CHILE - PANAMA FREE TRADE AGREEMENT

The Government of the Republic of Chile and the Government of the Republic of Panama, (hereinafter "the Parties") resolved to:

STRENGTHEN the special ties of friendship and cooperation between their nations;

CONTRIBUTE to harmonious development, the expansion of world trade and the enhancement of international cooperation;

CREATE a larger and more secure market for goods, services and investment in their respective territories;

AVOID distortions in their reciprocal trade;

ESTABLISH clear and mutually beneficial rules for their trade;

ENSURE a predictable business framework for business and investment planning;

DEVELOP their respective rights and obligations arising from the Marrakesh Agreement establishing the World Trade Organisation, as well as other multilateral and bilateral cooperation instruments;

STRENGTHEN the competitiveness of their companies in global markets;

CREATE new employment opportunities and improve working conditions and living standards in their respective territories;

DEVELOP their respective international commitments and strengthen their cooperation on labour issues;

PROTECT, strengthen and enforce the fundamental rights of its workers;

IMPLEMENT this Treaty in a manner consistent with the protection and conservation of the environment;

PROMOTE economic development in a manner consistent with environmental protection and conservation, as well as sustainable development;

CONSERVE, protect and enhance the environment, including through the management of natural resources in their respective territories and through multilateral environmental agreements to which they are both party;

CONSERVE its flexibility to safeguard the public welfare; and

CONTRIBUTE to hemispheric integration;

HAVE AGREED as follows:

Chapter 1. INITIAL PROVISIONS

Article 1.1. Establishment of a Free Trade Area

The Parties to this Agreement, in accordance with Article XXIV of the General Agreement on Tariffs and Trade 1994 and Article V of the General Agreement on Trade in Services, establish a free trade area.

Article 1.2. Objectives

1, The objectives of this Treaty, developed more specifically through its principles and tules, including those of national treatment, most favoured nation (MFN) treatment and transparency, are as follows:

(a) encourage the expansion and diversification of trade between the Parties;

(b) eliminate barriers to trade and facilitate the cross-border movement of goods and services between the Parties;

(c) promote conditions of fair competition in the free trade area;

(d) substantially increase investment opportunities in the territories of the Parties; and

(e) create effective procedures for the implementation and enforcement of this Agreement, for its joint administration, and for preventing and resolving disputes.

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

Article 1.3. Relationship to other International Agreements

The Parties confirm the rights and obligations existing between them under the WTO Agreement and other international agreements to which both Parties are parties.

Article 1.4. Scope of Obligations

The Parties shall ensure that all necessary measures are taken to give effect to the provisions of this Agreement within their territory and at all levels of government, except as otherwise provided in this Agreement.

Article 1.5. Succession of Treaties

Any reference to any other international agreement shall be understood to be made on the same terms as to a successor agreement to which the Parties are parties.

Chapter 2. GENERAL DEFINITIONS

Article 2.1. Definitions of General Application

For the purposes of this Agreement and unless otherwise specified:

Customs Valuation Agreement means the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, which forms part of the WTO Agreement;

WTO Agreement means the Marrakesh Agreement establishing the World Trade Organisation, dated 15 April 1994;

Agreement on Safeguards means the Agreement on Safeguards, which is part of the WTO Agreement;

SPS Agreement means the Agreement on the Application of Sanitary and Phytosanitary Measures, which is part of the WTO Agreement;

TBT Agreement means the Agreement on Technical Barriers to Trade, which is part of the WTO Agreement;

GATS stands for the General Agreement on Trade in Services, which is part of the WTO Agreement;

Customs duty includes any import duties or taxes and any charges of any kind imposed in connection with the importation of a good, including any form of surcharge or additional charge in connection with such importation, but does not include any:

(a) charge equivalent to an internal tax applied in accordance with Article III:2 of the GATT 1994, with respect to like, directly competitive or substitute goods of the Party, or with respect to goods from which the imported good is wholly or partly manufactured or produced;

(b) anti-dumping or countervailing duty; and

(c) duty or other charge related to importation, proportionate to the cost of the services rendered;

customs authority means the competent authority which, in accordance with a Party's legislation, is responsible for the administration of customs laws and regulations;

Commission means the Free Trade Commission established pursuant to Article 12.1 (Free Trade Commission);

days means calendar days or calendar days; enterprise means any entity incorporated or organised under applicable law, whether or not for profit and whether privately or governmentally owned, including any partnership, trust, joint venture,

sole proprietorship, joint venture or other association;

enterprise of a Party means an enterprise incorporated or organised under the laws of a Party;

State enterprise means an enterprise owned or controlled by a Party through ownership rights;

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

GATT 1994 stands for the General Agreement on Tariffs and Trade 1994, which is part of the WTO Agreement;

central level government means national level government;

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

goods of a Party means domestic products as understood in the GATT 1994 or such other goods as the Parties may agree, and includes goods originating in that Party. A good of a Party may include materials from other countries;

national means a natural person who is a national of a Party in accordance with Annex 2.1 (Country-Specific Definitions) or a permanent resident of a Party;

WTO stands for the World Trade Organisation;

originating means qualifying in accordance with the rules of origin set out in Chapter 4 (Rules of Origin and Origin Procedures);

item means the first four digits of the Harmonised System (HS) tariff classification number;

person means a natural person or a company; person of a Party means a national or company of a Party;

Harmonised System (HS) means the Harmonised Commodity Description and Coding System, including its general rules of interpretation, section notes and chapter notes, as adopted and implemented by the Parties in their respective customs tariff laws;

subheading means the first six digits of the Harmonised System (HS) tariff classification number;

preferential tariff treatment means the tariff rate applicable to an originating good, in accordance with the Parties' respective tariff elimination schedules set out in Annex 3.3 (Tariff Elimination); and

territory means the land, sea and air space under the sovereignty of a Party and the exclusive economic zone and continental shelf over which it exercises sovereign rights and jurisdiction in accordance with international law and its domestic law.

Annex 2.1. COUNTRY-SPECIFIC DEFINITION

For the purposes of this Agreement, unless otherwise specified: natural person who has the nationality of a Party means:

(a) with respect to Chile, a Chilean as defined in the Political Constitution of the Republic of Chile; and

(b) with respect to Panama:

(i) Panamanians by birth, according to Article 9 of the Political Constitution of the Republic of Panama,

(ii) Panamanians by naturalisation, according to Article 10 of the Political Constitution of the Republic of Panama,

(iii) Panamanians by adoption, according to Article 11 of the Political Constitution of the Republic of Panama, and

(iv) a person who, in accordance with Panamanian law, has the status of permanent or definitive resident.

Chapter 3. NATIONAL TREATMENT AND MARKET ACCESS FOR GOODS

Article 3.1. Scope of Application

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

Section A. National Treatment

Article 3.2. National Treatment

1. Each Party shall accord national treatment to goods of the other Party in accordance with Article III of the GATT 1994, including its interpretative notes, and to that end Article Ill of the GATT 1994 and its interpretative notes are hereby incorporated into and made part of this Agreement, mutatis mutandis.

2. Paragraph 1 shall not apply to the measures set out in Annex 3.2 (National Treatment and Import and Export Restrictions).

Section B. Tariff Elimination

Article 3.3. Tariff Elimination

1. Except as otherwise provided in this Agreement, no Party may increase any existing customs duty, or adopt any new customs duty, on an originating good.

2. Except as otherwise provided in this Agreement, each Party shall progressively eliminate its customs duties on originating goods as set out in Annex 3.3 (Tariff Elimination).

3. At the request of a Party, the Parties shall consult to examine the possibility of accelerating the elimination of customs duties set out in their Schedules to Annex 3.3 (Tariff Elimination). When the Parties adopt an agreement on the elimination of tariffs, they shall tariff rate for a good, that agreement shall prevail over any tariff rate or staging category determined in their Schedules to Annex 3.3 (Tariff Elimination) for that good, when approved by the Parties in accordance with Article 12.1.3(b) (Free Trade Commission), and in accordance with their applicable legal procedures.

4. For greater certainty, a Party may:

(a) increase a customs tariff to the level set out in its Schedules to the Annex 3.3 (Tariff elimination), where that customs tariff has been unilaterally reduced; or

(b) maintain or increase the customs tariff when authorised by the WTO Dispute Settlement Body.

5. If a Party reduces the most-favoured-nation (MFN) duty rate after the entry into force of this Agreement and before the end of the transitional period, that Party's Tariff Elimination Schedule in Annex 3.3 (Tariff Elimination) shall be adjusted so as to maintain the implied preferences originally negotiated.

Section C. Special Schemes

Article 3.4. Exemption from Customs Duties

1. No Party may adopt a new exemption from customs duties, or extend an existing exemption with respect to existing beneficiaries, or extend it to new beneficiaries, where the exemption is conditioned, explicitly or implicitly, on the fulfilment of a performance requirement.

2. No Party may condition, explicitly or implicitly, the continuation of any existing customs duty exemption on the fulfilment of a performance requirement.

3. Parties may maintain measures inconsistent with paragraphs 1 and 2, if such measures are in conformity with Article 27.4 of the Subsidies Agreement.

Article 3.5. Temporary Admission of Goods

1. Each Party shall authorise temporary admission free of duty for the following goods, irrespective of their origin:

(a) professional equipment, including press and television equipment, computer software, and broadcasting and cinematographic equipment, necessary for the conduct of the business, trade or profession of the business person who is entitled to temporary entry under the legislation of the importing Party;

(b) goods for exhibition or demonstration; (c) commercial samples, advertising films and recordings; and (d) goods admitted

for sporting purposes.

2. Each Party shall, upon application by the person concerned and for reasons deemed valid by its customs authority, extend the period for temporary entry beyond the period initially fixed.

3. The Parties may not subject the temporary duty-free admission of the goods referred to in paragraph 1 to conditions other than the following:

(a) the goods are used only by the resident or national of the other Party or under the personal supervision of a national or resident of the other Party in the exercise of that person's commercial, professional or sporting activity;

(b) the goods are not sold or leased while they remain in its territory;

(c) the goods are accompanied by a security not exceeding the charges that would otherwise be due for entry or final importation, refundable on departure of the goods;

(d) the goods are susceptible to identification on exit;

(e) leave the territory of the Party upon the departure of the person referred to in subparagraph (a) or within such other period corresponding to the purpose of the temporary admission as the Party may establish, or within the period of one year, unless extended;

(f) the goods are admitted in quantities no greater than is reasonable for their intended use; and

(g) the good is otherwise admissible in the territory of the Party under its legislation.

4. If any of the conditions imposed by a Party under paragraph 3 have not been met, the Party may apply the customs duty and any other charges that would normally be payable for the goods, in addition to any charges or penalties established in accordance with its internal legislation.

5. Each Party, through its customs authority, shall adopt procedures that provide for the expeditious release of goods admitted under this Article. To the extent possible, where such goods accompany a national or resident of the other Party seeking temporary entry, the procedures shall allow the goods to be cleared simultaneously with the entry of that person.

6. Each Party shall allow goods temporarily admitted to leave through a customs port other than the port of admission.

7. Each Party, through its customs authority and consistent with its domestic law, shall, upon presentation of evidence satisfactory to the customs authority that the good has been destroyed within the original time limit for temporary entry or any lawful extension, exempt the importer or other person responsible for a good admitted pursuant to this Article from liability for failure to remove the temporarily admitted good.

8. Subject to the provisions of Chapter 10 (Cross-Border Trade in Services):

(a) each Party shall permit containers used in international transport that have entered its territory from the other Party to leave its territory by any route that has a reasonable relationship to the prompt and economical departure of the containers;

(b) no Party may require a bond or impose any penalty or charge solely on the grounds that the port of entry of the container is different from the port of exit;

(c) no Party shall condition the release of any obligation, including a bond that it has applied to the entry of a container into its territory on its departure through a particular port; and

(d) neither Party shall require that the carrier bringing a container into its territory from the territory of the other Party be the same carrier bringing the container into the territory of the other Party.

Article 3.6. Goods Re-imported after Repair or Alteration

1. No Party may apply a customs duty to a good, irrespective of its origin, that is re-imported into its territory after having been temporarily removed from its territory into the territory of the other Party for repair or alteration, regardless of whether such repair or alteration could have been carried out in its territory.

2. Neither Party may apply customs duties to goods which, irrespective of their origin, are temporarily admitted from the territory of the other Party for the purpose of being repaired or altered.

3. For purposes of this Article, repairs or alterations do not include operations or processes that:

(a) destroy the essential characteristics of a good or create a new or commercially different good; or

(b) transform unfinished goods into finished goods.

Article 3.7. Duty-free Importsfor Commercial Samples of Negligible Value and Printed Advertising Materials

Each Party shall allow duty-free importation of commercial samples of negligible value and printed advertising materials imported into the territory of the other Party, without regard to their origin, but may require that:

(a) such samples are imported solely for the purpose of arranging orders for goods or services from the other Party or from another non-Party; or

(b) such printed advertising materials are imported in packages containing not more than one copy of each printed matter, and neither the materials nor the packages are part of a larger consignment.

Section D. Non-Tariff Measures

Article 3.8. Import and Export Restrictions

1. Except as otherwise provided in this Agreement, neither Party may 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 as provided in Article XI of the GATT 1994, including its interpretative notes. For this purpose, Article XI of the GATT 1994 and its interpretative notes are incorporated into and made an integral part of this Agreement, mutatis mutandis.

2. The Parties understand that the rights and obligations of the GATT 1994 embodied in paragraph 1 prohibit, under any circumstances in which another form of restriction is prohibited, a Party from adopting or maintaining:

(a) export and import price requirements, except as permitted in compliance with anti-dumping and countervailing duty orders and obligations;

(b) import licensing on the condition of meeting a performance requirement; or

(c) voluntary export restrictions inconsistent with Article VI of GATT 1994, as applied under Article 18 of the Subsidies Agreement and Article 8.1 of the Anti-Dumping Agreement.

3. Paragraphs 1 and 2 shall not apply to the measures set out in Annex 3.2 (National Treatment and Import and Export Restrictions).

Article 3.9. Fees and Administrative Formalities

1. Each Party shall ensure, in accordance with Article VIII:1 of the GATT 1994 and its interpretative notes, that all fees and charges of whatever nature (other than customs duties, charges equivalent to an internal tax or other domestic charges applied in accordance with Article III:2 of the GATT 1994, and anti-dumping and countervailing duties), imposed on or in connection with importation or exportation, are limited to the approximate cost of services rendered and do not represent an indirect protection to domestic goods or a tax on imports or exports,

2. The Parties may not require consular transactions, including related fees and charges, in connection with the importation of any goods of the other Party.

