any enterprise in its territory, on compliance with a requirement to locate production, supply a service, train or employ workers, construct or expand particular facilities, or carry out research and development, in its territory.

4. Subparagraphs 1 (f) and (j) do not apply when:

(a) the requirement is imposed or enforced, or the commitment or undertaking is enforced by a court, administrative tribunal, or competition authority to remedy a practice determined after judicial or administrative process to be a violation of competition law;

(b) a Party authorises the use of an intellectual property right in accordance with Article 31 or Article 31bis of the TRIPS Agreement or adopts or maintains measures requiring the disclosure of data or proprietary information that fall within the scope of, and are consistent with paragraph 3 of Article 39 of the TRIPS Agreement.

5. Subparagraphs 1 (a), 1 (b) and 1(c), and 2(a) and 2(b) do not apply to qualification requirements for goods or services with respect to participation in export promotion and foreign aid programmes.

6. Subparagraphs 2 (a) and (b) do not apply to requirements imposed by an importing Party relating to the content of goods necessary to qualify for preferential tariffs or preferential quotas.

7. Subparagraph 1 (j) does not apply if the requirement is imposed or enforced, or the commitment or undertaking is enforced, by a tribunal as equitable remuneration under the Party's copyright laws.

8. The Parties shall work towards further liberalisation and transparency under Article 2.6 (Performance Requirements) as regards prohibitions, in connection with the establishment or operation of an enterprise in its territory, on the imposition or enforcement of any requirements, or the enforcement of any commitments or undertakings by a Party:

(a) to purchase, use or accord a preference to services provided in its territory, or to purchase services from natural or juridical persons or any other entities in its territory;

(b) to restrict the exportation or sale for export of products or services;

(c) to purchase, use or accord a preference to, in its territory, technology of the Party or of a person of the Party (6); or

(6) 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 licence.

(d) that prevent the purchase or use of, or the according of a preference to, in its territory, a particular technology.

9. The Parties shall also work towards further liberalisation and transparency under Article 2.6 (Performance Requirements) as regards prohibitions, in connection with the establishment or operation of an enterprise in its territory, on the conditioning of the receipt, or continued receipt of an advantage, on compliance with a requirement:

(a) to purchase, use or accord a preference to services supplied in its territory, or to purchase services from natural or juridical persons or any other entity in its territory; or

(b) to restrict the exportation or sale for export of products or services

10. To that end, each Party shall conduct consultations, as necessary, with a view to including the performance requirements set out in paragraphs 8 and 9 in Article 2.6 (Performance Requirements), and identifying possible existing measures to be included in their Schedules of Non-Conforming Measures for Services and Investment. (7)

(7) For Australia, consultations shall be conducted at the federal and regional levels of government.

11. The Parties shall endeavour to conclude their respective consultations within two years after the date of entry into force of this Agreement, and at the latest, within three years thereafter.

12. Following the conclusion of these consultations, the Parties shall promptly notify each other of the outcome of such consultations, and the Trade Committee shall adopt a decision on any relevant amendments (8) to Article 2.6 (Performance Requirements) and to the Parties’ Schedules of Non-Conforming Measures for Services and Investment, taking into account the outcome of the Parties’ respective consultations.

(8) For greater certainty, such decision shall enter into force in accordance with Article 24.1(3) (Final Provisions) either on the date indicated in such decision or, where required by a Party’s internal system, after completion of any outstanding applicable legal requirements and procedures of the Parties.

Article 9.10. NON-CONFORMING MEASURES AND EXCEPTIONS

1. Articles 2.2 [Market Access], 2.3 [National Treatment], 2.4 [Most Favoured Nation Treatment], 2.5 [Senior management and boards of directors] or 2.6 [Performance Requirements] shall not apply to:

(a) any existing non-conforming measure that is maintained by a Party at the level of:

(i) for the European Union:

(A) the European Union, as set out in its Schedule to Annex I;

(B) the central government of a Member State of the European Union, as set out in its Schedule to Annex I;

(C) a regional government of a Member State of the European Union, as set out in its Schedule to Annex I; or

(D) a local government, other than that referred to in subparagraph (C); and

(ii) for Australia:

(A) the central government, as set out in its Schedule to Annex I;

(B) a regional government, as set out in its Schedule to Annex I; or

(C) a local government;

(b) the continuation or prompt renewal of any non-conforming measure referred to in subparagraph (a); or

(c) a modification to any non-conforming measure referred to in subparagraphs (a) and (b), to the extent that the modification does not decrease the conformity of the measure, as it existed immediately before the modification, with Articles 2.2 (Market Access), Article 2.3 (National Treatment), 2.4 (Most Favoured Nation Treatment), 2.5 (Senior management and boards of directors), or 2.6 (Performance Requirements).

2. Articles 2.2 (Market Access), 2.3 (National Treatment), 2.4 (Most Favoured Nation Treatment), 2.5 (Senior management and boards of directors) or 2.6 (Performance Requirements) shall not apply to a measure of a Party with respect to sectors, subsectors or activities, as set out in its Schedule to Annex II.

3. Neither Party shall, under any measure adopted after the date of entry into force of this Agreement for that Party 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 enterprise existing at the time the measure becomes effective.

4. Article 2.3 (National Treatment) and Article 2.4 (Most Favoured Nation Treatment) shall not apply to any measure that falls within Article 5 of the TRIPS Agreement, and any measure that is covered by an exception to, or derogation from, the obligations imposed by Article X.4 (National Treatment) of Chapter XX (Intellectual Property), or by Article 3 or Article 4 of the TRIPS Agreement.

5. Notwithstanding Articles 2.3 (National Treatment) and 2.4 (Most-Favoured-Nation Treatment), a Party may require an investor of the other Party or its covered enterprise to provide information concerning that enterprise including for statistical purposes, provided that those requests are reasonable and not unduly burdensome.

6. The Party shall protect such information that is confidential from any disclosure that would prejudice the competitive position of the investor or the covered enterprise. Nothing in this paragraph shall be construed to prevent a Party from otherwise obtaining or disclosing information in accordance with its law. Such laws shall not be applied in a manner which would otherwise constitute a disguised restriction on the establishment or operation of an enterprise.

Article 9.11. FORMAL REQUIREMENTS

Article 2.3 (National treatment) does not prevent a Party from adopting or maintaining formal requirements such as that investments be legally constituted under the laws or regulations of the Party in connection with a covered enterprise, provided that those formalities or requirements do not constitute a means to circumvent that Party's obligations pursuant to that Article.

Section C. CROSS-BORDER TRADE IN SERVICES

Article 9.12. Scope

This Chapter shall apply to measures of a Party affecting cross-border trade in services by service suppliers of the other Party. Such measures include measures affecting:

(a) the production, distribution, marketing, sale or delivery of a service;

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

(c) the access to and use of distribution, transport or telecommunications networks and services in connection with the supply of a service.

Article 9.13. Market Access

A Party shall not adopt or maintain, either on the basis of its entire territory or [on the basis of a territorial sub-division], a measure that:

(a) imposes limitations on:

(i) the number of service suppliers, whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirements of an economic needs test;

(ii) the total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;

(iii) the total number of service operations or on the total quantity of service output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test; or

(b) restricts or requires specific types of legal entity or joint venture through which a service supplier may supply a service.

Article 9.14. National Treatment

Each Party shall accord to services and service suppliers of the other Party treatment no less favourable than that it accords, in like situations, to its own services and service suppliers.

Article 9.15. Most Favoured Nation Treatment

1. Each Party shall accord to services and service suppliers of the other Party treatment no less favourable than that it accords, in like situations, to services and service suppliers of a third country.

2. Paragraph 1 shall not be construed as obliging a Party to extend to services or service suppliers of the other Party the benefit of any treatment resulting from measures providing for recognition (1), including of the standards or criteria for the authorisation, licencing, or certification of a natural person or enterprise to carry out an economic activity, or of prudential measures as referred to in paragraph 3 of the GATS Annex on Financial Services or Article 5.XX (Financial Services – Recognition).

(1) The Parties affirm their rights and obligations under Article VII of the GATS regarding measures providing for recognition of the education or experience obtained, requirements met, or licenses or certifications granted in a particular country.

3. Substantive obligations in other international agreements concluded by a Party with a third country, do not in themselves constitute treatment under this Article. Measures of a Party in relation to those obligations can constitute treatment and thus can give rise to a breach of this Article. (2)

(2) For greater certainty, the process of implementing those obligations into domestic law, to the extent that it is necessary in order to incorporate them into the domestic legal order, does not in itself qualify as a measure.

Article 9.16. Local Presence

Neither Party shall require a service supplier of the other Party to establish or maintain a representative office or any form of enterprise, or to be resident, in its territory as a condition for the cross-border supply of a service.

Article 9.17. Non-Conforming Measures

1. Articles 3.2 (Market Access), 3.3 (National Treatment), [3.4 (Most Favoured Nation Treatment)] or 3.5 (Local Presence) shall not apply to:

(a) any existing non-conforming measure that is maintained by a Party at the level of:

(i) for the European Union:

(A) the European Union, as set out in its Schedule to Annex I;

(B) the central government of a Member State of the European Union, as set out in its Schedule to Annex I Annex I;

(C) a regional government of a Member State of the European Union, as set out in its Schedule to Annex I; or

(D) a local government, other than that referred to in subparagraph (C); and

(ii) for Australia:

(A) the central government, as set out in its Schedule to Annex I;

(B) a regional government, as set out in its Schedule to Annex I; or

(C) a local government;

(b) the continuation or prompt renewal of any non-conforming measure referred to in subparagraph (a); or

(c) a modification of any non-conforming measure referred to in subparagraphs (a) and (b) to the extent that the modification does not decrease the conformity of the measure, as it existed immediately before the modification, with Articles 3.2 (Market Access), 3.3 (National Treatment), 3.5 (Local Presence), or [3.4 (Most Favoured Nation Treatment)].

2. Articles 3.2 (Market Access), 3.3 (National Treatment), [3.4 (Most Favoured Nation Treatment)] or 3.5 (Local Presence) shall not apply to any measure of a Party with respect to sectors, subsectors or activities, as set out in its Schedule to Annex II.

Section D. TEMPORARY ENTRY AND PRESENCE OF NATURAL PERSONS FOR BUSINESS PURPOSES

Article 9.18. Scope

1. This Section applies to measures of a Party affecting:

(a) the temporary entry of a natural person of the other Party into the territory of the Party for business purposes; and

(b) the supply of services through the presence of a natural person of a Party in the territory of the other Party,

if natural persons as referred to in points (a) and (b) of this paragraph fall within the categories defined in Article 9.19 (Definitions).

2. For greater certainty, nothing in this Section affects requirements provided for in the law of a Party regarding work and social security measures, including regulations concerning minimum wages and collective wage agreements.

3. This Section does not apply to measures affecting natural persons of a Party seeking access to the employment market of the other Party or to measures regarding nationality or citizenship, residence or employment on a permanent basis.

4. Nothing in this Agreement shall prevent a Party from applying measures to regulate the temporary entry of natural persons into its territory, including measures necessary to protect the integrity of its borders and to ensure the orderly movement of natural persons across them, provided that such measures are not applied in such a manner as to nullify or impair the benefits (1) accruing to the other Party under this Section.

(1) The sole fact that a Party requires natural persons of the other Party seeking entry for business purposes has to comply with an immigration formality (such as a requirement to obtain a visa) shall not be regarded as nullifying or impairing the benefits accruing to the Party under this Section.

5. Commitments on the temporary entry of natural persons for business purposes may not apply in individual cases where the intent or effect of the temporary entry is to affect the outcome of any labour or management dispute or negotiation, or

the employment of any natural person who is involved in that labour or management dispute.

Article 9.19. Definitions

For the purposes of this Section, the following definitions apply:

(a) "business visitors" means:

(i) for Australia:

(A) natural persons seeking to travel to Australia for business purposes, including for investment purposes, or negotiating the sale of goods, whose remuneration and financial support for the duration of the visit must be derived from sources outside Australia and who must not engage in making direct sales to the general public or in supplying goods or services themselves; and

(B) service sellers being natural persons who are not based in Australia and whose remuneration and financial support for the duration of the visit must be derived from sources outside Australia, and who are sales representatives of a service supplier, seeking entry for the purpose of negotiating for the sale of services or entering into agreements to sell services for that service supplier;

(ii) for the Union, natural persons seeking temporary entry into the Union who:

(A) are not engaged in selling their goods or supplying services to the general public;

(B) do not, on their own behalf, receive remuneration from within the Union; and

(C) are not engaged in the supply of a service in the framework of a contract concluded between a juridical person who is not established in the Union, and a consumer in the Union, except as provided for in Annex 9-E (Business Visitors for Establishment Purposes, Intra-Corporate Transferees and Short-Term Business Visitors);

(b) "business visitors for establishment purposes" means natural persons, working in a senior position within a juridical person of a Party, who:

(i) are responsible for setting up an enterprise of a juridical person of a Party in the territory of the other Party;

(ii) do not offer or provide services to a service consumer of the other Party or engage in any economic activity other than that which is required for the purposes of the establishment of the enterprise referred to in point (i); and

(iii) do not receive remuneration from a source located within the other Party;

(c) "contractual services suppliers" means:

(i) for the Union, natural persons employed by a juridical person of Australia, other than through an agency for placement and supply services of personnel , which is not established in the territory of the Union and has concluded a bona fide contract not exceeding 12 months, to supply services to a service consumer of the Union requiring the temporary presence of its employees (2) who:

(2) The bona fide service contract shall comply with the law of the Party where that bona fide service contract is executed.

(A) have offered such services as employees of the juridical person for a period of not less than one year immediately preceding the date of their application for temporary entry;

(B) possess on the date as referred to in point (A), at least three years of professional experience in the sector of activity that is the object of the contract (3), a bachelor's degree or higher, or a qualification demonstrating knowledge of an equivalent level (4) and the professional qualifications legally required to exercise that activity in the Union; and

(3) Professional experience shall be obtained after having reached the age of majority.

(4) Where the degree or qualification has not been obtained in the Party where the service is supplied, that Party may evaluate whether such degree or qualification is equivalent to a university degree required in its territory. To the extent that such an evaluation involves the recognition of professional qualifications, it shall be consistent with the terms of any mutual recognition of professional qualifications established pursuant to Sub-section 2 (Professional Services) of Section E (Regulatory framework). Paragraph XX of Appendix 9-F-1 (Schedule of

the Union – Equivalent Qualifications for Engineering, Scientific and Information Technologists) shall apply for the purposes of assessing such equivalence.

(C) do not receive remuneration from a source located within the Union;

(ii) for Australia, natural persons with trade, technical or professional skills and experience who demonstrate they possess the skills, qualifications and employment background necessary to perform the nominated occupation including, where required, by providing the results of a skill assessment by the relevant Australian skills assessing authority and who are:

(A) employees of an enterprise of the Union that have concluded a contract for the supply of a service within the territory of Australia and that do not have a commercial presence within the territory of Australia; or

(B) employees of an enterprise of the Union that are engaged by an enterprise lawfully and actively operating in the territory of Australia in order to supply a service under a contract within the territory of Australia;

(d) "independent professionals of Australia" means natural persons engaged in the supply of a service and established as self-employed in the territory of Australia who:

(i) are not established in the territory of the Union;

(ii) have concluded a bona fide contract (other than through an agency for placement and supply services of personnel) for a period not exceeding 12 months to supply services to a service consumer of the Union, requiring their presence on a temporary basis (5); and

(5) The bona fide service contract shall comply with the law of the Party where that bona fide service contract is executed.

(iii) possess, on the date of their application for temporary entry, the qualifications and experience required to exercise the supply services as referred to in point (ii) in the Union, as specified in Annex 9-F (Contractual Service Suppliers and Independent Professionals);

(e) "installers and servicers of the Union" means natural persons who are installers or servicers of machinery, equipment, or computer software, where such installation or servicing by the supplying enterprise is a condition of purchase under contract of the said machinery, equipment, or computer software, and who must abide by Australian workplace standards and conditions, and who must not perform services which are not related to the service activity which is the subject of the contract;

(f) "intra-corporate transferees" means natural persons, who are employees of a juridical person of a Party that has established an enterprise which is lawfully and actively operating in the other Party, who are transferred to fill a position in that enterprise, and who are:

(i) "executives or senior managers", which means natural persons responsible for the entire or a substantial part of the operations of the enterprise in the other Party, receiving general supervision or direction principally from the board of directors or stockholders of the enterprise (6), and whose responsibilities include:

(6) For the purposes of this point, "general supervision or direction principally from the board of directors or stockholders of the enterprise" includes supervision or direction provided by higher-level executives of the enterprise who have been delegated such authority by the board of directors or stockholders.

(A) directing the enterprise or a department or subdivision thereof;

(B) supervising and controlling the work of other supervisory, professional or managerial employees; and

(C) having the authority to establish goals and policies of the department or subdivision of the enterprise, including hiring, dismissing or other personnel-related actions; or

(ii) "specialists", which means:

(A) for Australia, natural persons with advanced trade, technical or professional skills and experience who must be assessed as having the necessary qualifications, or alternative credentials accepted as meeting the domestic standards in Australia, for that occupation, and who must have been employed by the employer for not less than two years immediately preceding the date of the application for entry;

(B) for the Union, natural persons essential to the enterprise's areas of activity, techniques or management, which shall be assessed by taking into account not only knowledge specific to the enterprise, but also whether the person has a high level of qualification, including adequate professional experience, referring to a type of work or activity requiring specific technical knowledge, including possible membership of an accredited profession; or

(iii) for the Union, "trainee employees of Australia", which means natural persons possessing a university degree who are temporarily transferred for career development purposes or to obtain training in business techniques or methods (7) and are paid during the transfer;

(7) The recipient enterprise may be required to submit a training programme covering the duration of the stay for prior approval, demonstrating that the purpose of the stay is for training. For Austria, Czechia, Germany, France, Spain, Hungary and Lithuania, training must be linked to the university degree which has been obtained.

(g) "investor" means:

(i) for Australia, a natural person of the Union who is an executive of an enterprise headquartered in the Union that has no other representative office, branch or subsidiary in Australia and who is establishing a branch or subsidiary of that enterprise in Australia, and who will be responsible for the entire or a substantial part of the enterprise's operations in Australia, receiving general supervision or direction principally from higher level executives, the board of directors or stockholders of the enterprise, including:

(A) directing the enterprise or a department or subdivision thereof;

(B) supervising and controlling the work of other supervisory, professional or managerial employees; and

(C) having the authority to establish goals and policies of the department or subdivision of the enterprise;

(ii) for the Union, a natural person who establishes an enterprise, and develops or administers the operation of that enterprise in the other Party in a capacity that is supervisory or executive, and to which that natural person or the juridical person employing that natural person has committed, or is in the process of committing, a substantial amount of capital.

Article 9.20. General Obligations

A Party shall allow temporary entry to natural persons of the other Party for business purposes in accordance with this Section and Annex 9-E (Business visitors for establishment purposes, intra-corporate transferees and short-term business visitors) and Annex 9-F (Contractual service suppliers and independent professionals) who comply with its immigration measures, application procedures and any other eligibility requirements or conditions applicable to temporary entry.

Article 9.21. Intra-corporate Transferees, Investors and Business Visitors for Establishment Purposes

1. Each Party shall allow temporary entry to business visitors for establishment purposes, investors and intra-corporate transferees of the other Party in accordance with its commitments set out in Annex 9-E (Business visitors for establishment purposes, intra-corporate transferees and short-term business visitors). (8)

(8) If an intra-corporate transferee is allowed temporary entry pursuant to this Section, that intra-corporate transferee shall also have the right to be employed by the intra-corporate transferee’s enterprise in the territory of the allowing Party.

2. Unless otherwise specified in Annex 9-E (Business visitors for establishment purposes, intra-corporate transferees and short-term business visitors), a Party shall not adopt or maintain limitations in the form of numerical quotas or economic needs tests, either on the basis of a territorial subdivision or on the basis of its entire territory, on the total number of natural persons granted temporary entry in accordance with paragraph 1 in a specific sector.

Article 9.22. Business Visitors and Installers and Servicers

1. Each Party shall allow temporary entry to business visitors and installers and servicers of the other Party in accordance with its commitments set out in Annex 9-E (Business visitors for establishment purposes, intra-corporate transferees and short-term business visitors).

2. Unless otherwise specified in Annex 9-E (Business visitors for establishment purposes, intra-corporate transferees and short-term business visitors), a Party shall allow temporary entry of business visitors without the requirement of a work permit or economic needs test.

Article 9.23. Contractual Service Suppliers

1. Each Party shall allow temporary entry to contractual service suppliers of the other Party in accordance with its commitments set out in Annex 9-F (Contractual services suppliers and independent professionals).

2. Unless otherwise specified in Annex 9-F (Contractual services suppliers and independent professionals) a Party shall not adopt or maintain limitations, in the form of numerical quotas or an economic needs test, on the total number of contractual service suppliers of the other Party allowed temporary entry.

Article 9.24. Independent Professionals

1. The Union shall allow temporary entry and presence to independent professionals of Australia in accordance with its commitments set out in Annex 9-F (Contractual services suppliers and independent professionals).

2. Unless otherwise specified in Annex 9-F (Contractual services suppliers and independent professionals), the Union shall not adopt or maintain limitations, in the form of numerical quotas or the requirement of an economic needs test, on the total number of independent professionals of Australia allowed entry.

Article 9.25. Non-conforming Measures or Obligations In other Chapters

1. This Agreement does not impose any obligations on a Party regarding its immigration measures, except as specifically provided for in this Section.

2. Without prejudice to any decision relating to the grant of temporary entry of a natural person of the other Party, including the permissible length of stay pursuant to any such grant, Article 9.13 (Market access – Cross-border trade in services), Article 9.14 (National treatment – Cross-border trade in services) and Article 9.15 (Most favoured nation treatment – Cross-border trade in services), apply to this Section, and apply to measures affecting a service supplied in accordance with point (b) of Article 9.18(1) (Scope), to the extent that each Article applies to measures that affect the supply of a service through the presence of natural persons of a Party present in the territory of the other Party.

3. The Articles that apply to this Section pursuant to paragraph 2 shall not apply to:

(a) any existing non-conforming measure of a Party at the level of:

(i) for the Union:

(A) the Union, as set out in its Schedule to Annex 9-C (Existing measures);

(B) the central government of a Member State, as set out in its Schedule to Annex 9-C (Existing measures);

(C) a regional government of a Member State, as set out in its Schedule to Annex 9-C (Existing measures); or

(D) a local government, other than that referred to in point (C); and

(ii) for Australia:

(A) the central government, as set out in its Schedule to in Annex 9-C (Existing measures);

(B) a regional government, as set out in its Schedule to Annex 9-C (Existing measures); or

(C) a local government;

(b) the continuation or prompt renewal of any non-conforming measure referred to in point (a);

(c) a modification of any non-conforming measure referred to in points (a) and (b) to the extent that it does not decrease the conformity of the measure, as it existed immediately before the modification, with the Articles that apply to pursuant to paragraph 2; or

(d) a measure of a Party with respect to sectors, subsectors or activities, as set out in its Schedule in Annex 9-D (Future measures).

4. For greater certainty, the Articles referred to in paragraph 2 do not apply to measures relating to the granting of temporary entry into a Party to natural persons of that Party or of a third country.

Article 9.26. Transparency

1. Further to Chapter 21 (Transparency), each Party shall make publicly available information on relevant measures that pertain to the temporary entry and presence of natural persons of the other Party referred to in Article 9.18(1) (Scope).

2. The information referred to in paragraph 1 shall, to the extent possible, include inter alia, the following information relevant to the temporary entry and presence of natural persons:

(a) entry conditions;

(b) an indicative list of documentation that may be required in order to verify the fulfilment of the conditions;

(c) indicative processing time;

(d) applicable fees;

(e) appeal procedures; and

(f) relevant laws of general application pertaining to the temporary entry and presence of natural persons.

Article 9.27. Annex on Temporary Entry-related Procedures

Additional provisions on procedures related to the temporary entry of natural persons of each Party are set out in Annex 9-A (Movement of natural persons for business purposes).

Article 9.28. Non-application of Dispute Settlement

No Party shall have recourse to Chapter 24 (Dispute settlement) regarding a refusal to grant temporary entry to a particular natural person or persons.

SECTION E REGULATORY FRAMEWORK

SUB-SECTION 1 DOMESTIC REGULATION

Article ARTICLE 9.29

Scope and definitions

This Sub-Section applies to measures of a Party relating to licensing requirements and procedures, qualification requirements and procedures, and technical standards1 affecting:

cross-border trade in services;

establishment or operation; or

1 As far as measures relating to technical standards are concerned, this Sub-Section only applies to such measures affecting trade in services. Technical standards do not include regulatory or implementing technical standards for financial services.

the supply of a service through the presence of a natural person2 of a Party in the territory of the other Party where such natural persons fall within the categories defined in Article 9.2 (Definitions – General provisions).

This Sub-Section does not apply to a measure to the extent that the measure is not subject to an obligation in Section B (Investment Liberalisation) or Section C (Cross-Border Trade in Services) of this Chapter by reason of Article 9.10 (Non-conforming measures and exceptions) or Article 9.17 (Non-conforming measures).

For the purposes of this Sub-Section:

"authorisation" means the permission to carry out any of the activities referred to in points (a) to (c) of paragraph 1 resulting from a procedure that a natural or juridical person must adhere to in order to demonstrate compliance with licensing requirements, qualification requirements or technical standards.

"competent authority" means a central, regional or local government or authority or non-governmental body in the exercise of powers delegated by central, regional or local governments or authorities, which is entitled to take a decision concerning authorisation.

Submission of applications

Each Party shall, to the extent practicable, avoid requiring an applicant to approach more than one competent authority for each application for authorisation. If an activity for which authorisation is requested is within the jurisdiction of multiple competent authorities, multiple applications for authorisation may be required.

Application timeframes

If a Party requires authorisation, it shall ensure that its competent authorities, to the extent practicable, permit the submission of an application at any time throughout the year.3 If a specific time period for applying for authorisation exists, the Party shall ensure that the competent authorities allow a reasonable period of time for the submission of an application.

Electronic applications and acceptance of copies

If a Party requires authorisation, it shall ensure that its competent authorities:

to the extent possible, accept applications in electronic format; and

accept copies of documents that are authenticated in accordance with the Party's law, in place of original documents, unless the competent authorities require original documents to protect the integrity of the authorisation process.

Processing of applications

If a Party requires authorisation, it shall ensure that its competent authorities:

to the extent practicable, provide an indicative timeframe for the processing of an application;

at the request of the applicant, provide without undue delay information concerning the status of the application;

to the extent practicable, ascertain without undue delay the completeness of an application for processing under the Party's laws and regulations;

if they consider an application complete for processing4 under the Party's laws and regulations, within a reasonable period of time after the submission of the application ensure that:

the processing of the application is completed;

the applicant is informed of the decision concerning the application,5 to the extent possible in writing; and6

an authorisation is granted as soon as the competent authority determines that the conditions for authorisation have been met;

if they consider an application incomplete for processing under the Party's laws and regulations, within a reasonable period of time, to the extent practicable:

inform the applicant that the application is incomplete;

at the request of the applicant identify the additional information required to complete the application or otherwise provide guidance on why the application is considered incomplete; and

4 Competent authorities may require that all information is submitted in a specified format to consider it "complete for processing".

5 Competent authorities may meet this requirement by informing an applicant in advance in writing, including through a published measure, that a lack of response after a specified period of time from the date of submission of the application indicates acceptance of the application.

6 For greater certainty, "in writing" may include in electronic form.

provide the applicant with the opportunity7 to provide the additional information that is required to complete the application;

however, if none of the above is practicable, and the application is rejected due to incompleteness, ensure that they inform

the applicant within a reasonable period of time; and

if an application is rejected, to the extent possible, either upon their own initiative or upon request of the applicant, inform the applicant of the reasons for rejection and, if applicable, the timeframe for an appeal against that decision and the procedures for resubmission of an application. An applicant should not be prevented from submitting another application solely on the basis of a previously rejected application.

A Party shall ensure that authorisation, once granted, enters into effect without undue delay, subject to the applicable terms and conditions.

Fees

For all economic activities covered by this Sub-section other than financial services, each Party shall ensure that the authorisation fees8 charged by its competent authorities are reasonable, transparent and do not in themselves restrict the supply of the relevant service or the pursuit of any other economic activity.

With regard to financial services, each Party shall ensure that its competent authorities, with regard to authorisation fees that they charge, provide applicants with a schedule of fees or information on how fee amounts are determined, and do not use the fees as a means of avoiding the Party's commitments or obligations.

7 Such opportunity does not require a competent authority to provide extensions of deadlines.

8 Authorisation fees do not include fees for the use of natural resources, payments for auction, tendering or other non-discriminatory means of awarding concessions, or mandated contributions to the provision of universal service.

Assessment of qualifications

If a Party requires an examination for authorisation, it shall ensure that its competent authorities schedule such an examination at reasonably frequent intervals and provide a reasonable period of time to enable applicants to request to take the examination. To the extent practicable, each Party shall accept requests in electronic format to take such examinations, and shall consider the use of electronic means in other aspects of examination processes.

Objectivity, impartiality and independence

If a Party adopts or maintains a measure relating to authorisation, it shall ensure that its competent authority processes an application, and reaches and administers its decisions, objectively and impartially and in a manner independent from any person carrying out the economic activity for which authorisation is required.

Publication and information available

If a Party requires authorisation, it shall promptly publish9 the information necessary for service suppliers or persons seeking to supply a service, and for persons carrying out or seeking to carry out the economic activity for which the licence or authorisation is required, to comply with

9 For the purposes of this Sub-Section, "publish" means to include in an official publication, such as an official journal, or on an official website. The Parties are encouraged to consolidate electronic publications into a single portal.

the requirements and procedures for obtaining, maintaining, amending and renewing such authorisation.

The information referred to in paragraph 1 shall include, where it exists:

the requirements and procedures;

contact information of relevant competent authorities;

authorisation fees;

applicable technical standards;

procedures for appeal or review of decisions concerning applications;

procedures for monitoring or enforcing compliance with the terms and conditions of licences or qualifications;

opportunities for public involvement, such as through hearings or comments; and

indicative timeframes for the processing of an application.

Technical standards

A Party shall encourage its competent authorities, when adopting technical standards, to adopt technical standards developed through open and transparent processes, and shall encourage any body, including relevant international organisations, designated to develop technical standards to do so through open and transparent processes.

Development of measures

If a Party adopts or maintains measures relating to authorisation, it shall ensure that:

such measures are based on clear, objective and transparent criteria;10

the procedures are impartial, easily accessible to all applicants and adequate for applicants to demonstrate whether they meet the requirements, where such requirements exist; and

the procedures do not in themselves unjustifiably prevent fulfillment of requirements.

Limited number of licences

If the number of licences available for a given economic activity is limited because of the scarcity of available natural resources or technical capacity, a Party shall apply a selection procedure to potential candidates which is impartial and transparent and provides for adequate publicity about the launch, conduct and completion of the procedure. The selection procedure may take into account legitimate policy objectives, including considerations of health, safety, protection of the environment and the preservation of cultural heritage.

10 Such criteria may include competence and the ability to supply a service or any other economic activity, including to do so in a manner consistent with a Party's regulatory requirements, such as health and environmental requirements. Competent authorities may assess the weight to be given to each criterion.

SECTION E REGULATORY FRAMEWORK

SUB-SECTION 2 PROFESSIONAL SERVICES

Article ARTICLE 9.41

Mutual Recognition of Professional Qualifications

The Parties shall encourage the relevant professional bodies or authorities in their respective territories1 to develop and provide a joint recommendation on mutual recognition of professional qualifications to the [Committee on Trade in Services, Digital Trade, Establishment, Government Procurement, Intellectual Property Rights] established pursuant to Article X (Specialised Committees). Such a joint recommendation shall be supported by an evidence-based assessment of:

1 For the Union, professional bodies or authorities are those covering the territory of the EU as a whole.

the economic value of an envisaged understanding2 on mutual recognition of

professional qualifications (hereinafter referred to as “Understanding”); and

the compatibility of the respective regimes, i.e., the extent to which the requirements applied in each Party for the authorisation, licensing, operation and certification are compatible and how divergent regimes would be bridged.

On receipt of a joint recommendation, the Committee shall review that recommendation within a reasonable period of time.

The [Committee], on the basis of its review of the joint recommendation, may make a recommendation to the relevant professional bodies or authorities to negotiate an Understanding based on the joint recommendation, if it is satisfied that an Understanding would have significant economic value for the Parties to this Agreement, that their regimes are compatible and that divergence between them can be bridged. The [Committee] shall abstain from making a recommendation if the joint recommendation contains elements that give rise to concern that any ensuing Understanding would be inconsistent with this Agreement.

The Parties shall encourage the professional bodies and authorities to use the Guidelines for Understandings set out in Annex XX [Guidelines for understandings on the recognition of professional qualifications] in the development of the joint recommendations referred to in paragraph 1 of this Article. The [Committee] shall take the Guidelines for Understandings into account when reviewing the joint recommendation and assessing whether to recommend to the relevant professional bodies or authorities to negotiate, as referred to in paragraph 3 of this Article.

Nothing in this Article shall prevent a Party from requiring that natural persons possess the necessary qualifications or professional experience specified in the territory where the service is supplied, for the sector of activity concerned.

Additional Recognition Disciplines

The obligations contained in this Article shall not apply to the non-conforming aspects of measures adopted or maintained in accordance with Article X.X (Non-conforming measures investment) or Article X.X (Non-conforming measures services).

Each Party shall accord to service suppliers of the other Party treatment no less favourable than that it accords, in like situations, to its own service suppliers with respect to:

for the EU, recognition by one Member State of the European Union of a professional qualification, or a licence or registration relating to that professional qualification, obtained in another Member State of the European Union;

for Australia, recognition by one State or Territory of Australia of a professional qualification, or a licence or registration relating to that professional qualification, obtained in another State or Territory of Australia.

For the Union, this Article shall only apply if the service supplier:

has established an enterprise in a Member State of the European Union where the service is provided, or

is established as self-employed in a Member State of the European Union where the service is provided, or

is employed or contracted by an enterprise established in a Member State where the service is provided as defined in Chapter IV, Art 4.2(c) or in Chapter IV, Art. 4.2(d), or

is providing a service to a consumer in a Member State of the European Union under a contractual arrangement defined in Chapter IV, Art 4.2(b).

This Article shall not apply to cross-border trade in services between the territories of the Parties or within the Union.3

Regulation of Professional Services

The Parties recognise that professional services play an essential role in facilitating trade and investment across both goods and services sectors and in promoting economic growth and business confidence.

If a Party regulates or seeks to regulate the provision of professional services by foreign service suppliers4, (herein after referred to as “foreign professionals”), the Party may consider providing for a regulatory framework that allows:

the presence of foreign professionals on a temporary basis for business purposes in order to provide professional services in the territory of the Party on the basis of their right to provide those services in their home jurisdiction;

where relevant and appropriate, for local ethical, conduct and disciplinary standards to be applied to foreign professionals in a manner that is no more burdensome for foreign professionals than the requirements applied to domestic (host-country) suppliers of those professional services in like situations;

requirements, such as requirements that foreign professionals:

are members of a professional organisation;

participate in collective compensation funds for members of professional organisations;

post a bond or other form of financial security, or establish or contribute to a trust account;

maintain a particular type and amount of insurance, or provide other similar guarantees; or

provide access to records or alternatively disclose to clients their status as a foreign professional; and

the following modes of providing professional services to be accommodated:

the supply of services through the presence on a temporary basis of a foreign professional in the territory of the other Party;

on a cross-border basis through the use of telecommunications technology;

through establishing a commercial presence.

Where feasible, the Parties may consider implementing a temporary, limited or project-specific licensing or registration

regime based on a foreign service supplier's home licence or recognised professional body membership, without the need for a further written examination. Such a regime should not operate to prevent a foreign service supplier from gaining a local licence once that supplier satisfies the applicable local licensing requirements.

SECTION E REGULATORY FRAMEWORK

SUB-SECTION 3 DELIVERY SERVICES ARTICLE 9.44

Scope

In addition to Chapter II and Chapter III of this Title, this Section shall apply to measures adopted or maintained by a Party affecting the supply of delivery services.

Definitions

For the purposes of this Section:

"delivery services" means postal and courier services, which include the following activities: the collection, sorting, transport, and delivery of postal items;

"express delivery services" means the collection, sorting, transport and delivery of postal items at increased speed and reliability and may also include other value added elements in whatever form they take;

"express mail services" means international express delivery services supplied through the EMS Cooperative, the voluntary association of designated postal operators under Universal Postal Union (UPU);

"licence" means an authorisation that a regulatory authority of a Party may require of

an individual supplier in order for that supplier to offer postal and courier services;

"postal item" means an item such as a letter, document, printed matter, or parcel up to 31.5 kg addressed in the final form in which it is to be carried by any type of supplier of delivery services;

"postal monopoly" means the exclusive right to supply specified delivery services within a Party's territory or a subdivision thereof pursuant to a legislative measure of a Party; and

"universal service" means the permanent supply of a delivery service of specified quality at all points in the territory of a Party or a subdivision thereof, for all customers, at affordable prices pursuant to a measure of a Party.

Universal Service

Each Party has the right to define the kind of universal service obligation it wishes to adopt or maintain and to decide on their scope and implementation. Any universal service obligation shall be administered in a transparent, non-discriminatory and neutral manner with regard to all suppliers subject to the obligation.

If a Party requires inbound express mail services to be supplied on a universal service basis, it shall accord to other international express delivery services treatment no less favourable than that it accords, to inbound express mail services supplied on a universal service basis.

Prevention of Market Distortive Practices

Each Party shall ensure that suppliers of delivery services subject to a universal service obligation or postal monopolies do not engage in market distortive practices such as:

using revenues derived from the supply of the service subject to a universal service obligation or from the monopoly to cross-subsidise the supply of any delivery service which is not subject to a universal service obligation, or

unjustifiably differentiating among customers in like situations with respect to tariffs or other terms and conditions for the supply of a service subject to a universal service obligation or a postal monopoly.

