FREE TRADE AGREEMENT BETWEEN CANADA AND THE REPUBLIC OF KOREA

CANADA ("Canada") AND THE REPUBLIC OF KOREA ("Korea"), hereinafter referred to as "the Parties", resolved to:

STRENGTHEN the special bonds of friendship and cooperation among their peoples;

CONTRIBUTE to the harmonious development and expansion of world and regional trade and to provide a catalyst to broader international cooperation;

BUILD on their respective rights and obligations under the WTO Agreement and other multilateral, regional, and bilateral instruments of cooperation to which both Parties are party;

PROMOTE regional integration in the Asia-Pacific region;

CREATE an expanded and secure market for the goods and services in their territories, as well as new employment opportunities and improve working conditions and living standards in their respective territories;

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

REDUCE distortions to trade;

ESTABLISH clear, transparent, and mutually advantageous rules to govern their trade;

ENSURE a predictable commercial framework for business planning and investment;

ENHANCE the competitiveness of their enterprises in global markets;

UNDERTAKE each of the preceding in a manner that is consistent with environmental protection and conservation, reflecting their desire to enhance the enforcement of environmental laws and regulations, and strengthen cooperation on environmental matters;

PROTECT, enhance, and enforce basic workers' rights, and strengthen cooperation on labour matters;

PROMOTE sustainable development;

PRESERVE their flexibility to safeguard the public welfare;

PROMOTE cultural cooperation and recognise that the Parties have the right to preserve, develop, and implement their cultural policies and to support their cultural industries for the purpose of strengthening the diversity of cultural expressions; and

AFFIRM their commitment to respect the values and principles of democracy and to protect and promote human rights and fundamental freedoms identified in the Universal Declaration of Human Rights;

HAVE AGREED as follows:

Chapter One. Initial Provisions and General Definitions

Section A. Initial Provisions

Article 1.1. Establishment of a Free Trade Area

Consistent with Article XXIV of GATT 1994 and Article V of GATS, the Parties hereby establish a free trade area, in accordance

with the provisions of this Agreement.

Article 1.2. Relation to other Agreements

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

Article 1.3. Relation to Multilateral Environmental Agreements

In the event of an inconsistency between a Party's obligations under this Agreement and the Party's obligations under an agreement listed in Annex 1-A, a Party is not precluded from taking a particular measure necessary to comply with its obligations under an agreement listed in Annex 1-A, provided that the measure is not applied in a manner that would constitute, where the same conditions prevail, arbitrary or unjustifiable discrimination, or a disguised restriction on international trade.

Article 1.4. Extent of Obligations

1. Each Party is fully responsible for the observance of all provisions of this Agreement and shall take such reasonable measures as may be available to it to ensure observance of this Agreement by sub-national governments and authorities within its territory.

2. For greater certainty, the provisions of Chapter Twenty-One (Dispute Settlement) may be invoked in respect of measures affecting the observance of this Agreement taken by sub-national governments within the territory of each Party. If a Panel established under Article 21.6 (Establishment of a Panel) has ruled that a provision of this Agreement has not been observed, the responsible Party shall take such reasonable measures as may be available to it to ensure its observance. The provisions relating to suspension of benefits or other obligations apply in cases where it has not been possible to secure such observance.

Article 1.5. Reference to other Agreements

Where this Agreement refers to or incorporates by reference other agreements or legal instruments in whole or in part, those references include related footnotes, interpretative and explanatory notes, protocols, annexes, appendices, et cetera that are integral parts of the agreements or legal instruments.

Article 1.6. Cultural Cooperation

1. The Parties agree to promote cultural cooperation in order to increase mutual understanding and benefit from each other's competitive strengths in the development of content for the global market. In this regard, the Parties endeavour to promote cultural exchanges and carry out joint initiatives in various cultural spheres, such as audiovisual coproductions.

2. Recognising that audiovisual coproduction agreements can significantly contribute to the development of the audiovisual industry and to an intensification of cultural and economic exchange, the Parties agree to consider the negotiation of an audiovisual coproduction agreement. Such a future audiovisual coproduction agreement shall form an integral part of this Agreement.

3. The audiovisual coproduction agreement referred to in paragraph 2 would be negotiated between the competent authorities of the Parties, which are the Department of Canadian Heritage for Canada and the Ministry of Culture, Sports and Tourism and the Korea Communications Commission for Korea, or their respective successors.

4. Article 23.2 (Amendments) does not apply to the audiovisual coproduction agreement referred to in paragraph 2. Any amendments to that agreement shall be done by mutual consent of the competent authorities of the Parties.

5. The dispute settlement provisions of Chapters Eight (Investment) and Twenty-One (Dispute Settlement) do not apply to matters covered by this Article, including an agreement negotiated pursuant to paragraph 2.

Article 1.7. Bilateral Trade and Investment Promotion In the Automotive Sector

The Parties shall cooperate to promote bilateral trade and investment in the automotive sector, which allows the Parties to realise the benefits of global production and supply chains.

Section B. General Definitions

Article 18. Definitions of General Application

For the purposes of this Agreement, unless otherwise specified:

Commission means the Joint Commission established under Article 20.1 (Joint Commission);

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

(a) a charge equivalent to an internal tax imposed consistently with Article III: 2 of the GATT 1994, or any equivalent provision of a successor agreement to which both Parties are party, in respect of like, directly competitive or substitutable goods of the Party, or in respect of goods from which the imported good has been manufactured or produced in whole or in part;

(b) an anti-dumping or countervailing duty that is applied pursuant to a Party's domestic law and consistent with WTO obligations and the provisions of this Agreement;

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

(d) a premium offered or collected on an imported good arising out of any tendering system in respect of the administration of quantitative import restrictions and tariff rate quotas.

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

days means calendar days, including weekends and holidays;

Dispute Settlement Understanding (DSU) means the Understanding on Rules and Procedures Governing the Settlement of Disputes, contained in Annex 2 to the WTO Agreement;

enterprise means an entity constituted or organised under applicable law, whether or not for profit, and whether privately or governmentally-owned or controlled, including a corporation, trust, partnership, sole proprietorship, joint venture, or other association;

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

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

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

GPA means the Agreement on Government Procurement, contained in Annex 4 to the WTO Agreement;

Harmonized System (HS) means the Harmonized Commodity Description and Coding System, including its General Rules of Interpretation, Section Notes, Chapter Notes and subheading Notes;

heading means any four-digit number, or the first four digits of a number, used in the nomenclature of the Harmonized System;

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

national means a natural person who is:

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

(b) for Korea, a Korean national under Korean legislation; New York Convention means the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York on 10 June 1958;

originating means qualifying under the rules of origin set out in Chapter Three (Rules of Origin); person means a natural person or an enterprise;

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

Safeguards Agreement means the Agreement on Safeguards, contained in Annex1A to the WTO Agreement;

sanitary or phytosanitary measure means any measure referred to in paragraph 1 of Annex A of the SPS Agreement;

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

state enterprise means, except as set out in Annex 15-A (Country-Specific Definitions of State Enterprise), an enterprise owned or controlled through ownership interests, by a Party;

subheading means any six-digit number, or the first six digits of a number, used in the nomenclature of the Harmonized System;

tariff classification means the classification of a good or material under a chapter, heading or subheading of the Harmonized System;

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

Universal Declaration of Human Rights means the Universal Declaration of Human Rights, adopted by the General Assembly of the United Nations on 10 December 1948;

WTO means the World Trade Organization; and

WTO Agreement means the Marrakesh Agreement Establishing the World Trade Organization, done on 15 April 1994, or any successor agreement to which both Parties are party.