3. Each Party shall make available, through the internet or a comparable computer telecommunications network, a current list of its fees and charges imposed in connection with importation or exportation.

Article 3.10. Export Taxes

No Party may adopt or maintain any tariff, tax or other charge on exports of any good to the territory of the other Party, unless such tariff, tax or charge is adopted or maintained on any good for domestic consumption.

Section E. Other Measures

Article 3.11. Geographical Indications

1. The Parties recognise the rights and obligations under the Agreement on Trade- Related Aspects of Intellectual Property Rights (TRIPS). Each Party shall recognise and protect geographical indications and appellations of origin of the other Party, as provided for in this Article and in the laws of the Party where protection is sought.

2. Neither Party shall permit the importation, manufacture or sale of a good that uses a geographical indication or designation of origin protected in the other Party unless it has been produced and certified in the other Party in accordance with its legislation applicable to that good.

3. Paragraphs 1 and 2 shall produce effects only in respect of those geographical indications and appellations of origin protected under the law of the other Party claiming protection and whose definition is consistent with paragraph 1 of Article 22 of TRIPS. Furthermore, in order to qualify for protection, each Party shall notify the other Party of the geographical indications and appellations of origin which, complying with the above requirements, shall be considered within the scope of protection.

4. This is without prejudice to the recognition that Parties may grant or have granted to geographical indications and appellations of origin, including homonyms, which legitimately belong to a non-Party.

Article 3.12. Distinctive Products

Chile shall recognise Molas as distinctive products of Panama. Accordingly, Chile shall not permit the importation, manufacture or sale of any product such as Molas unless they have been produced in Panama in accordance with the laws and regulations of Panama governing the production of Molas. The foregoing shall be without prejudice to any recognition that Chile may grant and that legitimately belongs to a non-Party with respect to Molas.

Article 3.13. Country of Origin Marking

1. Each Party shall apply to goods of the other Party, where appropriate, its country of origin marking legislation in accordance with Article IX of the GATT 1994. For this purpose, Article IX of the GATT 1994 is incorporated into and made an integral part of this Agreement.

2. Each Party shall accord to goods of the other Party treatment no less favourable than that it accords to goods of a non-Party with respect to the application of rules regarding country of origin marking in accordance with Article IX of the GATT 1994.

3. Each Party shall ensure that the establishment and enforcement of respective country

of origin marking laws shall not have the purpose or effect of creating unnecessary obstacles to trade between the Parties.

Section F. Agriculture

Article 3.14. Agricultural Export Subsidies

1. The Parties share the objective of achieving the multilateral elimination of export subsidies on agricultural goods and will work together towards an agreement in the World Trade Organisation to eliminate export subsidies, as well as the reintroduction of export subsidies in any form.

2. Neither Party shall introduce or maintain any export subsidy on any agricultural good destined for the territory of the other Party.

Section G. Institutional Arrangements

Article 3.15. Trade In Goods Committee

1. The Parties establish a Committee on Trade in Goods composed of representatives of each Party.

2. The Committee shall meet at the request of any Party or the Commission to consider any matter covered by this Chapter, Chapter 4 (Rules of Origin and Origin Procedures) and Chapter 5 (Customs Administration).

3. The functions of the Committee shall include:

(a) promoting trade in goods between the Parties, including consultations for the acceleration of tariff elimination and other matters as appropriate; and

(b) consider obstacles to trade in goods between the Parties, in particular those related to the application of non-tariff measures and, if necessary, refer these matters to the Commission for consideration.

4. To the extent that trade issues arise relating to specific matters, the parties may establish ad-hoc committees on matters relating to Chapter 4 (Rules of Origin and Origin Procedures) or Chapter 5 (Customs Administration), which shall report to the Committee on Trade in Goods.

5. In relation to the modality of meetings of the Committee on Trade in Goods, as well as for the ad-hoc Committees and contact points that are created, these may be through face- to-face or virtual meetings, such as video-conference or electronic communications.

Section H. Definitions

Article 3.16. Definitions

For the purposes of this Chapter:

Anti-Dumping Agreement means the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, which forms part of the WTO Agreement;

Subsidies Agreement means the Agreement on Subsidies and Countervailing Measures, which is part of the WTO Agreement;

consumed means:

(a) actually consumed; or

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

duty-free means free of customs duties;

import licence means administrative procedures that require the submission of an application or other documents (other than those generally required for customs clearance purposes) to the relevant administrative body as a condition precedent to importation into the territory of the importing Party;

printed advertising materials means goods classified in Chapter 49 of the Harmonised System (HS) including brochures, pamphlets, leaflets, loose sheets, trade catalogues, trade association yearbooks, tourist promotion materials and posters, used to promote, publish or advertise a good or service and distributed free of charge;

goods temporarily admitted for sporting purposes means sporting equipment for use in competitions, sporting events or training in the territory of the Party to which they are admitted;

agricultural goods means the goods referred to in Article 2 of the Agreement on Agriculture, which forms part of the WTO Agreement;

goods for display or demonstration include components, ancillary equipment and accessories;

commercial samples of negligible value means commercial samples valued, individually or in the aggregate shipped, at not more than one United States dollar or the equivalent amount in the currency of Chile, or which are marked, torn, punctured or otherwise treated in a manner that disqualifies them for sale or for any use other than as samples;

advertising films and recordings means visual media or recorded audio materials consisting essentially of images and/or sounds depicting the nature or functioning of goods or services offered for sale or hire by a person established or resident in the territory of a Party, provided that the films are suitable for exhibition to potential customers, but not for dissemination to the general public, and provided that they are temporarily admitted in packages each containing not more than one copy of each film or recording and not forming part of a larger consignment;

performance requirement means the requirement to:

(a) export a certain volume or percentage of goods or services;

(b) replace imported goods or services with goods or services of the Party granting the exemption from customs duties or import licensing;

(c) the person benefiting from the exemption from customs duties or the import licence purchases other goods or services in the territory of the Party granting the exemption, or gives preferences to goods or services produced in the country;

(d) the person benefiting from the exemption from customs duties or import licensing produces goods or services in the territory of the Party granting the exemption, with a given level or percentage of domestic content; or

(e) 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;

export subsidies shall have the same meaning assigned to that term in Article 1(e) of the Agreement on Agriculture, which forms part of the WTO Agreement, including any amendments to that Article; and

consular transactions means the requirements that goods of one Party destined for export to the territory of the other Party must first be submitted to the supervision of the consul of the importing Party in the territory of the exporting Party for the purpose of obtaining consular invoices or consular visas for commercial invoices, certificates of origin, manifests, shipper's export declarations or any other customs documents required for or in connection with importation.

Chapter 4. RULES OF ORIGIN AND ORIGIN PROCEDURES

Section A. Rules of Origin

Article 4.1. Originating Goods

1. Except as otherwise provided in this Chapter, a good is an originating good when:

(a) the good is wholly obtained or produced entirely in the territory of one or both Parties;

(b) the good is produced entirely in the territory of one or both of the Parties and

(i) each of the non-originating materials used in the production of the good undergoes the corresponding change of tariff classification specified in the Annex 4.1 (specific rules of origin), or

(ii) the good otherwise meets the corresponding regional value content or other requirement specified in Annex 4.1 (Specific Rules of Origin), and the good satisfies all other applicable requirements of this chapter; or (c) the good is produced entirely in the territory of one or both Parties exclusively from originating materials.

Article 4.2. Regional Content Value

1. Where Annex 4.1 (Specific Rules of Origin) specifies a regional value content criterion for determining whether a good is originating, each Party shall provide that the person claiming preferential tariff treatment for the good may calculate the regional value content on the basis of one of the following methods:

(a) Reduction method

VCR = VA - VMN / VA x 100

(b) Augmentation method

VCR = VMO / VA x 100

where:

RCV is the regional content value expressed as a percentage; VAis the adjusted value;

VMN is the value of non-originating materials used by the producer in the production of the good; and

VMO is the value of the originating materials used by the producer in the production of the good.

Article 4.3. Value of Materials

1. Each Party shall provide that, for purposes of calculating the regional value content of a good and for purposes of applying the de minimis rule as set out in Article 4.7, the value of a material:

(a) in the case of a material imported by the producer of the good, is the adjusted value of the material in respect of that import;

(b) in the case of a material purchased in the territory where the good is produced, is the price actually paid or payable by the producer for the material, except for materials under subparagraph (c);

(c) in the case of a material supplied to the producer free of charge, or at a price reflecting a similar discount or rebate, is determined by the sum of:

(i) all costs incurred in the cultivation, production or manufacture of the material, including overheads, and

(ii) a profit amount; and

(d) in the case of a self-produced material, is determined by the sum of:

(i) all costs incurred in the production of the material, including overhead costs, and

(ii) an amount for utilities.

2. Each Party shall provide that a person claiming preferential tariff treatment for a good may adjust the value of materials as follows:

(a) for originating materials, the following costs must be added to the value of the material where they are not included in paragraph 1:

(i) the costs of freight, insurance, packaging, and all other costs incurred in transporting the material to the producer's location,

(ii) duties, taxes and customs brokers' fees paid in respect of the material in the territory of one or both Parties, except duties and taxes in respect of which exemption applies, refunded, refundable or otherwise recoverable, including credit for duties or taxes paid or payable, and

(iii) the cost of waste and scrap arising from the use of the material in the production of the good, less the value of renewable waste or by-products;

(b) in the case of non-originating materials, the following costs may be deducted from the value of the material if they are included in paragraph 1:

(i) the costs of freight, insurance, packaging, and all other costs incurred in transporting the material to the producer's location,

(ii) duties, taxes and customs brokers' fees paid in respect of the material in the territory of one or both Parties, except duties and taxes in respect of which exemption applies, refunded, refundable or otherwise recoverable, including credit for duties or taxes paid or payable,

(iii) the cost of waste and scrap arising from the use of the material in the production of the good, less the value of renewable waste or by-products, and

(iv) the cost of originating materials used in the production of non- originating materials in the territory of a Party.

Article 4.4. Accessories, Spare Parts and Tools

Each Party shall provide that accessories, spare parts or tools delivered with the good and forming part of the usual accessories, spare parts or tools of the good shall be considered to be an originating material in the production of the good, provided that:

(a) accessories, spare parts or tools are classified with the goods and are not separately invoiced; and

(b) the quantities and value of accessories, spare parts or tools are those customary for the goods.

Article 4.5. Expendable Goods and Materials

1. Each Party shall provide that a person claiming preferential tariff treatment for a good may claim that a fungible good or material is originating based either on a physical segregation of each fungible good or material or using any inventory management method, such as the average method, last-in-first-out method, or first-in-first-out method, recognised in the Generally Accepted Accounting Principles of the Party in which production takes place, or otherwise accepted by the Party in which production takes place.

2. Each Party shall provide that where an inventory management method is chosen in accordance with paragraph 1 for particular fungible goods or materials, it shall continue to be used for those goods or materials throughout the fiscal year of the person that chose the inventory management method.

Article 4.6. Cumulation

Each Party shall provide that goods or materials originating in a Party that are incorporated into a good in the territory of the other Party shall be considered to originate in the territory of that other Party.

Article 4.7. De Minimis

1. Each Party shall provide that a good that does not change tariff classification under Annex 4.1 (Specific Rules of Origin) shall nevertheless be considered to be originating if the value of all non-originating materials used in the production of the good and not subject to the required change in tariff classification does not exceed 10 percent of the adjusted value of the good, provided that the value of such non-originating materials is included in the value of the non-originating materials for any applicable regional value content requirement, and the good complies with all other applicable requirements of this Chapter.

2. Notwithstanding paragraph 1, a textile or apparel good that is not an originating good because certain fibres or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo the applicable change in tariff classification set out in Annex 4.1 (Specific Rules of Origin) shall nevertheless be considered an originating good if the total weight of all such fibres or yarns in that component does not exceed 10 percent of the total weight of that component.

Article 4.8. Indirect Materials Used In Production

Each Party shall provide that an indirect material shall be considered an originating material irrespective of where it is produced.

Article 4.9. Packaging Materials and Retail Containers

Each Party shall provide that packaging materials and containers in which a good is packaged for retail sale shall, if classified with the good, not be considered in determining whether all non-originating materials used in the production of the good are subject to the applicable change in tariff classification set out in Annex 4.1 (Specific Rules of Origin) and, if the good is subject to a regional value content requirement, the value of such packaging materials and containers shall be considered as originating or non-originating material, as appropriate, in calculating the regional value content of the good.

Article 4.10. Packaging Materials and Containers for Shipment

Containers and packing materials in which a good is packed exclusively for the purpose of transport shall not be taken into account for the determination of the origin of the goods.

Article 4.11. Transit and Transhipment

1. Each Party shall provide that a good shall not be considered an originating good if it undergoes further production or any other operation outside the territories of the Parties, other than unloading, reloading, transhipment or any other process necessary to preserve the good in good condition or to transport the good into the territory of a Party.

2. The importing Party may require a person claiming that a good is originating to demonstrate to the satisfaction of the importing Party's customs authorities that any subsequent operations carried out outside the territories of the Parties meet the requirements of paragraph 1.

Article 4.12. Goods Sets

1. Each Party shall provide that if goods are classified as a set as a result of the application of rule 3 of the general rules of interpretation of the Harmonised System (HS), the set is originating only if each good in the set is originating and both the set and the goods comply with all other applicable requirements in this Chapter.

2. Notwithstanding paragraph 1, a set of goods is originating if the value of all the non- originating goods in the set does not exceed 15 per cent of the adjusted value of the set.

Article 4.13. Exhibitions

1. Originating products, sent for exhibition in a country other than Chile or Panama and sold or otherwise disposed of during, at the time of or after the exhibition for importation into Chile or Panama shall benefit on importation from the provisions of the present Agreement provided it is shown to the satisfaction of the customs authorities of the importing country that:

(a) these products were consigned by an exporter from Chile or Panama to the country of exhibition and have been exhibited there;

(b) the goods have been sold or otherwise disposed of by the exporter (exhibitor) to a consignee in Chile or Panama;

(c) the products have been shipped during or immediately after the exhibition in the same condition in which they were shipped to the exhibition;

(d) since the time the products were consigned for exhibition, they have not been used for any purpose other than for display at the exhibition; and

(e) the products have remained under customs control during the exhibition.

2. A certificate of origin shall be issued or made out in accordance with the provisions of Article 4.14 (Certificate and declaration of origin) and submitted to the customs authorities of the importing country. It shall contain the name and address of the exhibition and the name of the exhibitor. Where necessary, further documentary evidence of the conditions under which they have been exhibited may be required.