Article ARTICLE 9.48

Licences

If a Party requires a licence for the provision of delivery services, it shall make publicly available:

all the licensing requirements and the period of time normally required to reach a decision concerning an application for a licence; and

the terms and conditions of licences.

The procedures, obligations and requirements of a license shall be transparent, non-discriminatory and based on objective criteria.

If a licence application is rejected by the competent authority, it shall inform the applicant of the reasons for the rejection in writing. Each party shall establish an appeal procedure through an independent body available to applicants whose licence has been rejected. This body may be a court.

Independence of the Regulatory Body

Each Party shall ensure that its authority or authorities responsible for regulating delivery services shall be legally distinct and functionally independent from any supplier of delivery services.

If a Party owns or controls a supplier of delivery services, it shall ensure effective structural separation of the regulatory function from activities associated with ownership or control.

Each party shall ensure that the decisions and procedures that its authority or authorities adopt are timely, impartial, non-discriminatory and transparent with respect to all delivery service suppliers in its territory.

SECTION E REGULATORY FRAMEWORK

SUB-SECTION 4 TELECOMMUNICATIONS SERVICE

Article ARTICLE 9.50

Scope

In addition to Chapters II (Investment Liberalisation) and III (Cross-border Trade in Services), this Section shall apply to measures of a Party affecting the supply of telecommunications services.

This Section shall not apply to any measure affecting:

broadcasting services as defined in the law of each Party; and

services providing, or exercising editorial control over, content transmitted using telecommunications networks and services.

Notwithstanding point 2(a), a supplier of broadcasting services shall be considered to be a supplier of public telecommunication services and its networks as public

telecommunications networks, to the extent that its networks are also used for providing public telecommunications services.

For the purpose of this Section:

Definitions

"associated facilities" means services, physical infrastructures and other facilities associated with a telecommunications network or service which enable or support the supply of telecommunications services via that network or service or have the potential to do so;

"essential facilities" means facilities of a public telecommunications network or service that:

are exclusively or predominantly provided by a single or limited number of suppliers; and

cannot feasibly be economically or technically substituted in order to provide a service;

“interconnection” means linking with suppliers providing public telecommunications networks or services in order to allow the users of one supplier to communicate with users of another supplier and to access services provided by any supplier who has access to the network;

"leased circuit" means telecommunications services or facilities that set aside capacity for the dedicated use of,

or availability to, a user between two or more designated points, irrespective of the technology used;

"major supplier" means a supplier of public telecommunications networks or services which has the ability to materially affect the terms of participation (having regard to price and supply) in a relevant market for public telecommunications networks or services as a result of control over essential facilities or the use of its position in that market;

"network element" means a facility or equipment used in supplying a telecommunications service, including features, functions and capabilities provided by means of that facility or equipment;

“non-discriminatory” means treatment no less favourable than that accorded to any

other user of like public telecommunications networks or services in like situations;

"number portability" means the ability of subscribers to retain the same telephone numbers when switching between the same category of suppliers of public telecommunications services;

"public telecommunications network" means any telecommunications network used wholly or mainly for the provision of public telecommunications services between network termination points;

"public telecommunications service" means any telecommunications service that is offered to the public generally;

“reference interconnection offer” means an interconnection offer extended by a major supplier, which is published and 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;

"subscriber" means any natural person or enterprise which is party to a contract with a supplier of public telecommunications services for the supply of such services;

"telecommunications" means the transmission and reception of signals by any electromagnetic means;

"telecommunications network" means transmission systems and, where applicable, switching or routing equipment and other resources, including network elements which are not active, which permit telecommunications;

"telecommunications regulatory authority1" means the body or bodies responsible for the regulation of telecommunications networks and services covered by this section;

"telecommunications service" means a service which consists wholly or mainly in the transmission and reception of signals over telecommunications networks, but not a

1 For greater certainty, for Australia, the telecommunications regulatory authorities are the Australian Communications and Media Authority (or its successor) and the Australian Competition and Consumer Commission (or its successor).

service providing, or exercising editorial control over, content transmitted using telecommunications networks and services.

"universal service" means the minimum set of services that must be made available to all users, or to a set of users, in the territory of a Party, or in a subdivision thereof, regardless of their geographical location;

“user” means service consumers and service suppliers;

Telecommunications Regulatory Authority

Each Party shall establish or maintain a telecommunications regulatory authority that:

is legally distinct and functionally independent from any supplier of telecommunications networks, telecommunications services or telecommunications equipment;

uses procedures and issues decisions that are impartial with respect to all market participants;

has the regulatory power, as well as appropriate financial and human resources, to carry out those tasks;

has the power to ensure that suppliers of public telecommunications networks or services provide it, promptly upon request, with all the information2, including financial information, necessary to carry out those tasks; and

exercises its powers transparently and in a timely manner.

Each Party shall ensure that the tasks to be undertaken by the telecommunications regulatory authority are made public in an easily accessible and clear form, in particular where those tasks are assigned to more than one body.

With a view to ensuring the independence and impartiality of telecommunications regulatory authorities, each Party shall ensure that its telecommunication regulatory authority

2 Information requested shall be treated in accordance with each Party's laws and

regulations relating to the handling of commercially sensitive information.

does not hold a financial interest3 or maintain an operating or management role in any supplier of public telecommunications services.

Each Party shall ensure that a user or supplier of telecommunications networks or services affected by a decision of the telecommunications regulatory authority has a right of appeal before an appeal body which is independent of both the regulatory authority and other affected parties. Pending the outcome of the appeal, the decision shall stand, unless interim measures are granted in accordance with the Party's law.

Authorisation to Provide Telecommunications Networks or Services

Each Party shall ensure that measures relating to authorisation for the provision of public telecommunications networks or services are based on clear, objective and transparent criteria and are not more burdensome than necessary for the kind of service provided.

Each Party shall ensure that an applicant receives in writing the reasons for the denial or the revocation of an authorisation, or the imposition of supplier-specific conditions. In such cases, an applicant shall have a right of appeal before a judicial or administrative body.

Interconnection

The Parties recognise that interconnection should in principle be agreed on the basis of commercial negotiation between the suppliers of public telecommunications networks or services concerned.

Each Party shall provide its regulatory authority with the power to require, where necessary, suppliers of public telecommunications networks or services in its territory to

3 For greater certainty, this paragraph shall not be construed to prohibit a government entity of a Party other than the telecommunications regulatory authority from owning equity in a supplier of public telecommunications services.

provide interconnection with suppliers of public telecommunications networks or services of the other Party.

Each Party shall provide its telecommunications regulatory authority with the power to require interconnection at reasonable rates.

Each Party shall ensure that suppliers of public telecommunications services in its territory that acquire information from another supplier in the process of negotiating interconnection arrangements use that information solely for the purpose for which it was supplied and take reasonable steps to protect the confidentiality of that information.

Access and Use

Each Party shall ensure that any covered enterprise or service supplier of the other Party is accorded access to and use of public telecommunications networks or services on reasonable and non-discriminatory terms and conditions. This obligation shall be applied, inter alia, through paragraphs 2 through 5 of this Article.

Each Party shall ensure that covered enterprises or service suppliers of the other Party have access to and use of any public telecommunications network or service offered within or across its border, including private leased circuits, and to this end shall ensure, subject to the provisions in paragraph 5 of this Article, that such enterprises and suppliers are permitted:

to purchase or lease and attach terminal or other equipment which interfaces with the network and which is necessary to conduct their operations;

to interconnect private leased or owned circuits with public telecommunications networks or with circuits leased or owned by another covered enterprise or service supplier; and

to use operating protocols of their choice in their operations, other than as necessary to ensure the availability of telecommunications services to the public generally.

Each Party shall ensure that covered enterprises or service suppliers of the other Party may use public telecommunications networks and services for the movement of information within and across borders, including for their intra-corporate communications, and for access to information contained in data bases or otherwise stored in machine-readable form in the territory of either Party.

Notwithstanding the provisions in paragraph 3, a Party may take such measures as are necessary to ensure the security and confidentiality of communications, subject to the requirement that such measures are not applied in a manner which would constitute either a disguised restriction on trade in services or a means of arbitrary or unjustifiable discrimination.

Each Party shall ensure that no condition is imposed on access to and use of public telecommunications networks or services other than as necessary:

to safeguard the public service responsibilities of suppliers of public telecommunications networks or services, in particular their ability to make their services available to the public generally; or

to protect the technical integrity of public telecommunications networks or services.

Resolution of Telecommunications Disputes

Each Party shall ensure that, in the event of a dispute arising between suppliers of public telecommunications networks or services in connection with rights and obligations that arise from this section, and at the request of either party involved in the dispute, the telecommunications regulatory authority issues a binding decision within a reasonable timeframe to resolve the dispute, where it has the authority to do so.

The decision by the telecommunications regulatory authority shall be made available to the public, as a matter of course or on request, having regard to the Party's business confidentiality requirements. The parties concerned shall be given a full statement of the reasons on which it is based and shall have the right of appeal referred to in Article 5.13 paragraph 4.

The procedure referred to in paragraphs 1 and 2 of this Article shall not preclude either party concerned from bringing an action before a judicial authority.

Competitive Safeguards on Major Suppliers

Each Party shall introduce or maintain appropriate measures for the purpose of preventing suppliers of telecommunications networks or services who, alone or together, are a major supplier from engaging in or continuing anti-competitive practices. These anti-competitive practices shall include in particular:

engaging in anti-competitive cross-subsidisation;

using information obtained from competitors with anti-competitive results; and

not making available to other services suppliers on a timely basis technical information about essential facilities and commercially relevant information which are necessary for them to provide services.

Interconnection with Major Suppliers

Each Party shall ensure that major suppliers in its territory of public telecommunications networks or services provide interconnection at any technically feasible point in the network. Such interconnection shall be provided:

under non-discriminatory terms and conditions (including rates, technical standards, specifications, quality and maintenance) and of a quality no less favourable than that provided by the major supplier for its own like services or for like services of its subsidiaries or other affiliates;

in a timely fashion, on terms and conditions (including rates, technical standards, specifications, quality and maintenance) that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the supplier need not pay for network elements or facilities that it does not require for the service to be provided; and

upon request, at points in addition to the network termination points offered to the majority of users, subject to charges that reflect the cost of construction of necessary additional facilities.

The procedures for interconnection with a major supplier shall be made publicly available.

Major suppliers shall make publicly available either their interconnection agreements or their reference interconnection offers as appropriate.

Access to Major Suppliers' Essential Facilities and Unbundled Network Elements

Each Party shall ensure that a major supplier in its territory provides to suppliers of public telecommunications services of the other Party:

access to essential facilities4; and

access to network elements on an unbundled basis

for the purpose of providing public telecommunications services on terms and conditions (including rates), which are reasonable, non-discriminatory and transparent. Subject to technical feasibility, access shall be provided on a timely basis.

Notwithstanding paragraph 1, each Party may determine, in accordance with its laws and regulations:

the essential facilities to which a major supplier must provide access; and

the network elements a major supplier must provide on an unbundled basis.

If a Party makes a determination under paragraphs 2(a) or 2(b), it shall take into account factors such as the competitive effect of lack of access and whether the facilities or network

4 This includes access to associated facilities.

elements can be substituted in an economically or technically feasible manner in order to provide a competing service.

Scarce Resources

Each Party shall carry out its procedures for the allocation and granting of rights of use of scarce resources, including frequencies, numbers and rights of way, in an objective, timely, transparent, non-discriminatory manner.

Each Party shall carry out its procedures for the assignment of frequency bands for public telecommunication services via an open process that takes into account the overall public interest, including the promotion of competition. To that end, each Party shall endeavour to use market based approaches, including mechanisms such as auctions where appropriate.

Each Party shall make publicly available the current state of frequency bands allocated to specific uses, but detailed identification of frequency bands allocated or assigned for specific government uses is not required.

For greater certainty, measures of a Party allocating and assigning frequency bands and managing frequencies are not per se inconsistent with Articles 2.2 and 3.2 (Market Access). Accordingly, each Party retains the right to establish and apply frequency management measures that may have the effect of limiting the number of suppliers of telecommunications services, provided that it does so in a manner consistent with the other provisions of this Agreement. This includes the ability to allocate frequency bands taking into account current and future needs and availability.

Universal Service

Each Party has the right to define the kind of universal service obligations it wishes to maintain.

Each Party shall administer its universal service obligations in a transparent, objective and non-discriminatory way, which is neutral with respect to competition and not more burdensome than necessary for the kind of universal service defined by the Party.

Number Portability

Each Party shall ensure that suppliers of public telecommunications services provide number portability to those subscribers who so request:

without impairment to quality and reliability;

on a timely basis;

on reasonable terms and conditions; and

in the case of a fixed line, at the same location.

Confidentiality of Information

Each Party shall ensure that suppliers that acquire information from another supplier in the process of negotiating arrangements pursuant to Articles 5.15, 5.16, 5.19 and 5.20 use that information solely for the purpose for which it was supplied and respect at all times the confidentiality of information transmitted or stored.

Each Party shall adopt or maintain measures to protect the confidentiality of communications and related traffic data transmitted in the use of public telecommunications networks or services. Such measures should not be applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade in services.

International Mobile Roaming

The Parties shall endeavour to cooperate on promoting transparent and reasonable rates for international mobile roaming services in ways that can help promote the growth of trade between the Parties and enhance consumer welfare.

A Party may choose to take steps to enhance transparency and competition with respect to international mobile roaming rates and technological alternatives to roaming services, such as:

ensuring that information regarding retail rates is easily accessible to consumers; and

minimising impediments to the use of technological alternatives to roaming, whereby consumers visiting the territory of a Party from the territory of the other Party can access telecommunications services using the device of their choice.

Each Party shall ensure suppliers of public telecommunications services in its territory make publicly available information on retail rates for international mobile roaming services for voice, data and text messages offered to their consumers when visiting the territory of the other Party.

Cooperation

The Parties recognise the transformational impact of communications networks, infrastructure and technologies (including those that are new and emerging), and the importance of these technologies to the Parties' respective economies and societies.

The Parties shall endeavour to:

exchange information on the opportunities and challenges associated with communication networks, infrastructure and technologies; and

work together in regional and multilateral forums to promote a shared approach to these opportunities and challenges.

Review of Commitments

The Trade Committee shall undertake a review of the implementation and operation of this Section in the fifth year after the date of entry into force of this Agreement, unless otherwise agreed by the Parties, and thereafter as agreed by the Parties.

A review pursuant to paragraph 1 shall be undertaken with a view to updating and enhancing the Section, to ensure that the commitments and obligations contained in this Section remain relevant to the trade and investment issues and challenges confronting the Parties.

A review pursuant to paragraph 1 shall take into account, inter alia:

technological developments and innovation; and

relevant developments in international fora or relating to a Party's laws and

regulations.

SECTION E REGULATORY FRAMEWORK

SUB-SECTION 5 FINANCIAL SERVICES

Article ARTICLE 9.67

Scope

In addition to Chapters II (Investment Liberalisation) and III (Cross-Border Trade in Services), this Section shall apply to measures of a Party affecting the supply of financial services.

For the purposes of point [e] of Article 1.1 [General Definitions – Scope], the term "activities performed in the exercise of governmental authority" means, in respect of a financial service:

activities conducted by a central bank or a monetary authority or by any other public entity in pursuit of monetary or exchange rate policies;

activities forming part of a statutory system of social security or public retirement plans; and

other activities conducted by a public entity for the account or with the guarantee or using the financial resources of the Party or its public entities.

If a Party allows any of the activities referred to in [points] 2(b) or (c) to be conducted by its financial service suppliers in competition with a public entity or a financial service supplier, “activities performed in the exercise of governmental authority” shall not include those activities.

Point [APEGA definition] of Article 1.2 shall not apply to services covered by this Section.

Definitions

For the purposes of this Section and of Chapters II, III and IV of this Title:

“financial service” means any service of a financial nature. Financial services include

the following activities:

insurance and insurance-related services

direct insurance (including co-insurance): (aa) life;

(bb) non-life;

reinsurance and retrocession;

insurance intermediation, such as brokerage and agency; and

services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services.

banking and other financial services (excluding insurance):

acceptance of deposits and other repayable funds from the public;

lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction;

financial leasing;

all payment and money transmission services, including credit, charge and debit cards, travellers cheques and bankers drafts;

guarantees and commitments;

trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:

(aa) money market instruments (including cheques, bills, certificates of deposits);

(bb) foreign exchange;

(cc) derivative products including, but not limited to, futures and options; (dd) exchange rate and interest rate instruments, including products such as

swaps, forward rate agreements;

(ee) transferable securities;

(ff) other negotiable instruments and financial assets, including bullion;

participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues;

money broking;

asset management, such as cash or portfolio management, all forms of collective investment management, pension fund

management, custodial, depository and trust services;

settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;

provision and transfer of financial information, and financial data processing and related software; and

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” means a natural or juridical person that seeks to supply or supplies financial services but does not include a public entity;

“financial service supplier of a Party” means a natural or juridical person of a Party that

seeks to supply or supplies financial services but does not include a public entity;

“FinTech” means technologically enabled innovation in financial services that could result in new business models, applications, processes or products with an associated material effect on financial markets and institutions and the provision of financial services;

“public entity” means:

a government, a central bank or a monetary authority, of a Party, or an entity owned or controlled by a Party, that is principally engaged in carrying out governmental functions or activities for

governmental purposes, not including an entity principally engaged in supplying financial services on commercial terms; or

a private entity, performing functions normally performed by a central bank or monetary authority, when exercising those functions;

“new financial service” means a service of a financial nature including services related to existing and new products or the manner in which a product is delivered, that is not supplied by any financial service supplier in the territory of a Party but which is supplied in the territory of the other Party; and

“self-regulatory organisation” means any non-governmental body, including a securities or futures exchange or market, clearing agency, other organisation or association, that exercises regulatory or supervisory authority over financial service suppliers by statute or delegation from a Party.

Measures for Prudential Reasons

Nothing in this Agreement shall prevent a Party from adopting or maintaining measures for prudential reasons,1 such as:

protecting investors, depositors, policy-holders or persons to whom a fiduciary duty is owed by a financial service supplier; or

ensuring the integrity and stability of a Party’s financial system.

Where the measures referred to in paragraph 1 do not conform with the provisions of this Agreement, they shall not be used as a means of avoiding the Party’s commitments or obligations under the Agreement.

Disclosure of Confidential Information

Nothing in this Agreement shall be construed to require a Party to disclose information relating to the affairs and accounts of individual customers of financial service suppliers, or any confidential or proprietary information in the possession of public entities.

International Standards

Each Party shall endeavour to ensure that, if practicable, internationally agreed standards for regulation and supervision in the area of financial services are implemented and applied in its territory. Those internationally agreed standards are the standards and principles issued by the Basel Committee on Banking Supervision, the International Association of Insurance Supervisors, the International Organization of Securities Commissions, and the Financial Stability Board. Such standards may also include those agreed to by the Parties in other international fora, such as the Financial Action Task Force (FATF) and the Global Forum on Transparency and Exchange of Information for Tax Purposes of the Organisation for Economic

Cooperation and Development (OECD).

Financial Services new to the Territory of a Party

Each Party shall permit financial service suppliers of the other Party established in its territory to supply any new financial service that it would permit its own financial service suppliers in like situations to supply without additional legislative action.2 Notwithstanding [Market Access], a Party may determine the institutional and juridical form through which the service may be supplied and may require authorisation for the supply of the service. Where such authorisation is required, a decision shall be made within a reasonable time and the authorisation may only be refused for prudential reasons.

Self-regulatory Organisations

If a Party requires membership of, participation in, or access to, any self-regulatory organisation in order for financial service suppliers of the other Party to supply financial services in or into the territory of the first Party, the Party shall ensure that:

the self-regulatory organisation observes the obligations of Articles 2.3 (Investment Liberalisation – National Treatment), 2.4 (Investment Liberalisation – Most-Favoured-Nation Treatment) and Articles 3.3 (Cross-Border Trade in Services – National Treatment) [and 3.4 (Cross-Border Trade in Services – Most-Favoured-Nation Treatment)]; and

a rule of general application adopted or maintained by a self-regulatory organisation of the Party is promptly published or otherwise made available in such a manner as to enable interested persons to become acquainted with it.

Clearing and Payment Systems

Under terms and conditions that accord national treatment, each Party shall grant to financial service suppliers 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.

Recognition

A Party may recognise prudential measures of the other Party or a non-Party in determining how the Party's measures relating to financial services shall be applied. Such recognition may be accorded autonomously, achieved through harmonisation, or based upon an agreement or other arrangement.

When a Party has accorded recognition of a prudential measure of a non-Party in accordance with paragraph 1, that Party shall afford adequate opportunity to the other Party to demonstrate that the circumstances exist in which the Party recognised the prudential measure of a non-Party and that under such circumstances there are or would be equivalent regulation, oversight, implementation and, if appropriate, procedures concerning the sharing of information between the Parties.

When a Party has accorded recognition of a prudential measure of a non-Party through an agreement or other arrangements, the Party shall afford adequate opportunity to the other Party to negotiate its accession to such agreements or arrangements or negotiate comparable ones under the circumstances described in paragraph 2.

Nothing in this agreement shall be construed as to require a Party to accord recognition to a prudential measure of the other Party.

Dialogue on Financial Services

The Parties, represented by the European Commission and the Government of Australia, shall establish a dialogue on the regulation of the financial services sector with a view to:

improving mutual knowledge of the Parties' respective regulatory systems;

promoting further integration between the Parties' financial services markets;

cooperating in the field of financial services, including Innovative Financial Services and FinTech, and Green and Sustainable Finance; and

cooperating in the development of international standards.

The Parties may consider issues regarding financial services that are referred to by one of them.

For that purpose, the Parties shall meet as agreed by mutual consent. If one Party requests to meet, the other Party shall give sympathetic consideration to that request.

In-person meetings may be held, including in the margins of international multilateral meetings, or via any technological means available to the Parties, such as videoconference or teleconference.

Participants in the regulatory dialogue shall be financial services experts and representatives of authorities in charge of financial services policy.

Cooperation on Innovative Financial Services and FinTech

The Parties recognise that innovative financial services and financial technology (hereinafter referred to as “FinTech”) can foster greater economic and social inclusion, promote sustainable development, support Small and Medium-sized Enterprises, and advance women’s economic empowerment.

Further to Article 5.36 “Dialogue on Financial Services”, to promote the further development

of and trade in innovative financial services and FinTech, the Parties shall:

encourage cooperation on innovative financial services and FinTech through their respective policy and regulators;

promote closer and stronger cooperation between their respective financial services and FinTech enterprises and industry bodies;

encourage their respective financial services and FinTech enterprises to use facilities and assistance, where available, in the other Party’s territory to explore new business opportunities; and

cooperate in relevant international fora, and where agreeable, in the development and promotion of internationally recognised standards with respect to innovative financial services and FinTech.

Cooperation on Green and Sustainable Finance

The Parties acknowledge the importance of encouraging financial service suppliers to develop and deliver financial services which support investment and other business activities that:

promote sustainable production, consumption and growth, a circular economy, the importance of conserving and sustainably managing marine biological resources and marine ecosystems, the conservation and sustainable use of

biological diversity, and to minimise the generation of waste and abating pollution; and

combat climate change and its impacts and manage climate-related financial risks.

Further to Article 5.36 “Dialogue on Financial Services”, to promote the further development

of and trade in green and sustainable financial services, the Parties shall:

encourage cooperation on green and sustainable finance through their respective policy and regulators;

encourage the uptake of climate-related financial disclosures for financial service suppliers with material exposure to climate change, informed by initiatives in international fora and international standard setters.

cooperate in relevant international fora, and where agreeable, in the development and promotion of internationally recognised standards for the inclusion of environmental, social, and governance considerations in investment decision-making and other business activities.

Article Article 9.79

Review of Commitments

The Trade Committee shall undertake a review of the implementation and operation of this Section in the fifth year after the date of entry into force of this Agreement, unless otherwise agreed by the Parties, and thereafter as agreed by the Parties.

A review pursuant to paragraph 1 shall be undertaken with a view to updating and enhancing the Section, to ensure that the commitments and obligations contained in this Section remain relevant to the trade and investment issues and challenges confronting the Parties.

A review pursuant to paragraph 1 shall take into account, inter alia:

technological developments and innovation; and

relevant developments in international fora or relating to a Party's laws and regulations.

SECTION E REGULATORY FRAMEWORK

SUB-SECTION 6

INTERNATIONAL MARITIME TRANSPORT SERVICES ARTICLE 9.80

Scope

In addition to Chapters II (Investment Liberalisation) and III (Cross-Border Trade in Services) and IV (MNP) this Section shall apply to measures of a Party affecting the supply of international maritime transport services.

Definitions

For the purpose of this Section and Chapters II, and III and IV of this Title:

'container station and depot services' means activities consisting in storing, stuffing, stripping or repairing of containers and making containers available for shipment, whether in port areas or inland;

'customs clearance services' means activities consisting in carrying out on behalf of another party customs formalities concerning import, export or through transport of cargoes, whether this service is the main activity of the service supplier or a usual complement of its main activity;

'door-to-door or multimodal transport operations' means the transport of cargo using more

than one mode of transport, involving an international sea-leg, under a single transport document;

'feeder services' means the pre- and onward transportation by sea of international cargo, including containerised, break bulk and dry or liquid bulk cargo, between ports located in the territory of a Party1. The international cargo should be "en route" i.e. directed to a destination, or coming from a port of shipment, outside the territory of that Party;

'freight forwarding services' means the activity consisting of organising and monitoring shipment operations on behalf of shippers, through the acquisition of transport and related services, preparation of documentation and provision of business information;

'international cargo' means cargo transported between a port of one Party and a port of the

other Party or of a third country, or between ports of different Member States of the European Union;

'international maritime transport services' means the transport of passengers or cargo by sea-going vessels between a port of one Party and a port of the other Party or of a third country, or between a port of one Member State of the European Union and a port of another Member State of the European Union. It includes direct contracting with providers of other transport services, with a view to cover door-to-door or multimodal transport operations under a single transport document2, but does not include the right to provide such other transport services;

'international maritime transport services supplier of a Party' means:

1 For greater certainty, the transport of passengers or cargo between a port and a vessel for the purposes of loading or discharge of the vessel is not considered a feeder service. Such services shall be considered a port service for the purpose of this Section.

2 A single transport document is a document, such as a contract (that may be supported by other documents), which provides evidence that the cargo is being transported as part of a single international transport operation. These documents may be in electronic form, where applicable.

a juridical person of a Party, as defined in Article 1.2 (Definitions) when supplying international maritime transport services; or

(ii) a juridical person of a third country owned or controlled by a natural person of a Party, if any of its vessels are registered in accordance with the law of that Party and flying the flag of that Party, when supplying international maritime transport services using those vessels.

'maritime agency services' means activities consisting of representing, within a given geographic area, as an agent the business interests of one or more shipping lines or shipping companies, for the following purposes:

marketing and sales of maritime transport and related services, from quotation to invoicing, and issuance of bills of lading on behalf of the companies, acquisition and resale of the necessary related services, preparation of documentation, and provision of business information;

acting on behalf of the companies by organising the call of the vessel or taking over cargoes when required.

'maritime auxiliary services' means maritime cargo handling services, customs clearance services, container station and depot services, maritime agency services and maritime freight forwarding services;

'maritime cargo handling services' means activities exercised by stevedore companies, including terminal operators, but not including the direct activities of dock workers, when this workforce is organised independently of the stevedoring or terminal operator companies. The activities covered include the organisation and supervision of:

the loading or discharging of cargo to or from a vessel;

the lashing or unlashing of cargo;

the reception or delivery and safekeeping of cargoes before shipment or after discharge; and

'port services' means services provided to port users inside a maritime port area or on the waterway access to the port by a provider of port services, the managing body of a port, its subcontractors, or other service providers, to support the transport of cargo or passengers.

Article Article 9.82 Obligations

The obligations contained in this Article shall not apply to the non-conforming aspects of measures adopted or maintained in accordance with Article X.X (Non-Conforming Measures investment) or, Article X.X (Non-Conforming Measures services).

Each Party recognises the principle of unrestricted access to the international maritime markets and trades on a commercial, reasonable and non-discriminatory basis. To this end, each Party shall:

accord to vessels supplying an international maritime transport service and flying the flag of the other Party, and international maritime transport service suppliers of the other Party, treatment no less favourable than it accords, in like situations, to its own vessels or international maritime transport service suppliers, or to vessels or international maritime transport service suppliers of a non-Party with regard to, inter alia:

access to ports;

the use of port infrastructure and services of ports, such as pilotage, towing and tug assistance, provisioning, bunkering and watering, garbage collecting and ballast waste disposal, port captain's services, navigation aids, emergency repair facilities, anchorage, berth, berthing and unberthing services and shore-based operational services essential to ship operations, including communications, water and electrical supplies;

the use of maritime auxiliary services;

access to customs facilities; and

the assignment of berths and facilities for loading and unloading,

including related fees and charges, specifications and quality;

permit international maritime transport service suppliers of the other party, subject to the authorisation by the competent authority where applicable, to re-position owned or leased empty containers, which are not being carried as cargo against payment, between ports of Australia or between ports of a Member State of the European Union; and

permit international maritime transport service suppliers of the other Party to provide feeder services between their national ports, subject to the authorisation by the competent authority where applicable.

The Parties shall not:

introduce cargo-sharing arrangements in future agreements with third countries concerning maritime transport services, including dry and liquid bulk and liner trade, and terminate, within a reasonable period of time, such cargo-sharing arrangements in case they exist in previous agreements; or

maintain or introduce a measure that requires all or part of any international cargo to be transported exclusively by vessels

registered in that country and/or owned or controlled by nationals of that country.

Article Article 9.83 Information Exchange

The Parties shall endeavour to exchange information on matters relating to the implementation of this Section, including regulatory developments and matters relating to enforcement such as the identification, registration and contact details of international maritime transport service suppliers. Each Party shall endeavour to respond to requests from the other Party for such information, in a timely manner.

On the date of the entry into force of this Agreement, each Party shall designate a contact point for the implementation of this Section and shall notify its contact point to the other Party. A Party shall promptly notify the other Party of any change to its contact point.

DISCLAIMER: The Commission and Australia are publishing the texts of the Agreement following the announcement of conclusion of the negotiations on 24 March 2026. The texts are published in view of the public interest in the Agreement, for information purposes only and they may undergo further minor modifications, including as a result of the process of legal and linguistic revision. These texts are without prejudice to the final outcome of the Agreement between the EU and Australia. The texts will be final upon signature. The Agreement will become binding on the Parties under international law only after completion by each Party of its applicable legal requirements and procedures necessary for the entry into force of the Agreement.

ANNEX 9-A

MOVEMENT OF NATURAL PERSONS FOR BUSINESS PURPOSES

Article ARTICLE 1

Temporary entry-related procedural commitments

Each Party should ensure that the processing of applications for temporary entry pursuant to their respective commitments in this Agreement follows good administrative practice. To that effect:

each Party shall ensure that fees charged by its competent authorities for the processing of applications for temporary entry are reasonable, in that they do not unduly impair or delay trade in services or conduct of investment activities under this Agreement;

subject to the competent authorities' discretion, documents required from the applicant for an application for the grant of temporary entry of short-term visitors for business purposes should be commensurate with the purpose for which they are required;

complete applications for the grant of temporary entry shall be processed as expeditiously as possible;

the competent authorities of a Party shall endeavour to provide, without undue delay, information in response to any reasonable request from an applicant concerning the status of an application;

if the competent authorities of a Party require additional information from the applicant in order to process the application, they shall endeavour to notify the applicant without undue delay;

the competent authorities of each Party shall notify the applicant of the outcome of the application promptly after a decision has been taken;

if the application is approved, the competent authorities of each Party shall notify the applicant of the period of stay and other relevant terms and conditions;

if the application is denied, the competent authorities of a Party shall, upon request or upon their own initiative make available to the applicant information on any available administrative review; and

each Party shall endeavour to accept and process applications in electronic format.

Article ARTICLE 2

Additional procedural commitments applying to intra-corporate transferees and their family

members9

The Union shall extend to family members of natural persons of Australia who are intra-corporate transferees to the Union, the right of temporary entry and stay granted to family members of an intra-corporate transferee under Article 19 of the Directive 2014/66/EU.

9 This Article does not apply to the Member States that are not subject to the

Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer (OJ EU L 157, 27.5.2014, p. 1).

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Chapter 10. CAPITAL MOVEMENTS, PAYMENTS AND TRANSFERS

Article ARTICLE 10.1

Current account

Without prejudice to other provisions of this Agreement, each Party shall allow, in freely convertible currency and in accordance with the relevant provisions of the Articles of Agreement of the International Monetary Fund, adopted at New Hampshire on 22 July 1944, any payments or transfers with respect to transactions on the current account of the balance of payments that fall within the scope of this Agreement.

Capital movements

Without prejudice to other provisions of this Agreement, each Party shall allow, with regard to transactions on the capital and financial account of the balance of payments, the free movement of capital for the purpose of investment liberalisation and other transactions as provided for in Chapter 9 (Investment liberalisation and trade in services).

The Parties shall consult each other to facilitate the movement of capital between them in order to promote trade and investment.

Application of laws and regulations relating to capital movements, payments or transfers

Nothing in Articles 10.1 and 10.2 shall be construed to prevent a Party from applying its laws and regulations relating to:

bankruptcy, insolvency or the protection of the rights of creditors;

issuing, trading or dealing in securities, futures, options or other financial instruments;

financial reporting or record keeping of capital movements, payments or transfers if necessary to assist law enforcement or financial regulatory authorities;

criminal or penal offences;

deceptive or fraudulent practices;

ensuring compliance with orders or judgments in judicial or administrative proceedings; or

social security, public retirement or compulsory savings schemes.

A Party shall not apply its laws and regulations referred to in paragraph 1 in an arbitrary or discriminatory manner, or in a manner that would otherwise constitute a disguised restriction on capital movements, payments or transfers.

Temporary safeguard measures

In exceptional circumstances of serious difficulties for the operation of the Union's economic and monetary union or threat thereof, the Union may adopt or maintain safeguard measures with regard to capital movements, payments or transfers for a period not exceeding six months.

A measure adopted or maintained pursuant to paragraph 1 shall not exceed what is necessary to deal with the circumstances described in paragraph 1 and shall not be applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination in respect of Australia as compared to a third country.

Restrictions in case of balance of payments or external financial difficulties

Where a Party experiences serious balance of payments or external financial difficulties or the threat thereof,1 it may adopt or maintain restrictions with regard to capital movements, payments or transfers.

A measure adopted or maintained pursuant to paragraph 1 shall:

be consistent with the Articles of Agreement of the International Monetary Fund;

not exceed what is necessary to deal with the circumstances described in paragraph 1;

be temporary and phased out progressively as the situation specified in paragraph 1 improves;

avoid unnecessary damage to the commercial, economic and financial interests of the other Party; and

1 For greater certainty, serious balance of payments or external financial difficulties, or threat thereof, may be caused by, among other factors, serious difficulties related to monetary or exchange rate policies, or threat thereof.

be non-discriminatory so that the other Party is treated no less favourably than any third country.

With respect to trade in goods, each Party may adopt or maintain restrictive import measures in order to safeguard its balance of payments or external financial position in accordance with GATT 1994 and the Understanding on the Balance-of-Payments provisions of the GATT 1994.

With respect to trade in services, each Party may adopt or maintain restrictions in order to safeguard its balance of payments or external financial position in accordance with GATS.

A Party that adopts or maintains measures referred to in paragraph 1 shall promptly notify the other Party of these measures and present either a schedule, or the conditions necessary, for their removal.

If restrictions are adopted or maintained pursuant to this Article, the Parties shall promptly hold consultations involving relevant technical experts. The consultations shall assess the balance of payments or external financial difficulty that led to the respective measures, taking into account such factors as:

the nature and extent of the difficulties;

the external economic and trading environment; or

alternative corrective measures which may be available.

The consultations pursuant to paragraph 6 shall address the compliance of any restrictive measure with paragraphs 1 and 2. All relevant findings of statistical or factual nature presented by the International Monetary Fund, where available, shall be accepted in those consultations. Conclusions of the consultations shall take into account the assessment by the International Monetary Fund of the balance of payments and the external financial situation of the Party concerned.

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Chapter 11. DIGITAL TRADE

Section A. GENERAL PROVISIONS

Article 11.1. Scope

1. The Parties recognise the economic growth and opportunities provided by, and the importance of, promoting consumer confidence in digital trade.

2. This Chapter applies to measures of a Party affecting trade enabled, either wholly or partially, by electronic means.

3. This Chapter does not apply to:

(a) audio-visual services; or

(b) information held or processed by or on behalf of a Party, or measures related to such information, including measures related to its collection.

4. Article 11.5 (Cross-border data flows) does not apply to a measure to the extent that such measure is not subject to Section B (Investment liberalisation) or Section C (Cross-border trade in services) of Chapter 9 (Investment liberalisation and trade in services), by reason of:

(a) Article 9.10 (Non-conforming measures and exceptions – Investment liberalisation) or Article 9.17 (Non-conforming measures – Cross-border trade in services); and

(b) entries 9 (Gambling and betting) and 35 (Foreign investment) in Appendix 9-D-2 [Australia's schedule of non-conforming measures for services and investment, future measures].

Article 11.2. Definitions

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

(a) the definitions set out in Article 9.2 (Definitions - Investment liberalisation and trade in services (Section A));

(b) "consumer" means any natural person engaging in electronic commerce transactions for other than professional purposes or, if provided for in the laws or regulations of a Party, any enterprise engaging in electronic commerce transactions;

(c) "direct marketing communication" means any form of commercial advertising by which a person communicates marketing messages directly to a user via a public telecommunications service and, for the purpose of this Agreement, covers at least electronic mail, text and multimedia messages (SMS and MMS) and phone calls;

(d) "electronic authentication" means an electronic process that enables the confirmation of:

(i) the electronic identification of a person; or

(ii) the origin and integrity of data in electronic form;

(e) "electronic seal" means data in electronic form used by a juridical person which is attached to or logically associated with other data in electronic form to ensure the latter's origin and integrity;

(f) "electronic signature" means data in electronic form, which is attached to or logically associated with other data in electronic form and that may be used by a signatory to sign that other data; (1)

(1) In the Union, natural persons use electronic signatures and juridical persons use electronic seals.