Article 1.9. Country-specific Definitions

For the purposes of this Agreement, unless otherwise specified:

national government means:

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

(b) for Korea, the Government of the Republic of Korea;

sub-national government means:

(a) for Canada, provincial, territorial, or local governments; and

(b) for Korea, as a unitary Republic, the term sub-national government does not apply;

province means:

(a) for Canada, a province of Canada, and includes the Yukon and the Northwest Territories and Nunavut; and

(b) for Korea, the term province does not apply; and

territory means:

(a) for Canada,

(i) the land territory, air space, internal waters and territorial sea of Canada;

(ii) the exclusive economic zone of Canada, as determined by its domestic law, consistent with Part V of the United Nations Convention on the Law of the Sea, done at Montego Bay on 10 December 1982 (hereinafter referred to as "UNCLOS"); and

(iii) the continental shelf of Canada, as determined by its domestic law, consistent with Part VI of UNCLOS; and

(b) for Korea, the land, maritime, and air space over which Korea exercises sovereignty, and those maritime areas, including the seabed and subsoil adjacent to and beyond the outer limit of the territorial seas over which it may exercise sovereign rights or jurisdiction in accordance with international law and its domestic law.

Annex 1-A. Multilateral Environmental Agreements

(a) The Convention on International Trade in Endangered Species of Wild Fauna and Flora, done at Washington on 3 March 1973, as amended on 22 June 1979.

(b) The Montreal Protocol on Substances that Deplete the Ozone Layer, done at Montreal on 16 September 1987, as amended 29 June 1990, as amended 25 November 1992, as amended 17 September 1997, as amended 3 December 1999.

(c) The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, done at Basel on 22 March 1989.

(d) The Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, done at Rotterdam on 10 September 1998.

(e) The Stockholm Convention on Persistent Organic Pollutants, done at Stockholm on 22 May 2001.

Chapter Two. National Treatment and Market Access for Goods

Article 2.1. Scope and Coverage

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

Article 2.2. National Treatment

1. Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of the GATT 1994 and, for greater certainty, its interpretative notes, and to this end Article III of the GATT 1994 and, for greater certainty, its interpretative notes, or an equivalent provision of a successor agreement to which both Parties are party, are incorporated into and made part of this Agreement.

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

3. Paragraph 1 does not apply to the measures set out in Annex 2-A.

Article 2.3. Tariff Elimination

1. Except as otherwise provided in this Agreement, a Party shall not increase an existing customs duty, or adopt a 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 in accordance with its Schedule to Annex 2-D.

3. Each party shall apply to an originating good the lesser of:

(a) The tariff rate applicable under its Schedule to Annex 2-D; or

(b) The most-favoured-nation (MFN) applied tariff rate.

4. At the request of a Party, the Parties shall consult to consider accelerating the elimination of customs duties on a good after the entry into force of this Agreement. An agreement between the Parties to accelerate elimination of customs duties on an originating good shall supersede a duty rate or staging category determined pursuant to their Schedules for that good when approved by each Party in accordance with its applicable domestic legal procedures.

5. For greater certainty, a Party may:

(a) modify its tariffs outside this Agreement on goods for which no tariff preference is claimed under this Agreement;

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

(c) maintain or increase a customs duty as authorised by this Agreement, the Dispute Settlement Body of the WTO, or any agreement under the WTO Agreement.

Article 2.4. Temporary Admission of Goods

1. Each Party shall grant duty-free temporary admission for the following goods imported from the territory of the other Party, regardless of their origin and regardless of whether like, directly competitive or substitutable goods are available in the territory of the Party:

(a) professional equipment necessary for carrying out the business activity, trade, or profession of a business person who qualifies for temporary entry under Chapter Twelve (Temporary Entry for Business Persons);

(b) equipment for the press or for sound or television broadcasting and cinematographic equipment;

(c) goods imported for sports purposes and goods intended for display or demonstration; and

(d) commercial samples and advertising films and recordings.

2. Except as otherwise provided in this Agreement, a Party shall not condition the duty-free temporary admission of a good under paragraph 1(a), (b), or (c), other than to require that the good:

(a) be imported by a national or resident of the other Party who seeks temporary entry;

(b) be used only by or under the personal supervision of that person in the exercise of the business activity, trade, profession, or sport of that person;

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

(d) be accompanied by a bond in an amount no greater than the charges that would otherwise be owed on entry or final importation, or by another form of security, releasable on exportation of the good, except that a bond for customs duties shall not be required for an originating good (1) ;

(e) be capable of identification when exported;

(f) be exported on the departure of that person or within another period of time that is reasonably related to the purpose of the temporary admission within one year, or such other longer period in accordance with the domestic law and practices of the Party; and

(g) be imported in no greater quantity than is reasonable for its intended use.

3. Except as otherwise provided in this Agreement, a Party shall not condition the duty-free temporary admission of a good under paragraph 1(d), other than to require that the good:

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

(b) not be sold, leased, or put to use other than for exhibition or demonstration while in its territory;

(c) be capable of identification when exported;

(d) be exported within a period of time that is reasonably related to the purpose of the temporary importation; and

(e) be imported in no greater quantity than is reasonable for its intended use.

4. If a good is temporarily admitted duty-free pursuant to paragraph 1 and a condition that the Party imposes pursuant to paragraphs 2 and 3 has not been fulfilled, a Party may impose:

(a) the customs duty and any other charge that would be owed on entry or final importation of the good; and

(b) any other charges or penalties provided under its domestic law.

5. Subject to Chapters Eight (Investment) and Nine (Cross-Border Trade in Services):

(a) each Party shall allow a container used in international traffic that enters its territory from the territory of the other Party to exit its territory on a route that is reasonably related to the economic and prompt departure of that container;

(b) a Party shall not require a bond or impose a penalty or charge only by reason of a difference between the port of entry and the port of departure of a container;

(c) a Party shall not condition the release of an obligation, including a bond, that it imposes in respect of the entry of a container into its territory, on its exit through a particular port of departure; and

(d) a Party shall not require that the carrier bringing a container from the territory of the other Party into its territory be the same carrier that takes such container to the territory of the other Party.