3. Paragraph 1 shall apply to all international exhibitions, fairs or similar events of an international character for commercial, industrial, agricultural, cultural or crafts purposes, excluding events organised by an enterprise, in particular for the purpose of selling or promoting foreign products.

Section B. Originating Procedures

Article 4.14. Certificate and Declaration of Origin

1. Upon entry into force of this Agreement, the Parties shall establish a single form for the certificate of origin and for the declaration of origin in accordance with Article 4.20.2 (Invoicing by a Non-Party Operator and Uniform Regulations).

2. The certificate of origin referred to in paragraph 1 shall serve to certify that goods exported from the territory of one Party to the territory of the other Party qualify as originating. The certificate shall be valid for 2 years from the date of signature.

3. Each Party shall:

(a) require exporters in its territory to complete and sign a certificate of origin for any export of goods for which an importer may claim preferential tariff treatment on importation into the territory of the other Party,

(b) provide that, if he is not the producer of the goods, the exporter in his territory may complete and sign the certificate of origin on the basis of:

(i) its knowledge as to whether the good qualifies as originating;

(ii) its reasonable reliance on the producer's written declaration that the good qualifies as originating, or

(iii) the origin declaration referred to in paragraph 1.

4, The producers of the goods shall complete and sign the origin declaration referred to in paragraph 1 and provide it voluntarily to the exporter. The declaration shall be valid for two years from the date of signature.

5. Each Party shall provide that the certificate of origin may cover the importation of one or more identical goods, or a number of imports of identical goods, within the period specified in the certificate.

6. For originating goods that are imported into the territory of a Party on or after the date of entry into force of this Agreement, each Party shall accept the certificate of origin that was completed and signed prior to that date by the exporter.

Article 4.15. Obligations In Respect of Imports

1. Each Party shall require an importer located in its territory that requests preferential tariff treatment with respect to a good imported into its territory from the territory of the other Party to:

(a) declare in writing, on the import document required under its legislation, on the basis of a valid certificate of origin, that the goods qualify as originating;

(b) has the certificate of origin in his possession at the time of making the declaration referred to in subparagraph (a);

(c) provide a copy of the certificate of origin to the customs authorities of that Party, upon request; and

(d) submit a corrected declaration without delay and pay the relevant duties, in cases where the importer has reason to believe that the certificate of origin on which the declaration is based contains incorrect information. If the importer complies with these obligations, he shall not be penalised.

2. Each Party shall provide that, where an importer located in its territory fails to comply with the requirements of this Chapter, it shall deny preferential tariff treatment with respect to goods imported from the territory of the other Party.

3. Each Party shall provide that an importer claiming preferential tariff treatment with respect to a good imported into its territory shall maintain in its territory, for a period of 5 years from the date of importation of the good or for such longer period as the Party may establish, such documentation, including a certificate of origin, as the Party may require in connection with the importation of the good.

Article 4.16. Drawback of Customs Duties

Each Party shall provide that, in cases where no claim for preferential tariff treatment has been made for a good imported into the territory of the other Party that has qualified as originating, the importer of the good may, within a period not exceeding one year from the date of importation, apply for a refund of customs duties overpaid because preferential tariff treatment was not granted to the good, provided that the application is accompanied by:

(a) a written declaration stating that the goods qualified as originating at the time of importation;

(b) the certificate of origin; and

(c) any additional documentation related to the importation of a good, as required by the customs authority.

Article 4.17. Obligations In Respect of Exports

1. Each Party shall provide that its exporter or producer, who has completed and signed a certificate or declaration of origin, shall furnish a copy of the certificate or declaration of origin to its customs authority on request.

2. Each Party shall provide that an exporter or producer in its territory that has completed and signed a certificate or declaration of origin, and has reason to believe that such certificate or declaration contains incorrect information, shall promptly notify in writing any change that may affect its accuracy or validity, as the case may be, to its customs authorities and to any person to whom the certificate or declaration of origin has been given. Upon fulfilment of this obligation, neither the exporter nor the producer shall be liable to penalties for presenting an incorrect certificate or declaration of origin.

3. Each Party shall provide that the customs authorities of the exporting Party shall notify in writing the customs authorities of the importing Party of the notification referred to in paragraph 2.

4, Each Party shall provide that an exporter or producer located in its territory that completes and signs a certificate or declaration of origin shall retain in that territory, for a period of 5 years from the date of signature of the certificate or declaration of origin or for such longer period as the Party may establish, records relating to the origin of the good for which preferential tariff treatment was claimed in the territory of the other Party, including records relating to:

(a) the acquisition, costs, value and payment of the goods being exported from its territory;

(b) the acquisition, costs, value and payment for all materials, including indirect materials used in the production of the good being exported from its territory; and

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

Article 4.18. Exceptions

Provided that it is not part of two or more imports made or intended to be made for the purpose of circumventing the certification requirements of Articles 4.14 and 4.15, a Party shall not require a certificate of origin in the following cases:

(a) in the case of a commercial importation of a good the customs value of which does not exceed one thousand United States dollars (US$ 1000), or its equivalent in national currency, or such greater amount as that Party may specify, but may require that the commercial invoice contain or be accompanied by a declaration by the importer or exporter that the good qualifies as originating;

(b) in the case of an importation for non-commercial purposes of a good the customs value of which does not exceed one thousand United States dollars (US$ 1000), or its equivalent in national currency, or such greater amount as that Party may establish; or

(c) in the case of an import of a good for which the importing Party has waived the requirement to present a certificate of origin.

Article 4.19. Verifications of Origin

1. The importing Party may request the exporter to provide information regarding the origin of any imported good.

2. For the purpose of determining whether a good imported into its territory from the territory of the other Party qualifies as originating, the importing Party may, through its customs authorities, carry out the verification of origin only by:

(a) written questionnaires or requests for information addressed to the exporter or producer in the territory of the other Party;

(b) visits to the premises of an exporter or producer in the territory of the other Party, for the purpose of examining the records referred to in Article 4.17 and inspect the facilities used in the production of the goods, or, where appropriate, any facilities used in the production of the materials; or (c) such other procedures as the Parties may agree.

3. An exporter or producer receiving a questionnaire under paragraph 2(a) shall complete and return it within 30 days of the date of its receipt. During this period, the exporter or producer may, on a single occasion, make a written request to the importing Party for an extension of the original period, which may not exceed 30 days.

4. In case the exporter or producer fails to return the correctly completed questionnaire within the prescribed time limit or extension period, the importing Party may refuse the preferential tariff treatment.

5. Before conducting a verification visit in accordance with subparagraph 2(b), the Party shall be obliged, through its customs authorities:

(a) to notify in writing its intention to carry out the visit:

(i) the exporter or producer whose premises are to be visited,

(ii) to the customs authorities of the other Party, and

(iii) the embassy of the other Party in the territory of the importing Party that intends to carry out the visit, if the other Party so requests; and

(b) obtain the written consent of the exporter or producer whose premises are to be visited.

6. The notification referred to in paragraph 5 shall contain at least the following elements:

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

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

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

(d) the purpose and scope of the proposed verification visit, with specific mention of the good(s) to be verified;

(e) the identification and titles of the officials who will carry out the verification visit; and

(f) the legal basis for the verification visit.

7. If within 30 days of receipt of notification of the proposed verification visit pursuant to paragraph 5, the exporter or producer does not consent in writing to the verification visit, the notifying Party may deny preferential tariff treatment to the good that was the subject of the visit.

8. Each Party shall provide that, where an exporter or producer receives a notification under paragraph 5, it may, within 15 days of receipt of the notification, postpone the proposed verification visit for a period not exceeding 60 days from the date on which the notification was received. However, the visit may be postponed only once. For this purpose, the customs authorities of the importing and exporting Party shall be notified of the postponement.

9. A Party may not deny preferential tariff treatment to a good solely on the basis of the extension of the verification visit under paragraph 7.

10. Each Party shall allow the exporter or producer of a good that is the subject of a verification visit by the other Party to designate 2 observers, who shall be present during the visit, provided that:

(a) observers intervene only in that capacity; and

(b) failure by the exporter or producer to designate observers does not lead to an extension of the visit.

11. Each Party conducting a verification of origin in which Generally Accepted Accounting Principles are relevant shall apply those principles as applied in the territory of the Party from which the good was exported.

12. Upon completion of a verification, the customs authorities carrying out the verification shall deliver a written determination to the exporter or producer whose goods are subject to the verification, determining whether the goods qualify as originating. Such resolution shall also include the findings of fact and legal grounds for the determination and shall be issued within a period not exceeding 60 days from the date of conclusion of the verification.

13. Where a Party's verifications indicate that the exporter or producer has made recurring false or unfounded false or unfounded representations that a good imported into its territory qualifies as originating, the Party may suspend preferential tariff treatment for identical goods exported or produced by that person until that person demonstrates compliance with the provisions of this Chapter.

Article 4.20. Invoicing by a Non-Party Operator and Uniform Regulations

1. In cases where the goods are invoiced by an operator in a non-Party, the exporter of the originating Party shall indicate in the "Remarks" box of the relevant certificate of origin that the goods will be invoiced from that non-Party, and indicate the name, business name and address of the operator who will invoice the operation to its destination.

2. The Parties shall establish and implement, through their respective laws and regulations as of the date of entry into force of this Agreement, by agreement between the Parties, Uniform Regulations concerning the interpretation, application and administration of Chapter 3 (National Treatment and Market Access for Goods), Chapter 5 (Customs Administration), this Chapter and such other matters as they may agree.

Section C. Definitions

Article 4.21. Definitions

For the purposes of this Chapter:

issued means prepared by and, where required by domestic laws and regulations, signed by the importer, exporter or producer of the goods;

exporter means a person who exports goods from the territory of a Party;

commercial importation means the importation of a good into the territory of a Party for sale or for commercial, industrial or other similar purposes;

importer means a person who imports goods into the territory of a Party;

material means a good used in the production of another good, including a part, ingredient or indirect material;

self-produced material means an originating material, which is made by a producer of a good and used in the manufacture of that good;

packaging materials and shipping containers means goods used to protect goods during transport, other than containers or packaging material used for retail sale;

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

(a) fuel and energy;

(b) tools, dies and moulds;

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

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

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

(f) equipment, devices and supplies used to test or inspect goods;

(g) catalysts and solvents; and

(h) any other goods which are not incorporated into the goods but which are shown to be used in the making of the goods as part of the making of the goods;

goods means any commodity, product, article or material;

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

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

recovered goods means materials in the form of individual parts that are the result:

(a) the complete disassembly of used goods, in their individual parts; and

(b) from the cleaning, inspection, testing, or other processing of such parts, to the extent necessary for the achievement of good working condition, one or more of the following processes: welding, heat spraying, surface machining, knurling, plating, sleeving, and rewinding for the purpose of assembly of such parts with other parts, including other parts recovered in the production of a remanufactured good of Annex 4.21 (Remanufactured Goods);

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

(a) mineral commodities extracted in the territory of one or both Parties;

(b) plant goods, as defined in the Harmonised System (HS), harvested in the territory of one or both Parties;

(c) live animals born and bred in the territory of one or both Parties;

(d) goods obtained from hunting, trapping or fishing in the territory of one or both Parties;

(e) goods taken from the sea (fish, shellfish and other marine life) by vessels registered or recorded in a Party and flying its flag;

(f) goods made on board factory ships based on the goods referred to in subparagraph (e), provided that such factory ships are registered or recorded in that Party and flying its flag;

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

(h) goods obtained from outer space, provided that they are obtained by a Party or person of a Party and are not processed in the territory of a non-Party;

(i) waste and scrap derived from:

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

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

(j) recovered goods obtained in the territory of a Party from used goods and used in the territory of that Party in the processing of remanufactured goods; and

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

remanufactured goods means certain industrial goods, assembled in the territory of a Party, designated in Annex 4.21 (Remanufactured Goods) that:

(a) are wholly or partly composed of materials corresponding to recovered goods;

(b) have the same life expectancy and meet the same performance standards as new goods; and

(c) have the same factory warranty as new goods;

Generally Accepted Accounting Principles means the principles, rules and procedures, including broad and specific guidelines, that define accepted accounting practices in the territory of a Party;

procedure to verify origin means the administrative process that begins with the notification of initiation of the verification procedure by the competent authority of a Party and concludes with the final determination of origin;

production means the cultivation, extraction, harvesting, fishing, breeding, catching, hunting, manufacturing, processing, assembling or disassembling of a commodity;

producer means a person engaged in the production of a good in the territory of a Party; location of the producer means the place of production of a good;

value means the value of a good or material for the purpose of calculating customs duties or for the purpose of applying this Chapter; and

adjusted value means the value determined in accordance with Articles 1 to 8 and 15 of the Customs Valuation Agreement and its interpretative notes, adjusted, where necessary, to exclude all costs, charges or expenses incurred for transportation, insurance and related services incidental to the international shipment of goods from the country of exportation to the place of importation.

Chapter 5. CUSTOMS ADMINISTRATION

Article 5.1. Publication

1. The customs authority of each Party shall, in accordance with the provisions of its national legislation, publish its customs laws, regulations and procedures of general application on the Internet or an equivalent computer telecommunications network.

2. The customs authority of each Party shall designate one or more contact points to whom enquiries relating to customs matters may be addressed and shall make available on the Internet or an equivalent computer telecommunications network information on the procedures for making such enquiries.

3. To the extent practicable, each Party's customs authority shall publish, in advance, the customs regulations of general application that it proposes to adopt, in order to provide interested persons with an opportunity to comment prior to their adoption.

Article 5.2. Release of Goods

1. The customs authority of each Party shall establish and/or maintain simplified customs procedures for the release of goods in order to facilitate trade between the Parties.

2. Specifically, they shall adopt procedures that, as far as possible, allow for the release of the goods:

(a) within 48 hours of arrival;

(b) at the point of arrival, without temporary transfer to a bonded warehouse or other facilities; and

(c) prior to the presentation of the goods to customs and without prejudice to the final assessment of the applicable customs duties, taxes and other charges.

Article 5.3. Use of Information Technology

The customs authority of each Party shall endeavour to use information technology to expedite its procedures. When installing computer applications, it shall take into account international norms or standards.

Article 5.4. Risk Assessment

Each Party shall endeavour to implement risk management systems in its verification activities, while respecting the confidential nature of information in accordance with its legislation, in order to concentrate customs control activities on high-risk goods and to simplify the clearance and movement of low-risk goods.