(g) "government data" means data owned or held by the central or regional levels of government;

(h) "internet access service" means a public telecommunications service that provides access to the internet, and thereby connectivity to virtually all end points of the internet, irrespective of the network technology and terminal equipment used;

(i) "personal data" means any information relating to an identified or identifiable natural person

(j) "public telecommunications service" means a public telecommunications service as defined in point (j) of Article 9.X (Investment liberalisation and trade in services Chapter (Section E.6));

(k) "trade administration documents" means forms issued or controlled by a Party that must be completed by or for an importer or exporter in connection with the import or export of goods; and

(l) "user" means any person using a public telecommunications service.

2. The definition of "customs duty" set out in point (b) of Article 1.3 (General Definitions – Initial Provisions Chapter) does not apply to this Chapter.

Article 11.3. Right to Regulate

The Parties reaffirm each Party's right to regulate within their territories in pursuit of legitimate public policy objectives, such as the protection of health, social services, public education, safety, the environment, including climate change, public morals, social or consumer protection, animal welfare, privacy and data protection, security of energy supply, the promotion and protection of cultural diversity and, in the case of Australia, the promotion and protection of the rights and interests of Australian First Nations peoples.

Article 11.4. Exceptions

For greater certainty, nothing in this Chapter prevents a Party from adopting or maintaining a measure that meets the requirements of Article 23.1 (General exceptions), Article 23.2 (Security exceptions) or Article 9.z (Measures for prudential reasons – Investment Liberalisation and Trade in Services Chapter (Section E.3)).

Section B. DATA FLOWS AND PERSONAL DATA PROTECTION

Article 11.5. Cross-border Data Flows

1. The Parties are committed to ensuring cross-border data flows to facilitate trade in the digital economy. To that end, cross-border data flows shall not be restricted between the Parties:

(a) requiring the use of computing facilities or network elements in the Party's territory for processing, including by imposing the use of computing facilities or network elements that are certified or approved in the territory of Party;

(b) requiring the localisation of data in the Party's territory for storage or processing;

(c) prohibiting storage or processing in the territory of the other Party;

(d) making the cross-border transfer of data contingent upon use of computing facilities or network elements in the Party's territory or upon localisation requirements in the Party's territory; or

(e) requiring the approval prior to the transfer of data to the territory of the other Party. (2)

(2) For greater certainty, point (e) of paragraph 1 does not prevent a Party from: (a) subjecting the use of a specific transfer instrument or a particular cross-border transfer of data to approval on grounds relating to the protection of personal data and privacy, in accordance with Article 11.6 (Protection of personal information); (b) requiring the certification or conformity assessment of information and communication technology products, services and processes, including Artificial Intelligence, before their commercialisation or use in its territory, to ensure compliance with laws and regulations consistent with this Agreement or for cybersecurity purposes, in accordance with Article 23.1 (General exceptions), Article 23.2 (Security exceptions), Article 9.z (Measures for prudential reasons – Investment Liberalisation and Trade in Services Chapter (Section E.3) or Article 11.6 (Protection of personal information); (c) requiring that re-users of data protected by intellectual property rights or confidentiality obligations resulting from domestic laws and regulations consistent with this Agreement, respect such rights or obligations when transferring the data across borders, including with regard to access requests by courts and authorities of third countries, in compliance with Article 23.4 (Treatment of Information).

2. The Parties shall keep the implementation of paragraph 1 under review and assess its functioning within three years after the date of entry into force of this Agreement. A Party may at any time propose to the other Party to review the list of restrictions specified in paragraph 1. That request shall be accorded sympathetic consideration.

3. If a Party undertakes commitments to refrain from adopting or maintaining restrictions of cross-border data flows between that Party and a third country, further to the restrictions specified in paragraph 1, in an existing or future bilateral or multilateral trade agreement with a third country, the Parties will review the restrictions in paragraph 1 with a view to incorporating such commitments into this Article.

Article 11.6. Personal Information Protection

1. Each Party recognises that natural persons have a right to the protection of personal data and privacy and that high standards in this regard contribute to trust in the digital economy and to the development of trade.

2. Nothing in this Agreement shall prevent a Party from adopting or maintaining any measure to protect personal data and privacy, (3) including with respect to cross-border data transfers, provided that the law of the Party provides for instruments

enabling transfers under conditions of general application (4) for the protection of the data transferred.

(3) For greater certainty, such measures include measures relating to credit information, or related personal information, of a natural person.

(4) For greater certainty, "conditions of general application" refer to conditions formulated in objective terms that apply horizontally to an unidentified number of economic operators and thus cover a range of situations and cases.

3. Each Party shall inform the other Party about any measure referred to in paragraph 3 that it adopts or maintains.

Section C. SPECIFIC PROVISIONS

Article 11.7. Customs Duties on Electronic Transmissions

1. A Party shall not impose customs duties on electronic transmissions between a person of a Party and a person of the other Party.

2. For greater certainty, paragraph 1 shall not preclude a Party from imposing internal taxes, fees or other charges on electronic transmissions, provided such taxes, fees or charges are imposed in a manner consistent with this Agreement.

Article 11.8. Conclusion of Contracts by Electronic Means

1. Each Party shall ensure that contracts may be concluded by electronic means and that its law neither creates obstacles for the use of electronic contracts nor results in contracts being deprived of either legal effect or legal validity solely on the ground that the contract has been made by electronic means.

2. Paragraph 1 does not apply to:

(a) broadcasting services;

(b) gambling services;

(c) legal representation services;

(d) services of notaries or equivalent professions involving a direct and specific connection with the exercise of public authority;

(e) contracts that establish or transfer rights in real estate;

(f) contracts requiring by law the involvement of courts, public authorities or professions exercising public authority;

(g) contracts of suretyship granted;

(h) collateral securities furnished by persons acting for purposes outside their trade, business or profession; or

(i) contracts governed by family law or by the law of succession.

Article 11.9. Electronic Authentication, Electronic Signatures and Electronic Documents

1. A Party shall not deny the legal validity or legal effect, or admissibility as evidence in legal proceedings, of an electronic document or an electronic signature solely on the ground that it is in electronic form. (5)

(5) For Australia, paragraph 1 applies subject to its laws or regulations that require certain documents or signatures be in a non-electronic form, such as those relating to bills of lading, warehouse receipts, foreign exchange transactions and property transfers.

2. A Party shall not adopt or maintain any measure that:

(a) prohibits parties to an electronic transaction from mutually determining the appropriate electronic authentication methods for that transaction; or

(b) prevents parties to an electronic transaction from having the opportunity to prove to judicial or administrative

authorities that the use of electronic authentication or an electronic signature in their transaction complies with the applicable legal requirements.

3. Notwithstanding paragraph 2, a Party may require that, for a particular category of transactions, an electronic signature or the method of electronic authentication is certified by an authority accredited in accordance with the Party's law or meets certain performance standards which shall be objective, transparent and non-discriminatory and shall only relate to the specific characteristics of the category of transaction concerned.

4. A Party shall, to the extent provided for in its laws and regulations, apply paragraphs 1 to 3 to other electronic processes or means of facilitating or enabling electronic transactions, such as electronic seals, electronic time stamps, electronic registered delivery services or website authentication.

Article 11.10. No Prior Authorisation

1. A Party shall not require prior authorisation solely on the ground that a service is provided online, or adopt or maintain any other requirement having an equivalent effect. (6)

(6) A service is provided online when it is provided by electronic means and without the parties being simultaneously present.

2. Paragraph 1 does not apply to:

(a) telecommunications services;

(b) broadcasting services;

(c) gambling services;

(d) legal representation services; or

(e) services of notaries or equivalent professions to the extent that they involve a direct and specific connection with the exercise of public authority.

Article 11.11. Online Consumer Trust

1. Recognising the importance of enhancing consumer trust in digital trade, each Party shall adopt or maintain measures to ensure the effective protection of consumers engaging in electronic commerce transactions, including but not limited to measures that:

(a) proscribe fraudulent and deceptive commercial practices;

(b) require suppliers of goods and services to act in good faith and abide by fair commercial practices, including through the prohibition of charging consumers for unsolicited goods and services;

(c) require suppliers of goods or services to provide consumers with clear and thorough information regarding their identity and contact details, (7) as well as regarding the goods or services, the transaction and applicable consumer rights; and

(7) In the case of intermediary service suppliers, this also includes the identity and contact details of the actual supplier of the good or the service.

(d) grant consumers access to redress for breaches of their rights, including a right to remedies in cases where goods or services are paid and not delivered or provided as agreed.

2. The Parties recognise the importance of entrusting their consumer protection agencies or other relevant bodies with adequate enforcement powers and the importance of cooperation between their agencies in order to protect consumers and enhance online consumer trust.

Article 11.12. Unsolicited Direct Marketing Communications

1. Each Party shall ensure that users are effectively protected against unsolicited direct marketing communications.

2. Each Party shall ensure that:

(a) direct marketing communications are not sent to users who are natural persons unless they have given their consent (8) to receiving those communications; or

(8) Consent shall be defined in accordance with each Party's law.

(b) users who are natural persons may prevent the reception of direct marketing communications. (9)

(9) For Australia, paragraphs 2 and 4 only apply to the extent required by its spam and telemarketing laws and regulations.

3. Notwithstanding paragraph 2, each Party may allow persons who have collected, in accordance with its law, the contact details of a user in the context of the supply of goods or services, to send direct marketing communications to that user for their own similar goods or services.

4. Each Party shall ensure that direct marketing communications are clearly identifiable as such, clearly disclose on whose behalf they are made and contain the necessary information to enable users to request cessation free of charge and at any moment.

5. Each Party shall provide users with access to redress against suppliers of direct marketing communications that do not comply with any measure adopted or maintained pursuant to paragraphs 1 to 4.

Article 11.13. Source Code

1. The Parties recognise the increasing social and economic importance of the use of digital technologies, and the importance of the safe and responsible development and use of those technologies, including in respect of source code of software, to foster public trust.

2. A Party shall not require the transfer of, or access to, the source code of software (10) owned by a person of the other Party. This paragraph does not apply to the voluntary transfer of or granting of access to source code on a commercial basis by a person of the other Party, for instance in the context of a government procurement transaction or a freely negotiated contract.

(10) For greater certainty, "software" includes, inter alia, products containing such software or software used in the supply of services.

3. This Article does not preclude a Party from requiring that access be provided to software used for critical infrastructure, in order to ensure the effective functioning of critical infrastructure, subject to safeguards against unauthorised disclosure.

4. Nothing in this Article shall be construed to prevent a person of a Party from licencing its software on a free and open source basis.

5. Nothing in this Article shall affect:

(a) the right of a Party's regulatory, law enforcement or judicial authorities or conformity assessment bodies to access source code of software at any time for an investigation, inspection or examination, enforcement action or a judicial or administrative proceeding pursuant to its laws and regulations consistent with this Agreement, including those relating to non-discrimination and the prevention of bias, subject to safeguards against unauthorised disclosure;

(b) requirements by a competition authority to remedy a violation of competition law;

(c) the protection (11) and enforcement of intellectual property rights; and

(11) For greater certainty, for the purposes of this Article, protection includes matters affecting the availability, acquisition, scope and maintenance of intellectual property rights.

(d) the right of a Party to take measures in accordance with the security and general exceptions provided for in Chapter 13 (Government procurement).

Article 11.14. Open Internet Access

Each Party recognises the benefits of users in its territory, subject to applicable policies, laws and regulations, being able to:

(a) access, distribute and use services and applications of their choice available on the internet, subject to reasonable network management which does not block or slow down traffic based on commercial reasons;

(b) connect devices of their choice to the internet, provided that those devices do not harm the network; and

(c) access information on network management practices of their internet access service suppliers.

Article 11.15. Paperless Trading

Each Party shall endeavour to:

(a) make publicly available electronic versions of all existing publicly available trade administration documents; and

(b) accept trade administration documents submitted electronically as the legal equivalent of the paper version of those documents, except if:

(i) there are domestic or international legal requirements to the contrary; or

(ii) doing so would reduce the effectiveness of the trade administration process.

Article 11.16. Open Government Data

1. The Parties recognise that facilitating public access to and use of government data contributes to stimulating economic and social development, competitiveness, productivity and innovation.

2. To the extent that a Party chooses to make government data accessible to the public, it shall endeavour to ensure, to the extent practicable, that the data is:

(a) in a format that allows it to be easily searched, retrieved, used, reused and redistributed;

(b) in a machine-readable and spatially-enabled format which contains descriptive metadata that is as standardised as possible;

(c) made available via reliable, user-friendly and freely available application programming interfaces;

(d) regularly updated;

(e) not subject to use conditions that are discriminatory or that unnecessarily restrict re-use; and

(f) made available for re-use in full compliance with that Party's personal data protection law.

3. The Parties shall endeavour to cooperate to identify ways in which each Party may expand access to and use of government data that the Party has made accessible to the public, with a view to enhancing and generating opportunities, beyond its use by the public sector.

4. This Article only applies to the regional level of government to the extent that the law of a regional government requires or permits publication of government data.

Article 11.17. Cooperation and Information Exchange on Digital Trade

1. The Parties recognise the importance of cooperation and information exchange on digital trade. Where agreed by the Parties, the Parties shall exchange information and share experiences on the following regulatory matters in the context of digital trade:

(a) the recognition and facilitation of interoperable electronic authentication services and other electronic processes or means of facilitating or enabling electronic transactions;

(b) the treatment of direct marketing communications;

(c) the protection of consumers;

(d) e-government;

(e) challenges for SMEs in the use of electronic commerce;

(f) private sector-developed methods of self-regulation that foster electronic commerce, including codes of conduct, model contracts, guidelines and enforcement mechanisms; and

(g) any other matter relevant for the development of digital trade.

2. The Parties recognise the importance of cooperating on cybersecurity matters relevant for digital trade.

Chapter 12. ENERGY AND RESOURCES

Article ARTICLE 12.1

Objectives

The objectives of this Chapter are to facilitate trade and investment in energy and resources while maintaining high environmental, social and governance standards, and to support the energy transition and the Parties' respective net-zero greenhouse gas emissions objectives.

Principles

Each Party retains the sovereign right to determine whether areas within its territory may be made available for exploring for and producing energy goods and resources.

Each Party preserves its right to adopt, maintain and enforce measures that are necessary to pursue legitimate public policy objectives, such as securing the supply of energy goods and resources within its territory, consistent with this Agreement.

Definitions

For the purposes of this Chapter:

"authorisation" means the specific permission, license, concession or similar administrative or contractual instrument by which the competent authority of a Party authorises an entity to explore for or produce energy goods or resources in its territory;

"balancing" means:

for the Union, actions and processes, in all timelines, through which network operators continuously ensure maintenance of the system frequency within a predefined stability range and compliance with the amount of reserves needed with respect to the required quality; and

for Australia, actions and processes that seek to continuously ensure the maintenance of electricity system security in order to ensure operation within defined technical limits;

"covered enterprise" means a covered enterprise as defined in point (x) of Article 1.3 (General definitions);

"energy goods" means the goods from which energy is generated and that are listed by the corresponding HS code in Annex 12-A (List of energy goods, hydrocarbons and resources);

"energy infrastructure for the transport of electricity at transmission level" means, for Australia, transmission systems that are regulated under Chapter 6A of the National Electricity Rules, and the South West Interconnected System in Western Australia;1

1 For greater certainty, the term "energy infrastructure for the transport of electricity at transmission level" does not include small isolated electricity systems such as the currently

"energy infrastructure for the transport of gas at transmission level" means, for Australia, transmission pipelines within the meaning of the National Gas Law other than those covered by clause 119, Schedule 3 of the National Gas Law that do not provide third-party access;

"energy transport infrastructure" means energy infrastructure for the transport of electricity at transmission level and energy infrastructure for the transport of gas at transmission level;

"entity" means any service supplier or investor as defined in points (q) and (k) of Article 9.2 (Definitions) respectively;

"hydrocarbons" means the goods that are listed by the corresponding HS code in Annex 12-A (List of energy

goods, hydrocarbons and resources);

"non-discriminatory" means the national treatment obligation as specified in Article 9.6 (National treatment) and Article 9.14 (National treatment);2

"renewable energy" means energy produced from renewable non-fossil sources, including wind, solar (solar thermal and solar photovoltaic) and geothermal energy, osmotic energy, ambient energy, tidal energy, wave energy and other types of ocean energy, hydropower, biomass energy, energy generated from utilising landfill gas, sewage treatment plant gas, and biogas3;

"renewable fuels" means biofuels, biogases, bioliquids, biomass fuels and renewable fuels of non-biological origin such as renewable hydrogen and its derivatives; and

"resources" means materials used in the manufacture of industrial products, including ores, concentrates, slags, ashes and chemicals, processed, unwrought, and refined materials, metal waste, scrap and remelting scrap, which are covered by the corresponding HS code in Annex 12-A (List of Energy Goods, Hydrocarbons and Resources).4

2 For greater certainty, for the purposes of Article 12.10, the term "non-discriminatory" does not prevent a Party from according to generators or producers of renewable energy more favourable treatment than it accords to other generators or producers.

3 This definition is without prejudice to sustainability requirements each Party may introduce in order to recognise energy as renewable.

4 For greater certainty, the term "resources" does not include agricultural, forestry or fisheries

Regulated pricing

The Parties affirm their rights and obligations under Article 9.6 (National treatment), Article 9.10 (Non-conforming measures and exceptions), and Article 20.3 (Publication). In accordance with those rights and obligations, if a Party adopts a measure to regulate the price of domestic supply of electricity or natural gas to final customers, it shall, to the extent required by those Articles, ensure that such measure is transparent and is applied in a non-discriminatory manner.

Authorisation for exploration and production of energy goods and resources

If a Party requires an authorisation, it shall ensure the requirements and procedures for granting the authorisation are established in advance made publicly available5, and are non-discriminatory between entities of each Party.

If a Party requires an authorisation in relation to hydrocarbons, it shall publish or make available on request, the information required for an interested entity to submit an application for that authorisation. Such information shall include:

the type of authorisation required;

the relevant area or part thereof in respect of which an authorisation may be sought; and

if available, an indicative time frame for the processing of the application.

A Party may grant an authorisation in derogation from paragraph 2 in any of the following cases related to hydrocarbons:

5 For greater certainty, publishing the requirements and procedures for granting the authorisation would not require the Parties to publish all details of the internal assessment processes for assessing the application.

the area has been subject to a previous procedure which has not resulted in an authorisation being granted;

the area is permanently available for the exploration for or production of hydrocarbons; or

an authorisation granted in respect of the relevant area has been relinquished before its date of expiry.

A Party may require an entity which has been granted an authorisation to pay a financial contribution and a contribution in kind.

Each Party shall ensure that an applicant for an authorisation is provided with, or is provided with on request, the reasons for the rejection of its application to enable the applicant to have recourse to procedures for appeal or review. The procedures for such appeal or review shall be made publicly available in advance6.

This Article shall not apply to a measure that is, pursuant to Article 9.10 (Non-conforming measures and exceptions) or 9.17

(Non-conforming measures) not subject to an obligation under Section B (Investment liberalisation) or Section C (Cross-border trade in services) of Chapter 9 (Investment liberalisation and trade in services).

Assessment of environmental impact

Each Party shall ensure that its laws and regulations require an environmental impact assessment for activities specified in Annex 12-B (Annex on assessment of environmental impact) related to the production or extraction of energy goods or resources, where such activities are likely to have a significant impact on the environment by reason of, inter alia, their nature, size or location.

6 For greater certainty, reference to "appeal or review" in this provision may refer to judicial, administrative or merit review procedures.

With respect to an environmental impact assessment referred to in paragraph 1, each Party shall, in accordance with its laws and regulations:

require that the significant effects of the activity on the environment are identified and assessed, as appropriate;

require that a timely opportunity is provided for relevant persons to participate in the environmental impact assessment process;

require a description of the features of the project or measures proposed in order to avoid, prevent or reduce likely significant adverse effects on the environment;

take into account the findings of the environment impact assessment prior to approving the activity; and

make publicly available the outcomes of the environmental impact assessment.

Offshore risk and safety

Each Party affirms its rights and obligations under the UNCLOS and other relevant international agreements, relating to safety and environmental protection for offshore oil and gas operations, to which both Parties are party. In accordance with such rights and obligations, each Party shall take appropriate measures to prevent major accidents from offshore oil and gas operations and to limit the consequences of such accidents.

The Parties shall cooperate and exchange information, as appropriate, on their relevant regulatory systems for offshore oil and gas operations with the aim of maintaining high levels of safety and environmental protection for offshore oil and gas operations.

Australian First Nations peoples' rights and interests in land and waters

The Parties reaffirm the principles expressed in the UNDRIP, in particular concerning Indigenous peoples' relationship to lands, territories and resources.

The Parties acknowledge that Australian law recognises Australian First Nations peoples' traditional rights and interests in land and waters.

The Parties acknowledge the importance of enhancing the ability of Australian First Nations people to participate in, and benefit from, Australia's energy transition.

Notwithstanding Article 12.5 (Regulated pricing), Article 12.6 (Authorisation for exploration and production of energy goods and resources), Article 12.7 (Assessment of environmental impacts) and Article 12.10 (Third-party access to energy transport infrastructure), Australia may adopt or maintain measures that accord preferences to any Australian First Nations person or organisation, or that provides for more favourable treatment of any Australian First Nations person or organisation relating to energy and resources.

Third-party access to energy transport infrastructure

Each Party shall ensure that owners or operators of energy transport infrastructure or other entities holding relevant responsibility in relation to such infrastructure, in its territory grant non-discriminatory access to energy transport infrastructure for the transport of electricity generated or gas produced by any covered enterprise in its territory 7, if regulatory and technical requirements are met, and if capacity is available in the energy transport infrastructure. A decision on access to the energy transport infrastructure shall be made within a reasonable period of time from the date of the request for access.

7 This Article shall only apply in respect of covered enterprises in the territory of a Party that comply with that Party’s

applicable laws and regulations.

Each Party shall ensure that any access to and use of energy transport infrastructure provided to a covered enterprise is on reasonable and non-discriminatory terms and conditions and at appropriately cost-reflective tariffs or at market-based tariffs8. Each Party shall ensure that any standard terms and conditions9, and any regulated tariffs or principles for determining negotiated tariffs for the access to and use of energy transport infrastructure are made publicly available.

Nothing in this Article shall prevent a Party from adopting or maintaining through its laws and regulations a derogation from paragraphs 1 or 2 that is designed to achieve a legitimate public policy objective,10 provided that such a derogation is:

based on transparent criteria;

non-discriminatory; and

in the case of a derogation from paragraph 1, necessary to achieve that legitimate public policy objective.

As markets for renewable fuels and low carbon fuels continue to develop, each Party shall endeavour to apply the commitments set out in this Article with respect to transport infrastructure for such fuels.

This Article does not apply to a measure adopted or maintained with respect to Australia's Foreign Investment Framework which prohibits or otherwise conditions access to energy transport infrastructure by a covered enterprise, if entry [35 Foreign Investment Framework] to Annex 9-[D (Future measures)] applies to such a measure.

8 For greater certainty, in Australia, tariffs for energy infrastructure for the transport of gas are "market-based" to the extent that they are commercially negotiated or arbitrated in accordance with the regulatory framework in the National Gas Law and National Gas Rules. That regulatory framework applies to all potential users of the infrastructure in a non-discriminatory manner.

9 For greater certainty, "standard terms and conditions" does not include commercially negotiated terms and conditions.

10 For greater certainty, legitimate public policy objectives include, but are not limited to, supporting the deployment of renewable energy and maintaining the security or reliability of an energy system.

Regulatory authority

For the purposes of Article 12.10 (Third-party access to energy transport infrastructure), each Party shall establish, maintain or designate one or more independent bodies that shall be entrusted to resolve disputes regarding appropriate terms, conditions and tariffs for access to, and use of, energy transport infrastructure within a reasonable period of time, and that shall:

act impartially and transparently; and

be legally distinct and functionally separate from operators, owners or users of energy transport infrastructure.

Electricity generated from renewable energy sources

The Parties recognise the important contribution that renewable energy can make in reducing greenhouse gas emissions to mitigate climate change.

To this end, each Party shall seek to facilitate:

investment in renewable energy generation; and

the integration of renewable energy generation into electricity systems.

Each Party shall seek to ensure that owners or operators of energy infrastructure for the transport of electricity, or other entities holding relevant responsibility for the operation of the electricity system, within its territory provide or procure balancing services.

The Parties shall cooperate and exchange information, where reasonable, lawful and mutually agreed, on their respective regulatory systems to support the uptake of renewable energy.

Research, development and innovation

Each Party shall endeavour to promote research, development and innovation in the areas of energy efficiency, and

renewable energy and resources.

Each Party may encourage the dissemination of information and best-practice policies in the areas of energy efficiency, and renewable energy and resources, in a manner that is consistent with the adequate and effective protection of intellectual property rights.

Cooperation

The Parties shall, subject to available resources and where mutually agreed, promote cooperation in the areas of energy and resources, including by:

enhancing investment, market access and minimising non-tariff barriers to trade;

enhancing mutual understanding in the areas of energy and resources, with a view to exchanging information on the Parties' regulatory policies;

encouraging activities that support corporate social responsibility in accordance with internationally-recognised standards; and

facilitating, as appropriate, consultation on the Parties' positions in multilateral or plurilateral fora where issues related to the areas of energy and resources may be raised and discussed.

Cooperation on sustainable critical and strategic minerals

The Parties recognise their shared commitment to responsible sourcing and sustainable production of resources, including critical and strategic minerals, and their mutual interest to facilitate the integration of resources value chains. To this end, the Parties shall cooperate on relevant issues of mutual interest, including:

responsible mining practices and the sustainability of resources value chains;

resources value chains; and

research, development, and innovation activities covering the entire resources value chains, including cutting-edge technologies, smart mining and digital mines.

In order to support well-functioning, sustainable and resilient resources value chains, the Parties shall cooperate to promote the integration and development of their respective resources value chains, which may include facilitating and supporting investments in critical and strategic mineral projects. The Parties may exchange views on activities carried out under such cooperation within the framework of the Committee on Trade in Goods and Technical Barriers to Trade.

Cooperation on renewable fuels

The Parties recognise the important contribution that renewable fuels including, inter alia, hydrogen, including its derivatives, and synthetic fuels of renewable origin, can make in reducing greenhouse gas emissions to address climate change.

The Parties shall cooperate in the area of renewable fuels, where mutually agreed, with a view to facilitating trade and investment, including by:

facilitating the development, adoption and implementation of relevant international standards and certification schemes to avoid the emergence of unnecessary barriers to trade, in particular with regard to greenhouse gas emissions and safety;

identifying, reducing and eliminating, as appropriate, measures that may unnecessarily impede bilateral trade in renewable fuels; and

promoting the use and production of renewable fuels and cooperating on associated supply chains.

Rebalancing

The Parties affirm their respective:

commitments to building competitive, diverse, resilient and sustainable global supply chains for energy goods and resources to support economic security and global decarbonisation; and

rights to adopt and maintain measures necessary to secure their supply of energy goods and resources, including measures to strengthen the different stages of their energy goods and resources value chains, provided that such measures are

adopted and maintained consistently with this Agreement as well as with each Party's other international obligations, including those under the WTO Agreement.

If a Party adopts or maintains a measure by which it imposes a higher price for exports of energy goods or resources to the other Party than the price charged for energy goods or resources when destined for its market, the other Party may deliver a written request for information and consultations regarding such a measure.

The written request referred to in paragraph 2 shall include:

a prima facie identification of the specific goods or sectors11 that the requesting Party considers may be affected by the measure; and

a preliminary indication of the negative effect of the measure, or risk thereof, on the price, availability, import or production of specific goods referred to in point (a), or on the investment in the production of such goods, in the requesting Party.

The Party receiving the written request shall provide in writing the requested information no later than 30 days after the date of delivery of the request. If that Party is not able to provide any of the requested information, it shall explain its reasons for not doing so within the same period of time. The Parties shall enter into consultations no later than 60 days after the date of delivery of the request for information and consultations. The consultations shall be deemed concluded within 90 days of the date of delivery of the written request, unless the Parties agree otherwise. The consultations, and in particular all information designated as confidential and positions taken by the Parties during consultations, shall be confidential and shall be without prejudice to the rights of either Party in any further proceedings.

If the Parties do not reach a mutually agreed solution during the consultations referred to in paragraph 4, the requesting Party may, no earlier than 90 days from the date of delivery of the written request referred to in paragraph 2 and after giving notice to the Party receiving that written request, suspend, in whole or in part, the preferential tariff treatment under this Agreement in order to address the substantive negative effect12 on the price, availability, import or production of specific goods referred to in paragraph 3, or on the investment in the production of such goods, in the requesting Party, or to prevent the risk of such effect, caused by the difference in price referred to in paragraph 2. The requesting Party shall assess such effect on the basis of objective information and analysis.

The suspension of preferential tariff treatment referred to in paragraph 5 shall be:

11 For greater certainty, this and all subsequent references to goods or sectors in this Article also cover downstream goods or sectors.

12 For greater certainty, the Parties understand that, for the purposes of the identification of the specific goods and investment in production thereof, and of such effect thereon, downstream products are also covered.

applicable only to the goods that are substantively negatively affected, or at risk thereof, by the measure referred to in paragraph 2, but not to any agricultural or fisheries good13;

proportionate, including with respect to its duration, to the substantive negative effect, or risk thereof, on the price, availability, import or production of the specific goods referred to in point (a) of this paragraph, or on the investment in the production of such goods, in the requesting Party; and

consistent with the requesting Party's obligations under the WTO Agreement.

The assessment of proportionality referred to in point (b) of paragraph (6) shall take into account any suspension of obligations applied by the requesting Party pursuant to a WTO ruling issued in its favour on the same measure. If such ruling is issued after the suspension of preferential tariff treatment pursuant to this Article has been applied, the Party shall adjust the applied suspension of preferential tariff treatment accordingly as appropriate.

This Article is without prejudice to each Party's rights and obligations under Chapter 24 (Dispute settlement). If a Party requests the establishment of a panel pursuant to Chapter 24 (Dispute settlement) in relation to a dispute concerning this Article, the panel shall treat that dispute as a matter of urgency pursuant to Article 24.11(2) (Decisions on urgency).

A Party may invoke Article 23.1 (General exceptions), Article 23.2 (Security exceptions) or Article XI:2(a) of GATT 1994, as incorporated into and made part of this Agreement mutatis mutandis pursuant to Article 2.11(1) (Import and export restrictions) in order to justify the measure referred to in paragraph 2.

Paragraphs 2 to 9 do not apply to the energy goods and resources listed in Annex 12-C (Annex on Article 12.16 (Rebalancing)).

13 For the purposes of this point, the term "agricultural good" means an agricultural product listed in Annex 1 to

the Agreement on Agriculture and the term "fisheries good" means a fisheries product listed in HS Chapter 03 or HS headings 1604 and 1605.

Chapter 13. GOVERNMENT PROCUREMENT

Article ARTICLE 13.1

Incorporation of certain provisions of the GPA

The Parties affirm their rights and obligations under the Revised Agreement on Government Procurement (Annex to the Protocol Amending the Agreement on Government Procurement, adopted on 30 March 2012 (GPA/113)) (hereinafter referred to as the "GPA"). To this end, the provisions of the GPA listed in Annex 13-A to this Agreement and the Parties' Annexes to Appendix 1 of the GPA outlined in Annex 13-B to this Agreement are incorporated into and made part of this Chapter, mutatis mutandis.

The Parties shall apply, mutatis mutandis, the provisions of the GPA listed in Annex 13-A to this Agreement, on a bilateral basis, to the additional procurement covered in Annex 13-B to this Agreement.

For the purposes of the incorporation of the GPA under paragraph 1, the term:

"Agreement" in the GPA means "Chapter";

"any Party", "any other Party" or "another Party" in the GPA means "the other Party"; and

"international trade" in the GPA means "international trade between the Parties".

Additional disciplines Build-operate-transfer contracts and works concessions

For the purposes of this Chapter, covered procurement includes build-operate-transfer contracts and public works concession contracts in Australia, and public works concession contracts in the Union. With regard to this commitment:

for the Union, "public works concession contract" means a contract for pecuniary interest concluded in writing by means of which procuring entities entrust the execution of works to one or more economic operators the consideration for which consists either solely in the right to exploit the works that are the subject of the contract or in that right together with payment; and

for Australia, "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.

The award of a public works concession contract referred to in paragraph 1 shall involve the transfer to the economic operators of an operating risk in exploiting those works encompassing demand or supply risk or both. The recoup of the investments made or the costs incurred in operating the works should not be guaranteed.

Security and general exceptions

The Parties understand that the measures referred to in Article III.2(b) of the GPA include environmental measures necessary to protect human, animal or plant life or health.

Use of electronic means in procurement

For covered procurement, a procuring entity shall use electronic means of information and communication for the publication of notices and tender documentation in procurement procedures and shall use electronic means for the submission of tenders to the widest extent practicable.

Electronic publication

For covered procurement, all procurement notices (notice of intended procurement, summary notice, notice of planned procurement and contract award notice) shall be directly accessible by electronic means, free of charge, through a single point of access on the internet. For greater certainty, Australia would satisfy this obligation if the Commonwealth

government, as well as each state and territory of Australia, maintains a separate publicly accessible single point of access containing the relevant information.

Conditions for participation

A procuring entity of a Party shall not require experience in the territory of that Party to be a condition for participation in the covered procurement.

Registration systems and qualification procedures

Where a Party, or one of its procuring entities, maintains a supplier registration system, it shall ensure that an interested supplier has access by electronic means to information on that system and may request registration at any time. The interested supplier shall be informed within a reasonable period of time of the decision to grant or reject that request. If that request is rejected, the decision must be explained in writing.

Selective tendering

If the procuring entity uses a selective tendering procedure, it shall address an invitation to submit a tender to a number of suppliers that is necessary to ensure effective competition.

Environmental, social and labour considerations

A Party may:

allow a procuring entity to take into account appropriate environmental, social and labour considerations throughout the procurement procedure, provided they are:

related to the characteristics of the goods or services, or combination thereof, that are the object of the procurement;

based on objectively verifiable and non-discriminatory criteria; and

accessible to all interested suppliers; and

take appropriate measures to ensure compliance with its obligations in the fields of environmental, social and labour law, provided that such measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination between the Parties or a disguised restriction on international trade between the Parties.

Sensitive government information

For greater certainty, this Chapter shall not preclude a Party, or its procuring entities, from preparing, adopting or applying technical specifications required to protect sensitive government information, including specifications that may affect or limit the storage, hosting or processing of such information outside the territory of the Party.

Standstill period

A procuring entity is encouraged to provide, as a general rule, for a standstill period between the award and the signature of a contract in order to give sufficient time to an unsuccessful bidder to review and challenge the award decision.

Ensuring integrity in procurement practices

Each Party shall ensure that it adopts or maintains appropriate measures to address corruption in its government procurement. These measures may include procedures to render ineligible for participation in the Party's procurements, either indefinitely or for a stated period, suppliers that the

Party has determined by final decision to have engaged in fraudulent or other illegal actions in relation to government procurement in the territory of that Party. Each Party shall also ensure that it adopts or maintains policies and procedures to eliminate to the extent possible or manage any potential conflict of interest on the part of those engaged in or having influence over a procurement.

Modifications and rectifications to coverage

A Party may modify or rectify its market access commitments in its Schedule in Annex 13-B pursuant to paragraphs 2 to 8 of this Article. If a modification or a rectification of a Party's Annexes to Appendix I to the GPA becomes effective pursuant to Article XIX of the GPA, it shall automatically become effective for the purposes of this Agreement.

Modifications

When a Party intends to modify its Schedule under Annex 13-B, the Party shall:

notify the other Party in writing; and

include in the notification a proposal for appropriate compensatory adjustments to the other Party to maintain a level of coverage comparable to that existing prior to the modification.

Notwithstanding point (b) of paragraph 2, a Party is not required to provide compensatory adjustments to the other Party if the proposed modification covers a procuring entity over which the Party has effectively eliminated its control or influence in respect of covered procurement.

Government control or influence over the covered procurement of procuring entities listed in Annex 13-B to this Chapter is presumed to be effectively eliminated insofar as the procuring entity's procurement is concerned where the procuring entity is exposed to competition on markets to which access is not restricted.

A Party shall object in writing no later than 45 days after the date of receipt of the notification referred to in point (a) of paragraph 2 of this Article or be deemed to have accepted the adjustment

or modification, including for the purposes of Chapter 24 (Dispute settlement), if the other Party disputes that:

an adjustment proposed under point (b) of paragraph 2 of this Article is adequate to maintain a comparable level of mutually agreed coverage; or

the modification covers a procuring entity over which the Party has effectively eliminated its control or influence as provided for in paragraph 3.

Rectifications

The following changes to a Party's Schedule in Annex 13-B shall be considered a rectification, provided that they do not affect the mutually agreed coverage provided for in the Chapter:

a change in the name of a procuring entity;

a merger of two or more procuring entities listed within the same [X] of Annex 13-B[X] and

the separation of a procuring entity listed in the Annex 13-B[X] into two or more procuring entities that are added to the procuring entities listed in the same X of that Annex[].

A Party shall notify the other Party every two years of proposed rectifications to that Party's schedule in Annex 13-B, in line with the cycle of notifications provided for under the GPA, following the entry into force of this Agreement.

A Party may notify the other Party of an objection to a proposed rectification no later than 45 days after the date of receipt of the notification referred to in paragraph 7. Where a Party submits an objection, it shall set out the reasons why it believes the proposed rectification is not a change provided for in paragraph 6, and describe the effect of the proposed rectification on the mutually agreed coverage provided for in the Agreement. If no such objection is submitted in writing within 45 days after the date of receipt of the notification, the Party shall be deemed to have agreed to the proposed rectification.