(1) If another form of monetary security is used, it shall not be more burdensome than the bonding requirement referred to in this

subparagraph. If a Party uses a non-monetary form of security, it shall not be more burdensome than existing forms of security used by that Party.

Article 2.5. Duty-free Entry of Certain Commercial Samples and Printed Advertising Materials

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

(a) the commercial samples be imported only for the solicitation of orders for goods, or services provided from the territory, of the other Party or a non-party; or (b) the printed advertising materials be imported in packets, each of which contains no more than one copy of the material, and that neither the materials nor the packets form part of a larger consignment.

Article 2.6. Goods Re-entered after Repair or Alteration

1. Except as provided in Annex 2-E, a Party shall not apply a customs duty to a good, regardless of its origin, that re-enters its territory after that good has been temporarily exported from its territory to the territory of the other Party for repair or alteration, regardless of whether the repair or alteration could be performed in its territory. (2)

2. A Party shall not apply a customs duty to a good, regardless of its origin, imported temporarily from the territory of the other Party for repair or alteration.

(2) This paragraph does not cover goods imported in bond, into foreign trade zones, or in similar status, that are exported for repair and are not re-imported in bond, into foreign trade zones, or in similar status.

Article 2.7. Import and Export Restrictions

1. Except as otherwise provided in this Agreement, a Party shall not adopt or maintain a prohibition or restriction on the importation of a good of the other Party, or on the exportation or sale for export of a good destined for the territory of the other Party, except in accordance with Article XI of the GATT 1994 and, for greater certainty, its interpretative notes, and to this end Article XI of the GATT 1994 and, for greater certainty, its interpretative notes, or an equivalent provision of a successor agreement to which both Parties are party, are incorporated into and made a part of this Agreement.

2. The Parties understand that the GATT 1994 rights and obligations incorporated by paragraph 1 prohibit, in any circumstances in which any other form of restriction is prohibited, export price requirements and, except as permitted in enforcement of countervailing and antidumping orders and undertakings, import price requirements.

3. If a Party adopts or maintains a prohibition or restriction on the importation from, or exportation to, a non-party of a good, this Agreement is not to be construed to prevent the Party from:

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

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

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

5. Paragraphs 1 through 4 do not apply to the measures set out in Annex 2-A.

Article 2.8. Export Duties, Taxes or other Charges

A Party shall not adopt or maintain duties, taxes, or other charges on the export of a good to the territory of the other Party, unless the duties, taxes, or charges are also adopted or maintained on the good when destined for domestic consumption.

Article 2.9. Most-favoured-nation Treatment for Internal Taxes and Emissions Regulations

With respect to internal taxes and emissions regulations related to automotive goods, each Party shall accord to the products originating in the other Party no less favourable treatment than that accorded to the like products originating in a non-party, including as provided in any free trade agreement with that non-party.

Article 2.10. Customs User Fees

1. A Party shall not adopt or maintain a customs user fee or other similar charge in connection with importation of a good of the other Party that is not commensurate with the cost of services rendered.

2. The Parties affirm that nothing in this Article modifies Article VIII of GATT 1994 as it applies between them.

Article 2.11. Customs Valuation Agreement

The Customs Valuation Agreement or any successor agreement to which both Parties are party shall govern the customs valuation rules applied by the Parties to their reciprocal trade.

Article 2.12. Agricultural Safeguard Measures

1. Notwithstanding Article 2.3 , a Party may impose an agricultural safeguard measure in the form of a higher import duty, consistent with paragraphs 2 through 7, on an originating agricultural good listed in its Schedule to Annex 2-F, if the aggregate volume of imports of a good in a year exceeds a trigger level as set out in its Schedule to Annex 2-F.

2. The duty pursuant to paragraph 1 shall not exceed the lesser of the prevailing most-favoured-nation (MFN) applied rate, or the MFN applied rate of duty in effect on the day immediately preceding the date of entry into force of this Agreement, or the tariff rate set out in its Schedule to Annex 2-F.

3. The duty imposed pursuant to paragraph 1 shall be set according to the Party's Schedule to Annex 2-F and shall only be maintained until the end of the year, as defined in Annex 2-D, in which it has been imposed.

4. A Party shall not apply or maintain an agricultural safeguard measure and at the same time apply or maintain, with respect to the same good:

(a) a safeguard measure under Chapter Seven (Trade Remedies);

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

(c) a measure under any agricultural safeguard provisions of the WTO Agreement on Agriculture.

5. Each Party shall implement an agricultural safeguard measure in a transparent manner. Within 60 days after imposing a measure, the Party applying the measure shall notify the other Party in writing and shall provide it with relevant data concerning the measure. On the written request of the exporting Party, the Parties shall consult regarding the application of the measure.

6. The implementation and operation of this Article may be the subject of discussion and review in the Committee on Trade in Goods or in a sub-committee established under Article 2.14.

7. A Party shall not apply or maintain an agricultural safeguard measure on an originating agricultural good:

(a) after the expiration of the period specified in the agricultural safeguard provisions of the Party's Schedule to Annex 2-F; and

(b) that increases the in-quota duty on a good subject to a tariff rate quota (hereinafter referred to as "TRQ").

Article 2.13. Administration and Implementation of Trqs

1. A Party that has established TRQs as set out in Annex 2-G shall implement and administer these TRQs in accordance with Article XIII of GATT 1994 and, for greater certainty, its interpretive notes, and the WTO Agreement on Import Licensing Procedures, and any other WTO agreement.

2. A Party shall ensure that:

(a) its procedures for administering its TRQs are transparent, made available to the public, timely, non-discriminatory, responsive to market conditions, minimally burdensome to trade, and reflect end user preferences; and

(b) an enterprise or a person of a Party that fulfils the importing legal and administrative requirements shall be eligible to apply and to be considered for a quota allocation under the TRQs.

3. Over the course of each year, the administering authority of a Party shall publish, in a timely fashion on its designated publicly available Internet site, administration procedures, utilisation rates, and remaining available quantities for each of the TRQs.

4. A Party shall notify the other Party of new or modified administration of TRQs established in Annex 2-G prior to its application.

5. A Party shall make every effort to administer its TRQs in a manner that allows importers to fully utilise them. On the written request of a Party, the Parties shall discuss a Party's administration of its TRQs at the next meeting of Committee on Trade in Goods to arrive at a mutually satisfactory agreement. The Parties shall consider prevailing supply and demand conditions in the discussions.