Article 5.5. Customs Cooperation

1. Each Party shall endeavour to give prior notice to the other Party of any significant modification with respect to its administrative policy relating to the implementation of its customs legislation that is likely to significantly affect the operation of this Agreement.

2. Each Party shall promote and facilitate cooperation between their respective customs authorities and, in particular, shall ensure the simplification of customs processing and procedures without prejudice to their powers of control.

3. Cooperation shall include, inter alia, aspects relating to:

(a) the implementation and operation of the Free Trade Agreement, in particular the provisions on market access, rules of origin, the origin-related customs procedures of the Agreement and those of this Chapter;

(b) the implementation and application of the Customs Valuation Agreement;

(c) the simplification of requirements and formalities with regard to the release of ip goods;

(d) the adoption, where possible, of measures to reduce, simplify and harmonise the data contained in the documents required by customs, in particular customs documents on the entry and exit of goods;

(e) the provision of technical assistance, including where appropriate, the organisation of seminars and internships;

(f) technical advice and assistance to improve risk assessment techniques, in particular in the search for mechanisms to detect and prevent the illicit shipment of goods originating from a Party or non-Party;

(g) increase the use of technologies that could lead to greater compliance with applicable import laws and regulations;

(h) exchange of information that may assist in determining whether imports or exports from or exports to the other Party are in compliance with its applicable import laws and regulations, in particular those related to the prevention of illicit activities, to the extent permitted under the domestic law of each Party;

(i) import or export restrictions and prohibitions; and

(j) any other customs matters agreed by the Parties.

4. Without prejudice to other customs cooperation agreements in force, the Parties, through their customs authorities, may conclude agreements on mutual administrative assistance in customs matters, with a view to developing further the matters referred to in this Article or other matters within their competence.

Article 5.6. Confidentiality

1. Each Party shall, in accordance with its law, maintain the confidentiality of information of this nature obtained under this Chapter and Chapter 4 (Rules of Origin and Origin Procedures) and shall protect such information from disclosure that would:

(a) be contrary to the public interest as determined in its laws and regulations;

(b) be contrary to its laws including but not limited to those protecting personal privacy or financial matters and accounts of individual customers or financial institutions;

(c) impede law enforcement; and

(d) prejudice the competitive position of the persons providing it.

2. Confidential information obtained under this Chapter may be disclosed only to judicial authorities and to authorities responsible for the administration and enforcement of rulings on origin and customs matters and to those having jurisdiction over the administration and enforcement of internal taxes and duties applicable to the entry and exit of goods.

Article 5.7. Fast Delivery Shipments

Each Party shall adopt and/or maintain separate and expeditious customs procedures for express shipments, while maintaining adequate customs selection and control, including procedures:

(a) to enable the information necessary for clearance to be presented to and processed by the customs authority prior to the arrival of the consignment;

(b) to enable a shipper to present a single document covering all the goods contained in a consignment carried, where possible by electronic means;

(c) to reduce, to the extent possible, the documentation required for the clearance of expedited shipments; and

(d) which, under normal circumstances, enable a consignment to be cleared within a period not exceeding 6 hours from the presentation of the information necessary for clearance.

Article 5.8. Review and Challenge

Each Party shall ensure that with respect to determinations on customs matters importers in its territory have access to:

(a) a level of administrative review independent of the official or office issuing the determination subject to review; and

(b) a judicial review of the administrative determination made in the final administrative review instance.

Article 5.9. Penalties

1. Each Party shall adopt or maintain measures that permit the imposition of civil, administrative and, where appropriate, criminal penalties for violations of its customs laws and regulations, including those governing tariff classification, customs valuation, rules of origin, and requirements for securing preferential tariff treatment in accordance with this Agreement.

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

Article 5.10. Advance Rulings

1. Each Party, through its customs authority, shall issue written advance rulings prior to the importation of a good into its territory, upon written request of the importer in its territory, or the exporter or producer in the territory of the other Party, on the basis of the facts and circumstances provided by the applicant, regarding

(a) tariff classification;

(b) whether a good qualifies as an originating good under Chapter 4 (Rules of Origin and Origin Procedures); and

(c) whether a good qualifies for duty-free treatment under Article 3.6 (Goods re- imported after having been repaired or altered).

2. Each Party shall provide that its customs authority shall issue the advance ruling within 150 days of the request, provided that the applicant has submitted all the necessary information.

3. Each Party shall provide that advance rulings shall take effect from their date of issuance, or from a different date specified in the ruling, for up to 3 years, provided that there has been no change in the facts or circumstances on which the ruling was based.

4. The Party that issued an advance ruling may modify or revoke it whenever the facts or circumstances so warrant, such as in cases where the information on which the ruling is based is false or incorrect. The applicant shall be notified of any such modification or revocation.

5. Where an importer requests that the treatment accorded to an imported good should be governed by an advance ruling, the customs authority may assess whether the facts or circumstances of importation are consistent with the facts or circumstances on which the advance ruling was based.

6. Each Party shall make its advance rulings publicly available, subject to the confidentiality conditions of its domestic law, in order to promote the consistent application of advance rulings to other goods.

7. If the requester provides false information or omits relevant facts or circumstances in its request for an advance ruling, or fails to act in accordance with the terms and conditions of the ruling, the importing Party may apply appropriate measures, including civil, criminal, and administrative actions, fines, or other sanctions.

Article 5.11. Re-export Certificate

1, For the purposes of the provisions of the various trade agreements and free trade treaties signed by Chile in relation to the transit and transhipment of goods from third countries through Panama, the customs authority of Chile shall accept, among others, as an enabling document in order to certify that the goods have not undergone changes, further processing or any other type of operation, that cause them to lose their origin and thus maintain the preference agreed under the respective agreement or treaty, the certificate for re- export that attests to the deposit and control of the goods in duty free zones, issued and signed by the customs authority of Panama and also countersigned by the administrative authority of the duty free zone.

2. In all other respects, however, and in particular as regards rules of origin, testing, certification and verification of origin and other requirements relating to transit and transhipment, full compliance shall be given with what Chile has agreed in the respective trade agreements and free trade treaties.

3. For the purposes of this Article, goods shall not be deemed to have undergone any change, further processing or other operation if they are subject to a process of marketing, unloading, reloading or any other operation necessary to maintain them in good condition.

Chapter 6. SANITARY AND PHYTOSANITARY MEASURES

Article 6.1. Objectives

The objectives of this Chapter are:

(a) maintain and strengthen the implementation of the SPS Agreement and the applicability of international standards, guidelines and recommendations developed by relevant international organisations (OIE, IPPC and Codex Alimentarius Commission (FAQ);

(b) expand trade opportunities through trade facilitation between the Parties by seeking to resolve market access issues, protecting human and animal life and health or to preserve plants in the territories of the Parties;

(c) establish a mechanism for strengthening transparency and recognition of the equivalence of sanitary and phytosanitary measures and regionalisation practices maintained by Parties consistent with the protection of human, animal or plant life or health; and

(d) provide communication and cooperation mechanisms to resolve sanitary and phytosanitary issues.

Article 6.2. Scope of Application

This Chapter shall apply to all sanitary and phytosanitary measures, including food safety, that directly or indirectly affect trade in animals, animal products and by-products, plants and plant products and by-products between the Parties.

Article 6.3. General Provisions

1. The Parties confirm the rights and obligations existing between them under the SPS Agreement.

2. The Parties agree to use the Committee on Sanitary and Phytosanitary Matters of this Chapter to address issues where there are divergences of understanding related to the application of sanitary and phytosanitary measures.

3. A Party may enter into consultations with the other Party for the purpose of resolving questions relating to the application of measures covered by this Chapter or the interpretation of the provisions of this Chapter.

4, If a Party considers it necessary, it may request that the Committee facilitate such consultations. The Committee may refer matters to an ad hoc working group for further discussion. The ad hoc working group may make a recommendation to the Committee on the resolution of these matters. The Committee shall discuss the recommendation with a view to resolving the matter without undue delay.

5. The Parties may use the Dispute Settlement Mechanism provided for in Chapter 13 (Dispute Settlement) of this Agreement.

Article 6.4. Committee on Sanitary and Phytosanitary Matters

1. The Parties agree to establish a Committee on Sanitary and Phytosanitary Matters, composed of representatives of each Party with responsibilities for sanitary and phytosanitary matters, as specified in Annex 6.4 (Committee on Sanitary and Phytosanitary Matters). This Committee shall be established no later than one year after entry into force of this Agreement and shall meet at least once a year, unless the Parties agree otherwise. It may also establish ad-hoc working groups.

2. The Committee shall establish its terms of reference and rules of procedure at its first meeting. In relation to the modality of meetings of the Committee, as well as for the ad-hoc Committees and contact points that are created, these may be through face-to-face or virtual meetings, such as video-conference or electronic communications.

3. The Committee will provide a forum for:

(a) improve a Party's implementation of the SPS Agreement, enhance consultation and cooperation on sanitary and phytosanitary matters, and facilitate trade between the Parties;

(b) improve any present or future relationship between the Parties' agencies with SPS responsibility;

(c) increase mutual understanding of each Party's sanitary and phytosanitary measures and the regulatory processes related to those measures;

(d) consult on matters relating to the development or application of sanitary and phytosanitary measures that affect, or may affect, trade between the Parties;

(e) consult on issues, positions and agendas of meetings of the SPS Committee, the various Codex committees (including the FAO Codex Alimentarius Commission), the IPPC, the OIE and other international and regional fora on food safety, human, animal and plant health;

(f) coordinate technical cooperation programmes on sanitary and phytosanitary matters;

(g) improve bilateral understanding on specific implementation issues relating to the SPS Agreement; and

(h) review sanitary and phytosanitary matters that may arise between the agencies of the Parties with responsibility for such matters.

4. Each Party shall ensure that appropriate representatives with responsibilities for the development, implementation, and enforcement of sanitary and phytosanitary measures from relevant ministries or regulatory and trade agencies participate in meetings of the Committee. The official ministries or agencies of each Party responsible for such measures shall be listed in the Committee's terms of reference.

Article 6.5. Transparency

1. The Parties shall, upon the conclusion of this Agreement, exchange sanitary and phytosanitary measures related to the importation of animals, animal products and by- products, plants, plant products and other regulated articles.

2. When the Parties establish new measures, emergency measures or modify established SPS measures, these shall be notified as provided for in the SPS Agreement and its Supplementary Decisions.

3. The Parties undertake to provide a reasoned reply to the comments on the notified measures.

4. The Parties shall consider a transition period for all products in transit covered by certification made prior to the entry into force of the new measure, except in the case of an emergency measure.

5. In addition, changes in the animal health field, such as the occurrence of exotic diseases, should be reported within 24 hours of detection of the problem and changes in the phytosanitary field, such as the occurrence of quarantine pests or the spread of pests under official control, within 72 hours of verification.

Article 6.6. Regionalisation

1. Recognition of the sanitary and phytosanitary conditions of a Party or a part of its territory shall be carried out in accordance with its standards and legislation, which shall be in conformity with the SPS Agreement, any supplementary decisions that may be generated and following the guidelines of the IPPC and the OIE Terrestrial and Aquatic Animal Health Codes.

2. An exporting Party seeking recognition of its plant pest or animal disease status by the importing Party shall formally request such recognition by attaching to its request full scientific information in support of its pest or animal disease status.

3. The recovery of pest free status of plants and animal diseases for a zone that has lost this status shall be carried out according to the provisions of its standards and legislation, which shall be in conformity with the SPS Agreement, the complementary decisions generated and following the guidelines of the IPPC and the OIE Terrestrial and Aquatic Animal Health Codes.

4. The Party receiving the request for recognition shall decide within a period of time previously agreed with the other Party, and may carry out verifications for inspection, tests and other procedures. In the event of non-acceptance, it shall state in writing the technical basis for its decision.

Article 6.7. Equivalence

1. The process of recognition of equivalence may be accepted for a specific measure or for measures relating to a specific product or a specific category of products, or at the level of systems, as set out in supplementary decisions to the SPS Agreement.

2. The process of recognition of equivalence is initiated by a formal request from the exporting Party, including the reasons for initiating the process. The importing Party shall accept the sanitary or phytosanitary measures of the exporting Party as equivalent, if the exporting Party objectively demonstrates that its measure achieves the importing Party's appropriate level of protection. For this purpose, upon request of the importing Party, reasonable access for inspection, testing and other relevant procedures shall be provided. The process of recognition of equivalence and its determination shall be based on the standards of the competent international organisations and in accordance with the SPS Agreement and its Supplementary Decisions.

3. Equivalence shall apply to trade between the Parties in animals and animal products, plants and plant products or, to the extent appropriate, other related goods.

Article 6.8. Certification Procedures

1. SPS certification procedures will be harmonised with the International Standards of the OIE, IPPC and Codex Alimentarius Commission (FAQ).

2. The importing Party may carry out the pre-assessment and pre-audit of part or all of the certification process and the approval of production, processing and/or treatment facilities for animals, animal products and by-products, plants and plant products and by-products.

Article 6.9. Cooperation

1. The Cooperation referred to in the Objective of this Chapter shall address specific projects in support of sanitary and phytosanitary measures, taking into account the regulations in force in both Parties, in accordance with the rules of the WTO and other relevant international organisations.

2. The Parties shall define the needs for Cooperation, of mutual interest, on the basis of which the specific projects referred

to in paragraph 1 shall be developed, at the first meeting of the Committee on Sanitary and Phytosanitary Matters of this Chapter.

Article 6.10. Definitions

The definitions in Annex A of the SPS Agreement, as well as those from the harmonised glossaries of terms of the International Reference Organisations: the World Organisation for Animal Health (OIE), the International Plant Protection Convention (IPPC), and the Codex Alimentarius (FAO), shall apply in the implementation of this Chapter.

Chapter 7. TECHNICAL BARRIERS TO TRADE

Article 7.1. Objectives

The objectives of this Chapter are to increase and facilitate trade by improving the implementation of the TBT Agreement, eliminating unnecessary technical barriers to trade, and increasing bilateral cooperation.

Article 7.2. Scope of Application

1. Except as provided for in paragraphs 2 and 3 of this Article, this Chapter applies to all standards, technical regulations and conformity assessment procedures that may, directly or indirectly, affect trade in goods between the Parties.

2. Technical specifications developed by government agencies for the production or consumption needs of such agencies are not subject to the provisions of this Chapter.

3. This Chapter does not apply to sanitary and phytosanitary measures as defined in Annex A of the SPS Agreement.

Article 7.3. Confirmation of the TBT Agreement

The Parties confirm the rights and obligations existing between them under the TBT Agreement.