Consultations and dispute resolution

If the other Party objects to the proposed modification or rectification, the Parties will seek to resolve the issue through consultations. Notwithstanding Article 24.4 (Consultations), if no agreement is found within 60 days after the date of receipt of the objection, the Party seeking to modify or rectify its Schedule in Annex 13-B may refer the matter to dispute settlement under Article 24.5 (Initiation of panel procedures).

Compliance

Each Party shall ensure that its procuring entities comply with this Chapter in conducting covered procurements.

Nothing in this Chapter shall be construed to 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.

Committee on Investment, Services, Digital Trade, Government Procurement and Intellectual Property Rights, including Geographical Indications

The Committee on Investment, Services, Digital Trade, Government Procurement and Intellectual Property Rights, including Geographical Indications (hereinafter referred to as "the Committee"), established pursuant to Article 22.5

(Specialised Committees), shall consider any matters relating to the implementation and operation of this Chapter.

Adjustment of thresholds

Each Party shall adjust the thresholds for goods, services and construction services in its respective Schedule in Annex 13-B in accordance with the formula in the WTO Committee on Government Procurement Decision GPA/1.

The Parties may consult if a major change in a national currency of a Party relative to the SDR has the potential to create a significant problem with regard to the application or implementation of this Chapter.

Cooperation

The Parties recognise their shared interest in cooperating to promote international liberalisation of government procurement markets with a view to achieving enhanced understanding of their respective government procurement systems.

The Parties shall endeavour to cooperate on exchanging government procurement statistics.

Amendments

If the GPA is amended or is superseded by another agreement, the Parties shall consult on whether to amend this Chapter as appropriate.

Chapter 14. ANTI-COMPETITIVE CONDUCT AND MERGER CONTROL

Article ARTICLE 14.1

Principles

The Parties recognise the importance of promoting free and undistorted competition and economic efficiency in markets. The Parties acknowledge that anti-competitive business practices have the potential to distort the proper functioning of markets and can undermine the benefits of trade and investment.

Definitions

For the purposes of this Chapter, the following definitions apply:

"anti-competitive practices" means business conduct or transactions that adversely affect competition, such as:

anti-competitive horizontal arrangements and concerted practices between economic entities;

misuse of market power and abuse of a dominant position;

anti-competitive vertical arrangements and concerted practices between economic entities; and

anti-competitive concentrations;

"competition authority" means:

for Australia, the Australian Competition and Consumer Commission, or its successor; and

for the Union, the European Commission;

"competition law" means any law which addresses and proscribes anti-competitive practices:

for Australia, at the central level of government; and

for the Union, at the Union level;

"economic entities" means entities, whether private or public, that are:

for Australia, engaged in trade or commerce; and

for the Union, undertakings engaged in economic activities.

Legislative framework

Each Party shall adopt or maintain competition law that applies in all sectors of the economy and to all economic entities.1

Notwithstanding paragraph 1, a Party may provide for exemptions and exceptions in or pursuant to its competition law. Such exemptions and exceptions shall be transparent and necessary on grounds of clearly established public policy or public interest objectives, as determined by that Party.

Implementation

Each Party shall establish or maintain an operationally independent competition authority, with the appropriate powers, financial and human resources to effectively enforce its competition law.

Each Party shall apply its competition law in a transparent manner, respecting the principles of procedural fairness, including by providing reasonable opportunities for the economic entities concerned to exercise their right of defence, in particular the right to be heard, and seek review or appeal by a judicial body.

Cooperation

The Parties recognise the importance of cooperation between their respective competition authorities with regard to competition policy and enforcement of competition law.

1 For greater certainty, pursuant to Article 42 TFEU, Union rules on competition apply to the Union EU Union agricultural sector in accordance with Regulation (EU) No 1308/2013 of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ EU L 347, 20.12.2013, p. 671)].

To facilitate such cooperation, the competition authorities of the Parties may exchange information, to the extent permitted by each Party's laws and regulations, including those related to confidentiality.

The Parties shall ensure their competition authorities endeavour to coordinate, if possible and appropriate, their enforcement activities under their respective competition laws relating to the same or related conduct or transactions.

The Parties may consider entering into a separate cooperation agreement that sets out mutually agreed terms for implementing cooperation and coordination, including inter alia, frameworks for exchanging information between the competition authorities of the Parties.

Non-application of dispute settlement Chapter 24 (Dispute settlement) does not apply to this Chapter.

Chapter 15. SUBSIDIES

Article ARTICLE X.1

Principles

The Parties acknowledge that subsidies have the potential to distort the proper functioning of markets and can undermine the benefits of trade and investment. In principle, subsidies should not be granted by a Party when they negatively affect, or are likely to negatively affect, competition or trade.

The Parties recognise that certain subsidies have potentially harmful trade-distorting effects and share the objective of working to develop enhanced multilateral disciplines and rules on subsidies.

Definition and scope

For the purposes of this Chapter;

a "subsidy" means a measure, which fulfils mutatis mutandis the conditions set out in paragraph 1.1 of Article 1 of the SCM Agreement irrespective of whether the recipient of the subsidy supplies goods or services.1 For greater certainty and for the purposes of this chapter, all references to goods in Article 1.1 of the SCM Agreement are to be understood as covering also services.

"specific subsidy" means a subsidy which is determined to be specific in accordance with Article 2 of the SCM Agreement. Any subsidy falling under the provisions of Article X.6 is deemed to be specific.

"economic activities" means activities pertaining to the offering of goods or services in a market

This Chapter applies only to specific subsidies provided to enterprises, public or private, in relation to economic activities.

This Chapter shall apply to subsidies to enterprises performing public service tasks2 insofar as its application does not impede the performance, in law or in fact, of the public service tasks that are assigned to these enterprises. Public service tasks shall be determined in a transparent manner. Any limitation to or deviation from the application of the rules in this Chapter shall not go beyond what is necessary to perform the assigned public service tasks.

This Chapter shall not apply to subsidies granted to benefit any Australian First Nations organisation or peoples.

1 This Article does not prejudice the outcome of any future discussions in the WTO on the definition of subsidies for services. Depending on the progress of those discussions at the WTO level, the Parties may update this Agreement in this respect.

2 The term "public service tasks" includes services provided in the public interest such as primary, secondary, tertiary education, vocational training, aged care, child care, healthcare, public social and community housing.

Article Article X.5 and Article X.6 Shall Not Apply to Subsidies Provided for a Period Not Exceeding 24 Months by a Party to:

compensate for damage caused by natural disasters or other non-economic exceptional occurrences; and

respond to a national or global health or economic emergency, provided that any such subsidies shall be targeted and proportionate, having regard to the harm caused by or arising from the emergency.

Article Article X.5 and Article X.6 Does Not Apply to Audio-visual and Broadcasting Sectors.

Relationship with the WTO

Nothing in this Chapter shall affect the rights and obligations of either Party under the SCM Agreement, the Agreement on Agriculture, Article XVI of GATT 1994 and Article XV of GATS.

Transparency

Each Party shall make transparent the following with respect to a subsidy granted or maintained within its territory:

the legal basis and purpose of the subsidy;

the form of the subsidy;

the amount of the subsidy or the amount budgeted for the subsidy; and

if possible, the name of the recipient of the subsidy.

A Party is deemed to have met the requirement set out in paragraph 1 through:

notification under Article 25 of the SCM Agreement, which is provided at least every two years;

notification under Article 18 of the Agreement on Agriculture; or,

publication by the Party or on its behalf on a publicly accessible website3 no later than 31 December of the calendar year subsequent to the year in which the subsidy was granted or maintained.

Consultations

If a Party considers that a subsidy granted or maintained by the other Party is negatively affecting or is likely to negatively affect its trade or investment interests, it may express its concern in writing to the other Party and request further information on the matter.

The request shall include an explanation of how the subsidy is negatively affecting or is likely to negatively affect the requesting Party's interests. The requesting Party may seek the following information about the subsidy:

the legal basis and policy objective or purpose of the subsidy;

the form of the subsidy;

the dates and duration of the subsidy and any other time limits attached to it;

3 For greater certainty, Article X.11.2 (c) does not require publication on a single website, nor in a particular format.

the eligibility requirements of the subsidy;

the total amount or the annual amount budgeted for the subsidy;

if possible, name of the recipient(s) of the subsidy; and

other relevant information permitting an assessment of the effects of the subsidy.

The requested information shall be provided in writing no later than 90 days after the date of receipt of the request. In the event that any requested information is not provided by the requested Party, that Party shall explain the absence of such information in its written response.

After having received the requested information, the requesting Party may request consultations on the matter. Such request shall be in writing. Consultations between the Parties to discuss the concerns raised shall be held within 60 days of the request for consultations and may be conducted by electronic means.

Such consultations shall be aimed at establishing and clarifying the facts of the matter and attempt to arrive at a mutually satisfactory resolution of the matter.

In the case of subsidies granted in relation to goods covered by Annex 1 to the Agreement on Agriculture, taking into account the relevant provisions of that Agreement, the responding Party shall accord sympathetic consideration to addressing the concerns of the requesting Party with due respect to Article X.3 (Relation to the WTO Agreement).

Treatment of certain subsidies

The Parties shall not provide subsidies whereby a government guarantees debts or liabilities of an enterprise without any limitation as to the amount of those debts and liabilities or the duration of such guarantees.

Subject to paragraph 3, subsidies to insolvent or ailing enterprises to support restructuring are allowed on the condition that:

a credible restructuring plan has been prepared based on realistic assumptions, and with a view to ensure the return to long-term viability of the insolvent or ailing enterprise within a reasonable time period; and

the enterprise (other than small and medium sized enterprises) contributes to the costs of restructuring.

The conditions set out in paragraph 2 do not apply to:

subsidies provided to enterprises as temporary liquidity support during the period which is necessary to prepare a restructuring plan. Such temporary liquidity support shall be limited to the amount needed to keep the enterprise in business; and

subsidies granted to ensure the orderly market exit of a company.

5. This Article does not apply to subsidies, the cumulative amounts or budgets of which are less than 250 000 SDR per enterprise over a period of three consecutive years.

Use of subsidies

Each Party shall ensure that enterprises use subsidies only for the policy objective for which the subsidies were granted.

Dispute Settlement

Article Article X.5 (Consultations) Shall Not Be Subject to Chapter X (Dispute Settlement).

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the Agreement.

Chapter 16. STATE-OWNED ENTERPRISES

Article ARTICLE 16.1

Scope

This Chapter applies to state-owned enterprises, designated oligopolies and designated monopolies at central and regional levels of government engaged in a commercial activity. Where such state-owned enterprises, designated monopolies or designated oligopolies engage both in commercial and non-commercial activities, this Chapter only applies with respect to their commercial activities.

This Chapter does not apply to:

the procurement by a Party of a good or service purchased for governmental purposes and not with a view to commercial resale or with a view to use in the production of a good or a supply of service for commercial sale, whether or not that procurement is a covered procurement within the meaning of Chapter 13 (Government procurement);

the matters referred to in points (a) to (c) and (e)1 of Article 9.1(2) (Scope); and

a state-owned enterprise or designated monopoly if, in any one of the three previous

1 For greater certainty, this includes activities performed in the exercise of governmental authority by state-owned enterprises.

consecutive fiscal years, the annual revenue derived from the commercial activities of the state-owned enterprise or designated monopoly was less than 150 000 000 SDR.

Article 16.5 (Non-discriminatory Treatment and Commercial Considerations) Does Not Apply to the Supply of Financial Services by a State-owned Enterprise Pursuant to a Government Mandate, If That Supply of Financial Services:

supports exports or imports, provided that those financial services are:

not intended to displace commercial financing; or

offered on terms no more favourable than terms that could be obtained for comparable financial services in the commercial market;

supports private investment outside the territory of the Party, provided that those financial services are:

not intended to displace commercial financing; or

offered on terms no more favourable than terms that could be obtained for comparable financial services in the commercial market; or

is offered on terms consistent with the Arrangement defined in point (a) of Article 16.2 (Definitions), provided that it falls within the scope of that Arrangement.

Article 16.5 (Non-discriminatory Treatment and Commercial Considerations) Does Not Apply to the Extent That a State-owned Enterprise, Designated Monopoly or Designated Oligopoly of a Party Makes a Purchase or Sale of a Good or a Service Pursuant to:

any existing non-conforming measure that the Party maintains, continues, renews or amends in accordance with Article 9.10 (Non-conforming measures and exceptions) or Article 9.17 (Non-conforming measures), as set out in its respective Schedule in Annex 9-A (Existing measures); or

any non-conforming measure that the Party adopts or maintains with respect to sectors, subsectors, or activities in accordance with Article 9.10 (Non-conforming measures and exceptions) or Article 9.17 (Non-conforming measures), as set out in its respective Schedule in Annex 9-B (Future measures).

Points (a) and (b) of Article 16.5(1) (Non-discriminatory treatment and commercial considerations) do not apply with respect to measures adopted or maintained by a regional government of a Party2 to ensure that purchases of goods and services by state-owned enterprises, designated monopolies or designated oligopolies:

support economic development in its territory, including for the benefit of SMEs;

promote social inclusion in its territory; or

support environmentally sustainable business practices.

Without prejudice to Article 12.16 (Rebalancing), point (c) of Article 16.5(1) (Non-discriminatory treatment and commercial considerations) does not apply with respect to designated monopolies and designated oligopolies3 that have been designated by a regional government of a Party.

Definitions

For the purposes of this Chapter, the following definitions apply:

"Arrangement" means the Arrangement on Officially Supported Export Credits, developed within the framework of the OECD or a successor undertaking, whether developed within or

2 For Australia, such measures shall respect the principles of value for money, including the efficient and effective use of resources, to the extent provided for in its laws and regulations, and policies. For the Union, such measures shall respect the principles of efficiency, transparency and non-discrimination in accordance with Union law.

3 This is without prejudice to Article 2.11 (Import and export monopolies).

outside of the OECD framework, that has been adopted by at least 12 original WTO Members that were Participants to the Arrangement as of 1 January 1979;

"commercial activity" means an activity which an enterprise undertakes, the end result of which is the production of a good or supply of a service, which will be sold in the relevant market in quantities and at prices determined by that enterprise4, and which is undertaken with an orientation towards profit-making5;

"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 operating according to market economy principles in the relevant business or industry;

"designate" means to establish, appoint or authorise a monopoly or oligopoly, or to expand the scope of a monopoly or oligopoly to cover an additional good or service;

"designated monopoly" means an entity, including a consortium or a government agency, that in a relevant market in the territory of a Party is designated as the sole supplier or purchaser of a good or service, but it does not include an entity that has been granted an exclusive intellectual property right solely by reason of such grant;

"designated oligopoly" means two or more public or private enterprises designated by a Party, in law or in fact, as the only suppliers or purchasers of a particular good or service in a relevant market in the territory of that Party, other than enterprises that are designated according to objective, transparent and non-discriminatory criteria;

4 For greater certainty, measures of general application to the relevant market shall not be construed as the determination by a Party of pricing, production, or supply decisions of an enterprise.

5 For greater certainty, an activity undertaken by an enterprise that operates on a non-profit

basis or a cost-recovery basis is not a commercial activity.

"public service mandate" means a government mandate pursuant to which a state-owned enterprise or designated monopoly makes a service available, directly or indirectly, to the general public in the territory of a Party;6 and

"state-owned enterprise" means an enterprise engaged in commercial activities in which a Party:

directly owns more than 50% of the share capital;

is in a position to cast, or control the casting of, more than 50% of the voting rights;

holds the power to appoint a majority of the members of the board of directors or any other equivalent management body; or

has the power to direct the actions of the enterprise or otherwise exercises an equivalent degree of control in accordance with the law of that Party.

Relation to the WTO Agreement

The Parties affirm their rights and obligations under Article XVII of GATT 1994, the Understanding on the Interpretation of Article XVII of GATT 1994 and paragraphs 1, 2 and 5 of Article VIII of GATS.

General provisions

6 For greater certainty, the phrase “making a service available to the general public” includes the distribution of goods and the supply of general infrastructure services.

Without prejudice to the rights and obligations of each Party under this Chapter, nothing in this Chapter prevents a Party from establishing or maintaining state-owned enterprises, or from designating or maintaining monopolies or oligopolies.

A Party shall not require or encourage a state-owned enterprise, designated monopoly or designated oligopoly to act in a manner inconsistent with Article 16.5 (Non-discriminatory treatment and commercial considerations).

With respect to the treatment under Article 16.5 (Non-discriminatory treatment and commercial considerations), Australia shall accord to an enterprise of the Union treatment no less favourable than the treatment it accords, in like situations, to an enterprise of any preferential trade agreement partner7.

Non-discriminatory treatment and commercial considerations

Each Party shall ensure that each of its state-owned enterprises, designated monopolies or designated oligopolies, when engaging in commercial activity:

acts in accordance with commercial considerations in its purchase or sale of a good or a service, except to fulfil any terms of its public service mandate that are not inconsistent with point (b) or (c);

in its purchase of a good or a service:

accords to a good or a 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; and

7 This paragraph does not apply with respect to treatment accorded to an enterprise of New Zealand.

accords to a good or service supplied by a covered enterprise treatment no less favourable than it accords to a like good or a like service supplied by enterprises of investors of that Party in the relevant market of the Party; and

in its sale of a good or a service:

accords to an enterprise of the other Party treatment no less favourable than it accords to enterprises of the Party; and

accords to a covered enterprise treatment no less favourable than it accords to enterprises of that Party’s own investors in the relevant market in the Party.

Provided that such different terms or conditions referred to in point (a) or the refusal referred to in point (b) is undertaken in accordance with commercial considerations, paragraph 1 does not preclude state-owned enterprises, designated monopolies or designated oligopolies from:

purchasing or supplying goods or services on different terms or conditions, including relating to price; or

refusing to purchase or supply goods or services.

Regulatory framework

The Parties shall make best use of international standards related to state-owned enterprises.8

Each Party shall ensure that any administrative body that exercises a regulatory function over a state-owned enterprise, designated monopoly or designated oligopoly:

is operationally independent from, and not accountable to, any of the enterprises regulated by

8 For example, the OECD Guidelines on Corporate Governance of State-Owned Enterprises.

such a body; and

acts impartially9, in like circumstances, with respect to all enterprises regulated by such a body, including state-owned

enterprises, designated monopolies and designated oligopolies.10

Each Party shall apply its laws and regulations to state-owned enterprises, designated monopolies and designated oligopolies in a consistent and non-discriminatory manner.

Information exchange

If a Party has reason to believe a state-owned enterprise, designated monopoly or designated oligopoly of the other Party (hereinafter referred to as "the entity" for the purposes of this Article) is not complying with Article 16.5 (Non-discriminatory treatment and commercial considerations), it may request in writing that the other Party provides information regarding the commercial activities of the entity.

The request referred to in paragraph 1 shall:

explain how the commercial activities of the entity may be affecting the interests of the requesting Party under this Chapter; and

indicate which of the following information is sought:

the ownership and the voting structure of the entity, indicating the percentage of shares that the requested Party, its state-owned enterprises, designated monopolies or designated oligopolies cumulatively own, and the percentage of voting rights that they cumulatively hold, in the entity;

9 For greater certainty, the impartiality with which such a body exercises its regulatory functions is to be assessed by reference to a general pattern of practice of that body.

10 For greater certainty, for those sectors in which the Parties have agreed to specific obligations relating to such a body exercising regulatory functions in other Chapters of this Agreement, the relevant provisions of those Chapters shall prevail.

a description of any special shares or special voting or other rights that the requested Party, its state-owned enterprises designated monopolies or designated oligopolies hold, where such rights are different from those attached to the general common shares of the entity;

the organisational chart of the entity and the composition of its board of directors or any other equivalent body;

a description of which government departments or public bodies regulate or monitor the entity, a description of the reporting requirements imposed on it by those departments or public bodies, and a description of the rights and general practices of those departments or any public bodies with respect to the appointment, dismissal or remuneration of senior executives and members of its board of directors or any other equivalent management body;

annual revenue and total assets of the entity over the most recent three-year period for which information is available;

any exemptions, immunities and related measures from which the entity benefits under the laws and regulations of the requested Party; and

any additional information regarding the entity that is publicly available, including annual financial reports and third-party audits.

The requested Party shall provide all the requested information to the requesting Party. If the requested information is not available, the requested Party shall provide the reasons for this in writing to the requesting Party.

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Chapter 17. INTELLECTUAL PROPERTY

SECTION A

GENERAL PROVISIONS AND BASIC PRINCIPLES

Article ARTICLE 17.1

Objectives

The objectives of this Chapter are to:

facilitate the production and commercialisation of innovative and creative goods and the provision of innovative and creative services between the Parties; and

increase the benefits from trade and investment between the Parties through an adequate and effective level of protection of intellectual property rights, and the provision of measures for the effective enforcement of such rights.

The objectives set out in Article 7 of the TRIPS Agreement apply to this Chapter, mutatis mutandis.

1

Principles

The principles set out in Article 8 of the TRIPS Agreement apply to this Chapter, mutatis mutandis.

Taking into consideration the underlying public policy objectives of their respective domestic systems, the Parties recognise the need to:

promote innovation and creativity;

facilitate the diffusion of information, knowledge, technology, culture and the arts; and

foster competition and open and efficient markets;

through their respective intellectual property systems, while respecting the principles of transparency, and taking into account the interests of relevant stakeholders, including right holders, users and the general public.

The Parties recognise the importance of effective protection against acts of unfair competition in accordance with Article 10bis of the Paris Convention.

Nature and scope of obligations

This Chapter complements the rights and obligations of each Party under the TRIPS Agreement and other international agreements in the field of intellectual property.

Each Party shall give effect to this Chapter. A Party may provide more extensive protection for, or enforcement of, intellectual property rights under its law than is required by this Chapter, provided that such protection or enforcement is not inconsistent with this Chapter. Each Party shall

be free to determine the appropriate method of implementing this Chapter within its own legal system and practice.

Definitions

For the purposes of this Chapter, the following definitions apply:

"Berne Convention" means the Berne Convention for the Protection of Literary and Artistic Works of 9 September 1886 as revised at Paris on 24 July 1971 and amended on

28 September 1979;

"Declaration on TRIPS and Public Health" means the Declaration on the TRIPS Agreement and Public Health adopted at Doha on 14 November 2001 by the Ministerial Conference of the WTO;

"Geneva Act (1999)" means the Geneva Act (1999) of the Hague Agreement Concerning the International Registration of Industrial Designs, adopted at Geneva on 2 July 1999;

"intellectual property" means:

all categories of intellectual property that are the subject of Sections 1 to 7 of Part II of the TRIPS Agreement, namely:

copyright and related rights;

trademarks;

geographical indications;

industrial designs;

patents;

layout-designs (topographies) of integrated circuits; and

protection of undisclosed information; and

plant variety rights;

"national" means, in respect of the relevant intellectual property right, a person of a Party that would meet the criteria for eligibility for protection provided for in multilateral agreements concluded and administered under the auspices of WIPO, to which a Party is a contracting Party, or in the TRIPS Agreement;

"Paris Convention" means the Paris Convention for the Protection of Industrial Property of 20 March 1883, as revised at Stockholm on 14 July 1967;

"Rome Convention" means the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations done at Rome on 26 October 1961;

"WIPO" means the World Intellectual Property Organization;

"WCT" means WIPO Copyright Treaty adopted in Geneva on 20 December 1996; and

"WPPT" means the WIPO Performances and Phonograms Treaty done at Geneva on 20 December 1996.

International agreements

Each Party affirms its commitment to comply with its obligations under the following international agreements:

the TRIPS Agreement;

the WCT;

the WPPT;

the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who are Blind,

Visually Impaired or Otherwise Print Disabled done in Marrakesh on 27 June 2013; and

the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks adopted at Madrid on 27 June 1989, as last amended on 12 November 2007.

Each Party affirms that it has acceded to, or will make all reasonable efforts to ratify or accede to, the following international agreements:

the Singapore Treaty on the Law of Trademarks, done at Singapore on 27 March 2006; and

the Geneva Act (1999).

Each Party shall ensure that the procedures provided under the Patent Cooperation Treaty, done at Washington on 19 June 1970, as amended on 3 October 2001, are available in its territory.

Exhaustion

Nothing in this Chapter prevents a Party from determining whether and under what conditions the exhaustion of intellectual property rights applies.

National treatment

In respect of all categories of intellectual property rights covered in this Chapter, each Party shall accord to nationals of the other Party treatment no less favourable than that it accords to its

own nationals with regard to the protection1 of intellectual property rights, subject to the exceptions already provided in,

respectively, the Paris Convention, the Berne Convention, the Rome Convention, WPPT, or the Treaty on Intellectual Property in Respect of Integrated Circuits, done at Washington on 26 May 1989. In respect of performers, producers of phonograms and broadcasting organisations, this obligation only applies in respect of the rights provided for under this Agreement.

A Party may avail itself of the exceptions permitted under paragraph 1 in relation to its judicial and administrative procedures, including requiring a national of the other Party to designate an address for service of process in its territory, or to appoint an agent in its territory, only where such exceptions are:

necessary to secure compliance with laws and regulations of the Party that are not inconsistent with this Chapter; and

not applied in a manner that would constitute a disguised restriction on trade.

Paragraph 1 does not apply to procedures provided in multilateral agreements concluded under the auspices of WIPO relating to the acquisition or maintenance of intellectual property rights.

TRIPS Agreement and public health

The Parties recognise the importance of the Declaration on TRIPS Agreement and Public Health. This Chapter shall be interpreted and implemented consistently with that Declaration.

1 For the purposes of this paragraph, the term "protection" shall include: (a) matters affecting the availability, acquisition, scope, maintenance and enforcement of intellectual property rights as well as matters affecting the use of intellectual property rights specifically addressed in this Chapter; (b) measures to prevent the circumvention of effective technological measures set out in Article 17.21 (Protection of technological measures); and (c) measures concerning rights management information set out in Article 17.22 (Obligations concerning rights management information).

This Chapter does not, and should not, prevent a Party from taking measures to protect public health and should be interpreted and implemented in a manner that promotes access to medicine for all.

Each Party shall implement Article 31bis of the TRIPS Agreement, and the Annex and the Appendix to the Annex to the TRIPS Agreement.

Nothing in this Chapter shall limit a Party's rights and obligations pursuant to Article 31 and Article 31bis of the TRIPS Agreement, and the Annex and the Appendix to the Annex to the TRIPS Agreement.

Article Article 17.9

Indigenous knowledge of Australian First Nations peoples

The Parties recognise the value, for Australia, of enabling the involvement of Australian First Nations peoples in international trade and in the protection of indigenous knowledge of Australian First Nations peoples. Furthermore, the Parties acknowledge the cultural significance, for Australia, of such knowledge, including knowledge about traditional foods, language, song, dance, works of art and the names and uses of plants. To this end, the Parties shall endeavour to cooperate on activities related to such knowledge, including activities on geographical indications, where relevant for the implementation of this Chapter, through the Committee on Investment, Services, Digital Trade, Government Procurement and Intellectual Property Rights, including Geographical Indications.

Article Article 17.10

Genetic resources, traditional knowledge and traditional cultural expressions

The Parties recognise the importance and value of genetic resources and associated traditional knowledge, including when related to intellectual property systems.

The Parties affirm the importance of working towards a multilateral outcome on intellectual property related aspects of genetic resources, traditional knowledge and traditional cultural expressions, including through WIPO.

SECTION B

STANDARDS CONCERNING INTELLECTUAL PROPERTY RIGHTS

SUB-SECTION 1 COPYRIGHT AND RELATED RIGHTS

Article ARTICLE 17.11

Definitions

For the purposes of this Sub-Section, the terms "broadcasting", "communication to the public of a performance or a phonogram", "performers", "phonogram", "producer of a phonogram" and

"publication" shall be interpreted according to the definitions of those terms in the WPPT.

Authors2

Each Party shall provide authors with the exclusive right to authorise:

the temporary or permanent reproduction in any manner or form, in whole or in part, of their

2 The Parties understand that the term "original and copies", as used in this Sub-Section, refers exclusively to fixed copies that can be put into circulation as tangible objects.

works3;

any form of distribution to the public of the original and copies of their works through sale or other transfer of ownership;4 and

any communication to the public of their works, by wire or wireless means, including the making available to the public of their works in such a way that members of the public may access them from a place and at a time individually chosen by them.5

Performers

Each Party shall provide performers with the exclusive right to authorise:

the fixation of their unfixed performances;

the direct or indirect, temporary or permanent reproduction of their performances fixed in phonograms, in any manner of form, in whole or in part;

the distribution to the public of the original and copies of their performances fixed in phonograms through sale or other transfer of ownership;6

3 For greater certainty, for the purposes of this Chapter, the term "work" includes a cinematographic work, photographic work and computer program.

4 For the purposes of the implementation of this Sub-Section, each Party may interpret the term "distribution" as synonymous with the term "making available" pursuant to Article 6 of the WCT.

5 This point is without prejudice to point (ii) of Article 11(1), points (i) and (ii) of Article 11bis(1), point (ii) of Article 11ter(1), point (ii) of Article 14(1) and Article 14bis(1) of the Berne Convention.

6 For the purposes of the implementation of this Sub-Section, each Party may interpret the term "distribution" as synonymous with the term "making available" pursuant to Article 8 of the WPPT.

the making available to the public of their performances fixed in phonograms, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them;

the broadcasting by wireless means and the communication to the public of their unfixed performances, except where the performance is already a broadcast performance; and

the commercial rental to the public of the original and copies of their performances fixed in phonograms as determined in the law of a Party, even after distribution of them by, or pursuant to, authorisation by the performer.

Producers of phonograms

Each Party shall provide producers of phonograms with the exclusive right to authorise:

the direct or indirect, temporary or permanent, reproduction of their phonograms in any manner or form, in whole or in

part;

the distribution to the public of the original and copies of their phonograms through sale or other transfer of ownership;7

the making available to the public of their phonograms, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them; and

the commercial rental to the public of the original and copies of their phonograms even after distribution of them by, or pursuant to, authorisation by the producer.

7 For the purposes of the implementation of this Sub-Section, each Party may interpret the term "distribution" as synonymous with the term "making available" pursuant to Article 12 of the WPPT.

Article Article 17.15 Broadcasting Organisations

Each Party shall provide broadcasting organisations with the exclusive right to authorise:

the fixation of their broadcasts;

the reproduction of fixations of their broadcasts; and

the rebroadcasting of their broadcasts by wireless means.

Broadcasting and communication to the public of phonograms published for commercial purposes

Each Party shall provide performers and producers of phonograms the right to a single equitable remuneration for the direct or indirect use of phonograms published for commercial purposes for broadcasting or for any communication to the public.8

Each Party may establish in their laws and regulations that the single equitable remuneration shall be claimed from the user by the performer or the producer of a phonogram or by both. Each Party may enact laws and regulations that, in the absence of an agreement between the performer and the producer of a phonogram, set the terms according to which performers and producers of phonograms shall share the single equitable remuneration.

For the purposes of this Article, phonograms made available to the public by wire or wireless means in such a way that members of the public may access them from a place and at a time individually chosen by them shall be considered as if they had been published for commercial purposes.

8 This paragraph is subject to any commitments and reservations of a Party under the WPPT.

Term of protection

The rights of an author of a work shall run for the life of the author and for 70 years after the author's death, irrespective of the date when the work is lawfully made available to the public.

Notwithstanding paragraph 1, each Party may provide for specific rules on the calculation of the term of protection of musical composition with words, works of joint authorship as well as cinematographic or audiovisual works. Each Party may provide for specific rules on the calculation of the term of protection of anonymous or pseudonymous works.

The rights of broadcasting organisations shall expire 50 years after the first transmission of a broadcast.

The rights of performers of phonograms shall expire 50 years after the date of the fixation of the performance. However, if the phonogram has been lawfully published or, where provided for by a Party, lawfully communicated to the public or otherwise lawfully made public, within this period, the term of protection shall expire 70 years from the date of the first such publication or, where provided by a Party, the first such communication to the public or the first such instance of otherwise making public. Where a Party provides for two or more of these possibilities, the term of protection shall be calculated from whichever event occurs earlier.

The rights of producers of phonograms shall expire 50 years after the fixation is made. However, the term of protection shall expire 70 years from the date of the first lawful publication or, where provided by a Party's law, from the date of the first lawful communication to the public or first lawfully making public, where such publication, communication to the public or making public occurs within the 50 years after the fixation is made.

The terms of protection laid down in this Article shall be calculated from the first of January of the year following the year of the event which gives rise to them. With respect to works created and performances performed before 1 January 2019, a

Party may continue to apply the terms of protection that were applicable at the date of entry into force of this Agreement.

Each Party may provide for longer terms of protection than those provided for in this Article.

Resale right

Each Party shall provide, for the benefit of the author of an original work of art9, an inalienable resale right, which cannot be waived, even in advance, to receive a royalty based on the sale price obtained for any resale of the work, subsequent to the first transfer of the work by the author.

The procedure for collection of the royalties, its amounts and the criteria for the works, acts of resale and authors eligible to receive the royalty shall be a matter for determination by the law of each Party.

Collective management of rights

The Parties shall promote cooperation between their respective collective management organisations for the purpose of fostering the availability of works and other protected subject matter in their respective territories and the transfer of rights revenue between the respective collective management organisations for the use of such works or other protected subject matter.

The Parties shall promote transparency of collective management organisations, in particular regarding rights revenue they collect, deductions they apply to rights revenue they collect, the use of the rights revenue they collect, the distribution policy and their repertoire.

Each Party shall ensure that collective management associations established in its territory and representing another collective management organisation established in the territory of the other Party by way of a representation agreement, are encouraged to accurately, regularly and diligently pay amounts owed to the represented collective management organisations as well as to provide

9 For Australia, this means visual art. For the Union, this means works of graphic or plastic art.

those organisations with information on the amount of rights revenue collected on their behalf and any deductions from that rights revenue.

Exceptions and limitations

Each Party shall confine limitations or exceptions to the rights set out in Articles 17.12 (Authors) to 17.16 (Broadcasting and communication to the public of phonograms published for commercial purposes) to certain special cases which do not conflict with a normal exploitation of the work or other subject-matter and do not unreasonably prejudice the legitimate interests of the right holders.

This Article is without prejudice to the limitations and exceptions to any rights provided by the TRIPS Agreement, or by multilateral agreements concluded or administered under the auspices of WIPO.

Protection of technological measures

For the purposes of this Article, the term "effective technological measures" means any technology, device, or component that, in the normal course of its operation, is used by authors, performers or producers of phonograms in connection with the exercise of their rights under this Sub-Section and that prevents or restricts acts, in respect of their works, performances or phonograms, that are not authorised by the authors, performers or producers of phonograms.

Each Party shall provide adequate legal protection and effective legal remedies against the unauthorised circumvention of effective technological measures, where such circumvention is carried out knowingly or with reasonable grounds to know. Each Party may provide for a specific regime for legal protection of technological measures used to protect computer programs.

Each Party shall provide adequate legal protection and effective legal remedies against the

manufacture, import, distribution, sale, rental, offer or advertisement for sale or rental, of devices, products or components or the provision of services which:

are promoted, advertised or marketed for the purpose of circumvention of any effective technological measures;

have only a limited commercially significant purpose or use other than to circumvent any effective technological measures; or

are primarily designed, produced or performed for the purpose of enabling or facilitating the circumvention of any effective technological measures.

Each Party may provide for exceptions and limitations to measures implementing paragraphs 2 and 3 in accordance with its law and the relevant international agreements referred to in Article 17.5(1) (International agreements), provided that such exceptions and limitations do not significantly impair the adequacy of legal protection or the effectiveness of legal remedies provided by those measures against the acts prescribed in paragraphs 2 and 3.

Obligations concerning rights management information

For the purposes of this Article, the term "rights-management information" means:

any information provided by right holders that identifies the work or other subject matter referred to in this Article, the author or any other right holder;

information about the terms and conditions of use of the work or other subject matter referred to in this Article; or

any numbers or codes that represent such information.

Paragraph 1 applies if any of the items of information referred to in paragraph 1 is associated with a copy of, or appears in connection with the communication to the public of, a work or other subject matter referred to in this Article.

Each Party shall provide adequate legal protection against any person knowingly performing without authority:

the removal or alteration of any electronic rights-management information; or

the distribution, importation for distribution, broadcasting, communication or making available to the public of works or other subject matter protected under this Sub-Section from which electronic rights-management information has been removed or altered without authority,

if such person knows, or has reasonable grounds to know, that by doing so they are inducing, enabling, facilitating or concealing an infringement of any copyright or related rights.

Each Party shall confine exceptions to measures implementing this Article to lawfully authorised activities carried out by government employees, agents, contractors for the purpose of law enforcement, intelligence, essential security or similar government purposes.

Article ARTICLE 17.23

Trademark classification

Each Party shall adopt or maintain a trademark classification system that is consistent with the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, done at Nice on 15 June 1957, as amended on 28 September 1979.

Signs of which a trademark may consist

A Party shall not require, as a condition of registration of a trademark, that a sign be visually perceptible, nor deny registration of a trademark solely on the grounds that the sign of which it is composed is a sound.

Rights conferred by a trademark

Each Party shall provide that the owner of a registered trademark has the exclusive right to prevent third parties that do not have the owner's consent from using in the course of trade identical or similar signs for goods or services which are identical or similar to those goods or services in respect of which the owner's trademark is registered, where such use would result in a likelihood of confusion. In the case of the use of an identical sign for identical goods or services, a likelihood of confusion shall be presumed.

Registration and opposition procedure

Each Party shall provide for a system for the examination and registration of trademarks in which each final refusal taken by the competent authorities shall be communicated in writing to the relevant party, duly reasoned and subject to judicial appeal.

Each Party shall provide for the possibility to oppose the registration of a trademark.10

10 For greater certainty, each Party may provide for opposition before or after registration.

Electronic trademarks database

Each Party shall provide a publicly available electronic database of trademark applications and trademark registrations.

Each Party recognises the importance of providing a system for the electronic application and maintenance of trademarks.

Well-known trademarks

Each Party shall provide for protection of well-known trademarks, as referred to in Article 6bis of the Paris Convention and Article 16(2) and (3) of the TRIPS Agreement. Each Party shall give consideration to the Joint Recommendation Concerning Provisions on the Protection of Well-Known Marks, adopted by the Assembly of the Paris Union for the Protection of Industrial Property and the General Assembly of WIPO at the Thirty-Fourth Series of Meetings of the Assemblies of the Member States of WIPO on 20 to 29 September 1999.