Article 2.14. Committee on Trade In Goods

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

2. The Committee shall meet periodically, and at any other time at the request of either Party or the Commission, to ensure the effective implementation and administration of this Chapter. In this regard, the Committee shall:

(a) monitor the implementation and administration by the Parties of this Chapter;

(b) at the request of either Party, review proposed modifications of or additions to this Chapter;

(c) recommend to the Commission modifications of or additions to this Chapter, and to other provisions of this Agreement to conform with any change to the Harmonized System;

(d) consider any tariff or non-tariff issue raised by either Party (3) ; and

(e) consider any other matter relating to the implementation and administration by the Parties of this Chapter raised by:

(i) a Party; or

(ii) any sub-committee established pursuant to paragraph 4.

3. If the Committee fails to resolve a matter referred to it within 30 days of such referral, either Party may request a meeting of the Commission under Article 20.1 (Joint Commission).

4. Upon written request of a Party, a sub-committee shall be established and convene a meeting of relevant officials from each Party within 90 days or at a mutually agreed time for discussions with a view to resolving issues resulting from the implementation and administration of this Chapter and its Annexes. The sub-committee may refer to the Committee any matter for its consideration.

5. Each Party shall to the extent practicable, take all necessary measures to implement modifications of, or additions to, this Chapter within 180 days of the date on which the Commission agrees on the modification or addition.

6. This Chapter is not to be construed to prevent a Party from issuing a determination of origin or an advance ruling relating to a matter under consideration by the Committee or from taking other action it considers necessary, pending a resolution of the matter under this Agreement.

7. The Parties hereby establish a Sub-Committee on Trade in Forest Products as set out in Annex 2-B.

8. The Parties hereby establish a Sub-Committee on Trade in Automotive Goods as set out in Annex 2-C.

(3) The Parties agree to discuss issues related to ice wine including labelling and definition pursuant to this paragraph.

Article 2.15. Definitions

For the purposes of this Chapter:

advertising films and recordings means recorded visual media or audio materials, consisting essentially of images or sound, showing the nature or operation of a good or service offered for sale or lease by a person established or resident in the

territory of a Party, provided that those materials are of a kind suitable for exhibition to a prospective customer but not for broadcast to the general public, and provided that they are imported in a packet that contains no more than one copy of each film or recording and that does not form part of a larger consignment;

agricultural goods means the products listed in Annex 1 of the WTO Agreement on Agriculture with any subsequent changes agreed in the WTO to be automatically effective for this Agreement;

automotive good means all forms of motor vehicles, systems, and parts thereof falling under Chapters 40, 84, 85, 87, and 94 of the Harmonized System, except for the following goods:

(a) tractors (in HS 8701.10, 8701.20, 8709.11, 8709.19, and 8709.90);

(b) snow mobiles and golf carts (in HS 8703.10); and

(c) construction machinery (in HS 8413.40, 8425.11, 8425.19, 8425.31, 8425.39, 8425.41, 8425.42, 8425.49, 8426.11, 8426.12, 8426.19, 8426.20, 8426.30, 8426.41, 8426.49, 8426.91, 8426.99, 8427.20, 8428.10, 8428.20, 8428.31, 8428.32, 8428.33, 8428.39, 8428.40, 8428.60, 8428.90, 8429.11, 8429.19, 8429.20, 8429.30, 8429.40, 8429.51, 8429.52, 8429.59, 8430.10, 8430.20, 8430.31, 8430.39, 8430.41, 8430.49, 8430.50, 8430.61, 8430.69, 8431.10, 8431.31, 8431.39, 8431.41, 8431.42, 8431.43, 8431.49, 8474.10, 8474.20, 8474.31, 8474.32, 8474.39, 8474.80, 8474.90, 8479.10, 8701.30, 8704.10, 8705.10, 8705.20, 8705.40, and 8705.90);

commercial samples of negligible value means commercial samples having a value, individually or in the aggregate as shipped, of not more than US$1, or the equivalent amount in the currency of a Party, or so marked, torn, perforated or otherwise treated that they are unsuitable for sale or for use except as commercial samples;

consumed means:

(a) actually consumed; or

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

duty-free means free of customs duties;

goods imported for sports purposes means sports requisites for use in sports contests, demonstrations, or training in the territory of the Party into whose territory the goods are imported;

goods intended for display or demonstration includes their component parts, ancillary apparatus, and accessories;

goods of a Party means domestic products as understood in the GATT 1994 or goods as the Parties may agree, and includes originating goods of that Party;

printed advertising materials means those goods classified in Chapter 49 of the Harmonized System, including brochures, pamphlets, leaflets, trade catalogues, yearbooks published by trade associations, and tourist promotional materials and posters, that are used to promote, publicise, or advertise a good or service, are essentially intended to advertise a good or service, and are supplied free of charge;

repair or alteration does not include an operation or process that either destroys the essential characteristics of a good or creates a new or commercially different good (4) ; and

tariff elimination schedule means the provisions of Annex 2-D.

(4) An operation or process that is part of the production or assembly of an unfinished good into a finished good is not repair of the unfinished good; a component of a good is a good that may be subject to repair or alteration.

Chapter Three. Rules of Origin

Article 3.1. Originating Goods

Except as otherwise provided in this Chapter, a good is originating under this Agreement if: (a) the good satisfies one of the following conditions:

(i) the good is wholly obtained or produced entirely in the territory of one or both of the Parties as defined in Article 3.2;

(ii) the good has undergone sufficient production as defined in Article 3.3; or

(iii) the good is produced entirely in the territory of one or both of the Parties, exclusively from originating materials; and

(b) the good satisfies all other applicable requirements under this Chapter.

Article 3.2. Wholly Obtained

The following goods are considered wholly obtained and therefore originating in the territory of one or both of the Parties:

(a) mineral goods and other non-living natural resources extracted or taken from the territory of one or both of the Parties;

(b) vegetable goods grown and harvested in the territory of one or both of the Parties;

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

(d) goods obtained from live animals referred to in subparagraph (c) in the territory of one or both of the Parties;

(e) goods obtained from hunting, trapping, or fishing conducted within the land territory, internal waters, and the outer limit of the territorial sea of one or both of the Parties;

(f) fish, shellfish, and other marine life taken from the sea, seabed, ocean floor, or subsoil outside the territorial seas of one or both of the Parties by a vessel registered, recorded, or listed with a Party and entitled to fly its flag;

(g) goods produced on board a factory vessel from the fish, shellfish, or other marine life referred to in subparagraph (f), provided that the factory vessel is registered, recorded, or listed with a Party and entitled to fly its flag;

(h) goods, other than fish, shellfish, and other marine life, taken or extracted from the seabed, ocean floor, or subsoil, outside the territory of one or both of the Parties by a Party or a person of a Party, provided that the Party or person of the Party has rights to exploit that seabed, ocean floor, or subsoil in accordance with Part XI of UNCLOS;

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

(j) waste and scrap resulting from production conducted in the territory of one or both of the Parties;

(k) components recovered from used goods collected in the territory of one or both of the Parties, provided that the used goods are fit only for such recovery and the components recovered therefrom have undergone a process necessary to ensure their good working condition; and

(l) goods produced entirely in the territory of one or both of the Parties exclusively from goods referred to in subparagraphs (a) through (k), or from their derivatives, at any stage of production.