Article 7.4. International Standards

In determining whether an international standard, guidance or recommendation within the meaning of Articles 2 and 5 and Annex 3 of the TBT Agreement exists, each Party shall apply the principles set out in Decisions and Recommendations adopted by the Committee since 1 January 1995, G/TBT/1/Rev.7, dated 28 November 2000, Section IX (Decision of the Committee on Principles Guiding the Development of International Standards, Guidance and Recommendations on Articles 2 and 5 and Annex 3 of the Agreement), issued by the Committee on Technical Barriers to Trade of the TBT Agreement.

Article 7.5. Trade Facilitation

The Parties shall intensify their joint work in the field of standards, technical regulations and conformity assessment procedures with a view to facilitating access to their respective markets. In particular, the Parties shall seek to identify bilateral initiatives that are appropriate for particular issues or sectors. Such initiatives may include cooperation on regulatory matters, such as convergence or equivalence of technical regulations and standards, alignment with international standards, reliance on a supplier's declaration of conformity, and the use of accreditation to qualify conformity assessment bodies, as well as cooperation through mutual recognition.

Article 7.6. Technical Regulations

1. Where a Party provides for acceptance of a foreign technical regulation as equivalent to a particular Party's own technical regulation, and the Party does not accept a technical regulation of the other Party as equivalent to that technical regulation, it shall, on request of the other Party, explain the reasons for not accepting the other Party's technical regulation as equivalent.

2. Where a Party does not provide for the acceptance of foreign technical regulations as equivalent to its own, the Party may, on request of the other Party, explain the reasons for not accepting the other Party's technical regulations as equivalent.

Article 7.7. Conformity Assessment

1. The Parties recognise that a wide range of mechanisms exist to facilitate the acceptance of conformity assessment results, including:

(a) the importing Party's reliance on a supplier's declaration of conformity;

(b) voluntary agreements between conformity assessment bodies in the territory of each Party;

(c) agreements on mutual acceptance of the results of conformity assessment procedures with respect to specific regulations, carried out by bodies located in the territory of the other Party;

(d) accreditation procedures for qualifying conformity assessment bodies;

(e) government designation of conformity assessment bodies; and

(f) the recognition by a Party of the results of conformity assessments carried out in the territory of the other Party.

2. The Parties shall intensify their exchange of information on the range of mechanisms that facilitate the acceptance of conformity assessment results.

3. In the event that a Party does not accept the results of conformity assessment procedures carried out in the territory of the other Party, it shall, on request of the other Party, explain its reasons.

4. Each Party shall accredit, approve, approve, authorise or otherwise recognise conformity assessment bodies in the territory of the other Party on terms no less favourable than those accorded to conformity assessment bodies in its territory. If a Party accredits, approves, authorises or otherwise recognises a body assessing conformity with a particular technical regulation or standard in its territory and refuses to accredit, approve, authorise or otherwise recognise a body assessing conformity with that technical regulation or standard in the territory of the other Party, it shall, on request, explain the reasons for its refusal.

5. Where a Party rejects a request by the other Party to enter into or conclude negotiations to reach an agreement to facilitate the recognition in its territory of the results of conformity assessment procedures carried out by bodies in the territory of the other Party, it shall, on request, explain its reasons.

Article 7.8. Transparency

1. Each Party shall permit persons of the other Party to participate in the development of standards, technical regulations and conformity assessment procedures. Each Party shall permit persons of the other Party to participate in the development of such measures on terms no less favourable than those accorded to its own persons.

2. Each Party shall recommend that non-governmental standardizing bodies in its territory observe the provisions of paragraph 1.

3. In order to increase the opportunity for meaningful comment by persons, a Party publishing a notice pursuant to Article 2.9 or 5.6 of the TBT Agreement shall:

(a) include in the notice a statement describing the objective of the proposal and the reasons for the Party's proposed approach; and

(b) electronically transmit the proposal to the other Party, through the contact point set out in Article 10 of the TBT Agreement, at the same time it notifies the proposal to WTO Members under the TBT Agreement.

Each Party should allow at least 60 days from the transmittal referred to in subparagraph (b) for written comments by persons and the other Party on the proposal.

4. When a Party makes a notification under Article 2.10 or 5.7 of the TBT Agreement, it shall at the same time transmit the notification electronically to the other Party through the contact point referred to in paragraph 3(b).

5. Each Party shall publish, in printed or electronic form, or otherwise make publicly available, its responses to significant comments at the same time as the final technical regulation or conformity assessment procedure is published.

6. Each Party shall provide, on request of the other Party, information regarding the objectives and reasons for the Party having adopted or proposing to adopt a standard, a technical regulation or a conformity assessment procedure.

7. Each Party shall implement this Article as soon as practicable and in no case later than 5 years after entry into force of this Agreement.

Article 7.9. Technical Barriers to Trade Committee

1. The Parties establish the Committee on Technical Barriers to Trade, composed of representatives of each Party, in accordance with Annex 7.9 (Committee on Technical Barriers to Trade). 2. The functions of the Committee shall include:

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

(b) address, without delay, any matter that a Party raises relating to the development, adoption, implementation, or enforcement of standards, technical regulations, or conformity assessment procedures;

(c) enhancing cooperation for the development and improvement of standards, technical regulations, or conformity assessment procedures;

(d) facilitate, where appropriate, sectoral cooperation between governmental and non-governmental conformity assessment bodies in the territory of the Parties;

(e) exchange information on developments in non-governmental, regional and multilateral fora involved in activities related to standardisation, technical regulations, and conformity assessment procedures;

(f) take any other action that the Parties consider will assist them in the implementation of the TBT Agreement and the facilitation of trade in goods between them;

(g) consult, at the request of a Party, on any matter arising under this Chapter;

(h) review this Chapter in the light of developments under the TBT Agreement and develop recommendations to amend this Chapter in the light of developments; and

(i) report to the Commission, if it considers it appropriate, on the implementation of this Chapter. 3. Where the Parties have resorted to consultations pursuant to paragraph 2(g), such consultations shall, if the Parties so agree, constitute consultations under Article 13.4 (Consultations).

4. Upon request, a Party shall consider favourably any sector-specific proposal made by the other Party to deepen cooperation under this Chapter.

5. The Committee shall meet at least once a year, or more frequently at the request of either Party, by teleconference, video-conference or any other means mutually determined by the Parties.

Article 7.10. Exchange of Information

Any information or explanation that is provided at the request of a Party pursuant to the provisions of this Chapter shall be provided in printed or electronic form within a reasonable period of time.

Article 7.11. Definitions

For the purposes of this Chapter, the definitions in Annex 1 of the OTC Agreement shall apply.

Chapter 8. TRADE DEFENCE

Section A. Safeguards

Article 8.1. Imposition of a Safeguard Measure

1. A Party may impose a safeguard measure described in paragraph 2 only during the transition period if, as a result of the reduction or elimination of a customs duty under this Agreement, a good originating in the territory of the other Party is imported into the territory of the Party in such increased quantities in absolute terms or relative to domestic production, and under such conditions as to constitute a substantial cause of serious injury, or threat thereof, to the domestic industry producing a like or directly competitive good.

2. If the conditions set out in paragraph 1 are met, a Party may, to the extent necessary to prevent or remedy serious injury or threat of injury and to facilitate readjustment:

(a) suspend the further reduction of any tariff rate provided for in this Agreement for the good; or

(b) increase the rate of duty for the good to a level not to exceed the lesser of:

(i) the most favoured nation (MFN) tariff rate applied at the time the measure is adopted, or

(ii) the most favoured nation (MFN) tariff rate applied on the day immediately preceding the entry into force of this Agreement. (1)

(1) The Parties understand that neither tariff quotas nor quantitative restrictions would be a permissible form of safeguard measure.

Article 8.2. Rules for a Safeguard Measure

1. A Party may adopt a safeguard measure, including any extension thereof, for a period not exceeding 3 years. Irrespective of its duration, such measure shall expire at the end of the transition period.

2. In order to facilitate readjustment in a situation where the expected duration of a safeguard measure exceeds one year, the Party applying the measure shall progressively liberalise it at regular intervals during the period of application.

3. No Party may apply a safeguard measure more than once with respect to the same good.

4. No Party may simultaneously impose a safeguard measure on a good that is subject to a measure that the Party has imposed under Article XIX of the GATT 1994 and the Agreement on Safeguards, nor may a Party continue to maintain a safeguard measure on a good that becomes subject simultaneously to a safeguard measure that the Party imposes under Article XIX of the GATT 1994 and the Agreement on Safeguards.

5. On termination of the safeguard action, the rate of duty shall be no higher than the rate that, according to the Party's Schedule to Annex 3.3 (Tariff Elimination), would have been in effect one year after the imposition of the action. As of 1 January of the year following the cessation of the action, the Party taking the action:

(a) apply the tariff rate set out in the Party's Schedule to Annex 3.3 (Tariff Elimination) as if the safeguard measure had never been applied; or

(b) eliminate the customs duty in equal annual stages, ending on the date specified for tariff elimination in the Party's Schedule to Annex 3.3 (Tariff Elimination).

Article 8.3. Investigation Procedures and Transparency Requirements

1. A Party may apply a safeguard measure only after an investigation by the Party's competent authorities pursuant to Articles 3 and 4.2(c) of the Agreement on Safeguards; and to this end, Articles 3 and 4.2(c) of the Agreement on Safeguards are incorporated into and made part of this Agreement, mutatis mutandis.

2. In the investigation described in paragraph 1, the Party shall comply with the requirements of Article 4.2(a) of the Agreement on Safeguards; and to this end, Article 4.2(a) is incorporated into and made part of this Agreement, mutatis mutandis.

Article 8.4. Notification

1. A Party shall promptly notify the other Party in writing when:

(a) initiate an investigation in accordance with Article 8.3;

(b) determine the existence of serious injury, or a threat thereof, caused by increased imports pursuant to Article 8.1;

(c) take a decision to apply or extend a safeguard measure; and (d) adopt a decision to amend a previously applied safeguard measure.

2. A Party shall provide to the other Party a copy of the public version of the report of its competent authorities pursuant to Article 8.3.1.

Article 8.5. Compensation

1. The Party applying a safeguard measure shall, in consultation with the other Party, provide to the other Party mutually agreed trade liberalisation compensation in the form of concessions having substantially equivalent trade effects or

equivalent to the value of the additional customs duties expected to result from the measure. Such consultations shall begin within 30 days of the imposition of the measure.

2. If the Parties are unable to agree on compensation within 30 days of the initiation of consultations, the exporting Party may suspend the application of substantially equivalent concessions to the trade of the Party applying the safeguard measure.

3. A Party shall notify the other Party in writing of the suspension of concessions pursuant to paragraph 2 at least 30 days prior to the suspension.

4. The obligation to compensate under paragraph 1 and the right to suspend substantially equivalent awards under paragraph 2 shall terminate on the date on which the later of the following occurs: (a) the expiry of the safeguard measure; or (b) the date on which the customs tariff reverts to the tariff rate set out in the Schedule to Part of Annex 3.3 (Tariff elimination).

Article 8.6. Global Actions

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

2. This Agreement confers no additional rights or obligations on the Parties with respect to actions taken pursuant to Article XIX of the GATT 1994 and the Agreement on Safeguards.

Article 8.7. Definitions

For the purposes of this Section:

threat of serious harm means the clear imminence of serious harm based on facts and not merely on allegation, conjecture or remote possibility;

competent investigating authority means the competent investigating authority as set out in Annex 8.7 (Country Specific Definitions);

substantial cause means a cause that is important and not less than any other cause;

serious injury means a significant overall impairment of the condition of a domestic

industry; safeguard measure means a safeguard measure described in Article 8.1(2); transition period means the period during which a good is in the process of being released,

beginning when that good begins to be released and ending when its tariff reaches zero, except for those goods with immediate relief, for which the transition period shall be 2 years.

Section B. Anti-dumping and Countervailing Duties

Article 8.8. Anti-dumping and Countervailing Duties

1. Each Party retains its rights and obligations under the WTO Agreement with respect to the application of anti-dumping and countervailing duties.

2. Nothing in this Agreement, including the provisions of Chapter 13 (Dispute Settlement), shall be construed to impose any rights or obligations on the Parties with respect to anti-dumping and countervailing duty measures.

Annex 8.7. COUNTRY SPECIFIC DEFINITIONS

For the purpose of this Chapter: competent investigating authority means:

(a) in the case of Panama, the Commission for Free Competition and Consumer Affairs;

(b) in the case of Chile, Comision Nacional Encargada de Distorsiones en el Precio de las Mercancias Importadas, or their successors.

Chapter 9. TRADE AND INVESTMENT

Article 9.1. Investment Promotion Strategy

1. The Parties recognise the importance of promoting and protecting the establishment of new investments that will ensure economic development and the facilitation of trade between the two Parties.

2. In this regard, the Parties shall implement cooperation plans and programmes to enhance the purpose described in the previous paragraph.

Article 9.2. Scope of Application (2)

1. The Parties confirm the existing rights and obligations acquired under the "Agreement between the Republic of Chile and the Republic of Panama for the Promotion and Reciprocal Protection of Investments", signed in the city of Santiago, Chile, on November 8, 1996.

2. The Parties shall examine the possibility of evaluating the Convention referred to in the previous paragraph with a view to improving the rules and disciplines set out therein.

3. Based on the provisions of Article 12.1 (Free Trade Commission) the Parties agree to deepen ties for the promotion and establishment of investments from investors of both Parties.

(2) For greater certainty, nothing in this Agreement shall be construed as creating, modifying, annulling or impairing the rights and obligations arising from the "Agreement between the Republic of Chile and the Republic of Panama for the Reciprocal Promotion and Protection of Investments", signed in the city of Santiago, Chile, on November 8, 1996.

Chapter 10. CROSS-BORDER TRADE IN SERVICES

Article 10.1. Scope of Application

1. This Chapter applies to measures adopted or maintained by a Party affecting cross-border trade in services by a service supplier of the other Party. Such measures include measures affecting:

(a) the production, distribution, marketing, sale and supply of a service;

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

(c) access to and use of distribution and transmission systems, or telecommunications networks and services related to the supply of a service;

(d) the presence in its territory of a service supplier of the other Party; and

(e) the provision of a bond or other form of financial security as a condition for the provision of a service.

2. For the purposes of this Chapter, measures adopted or maintained by a Party shall mean measures adopted or maintained by a Party means measures adopted or maintained by:

(a) governments or authorities at central or local level; and

(b) non-governmental institutions in the exercise of powers delegated by governments or authorities at central or local level.