Exceptions to the rights conferred by a trademark

Provided that such exceptions take account of the legitimate interests of the owners of the trademarks and of third parties, each Party:

shall provide for the fair use of descriptive terms11 as a limited exception to the rights conferred by trademarks; and

11 For greater certainty, the fair use of descriptive terms may include terms to indicate the geographical origin of the goods or services.

may provide for other limited exceptions to the rights conferred by trademarks.

Collective and certification marks

Each Party shall provide that trademarks include collective marks and may provide that trademarks include certification marks.

Each Party may provide that signs that may serve as geographical indications are capable of protection under its trademark system.

Cancellation12

Each Party shall provide that its competent authority, upon request, has the authority to cancel a trademark, if within a period of time determined by the law of that Party, the trademark has not been used13 in the relevant territory in connection with the goods or services in respect of which it is registered, and, subject to that Party's law, there are no proper reasons for non-use.

Each Party shall provide that its competent authority, upon request, has the authority to cancel a trademark if, after the date on which the trademark was registered:

it has become the common name in the trade for a good or service in respect of which it is registered;14 or

12 For greater certainty, a Party may define cancellation as revocation or removal.

13 A Party may require that the use is of genuine character or made in a quantity or manner corresponding to commercial use or is in good faith. A Party may further decide to disregard the commencement or resumption of use just before the filing of the cancellation request.

14 For greater certainty, a Party may require that the trademark may only be cancelled if it has become common in consequence of acts or inactivity of the proprietor.

it is liable to mislead the public, including as to the nature, quality or geographical origin of those goods or services for which it was registered.15

Bad faith applications

Each Party shall provide that its competent authority, upon request, has the authority to invalidate a trademark where the application for registration of the trademark was made in bad faith. Each Party may also provide that a trademark shall not be registered where the application for registration of the trademark was made in bad faith.

Article ARTICLE 17.33

International agreements

Each Party shall make all reasonable efforts to accede to the Geneva Act (1999).

Protection of industrial designs

Each Party shall provide for the protection of independently created industrial designs that are

15 For greater certainty, a Party may require that the trademark may only be cancelled if it has become misleading in consequence of the use made of it by the proprietor or with the proprietor's consent.

new and original.16 This protection shall be provided by registration17 and shall confer an exclusive right upon owners of such industrial designs in accordance with the provisions of this Sub-Section.

The owner of a registered industrial design shall have the right to prevent third parties not having the owner's consent at least from making, offering for sale, selling, using or importing products bearing or embodying a design which is identical or similar18 to the registered industrial design, when such acts are undertaken for commercial purposes.

Duration of protection

Each Party shall ensure that the total duration of protection available for registered industrial designs amounts to at least 10 years from the date of filing of the application.

Unregistered appearance of products

The Parties recognise that the appearance of a product may be protected through industrial designs, copyright or unfair competition law.

Each Party shall provide legal means to prevent the use of the unregistered appearance of a product if such use results from copying the unregistered appearance of the product, to the extent provided by its laws and regulations.

16 For the purposes of this Article, a Party may consider that a design that is distinctive or that has individual character is original.

17 For greater certainty, for the purposes of this Sub-Section, Australia may interpret "registration" as "registration and certification".

18 For greater certainty, for the purposes of this Sub-Section, Australia may interpret "similar" as "substantial similarity in overall impression".

Exceptions

Each Party may provide limited exceptions to the protection of industrial designs, provided that such exceptions do not unreasonably conflict with the normal exploitation of registered industrial designs and do not unreasonably prejudice the legitimate interests of the owner of the protected industrial design, taking account of the legitimate interests of third parties.

Article ARTICLE 17.38

Scope and procedures

This Sub-Section applies to the protection of geographical indications originating in the territory of a Party. A Party shall protect the geographical indications of the other Party listed in Annex 17 (Lists of geographical indications) according to the level of protection provided in this Agreement.

For the purposes of this Sub-Section:

"geographical indications" means indications which identify a good as originating in the territory of a Party, or a region or locality in that Party's territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin; and

"product specification" means, in relation to the relevant product for a geographical indication, the approved requirements for the use of that geographical indication in marketing that product.

Geographical indications of a Party, which are to be protected by the other Party, shall only be subject to this Sub-Section:

if they are protected as geographical indications in accordance with the system referred to in Article 17.39 (System of registration and protection of geographical indications) in the territory of the Party of origin; and

if the associated goods for those geographical indications fall within the scope of the relevant laws or regulations of the Party in which protection is sought; and

following the completion of an objection procedure and an examination by the Party in which protection is sought.

System of registration and protection of geographical indications

Each Party recognises that geographical indications may be protected through a trademark or

sui generis system or other legal means.

Each Party shall maintain a system for the registration and protection, at least at the level of protection provided for in Article 17.41(1) (Protection of geographical indications), of geographical indications in its territory. The system shall include at least the following elements:

accepting requests for the protection of geographical indications without requiring intercession by a Party on behalf of its nationals;

publishing registered geographical indications in the territory of a Party;

processing requests for the protection of geographical indications without requiring compliance with unreasonable procedures or formalities;

ensuring that its laws and regulations governing the protection of geographical indications are readily available to the public and clearly set out procedures relating to their protection including procedures for the filing of requests;

making available sufficient information to allow any person to ascertain the status of specific requests for protection;

ensuring that all requests for protection of geographical indications are published for objection;

providing procedures for objecting to the protection of a geographical indication which shall allow the legitimate interests of third parties to be taken into account and include an opportunity and a reasonable period of time to object before the geographical indication is protected. Such objections shall be accepted without requiring intercession by a Party on behalf of its nationals. In assessing objections for protection, each Party shall base those assessments on the situation existing in that Party's territory; and

providing for the cancellation of the protection of a geographical indication.

Amendment of the lists of geographical indications

The Parties may amend the lists of protected geographical indications in Annex 17 (Lists of geographical indications) in accordance with the procedure set out in Article 17.69 (Committee on Investment, Services, Digital Trade, Government Procurement and Intellectual Property Rights). Amendments may include the addition of geographical indications or the removal of geographical indications which have ceased to be protected in their place of origin.

Without prejudice to paragraph 1, after the date of entry into force of this Agreement, up to four amendments may take place, in accordance with paragraph 1, based on the transmission by Australia of a request to add a cumulative total of 40 geographical indications to Annex 17 (Lists of geographical indications). These shall be processed and protected in the Union in accordance with Article 17.38(3).

The Parties recognise the value, for Australia, of geographical indications that protect, preserve or promote the indigenous knowledge of Australian First Nations peoples, and shall give

such geographical indications due consideration when considering amendments to Annex 17 (Lists of geographical indications).

Protection of geographical indications

Each Party shall, in respect of geographical indications of the other Party listed in Annex 17 (Lists of geographical indications), provide the legal means for interested parties to prevent in its territory:

the commercial use of a geographical indication identifying a good for a like good not meeting the applicable product specifications of the geographical indication even if:

the true origin of the good is indicated;

the geographical indication is used in translation or transliteration; or

the geographical indication is accompanied by expressions such as "kind", "type", "style", "imitation", or the like;

the use of any means in the designation or presentation of a good that indicates or suggests that the good in question originates in a geographical area other than the true place of origin in a manner which misleads the public as to the geographical origin or nature of the good; and

any other use of a geographical indication which constitutes an act of unfair competition within the meaning of Article 10bis of the Paris Convention, which may include when used as an ingredient.

When a Party, in the context of bilateral negotiations with a third country, proposes to protect a geographical indication of that third country which is wholly or partially homonymous with a geographical indication of the other Party listed in Annex 17 (Lists of geographical indications), it shall inform the other Party thereof and give it an opportunity to comment before the third country's geographical indication becomes protected.

Without prejudice to Article 23(3) of the TRIPS Agreement, the Parties shall mutually decide the practical conditions of use under which wholly or partially homonymous geographical indications listed in Annex 17 (Lists of geographical indications) will be differentiated from each other, taking into account the need to ensure equitable treatment of the producers concerned and that consumers are not misled.

A Party may only cancel the protection of a geographical indication of the other Party listed in Annex 17 (Lists of geographical indications) if that geographical indication has been cancelled, or its protection revoked or otherwise ceased, in the Party of origin.

A product specification referred to in this Sub-Section shall be the specification approved, including any amendments also approved, by the authorities of the Party in the territory from which the product originates.

Exceptions

Nothing in this Sub-Section shall oblige a Party to protect a geographical indication of the other Party listed in Annex 17 (Lists of geographical indications) which is not, or ceases to be protected, or has fallen into disuse in the territory of origin. Each Party shall promptly notify the other Party if a geographical indication listed in Annex 17 (Lists of geographical indications) ceases to be protected in the territory of that Party and request cancellation of protection for that geographical indication in accordance with Article 17.69 (Committee on Investment, Services, Digital Trade, Government Procurement and Intellectual Property Rights, including Geographical Indications).

Nothing in this Sub-Section shall prejudice the right of any person to use, in the course of trade, that person's name, address, or the name of that person's predecessor in business, except where such name is used in relation to a geographical indication of the other Party listed in Annex 17 (Lists of geographical indications) in such a manner to mislead the public.

Nothing in this Sub-Section shall prevent the use in the territory of a Party, with respect to

any good, of a customary name of a plant variety, or an animal breed, existing in the territory of that Party, including where such names are individual components of a multi-component term that is protected as a geographical indication of the other Party listed in Annex 17 (Lists of geographical indications).

Nothing in this Sub-Section shall require a Party to apply the provisions of this Sub-Section in respect of any word, or translation or transliteration of any word, contained in a geographical indication of the other Party where that word, translation or transliteration is a common English word such as "mountain", "alps" or " river".

Nothing in this Sub-Section shall require a Party to apply the provisions of this Sub-Section in respect of an individual component of a multi-component term that is protected as a geographical indication of the other Party listed in Annex 17 (Lists of geographical indications) which is identical with the term customary in common language as the common name for the associated good in the territory of that Party.

If a translation or a transliteration of a geographical indication of the other Party listed in Annex 17 (Lists of geographical indications) is identical with or contains within it a term customary in common language as the common name for a good in the territory of a Party, this Sub-Section shall not prejudice the right of any person to use that term in association with that

good in the territory of that Party.

Goods which, either at the date of entry into force of this Agreement, the date of any amendment to the list of geographical indications under Article 17.40 (Amendment of the list of geographical indications), or at the end of any relevant transitional periods provided for in Annex 17 (Lists of geographical indications), have been legally described and presented in a manner prohibited by this Agreement, may be marketed under the following conditions:

for wholesale, for a period of five years; and

for retail, until stocks are exhausted.

Use of geographical indications

Any person is eligible to use a geographical indication listed in Annex 17 (Lists of geographical indications) where their product conforms to the corresponding specification.

Once a geographical indication listed in Annex 17 (Lists of geographical indications) is protected under this Agreement, the use of such protected name shall not be subject to any registration of users or further charges.

Relationship to trademarks

The registration of a trademark which is identical or similar to a geographical indication of the other Party listed in Annex 17 (Lists of geographical indications) with respect to the associated good of that geographical indication and where that good does not meet the applicable product specification for that geographical indication, shall be refused or invalidated, ex officio or at the request of an interested party if a Party's laws or regulations so permits, provided that the application to register the trademark is submitted after the date of submission of the application for protection of the geographical indication in the territory of the Party concerned.

For geographical indications listed in Annex 17 (Lists of geographical indications) at the date of entry into force of this Agreement, the date of submission of the application for protection referred to in paragraph 1 shall be the date of entry into force of this Agreement.

For geographical indications added to the list in Annex 17 (Lists of geographical indications), as referred to in Article 17.40 (Amendment of the list of geographical indications), the date of submission of the application for protection referred to in paragraph 1 shall be the date on which the competent authority of a Party receives from the other Party a request to protect a geographical indication under this Agreement.

If a trademark has been applied for or registered in good faith, or if rights to a trademark have been acquired through use in good faith, in a Party before the date of submission of the application for protection of a geographical indication listed in Annex 17 (Lists of geographical indications),

measures adopted to implement this Sub-Section in that Party shall not prejudice the eligibility for or the validity of the registration of the trademark, or the right to use the trademark, on the basis that the trademark is identical or similar to a geographical indication. Such trademark may continue to be used and renewed, notwithstanding the protection of the geographical indication, provided that no grounds for the trademark's invalidity or revocation exist in the Party's law.

As regards geographical indications listed in Annex 17 (Lists of geographical indications) on the date of entry into force of this Agreement, an interested person may, in support of its claim that a trademark was applied for in bad faith, provide information to Australia's competent authorities that:

the trademark was applied for in Australia between the date of publication for objection and the date of entry into force of this Agreement; and

relates to a situation referred to in paragraph 1.

The competent authority shall consider such information, if admissible as evidence, with regard to the circumstances referred to in Article 17.31 (Bad faith applications).

Enforcement of protection

Each Party shall provide for enforcement of the protection of geographical indications listed in Annex 17 (Lists of geographical indications), ex officio or on request of an interested party, in accordance with its laws and regulations by appropriate administrative and judicial steps.

Article ARTICLE 17.46

Exceptions

Each Party may provide limited exceptions to the exclusive rights conferred by a patent in accordance with Article 30 of the TRIPS Agreement, including exceptions permitting acts that would otherwise infringe a patent if such acts are done for experimental purposes relating to the subject matter of a patented invention, as well as acts done for purposes connected with obtaining regulatory approval.

Extension of the period of protection conferred by a patent on medicinal products19

The Parties recognise that medicinal products protected by a patent in the territory of a Party may be subject to an administrative authorisation procedure before being put on that Party's market.

Each Party shall provide for a further period of protection, in accordance with its laws and regulations, for a medicinal product which is protected by a patent and which has been subject to an administrative authorisation procedure referred to in paragraph 1 to compensate the holder of a patent for a reduction of effective patent protection. The terms and conditions for the provision of such further protection, including its length, shall be determined in accordance with the laws and regulations of the Parties.

SUB-SECTION 6

PROTECTION OF UNDISCLOSED INFORMATION

Article ARTICLE 17.48

19 For Australia, a reference in this Article to medicinal product means pharmaceutical substance as provided for in its relevant law.

Scope of protection of trade secrets and definitions

Each Party shall provide for civil judicial procedures and remedies for any trade secret holder to prevent, and obtain redress for, the acquisition, use or disclosure of a trade secret in a manner contrary to honest commercial practices.

For the purposes of this Sub-Section, the following definitions apply:

"trade secret" means information that:

is secret in the sense that it is not, as a body or in the precise configuration and assembly of its components, generally known among or readily accessible to persons within the circles that normally deal with the kind of information in question;

has commercial value because it is secret; and

has been subject to reasonable steps under the circumstances, by the person lawfully in control of the information, to keep it secret; and

"trade secret holder" means any person lawfully controlling a trade secret.

For the purposes of this Sub-Section, at least the following conducts shall be considered contrary to honest commercial practices:

the acquisition of a trade secret without the consent of the trade secret holder, carried out by unauthorised access to, or by appropriation of or copying of any objects, documents, materials, substances or electronic files that are lawfully under the control of the trade secret holder and that contain the trade secret or from which the trade secret can be deduced;

the use or disclosure of a trade secret without the consent of the trade secret holder, by a person who is found to be in breach of a duty to limit the use of the trade secret or of a duty not to disclose the trade secret; or

acquisition, use or disclosure by a person who knew or ought, under the circumstances, to

have known20 that the trade secret had been obtained from another person who was using or disclosing the trade secret unlawfully.

Civil judicial procedures and remedies as regards trade secrets

Each Party shall ensure that its judicial authorities have the authority to order that any person participating in or having access to documentation, evidence or hearings of civil judicial proceedings referred to in Article 17.48(1) (Scope of protection of trade secrets and definitions) is not permitted to use or disclose, for a purpose other than the conduct of the proceedings, any trade secret, or alleged trade secret, which that person has become aware of as a result of such participation or access.

In the proceedings referred in Article 17.48(1) (Scope of protection of trade secrets and definitions), each Party shall provide that its judicial authorities have the authority, in accordance with the law of that Party, at least to:

order provisional measures or injunctive relief to prevent the acquisition, use or disclosure of the trade secret in a manner contrary to honest commercial practices;

order the person whose conduct was considered contrary to honest commercial practices to pay the trade secret holder damages;

take specific measures to preserve the confidentiality of any trade secret or alleged trade secret produced in such proceedings. Such specific measures may include the possibility of restricting access to certain documents and hearings, and of making available a non-confidential version of judicial decision in which the passages containing trade secrets have been removed or redacted; and

20 For the purposes of this Article, a Party may interpret "ought to have known" as "was grossly negligent in failing to know".

impose sanctions on persons for violation of judicial orders concerning the protection of a trade secret or alleged trade secret produced in such proceedings.

Each Party may provide in its law circumstances in which the conduct contrary to honest commercial practices is exempted from liability, such as if such conduct is carried out to reveal misconduct, wrongdoing or illegal activity or for the purpose of protecting a legitimate interest recognised by the law of a Party.

Protection of data submitted to obtain an authorisation to put a medicinal product21 on the market

Subject to any conditions set out in the laws and regulations of a Party, each Party shall ensure that for a period of at least five years from the date of a first marketing authorisation in the Party concerned (hereinafter referred to as "first marketing authorisation"), a medicinal product subsequently authorised on the basis of test or other data as defined or protected in its laws and regulations, submitted in the application for the first marketing authorisation shall not be placed on the market without the consent of the holder of the first marketing authorisation.22

Each Party shall protect, in accordance with paragraph 1, test or other data referred to in paragraph 1 against disclosure, except where it is necessary to protect the public or unless steps are taken to ensure that the test or other data are protected against unfair commercial use.

21 For Australia, a reference in this Article to medicinal product means therapeutic good as provided for in its relevant law.

22 For greater certainty, on the date of entry into force of this Agreement, Australia meets this obligation through section 25A of the Therapeutic Goods Act 1989 (Cth).

Protection of test data or other data submitted to obtain marketing authorisation for plant protection products23

Subject to any conditions set out in the law of a Party, if a Party requires, as a condition for granting marketing authorisation for a plant protection product, the submission of test data or other data as defined or protected in its laws and regulations, that Party shall not grant the marketing authorisation for another product on the basis of such test or other data without the consent of the person that previously submitted such test or other data. The period of protection shall be for at least 10 years from the date of marketing authorisation of the plant protection product, subject to any conditions set out in the law of a Party.

The test data or other data referred to in paragraph 1 should fulfil the following conditions to the extent required by the law of a Party:

be necessary for the marketing authorisation or for an amendment of an authorisation in order to allow the use on other crops; and

be certified as compliant with principles of good laboratory practice or of good experimental practice.

Each Party shall endeavour to avoid duplicative testing on vertebrate animals.

Article ARTICLE 17.52

New varieties of plants

23 For Australia, a reference in this Article to plant protection product means agricultural chemical product as provided for in its relevant law.

Each Party shall provide for the protection of new varieties of all plant genera and species in accordance with its rights and obligations under the International Convention for the Protection of New Varieties of Plants (UPOV), adopted in Paris on 2 December 1961, as revised at Geneva

on 19 March 1991.

SECTION C

ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS

Article ARTICLE 17.53

General obligations

The Parties reaffirm their commitments under the TRIPS Agreement and in particular under its Part III, and shall provide for the following complementary measures, procedures and remedies regarding the enforcement of intellectual property rights.24

Each Party shall ensure that enforcement procedures as specified in this Section are available under its law so as to permit effective action against any act of infringement of intellectual property rights covered by this Chapter, including expeditious remedies to prevent infringements and remedies that constitute a deterrent to future infringements. Those procedures shall be proportionate and shall be applied in such a manner as to avoid the creation of barriers to legitimate trade and to provide for safeguards against their abuse.25

For the purposes of this Section, each Party shall ensure that its procedures concerning the enforcement of intellectual property rights are fair and equitable. Those procedures shall not be

24 For the purposes of this Section, trade secrets (covered by Article 17.49 (Civil judicial procedures and remedies as regards trade secrets) are excluded from the definition of "intellectual property rights".

25 For greater certainty, Article 48(1) of the TRIPS Agreement applies, mutatis mutandis, to enforcement procedures covered by this Section.

unnecessarily complicated or costly, or entail unreasonable time-limits or unwarranted delays.

This Section does not create any obligation:

to put in place a judicial system for the enforcement of intellectual property rights distinct from that for the enforcement of law in general, nor does it affect the capacity of each Party to enforce its law in general; or

with respect to the distribution of resources between the enforcement of intellectual property rights and the enforcement of law in general.

In implementing this Section in its intellectual property system, each Party shall take into account the need for proportionality between the seriousness of the infringement of the intellectual property right and the applicable remedies and penalties, as well as, where applicable, if provided by the law of the Party, the interests of third parties.

Persons entitled to apply for measures, procedures and remedies

Each Party shall recognise as persons entitled to seek application of the measures, procedures and remedies referred to in this Section and in Sections 1 to 4 of Part III of the TRIPS Agreement:

the holders of intellectual property rights in accordance with the law of the Party;

persons authorised to use those rights, in particular exclusive licensees, in so far as permitted by and in accordance with the law of the Party; and

federations and associations,26 to the extent permitted by and in accordance with the law of the Party.

26 The phrase "federations and associations" includes collective rights-management bodies and, in the Union context, professional defence bodies which are regularly recognised as having a right to represent holders of intellectual property rights.

SUB-SECTION 1

CIVIL AND ADMINISTRATIVE ENFORCEMENT

Article ARTICLE 17.55

Measures to preserve evidence

Each Party shall ensure that, even before the commencement of proceedings on the merits of the case, its judicial authorities have the authority to order, on application by a party who has presented reasonably available evidence sufficient to support their claims that their intellectual property right has been infringed or is about to be infringed, and subject to appropriate safeguards, prompt and effective provisional measures to preserve relevant evidence in regard to the alleged infringement, subject to the protection of confidential information.

The measures to preserve evidence referred to in paragraph 1 may include, in appropriate cases, the detailed description, or the physical seizure, or other taking into custody in accordance with the law of the Party, of the alleged infringing goods, the materials and implements used in the production or distribution of these goods and the documentary evidence, relevant to the alleged infringement.

In the case of an alleged infringement of an intellectual property right committed on a commercial scale or in other cases subject to the law of a Party, each Party shall ensure that its judicial authorities have the authority to order, where appropriate, the communication of banking, financial or commercial documents under the control of the alleged infringer, subject to the protection of confidential information.

Each Party shall ensure that its judicial authorities have the authority to adopt provisional measures to preserve relevant evidence in respect of the alleged infringement of an intellectual property right without the defendant having been heard, where appropriate, in particular if any delay is likely to cause irreparable harm to the right holder, or if there is a demonstrable risk of evidence being destroyed.

Each Party shall ensure that its judicial authorities have the authority to require the applicant, with respect to measures to preserve evidence, to provide a security or equivalent assurance sufficient to protect the defendant and to prevent abuse.

If the measures to preserve evidence are revoked or if they lapse due to any act or omission by the applicant, or where it is subsequently found that there has been no infringement or threat of infringement of an intellectual property right, the judicial authorities shall have the authority to order the applicant, upon request of the defendant, to provide the defendant appropriate compensation for any injury caused by those measures.

Right of information

Without prejudice to its law governing privilege, the protection of confidentiality of information sources or the processing of personal data, each Party shall ensure that, in civil judicial proceedings concerning the enforcement of an intellectual property right, its judicial authorities have the authority, upon a justified request of the right holder, to order the infringer or the alleged infringer, to provide to the right holder or to the judicial authorities, at least for the purpose of collecting evidence, relevant information as provided for in the law of that Party, that the infringer or alleged infringer possesses or controls.

The information referred to in paragraph 1 may include information regarding any person involved in any aspect of the infringement or alleged infringement and regarding the means of production or the channels of distribution of the infringing or allegedly infringing goods or services, including the identification of third persons alleged to be involved in the production and distribution of those goods or services and of their channels of distribution.

Provisional and precautionary measures

Each Party shall ensure that its judicial authorities have the authority to order, at the request of the applicant, prompt and effective provisional measures:

against the alleged infringer or, where appropriate and subject to each Party’s law, a third party,27 over whom the relevant judicial authority exercises jurisdiction and whose services are used to infringe an intellectual property right, to prevent any imminent infringement of an intellectual property right, or to forbid, on a provisional basis, the continuation of the alleged

infringement of that right;

including, if appropriate, the seizure or delivery up of goods suspected of infringing an intellectual property right, so as to prevent their entry into or movement within the channels of commerce.

In the case of an alleged infringement committed on a commercial scale or in other cases subject to a Party's law, a Party shall ensure that if the applicant demonstrates circumstances likely to endanger the recovery of damages, its judicial authorities have the authority to order, subject to the law of that Party, the precautionary seizure of the movable and immovable property of the alleged infringer, including the blocking of the alleged infringer's bank accounts and other assets. To that end, the judicial authorities have the authority to order, where appropriate, the communication of bank, financial or commercial documents, or appropriate access to the relevant information.

Each Party shall ensure that its judicial authorities have the authority to adopt provisional measures referred to in paragraph 1 and 2 without the defendant having been heard, where appropriate, in particular if any delay is likely to cause irreparable harm to the right holder, or if there is a demonstrable risk of evidence being destroyed.

Each Party shall ensure that its judicial authorities have the authority to require the applicant, with respect to provisional measures referred to in paragraphs 1 and 2, to provide any reasonably available evidence in order to satisfy themselves with a sufficient degree of certainty that the applicant's right is being infringed or that such infringement is imminent, and order the applicant to provide a security or equivalent assurance sufficient to protect the defendant and to prevent abuse.

27 For the purposes of this Article, a Party may provide that a "third party" includes an intermediary.

If the provisional measures are revoked or if they lapse due to any act or omission by the applicant, or if it is subsequently found that there has been no infringement or threat of infringement of an intellectual property right, the judicial authorities shall have the authority to order the applicant, upon request of the defendant, to provide the defendant appropriate compensation for any injury caused by those measures.

Remedies

Each Party shall ensure that its judicial authorities have the authority to order, at the request of the applicant and without prejudice to any damages due to the right holder by reason of the infringement, and without compensation of any sort, the destruction, or at least the definitive removal from the channels of commerce, of goods that they have found to be infringing an intellectual property right.28 If appropriate, a Party's judicial authorities may also order destruction of materials and implements predominantly used in the creation or manufacture of such goods.

Each Party shall ensure that its judicial authorities have the authority to order that the measures specified in paragraph 1 are carried out at the expense of the infringer, unless particular reasons are invoked for not doing so.

Injunctions

Each Party shall ensure that, its judicial authorities have the authority to issue against an infringer of an intellectual property right, as well as, where appropriate and subject to the Party's law, against a

28 In regard to counterfeit trademark goods, the simple removal of the trademark unlawfully affixed is not sufficient, other than in exceptional circumstances, to permit the release of goods into the channels of commerce.

third party29 over whom the relevant judicial authority exercises jurisdiction and whose services are used to infringe an intellectual property right, an injunction aimed at prohibiting or stopping the infringement.30

Alternative measures

Each Party may provide that the judicial authorities, in appropriate cases and at the request of the person liable to be subject to the measures provided for in Article 17.58 (Remedies) or Article 17.59 (Injunctions), may order pecuniary compensation to be paid to the injured party instead of applying the measures provided for in those Articles, in accordance with each Party's law.

Damages

Each Party shall ensure that its judicial authorities have the authority to order the infringer, who knowingly or with reasonable grounds to know, engaged in infringing activity, to pay the right holder damages adequate to compensate for the injury the right holder has suffered as a result of the infringement.

In determining the amount of damages for infringements of intellectual property rights, each Party shall ensure its judicial

authorities have the authority to take into account all appropriate aspects for the calculation, both economic and other factors subject to each Party's laws, such as the moral prejudice caused to the right holder, or lost profits suffered by the injured party. A Party may provide in its law presumptions for determining the amount of damages.

29 For the purposes of this Article, a Party may provide that a "third party" includes an intermediary.

30 This Section is without prejudice to Article 44(2) of the TRIPS Agreement.

Where the infringer did not knowingly, or with reasonable grounds to know, engage in infringing activity, a Party may provide that the judicial authorities may order in favour of the injured party the recovery of profits or the payment of damages, which may be pre-established.

Legal costs

Each Party shall ensure that its judicial authorities have the authority to order, at the conclusion of civil judicial proceedings concerning infringement of intellectual property rights, that the successful party be awarded payment by the unsuccessful party of legal costs and other expenses, which may include appropriate attorney's fees, as provided for under its law.

Publication of judicial decisions

In civil judicial proceedings instituted for infringement of an intellectual property right, each Party shall take appropriate measures, in accordance with its law, to publish or make available to the public information on final judicial decisions. Each Party may provide for other additional publicity measures which are appropriate to the particular circumstances, including prominent advertising of such decisions.

Presumption of authorship or ownership

In civil proceedings involving copyright or related rights, each Party shall provide for a presumption that, in the absence of proof to the contrary, the person whose name is indicated as the author or related right holder of the work or subject matter in the usual manner is the designated right holder of such work or subject matter, and consequently entitled to institute infringements proceedings.

Administrative procedures

To the extent that any civil remedy can be ordered as a result of administrative procedures on the merits of a case, such procedures shall conform to principles equivalent in substance to those set out in this Sub-Section.

Article ARTICLE 17.66

Border measures

With respect to goods under customs control, each Party shall adopt or maintain procedures under which a right holder may submit applications requesting a Party's competent authorities to suspend the release of or detain goods suspected of infringing at least trademarks, copyright and related rights, and geographical indications (hereinafter referred to as "suspected goods"). Each Party shall provide that an application to suspend the release of, or to detain, suspected goods, which may apply to multiple shipments, remains in force for at least one year from the date of application, or for the period during which the good is protected by the intellectual property rights referred to in the first sentence, whichever is shorter. If an application to suspend the release of, or to detain, suspected goods remains in force for a period of one year or less, the applicant shall be given an opportunity to apply for an extension of the period to suspend the release or detention of suspected goods. Formalities to extend the period shall not be unnecessarily burdensome.

Each Party shall provide that any right holder initiating procedures under paragraph 1 shall be required to provide sufficient information that may reasonably be expected to be within the right

holder's knowledge to make the suspected goods readily recognisable by a Party's competent authorities.31 The requirement to provide that information shall not be unnecessarily burdensome.

Each Party shall establish or maintain electronic systems for the management by its competent authorities of applications referred to in paragraph 1, that have been granted or recorded.

Each Party shall ensure that its competent authorities have the authority to require a right holder initiating procedures to suspend the release of or to detain of suspected goods, to provide a reasonable security or equivalent assurance sufficient to protect the defendant and the competent authorities and to prevent abuse. Each Party shall provide that such security or equivalent assurance does not unreasonably deter recourse to those procedures.

If a Party's competent authorities have detained or suspended the release of suspected goods, that Party shall ensure that its competent authorities have the authority to inform, subject to a Party's law, without undue delay the right holder, upon the right holder's request, of the names and addresses of the consignor, exporter, consignee or importer,32 a description of the suspected goods, the quantity of the suspected goods, the country of origin, provenance and destination of the suspected goods, provided this information is known to that Party's competent authorities.

Each Party shall provide that, if requested by the customs authorities, the holder of the granted or recorded application shall be obliged to reimburse the costs incurred by the customs authorities, or other parties acting on behalf of customs authorities, from the moment of detention or suspension of the release of the suspected goods, including storage, handling, and any costs relating to the destruction or disposal of the suspected goods.

Each Party's competent authorities should grant or record an application within a reasonable period of time.

31 For the purposes of this Article, unless otherwise specified, competent authorities may include the appropriate judicial, administrative or law enforcement authorities under a Party's law.

32 For the Union, "importer" means the declarant or the holder of the suspected goods.

Each Party shall provide that its competent authorities may act upon their own initiative to suspend the release or detain suspected goods with respect to goods under customs control that are imported or destined for export.

Customs authorities shall, when appropriate, apply risk analysis to identify, suspend the release of, or detain, suspected goods, including goods sent in small consignments.

Each Party shall have in place procedures allowing for the destruction of suspected goods, without there being any need for prior administrative or judicial proceedings for the formal determination of an infringement.33 When suspected goods are not destroyed, each Party shall ensure that, except in exceptional circumstances, such goods are disposed of outside the channels of commerce in such a manner as to avoid any harm to the right holder and in accordance with the Party's laws.

Each Party may have in place procedures allowing for the swift destruction of counterfeit trademark and pirated goods sent in postal or express couriers' consignments.

Each Party may decide not to apply this Article to the import of goods put on the market in another country by or with the consent of the right holders.

A Party may exclude from the application of this Article goods of a non-commercial nature contained in travellers' personal luggage.

The customs authorities of each Party shall, as appropriate, provide for regular engagement on the enforcement of intellectual property rights, with interested parties involved in customs related activities in a Party, including the business community.

The Parties agree to cooperate in respect of international trade in suspected goods. In particular, the Parties agree to share, where relevant and appropriate, information on trade in suspected goods affecting a Party.

33 For the Union, this paragraph applies where the persons concerned agree or do not oppose the destruction of the suspected goods. For Australia, this paragraph applies where the person concerned forfeits the suspected goods.

Without prejudice to other forms of cooperation envisaged in this Agreement, the customs authorities of the Parties shall provide each other with mutual administrative assistance in the matters covered by this Sub-Section for which the customs authorities of each Party have responsibility, in accordance with the provisions of Protocol on mutual administrative assistance in customs matters.

Article ARTICLE 17.67

Cooperation

With a view to facilitating the implementation of this Chapter, the Parties shall endeavour to cooperate within the Committee on Investment, Services, Digital Trade, Government Procurement and Intellectual Property Rights, including Geographical Indications, in international fora, via various agencies or as otherwise deemed appropriate.

The areas of cooperation may include:

exchange on developments in domestic and international intellectual property law and policy;

exchange on intellectual property administration and registration systems;

education and promotion of awareness relating to the protection and enforcement of intellectual property, including relating to the impact of intellectual property rights infringement;

engagement with SMEs regarding the use, protection and enforcement of intellectual property rights;

exchange of information and experience in intellectual property issues relevant to:

SMEs;

science, technology and innovation activities; and

the generation, transfer and dissemination of technology;

exchange on policies involving the use of intellectual property for research, innovation and economic growth;

the implementation of multilateral intellectual property agreements, such as those concluded or administered under the auspices of the WIPO;

technical assistance for developing countries;

exchange on best practices, projects and programmes aimed at reducing intellectual property rights infringements, including:

supporting the use of adequate tools and new technologies to prevent and detect counterfeiting activities;

sharing of experience on enforcement of intellectual property rights by law enforcement authorities, administrative and judicial bodies; and

voluntary stakeholders initiatives to reduce intellectual property infringements, including over the internet; and

improving the international intellectual property regulatory framework.

Voluntary stakeholder initiatives

Each Party shall endeavour to promote cooperative efforts within the business community to effectively address intellectual property infringement, including in the digital environment, while preserving legitimate competition. This may include encouraging the establishment of public or private advisory groups, or other possible initiatives, to address issues of intellectual property infringement.

Committee on Investment, Services, Digital Trade, Government Procurement and Intellectual Property Rights, including Geographical Indications

The Committee on Investment, Services, Digital Trade, Government Procurement and Intellectual Property Rights, including Geographical Indications is established pursuant to Article 22.5(1) (Specialised committees).

In addition to the functions specified in Article 22.6 (Functions of the specialised committees), the Committee on Investment, Services, Digital Trade, Government Procurement and Intellectual Property Rights, including Geographical Indications shall have the following functions:

provide a forum for exchanging information on geographical indications for the purposes of considering their protection in accordance with Article 17.41 (Protection of geographical indications);

further to Article 17.41(2) (Protection of geographical indications), deal with any matter arising from product specifications of protected geographical indications of the other Party listed in Annex 17 (Lists of geographical indications);

recommend to the Trade Committee to amend Annex 17 (Lists of geographical indications), in accordance with Article 17.40 (Amendment of the list of geographical indications), including removal of geographical indications where they cease to be protected in the territory of the Party concerned; and

exchange information and experiences on issues related to intellectual property, including in the area of geographical indications, including legislative and policy developments, and any

other matter of mutual interest related to the implementation and operation of this Chapter.

Chapter 18. TRADE AND SUSTAINABLE DEVELOPMENT

Article ARTICLE 18.1

Objective

The Parties acknowledge the Agenda 21 and the Rio Declaration on Environment and Development, adopted at Rio de Janeiro on 14 June 1992, the International Labour Organization (hereinafter referred to as "ILO") Declaration on Fundamental Principles and Rights at Work and its Follow-up, adopted by the International Labour Conference (hereinafter referred to as "ILC") on 18 June 1998 (hereinafter referred to as "ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up"), the ILO Declaration on Social Justice for a Fair Globalization, adopted by the ILC on 10 June 2008 (hereinafter referred to as "ILO Declaration on Social Justice for a Fair Globalization") and the outcome document entitled "Transforming our world: the 2030 Agenda for Sustainable Development and the 17 Sustainable Development Goals", adopted by the UN General Assembly on 25 September 2015 (hereinafter referred to as "2030 Agenda").

The Parties recognise that sustainable development encompasses economic growth, social inclusion and environmental protection, all three being interconnected and mutually reinforcing. The Parties affirm their commitment to promote a mutually supportive relationship between trade and investment, and sustainable development.

The Parties recognise the urgent need to address climate change, as agreed in the Paris Agreement, and outlined by the Intergovernmental Panel on Climate Change ("IPCC") in its

assessment reports and its Special Report entitled "Global Warming of 1.5°C", as a contribution to the economic, social and environmental objectives of sustainable development.

In light of the above, the objective of this Chapter is to enhance the contribution of the Parties' trade and investment relationship to sustainable development, notably its labour and environmental dimensions.

Right to regulate and levels of protection

The Parties recognise the right of each Party to determine its sustainable development policies and priorities, to establish the levels of domestic environmental and labour1 protection it deems appropriate and to adopt or modify its relevant law and policies in a manner consistent with its commitments under the international agreements and labour standards referred to in this Chapter.