Article 3.3. Sufficient Production

1. A good is considered to have undergone sufficient production and therefore is originating when the conditions set out for that good in Annex 3-A are fulfilled entirely in the territory of one or both of the Parties and all other applicable requirements of this Chapter are satisfied.

2. Notwithstanding Annex 3-A and except for a good of Chapters 1 through 21, headings 39.01 through 39.15 or Chapters 50 through 63 of the Harmonized System, a good is considered to have undergone sufficient production and therefore is originating, provided that:

(a) the good cannot satisfy the conditions in Annex 3-A because both the good and one or more of the non-originating materials used in the production of that good are classified in the same subheading, or heading that is not further subdivided into subheadings; and

(b) the value of the non-originating materials classified in the same subheading, or heading that is not further subdivided into subheadings, as the good does not exceed 55 percent of the transaction value or ex-works price of the good.

Article 3.4. Value Test

1. Except as provided in paragraphs 2 and 3, where Annex 3-A specifies a value test to determine whether a good is originating, the good is originating provided that the value of non-originating materials used in the production of the good

does not exceed a given percentage of the transaction value or ex-works price of the good as specified in Annex 3-A.

2. For the purposes of a good of headings 87.01 through 87.08, at the choice of an exporter or a producer of such goods, the good is originating provided that the value of non-originating materials used in the production of the good does not exceed the given percentage of either the transaction value or ex-works price of the good, or the net cost of the good.

3. Notwithstanding paragraph 2, for the purposes of a good of headings 87.01 through 87.06, at the choice of an exporter or a producer of such goods, the good is originating provided that the value of originating materials used in the production of the good is not less than a given percentage of the transaction value or ex-works price of the good.

4. For the purposes of calculating the net cost of a good under paragraph 2, the producer of the good may:

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

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

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

5. For the purposes of calculating the net cost of a good of headings 87.01 through 87.05 under paragraph 4, the producer may average its calculation over its fiscal year using any one of the following categories, on the basis of either all motor vehicles in the category or only those motor vehicles in the category that are exported to the territory of the other Party:

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

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

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

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

6. For the purposes of calculating the net cost under paragraph 4 for a good of headings 87.06 through 87.08 produced in the same plant, the producer may:

(a) average its calculation,

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

(ii) over any quarter or month, provided that the good was produced during the quarter or month forming the basis for the calculation; or

(iii) over the automotive material producer's fiscal year;

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

(c) calculate the average in subparagraph (a) or (b) separately for those goods that are exported to the territory of the other Party.

Article 3.5. Materials Used In Production

1. If a non-originating material undergoes sufficient production in the territory of one or both of the Parties, the resulting good is originating and no account shall be taken of the non-originating material contained therein when that good is used in the subsequent production of another good.

2. Except as provided in Article 3.6.2, the "value of non-originating materials", including, for the purposes of this definition, non-originating component goods and non-originating packaging materials and containers as referred to in Article 3.12 and in Annex 3-A, means:

(a) the transaction value or the customs value of the materials at the time of their importation into a Party, adjusted, if necessary, to include freight, insurance, packing, and all other costs incurred in transporting the materials to the place of importation; or

(b) in the case of domestic transactions, the value of the materials determined in accordance with the principles of the Customs Valuation Agreement in the same manner as international transactions, with such modifications as may be required .

3. Except as provided in Article 3.6.2, the "value of originating materials" means the price paid or payable for the material by the producer in the Party where the producer is located, in accordance with the Generally Accepted Accounting Principles applicable in the territory of the Party where the good is produced. If there is no price paid or payable, the "value of originating materials" will be the value as determined under paragraph 2(b).

Article 3.6. Self-produced Materials

1. For the purposes of determining the origin of a good, a producer of a good may, at the producer's choice, designate any self-produced material as a material to be taken into account as an originating or non-originating material, as the case may be, in determining whether the good satisfies the applicable requirements of the rules of origin.

2. The value of a self-produced material shall be:

(a) the total cost incurred with respect to all goods produced by the producer of the good that can be reasonably allocated to that self-produced material; or

(b) the sum of all costs that comprise the total cost incurred with respect to that self-produced material that can be reasonably allocated to that self-produced material.

Article 3.7. Accumulation

1. For the purposes of determining whether a good is an originating good, a good originating in the territory of one or both of the Parties shall be considered as originating in the territory of either of the Parties.

2. For the purposes of determining whether a good is an originating good, the production of the good in the territory of one or both of the Parties by one or more producers is, at the choice of the exporter or producer of the good for which preferential tariff treatment is claimed, considered to have been performed in the territory of either of the Parties by that exporter or producer, if:

(a) all non-originating materials used in the production of the good undergo sufficient production as defined in Article 3.3, entirely in the territory of one or both of the Parties; and

(b) the good satisfies all other applicable requirements of this Chapter.

3. The Parties may agree to review this Article with a view to providing for other forms of cumulation, such as cross-cumulation or pan-free-trade-agreement-cumulation for the purpose of qualifying goods as originating goods under this Agreement.

Article 3.8. De Minimis

1. Notwithstanding Article 3.3 and except for a good of Chapters 50 through 63 of the Harmonized System, a good is considered originating, where the value of all non-originating materials used in the production of the good, which do not undergo the applicable change in tariff classification or fulfil any other condition set out in Annex 3-A, does not exceed 10 percent of the transaction value or ex-works price of the good, provided that:

(a) if the rule of Annex 3-A applicable to the good contains a percentage for the maximum value of non-originating materials, the value of those non-originating materials shall be included in calculating the value of non-originating materials; and

(b) the good satisfies all other applicable requirements of this Chapter.

2. A good of Chapters 50 through 60 of the Harmonized System, that does not originate because certain non-originating yarns used in the production of the good do not fulfil the conditions set out for that good in Annex 3-A , is considered originating if the total weight of all such yarns does not exceed 10 percent of the total weight of that good.

3. A good of Chapters 61 through 63 of the Harmonized System, that does not originate because certain non-originating

yarns used in the production of the component of the good that determines the tariff classification of that good do not fulfil the conditions set out for that good in Annex 3-A, is considered originating if the total weight of all such yarns in that component does not exceed 10 percent of the total weight of that component.

4. Except as provided in Annex 3-A, paragraph 1 does not apply to a non-originating material used in the production of a good provided for in Chapters 1 through 21 of the Harmonized System unless the non-originating materials are provided for in a different subheading from that of the good for which the origin is being determined under this Article.

Article 3.9. Fungible Materials and Goods

1. For the purposes of determining whether a material or good is an originating material or good, any fungible material or good shall be distinguished by:

(a) physically separating each fungible material or good; or

(b) using any inventory management method recognised in the Generally Accepted Accounting Principles of the Party in which the production is performed or otherwise accepted by that Party in which the production is performed.