3 This Chapter does not apply to:

(a) financial services, as defined in the Annex on Financial Services of the GATS Agreement;

(b) air services, including domestic and international air transport services, scheduled and non-scheduled, and related support services for air services, except:

(i) aircraft repair and maintenance services during the period when an aircraft is being withdrawn from service, and

(ii) specialised air services;

(c) government purchases made by a Party or State enterprise; or

(d) subsidies or grants provided by a Party or State enterprise, including government-supported loans, guarantees and

insurance.

4. This Chapter does not impose any obligation on a Party with respect to a national of the other Party who seeks to enter its labour market or who is permanently employed in its territory, or to confer any rights on such a national, with respect to such access or employment.

5. This Chapter does not apply to services supplied in the exercise of governmental authority. A service supplied in the exercise of governmental authority means any service which is supplied neither on a commercial basis nor in competition with one or more service suppliers.

Article 10.2. National Treatment

Each Party shall accord to service suppliers (3) of the other Party treatment no less favourable than that it accords, in like circumstances, to its service suppliers.

(3) The Parties understand that "service suppliers" has the same meaning as "services and service suppliers" in Article XVII:1 of the GATS.

Article 10.3. Most-favoured-nation Treatment

Each Party shall accord to service suppliers (4) of the other Party treatment no less favourable than that it accords, in like circumstances, to service suppliers of a non-Party.

(4) The Parties understand that "service suppliers" has the same meaning as "services and service suppliers" in Article XVI of the GATS.

Article 10.4. Local Presence

No Party may require a service supplier of the other Party to establish or maintain a representative office or other business or to reside in its territory as a condition for the cross- border supply of a service.

Article 10.5. Non-conforming Measures

1. Articles 10.2, 10.3 and 10.4 do not apply to:

(a) any measure non-conforming existing which is maintained by:

(i) the government or central level authorities of a Party, as set out in its Schedule to Annex I,

(ii) a local level government of a Party;

(b) the continuation or prompt renewal of any non-conforming measure referred to in subparagraph (a); or

(c) the modification of any non-conforming measure referred to in subparagraph (a) provided that such modification does not decrease the degree of conformity of the measure, as in effect immediately prior to the modification, with Articles 10.2, 10.3, and 10.4.

2. Articles 10.2, 10.3 and 10.4 do not apply to any measures that a Party adopts or maintains, in relation to sectors, sub-sectors or activities, as set out in its Schedule to Annex IL.

Article 10.6. Non-discriminatory Quantitative Restrictions

Each Party shall draw up a list of existing measures that constitute non-discriminatory quantitative restrictions, which are set out in Annex III.

Article 10.7. Transparency In the Development and Application of Regulations (5)

1 In addition to Chapter 11 (Transparency), each Party shall establish or maintain appropriate mechanisms to respond to enquiries from interested persons concerning its regulations relating to matters covered by this Chapter.

2. For the implementation of this commitment, the Parties shall establish appropriate mechanisms for small administrative

bodies, taking into account possible budgetary and resource constraints.

(5) For greater certainty, regulations include regulations that establish or apply licensing criteria or authorisations.

Article 10.8. National Regulations

1. Where a Party requires authorisation for the supply of a service, the competent authorities of that Party shall, within a reasonable period of time after the submission of an application considered complete under domestic laws and regulations, inform the applicant of the decision regarding the application. Upon request of such applicant, the competent authorities of the Party shall, without undue delay, provide information concerning the status of the application. This obligation shall not apply to authorisation requirements that fall within the scope of Article 10.5.2 (Non-Compliant Measures).

2. In order to ensure that measures relating to qualification requirements and procedures, technical standards and licensing requirements do not constitute unnecessary barriers to trade in services, each Party shall endeavour to ensure, as appropriate to each specific sector, that any such measures it adopts or maintains:

(a) be based on objective and transparent criteria, such as competence and capacity to provide the service;

(b) not more burdensome than necessary to ensure quality of service; and

(c) in the case of licensing procedures, do not in themselves constitute a restriction on the supply of the service.

3. If the results of negotiations related to Article VI:4 of the GATS or the outcome of any similar negotiations conducted in another multilateral forum in which both Parties participate enter into force, this Article shall be amended, as appropriate, after consultations between the Parties, to give effect to those results in accordance with this Agreement. The Parties agree to coordinate, as appropriate, in such negotiations.

Article 10.9. Mutual Recognition

1. In order to ensure the appropriate quality of their professional service suppliers, the Parties shall encourage relevant bodies to develop mutually acceptable mechanisms, standards and criteria for accreditation and certification:

(a) of educational institutions or academic programmes recognised by each State, so as to preserve the quality of post-secondary education provided; and

(b) licensing and authorisation of professional service suppliers of the other Party.

2. Where a Party autonomously recognises, by means of an agreement or arrangement, education or experience obtained, qualifications completed, licences or certificates granted in the territory of a non-Party, nothing in Article 10.3 (Most-Favoured-Nation Treatment) shall be construed to require that the same treatment be extended to service suppliers of the other Party.

3. Notwithstanding the preceding paragraphs, neither Party shall grant recognition of professional qualifications, authorisations or certifications in a manner that would constitute a means of discrimination against service suppliers of the other Party; or as a disguised restriction on trade in services.

Article 10.10. Denial of Benefits

Subject to Article 13.4 (Consultations), a Party may deny the benefits of this Chapter to:

(a) service suppliers of the other Party where the service is being supplied by an enterprise owned or controlled by persons of a non-Party and the enterprise does not have substantial business activities in the territory of the other Party; or

(b) service suppliers of the other Party where the service is supplied by an enterprise owned or controlled by persons of the denying Party and the enterprise does not have substantial business activities in the territory of the other Party.

Article 10.11. Definitions

For the purposes of this Chapter:

cross-border trade in services or cross-border supply of a service means the provision of a service:

(a) from the territory of one Party into the territory of the other Party;

(b) in the territory of a Party, by a person of that Party, to a person of the other Party; or

(c) by a national of a Party in the territory of the other Party;

but does not include the supply of a service in the territory of a Party through an investment in that territory;

enterprise means an enterprise as defined in Article 2.1 (Definitions of general application) and a branch of an enterprise located in the territory of a Party established under the laws of that Party;

enterprise of a Party means an enterprise incorporated or organised under the laws of a Party and branches located in the territory of a Party established under the laws of that Party;

service supplier of a Party means a person of the Party that intends to supply or does supply a service;

quantitative restriction means a non-discriminatory measure imposing limitations on:

(a) the number of service providers, whether through a quota, monopoly or economic necessity test or by any other quantitative means; or

(b) the operations of any service provider, whether through a fee or economic needs test or by any other quantitative means;

specialised air services means any air services other than transport, such as firefighting, spraying, scenic flights, aerial surveying, aerial mapping, aerial photography, aerial photography, parachute service, glider towing, aerial services for log transport and construction and other air services related to agriculture, industry and inspection; and

professional services means services the provision of which requires specialised higher education or training and the exercise of which is authorised or restricted by a Party, but does not include services provided by persons engaged in a trade or to crew members of merchant ships and aircraft.

Chapter 11. TRANSPARENCY

Article 11.1. Contact Points

1. Each Party shall designate a contact point to facilitate communications between the Parties on any matter covered by this Agreement.

2. Upon request of the other Party, the point of contact shall indicate the unit or official responsible for the matter and provide such support as may be required to facilitate communication with the requesting Party.

Article 11.2. Publication

1. Each Party shall ensure that its laws, regulations, procedures and administrative rulings of general application that relate to any matter covered by this Agreement are promptly published or otherwise made available in such a manner as to enable interested persons and the other Party to become acquainted with them.

2. To the extent possible, each Party:

(a) publish in advance any measures, referred to in paragraph 1, which it intends to take; and

(b) provide interested persons and the other Party with a reasonable opportunity to comment on the proposed measures.

Article 11.3. Notification and Provision of Information

1. Each Party shall notify the other Party, to the extent practicable, of any existing or proposed measures that the Party considers would substantially affect the operation of this Agreement, or otherwise substantially affect the interests of the other Party under this Agreement.

2. A Party shall, on request of the other Party, provide information and promptly respond to its questions concerning any measure in force or proposed, whether or not the other Party has previously been notified of that measure.

3. Any notification or provision of information referred to in this Article shall be without prejudice to whether or not the

measure is compatible with this Treaty.

Article 11.4. Administrative Procedures

In order to administer in a consistent, impartial and reasonable manner all measures of general application affecting matters covered by this Agreement, each Party shall ensure that, in its administrative procedures applying the measures referred to in Article 11.2 (Publication) with respect to particular persons, goods or services of the other Party in specific cases:

(a) whenever possible, persons of the other Party who are directly affected by a proceeding shall, in accordance with domestic provisions, be given reasonable notice of the commencement of the proceeding, including a description of the nature of the proceeding, a statement of the legal basis under which the proceeding is being conducted, and a general description of all issues in dispute;

(b) where time, the nature of the proceeding and the public interest permit, such persons are given a reasonable opportunity to present facts and arguments in support of their positions prior to any final administrative action; and

(c) its procedures are in accordance with that Party's domestic law.

Article 11.5. Review and Challenge

1. Each Party shall establish or maintain judicial, quasi-judicial, or administrative tribunals or procedures for the purpose of the prompt review and, where warranted, correction of final administrative actions relating to matters covered by this Agreement. Such tribunals shall be impartial and not connected with the administrative law enforcement agency or authority, and shall have no substantial interest in the outcome of the matter.

2. Each Party shall ensure that, before such courts or in such proceedings, the parties have the right to:

(a) a reasonable opportunity to support or defend their respective positions; and

(b) a decision based on the evidence and submissions or, in cases where required by its domestic law, on the record compiled by the administrative authority.

3. Each Party shall ensure, subject to challenge or further review as provided for in its domestic law, that such determinations are implemented by, and govern the practice of, the unit or authority with respect to the administrative action which is the subject of the decision.

Article 11.6. Definitions

For the purposes of this Chapter: administrative decision of general application means an administrative decision or interpretation that applies to all persons and facts generally within its scope and that establishes a rule of conduct, but does not include:

(a) a determination or ruling made in an administrative proceeding that applies to particular persons, goods or services of the other Party, in a specific case; or

(b) a decision that decides on a particular act or practice.

Chapter 12. TREATY ADMINISTRATION

Article 12.1. Free Trade Commission

1. The Parties establish the Free Trade Commission, composed of ministerial-level representatives of the Parties, or their designees.

2. The Commission:

(a) oversee the implementation of this Treaty; monitor the further development of this Treaty;

(b) attempt to resolve disputes that may arise in relation to the interpretation or application of this Agreement;

(c) oversee the work of all committees and working groups established under this Treaty;

(d) determine the amount of remuneration and expenses to be paid to the arbitrators; and

(e) consider any other matter that may affect the operation of this Treaty.

3. The Commission may:

(a) establish and delegate responsibilities to committees and working groups;

(b) in accordance with Annex 12.1 (Implementation of modifications approved by the Commission), advance the implementation of the objectives of this Treaty by approving any modifications to:

(i) the Schedules set out in Annex 3.3 (Tariff elimination), by accelerating tariff elimination,

(ii) the rules of origin set out in Annex 4.1 (Specific Rules of Origin),

(iii) The Model Rules of Procedure set out in Annex 13.9 (Model Rules of Procedure for Arbitral Tribunals),

(iv) the Uniform Regulations and

(v) Annexes I, II and III of Chapter 10 (Cross-Border Trade in Services); (c) seek advice from non-governmental individuals or groups; and (d) if agreed by the Parties, take any other action in the exercise of its functions.

4. The Commission shall establish its rules and procedures. All decisions of the Commission shall be taken by mutual agreement.

5. The Commission shall meet at least once a year in regular session. The regular meetings of the Commission shall be chaired successively by each Party.

Article 12.2. Administration of the Dispute Settlement Procedures

1. Each Party shall designate an office to provide administrative assistance to the arbitration panels established under Chapter 13 (Dispute Settlement) and to perform such other functions as may be directed by the Commission.

2. Each Party shall be responsible for the operation and costs of its designated office and shall notify the Commission of the location of its office.

Annex 12.1. IMPLEMENTATION OF THE AMENDMENTS APPROVED BY THE COMMISSION

For the purpose of this Chapter:

(a) Chile shall implement the decisions of the Commission referred to in Article 12.1.3(b) through Implementing Agreements, in accordance with the Political Constitution of the Republic of Chile; and

(b) Panama shall implement the decisions of the Commission referred to in Article 12.1.3(b) in accordance with its legislation.

Chapter 13. DISPUTE SETTLEMENT

Article 13.1. General Provision

The Parties shall at all times endeavour to reach agreement on the interpretation and application of this Treaty and shall make every effort, through cooperation and consultations, to reach a mutually satisfactory solution on any matter that might affect its operation.

Article 13.2. Scope of Application

1. Except as otherwise provided in this Agreement, the dispute settlement provisions of this Chapter shall apply:

(a) the prevention or settlement of disputes between the Parties concerning the interpretation or application of this Treaty; or

(b) where a Party considers that an existing or proposed measure (6) of the other Party is or may be inconsistent with the obligations of this Agreement, or that the other Party is otherwise in breach of its obligations under this Agreement; or

(c) where a Party considers that an existing or proposed measure of another Party causes nullification or impairment within the meaning of Annex 13.2 (Nullification or impairment).

2. In accordance with Article 13.3 (Choice of forum), this Chapter is without prejudice to the rights of the Parties to resort to existing dispute settlement procedures under other agreements to which they are parties.

(6) For greater certainty, draft measures shall be subject exclusively to consultation as regulated in Article 13.4.

Article 13.3. Forum Option

1. Disputes arising under the provisions of this Agreement, the WTO Agreement, and any other trade agreement to which the Parties are party, may be submitted to the dispute settlement mechanisms of any of those fora, at the option of the complaining Party.

2. The complaining Party shall notify the other Party in writing of its intention to bring a dispute to a particular forum before doing so.

3. Once the complaining Party has initiated dispute settlement proceedings in accordance with Article 13.6, under the WTO Agreement or another trade agreement to which the Parties are party (7) , the forum selected shall be exclusive of others.

(7) For the purposes of this Article, dispute settlement proceedings under the WTO Agreement or another trade agreement are deemed to have been initiated when the establishment of a panel or arbitral tribunal has been requested by a Party.

Article 13.4. Consultations

1. Either Party may request in writing consultations with the other Party with respect to any existing or proposed measure that it considers inconsistent with this Agreement, or with respect to any other matter that it considers may affect the operation of this Agreement.