Each Party shall strive to ensure that its relevant law and policies provide for, and encourage, high levels of environmental and labour protection, and shall strive to improve such levels of protection.

A Party shall not weaken or reduce the levels of protection afforded in its environmental or labour law in order to encourage trade or investment.2 A Party shall not, in order to encourage trade or investment, waive or otherwise derogate from, or offer to waive or otherwise derogate from, its environmental or labour law in a manner that weakens or reduces the levels of protections afforded in such law.3

1 When labour is referred to in this paragraph, it includes social protection in accordance with the ILO Declaration on Social Justice for a Fair Globalization.

2 In so far as this is in accordance with Australia's constitutional structure, this obligation shall not apply at the sub-central level of government. The Commonwealth Government of Australia shall endeavour to ensure that governments at the sub-central level in Australia comply with this obligation.

3 For greater certainty, this paragraph does not prevent either Party from amending or otherwise modifying its environmental or labour law, provided such amendments or modifications are not inconsistent with this Chapter.

A Party shall not, through a sustained or recurring course of action or inaction, fail to effectively enforce its environmental or labour law in a manner affecting trade and investment between the Parties. Each Party retains the right to exercise reasonable discretion and to make bona fide decisions with regard to the allocation of enforcement resources in accordance with its priorities for the enforcement of its environmental or labour law, provided that the exercise of that discretion and those decisions are not inconsistent with its obligations under this Chapter.

The Parties recognise that environmental and labour standards should not be used for protectionist trade purposes and that it is inappropriate to apply their respective environmental or labour law or measures in a manner which would constitute a disguised restriction on trade or investment or an unjustifiable or arbitrary discrimination.

Multilateral labour standards and agreements

The Parties affirm their commitment to promote the development of international trade in a way that is conducive to decent work for all, as expressed in the ILO Declaration on Social Justice for a Fair Globalization.

Recognising the ILO as the competent body to set internationally recognised labour standards, and in accordance with the ILO Constitution, adopted on 28 June 1919, and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, as amended in 2022, each Party shall respect, promote and realise the principles concerning the fundamental rights at work, as defined in the fundamental ILO Conventions4, which are:

4 For greater certainty, the fundamental ILO Conventions are: the Convention concerning Freedom of Association and Protection of the Right to Organise (C087), adopted at San Francisco on 9 July 1948; the Convention concerning the Application of the Principles of the Right to Organise and to Bargain Collectively (C098), adopted at Geneva on 1 July 1949; the Convention concerning Forced or Compulsory Labour (C029), adopted at Geneva on 28 June 1930; the Convention concerning the Abolition of Forced Labour (C105), adopted at Geneva on 25 June 1957; the Convention concerning Minimum Age for Admission to Employment (C138), adopted at Geneva on 26 June 1973; the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (C182), adopted at

freedom of association and the effective recognition of the right to collective bargaining;

the elimination of all forms of forced or compulsory labour5;

the effective abolition of child labour;

the elimination of discrimination in respect of employment and occupation; and

a safe and healthy working environment.

Each Party shall make continued and sustained efforts to ratify the fundamental ILO Conventions to which it is not yet a party.

The Parties shall regularly exchange information on their respective situations with regard to the ratification of ILO Conventions and Protocols that are classified as up-to-date by the ILO.

Each Party shall effectively implement the ILO Conventions and Protocols ratified by Australia and the Member States respectively and classified as up-to-date by the ILO.

Recalling the ILO Declaration on Social Justice for a Fair Globalization, the Parties affirm that the violation of fundamental principles and rights at work cannot be invoked or otherwise used as a legitimate comparative advantage, and that labour standards should not be used for protectionist trade purposes.

Each Party shall seek to promote, including in its law and practice, the ILO Decent Work Agenda as set out in the Declaration on Social Justice for a Fair Globalization adopted by the ILC

Geneva on 17 June 1999; the Convention concerning Equal Remuneration (C100), adopted at Geneva on 29 June 1951; the Convention concerning Discrimination in Respect of Employment and Occupation (C111), adopted at Geneva on 25 June 1958; the Convention concerning Occupational Safety and Health and the Working Environment (C155), adopted at Geneva on 22 June 1981; and the Convention concerning the Promotional Framework for Occupational Safety and Health (C187), adopted at Geneva on 15 June 2006.

5 In this context, the Parties underline the importance of ratification of the Protocol of 2014 to the Forced Labour Convention, 1930, adopted by the ILC on 11 June 2014.

on 10 June 2008, as amended in 2022, in line with each Party's circumstances and priorities, in particular with regard to:

decent working conditions for all with regard to, inter alia, wages and earnings, working hours, other conditions of work and social protection; and

social dialogue on labour matters among workers and employers and their respective organisations, and with relevant government authorities.

Each Party shall, in line with ILO principles and its obligations under relevant ILO Conventions it has ratified:

adopt and implement measures and policies regarding occupational safety and health, including compensation in case of occupational injury or illness; and

maintain an effective labour inspection system.

The Parties recognise the importance of promoting decent working conditions of seafarers and fishers consistently with the relevant ILO Conventions that Australia and the Member States have respectively ratified, in particular the Maritime Labour Convention, adopted at Geneva on 23 February 2006, and the Work in Fishing Convention (No. 188), adopted at Geneva on 14 June 2007.

In implementing the provisions of this Article, the Parties recognise the importance of the ILO supervisory system and of promoting its effectiveness and furthering the ILO objectives.

The Parties shall work together to strengthen their cooperation on trade-related aspects of labour policies and measures, bilaterally, regionally and in international fora, as appropriate, including in the ILO. Such cooperation may cover, inter alia:

trade-related aspects of implementation of fundamental, priority and other up-to-date ILO Conventions;

trade-related aspects of the ILO Decent Work Agenda, including on the inter-linkages between trade and full and productive employment, labour market adjustment, core labour

standards, decent work in global supply chains, social protection and social inclusion, social dialogue and gender equality;

trade-related aspects of eliminating all forms of forced or compulsory labour, including forced or compulsory child labour; and

collection and use of labour statistics.

Trade and gender equality

The Parties recognise that inclusive trade policies contribute to advancing women's economic empowerment and gender equality, in line with Sustainable Development Goal 5 of the 2030 Agenda and the Joint Declaration on Trade and Women's Economic Empowerment on the Occasion of the WTO Ministerial Conference, held in Buenos Aires in December 2017. The Parties acknowledge the important contribution by women to economic growth through their participation in economic activity, including international trade. The Parties underline their intention to implement this Agreement consistent with gender equality and women's economic empowerment.

Each Party shall effectively implement its obligations under international agreements addressing gender equality or women's rights to which it is a party, including the Convention on the Elimination of all Forms of Discrimination Against Women, adopted by the UN General Assembly on 18 December 1979, noting in particular those provisions related to eliminating discrimination against women in economic life and in the field of employment. In this respect, the Parties reiterate their respective commitments pursuant to Article 18.3 (Multilateral labour standards and agreements) regarding the effective implementation of the ILO Conventions related to gender equality and the elimination of discrimination in respect of employment and occupation.

The Parties reiterate their commitments pursuant to Article 18.2 (Right to regulate and levels of protection) in relation to their respective law aimed at ensuring gender equality.

The Parties shall work together to strengthen their cooperation on trade-related aspects of gender equality policies and measures, bilaterally or in other relevant fora, as appropriate, including

through activities to improve the capacity and conditions for women, including workers, businesswomen and entrepreneurs, to access and benefit from the opportunities created by this Agreement. Such cooperation may cover, inter alia, exchange of information and best practices related to collection of disaggregated data, gender analysis of, and gender statistics related to trade.

The Parties agree on the importance of the analysis of gender equality implications of trade policy and of monitoring and assessing, in accordance with their domestic procedures and resources, the impact of the implementation of this Agreement on gender equality and opportunities provided for women in relation to trade.

Multilateral environmental agreements

The Parties recognise the importance of the UN Environment Assembly ("UNEA") of the UN Environment Programme ("UNEP") and multilateral environmental agreements (hereinafter referred to as "MEAs") to which they are party, as a response of the international community to global or regional environmental challenges, and underline the need to promote the mutual supportiveness between trade and environment policies.

In light of paragraph 1, each Party shall effectively implement the MEAs, and their protocols, to which it is a party.

The Parties shall regularly exchange information on their respective situations as regards the ratifications of MEAs, including their protocols and amendments, including through existing dialogues.

The Parties affirm the right of each Party to adopt or maintain measures to further the objectives of MEAs to which it is a party, consistently with this Agreement.6

The Parties recognise the importance of cooperation to protect the environment as they strengthen their trade and investment relations. The Parties shall work together to strengthen their

6 The Parties recall in particular point (c) of paragraph 3 of Article 23.1 (General exceptions).

cooperation on trade-related aspects of environmental policies and measures bilaterally, including through existing dialogues, regionally and in international fora, as appropriate. Such cooperation may cover, inter alia:

sharing information on policies, best practices and initiatives in order to promote a circular economy, sustainable production and consumption, and green growth, and in order to minimise the generation of waste and to abate pollution;

sharing information on policies, best practices and initiatives to reduce plastics waste, increase recycling rates and minimise plastic leakage into the environment;

sharing information on policies, practices and initiatives towards a sustainable ocean economy, underpinned by a healthy and resilient marine environment; and

other trade-related aspects of MEAs.

Trade and climate change

The Parties recognise the importance of taking urgent action to combat climate change and its impacts, and the role of trade in pursuing this objective, consistent with the UN Framework Convention on Climate Change, done at New York on 9 May 1992 (hereinafter referred to as "UNFCCC"), with the purpose and goals of the Paris Agreement, and with other MEAs and multilateral instruments in the area of climate change to which they are a party or member.

In light of paragraph 1, each Party shall effectively implement the UNFCCC and the Paris Agreement, including commitments with regard to its Nationally Determined Contributions. The commitment to effectively implement the Paris Agreement includes the obligation to refrain from any act or omission which materially defeats the object and purpose of the Paris Agreement.

In light of paragraph 1, each Party shall:

promote the mutual supportiveness of trade and climate policies and measures that contribute to the transition to a net zero and low greenhouse gas emission, sustainable circular economy and climate-resilient development; and

facilitate and promote trade and investment in goods and services of particular relevance for climate change mitigation and adaptation, such as renewable energy and energy-efficient products and services, including through addressing related non-tariff barriers or through policy frameworks conducive to the deployment of the best available technologies.

The Parties shall work together to strengthen their cooperation on trade-related aspects of climate change policies and measures, bilaterally, regionally and in international fora, as appropriate, including under the UNFCCC, the Paris Agreement, the Montreal Protocol on Substances that Deplete the Ozone Layer, done at Montreal on 16 September 1987 (hereinafter referred to as "Montreal Protocol") as well as in the WTO, and in the International Maritime Organization (hereinafter referred to as "IMO"). Such cooperation, including sharing information, may cover, inter alia:

actions to address climate change and transition to a net zero emissions economy including the implementation of the Paris Agreement, such as low emissions technologies, clean and renewable energy, energy efficiency, emission abatement policies and measures, including mitigating the risk of carbon leakage, sustainable transport, sustainable and climate-resilient infrastructure development and adaptation, emissions monitoring, reporting and verification;

supporting the development and adoption of ambitious and effective greenhouse gas emissions reduction measures by the IMO to be implemented by ships engaged in international trade; and

supporting an ambitious phase-out of ozone-depleting substances and phase-down of hydrofluorocarbons in accordance with the terms of the Montreal Protocol through:

measures to control their production, consumption and trade;

the introduction of environmentally friendly alternatives to them;

the updating of safety and other relevant standards; and

combating the illegal trade of substances regulated by the Montreal Protocol.

Trade and biological diversity

The Parties recognise the importance of conservation and the sustainable use of biological diversity in achieving sustainable development in a manner consistent with relevant MEAs and their protocols to which they are party, including the Convention on Biological Diversity, done at Rio de Janeiro on 5 June 1992 (hereinafter referred to as "CBD"), its Protocols and the decisions adopted thereunder. The Parties acknowledge the role that trade can play in pursuing conservation and sustainable use of biological diversity.

The Parties recognise the importance of respecting, preserving and maintaining knowledge and practices of indigenous and local communities embodying traditional lifestyles that contribute to the conservation and sustainable use of biological diversity, and the role of international trade in supporting these objectives.

In light of paragraph 1, each Party shall:

promote and encourage the conservation and sustainable use of biological diversity;

promote trade in products derived from a sustainable use of biological resources in order to contribute to the conservation of biodiversity; and

take and maintain appropriate measures to conserve biological diversity when it is subject to pressures linked to trade and investment, in particular to prevent the spread of invasive alien species.

The Parties recognise the importance of cooperation to protect the environment and to promote sustainable development as they strengthen their trade and investment relations. Accordingly, the Parties shall cooperate, including by exchange of information and experiences, on

trade-related aspects of biodiversity policies and measures, bilaterally, regionally and in international fora, as appropriate, including in the CBD. Such cooperation may cover, inter alia:

initiatives and good practices concerning trade in natural resource-based products with the aim of conserving biological diversity;

trade and conservation and sustainable use of biological diversity;

the protection, restoration, maintenance and valuation of ecosystems and ecosystem services, and related economic instruments; and

access to genetic resources, and the fair and equitable sharing of benefits from their utilisation consistent with the objectives of the CBD.

Trade and wildlife conservation

The Parties recognise the importance of ensuring that international trade of wild animals and plants does not threaten their survival, as set out in the Convention on International Trade in Endangered Species of Wild Fauna and Flora, done at Washington on 3 March 1973 (hereinafter referred to as "CITES").

Accordingly, in light of paragraph 1, each Party shall:

implement effective measures to combat illegal wildlife trade, including with respect to trade originating from other CITES parties and by working cooperatively with other stakeholders, as appropriate; and

promote the long-term conservation and sustainable use of the animal and plant species listed in the Appendices to the CITES and the CITES as an instrument to meet these objectives, including through the inclusion of animal and plant species in the Appendices to the CITES where their conservation status is considered at risk because of international trade.

The Parties shall work together to strengthen their cooperation on matters related to trade and wildlife conservation, bilaterally, regionally and in international fora, as appropriate. Such cooperation may cover, inter alia, tackling illegal wildlife trade, including through initiatives to reduce demand for illegal wildlife products and initiatives to enhance information sharing.

Trade and sustainable forest management

The Parties recognise the importance of sustainable forest management and the role of trade in pursuing this objective. The Parties acknowledge their role as major consumers, producers and traders of forest products and the importance of the forest sector to the development and livelihood of communities and indigenous peoples, and the need to address drivers of deforestation from outside the forest sector.

The Parties acknowledge the importance of:

the sustainable management of forests for addressing climate change and biodiversity loss and providing environmental, economic and social benefits for present and future generations; and

trade in forest products harvested from sustainably managed forests in accordance with the laws of the country of harvest, and in products from deforestation-free supply chains.

In light of paragraphs 1 and 2, each Party shall:

implement measures which contribute to combatting illegal logging and related trade and promote trade in legally harvested forest products;

encourage trade in forest products that are sourced from sustainably managed forests and harvested in accordance with the relevant laws of the country of harvest;

cooperate bilaterally and in international fora and exchange information, as appropriate, on the implementation of measures to combat illegal logging and related trade, including with

respect to third countries, and on the trade-related aspects of sustainable forest management, forest governance, and conservation of forest cover; and

cooperate and exchange information, as appropriate, on minimising all forms of deforestation and forest degradation, including on drivers from outside the forest sector and ways to encourage the consumption and trade in products from deforestation-free supply chains, including both voluntary and regulatory approaches, minimising the risk that products associated with deforestation or forest degradation are placed on their markets.

Trade and sustainable management of fisheries and aquaculture

The Parties acknowledge their role, both domestically and internationally, as consumers, producers and traders of fisheries products and recognise the importance of conserving and sustainably managing marine biological resources and marine ecosystems as well as of promoting responsible and sustainable aquaculture, and the role of trade in pursuing these objectives, with particular emphasis on supporting developing and coastal state development and livelihoods.

The Parties acknowledge that inadequate management and control of fisheries activities, certain fisheries subsidies that contribute to overcapacity and overfishing, and illegal, unreported and unregulated (hereinafter referred to as "IUU"7) fishing threatens fishery stocks, the livelihoods of persons engaged in responsible fishing practices and the sustainability of trade in fishery products and confirm the need for individual and collective action to address the problems of overfishing and unsustainable utilisation of fisheries resources, and to combat IUU fishing.

In light of paragraphs 1 and 2, each Party shall:

seek to operate a fisheries management system that shall be based on the best scientific evidence available and on internationally recognised best practices for fisheries management

7 The term "illegal, unreported and unregulated fishing" is to be understood to have the same meaning as paragraph 3 of the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (2001 IUU Fishing Plan of Action) of the UN Food and Agricultural Organisation ("FAO"), adopted in Rome, 2001.

and conservation as reflected in the relevant provisions of international instruments aimed at ensuring the sustainable use and conservation of marine species8, and that is designed, inter alia, to:

prevent overfishing and over-capacity;

reduce by-catch of non-target species and juveniles; and

promote the recovery of overfished stocks for all marine fisheries in which vessels flying the flag of that Party conduct fishing activities;

participate actively in the work of Regional Fisheries Management Organisations (hereinafter referred to as "RFMOs") to which it is a member, observer, or cooperating non-contracting party, with the aim of achieving good fisheries governance and sustainable fisheries, such as through the promotion of scientific research and the adoption of conservation and management measures based on best available scientific information, the strengthening of compliance mechanisms, the undertaking of periodic performance reviews and the adoption of effective control, monitoring and enforcement of the RFMOs' conservation and management measures and, where applicable, the adoption and implementation of catch documentation or certification schemes and port state measures;

support international cooperation to combat IUU fishing and to deter trade in IUU products from entering supply chains by:

promoting best-practice monitoring, control and surveillance as well as compliance and enforcement systems;

8 Such international instruments include, inter alia, and 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 August 1995; the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, done at Rome on 24 November 1993; the FAO Code of Conduct for Responsible Fisheries, and the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, done at Rome on 22 November 2009, noting relevant and complementary voluntary initiatives such as the FAO's Global Record of Fishing Vessels, Refrigerated Transport Vessels and Supply Vessels.

implementing control measures on vessels flying its flag and on transhipment and landing operations; and

facilitating the exchange of information through the use of existing agreed channels; and

promote the development of sustainable and responsible aquaculture, including with regard to the implementation of the objectives and principles contained in the Food and Agriculture Organization of the United Nations (hereinafter referred to as "FAO") Code of Conduct for Responsible Fisheries.

The Parties shall work together to strengthen their cooperation on trade-related aspects of fishery and aquaculture policies and measures, bilaterally, regionally and in international fora, as appropriate, including in the WTO, RFMOs and under other multilateral instruments in this field, with the aim of promoting sustainable fishing practices and trade in fish products from sustainably managed fisheries.

Trade and investment in environmental goods and services

The Parties recognise the importance of trade and investment in environmental goods and services as a means of improving environmental and economic performance and in contributing to addressing global environmental challenges.

To that end, the Parties recall that each Party has eliminated customs duties on environmental goods originating in the other Party pursuant to Article 2.5 (Elimination of customs duties). An illustrative list of such goods contributing to climate change mitigation is provided in Annex 18-B (Illustrative list of goods contributing to climate change mitigation).

The Parties further recall their commitments in relation to environmental services under Chapter 9 (Investment liberalisation and trade in services). An illustrative list of such environmental services is provided in Annex 18-A (Illustrative list of environmental services).

Furthermore, in light of paragraph 1, each Party shall facilitate and promote as appropriate trade and investment in environmental goods and services, including through addressing related non-tariff barriers, cooperating on rules, standards, technical regulations and conformity assessment procedures relevant to the green economy, or through policy frameworks conducive to the deployment of the best available technologies.

The Parties may cooperate on initiatives to promote environmental goods and services, bilaterally and in international fora as appropriate, including in the WTO, inter alia, through the exchange of information and best practices, including in relation to developing policies, standards, technical regulations and conformity assessment procedures, measures and approaches.

Trade and responsible business conduct

The Parties recognise the importance of responsible management of supply chains through responsible business conduct or corporate social responsibility practices and the role of trade in pursuing this objective.

In light of paragraph 1, each Party shall:

promote corporate social responsibility or responsible business conduct and encourage the uptake of relevant practices and

initiatives by business, including enhanced transparency measures in relation to responsible management of supply chains; and

support the dissemination of relevant international guidelines and principles, such as the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, the UN Global Compact, and the UN Guiding Principles on Business and Human Rights.

The Parties recognise the utility of international sector-specific guidelines, including the OECD Due Diligence Guidance documents, in the area of corporate social responsibility or responsible business conduct. The Parties shall endeavour to promote the uptake of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-

Risk Areas and its supplements. In this context, the Parties also recall the FAO Principles for Responsible Investment in Agriculture and Food Systems, and the FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security.

The Parties shall work together to strengthen their cooperation on trade-related aspects of issues covered by this Article, bilaterally, regionally and in international fora, as appropriate, inter alia, through the exchange of information, best practices and outreach initiatives.

Scientific and technical information

Each Party shall take into account available scientific and technical information and, as appropriate, relevant international standards, guidelines or recommendations, in particular from the international organisations referred to in this Chapter, when establishing or implementing measures aimed at protecting the environment or labour conditions, such as occupational safety and health, that may affect bilateral trade or investment.

In accordance with a precautionary approach9, where there are risks of serious or irreversible damage to the environment or to occupational safety and health, the lack of full scientific certainty shall not be used as a reason preventing a Party from adopting appropriate measures to prevent such damage.

The measures referred to in paragraph 2 shall not be applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade.

The Parties affirm that this Article is not intended to prejudice the rights and obligations of either Party under this Agreement.

9 For greater certainty, in relation to the implementation of this Agreement in the territory of the Union, the term "precautionary approach" refers to the term "precautionary principle".

Transparency

Each Party shall ensure that its measures aimed at protecting the environment and labour conditions that may affect trade or investment, or its trade or investment measures that may affect the protection of the environment or labour conditions, are developed, enacted and implemented in a transparent manner, in accordance with its rules and procedures and Chapter 21 (Transparency), and provide reasonable opportunities for interested persons and stakeholders to submit views on such measures.

Committee on Trade and Sustainable Development and contact points

The Committee on Trade and Sustainable Development is established pursuant to Article 22.5(1) (Specialised committees).

In addition to the functions specified in Article 22.6 (Functions of the specialised committees), the Committee on Trade and Sustainable Development shall have the following functions:

monitor and review the implementation of this Chapter;

carry out the tasks referred to in point (b) in Article 24.14(3) (Compliance measures);

communicate to the Trade Committee on issues regarding the implementation of this Chapter, including proposing topics to discuss with the domestic advisory groups referred to in Article

22.7 (Domestic advisory groups); and

consider any other matter related to the implementation of this Chapter as the Parties may agree.

The Committee on Trade and Sustainable Development shall publish a report after each of its meetings.

Each Party shall, upon the entry into force of this Agreement, designate a contact point within its administration to facilitate communication and coordination between the Parties on any matter relating to the implementation of this Chapter. Each Party shall promptly notify the other Party of the contact details of its contact point. The Parties shall promptly notify each other of any change of those contact details.

Each Party shall give due consideration to communication from the public on matters relevant to this Chapter. Where appropriate, each Party may inform the domestic advisory group established pursuant to Article 22.7 (Domestic advisory groups), as well as the contact point of the other Party established pursuant to paragraph 4 of this Article, of that communication.

Chapter 19. SMALL AND MEDIUM-SIZED ENTERPRISES

Article ARTICLE 19.1

Objective

The Parties recognise the importance of SMEs in their bilateral trade and investment relations and affirm their commitment to enhance the ability of SMEs to benefit from this Agreement.

Information sharing

Each Party shall establish or maintain a publicly accessible website containing information regarding this Agreement, including:

a summary of this Agreement; and

information designed for SMEs that includes:

a description of the provisions in this Agreement that each Party considers to be relevant to SMEs; and

any additional information that each Party considers would be useful for SMEs interested in benefitting from the opportunities provided by this Agreement.

Each Party shall, on the website referred to in paragraph 1, include links to the:

text of this Agreement, including all Annexes;

equivalent website of the other Party; and

websites of its own authorities or agencies that the Party considers would provide useful information to persons interested in trading, investing or doing business in that Party.

Each Party shall, on the website referred to in paragraph 1, include a link to websites of that Party with information related to the following:

customs regulations and procedures for importation, exportation and transit as well as relevant forms, documents and other information as provided for in Chapter 2 (Trade in Goods) and Chapter 4 (Customs and trade facilitation);

sanitary and phytosanitary measures relating to importation and exportation as provided for in Chapter 6 (Sanitary and phytosanitary measures);

technical regulations, including conformity assessment procedures and lists of conformity assessment bodies in cases where third-party conformity assessment is mandatory, as provided for in Chapter 8 (Technical barriers to trade);

rules on government procurement, databases containing government procurement notices and other relevant information as provided for in Chapter 13 (Government procurement);

regulations and procedures concerning intellectual property rights, including copyright, patents, trademarks, industrial designs and geographical indications, as provided for in Chapter 17 (Intellectual property);

business registration procedures;

any other matter covered by this Agreement; and

any other information that the Party considers may be of assistance to SMEs.

Each Party shall, on the website referred to in paragraph 1, include a link to a database that is searchable by tariff nomenclature code and that includes the following information with respect to access to its market:

rates of customs duties and quotas, including preferential rates and tariff-quotas, most-favoured nation rates and any other rates and quotas;

excise duties;

taxes (value added tax or goods and services tax);

customs or other fees, including other product specific fees;

rules of origin as provided for in Chapter 3 (Rules of origin);

duty drawback, deferral, or other types of relief that reduce, refund, or waive customs duties;

criteria used to determine the customs value of the good;

other tariff measures;

information needed for import procedures; and

information related to non-tariff measures or regulations.

Each Party shall regularly review the information and links referred to in paragraphs 1 to 4 to ensure they are as up-to-date and as accurate as possible.

Each Party shall ensure that information set out in this Article is presented in an easy-to-understand manner to be used by SMEs. Each Party shall endeavour to make this information available in English.

A Party shall not charge a fee for access to the information referred to in paragraphs 1 to 4 for a person of either Party.

SME contact points

Each Party shall communicate to the other Party its SME contact point and shall promptly notify the other Party of any change to the details of that contact point.

The SME contact points shall:

each assist its Party to ensure that SMEs' needs are considered in the implementation of this Agreement so that SMEs of both Parties can take advantage of new opportunities under this Agreement;

ensure that the information referred to in Article 19.2 (Information sharing) is up-to-date and relevant for SMEs;

examine any matter relevant to SMEs in connection with the implementation of this Agreement, including:

exchanging information to assist the Trade Committee in its task to monitor and implement the SME-related aspects of this Agreement;

assisting other committees, contact points and working groups established by this Agreement in considering matters of relevance to SMEs;

report periodically on their activities, jointly or individually, to the Trade Committee for its

consideration; and

consider any other matter arising under this Agreement pertaining to SMEs as the Parties may agree.

The SME contact points shall meet as necessary and shall carry out their work through appropriate communication channels which may include electronic mail, videoconferencing or other means.

The SME contact points may, jointly or individually, seek to cooperate with experts and external organisations, as appropriate, in carrying out their functions.

A Party may, through its SME contact point, suggest additional information that the other Party may include on its website so that it is maintained in conformity with Article 19.2 (Information sharing).

Non-application of dispute settlement Chapter 24 (Dispute settlement) does not apply to this Chapter.

Chapter 20. GOOD REGULATORY PRACTICES

Article ARTICLE 20.1

General principles

Each Party shall be free to determine its approach to good regulatory practices under this Agreement in a manner consistent with its own legal framework, practice and fundamental principles underlying its regulatory system.

Nothing in this Chapter shall be construed as to require a Party to:

deviate from its domestic procedures for preparing and adopting regulatory measures;

take actions that would undermine or impede the timely adoption of regulatory measures to achieve its public policy objectives; or

achieve any particular regulatory outcome.

Nothing in this Chapter shall be construed as to prevent a Party from implementing regulatory measures in urgent or unforeseen circumstances.

Scope

This Chapter applies to regulatory measures made by regulatory authorities in respect of any matter covered by this Agreement.

This Chapter does not apply to regulatory authorities and regulatory measures, practices or approaches of:

for the Union, the Member States; and

for Australia, the States and Territories of Australia.

Definitions

For the purposes of this Chapter, the following definitions apply:

"regulatory authority" means:

for the Union, the European Commission; and

for Australia, departments and agencies of the Commonwealth government1;

"regulatory measures" means:

for the Union:

regulations and directives, as provided in Article 288 TFEU;

implementing and delegated acts, as provided in Articles 290 and 291 TFEU, respectively; and

1 For greater certainity, this does not include courts or tribunals.

for Australia, Acts and legislative instruments made under an Act of the Commonwealth Parliament.

Internal coordination of regulatory development

Each Party shall maintain internal coordination or review processes or mechanisms with respect to regulatory measures that its regulatory authorities are preparing. Such processes or mechanisms should seek, inter alia, to:

foster good regulatory practices, including those provided for in this Chapter;

identify and avoid unnecessary duplication and inconsistent requirements in the Party’s

regulatory measures;

ensure compliance with the Party’s international trade and investment obligations; and

promote consideration of the impacts of the regulatory measures under preparation, including those on SMEs.

Regulatory processes and mechanisms

Each Party shall establish, maintain and make publicly available the processes and mechanisms used by its regulatory authority to prepare, evaluate or review major2 regulatory measures.

Descriptions of these processes and mechanisms may refer to relevant guidelines, rules or procedures, including those regarding opportunities for the public to provide comments.

2 The regulatory authority of each Party may determine what constitutes a "major" regulatory measure for that Party for the purposes of this Chapter.

Early information on planned regulatory measures

Each Party shall endeavour to publish, where possible on an annual basis, information about proposed major regulatory measures.

With respect to the major regulatory measures referred to in paragraph 1, each Party should make publicly available, at an early appropriate stage:

a brief description of its scope and objectives;

any opportunities for public consultations; and

if appropriate, the estimated timing for its adoption.

Public consultations

When preparing an impact assessment for a major regulatory measure, the regulatory authority of a Party shall, in accordance with its respective rules and procedures:

publish either the draft regulatory measure or consultation documents providing sufficient details about the regulatory measure under preparation;

offer, on a non-discriminatory basis, reasonable opportunities for any person3 to provide comments4; and

3 For greater certainty, this point does not prevent a regulatory authority from undertaking targeted consultations with interested parties in accordance with its rules and procedures.

4 For greater certainty, this paragraph should be implemented consistently with each Party's obligations under other international agreements, such as the Framework Convention on Tobacco Control done at Geneva on 21 May 2003.

consider any comments received.

The regulatory authority of each Party should make use of electronic means of

communication and seek to maintain official websites for the purposes of providing information and receiving comments related to public consultations.

When preparing a major regulatory measure, each Party shall endeavour to make publicly available a summary of, or the results of, the consultations and any comments received, except to the extent necessary to protect confidential information or personal data or to withhold

inappropriate content.

Impact assessment

The regulatory authority of each Party affirms its intention to carry out, in accordance with its respective rules and procedures, an impact assessment of any major regulatory measures it is preparing.

When carrying out an impact assessment, the regulatory authority of each Party shall consider:

the need for the major regulatory measure, including the nature and the significance of the problem the measure intends to address;

feasible and appropriate regulatory and non-regulatory alternatives, including the option of not regulating, that would

achieve the Party's public policy objective;

to the extent possible and relevant, the potential social, economic and environmental impact of those regulatory and non-regulatory alternatives, including on international trade and investment, and on SMEs; and

how those regulatory and non-regulatory alternatives under consideration relate to relevant international standards, if any, including the reason for any divergence, where appropriate.

With respect to any impact assessment that a regulatory authority has conducted for a major regulatory measure, the regulatory authority shall prepare a final report detailing the factors it considered in its assessment and the relevant findings. Such reports shall be made publicly available no later than when the measure is made publicly available.

Retrospective evaluation

Each Party shall maintain processes or mechanisms to promote periodic retrospective evaluations of its major regulatory measures in effect.

When conducting a periodic retrospective evaluation, the regulatory authority of a Party shall consider whether there are opportunities to more effectively achieve public policy objectives and to reduce unnecessary regulatory burdens, including on SMEs.

Each Party shall make publicly available its plans for, and the results of, such retrospective evaluations.

Regulatory register

Each Party shall ensure that its regulatory measures in effect are published in a designated register that is publicly available on a single freely accessible website. The website should allow searches for regulatory measures by citations or by word. Each Party shall periodically update its register.

Exchange of information on good regulatory practices

The Parties shall endeavour to exchange information on the regulatory practices set out in this Chapter.

Dispute settlement Chapter 24 (Dispute settlement) does not apply to this Chapter.

Chapter 21. TRANSPARENCY

Article ARTICLE 21.1

Objectives

Recognising the impact that their respective regulatory environment may have on trade and investment between them, the Parties aim to provide efficient procedures and a predictable regulatory environment.

The Parties affirm their transparency commitments under the WTO Agreement and build on those commitments in this Chapter.

Definitions

For the purposes of this Chapter, the following definitions apply:

"administrative decision" means a decision or action of an administrative character with legal effect that applies to a specific person, good or service in an individual case and covers the failure to take an administrative decision when required by a Party's law;

"administrative ruling of general application" means an administrative ruling or interpretation that applies to all persons and fact 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 determination or ruling made in an administrative or arbitral proceeding that applies to a specific person, good or service of the other Party in an individual case; or

a ruling that adjudicates with respect to a particular act or practice.

Publication

Each Party shall ensure that its laws, regulations, procedures and administrative rulings of general application with respect to any matter covered by this Agreement are promptly published via an official medium and, where feasible, by electronic means, or otherwise made available in such a manner as to enable any person to become acquainted with them.

To the extent possible, each Party shall make publicly available the objective of, and rationale for, its laws, regulations, procedures and administrative rulings of general application referred to in paragraph 1.

Each Party shall endeavour to provide for sufficient time between publication and entry into force of its laws and regulations with respect to any matter covered by this Agreement, except where that is not possible for reasons of urgency. This paragraph does not apply to administrative rulings of general application.

Enquiries and provision of information

Each Party shall establish or maintain appropriate mechanisms for responding to enquiries

from any person regarding its laws or regulations with respect to any matter covered by this Agreement.

On request of a Party, the other Party shall promptly provide information and respond to questions pertaining to its laws or regulations, whether in force or in preparation, with respect to any matter covered by this Agreement, unless a specific mechanism is established under another Chapter of this Agreement.

Administrative proceedings

Each Party shall administer its laws, regulations, procedures and administrative rulings of general application with respect to any matter covered by this Agreement in an objective, consistent, impartial and reasonable manner.

In its administrative proceedings that apply laws, regulations, procedures or administrative rulings of general application to a person, good or service of the other Party, each Party shall:

wherever possible, when an administrative proceeding is initiated, provide a person of the other Party that is directly affected by that proceeding with reasonable notice, in accordance with its law, 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 issues in question;

provide a person that is directly affected by an administrative proceeding with a reasonable opportunity to present facts and arguments in support of their positions prior to any final administrative decision where permitted by time, the nature of the proceeding and the public interest; and

ensure that administrative proceedings are conducted in accordance with its law.

Review and appeal1

Each Party shall establish or maintain judicial, arbitral or administrative tribunals or procedures for the purpose of the prompt review and, if warranted, correction of a final administrative decision with respect to any matter covered by this Agreement. Each Party shall ensure that its procedures for appeal or review are carried out in a non-discriminatory manner. Such tribunals shall be impartial and independent of the authority entrusted with administrative enforcement powers.

With respect to the tribunals or procedures referred to in paragraph 1, each Party shall ensure that the parties before those tribunals or to those procedures are provided with:

a reasonable opportunity to support or defend their respective positions; and

a decision based on the evidence and submissions of record or, where required by its law, the record compiled by the relevant authority.

Each Party shall ensure that the decision referred to in point (b) of paragraph 2, subject to appeal or further review as provided for in its law, is implemented by the authority entrusted with administrative enforcement powers.

Relation to other Chapters

The specific transparency rules in other Chapters supplement the provisions set out in this Chapter.

1 For greater certainty, for Australia, "review" includes merits (de novo) review only if provided for under its law.

Chapter 22. INSTITUTIONAL PROVISIONS

Article ARTICLE 22.1

Trade Committee

The Parties hereby establish a Trade Committee comprising representatives of both Parties.

Unless otherwise agreed by the representatives of the Parties, the Trade Committee shall meet annually for three years and thereafter every two years. The first meeting of the Trade Committee shall be held no later than six months after the date of entry into force of this Agreement. In addition, if a Party considers a matter particularly urgent, the Trade Committee shall meet without undue delay at the request of that Party in relation to that matter.

The meetings of the Trade Committee shall take place in the Union or Australia alternately, unless otherwise agreed by the representatives of the Parties. The Trade Committee may meet in person or by other appropriate means of communication, as agreed by the representatives of the Parties.

The Trade Committee shall be co-chaired by the Minister for Trade of Australia and the Member of the European Commission responsible for Trade, or their respective designees.

The Trade Committee shall undertake its work in accordance with Annex 21-A (Rules of procedure of the Trade Committee).

Functions of the Trade Committee

The Trade Committee shall:

supervise and facilitate the implementation and operation of this Agreement, and further its general aims;

supervise, guide and coordinate the work of all specialised committees and other bodies established under or pursuant to this Agreement, and recommend any necessary action to those specialised committees and bodies;

without prejudice to Chapter 24 (Dispute settlement), seek appropriate ways and methods of preventing or solving problems that may arise in areas covered by this Agreement, or of resolving differences that may arise regarding the interpretation or application of this Agreement;

examine the effects of the accession of a third country to the Union on this Agreement;

consider ways to further enhance trade and investment relations between the Parties; and

consider any other matter of interest relating to this Agreement to ensure it operates properly and effectively.