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

Article 3.10. Sets or Assortments of Goods

Except as provided in Annex 3-A, a set or assortment of goods, as referred to in General Rule 3 of the Harmonized System, is originating, if:

(a) all of the component goods, including packaging materials and containers, are originating; or

(b) when the set or assortment of goods contains non-originating component goods, including packaging materials and containers, the value of the non-originating goods, including any non-originating packaging materials and containers for the set or assortment of goods, does not exceed 15 percent of the transaction value or ex-works price of the set or assortment of goods.

Article 3.11. Accessories, Spare Parts and Tools

Accessories, spare parts, and tools delivered with a good that form part of its standard accessories, spare parts, or tools are considered originating if the good originates and shall be disregarded in determining whether all the non-originating materials undergo the applicable conditions set out in Annex 3-A, provided that:

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

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

Article 3.12. Packaging Materials and Containers for Retail Sale

Except as provided for in Article 3.10 and in Annex 3-A, packaging materials and containers in which a good is packaged for sale shall be disregarded in determining whether all the non-originating materials undergo the applicable conditions as set out in Annex 3-A.

Article 3.13. Packing Materials and Containers for Shipment

Packing materials, containers, pallets, or similar articles, in which a good is packed for shipment is disregarded in determining the origin of that good.

Article 3.14. Indirect Materials

For the purposes of determining whether a good is originating, it is not necessary to determine the origin of indirect materials used in production, testing or inspection of that good, but which have not entered into the final composition of the good, or which have been used in the maintenance of equipment and buildings or the operation of equipment associated with the production of a good including:

(a) energy and fuel;

(b) tools, dies, and moulds;

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

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

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

(f) equipment, devices, and supplies used for testing or inspecting goods; and (g) any other goods that are not incorporated into the good but the use of which in the production of the good can reasonably be demonstrated to be part of that production.

Article 3.15. Principle of Territoriality

1. The conditions for acquiring originating status set out in Articles 3.1 through 3.20 must be fulfilled without interruption in the territory of one or both of the Parties.

2. Notwithstanding paragraph 1, an originating good exported from a Party to a non-party shall, when returned, be considered originating if it is demonstrated to the satisfaction of the customs authorities in accordance with the laws and regulations of the importing Party concerned that the returning good:

(a) is the same as that exported; and

(b) has not undergone any operation beyond that necessary to preserve it in good condition while in that non-party or being exported.

Article 3.16. Transit and Transhipment

An originating good that is transported through the territory of a non-party is non-originating unless it can be demonstrated that the good:

(a) undergoes no further production or other operation in the territory of that non-party, other than unloading, splitting up of loads for transport reasons, reloading, or any other operation necessary to preserve it in good condition;

(b) remains under the customs control while outside the territory of one or both of the Parties; and

(c) does not enter into trade or consumption in the territory of that non-party.

Article 3.17. Application and Interpretation

For the purposes of this Chapter:

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

(b) if applying Article 3.3.2, the determination of whether a heading or subheading under the Harmonized System provides for both a good and the materials that are used in the production of the good is made on the basis of the nomenclature of the heading or subheading and the relevant Section or Chapter Notes, in accordance with the General Rules for the Interpretation of the Harmonized System;

(c) in applying the Customs Valuation Agreement under this Chapter:

(i) the principles of the Customs Valuation Agreement apply to domestic transactions, with any modifications required by the circumstances, as they would apply to international transactions;

(ii) the provisions of this Chapter take precedence over the Customs Valuation Agreement to the extent of any difference; and

(iii) the definitions in Article 3.20 shall take precedence over the definitions in the Customs Valuation Agreement to the extent of any difference.

Article 3.18. Discussions and Modifications

1. The Parties shall discuss regularly to ensure that this Chapter is administered effectively, uniformly, and consistently with the spirit and objectives of this Agreement, and cooperate in the administration of this Chapter in accordance with Chapter Four (Origin Procedures and Trade Facilitation).

2. A Party that considers that this Chapter requires modification to take into account developments in production processes or other matters may submit a proposed modification along with supporting rationale and any studies to the other Party for consideration and any appropriate action pursuant to Article 4.14 (Rules of Origin and Customs Committee).

Article 3.19. Common Guidelines

The Parties shall discuss whether to develop common guidelines for the interpretation and application of this Chapter by the date of entry into force of this Agreement.

Article 3.20. Definitions

For the purposes of this Chapter:

Chapter, unless otherwise specified, means a chapter of the Harmonized System;

classified means the classification of a good under a particular heading or subheading of the Harmonized System;

customs value means the value as determined in accordance with the Customs Valuation Agreement;

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

Generally Accepted Accounting Principles means accounting principles accepted and commonly used in the territory of a Party with regard to the recording of revenues, expenses, costs, assets, and liabilities, the disclosure of information, and preparation of financial statements. These principles may encompass guidelines for general application, as well as detailed standards, practices, and procedures;

good means merchandise, product, article, or material;

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

material means an ingredient, component, part, or other good used in the production of another good;

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

net cost of a good means the net cost that can be reasonably allocated to a good using one of the methods set out in Article 3.4.4;

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

non-originating good or non-originating material means a good or material, respectively, that does not qualify as originating;

originating good or originating material means a good or material, respectively, that qualifies as originating;

other costs means all costs recorded on the books of the producer that are not product costs or period costs, such as interest;

period costs means those costs, other than product costs, that are expensed in the period in which they are incurred, such as selling expenses and general and administrative expenses;

producer means a person who engages in the production of a good in the territory of a Party;

product costs means those costs associated with the production of a good and includes the value of materials, direct labour costs, and direct overhead;

production means a method of obtaining goods, including growing, mining, harvesting, fishing, raising, trapping, hunting, manufacturing, processing, assembling, or disassembling a good;

reasonably allocate means to apportion in a manner appropriate to the circumstances;

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

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

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

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

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

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

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

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

(e) product liability insurance;

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

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

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

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

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

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

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

tariff provision means a Chapter, heading, or subheading of the Harmonized System;

territorial sea means an area of the sea extending up to a limit of 12 nautical miles from baselines determined in accordance with Part II of UNCLOS;

total cost means product costs, period costs, and other costs incurred in the territory of one or both of the Parties. Total cost does not include profits earned by the producer, regardless of whether they are retained by the producer, or paid out to other persons as dividends, or taxes paid on those profits, including capital gains taxes;

transaction value means the price actually paid or payable for a good or material with respect to a transaction of the producer of the good, adjusted in accordance with the principles of paragraphs 1, 3 and 4 of Article 8 of the Customs Valuation Agreement to include, inter alia, such costs as commissions, production assists, royalties, or license fees; and

transaction value or ex-works price of the good, including, for the purposes of this definition, sets or assortments of goods of Article 3.10 and of Annex 3-A, means:

(a) the transaction value of a good when sold by the producer at the place of production; or

(b) the customs value of that good adjusted, if necessary, to exclude any costs incurred subsequent to the good leaving the place of production, such as freight and insurance.