2. All requests for consultation shall state the reasons for the request, including identification of the existing or proposed measure or matter at issue and the legal basis for the complaint.

3. The Party to whom the request for consultations was addressed shall respond in writing within 7 days from the date of receipt of the request.

4, The Parties shall enter into consultations within 30 days of the date of receipt of the request or within 15 days of the date of receipt of the request in urgent matters including those involving perishable goods.

5. During the consultations, the Parties shall make every effort to reach a mutually satisfactory resolution of the matter submitted for consultations. To this end, the Parties shall:

(a) provide sufficient information to permit a full examination of how the existing or proposed measure, or any other matter, may affect the operation and implementation of this Treaty; and

(b) treat confidentially any information exchanged in the consultation process. 6. With a view to reaching a mutually agreed solution to the matter, the Party which requested the consultations may make representations or proposals to the other Party, which shall give due consideration to such representations or proposals made.

Article 13.5. Commission - Good Offices, Conciliation and Mediation

1. A Party may request in writing a meeting of the Commission if the Parties are unable to resolve a matter pursuant to Article 13.4 within

(a) 60 days after the submission of a request for consultations;

(b) within 15 days of the delivery of a request for consultations on matters pertaining to perishable goods; or

(c) any other period they may agree. 2. A Party may also request in writing a meeting of the Commission where consultations have been held pursuant to Article 6.4 (Committee on Sanitary and Phytosanitary Matters) and Article 7.8 (Committee on Technical Barriers to Trade).

3. The requesting Party shall indicate in the request the measure or other matter that is the subject of the complaint and shall deliver the request to the other Party.

4. Unless it decides otherwise, the Commission shall meet within 10 days of the delivery of the request and shall endeavour to resolve the dispute without delay. The Commission may:

(a) convene such technical advisors or set up such working groups or expert groups as it deems necessary;

(b) use of good offices, conciliation, mediation or other dispute resolution procedures; or

(c) make recommendations;

that may assist the Parties in reaching a mutually satisfactory resolution of the dispute.

Article 13.6. Establishment of an Arbitral Tribunal

1. If the Parties fail to resolve the matter within:

(a) 25 days from the date of the meeting of the Commission convened in accordance with Article 13.5;

(b) 70 days from the date of receipt of the request for consultations, where the Commission has not met in accordance with Article 13.5.4;

(c) 30 days from the date of receipt of the request for consultations with respect to urgent matters including those relating to perishable goods, where the Commission has not met in accordance with Article 13.5.4; or

(d) such other period as the Parties may agree;

either Party may request the establishment of an arbitral tribunal.

2. The request for the establishment of an arbitral tribunal shall be made in writing and shall identify the request:

(a) the specific measure before it;

(b) the legal basis of the request including the provisions of this Treaty that are possibly being violated and any other relevant provisions;

(c) the factual basis of the request; and

(d) the designation referred to in Article 13.7.2.

3. Unless otherwise agreed by the Parties, the arbitral tribunal shall be constituted and perform its functions in accordance with the provisions of this Chapter.

4. Notwithstanding paragraphs 1, 2 and 3, an arbitral tribunal may not be constituted to review a proposed measure.

Article 13.7. Composition of Arbitral Tribunals

1. The arbitration tribunals shall be composed of three members.

2. In the written request under Article 13.6.2(d), the complaining Party shall designate a member of that arbitral tribunal.

3. Within 15 days of receipt of the request for the establishment of an arbitral tribunal, the Party complained against shall designate the second member of the arbitral tribunal.

4. The Parties shall agree on the appointment of the third arbitrator within 15 days after the appointment of the second arbitrator. The member so appointed shall act as chairman of the arbitral tribunal.

5. If it has not been possible to compose the arbitral tribunal within 30 days from the date of receipt of the request for the establishment of the arbitral tribunal, the necessary appointments shall be made, at the request of either Party, by the Director-General of the WTO within 30 days thereafter.

6. The President of the arbitral tribunal may not be a national of either Party, nor have his or her permanent residence in the territories of either Party, nor be employed by either Party or have had any involvement in the case in any capacity whatsoever.

7. All referees shall:

(a) have expertise or experience in law, international trade, other matters covered by this Agreement, or the settlement of disputes arising under international trade agreements;

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

(c) be independent, not connected with, and not receive instructions from, any of the parties; and

(d) comply with the code of conduct for arbitrators set out in the WTO Agreement's "Understanding on Rules and Procedures Governing the Settlement of Disputes" (document WT/DSB/RC/1) (8).

8. Individuals who have participated in the proceedings referred to in Article 13.5.4 may not be arbitrators in a dispute.

9. If any arbitrator appointed under this Article resigns or becomes unable to serve as arbitrator, a replacement arbitrator shall be appointed within 15 days of the occurrence of the event, in accordance with the election procedure used to select the original arbitrator, and the replacement arbitrator shall have all the authority and duties of the original arbitrator. If it has not been possible to appoint the replacement arbitrator within such 15-day period, the appointment shall be made, at the request of either Party, by the Director-General of the WTO within 30 days thereafter.

10. The date of constitution of the arbitral tribunal shall be the date on which the Chairman of the arbitral tribunal is appointed.

(8) Notwithstanding the foregoing, the Free Trade Commission shall have the authority to adopt or amend such Code of Conduct as may be necessary to ensure the best performance of arbitrators.

Article 13.8. Functions of Arbitral Tribunals

1. The function of an arbitral tribunal is to make an objective assessment of the dispute submitted to it, including an objective assessment of the facts of the case and their applicability and conformity with this Treaty, and to make such other findings as may be necessary for the resolution of the dispute submitted to it.

2. The findings and report of the arbitral tribunal shall be binding on the Parties.

3. The arbitral tribunal shall, in addition to those matters covered by Article 13.9, establish, in consultation with the Parties, its own procedures regarding the rights of the Parties to be heard and its deliberations.

4. The arbitral tribunal shall take its decisions by consensus. If the arbitral tribunal is unable to reach consensus, it shall take its decisions by a majority of its members.

Article 13.9. Model Rules of Procedure of Arbitral Tribunals

1. Unless the parties to the dispute agree otherwise, the proceedings of the arbitral tribunal shall be governed by the rules set out in Annex 13.9 (Model Rules of Procedure).

2. Unless the Parties agree otherwise within 20 days of the date of dispatch of the request for the establishment of an arbitral tribunal, the terms of reference of the arbitral tribunal shall be:

"Examine, in the light of the relevant provisions of the Treaty, the matter referred to in the request for the establishment of an arbitral tribunal under Article 13.6 and make findings, determinations and decisions as provided in Article 13.11.3 and submit the reports referred to in Articles 13.11 and 13.12".

3. If the complaining Party wishes to claim that a matter has caused it nullification or impairment, the terms of reference shall so state.

4. At the request of a Party or on its own initiative, the arbitral tribunal may request scientific information and technical advice from experts as it deems appropriate. Any information thus obtained shall be provided to the Parties to the dispute for their comments.

5. The expenses associated with the proceedings, including the expenses of the members of the arbitral tribunal, shall be borne equally by the Parties, unless the arbitral tribunal determines otherwise in view of the particular circumstances of the case.

Article 13.10. Suspension or Termination of Proceedings

1. The Parties may agree that the arbitral tribunal may suspend its work at any time for a period not exceeding 12 months from the date of such agreement. If the work of the arbitral tribunal has been suspended for more than 12 months, the establishment of the arbitral tribunal shall be terminated unless the parties to the dispute agree otherwise.

2. The Parties may agree to terminate the proceedings as a result of a mutually satisfactory resolution of the dispute. Notwithstanding the foregoing, the complaining Party may, at any time, withdraw the request for the establishment of the arbitral tribunal and the arbitral tribunal shall immediately terminate its work.

Article 13.11. Preliminary Report

1. The report of the arbitral tribunal shall be drawn up in the absence of the Parties and shall be based on the relevant provisions of this Agreement and the submissions and arguments of the Parties.

2. Unless the Parties agree otherwise, within 90 days of its establishment, or 60 days in matters relating to perishable goods, the arbitral tribunal shall submit a preliminary report to the Parties.

3. The preliminary report shall contain:

(a) findings of fact;

(b) the arbitral tribunal's determination as to whether a Party is in breach of its obligations under this Agreement or whether that Party's measure causes nullification or impairment within the meaning of the Annex 13.2 (Nullification or impairment) or any other determination called for in the terms of reference; and

(c) the decision of the arbitral tribunal.

4. In exceptional cases, where the arbitral tribunal considers that it cannot issue its preliminary report within 90 days, or within 60 days in cases of urgency, it shall inform the Parties in writing of the reasons for the delay and shall include an estimate of the period of time within which it will issue its report. In no case may the period of delay exceed an additional 30 days, unless otherwise agreed by the Parties.

5. The arbitrators may give dissenting opinions on issues on which there is no consensus decision.

6. No arbitral tribunal may, either in its preliminary report or in its final report, disclose which arbitrators voted with the majority or with the minority.

7. A Party may submit written comments on the preliminary report, including the request referred to in Article 13.13.3, to the arbitral tribunal within 15 days after the submission of the preliminary report, unless the Parties agree otherwise.

8. After considering the written observations on the preliminary report, the arbitral tribunal may reconsider its report and conduct any further examination it deems appropriate.

Article 13.12. Final Report

1. The arbitral tribunal shall submit a final report, including dissenting opinions if any, to the Parties within 30 days after the submission of the preliminary report, unless the Parties agree otherwise. The Parties shall publicly disclose the final report within 15 days thereafter, subject to the protection of confidential information.

2. If in its final report the arbitral tribunal determines that the Party complained against has failed to comply with its obligations under this Agreement, or that a measure of that Party causes nullification or impairment within the meaning of Annex 13.2 (Nullification or impairment), the decision shall, whenever possible, be to eliminate the non-compliance or the nullification or impairment.

Article 13.13. Implementation of the Final Report

1. The final report of the arbitral tribunal shall be final and binding on the Parties and shall not be subject to appeal.

2. Unless otherwise agreed by the Parties, the Parties shall immediately implement the decision of the arbitral tribunal contained in the final report.

3. If the Party complained against is unable to comply immediately, it shall comply within a reasonable period of time. Such

reasonable period of time may be fixed by the arbitral tribunal at the request of either Party together with the observations referred to in Article 13.11.7, taking into account the complexity of the legal and factual issues involved and the nature of the final report. In the absence of agreement by the Parties and in the absence of a prior determination by the arbitral tribunal, any Party may, within 30 days after the public disclosure of the final report, refer the matter to the arbitral tribunal, which shall, in consultation with the Parties, determine the reasonable period of time within 30 days of the request. Such reasonable period of time should not exceed 90 days.

Article 13.14. Divergence on Compliance

1. Within 5 days after the expiry of the reasonable period of time set by the arbitral tribunal, the Party complained against shall inform the other Party of the measures it has taken to comply with the report.

2. In the event of disagreement as to the existence of measures to comply with the decision or as to the compatibility of such measures with this Agreement taken within the reasonable period of time, the dispute shall be resolved in accordance with the dispute settlement procedure of this Chapter, with the intervention, whenever possible, of the arbitral tribunal which initially took cognizance of the matter.

3. The arbitral tribunal shall circulate its report to the Parties within 60 days of the date on which the matter was referred to it. Where the arbitral tribunal considers that it is unable to issue its report within that period, it shall inform the Parties in writing of the reasons for the delay and shall include an estimate of the period of time within which it will issue its report. In no case may the period of delay exceed an additional 30 days.

Article 13.15. Compensation and Suspension of Benefits

1. If:

(a) the reasonable period of time has expired and the Party complained against has not given notice that it has complied; or

(b) the arbitral tribunal, pursuant to Article 13.14 concludes that there are no measures intended to comply with the decision or that such measures are inconsistent with this Agreement,

the complaining Party may suspend, vis-a-vis the Party complained against, concessions or other obligations under this Agreement equivalent to the level of nullification or impairment. For this purpose, it shall give written notice of such intention at least 60 days before the entry into force of the measures.

2. Without prejudice to paragraph 1, the complaining Party may, at any time after the delivery of the final report of the arbitral tribunal, request the Party complained against to enter into negotiations with a view to finding mutually acceptable compensation. Unless otherwise agreed by the Parties, such negotiation shall not suspend proceedings already initiated, in particular those referred to in Articles 13.14, 13.15.6 and 13.16, nor shall it prevent the complaining Party from availing itself of its right under paragraph 1.

3. Compensation and suspension of concessions or other obligations are temporary measures and in no case preferable to the full implementation of the arbitral tribunal's decision to bring the measure into conformity with this Agreement. The compensation and suspension of benefits shall only apply until the measure found to be inconsistent with this Agreement has been removed, or the Parties have reached a mutually satisfactory solution.

4. In considering which benefits to suspend in accordance with paragraph 1, the complaining Party:

(a) shall first seek to suspend benefits in the same sector or sectors affected by the measure found by the arbitral tribunal to be inconsistent with this Agreement or to cause nullification or impairment in accordance with Annex 13.2 (Nullification or Impairment); and

(b) if the complaining Party considers that it is not practicable or effective to suspend benefits in the same sector(s), it may suspend benefits in other sectors. The communication announcing such a decision shall state the reasons on which the decision is based.

5. At the written request of the Party complained against, within 15 days of the communication referred to in paragraph 1, the arbitral tribunal initially seized of the matter shall determine whether the level of concessions or other obligations that the complaining Party wishes to suspend is not equivalent to the level of nullification or impairment in accordance with paragraph 1, or whether the procedures and principles of paragraph 4 have been followed.

6. The proceedings before the arbitral tribunal constituted for the purposes of paragraph 4 shall be conducted in accordance with the rules set out in Annex 13.9 (Model Rules of Procedure), unless the parties agree otherwise. The arbitral

tribunal shall circulate its report to the Parties within 45 days of the date on which the matter is referred to it pursuant to paragraph 5. The decision of the arbitral tribunal, which shall be made publicly available, shall be final and binding and the Parties shall not seek a second arbitration.

Article 13.16. Review of Non-Compliance

1. If the Party complained against considers that it has eliminated the non-conformity or the nullification or impairment found by the arbitral tribunal, it shall notify the other Party of the measure of compliance adopted. In the event of a well-founded disagreement as to the compatibility of such measure with this Agreement, the Party complained against may submit the matter to the procedure set out in Article 13.14.

2. The complaining Party shall promptly reinstate the concessions or other obligations it has suspended pursuant to Article 13.15 if it does not express its disagreement with the measure of compliance taken by the Party complained against within 15 days after receipt of the notice under paragraph 1, or if it expresses its disagreement without substantiating it, or if the court decides that the Party complained against has eliminated the disagreement.