The Trade Committee may:

adopt decisions to establish or dissolve specialised committees, other than those established pursuant to Article 22.5 (Specialised committees), or other bodies, and determine their composition, functions and tasks;

allocate responsibilities to specialised committees or other bodies established under or pursuant to this Agreement;

recommend any amendments to this Agreement to the Parties;

adopt decisions to amend this Agreement as provided for in Article 22.3 (Amendments by the Trade Committee);

adopt decisions to issue interpretations of the provisions of this Agreement;1

adopt decisions as provided for in, or make recommendations in respect of all matters covered by, this Agreement in accordance with Article 22.4 (Decisions and recommendations);

communicate with interested parties, including the private sector, social partners and civil society organisations, on matters related to this Agreement; and

take any other action in the exercise of its functions as the representatives of the Parties may agree.

The Trade Committee shall, at the regular meetings of the Joint Committee established under the Framework Agreement, inform the Joint Committee of its activities and those of the specialised committees or other bodies, as appropriate.

Amendments by the Trade Committee

The Trade Committee may adopt decisions to amend:

Annex 2-A (Tariff elimination schedules);

Chapter 3 (Rules of Origin and Origin Procedures) and Annex 3-a (Introductory Notes to Product-specific Rules of Origin), Annex 3-B (Product-specific Rules of Origin), Annex 3-C

1 For greater certainty, an interpretation issued by the Trade Committee shall be binding on the Parties, bodies established under this Agreement, and panels referred to in Chapter 25 (Dispute Settlement).

(Origin quotas and alternatives to the product-specific rules of origin in Annex 3-B), Annex 3-D (Text of the statement on origin), Annex 3-E (Joint declaration concerning the Principality of Andorra) and Annex 3-F (Joint declaration concerning the Republic of San Marino);

Annex 6-A (Competent authorities), Annex 6-B (Trade conditions and approval procedures), Annex 6-C (Recognition of sanitary and phytosanitary measures), Annex 6-D (Certification) and Annex 6-E (Import checks and fees);

Annex 8-A (Conformity Assessment);

Annex 13 (Government procurement);

Annex 17 (Intellectual property);

Annex 22 (Rules of Procedure of the Trade Committee);

Annex 24-A (Rules of procedure for dispute settlement) ; and

Annex 24-B (Code of conduct for panellists and mediators).

The Trade Committee may also adopt decisions to amend this Agreement:

in the case referred to in Article 25.10 (Future accessions to the Union); and

except this Chapter, within four years after the date of entry into force of this Agreement, provided that such amendments are necessary to correct errors or to address omissions or other deficiencies.

Decisions and recommendations

Decisions adopted by the Trade Committee or by a specialised committee shall be binding on the Parties. The Parties shall take such measures as necessary to implement the decisions adopted

by the Trade Committee or a specialised committee.

Recommendations shall have no binding force.

The Trade Committee or a specialised committee shall adopt its decisions and make its recommendations by consensus.

Specialised committees

The following specialised committees are hereby established:

the Committee on Trade in Goods and Technical Barriers to Trade, which is responsible for all matters covered by Chapter 2 (Trade in goods), Chapter 5 (Trade remedies), Chapter 7 (Sustainable agriculture and food systems), Chapter 8 (Technical barriers to trade) and Chapter 12 (Energy and resources);

the Committee on Customs, which is responsible for all matters covered by Chapter 3 (Rules of origin and origin procedures), Chapter 4 (Customs and trade facilitation), the Protocol concerning mutual administrative assistance in customs matters, the provisions on border enforcement and customs cooperation in Chapter 17(Intellectual property) and any additional customs-related provisions of this Agreement;

the Committee on Sanitary and Phytosanitary Measures, which is responsible for all matters covered by Chapter 6 (Sanitary and phytosanitary measures);

the Committee on Investment, Services, Digital Trade, Government Procurement and Intellectual Property Rights, including Geographical Indications which is responsible for all matters covered by Chapter 9 (Investment liberalisation and trade in services), Chapter 10 (Capital movements, payments and transfers), Chapter 11 (Digital trade), Chapter 13 (Government procurement) and Chapter 17 (Intellectual property); and

the Committee on Trade and Sustainable Development, which is responsible for all matters covered by Chapter 18 (Trade

and sustainable development).

The specialised committees shall comprise representatives of each Party and shall be co-chaired by such representatives at an appropriate level.

Unless otherwise provided in this Agreement or agreed by the representatives of the Parties, the specialised committees shall meet annually for the first three years after the date of entry into force of this Agreement, and thereafter every two years. In addition, if a Party or the Trade Committee considers a matter particularly urgent, the relevant specialised committee shall meet without undue delay at the request of that Party or the Trade Committee in relation to that matter.

The meetings of the specialised committees shall take place in the Union or Australia alternately, unless otherwise agreed by the Parties. The specialised committees may meet in person or by any other appropriate means of communication, as agreed by the Parties. The specialised committees shall agree on the schedule and set the agenda for their meetings, and shall inform the Trade Committee of the schedule and agenda sufficiently in advance. The specialised committees shall report to the Trade Committee on the results and conclusions from each of their meetings.

Each specialised committee may decide its own rules of procedures, in the absence of which Annex 22 (Rules of procedure of the Trade Committee) shall apply, mutatis mutandis.

The creation or existence of a specialised committee shall not prevent a Party from bringing any matter directly to the Trade Committee.

Each Party shall ensure that, when a specialised committee meets, all the competent authorities for each issue on the agenda are represented, as each Party deems appropriate, and that each issue can be discussed at the adequate level of expertise.

Functions of the specialised committees

With respect to the matters for which they are responsible as referred to in Article 22.5(1) (Specialised committees), the specialised committees shall:

monitor and review the implementation and operation of this Agreement;

without prejudice to Chapter 24 (Dispute settlement), consider any issues arising from the implementation of this Agreement;

conduct the preparatory work necessary to support the functions of the Trade Committee, including when the Trade Committee adopts decisions;

carry out any task assigned or responsibility delegated to them by the Trade Committee; and

provide a forum for the exchange of experiences, information and best practices on matters related to this Agreement.

The specialised committees may adopt such decisions as provided for in this Agreement and make recommendations in respect of all matters for which they are responsible.

The specialised committees shall also have such additional functions as provided for in this Agreement.

Domestic advisory groups

Each Party shall create a new, or designate an existing, domestic advisory group within a year after the date of entry into force of this Agreement. The domestic advisory group shall comprise a balanced representation of independent civil society organisations established in the territory of that Party working on, inter alia, economic, social, human rights and environmental matters, and, for Australia, matters relating to Australian First Nations peoples. Each domestic advisory group may submit advice to its respective Party on issues covered by this Agreement. The domestic advisory group may be convened in such configurations it considers appropriate for the purposes of discussing the implementation of relevant provisions of this Agreement.

Each Party shall meet with its domestic advisory group at least annually. Each Party shall consider any views or recommendations on the implementation of this Agreement submitted by its domestic advisory group.

To promote public awareness of the domestic advisory groups, each Party shall publish the contact point for its domestic advisory group and may publish the list of organisations participating in that group.

The Parties shall encourage interaction between their respective domestic advisory groups.

Civil Society Forum

The Parties shall facilitate the organisation of a Civil Society Forum to conduct a dialogue on the implementation of this Agreement and shall agree on operational guidelines for the conduct of the Civil Society Forum at the first meeting of the Trade Committee.

The Civil Society Forum shall endeavour to meet in conjunction with the meeting of the Trade Committee. The Civil Society Forum may meet in person or by other appropriate means of communication.

The Civil Society Forum shall comprise a balanced representation of civil society organisations established in the territory of a Party, including members of the domestic advisory groups referred to in Article 22.7 (Domestic advisory groups), working on, inter alia, economic, social, human rights and environmental matters, and, for Australia, matters relating to Australian First Nations peoples.

The representatives of the Parties comprising the Trade Committee shall, as appropriate, attend the meeting of the Civil Society Forum to present information on the implementation of this Agreement and to engage in a dialogue with the Civil Society Forum. Such meeting shall be chaired by the co-chairs of the Trade Committee or their designees, as appropriate. The Parties shall publish any formal statements made by their representatives at such meetings.

ANNEX 22

RULE 1

Role of the Trade Committee

The Trade Committee established pursuant to Article 22.1 (Trade Committee) of this Agreement shall undertake its work as provided for in this Agreement.

The Trade Committee may undertake its work by electronic means.

Composition and co-chairs

Pursuant to Article 22.1(1) (Trade Committee), the Trade Committee comprises representatives of the Union and Australia.

Pursuant to Article 22.1(4) (Trade Committee), the Trade Committee shall be co-chaired by the Minister for Trade of Australia and the Member of the European Commission responsible for trade, or their respective designees (hereinafter referred to as "co-chairs").

Secretariat

Officials from the department responsible for trade for each Party shall act together as the Secretariat of the Trade Committee (hereinafter referred to as "Secretariat").

Each Party shall notify to the other Party the name, position and contact details of the official who is the member of the Secretariat for that Party (hereinafter referred to as "Secretariat Member").

A Party will promptly notify the other Party of any change in the details of its Secretariat Member. Until such notification, the Secretariat Member of a Party is deemed to continue acting in this role.

Meetings

The Trade Committee shall meet in accordance with Article 22.1(2) (Trade Committee).

Pursuant to Article 22.1(3) (Trade Committee), the Trade Committee shall meet in the Union or Australia alternately, unless agreed otherwise by the co-chairs. The Trade Committee may meet in person or by other appropriate means of communication, including videoconference or teleconference, as agreed by the co-chairs.

Meetings of the Trade Committee shall be held at the date and time agreed by the co-chairs.

The meetings shall be convened by the co-chair of the Party hosting the meeting (hereinafter referred to as "Host Party").

Delegations

A reasonable period of time in advance of a meeting, the Secretariat Member of a Party shall inform the Secretariat Member of the other Party of the intended composition of that Party’s delegation by providing a list containing the names and

functions of each delegation member.

Agenda for the Meetings

A provisional agenda for each meeting shall be drawn up by the Secretariat on the basis of a proposal made by the Host Party with a deadline for the other Party to provide comments.

For meetings of the Trade Committee at ministerial level, the Host Party shall provide a provisional agenda to the other Party at least one month in advance of a meeting. For meetings of the Trade Committee at senior officials level, the Host Party shall provide a provisional agenda to the other Party at least 14 days in advance of a meeting.

The agenda shall be adopted by the Trade Committee at the beginning of each meeting. The Trade Committee may, by consensus, place an item on the agenda that does not appear on the provisional agenda.

Invitation of experts

The co-chairs may, by mutual agreement, invite experts (i.e. non-government officials) to attend the meetings of the Trade Committee in order to provide information on specific subjects.

An expert invited pursuant to paragraph 1 may attend only for the parts of the meeting where such specific subjects are discussed.

Minutes

Draft minutes of each meeting shall be drawn up by the Host Party within 15 days from the end of the meeting, unless otherwise decided by the co-chairs.

The minutes shall, as a general rule, summarise each item on the agenda, specifying where applicable:

all documents submitted to the Trade Committee, subject to Article 23.4(2) (Disclosure of information);

any statement that one of the co-chairs requested to be entered in the minutes; and

the decisions taken, recommendations made, statements agreed upon and conclusions adopted by the Trade Committee on specific items.

The minutes shall also include:

a list of all decisions of the Trade Committee taken by written procedure pursuant to Rule 9.2 since the last meeting of the Trade Committee; and

an annex listing the names and functions of all individuals who attended the meeting of the Trade Committee.

The Secretariat Member of the Host Party shall transmit the draft minutes to the Secretariat Member of the other Party for comments. The other Party shall provide comments, if any, within seven days of receipt of the draft minutes.

The Secretariat shall adjust the draft minutes on the basis of comments received. The revised draft minutes shall be approved by the Parties within 30 days after the date of the meeting, or by

any other date agreed by the co-chairs. Once approved, the Secretariat shall establish two originals of the minutes and provide one original to each Party.

Where this Annex applies to the meetings of specialised committees, the minutes of the

specialised committee's meeting shall be made available for any subsequent meetings of the Trade Committee.

Decisions and recommendations

As provided for in point (f) of Article 22.2(2) (Functions of the Trade Committee) and Article 22.4(3) (Decision and recommendations), the Trade Committee shall, by consensus, adopt its decisions in respect of all matters where this Agreement so provides, and make its recommendations in respect of all matters covered by this Agreement.

In the period between meetings, the Trade Committee may adopt decisions or make recommendations by written procedure.

The text of a draft decision or recommendation shall be proposed in writing by a co-chair to the other co-chair in the working language of the Trade Committee. The other Party shall have one month, or any longer period of time specified by

the proposing Party, to express its agreement to the draft decision or recommendation or to make known any concerns or amendments it may wish to make. If the other Party does not express its agreement, the proposed decision or recommendation shall be discussed and may be adopted at the next meeting of the Trade Committee. Draft decisions or recommendations shall be deemed to be adopted once the other Party expresses its agreement and shall be recorded in the minutes of the next meeting of the Trade Committee pursuant to point

(a) of Rule 8.2.

Decisions or recommendations of the Trade Committee shall be entitled "Decision" or "Recommendation" respectively. The Secretariat shall give any decision or recommendation a progressive serial number, the date of its adoption and a description of its subject matter. Pursuant to Article 25.1(3) (Amendments), each decision shall specify the date of its entry into force.

Decisions and recommendations of the Trade Committee shall be established in duplicate, authenticated by the co-chairs and transmitted one to each Party.

Transparency

The Parties may agree to make a meeting of the Trade Committee open to the public.

Each Party may decide on the publication of the decisions and recommendations of the Trade Committee in its respective official publication or online.

All documents submitted by a Party to the Trade Committee shall be treated as confidential in accordance with Article 23.4(2) (Disclosure of information).

Provisional agendas of the meetings of the Trade Committee as agreed by the representatives of the Parties shall be made public before such meetings take place. The minutes of the meetings shall be made public following their approval in accordance with Rule 8.5.

Each Party shall publish the documents referred to in paragraphs 2 and 4 consistently with its data protection or privacy laws and regulations, as applicable.

Languages

The working language of the Trade Committee shall be English.

The Trade Committee shall adopt decisions concerning the amendment or interpretation of the provisions of this Agreement as referred to in points (d) and (e) of Article 22.2(2) (Functions of the Trade Committee) in the languages of the authentic texts of this Agreement as specified in Article

25.10 (Authentic texts). All other decisions of the Trade Committee shall be adopted in the working language referred to in paragraph 1.

Each Party shall be responsible for the translation of decisions into its own official language or languages, if required pursuant to this Rule, and it shall meet expenses associated with such translations.

Expenses

Each Party shall bear any expenses it incurs as a result of participating in the meetings of the Trade Committee, in particular with regard to staff, travel and subsistence expenditure and with regard to video or teleconferences, postal and telecommunications expenditure.

The Host Party shall bear any expenses in connection with:

the organisation of, and reproduction of documents for, meetings of the Trade Committee; and

the provision of interpretation services to and from the working language of the Trade Committee, if required for the participants at meetings of the Trade Committee shall be borne by the Host Party.

Specialised committees

Pursuant to point (b) of Article 22.2(1) (Functions of the Trade Committee), the Trade Committee shall supervise, guide and coordinate the work of all specialised committees and other bodies established under or pursuant to this Agreement.

Each specialised committee shall inform in writing the Trade Committee of the Secretariat Member or the contact point of

each Party for that committee. All relevant correspondence, documents and communications between such persons regarding the implementation of this Agreement shall be forwarded to the Secretariat of the Trade Committee simultaneously.

Pursuant to Article 22.5(5) (Specialised Committees), the specialised committees shall inform the Trade Committee of the schedule and agenda of their meetings sufficiently in advance and shall report to the Trade Committee on the results and conclusions from each of their meetings.

Unless a specialised committee decides its own rules of procedure pursuant to Article 22.5(5) (Specialised Committees), this Annex shall apply, mutatis mutandis, to the specialised committees.

Chapter 23. EXCEPTIONS

Article ARTICLE 23.1

General exceptions

For the purposes of Chapter 2 (Trade in Goods), Chapter 4 (Customs and trade facilitation), Section B (Investment liberalisation) of Chapter 9 (Investment liberalisation and trade in services), Chapter 11 (Digital trade), Chapter 12 (Energy and resources) and Chapter 16 (State-owned enterprises), Article XX of GATT 1994, including its Notes and Supplementary Provisions, is incorporated into and made part of this Agreement, mutatis mutandis.

Subject to the requirement that such 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 liberalization or trade in services, nothing in Chapter 9 (Investment liberalisation and trade in services), Chapter 11 (Digital trade), Chapter 12 (Energy and resources) and Chapter 16 (State-owned enterprises) shall be construed to prevent the adoption or enforcement by a Party of measures:

necessary to protect public security or public morals or to maintain public order1;

necessary to protect human, animal or plant life or health; or

1 The public security and public order exceptions may be invoked only where a genuine and sufficiently serious threat is posed to one of the fundamental interests of society.

necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement, including those relating to:

the prevention of deceptive and fraudulent practices or to deal with the effects of a default on contracts;

the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts; or

safety.

For greater certainty, the Parties understand that, to the extent that such measures are otherwise inconsistent with the Chapters or Sections referred to in paragraphs 1 or 2:

the measures referred to in point (b) of Article XX of GATT 1994 and in point (b) of paragraph 2 of this Article include environmental measures, which are necessary to protect human, animal or plant life or health;

point (g) of Article XX of GATT 1994 applies to measures relating to the conservation of living and non-living exhaustible natural resources;

measures taken to implement multilateral environmental agreements may fall under points (b) or (g) of Article XX of GATT 1994 or under point (b) of paragraph 2 of this Article; and

measures taken to protect critical infrastructure, including communications, power and water infrastructure, may fall under point (a) of paragraph 2.

Before a Party takes a measure as provided for in points (i) or (j) of Article XX of GATT 1994, that Party shall:

notify the other Party in writing at least 30 days prior to applying the measure. Such notice shall include a description of the measure, its rationale and the intended duration; and

on request, provide the other Party with reasonable opportunity for consultation in relation to the measure, with a view to seeking a mutually acceptable solution. The Party may apply the relevant measures after the expiry of the period referred to in point (a).

If exceptional and urgent circumstances arise, the Party may apply the measures referred to in paragraph 4 that it considers necessary to deal with the situation. That Party shall inform the other Party immediately of the measures.

Security exceptions Nothing in this Agreement shall be construed:

to require a Party to furnish or allow access to any information the disclosure of which it considers contrary to its essential security interests;

to prevent a Party from taking an action which it considers necessary for the protection of its essential security interests:

connected to the production of or traffic in arms, ammunition and implements of war and to such traffic and transactions in other goods and materials, services and technology, and to economic activities, carried out directly or indirectly for the purpose of supplying a military establishment;

relating to fissionable and fusionable materials or the materials from which they are derived; or

taken in time of war or other emergency in international relations; or

to prevent a Party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

Taxation

For the purpose of this Article:

"residence" means residence for tax purposes; and

"tax convention" means a convention for the avoidance of double taxation or any other international agreement or arrangement relating wholly or mainly to taxation that either any Member State, the Union or Australia are party to.

Nothing in this Agreement shall affect the rights and obligations of either Australia or the Union or its Member States, under any tax convention. In the event of any inconsistency between this Agreement and any such tax convention, the tax convention shall prevail to the extent of the inconsistency. With regard to a tax convention between the Union or its Member States and Australia, the relevant competent authorities under this Agreement2 and the tax convention shall jointly determine whether an inconsistency exists between this Agreement and the tax convention.3

Article 9.7(Most Favoured Nation Treatment) and Article 9.15 (Most-favoured Nation Treatment) Shall Not Apply to an Advantage Accorded by a Party Pursuant to a Tax Convention. Nothing In this Agreement Shall Oblige a Party to Extend to the other Party the Benefit of Any Treatment, Preference or Privilege Arising from Any Tax Convention by Which the Party Is Bound.

Subject to the requirement that such 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 trade and investment, nothing in this Agreement

2 For the purposes of this Article, for Australia, the relevant competent authority under this Agreement is the Secretary to the Treasury or a successor or an authorised representative.

3 For greater certainty, this is without prejudice to Chapter 24 (Dispute settlement). If a joint determination is made, it shall be binding on the panel established pursuant to Article 24.6 (Establishment of a panel) and taken into account to the extent it is relevant for the assessment of the matter before it.

shall be construed to prevent the adoption, maintenance or enforcement by a Party of any measure that:

aims at ensuring the equitable or effective imposition or collection of direct taxes;4 or

distinguishes between taxpayers who are not in the same situation, in particular with regard to their place of residence or with regard to the place where their capital is invested.5

Treatment of information

Nothing in this Agreement shall be construed to require a Party to make available confidential information, the disclosure of

which would impede the enforcement of its laws or regulations, otherwise be contrary to the public interest or prejudice the legitimate commercial interests of particular enterprises, public or private, except where a panel requires such confidential information in dispute settlement proceedings under Chapter 24 (Dispute Settlement). In such cases, the panel shall ensure that confidentiality is fully protected pursuant to Chapter 24 (Dispute settlement).

Unless otherwise provided for in this Agreement, if a Party submits information to the other Party under this Agreement, or to the Trade Committee or to a specialised committee which the Party designates as confidential, the other Party shall treat that information as confidential.

WTO waivers

4 The term “any measure that aims at ensuring the equitable or effective imposition or collection of direct taxes” shall be understood by reference to the footnote to Article XIV of GATS.

5 The Parties understand that paragraph 4 may apply to taxation measures relating to retirement plans, including superannuation schemes.

If an obligation in this Agreement is substantially equivalent to an obligation in the WTO Agreement, a measure taken in conformity with a waiver adopted pursuant to Article IX of the WTO Agreement is deemed to also be in conformity with the substantially equivalent provision in this Agreement.

Chapter 24. DISPUTE SETTLEMENT

SECTION A OBJECTIVE AND SCOPE

Article ARTICLE 24.1

Objective

The objective of this Chapter is to establish an effective, efficient and transparent mechanism for avoiding and settling any dispute between the Parties concerning the interpretation and application of this Agreement with a view to reaching, where possible, a mutually agreed solution.

Scope

Unless otherwise provided in this Agreement, this Chapter applies with respect to any dispute between the Parties concerning the interpretation and application of the provisions of this Agreement (hereinafter referred to as "covered provisions"), when a Party considers that a measure of the other Party is inconsistent with an obligation under this Agreement.

Definitions

For the purposes of this Chapter, the following definitions apply:

"administrative staff", in respect of a panellist or a mediator, means individuals under the direction and control of a panellist or a mediator, other than assistants;

"adviser" means an individual retained by a Party to advise or assist that Party in connection with the panel proceedings;

"assistant" means an individual who, under the terms of appointment and under the direction and control of a panellist or a mediator, conducts research or provides assistance to that panellist or mediator;

"candidate" means an individual whose name is on the list of panellists referred to in Article

24.7 (Lists of panellists) and who is under consideration for selection as a panellist under Article 24.6 (Establishment of a panel);

"cases of urgency" and "matters of urgency" include cases and matters which concern goods or services that rapidly lose their quality, current condition or commercial value in a short period of time;

"complaining Party" means any Party that requests the establishment of a panel under Article 24.5 (Initiation of panel procedures);

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

"mediator" means an individual who has been selected as a mediator in accordance with Section D (Mediation mechanism);

"panel" means a panel established under Article 24.6 (Establishment of a panel);

"panellist" means a member of a panel;

"Party complained against" means the Party that is alleged to be in violation of the covered provisions; and

"representative of a Party" means an employee or any individual appointed by a government department, agency or any other public entity of a Party who represents the Party for the purposes of a dispute under this Agreement.

Article ARTICLE 24.4

Consultations

The Parties shall endeavour to resolve any dispute referred to in Article 24.3 (Scope) by entering into consultations in good faith, with the aim of reaching a mutually agreed solution.

A Party shall seek consultations by means of a written request delivered to the other Party identifying the measure at issue and the covered provisions that it considers applicable.

The Party to which the request for consultations is made shall reply to the request for consultations promptly, but no later than 10 days after the date of its delivery. Unless the Parties agree otherwise, consultations shall be held within 30 days after the date of delivery of the request and take place in the territory of the Party complained against. The consultations shall be deemed concluded within 40 days after the date of delivery of the request, or within 90 days after that date if the dispute concerns Chapter 17 (Trade and sustainable development), unless the Parties agree to continue consultations.

Consultations on matters of urgency shall be held within 15 days after the date of delivery of the request for consultations. The consultations shall be deemed concluded within 15 days after the date of delivery of the request, unless the Parties agree to continue consultations.

During consultations, each Party shall provide sufficient factual information so as to allow a complete examination of the manner in which the measure at issue could affect the application of this Agreement. Each Party shall endeavour to ensure the participation of personnel of its competent authorities or agencies who have expertise in the matter subject to the consultations.

If the dispute concerns Articles 18.3 (Multilateral labour standards and agreements – Trade and sustainable development Chapter), 18.4 (Trade and gender equality – Trade and sustainable development Chapter), 18.5 (Multilateral environmental agreements – Trade and sustainable development Chapter) or 17.6 (Trade and climate change – Trade and sustainable development Chapter), the Parties shall take into account any information from the International Labour Organization (hereinafter referred to as "ILO") or from other relevant organisations or bodies established under multilateral agreements or instruments referred to in those Articles, that is available to them and relevant to the consultations, with a view to promoting coherence between the work of the Parties and that of such organisations or bodies. If relevant, the Parties should seek advice from such organisations or bodies, or from any other expert or body they deem appropriate.

If the dispute concerns Chapter 18 (Trade and sustainable development), each Party may also seek, if appropriate, the views of its domestic advisory group referred to in Article 21.7 (Domestic advisory groups).

Consultations, and in particular all information designated as confidential and positions taken by the Parties during consultations, shall be confidential and without prejudice to the rights of either Party in any further proceedings.1

The Party that sought consultations may have recourse to Article 24.5 (Initiation of panel procedures) if:

1 For greater certainty, this paragraph applies to any advice or views sought pursuant to paragraphs 6 or 7.

the Party to which the request is made does not respond to the request for consultations within 10 days after the date of its delivery;

the consultations have not been held within the time periods laid down in paragraphs 3 or 4, as applicable;

the consultations have been concluded and no mutually agreed solution has been reached; or

the Parties agree not to have consultations.

Article ARTICLE 24.5

Initiation of panel procedures

If the Parties fail to resolve the dispute through recourse to consultations as provided for in Article 24.4 (Consultations), the Party that sought consultations may request the establishment of a panel (hereinafter referred to as "panel request").

The panel request shall be made in writing and delivered to the other Party. The complaining Party shall identify the measure at issue in its request and explain how that measure constitutes a breach of the covered provisions in a manner sufficient to present the legal basis for the complaint clearly.

The complaining Party shall release to the public a copy of the panel request promptly after it makes that request to the other Party.

If a panel request is made, a panel shall be established in accordance with Article 24.6 (Establishment of a panel).

The Trade Committee may decide to entrust an external body to provide assistance to panels established under this Chapter, including administrative and legal support. Such decision shall address the conditions of the entrustment, including the costs arising from the entrustment. Where applicable, any panel request shall also be delivered to the external body.

Establishment of a panel

A panel shall be composed of three panellists.

Within 10 days after the date of delivery of the panel request, the Parties shall consult with a view to agree on the composition of the panel.

If the Parties do not agree on the composition of the panel within the time period provided for in paragraph 2, each Party shall, within five days after the expiry of the time period established in paragraph 2, appoint a panellist:

from the sub-list of that Party established pursuant to Article 24.7 (Lists of panellists); or

if the dispute concerns Chapter 18 (Trade and sustainable development), from the sub-list of that Party in the TSD list established pursuant to Article 24.7 (Lists of panellists).

If a Party does not appoint a panellist from its sub-list within the time period provided for in paragraph 3, the co-chair of the Trade Committee from the complaining Party shall select by lot, within five days after the expiry of the time period provided for in paragraph 3, the panellist from the sub-list of that Party. The co-chair of the Trade Committee from the complaining Party may delegate such selection by lot of the panellist.

If the Parties do not agree on the chairperson of the panel within the time period established in paragraph 2, the co-chair of the Trade Committee from the complaining Party shall select by lot, within five days after the expiry of that time period, the chairperson of the panel:

from the sub-list of chairpersons established pursuant to Article 24.7 (Lists of panellists); or

if the dispute concerns Chapter 18 (Trade and sustainable development), from the sub-list of chairpersons in the TSD list established pursuant to Article 24.7 (Lists of panellists).

The co-chair of the Trade Committee from the complaining Party may delegate such selection by lot of the chairperson of the panel.

The panel shall be deemed to be established 15 days after all three selected panellists have accepted their appointment in accordance with Rule 11 of Annex 24-A (Rules of procedure), unless the Parties agree otherwise. Each Party shall promptly make public the date of establishment of the panel.

If any of the relevant sub-lists provided for in Article 24.7 (Lists of panellists) have not been established or if no individual on the relevant sub-list is available at the time a selection by lot is to be made pursuant to paragraphs 3 or 4, the panellists shall be drawn by lot in accordance with point (a) of Rule 10 of Annex 24-A (Rules of procedure).

If any of the relevant sub-lists provided for in Article 24.7 (Lists of panellists) no longer contain at least five individuals at the time a selection by lot is to be made pursuant to paragraphs 3 or 4, the panellists shall be drawn by lot in accordance with

point (b) of Rule 10 of Annex 24-A (Rules of procedure).

Lists of panellists

The Trade Committee shall, no later than six months after the date of entry into force of this Agreement, establish:

a list of at least 15 individuals who are willing and able to serve as panellists; and

a separate list of 15 individuals who are willing and able to serve as panellists in disputes under Chapter 18 (Trade and sustainable development) (referred to above as "TSD list").

Each list referred to in paragraph 1 shall be composed of the following three sub-lists:

one sub-list of individuals established on the basis of proposals by the Union;

one sub-list of individuals established on the basis of proposals by Australia; and

one sub-list of individuals who are not natural persons of either Party and who shall serve as chairperson of the panel.

Each sub-list referred to in points (a), (b) and (c) of paragraph 2 shall include at least five individuals. The Trade Committee shall ensure that each sub-list is always maintained at this minimum number of individuals.

The sub-list referred to in point (c) of paragraph 1 shall also serve as the list of possible mediators for the purposes of selection by lot pursuant to Article 24.29(2) (Selection of the mediator). When establishing the sub-list referred to in point (c) of paragraph 2, the Trade Committee may also decide to limit the number of possible mediators to certain individuals on that sub-list.

The Trade Committee may establish additional lists of individuals with expertise in specific sectors covered by this Agreement. Subject to the agreement of the Parties, such additional lists shall be used to compose the panel in accordance with the procedure set out in Article 24.6 (Establishment of a panel).

Requirements for panellists

Each panellist shall:

have demonstrated expertise in law2, international trade and other matters covered by this Agreement;

be independent of, and not be affiliated with or take instructions from, either Party;

serve in their individual capacities and not take instructions from any organisation or government with regard to matters related to the dispute; and

comply with Annex 24-B (Code of conduct for panellists and mediators).

The chairperson shall also have experience in dispute settlement procedures.

With respect to disputes concerning Chapter 18 (Trade and sustainable development) and by way of derogation from point (a) of paragraph 1:

each panellist shall have specialised knowledge of, or expertise in:

labour or environmental law;

issues addressed in Chapter 18 (Trade and sustainable development); or

the resolution of disputes under international agreements; and

the chairperson of the panel shall also have demonstrated expertise in law.3

In view of the subject-matter of a particular dispute, the Parties may agree to derogate from the requirements listed in point (a) of paragraph 1 or in point (b) of paragraph 3.

2 For greater certainty, expertise in law can be demonstrated, inter alia, by experience in the resolution of disputes arising under international trade agreements.

3 For greater certainty, expertise in law can be demonstrated, inter alia, by experience in the resolution of disputes arising under international trade agreements.

Functions of the panel

The panel shall:

make an objective assessment of the matter before it, including an objective assessment of the facts of the case and the applicability of and conformity with the covered provisions;

set out, in its decisions and reports, the findings of facts, the applicability of, and conformity with, the covered provisions and the basic rationale behind any findings and conclusions that it makes; and

endeavour to consult regularly with the Parties and provide adequate opportunities for the development of a mutually agreed solution.

Terms of reference

Unless the Parties agree otherwise within five days after the date of establishment of the panel, the terms of reference of the panel shall be:

"to examine, in light of the relevant provisions of this Agreement cited by the Parties, the matter referred to in the request for the establishment of the panel, to make findings on the conformity of the measure at issue with the provisions of this Agreement referred to in Article 24.3 (Scope) and to deliver a report in accordance with Articles 24.12 (Interim report) and 24.13 (Final report)."

If the Parties agree on terms of reference other than those set out in paragraph 1, they shall notify the agreed terms of reference to the panel within five days after the date of establishment of the panel.

Decision on urgency

If a Party so requests, the panel shall decide, within 10 days after its establishment, whether the dispute concerns matters of urgency.

If the panel decides that the dispute concerns matters of urgency, the applicable time periods set out in Section C (Panel procedures) shall be half the time specified therein, except for the time periods referred to in Article 24.6 (Establishment of a panel), Article 24.10 (Terms of reference), Article 24.17(3), Article 24.17(5) (Temporary remedies) and Article 24.18(2) (Review of any measure taken to comply after the adoption of temporary remedies).

Interim report

The panel shall deliver an interim report to the Parties within 110 days after the date of establishment of the panel. If the panel considers that this deadline cannot be met, the chairperson of the panel shall notify the Parties in writing, stating the reasons for the delay and the date on which the panel plans to deliver its interim report. The panel shall not deliver its interim report later than 140 days after the date of establishment of the panel.

Each Party may provide to the panel written comments on precise aspects of the interim report within 12 days after its delivery. A Party may respond to the other Party's written comments within eight days after the delivery of the written comments.

Final report

The panel shall deliver its final report to the Parties within 30 days after the date of delivery of the interim report. If the panel considers that this deadline cannot be met, the chairperson of the panel shall notify the Parties in writing, stating the reasons for the delay and the date on which the panel plans to deliver its final report. The panel shall not deliver its final report later than 60 days after the date of delivery of the interim report.

The final report shall clearly address the comments of each Party, if any, made pursuant to Article 24.12(2) (Interim report).

Compliance measures

If a panel finds that the Party complained against is not in conformity with the covered provisions, the Party complained against shall take any measure necessary to comply promptly with the findings and conclusions in the final report in order to bring itself in compliance with the covered provisions.

If a panel finds the Party complained against is not in conformity with the covered provisions, the Party complained against shall, no later than 30 days after delivery of the final report, deliver a notification to the complaining Party of the measures which it has taken or which it envisages to take to comply including, if any, the text of such measures.

In addition, if the dispute concerns Chapter 18 (Trade and sustainable development):

the Party complained against shall, no later than 30 days after the date of delivery of the final report, inform its domestic advisory group referred to in Article 22.7 (Domestic advisory groups – Institutional Provisions Chapter) of the compliance measures it has taken or which it envisages taking to comply. The domestic advisory group may submit observations to the Trade and Sustainable Development Committee in this regard; and

the Trade and Sustainable Development Committee shall monitor the implementation of the compliance measures.

Reasonable period of time

If a panel finds the Party complained against is not in conformity with the covered provisions and immediate compliance is not possible, the Party complained against shall, no later than 30 days after the date of delivery of the final report, deliver a notification to the complaining Party of the length of the reasonable period of time it will require for compliance. The Parties shall endeavour to agree on the length of the reasonable period of time to comply.

If the Parties have not agreed on the length of the reasonable period of time, the complaining Party may, at the earliest 20 days after the delivery of the notification referred to in paragraph 1, request in writing the original panel to determine the length of the reasonable period of time. The panel shall deliver its decision to the Parties within 30 days after the date of delivery of such request.

The Party complained against shall deliver a written notification of its progress in complying with the final report to the complaining Party no later than 30 days before the expiry of the reasonable period of time.

The Parties may agree to extend the reasonable period of time.

Compliance review

The Party complained against shall, no later than at the date of expiry of the reasonable period of time, deliver a notification to the complaining Party of any measure that it has taken to comply with the final report including, if any, the text of such measures.

If the Parties disagree on the existence or the consistency with the covered provisions of any measure taken to comply, the complaining Party may deliver a request, in writing, to the original panel to decide on the matter. Such request shall identify any measure at issue and explain how that

measure constitutes a breach of the covered provisions in a manner sufficient to present the legal basis for the complaint clearly.

The panel shall deliver its interim decision to the Parties within 40 days after the date of delivery of the request referred to in paragraph 2. Each Party may provide written comments to the panel on precise aspects of the interim decision and may respond to the other Party's written comments. The panel shall provide its final decision 20 days after the delivery of the interim decision.

Temporary remedies

The Party complained against shall, on request by and after consultations with the complaining Party, present an offer for temporary compensation if:

the Party complained against delivers a notification to the complaining Party that it is not practicable to comply with the final report;

the Party complained against fails to deliver a notification of any measure taken to comply within the deadline referred to in Article 24.14 (Compliance measures) or before the date of expiry of the reasonable period of time;

the panel finds that no measure taken to comply exists; or

the panel finds that the measure taken to comply is not in conformity with the covered provisions.

In any of the circumstances referred to in paragraph 1, the complaining Party may deliver a written notification to the Party complained against that it intends to suspend the application of obligations under the covered provisions if:

the complaining Party does not make a request under paragraph 1; or

after a request is made under paragraph 1, the Parties do not agree on the temporary compensation within 20 days after the expiry of the reasonable period of time or the delivery of the panel decision under Article 24.16 (Compliance review).

Such notification shall specify the level of intended suspension of obligations.

The complaining Party may suspend obligations 10 days after the date of delivery of the notification referred to in paragraph 2, unless the Party complained against has made a request under paragraph 6.

In the circumstances referred to in points (a)(i) and (b)(i) of paragraph 9, the complaining Party shall only deliver the notification referred to in paragraph 2, if it considers that the violation is sufficiently serious or material in terms of its impact on workers, or on persons engaged in trade between, or investment in, the territories of the Parties to justify the suspension of obligations under this Agreement.

The suspension of obligations shall not exceed the level equivalent to the nullification or impairment caused by the violation.