Chapter Four. Origin Procedures and Trade Facilitation

Article 4.1. Certificate of Origin

1. The Parties shall establish, by the date of entry into force of this Agreement, a Certificate of Origin to certify that a good exported from the territory of a Party into the territory of the other Party qualifies as an originating good. This Certificate of Origin may be modified as agreed by the Parties.

2. Each Party may require that a Certificate of Origin for a good imported into its territory is completed in, or translated into, a language required under its domestic law. (1)

3. Each Party shall:

(a) require an exporter in its territory to complete and sign a Certificate of Origin for the exportation of a good for which an importer may claim preferential tariff treatment upon importation of the good into the territory of the other Party; and

(b) provide that, when an exporter in its territory is not the producer of the good, the exporter may complete and sign a Certificate of Origin on the basis of:

(i) the exporter's knowledge of whether the good qualifies as an originating good;

(ii) the exporter's reasonable reliance on the producer's written representation that the good qualifies as an originating good; or

(iii) a completed and signed Certificate of Origin for the good voluntarily provided to the exporter by the producer.

4. Paragraph 3 is not to be construed to require a producer to provide a Certificate of Origin to an exporter.

5. Each Party shall provide that a Certificate of Origin duly completed and signed by an exporter or a producer in the territory of the other Party is applicable to:

(a) a single importation of one or more goods into the Party's territory; or

(b) multiple importations of identical goods into the Party's territory that occur within a specified period, not exceeding 12 months, as set out in the Certificate of Origin by the exporter or producer.

6. The Certificate of Origin referred to in paragraph 3 shall be accepted as proof of origin for at least two years, or for a longer period as specified by the importing Party's laws and regulations, after the date on which the Certificate of Origin was signed.

7. Each Party shall accept a Certificate of Origin that has been completed and signed prior to the date of entry into force of this Agreement by the exporter or producer of an originating good imported into the territory of a Party on or after the date of entry into force of this Agreement.

(1) For Korea, English or Korean; for Canada, English or French.

Article 4.2. Obligations Regarding Importations

1. Except as provided in this Chapter, each Party shall require an importer in its territory that claims preferential tariff treatment for a good imported into its territory from the territory of the other Party to:

(a) request preferential tariff treatment at the time of importation of an originating good, if required by the importing Party's customs administration;

(b) make a written declaration, as prescribed by that Party's laws and regulations, that the good qualifies as an originating good;

(c) have the Certificate of Origin in its possession at the time the declaration is made, if required by the importing Party's

customs administration;

(d) provide, on the request of that Party's customs administration, a copy of the Certificate of Origin and, if required by that customs administration, any other documentation relating to the importation of the good in accordance with the domestic law of the importing Party; and

(e) promptly make a corrected declaration in a manner required by the customs administration of the importing Party and pay any duties owing where the importer has reason to believe that a Certificate of Origin on which a declaration was based contains information that is not correct.

2. Each Party shall provide that, if an importer in its territory claims preferential tariff treatment for a good imported into its territory from the territory of the other Party:

(a) the Party may deny preferential tariff treatment to the good if the importer fails to comply with any requirement under this Chapter; and

(b) the importer shall not be subject to penalties for the making of an incorrect declaration if it voluntarily makes a corrected declaration pursuant to paragraph 1(e), provided that the customs administration of the importing Party has not initiated a verification of origin pursuant to Article 4.6.

3. Each Party shall, in accordance with its domestic law, provide that where a good would have qualified as an originating good when it was imported into the territory of that Party, the importer of the good may, within a period of at least one year or for a longer period specified by the importing Party's domestic law after the date on which the good was imported, apply for a refund of any excess duties paid as the result of the good not having been accorded preferential tariff treatment.

Article 4.3. Waiver of Certificate of Origin

Each Party shall provide that a Certificate of Origin is not required for:

(a) an importation of a good whose value does not exceed US$1,000 or its equivalent amount in the Party's currency, or such higher amount as it may establish; or

(b) an importation of a good for which the Party into whose territory the good is imported has waived the requirement for a Certificate of Origin, provided that the importation is not part of a series of importations that may reasonably be considered to have been undertaken or arranged for the purpose of avoiding the certification requirements of Articles 4.1 and 4.2.

Article 4.4. Obligations Regarding Exportations

1. Each Party shall provide that:

(a) an exporter in its territory, or a producer in its territory that has provided a copy of a Certificate of Origin to that exporter pursuant to Article 4.1.3(b)(iii), shall provide a copy of the Certificate of Origin and, if required, other documentation in accordance with the Party's domestic law, to its customs administration on request; and

(b) an exporter or a producer in its territory that has completed and signed a Certificate of Origin, and that has reason to believe that the Certificate of Origin contains information that is not correct, shall promptly notify, in writing, every person to whom the Certificate of Origin was given by the exporter or producer, of a change that could affect the accuracy or validity of the Certificate of Origin.

2. Each Party:

(a) shall provide that a false certification by an exporter or a producer in its territory that a good to be exported to the territory of the other Party qualifies as an originating good shall have the same legal consequences, with appropriate modifications, that would apply to an importer in its territory for a contravention of its customs laws and regulations regarding the making of a false statement or representation; and

(b) may apply such measures as the circumstances warrant where an exporter or a producer in its territory fails to comply with a requirement of this Chapter.

3. A Party shall not impose penalties on an exporter or a producer in its territory that voluntarily provides written notification pursuant to paragraph 1(b) with respect to the making of an incorrect certification.

Article 4.5. Record Keeping Requirements

Each Party shall provide that:

(a) an exporter or a producer in its territory that completes and signs a Certificate of Origin must maintain, in its territory, for five years after the date on which the Certificate of Origin was signed or for a longer period as specified by the Party, records relating to the origin of a good for which preferential tariff treatment was claimed in the territory of the other Party, including records associated with:

(i) the purchase of, cost of, value of, and payment for, the good that is exported from that Party's territory;

(ii) the purchase of, cost of, value of, and payment for, all materials, including indirect materials, used in the production of the good that is exported from that Party's territory;

(iii) the production of the good in the form in which the good is exported from that Party's territory; and

(iv) other documentation as mutually agreed by both parties; and

(b) an importer claiming preferential tariff treatment for a good imported into the Party's territory must maintain, in that Party's territory, for five years after the date of importation of the good or for a longer period as specified by that Party, records relating to the importation of the good required by that Party, including a copy of the Certificate of Origin.