Article 13.17. Other Provisions

Any time limit specified in this Chapter may be modified by mutual agreement between the Parties.

Article 13.18. Right of Individuals

Neither Party may grant 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.

Annex 13.2. CANCELLATION OR IMPAIRMENT

1. A Party may have recourse to the dispute settlement mechanism under this Chapter where, by virtue of the application of a measure not inconsistent with this Agreement, it considers that the benefits it could reasonably have expected to accrue to it from the application of any of the following provisions are nullified or impaired:

(a) Chapters 3 to 5 (National Treatment and Market Access for Goods; Rules of Origin and Origin Procedures; and Customs Administration);

(b) Chapter 7 (Technical Barriers to Trade); or (c) Chapter 10 (Cross-border trade in services).

2. No Party may invoke paragraph 1(c) with respect to any measure subject to an exception under Article 14.1 (General Exceptions).

Annex 13.9. MODEL RULES OF PROCEDURE FOR ARBITRAL TRIBUNALS

General Provisions

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

Party complained against means a Party that is a respondent under Article 13.6 (Establishment of an arbitral tribunal);

Claimant Party means the Party requesting the establishment of an arbitral tribunal under Article 13.6 (Establishment of an arbitral tribunal);

Arbitral Tribunal means the arbitral tribunal established under Article 13.6 (Establishment of Arbitral Tribunal).

Notifications

2. Any request, notice, written submission or other document shall be delivered by a Party or by the arbitral tribunal by delivery against receipt by registered post, courier or express courier, facsimile transmission, telex, telegram or any other means of telecommunication that provides a record of the sending thereof.

3. The Parties shall provide a copy of each of their written submissions to the other Party and to each of the arbitrators. A copy of the relevant document shall also be provided in electronic format.

4. All notifications shall be made and sent to each Party.

5. Minor clerical errors in an application, notice, pleading or other document relating to proceedings before an arbitral tribunal may be corrected by sending a new document clearly indicating the changes made.

6. If the last day for delivery of a document falls on a public holiday in one of the Parties, the document may be delivered on the next working day.

Commencement of arbitration

7. Unless the Parties agree otherwise, they shall meet with the arbitral tribunal within 7 days of the date of the establishment of the arbitral tribunal to determine such matters that the Parties or the arbitral tribunal consider relevant, including the remuneration and expenses to be paid to the Chairman of the arbitral tribunal, which shall, in general, be in accordance with WTO standards.

Initial writings

8. The complaining Party shall deliver its initial written submission no later than 20 days after the date of the establishment of the arbitral tribunal. The Party complained against shall deliver its written statement in response no later than 20 days after the date of delivery of the initial written submission.

Functioning of arbitration tribunals

9. All meetings of arbitral tribunals shall be chaired by their chairman.

10. Except as otherwise provided in these rules, the arbitral tribunal may perform its functions by any means, including telephone, facsimile transmission or computer links.

11. Only arbitrators may participate in the deliberations of the arbitral tribunal.

12. The drafting of decisions and awards shall be the sole responsibility of the arbitral tribunal.

13. Where a procedural question arises that is not covered by these rules, the arbitral tribunal may adopt such procedure as it considers appropriate, provided that it is not incompatible with this Treaty.

14. Where the arbitral tribunal considers it necessary to modify any procedural time limit or to make any other procedural or administrative adjustment to the proceedings, it shall inform the Parties in writing of the reason for the modification or adjustment, indicating the time limit or adjustment required.

Hearings

15. The President shall fix the date and time of the hearings after consulting with the Parties and the other arbitrators composing the arbitral tribunal. The President shall notify the Parties in writing of the date, time and place of the hearing. The arbitral tribunal may decide not to convene a hearing, unless a Party objects.

16. Unless otherwise agreed by the Parties, the hearing shall be held in the territory of the Party complained against. The Party complained against shall be responsible for the logistical administration of the dispute settlement procedure, in particular for the organisation of the hearings, unless otherwise agreed.

17. With the consent of the Parties, the arbitral tribunal may hold additional hearings.

18. All arbitrators must be present at the hearings.

19. No later than 5 days before the date of the hearing, each Party shall provide a list of the names of the other representatives or advisers who will be present at the hearing.

20. The hearings of arbitral tribunals shall be closed to the public unless the Parties decide otherwise. If the Parties decide that the hearing shall be open to the public, a part of the hearing may nevertheless be closed to the public if the arbitral tribunal, at the request of the Parties, so decides for serious reasons. In particular, the arbitral tribunal shall meet in closed session when a Party's submission and arguments include confidential business information. If the hearing is open to the public, the date, time and place of the hearing shall be published by the Party in charge of the logistical administration of the proceeding.

21. The arbitral tribunal shall conduct the hearing in the following manner: arguments of the complaining Party; arguments of the Party complained against; counter-arguments of the Parties; reply of the complaining Party; reply of the Party complained against. The Chairperson may set time limits for oral interventions, ensuring that equal time is given to the complaining Party and the Party complained against.

22. The arbitral tribunal may put direct questions to any Party at any time during the hearing.

23. Within 10 days of the date of the hearing, each Party may submit a supplementary written submission on any matter that arose during the hearing.

Written questions

24. The arbitral tribunal may put questions in writing to any Party at any time during the proceedings. The arbitral tribunal shall deliver the written questions to the Party or Parties to whom they are addressed.

25. The Party to which the arbitral tribunal has addressed written questions shall deliver a copy of any written answer to the other Party and to the arbitral tribunal. Each Party shall be given the opportunity to provide written comments on the response within 5 days of the date of delivery of the response.

Confidentiality

26. The Parties shall maintain the confidentiality of the hearings to the extent that the arbitral tribunal conducts the hearings in closed session pursuant to Rule 19. Each Party shall treat as confidential information submitted by the other Party in confidence to the arbitral tribunal. Where a Party submits to the arbitral tribunal a confidential version of its written submissions, it shall also, at the request of the other Party, provide a non-confidential summary of the information contained in its written submissions that may be disclosed to the public no later than 15 days after the date of the request or of the filing of the written submission, whichever is later. Nothing in these rules shall prevent a Party from making public statements of its own position.

Contacts Ex Parte

27. The arbitral tribunal shall refrain from meeting or maintaining contact with a Party in the absence of the other Party.

28. No Party may contact any of the arbitrators in the absence of the other Party or the other arbitrators.

29. No arbitrator may discuss any matter relating to the proceedings with either or both Parties in the absence of the other arbitrators.

Role of experts

30. At the request of a Party or on its own initiative, the arbitral tribunal may obtain information and technical advice from such persons and entities as it deems appropriate. Any information so obtained shall be submitted to the Parties for their comments.

31. Where a written request for a report is made to an expert, any time period applicable to the proceedings before the arbitral tribunal shall be suspended from the date of delivery of the request until the date on which the report is delivered to the arbitral tribunal.

Briefs submitted by amicus curiae

32. The arbitral tribunal shall have the authority to accept and consider amicus curiae briefs from any persons and entities within the territories of the Parties and from interested persons and entities outside the territories of the Parties.

33. These pleadings must meet the following requirements: they must be submitted within 10 days of the date of the establishment of the arbitral tribunal; they must be concise and in any event consist of fewer than 15 typed pages, including any annexes; and they must be directly relevant to the issues of fact and law submitted to the arbitral tribunal for its consideration.

34. The written submissions shall include a description of the person, whether natural or legal, submitting them, as well as the type of activity pursued and its sources of financing, specifying also the nature of the interest that such person has in the arbitration proceedings.

35. The arbitral tribunal shall list in its award all written submissions received which comply with the above rules.

Emergency cases

36. In cases of urgency referred to in Article 13.4 (Consultation), the arbitral tribunal shall adjust the time limits referred to in these rules accordingly.

Calculation of time limits

37. Where, in accordance with the provisions of this Treaty or these rules, something is required to be done, or the arbitral tribunal requires something to be done, within a specified period of time after or before a specified date or event, the day of the specified date or event shall not be included in the calculation of the period of time allowed.

38. Where, as a consequence of rule 6, a Party receives a document on a date other than the date on which the same document is received by the other Party, any period of time the calculation of which depends on the receipt of that document shall be calculated from the last date of receipt of the document.

Chapter 14. EXCEPTIONS

Article 14.1. General Derogations

1. For the purposes of Chapters 3 through 7 (National Treatment and Market Access; Rules of Origin and Origin Procedures; Customs Administration; Sanitary and Phytosanitary Measures; and Technical Barriers to Trade), Article XX of the GATT 1994 and its interpretative notes are hereby incorporated into and made part of this Agreement, mutatis mutandis. The Parties understand that the measures referred to in Article XX(b) of GATT 1994 include environmental measures necessary to protect human, animal or plant life or health, and that Article XX(g) of GATT 1994 applies to measures relating to the conservation of living or non-living exhaustible natural resources.

2. For the purposes of Chapters 10 (Cross-Border Trade in Services), Article XIV of the GATS (including its footnotes) is incorporated into and made part of this Agreement (9). The Parties understand that the measures referred to in Article XIV(b) of the GATS include environmental measures necessary to protect human, animal or plant life or health.

(9) If Article XIV of the GATS is amended, this Article shall be amended, as appropriate, after consultation between the Parties.

Article 14.2. Essential Security

Nothing in this Agreement shall be construed to mean:

(a) compel a Party to provide or give access to information the disclosure of which it considers contrary to its essential security interests; or

(b) prevent a Party from applying any measure it considers necessary for the fulfilment of its obligations under the Charter of the United Nations for the maintenance of international peace and security, or for the protection of its essential security interests.

Article 14.3. Taxation

1. Except as provided in this Article, nothing in this Treaty shall apply to taxation measures.

2. This Agreement shall only confer rights or impose obligations with respect to taxation measures by virtue of corresponding rights or obligations granted or imposed in accordance with Article III of the GATT 1994 and, with respect to services, Articles I and XIV(d) (including their footnotes) of the GATS, where applicable.

3. Nothing in this Agreement shall affect the rights and obligations of either Party under any tax convention in force between the Parties. In the event of inconsistency of a taxation measure between this Agreement and any such treaty, the treaty shall prevail to the extent of the inconsistency. In the case of a tax treaty between the Parties, the competent authorities under that treaty shall have the responsibility to determine whether there is an inconsistency between this Agreement and that treaty.

Article 14.4. Balance of Payments Derogation

1. If a Party is experiencing, or is threatened with, serious balance of payments and external financial difficulties, it may adopt or maintain restrictive measures on trade in goods and services and on payments and capital movements, including those related to direct investment.

2. The Parties shall endeavour to avoid the application of the restrictive measures referred to in paragraph 1.

3. Restrictive measures adopted or maintained under this Article shall be non- discriminatory and of limited duration and shall not go beyond what is necessary to remedy the external balance of payments and financial situation. They shall be in

accordance with the conditions set out in the WTO Agreements and consistent with the Articles of Agreement or Articles of Agreement of the International Monetary Fund, as appropriate.

4, The Party that maintains or has adopted restrictive measures, or any modification thereof, shall inform the other Party without delay and shall submit, as soon as practicable, a timetable for their elimination.

5. The Party applying restrictive measures shall promptly enter into consultations under Article 12.1 (Free Trade Commission). Such consultations shall assess the balance of payments situation of that Party and the restrictions adopted or maintained under this Article, taking into account, inter alia, such factors as:

(a) the nature and extent of external financial and balance of payments difficulties;

(b) the external economic and trade environment of the Party subject to the consultations; and

(c) other possible corrective measures that may be used.

6. The consultations shall examine the conformity of any restrictive measures with paragraphs 3 and 4. Any statistical or other findings of fact presented by the International Monetary Fund on exchange, monetary reserves and balance of payments issues shall be accepted and conclusions shall be based on the Fund's assessment of the external financial and balance of payments situation of the Party subject to the consultations.

Article 14.5. Disclosure of Information

Nothing in this Agreement shall be construed to require a Party to provide or permit access to information the disclosure of which would impede law enforcement or would be contrary to the laws of the Party protecting the personal privacy or financial affairs or accounts of individual customers of financial institutions.

Article 14.6. Definitions

For the purposes of this Chapter:

tax convention means a convention for the avoidance of double taxation or other international tax convention or arrangement; and

tax measures do not include a:

(a) a customs tariff, as defined in Article 2.1 (General Definitions); or

(b) measures listed in exceptions (b) and (c) of the definition of customs tariff.

Annex 14.3. COMPETENT AUTHORITIES

For the purposes of this Chapter: Competent authorities means

(a) in the case of Chile, the Servicio de Impuestos Internos, Ministry of Finance; and

(b) in the case of Panama, the Directorate General of Revenue of the Ministry of Economy and Finance.

Chapter 15. FINAL PROVISIONS

Article 15.1. Annexes, Appendices and Footnotes

The Annexes, Appendices and footnotes to this Treaty constitute an integral part of this Treaty.

Article 15.2. Amendments

1. The Parties may agree on any amendment or addition to this Agreement.

2. Amendments and additions agreed and approved in advance in accordance with the relevant legal procedures of each Party shall constitute an integral part of this Agreement.

Article 15.3. Future Negotiations

The Parties shall, two years after the entry into force of this Agreement, initiate negotiations for the inclusion of a Chapter on Financial Services, and in turn, improve access conditions on agricultural goods to the extent mutually desirable, as well as to broaden and deepen the coverage of the Agreement as mutually determined.

Article 15.4. Amendment of the WTO Agreement

If any provision of the WTO Agreement that the Parties have incorporated into this Agreement is amended, the Parties shall consult on whether to amend this Agreement.

Article 15.5. Reservations

This Treaty may not be the subject of reservations or interpretative declarations at the time of ratification.

Article 15.6. Entry Into Force and Termination

1. The entry into force of this Agreement is subject to the completion of the necessary domestic legal procedures of each Party.

2. This Agreement shall enter into force 60 days after the date on which the Parties exchange written notifications indicating that the above procedures have been completed or such other period as the Parties may agree.

3. Either Party may terminate this Agreement by written notice to the other Party. This Agreement shall expire 180 days after the date of such notice.

IN WITNESS WHEREOF, the undersigned, being duly authorised by their respective Governments, have signed this Treaty in two equally authentic copies.

DONE at Santiago, Chile, this twenty-seventh day of June 2006.

FOR THE GOVERNMENT OF THE REPUBLIC OF CHILE

FOR THE GOVERNMENT OF THE REPUBLIC OF PANAMA