If the Party complained against considers that the notified level of suspension of obligations exceeds the level equivalent to the nullification or impairment caused by the violation, it may deliver a written request to the original panel before the expiry of the 10-day period set out in paragraph 3 to decide on the matter.

The panel shall deliver its decision on the level of the suspension of obligations to the Parties within 40 days after the date of that request. Obligations shall not be suspended until the panel has delivered its decision. The suspension of obligations shall be consistent with that decision.

The suspension of obligations or the compensation referred to in this Article shall be temporary and shall not be applied if:

the Parties have reached a mutually agreed solution pursuant to Article 24.33 (Mutually agreed solution);

the Parties have agreed that the measure taken to comply brings the Party complained against into conformity with the covered provisions; or

any measure taken to comply which the panel has found to be inconsistent with the covered provisions has been withdrawn or amended so as to bring the Party complained against into conformity with those provisions.

If the dispute concerns Chapter 18 (Trade and sustainable development), this Article applies if:

any of the circumstances set out in points (a), (b) or (c) of paragraph 1 arises and the final report delivered pursuant to Article 24.13 (Final report) finds a violation of:

Article Article 18.3(2) (Multilateral Labour Standards and Agreements - Trade and Sustainable Development Chapter); or

Article Article 18.6(2) (Trade and Climate Change - Trade and Sustainable Development Chapter) by Reason of the Party Complained Against Having Failed to Refrain from Any Act or Omission That Materially Defeats the Object and Purpose of the Paris Agreement; or

the circumstances set out in point (d) of paragraph 1 arise and the decision of the compliance panel delivered pursuant to Article 24.16 (Compliance review) finds a violation of:

Article Article 18.3(2) (Multilateral Labour Standards and Agreements - Trade and Sustainable Development Chapter); or

Article Article 18.6(2) (Trade and Climate Change - Trade and Sustainable Development Chapter) by Reason of the Party Complained Against Having Failed to Refrain from Any Act or Omission That Materially Defeats the Object and Purpose of the Paris Agreement.

Review of any measure taken to comply after the adoption of temporary remedies

The Party complained against shall deliver a notification to the complaining Party of any measure it has taken to comply following the suspension of obligations or following the application of temporary compensation, as the case may be. Except in the circumstances specified in paragraph 2, the complaining Party shall terminate the suspension of obligations within 30 days from the date of delivery of the notification. In cases where compensation has been applied, and except in the circumstances specified in paragraph 2, the Party complained against may terminate the application of such compensation

within 30 days from delivery of its notification that it has complied.

If the Parties do not reach an agreement on whether the notified measure brings the Party complained against into conformity with the covered provisions within 30 days after the date of delivery of the notification, the complaining Party shall deliver a written request to the original panel to decide on the matter.

The panel shall deliver its interim decision to the Parties within 50 days after the date of the delivery of the request. Each Party may provide written comments to the panel on precise aspects of the interim decision and may respond to the other Party's written comments. The panel shall provide its final decision within 20 days after the delivery of the interim decision.

If the panel finds that the measure taken to comply is in conformity with the covered provisions, the suspension of obligations or compensation, as the case may be, shall be terminated. When relevant, the complaining Party shall adjust the level of suspension of obligations or of compensation in light of the panel decision.

If the Party complained against considers that the level of suspension of obligations implemented by the complaining Party exceeds the level equivalent to the nullification or impairment caused by the violation, it may deliver a written request to the original panel to decide on the matter. The panel shall deliver its decision to the Parties within 40 days after the date of such request.

Replacement of panellists

If a panellist is unable to participate, withdraws or needs to be replaced because he or she does not comply with Annex 24-B (Code of conduct for panellists and mediators), the procedure provided for in Article 24.6 (Establishment of a panel) applies. The time period for the delivery of any reports or decisions shall be extended for the time necessary for the appointment of the new panellist.

Rules of procedure

Panel procedures shall be governed by this Chapter and Annex 24-A (Rules of procedure).

Any hearing of the panel shall be open to the public unless otherwise provided in Annex 24-A (Rules of procedure).

Suspension and termination

On request of both Parties, the panel shall suspend its work at any time for a period agreed by the Parties which does not exceed 12 consecutive months.

The panel shall resume its work before the date of expiry of the agreed suspension period at the written request of both Parties, or on the day following the date of the expiry of the agreed suspension period at the written request of either Party. The requesting Party shall deliver a notification to the other Party accordingly.

If the panel does not resume its work in accordance with paragraph 2, the authority of the panel shall lapse and the dispute settlement procedure shall be terminated.

If the work of the panel is suspended, the relevant time periods under this Section shall be extended by the same period of time for which the work of the panel was suspended.

Receipt of information

At the request of a Party, or on its own initiative, the panel may seek from the Parties, relevant information it considers necessary and appropriate. The Parties shall respond promptly and fully to any request by the panel for such information.

On the request of a Party or its own initiative, the panel may seek any information it deems appropriate from any source. The panel also has the right to seek the opinion of experts, as it deems appropriate, and subject to any terms and conditions agreed by the Parties, where applicable.

For the purposes of paragraph 2, with regard to disputes concerning Articles 18.3 (Multilateral labour standards and agreements – Trade and sustainable development Chapter), 18.4 (Trade and gender equality – Trade and sustainable development Chapter), 18.5 (Multilateral environmental agreements – Trade and sustainable development) or 18.6 (Trade and climate change – Trade and sustainable development Chapter), the opinions of experts or the information requested by the panel should include information and advice from the ILO or from other relevant organisations or bodies established under multilateral agreements or instruments referred to in those Articles.

The panel shall consider amicus curiae submissions from natural persons of a Party or legal persons established in a Party

in accordance with Annex 24-A (Rules of procedure).

Any information obtained by the panel under this Article shall be disclosed to the Parties and the Parties may provide comments thereon.

Rules of interpretation

The panel shall interpret the covered provisions in accordance with customary rules of interpretation of public international law, including those codified in the Vienna Convention on the Law of Treaties, done at Vienna on 23 March 1969.

The panel shall also take into account relevant interpretations in reports of WTO panels and the Appellate Body adopted by the Dispute Settlement Body of the WTO as well as in arbitration awards under the DSU.

Reports and decisions of the panel cannot add to or diminish the rights and obligations of the Parties under this Agreement.

Reports and decisions of the panel

The deliberations of the panel shall be kept confidential. The panel shall make every effort to draft reports and take decisions by consensus. If this is not possible, the panel shall decide the matter by majority vote. In no case shall separate opinions of panellists be disclosed.

The decisions and reports of the panel shall be accepted unconditionally by the Parties. They shall not create any rights or obligations with respect to natural or legal persons.

Each Party shall promptly make the reports and decisions of the panel and its submissions publicly available, subject to the protection of confidential information.

The panel and the Parties shall treat as confidential any information submitted by a Party to the panel in accordance with Annex 24-A (Rules of procedure).

Choice of forum

If a dispute arises regarding a particular measure in alleged breach of an obligation under this Agreement and a substantially equivalent obligation under another international agreement to which both Parties are party, including the WTO Agreement, the Party seeking redress shall select the forum in which to settle the dispute.

Once a Party has selected the forum and initiated dispute settlement procedures under this Section or under another international agreement, the Party shall not initiate dispute settlement procedures under the other agreement with respect to the particular measure referred to in paragraph 1, unless the forum selected first fails to make findings for procedural or jurisdictional reasons.

For the purposes of this Article:

dispute settlement procedures under this Section are deemed to be initiated by a Party's request for the establishment of a panel in accordance with Article 24.5 (Initiation of panel procedures);

dispute settlement procedures under the WTO Agreement are deemed to be initiated by a

Party’s request for the establishment of a panel in accordance with Article 6 of the DSU; and

dispute settlement procedures under any other agreement are deemed to be initiated in accordance with the relevant provisions of that agreement.

Without prejudice to paragraph 2, nothing in this Agreement shall preclude a Party from suspending obligations authorised by the Dispute Settlement Body of the WTO or authorised under the dispute settlement procedures of another international agreement to which the Parties are party. The WTO Agreement or any other international agreement between the Parties shall not be invoked to preclude a Party from suspending obligations pursuant to this Section.

Article ARTICLE 24.26

Objective

The objective of the mediation mechanism is to facilitate the finding of a mutually agreed solution through a comprehensive and expeditious procedure with the assistance of a mediator.

Request for information

At any time before the initiation of the mediation procedure, a Party may deliver a written request for information regarding a measure adversely affecting trade or investment between the Parties. The Party receiving the request shall, within 20 days after the date of delivery of the request, deliver a written response containing its comments on the requested information.

If the Party receiving the request considers it will not be able to deliver a response within

20 days after the date of delivery of the request, it shall promptly notify the requesting Party, stating the reasons for the delay and providing an estimate of the shortest period within which it will be able to deliver its response.

A Party is normally expected to deliver a written request for information under this Article before requesting to enter into a mediation procedure under Article 24.28 (Initiation of the mediation procedure).

Initiation of the mediation procedure

A Party may at any time request to enter into a mediation procedure with respect to any measure by a Party adversely affecting trade or investment between the Parties.

The request shall be made in writing and delivered to the other Party. The request shall be sufficiently detailed to present the concerns of the requesting Party and shall:

identify the specific measure at issue;

provide a statement of the adverse effects that the requesting Party considers the measure has, or will have, on trade or investment between the Parties; and

explain how the requesting Party considers that those effects are linked to the measure.

The mediation procedure may only be initiated by agreement of the Parties which may include an agreement on a mediator, in order to explore mutually agreed solutions and consider any advice and proposed solutions by the mediator. The Party to which the request is made (hereinafter referred to as "the requested Party") shall give good faith consideration to the request and deliver its written acceptance or rejection of the request to the requesting Party within 10 days after the date of its delivery. Otherwise, the request shall be regarded as rejected.

Selection of the mediator

If a mediator has not been agreed pursuant to Article 24.28(3) (Initiation of the mediation procedure), the Parties shall endeavour to agree on a mediator within 10 days after the date of delivery of the written acceptance to mediate.

In the event that the Parties are unable to agree on the mediator within 10 days after the date of delivery of written acceptance to mediate, either Party may request the co-chair of the Trade Committee from the requesting Party to select the mediator by lot, within five days from the request, from the list of possible mediators referred to in Article 24.7(4) (Lists of panellists). The

co-chair of the Trade Committee from the requesting Party may delegate such selection by lot of the mediator. The requested Party may be present during the lot.

If the sub-list of chairpersons referred to in Article 24.7 (Lists of panellists) is not established at the time a request is made pursuant to Article 24.28 (Initiation of the mediation procedure), the mediator shall be drawn by lot from the individuals formally proposed by one Party or both of the Parties for that sub-list. Where applicable, the selection by lot shall be limited to the individuals identified in such proposals as possible mediators.

The Parties shall notify, in writing, the individual who has been selected to serve as mediator and invite that individual to confirm their availability. Unless the Parties agree otherwise, the date of the appointment of the mediator shall be the date on which the selected individual confirms their availability. If the selected individual notifies that he or she is unavailable or does not confirm their availability within 10 days, a new individual shall be selected. To that end, the procedure provided in this Article shall be repeated, starting with the selection method that led to the selection of the unavailable individual.

A mediator shall not be a natural person of either Party or employed by either Party, unless the Parties otherwise agree.

A mediator shall comply with Annex 24-B (Code of conduct for panellists and mediators).

Rules of the mediation procedure

Within 10 days of the appointment of the mediator, the requesting Party shall deliver to the mediator and to the requested Party a detailed written description of its concerns, in particular of the operation of the measure at issue and its possible adverse effects on trade or investment. Within 20 days after the date of the delivery of such description, the requested Party

may deliver written comments on that description. Either Party may include any information that it deems relevant in its description or comments.

The mediator shall assist the Parties in a transparent manner to understand the measure concerned and its possible adverse effects on trade or investment. In particular, the mediator may organise meetings between the Parties, consult the Parties jointly or individually, seek the assistance of, or consult with, relevant experts and stakeholders and provide any additional support requested

by the Parties. The mediator shall consult with the Parties before seeking the assistance of, or consulting with, relevant experts and stakeholders. Engagement of experts shall be subject to any terms and conditions agreed by the Parties, where applicable.

The mediator may offer advice and propose a solution for the consideration of the Parties. The Parties may accept or reject the proposed solution, or agree on a different solution. The mediator shall not advise or comment on the consistency of the measure at issue with this Agreement.

The mediation procedure shall take place in the territory of the requested Party, or by mutual agreement in any other location or by any other means.

The Parties shall endeavour to reach a mutually agreed solution within 70 days after the date of the appointment of the mediator. Pending a final agreement, the Parties may consider possible interim solutions, particularly if the mediation procedure relates to matters of urgency.

On request of either Party, the mediator shall deliver a draft factual report to the Parties within 20 days after the date of such a request. The draft factual report shall provide:

a brief summary of the measure at issue;

the procedures followed; and

if applicable, any mutually agreed solution reached, including possible interim solutions.

The mediator shall allow the Parties to submit comments on the draft factual report within 15 days after the date of the delivery of that report.

The mediator shall deliver a final factual report to the Parties within 30 days after the date of delivery of the draft factual report. The final factual report shall clearly address the comments made by each Party, if any. Neither the draft nor the final factual report shall include any interpretation of this Agreement or reach any conclusions on the consistency of the measure at issue with this Agreement.

The mediation procedure shall be terminated by:

the adoption of a mutually agreed solution by the Parties, on the date of the adoption thereof;

mutual agreement of the Parties at any stage of the mediation procedure, on the date of that agreement;

a written declaration of the mediator, after consultation with the Parties, that further efforts at mediation would be to no avail, on the date of that declaration; or

a written declaration of a Party after the time period specified in paragraph 5 has expired, on the date of that declaration, provided that the Parties have first explored a mutually agreed solutions under the mediation procedure and considered any advice and solutions proposed by the mediator.

Confidentiality

Unless the Parties agree otherwise, all steps of the mediation procedure, including any advice or proposed solution, are confidential. Either Party may disclose to the public the fact that mediation is taking place.

Relationship to dispute settlement procedures

The mediation procedure is without prejudice to each Party's rights and obligations under Sections B (Consultations) and C (Panel procedures) or under dispute settlement procedures under any other agreement.

If a Party requests establishment of a panel in accordance with Article 24.5 (Initiation of panel procedures) in relation to the measure that is the subject of the mediation, the other Party may terminate the mediation by written declaration and without complying with point (d) of Article 24.30(7) (Rules of the mediation procedure).

A Party shall not rely on, or introduce as evidence, in other dispute settlement procedures under this Agreement or any other agreement, nor shall a panel take into consideration:

positions taken by the other Party in the course of the mediation procedure or information exclusively gathered pursuant to Article 24.30(2) (Rules of the mediation procedure);

the fact that the other Party has indicated its willingness to accept a solution to the measure subject to mediation; or

advice given or proposals made by the mediator.

Unless the Parties agree otherwise, a mediator shall not serve as a member of a panel in dispute settlement procedures under this Agreement or under any other agreement involving the same matter for which he or she has been a mediator.

Article ARTICLE 24.33

Mutually agreed solution

The Parties may reach a mutually agreed solution at any time with respect to any dispute referred to in Article 24.3 (Scope).

If a mutually agreed solution is reached during the panel or mediation procedure, the Parties shall jointly notify that solution to the chairperson of the panel or the mediator, as applicable. On such notification, the panel or the mediation procedure shall be terminated.

Each Party shall take measures necessary to implement the mutually agreed solution within the agreed time period.

No later than at the expiry of the agreed time period the implementing Party shall inform the other Party, in writing, of any measure that it has taken to implement the mutually agreed solution, including, where applicable, the text of such measure.

Time periods

All time periods laid down in this Chapter shall be counted in days from the day following the act to which they refer. Time periods laid down in this Chapter shall be calculated with reference to the date and time in Brussels.

Any time period referred to in this Chapter may be modified by mutual agreement of the Parties.

The panel may at any time propose to the Parties to modify any time period referred to in Section C (Panel procedures), stating the reasons for the proposal.

Costs

Each Party shall bear its own expenses derived from its participation in the procedures or mediation procedure.

The Parties shall share jointly and equally the expenses derived from organisational matters, including the remuneration and expenses of the panellists and of the mediator.4

4 For greater certainty, this provision is without prejudice to the specific rules in Annex 24-A (Rules of procedure) with regard to expenses related to the logistical administration of the hearing.

The Trade Committee may adopt a decision setting out the parameters or other details on the remuneration and the reimbursement of expenses of panellists and mediators, including any related costs that could be incurred in the proceedings. In the absence of such decision, the remuneration and the reimbursement of expenses of panellists and mediators and of any related costs shall be determined in accordance with Rule 10 of Annex 24-A (Rules of procedure).

Each panellist and mediator shall keep a record and render a final account of the time devoted to the proceedings and of the expenses, as well as the time and expenses of their assistants and administrative staff.

DISCLAIMER: The Commission and Australia are publishing the texts of the Agreement following the announcement of conclusion of the negotiations on 24 March 2026. The texts are published in view of the public interest in the Agreement, for information purposes only and they may undergo further minor modifications, including as a result of the process of legal and linguistic revision. These texts are without prejudice to the final outcome of the Agreement between the EU and Australia. The texts will be final upon signature. The Agreement will become binding on the Parties under international law only after completion by each Party of its applicable legal requirements and procedures necessary for the entry into force of the Agreement.

ANNEX 24-A

RULES OF PROCEDURE

Notifications

Any request, reply, notice, written submission or other document of:

the panel shall be sent to both Parties at the same time;

a Party which is addressed to the panel shall be copied to the other Party at the same time; and

a Party which is addressed to the other Party shall be copied to the panel at the same time, as appropriate.

Any notification referred to in Rule 1 shall be in writing and shall be made by e-mail or, where appropriate, any other means of telecommunication that provides a record of its sending. Unless proven otherwise, such notification shall be deemed to be delivered on the date it is sent.

All notifications referred to in Rule 1 shall be addressed to, for the Union, the Directorate-General for Trade of the European Commission and, for Australia to the Department of Foreign Affairs and Trade or its successor.

Minor errors of a clerical nature in a request, notice, written submission or other document related to the proceedings may be corrected by delivery of a new document clearly indicating the changes.

If the last day for delivery of a document falls on a non-working day of the institutions of the Union or of the relevant institutions of the Government of Australia, the time period for the delivery of the document shall end on the first following working day.

Any notification referred in under Rule 1 shall be delivered by 17:00 hours (Brussels time) on the required date.

Appointment of panellists

If a panellist is to be selected by lot pursuant to Article 24.6 (Establishment of a panel), the co-chair of the Trade Committee from the complaining Party shall promptly inform the co-chair of the Trade Committee from the Party complained against of the date, time and venue of the selection by lot. The Party complained against may be present during the selection. In any event, the selection shall be carried out with the Party or Parties that are present.

The co-chair of the Trade Committee from the complaining Party shall notify, in writing, each individual who has been selected to serve as a panellist of their selection. That notification shall be copied to the co-chair of the Trade Committee from the Party complained against. Each individual shall confirm their availability to both Parties within five days after the date on which he or she was informed of their selection.

If any individual who has been selected to serve as a panellist does not confirm their availability within the time period provided for in Rule 8, or notifies that he or she is unavailable, a new individual shall be selected. To that end, the procedure provided for in Article 24.6 (Establishment of a panel) shall be repeated, starting with the selection method that led to the selection of the unavailable individual.

The co-chair of the Trade Committee from the complaining Party shall select by lot the panellist or chairperson of the panel, within five days after the expiry of the time period referred to in Article 24.6(2) (Establishment of a panel), if any of the relevant sub-lists referred in Article 24.7 (Lists of panellists):

is not established or if no individual on the relevant sub-list is available, from amongst those individuals who have been proposed by one or both Parties for the establishment of that particular sub-list; or

no longer contains at least five individuals, from amongst those individuals who remain on that particular sub-list.

A panellist shall accept their appointment by signing an appointment contract and returning a signed copy to the co-chair of the Trade Committee from the complaining Party. Unless otherwise entrusted to an external body pursuant to Article 24.5(5) (Initiation of panel procedures), the Parties shall endeavour to ensure that, at the latest by the time all the panellists have confirmed their availability, they have agreed on the remuneration and the reimbursement of expenses of the panellists and assistants, and have prepared the necessary appointment contracts, with a view to having them signed promptly. The remuneration and expenses of the panellists shall be based on WTO standards. The remuneration and expenses of an assistant or assistants of a panellist shall not exceed 50 % of the remuneration of that panellist.

Organisational meeting

11A. Unless the Parties agree otherwise, they shall meet the panel within seven days after the date of its establishment in order to determine any matters that the Parties or the panel deem appropriate, including the timetable of the proceedings.

Panellists and representatives of the Parties may take part in such meeting through any means of communication, including telephone or video conference.

Written submissions

The complaining Party shall deliver its written submission no later than 15 days after the date of establishment of the panel. The Party complained against shall deliver its written submission no later than 25 days after the date of delivery of the written submission of the complaining Party.

Operation of the panel

The chairperson of the panel shall preside at all panel meetings. The panel may delegate to the chairperson the authority to make administrative and procedural decisions.

Unless otherwise provided in Chapter 24 (Dispute settlement) or in this Annex, the panel may conduct its activities by any means including telephone, video-conference or other electronic means of communication.

Only panellists may take part in the deliberations of the panel. Notwithstanding, the panel may permit their assistants to be present at its deliberations.

Without prejudice to the research or assistance provided by any assistants, the drafting of any decision and report shall remain the exclusive responsibility of the panel and shall not be delegated.

Where a procedural question arises that is not covered by the Chapter 24 (Dispute settlement), this Annex or Annex 24-B (Code of conduct for panellists and mediators), the panel, after consulting the Parties, may adopt an appropriate procedure that is compatible with Chapter 24 (Dispute settlement), this Annex or Annex 24-B (Code of conduct for panellists and mediators), as applicable.

If the panel considers that there is a need to modify any of the time periods for the proceedings other than the time periods set out in Chapter 24 (Dispute settlement) or to make any other procedural or administrative adjustment, it shall inform the Parties, in writing of the time period or adjustment needed and the reasons therefor. The panel may adopt the modification or adjustment after consultation with the Parties.

Where a jurisdictional question arises, a Party may request the panel to make a ruling on that matter. The request shall be submitted at the earliest possible opportunity and generally no later than that Party's first written submission. The panel may rule on the request either as a preliminary question or in its reports and decisions, as it considers appropriate.

Replacement

If a Party considers that a panellist does not comply with Annex 24-B (Code of conduct for panellists and mediators) and should therefore be replaced, that Party shall notify the other Party within 15 days after the date on which it obtained sufficient evidence of the panellist's alleged failure to comply with Annex 24-B (Code of conduct for panellists and mediators).

The Parties shall consult within 15 days after the date of the notification under Rule 20, taking into account the evidence of the panellist's alleged failure to comply with Annex 24-B (Code of conduct for panellists and mediators). The Parties shall inform the panellist of the alleged failure and they may request the panellist to take steps to ameliorate that failure. They may also, if they so agree, remove the panellist and select a new panellist in accordance with Article 24.6 (Establishment of a panel).

If the Parties fail to agree on the need to replace a panellist, other than the chairperson of the panel, either Party may request the chairperson of the panel to make a decision on the matter, which shall be final.

If the chairperson of the panel finds that the panellist does not comply with Annex 24-B (Code of conduct for panellists and mediators), the new panellist shall be selected in accordance with Article

24.6 (Establishment of a panel).

If the Parties fail to agree on the need to replace the chairperson, either Party may request that this matter be referred to one of the remaining members of the pool of individuals from the relevant sub-list of chairpersons established under Article 24.7 (Lists of panellists). The individual's name shall be drawn by lot by the co-chair of the Trade Committee from the requesting Party, or the co-chair's delegate. The decision by the selected person on the need to replace the chairperson shall be final. If the selected person is unavailable to make the decision, the selection process shall be repeated.

If the selected person finds that the chairperson does not comply with Annex 24-B (Code of conduct for panellists and

mediators), a new chairperson shall be selected in accordance with Article 24.6 (Establishment of a panel).

Hearings

Based on the timetable determined pursuant to Rule 10, after consulting with the Parties and the other panellists, the chairperson of the panel shall notify the Parties of the date, time and venue of the hearing. That information shall be made publicly available by the Party in which the hearing takes place, unless the hearing is closed to the public.

Unless the Parties agree otherwise, the hearing shall be held in Brussels if the complaining Party is Australia and in Canberra if the complaining Party is the Union. The Party complained against shall bear the expenses derived from the logistical administration of the hearing. In duly justified circumstances and at the request of a Party, the panel may decide, after consulting the other Party, to hold a virtual or hybrid hearing and make appropriate arrangements, taking into account the rights of due process and the need to ensure transparency.

The panel may convene additional hearings if the Parties so agree.

All panellists shall be present during the entirety of the hearing.

Unless the Parties agree otherwise, the following persons may attend the hearing, irrespective of whether or not the hearing is open to the public:

representatives and advisers of a Party;

assistants and administrative staff;

interpreters, translators and court reporters of the panel; and

experts, if used by the panel pursuant to Article 24.22(2) (Receipt of Information).

No later than five days before the date of a hearing, each Party shall deliver to the panel and to the other Party a list of the names of persons who will make oral arguments or presentations at the hearing on behalf of that Party and of other representatives and advisers who will be attending the hearing.

The panel shall conduct the hearing in the following manner, ensuring that the complaining Party and the Party complained against are afforded equal time in both argument and rebuttal argument:

Argument

argument of the complaining Party; and

argument of the Party complained against.

Rebuttal Argument

reply of the complaining Party; and

counter-reply of the Party complained against.

The panel may direct questions to either Party at any time during the hearing.

The panel shall arrange for a transcript, and where that is not practicable, a recording of the hearing, to be prepared and delivered to the Parties as soon as possible after the hearing. Each Party may comment on the transcript or recording and the panel may consider those comments and, where necessary, address any inaccuracies.

Each Party may deliver a supplementary written submission concerning any matter that arose during the hearing within 10 days after the date of the hearing. The other Party shall have an opportunity to provide comments in writing on such a submission.

Questions in writing

The panel may at any time during the proceedings submit questions in writing to one or both Parties.

A Party shall have an opportunity to provide comments in writing on the other Party's responses.

Confidentiality

Each Party and the panel shall treat as confidential any information submitted by the other Party to the panel that the other

Party has designated as confidential. When a Party submits to the panel a written submission containing confidential information, it shall also provide, within 15 days, a non-confidential version of the submission which shall be disclosed to the public.

Nothing in this Annex (Rules of procedure) shall preclude a Party from disclosing statements of its own positions to the public to the extent that, when making reference to information submitted by the other Party, it does not disclose any information designated by the other Party as confidential.

The panel shall meet in closed session when the submission and arguments of a Party include confidential information. The Parties shall maintain the confidentiality of the panel hearings when the hearings are held in closed session.

Ex parte contacts

The panel shall not meet or communicate with a Party in the absence of the other Party.

A panellist shall not discuss any aspect of the matters under consideration by the panel with one Party or both Parties in the absence of the other panellists.

Amicus curiae submissions

Unless the Parties agree otherwise within five days after the date of the establishment of the panel, the panel may receive unsolicited written submissions from a natural person of a Party or a legal person established in the territory of a Party who is independent from the governments of the Parties, provided that they:

are received by the panel within 10 days after the date of the establishment of the panel;

are concise and in no case longer than 15 pages, including any annexes, typed at double space;

are directly relevant to a factual or a legal issue under consideration by the panel;

contain a description of the person making the submission including, in the case of a natural person, their nationality, and in the case of a legal person, its place of establishment, the nature of its activities, its legal status, general objectives and its source of financing;

specify the nature of the interest that the person has in the proceedings; and

are drafted in the languages chosen by the Parties in accordance with Rule 45 and Rule 46 of this Annex.

The submissions shall be delivered to the Parties for their comments. The Parties may submit to the panel comments within 10 days after the date of delivery of the submissions.

The panel shall list in its report all the submissions it has received pursuant to Rule 41. The panel shall not be obliged to address in its report the arguments made in such submissions, however, if it does, it shall also take into account any comments made by the Parties pursuant to Rule 42.

Urgent cases

In cases of urgency referred to in Article 24.11 (Decision on urgency), the panel, after consulting the Parties, shall adjust, as appropriate, the time periods referred to in this Annex. The panel shall notify the Parties of those adjustments.

Translation and interpretation

During the consultations referred to in Article 24.4 (Consultations), and no later than the meeting referred to in Rule 11A, the Parties shall endeavour to agree on a common working language for the proceedings.

If the Parties are unable to agree on a common working language, each Party shall make its written submissions in its chosen language. Each Party shall provide at the same time a translation in the language chosen by the other Party, unless its submissions are written in one of the working languages of the WTO. The Party complained against shall arrange for the interpretation of oral submissions into the languages chosen by the Parties.

Panel reports and decisions shall be issued in the language or languages chosen by the Parties. If the Parties have not agreed on a common working language, the interim and final report of the panel shall be issued in one of the working languages of the WTO.

Either Party may provide comments on the accuracy of the translation of any translated version of a document drawn up in accordance with this Annex, which shall be taken into account in finalising the translation if appropriate.

Each Party shall bear the costs of the translation of its written submissions. Any costs incurred for translation of a ruling shall be borne equally by the Parties.

Other procedures

In respect of proceedings under Article 24.15 (Reasonable period of time), Article 24.16 (Compliance review), Article 24.17 (Temporary remedies) and Article 24.18 (Review of any measure taken to comply after the adoption of temporary remedies), the panel shall determine a timetable of the proceedings, after consulting the Parties, which shall include time periods for the Parties to submit written submissions to the panel.

DISCLAIMER: The Commission and Australia are publishing the texts of the Agreement following the announcement of conclusion of the negotiations on 24 March 2026. The texts are published in view of the public interest in the Agreement, for information purposes only and they may undergo further minor modifications, including as a result of the process of legal and linguistic revision. These texts are without prejudice to the final outcome of the Agreement between the EU and Australia. The texts will be final upon signature. The Agreement will become binding on the Parties under international law only after completion by each Party of its applicable legal requirements and procedures necessary for the entry into force of the Agreement.

ANNEX 24-B

CODE OF CONDUCT

FOR PANELLISTS AND MEDIATORS

Governing principles

In order to preserve the integrity and impartiality of the dispute settlement mechanism, each candidate and panellist shall:

get acquainted with this Annex;

be independent and impartial;

avoid direct or indirect conflicts of interests;

avoid impropriety and the appearance of impropriety or bias;

(f) observe high standards of conduct; and

not be influenced by self-interest, outside pressure, political considerations, public clamour, and loyalty to a Party or fear of criticism.

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.

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 him or her.

A panellist shall not allow past or existing financial, business, professional, personal, or social relationships or responsibilities to influence their conduct or judgement.

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 bias.

Disclosure obligations

Prior to the acceptance of their appointment as a panellist under Article 24.6 (Establishment of a panel), a candidate requested to serve as a panellist shall disclose any interest, relationship or matter that is likely to affect the panellist's independence or impartiality or that might reasonably create an appearance of impropriety or bias in the proceedings. To this end, a candidate shall make all reasonable efforts to become aware of any such interests, relationships and matters, including financial interests, professional interests, or employment or family interests.

The disclosure obligation under paragraph 6 is a continuing duty which requires a panellist to disclose any such interests, relationships or matters that may arise during any stage of the proceedings.

A candidate or a panellist shall communicate to the Trade Committee for consideration by the Parties any matters concerning actual or potential violations of this Annex, including by other candidates or panellists, at the earliest time he or

she becomes aware of them.

Duties of panellists

On acceptance of their appointment, a panellist shall be available to perform and shall perform their duties thoroughly and expeditiously throughout the proceedings, and with fairness and diligence.

A panellist shall consider only the issues raised in the proceedings and necessary for a decision and shall not delegate this duty to any other person.

A panellist shall take all appropriate steps to ensure that their assistants and administrative staff are aware of, and comply with, the obligations incurred by panellists under Parts I, II, III and V of this Annex.

Obligations of former panellists

Each former panellist shall avoid actions that may create the appearance that he or she was biased in carrying out the duties or derived advantage from the decision of the panel.

Each former panellist shall comply with the obligations in Part V of this Annex.

Confidentiality

A panellist shall not, at any time, disclose any non-public information concerning the proceedings or acquired during the proceedings for which he or she has been appointed. A panellist shall not, in any case, disclose or use such information to gain personal advantage or advantage for others or to adversely affect the interest of others.

A panellist shall not disclose a decision of the panel or parts thereof prior to its publication in accordance with Chapter 24 (Dispute settlement).

A panellist shall not, at any time, disclose the deliberations of a panel, or any panellist's view, nor make any statements on the proceedings for which he or she has been appointed or on the issues in dispute in the proceedings.

Mediators

This Annex shall apply to mediators, mutatis mutandis.

Chapter 25. FINAL PROVISIONS

Article ARTICLE 25.1

Amendments

The Parties may agree, in writing, to amend this Agreement.

Amendments shall enter into force on the first day of the second month, or on such later date as otherwise agreed by the Parties, following the date on which the Parties exchange written notifications certifying that they have completed their respective applicable legal requirements and procedures for the entry into force of such amendments.

The Trade Committee may adopt decisions to amend this Agreement as provided for in Article 22.3 (Amendments by the Trade Committee). The decision of the Trade Committee shall either specify the date of entry into force of the amendments or, where required by a Party’s internal system, provide that such amendments enter into force after the notification in writing of the completion of any outstanding applicable legal requirements and procedures of the Parties.

Entry into force

This Agreement shall enter into force on the first day of the second month following the date

on which the Parties exchange written notifications certifying that they have completed their respective applicable legal requirements and procedures for the entry into force of this Agreement. The Parties may agree on another date of entry into force of this Agreement.

The notifications referred to in paragraph 1 shall be sent to, for the Union, the General Secretariat of the Council of the European Union and, for Australia, to the Department of Foreign Affairs and Trade or its successor.

Termination

This Agreement shall remain in force unless terminated pursuant to paragraph 2.

A Party may notify the other Party of its intention to terminate this Agreement. This notification shall be sent to, for the Union, the General Secretariat of the Council of the European Union and, for Australia, to the Department of Foreign Affairs and Trade or its successor. The termination shall take effect six months after the receipt of the notification, unless the Parties agree otherwise.

Fulfilment of obligations

Each Party is fully responsible for the observance of all provisions of this Agreement.

Each Party shall ensure that all necessary measures are taken to give effect to the provisions of this Agreement, including their observance at all levels of government as well as by persons exercising delegated governmental authority. Each Party shall perform the obligations set out in this Agreement in good faith.

Relation to the Framework Agreement and the Paris Agreement

This Agreement qualifies as a specific agreement referred to in Article 55(1) of the Framework Agreement.

A Party may take appropriate measures, as referred to in Article 57(4) of the Framework Agreement, relating to this Agreement in the event of:

a case of special urgency as defined in Article 57(7) of the Framework Agreement; or

an act or omission of the other Party that materially defeats the object and purpose of the Paris Agreement.

Such appropriate measures referred to in paragraph 2 shall be taken in accordance with the procedures and subject to the conditions set out in Article 57(3) to (7) of the Framework Agreement.

Persons exercising delegated governmental authority

Unless otherwise provided for in this Agreement, each Party shall ensure that any person, including a state-owned enterprise, an enterprise granted special rights or privileges or a designated monopoly, that has been delegated regulatory, administrative or other governmental authority by a Party at any level of government, acts in accordance with that Party's obligations under this Agreement in the exercise of that authority.

No direct effect

Nothing in this Agreement shall be construed as conferring rights or imposing obligations on

persons, other than the rights or obligations created between the Parties under public international law, nor as permitting this Agreement to be directly invoked in a Party's domestic legal system.

A Party shall not provide for a right of action under its domestic law against the other Party on the ground that a measure of the other Party is inconsistent with this Agreement.

Relation to other international agreements

Unless otherwise provided for in this Agreement, agreements between the Member States, the European Community or the Union, of the one part, and Australia, of the other part, existing on the date of entry into force of this Agreement are not superseded or terminated by this Agreement.

This Agreement shall be an integral part of the overall bilateral relations as governed by the Framework Agreement and shall form part of the common institutional framework.

The Parties affirm their rights and obligations with respect to each other under the WTO Agreement. Nothing in this Agreement shall be construed as requiring a Party to act in a manner inconsistent with its obligations under the WTO Agreement.

In the event of any inconsistency between this Agreement and any agreement other than the WTO Agreement to which both Parties are a party, the Parties shall, on request of a Party, promptly consult with each other with a view to finding a mutually satisfactory solution.

References to laws, regulations and other international agreements

Unless otherwise provided for in this Agreement, any reference in this Agreement to the laws or regulations of a Party shall

be understood to include amendments thereto.

Unless otherwise provided for in this Agreement, where international agreements are referred to in, or incorporated into, this Agreement, in whole or in part, such agreements shall be understood to include any amendments thereto, or their successor agreements, that enter into force for both Parties on or after the date of signature of this Agreement. If any matter arises regarding the implementation or application of this Agreement as a result of such amendments or successor agreements, the Parties may, on request of a Party, consult with each other with a view to finding a mutually satisfactory solution to this matter as necessary.

Article Article 25.10

Future accessions to the Union

The Union shall notify Australia of:

any application to become a Member of the Union by a third country that is submitted after the date of entry into force of this Agreement; and

the signature of a Treaty concerning the accession of a third country to the Union.

Prior to accession, the Trade Committee shall examine any effects of the accession of a third country to the Union on this Agreement. The Trade Committee may decide on any necessary amendments to this Agreement or transitional measures. The Trade Committee shall endeavour to adopt such decision prior to the date of accession of that third country to the Union.

For greater certainty, this Agreement shall apply in respect of the third country referred to in point (b) of paragraph 1 from the date of the accession of that third country to the Union.

Integral parts of this Agreement

The Annexes, Appendices, Declarations, Joint Declarations, Protocols, footnotes and Understandings to this Agreement constitute integral parts thereof.

Authentic texts

This Agreement is drawn in duplicate in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, each version being equally authentic.