Article 4.6. Origin Verifications

1. For the purposes of determining whether a good imported into its territory from the territory of the other Party qualifies as an originating good, a Party may, through its customs administration, conduct a verification by means of:

(a) written questionnaires to an exporter or a producer in the territory of the other Party;

(b) verification visits to the premises of an exporter or a producer in the territory of the other Party to review the records referred to in Article 4.5(a) and observe the facilities used in the production of the good; or

(c) other procedures as agreed by the Parties.

2. Before conducting a verification visit pursuant to paragraph 1 (b), the Party shall, through its customs administration:

(a) deliver a written notification of its intention to conduct the visit:

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

(ii) to the customs administration of the other Party; and

(iii) if requested by the other Party, to the embassy of the other Party in the territory of the Party proposing to conduct the visit; and

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

3. The notification referred to in paragraph 2 must include:

(a) the identity of the customs administration issuing the notification;

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

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

(d) the object and scope of the proposed verification visit, including specific reference to the good that is the subject of the verification;

(e) the names and titles of the officials performing the verification visit; and

(f) the legal authority for the verification visit.

4. If an exporter or a producer has not given its written consent to a proposed verification visit within 30 days of receipt of notification under paragraph 2, the customs administration of the notifying Party may deny preferential tariff treatment to the good that would have been the subject of the visit.

5. Each Party shall provide that, on receipt of a notification under paragraph 2, an exporter or a producer may, within 15 days of receiving the notification, have one opportunity to make a request for a postponement of the proposed verification visit, for a period not exceeding 60 days, to the Party conducting the verification.

6. Each Party shall provide that, where its customs administration receives notification under paragraph 2, the customs administration may, within 15 days of receipt of the notification, postpone the proposed verification visit for a period not exceeding 60 days from the date of such receipt, or for such longer period as the Parties may agree.

7. A Party shall not deny preferential tariff treatment to a good based only on the postponement of a verification visit under paragraphs 5 and 6.

8. Each Party shall permit an exporter or a producer of the good that is the subject of a verification visit by the other Party, to designate one or two observers to be present during the visit, provided that:

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

(b) the failure of the exporter or producer to designate observers shall not result in the postponement of the visit.

9. A Party shall, through its customs administration, when conducting a verification of origin involving a value test, de minimis calculation or any other provision in Chapter Three (Rules of Origin), apply those provisions in compliance with the Customs Valuation Agreement, as applicable in the territory of the Party from which the good was exported.

10. The Party conducting the verification shall provide the exporter or producer of the good that is the subject of the verification with a written determination of whether the good qualifies as an originating good, including findings of fact and the legal basis for the determination.

11. If verifications by a Party indicate a pattern of conduct by an exporter or a producer of false or unsupported representations that a good imported into its territory qualifies as an originating good, the Party may withhold preferential tariff treatment to identical goods exported or produced by that person until that person establishes compliance with Chapter Three (Rules of Origin), in accordance with that Party's domestic law.

Article 4.7. Denial of Preferential Tariff Treatment

Except as provided in this Chapter, the importing Party may deny a claim for preferential tariff treatment or recover unpaid customs duties in accordance with its domestic law, if the good does not meet the requirements of Chapter Three (Rules of Origin), or if the importer, exporter, or producer fails to comply with any of the relevant requirements of this Chapter.

Article 4.8. Confidentiality

1. Each Party shall maintain, in accordance with its domestic law, the confidentiality of the information collected under this Chapter and shall protect that information from disclosure that could prejudice the competitive position of the persons providing the information. If the Party receiving the information is required by its domestic law to disclose information, that Party shall notify the Party or person who provided that information.

2. The confidential information collected under this Chapter shall not be used for purposes other than the administration and enforcement of determinations of origin, and of customs matters, except with the permission of the person or Party that provided the confidential information.

3. Notwithstanding paragraph 2, information that is obtained may be used in an administrative, judicial, or quasi-judicial proceedings instituted for failure to comply with customs related laws and regulations implementing Chapter Three (Rules of Origin) and this Chapter. The person or Party that provided the information will be notified in advance of such use.

Article 4.9. Penalties

1. Each Party shall adopt or maintain measures imposing criminal, civil, or administrative penalties for violations of its laws and regulations relating to this Chapter.

2. Articles 4.2.2, 4.4.3, and 4.6.7 are not to be construed to prevent a Party from applying measures that are warranted by the circumstances in accordance with its domestic law.

Article 4.10. Advance Rulings

1. Each Party shall, through its customs administration, provide for the expeditious issuance of written advance rulings, prior to the importation of a good into its territory, to an importer in its territory or an exporter or a producer in the territory of the other Party on the basis of the facts and circumstances presented by that importer, exporter, or producer of the good, concerning:

(a) whether materials imported from a non-party used in the production of a good undergo an applicable change in tariff classification set out in Annex 3-A (Product Specific Rules)as a result of production occurring entirely in the territory of one or both of the Parties;

(b) whether a good satisfies a value test, based on either the transaction value or ex-works price or the net cost of the good, as set out in Chapter Three (Rules of Origin);

(c) for the purpose of determining whether a good satisfies a value test under Chapter Three (Rules of Origin), the appropriate basis for value to be applied by an exporter or a producer in the territory of the other Party, in accordance with the principles of the Customs Valuation Agreement, for calculating the transaction value or ex-works price of the good or of the materials used in the production of the good;

(d) whether a good qualifies as an originating good under Chapter Three (Rules of Origin);

(e) whether a good that re-enters its territory after the good has been exported from its territory to the territory of the other Party for repair or alteration qualifies for duty-free treatment in accordance with Article 2.6 (Goods Re-Entered after Repair or Alteration);

(f) tariff classification, applicable rate of customs duty, or any tax applicable on importation; or (g) other matters as agreed by the Parties.

2. Each Party shall adopt or maintain procedures for the issuance of advance rulings, including a detailed description of the information reasonably required to process an application for a ruling.

3. Each Party shall provide that its customs administration:

(a) during the course of an evaluation of an application for an advance ruling, may request supplemental information from the person requesting the ruling;

(b) after it has obtained all necessary information from the person requesting an advance ruling, shall issue the ruling within the amount of time specified in the Uniform Regulations; and

(c) if the advance ruling is unfavourable to the person requesting it, shall provide that person with a full explanation of the reasons for the ruling.

4. Each Party may provide that the customs administration may decline or postpone the issuance of the advance ruling, if an application for an advance ruling involves an issue that is the subject of:

(a) a verification of origin;

(b) a review by, or appeal to, the customs administration; or

(c) in accordance with its domestic law, a judicial or quasi-judicial review in its territory;

5. Subject to paragraph 7, each Party shall apply an advance ruling to importations into its territory of the good for which the ruling was requested, beginning on the date of its issuance or a later date as may be specified in the ruling.

6. Each Party shall provide consistent treatment with respect to the application for advance rulings provided that the facts and circumstances are identical in all material respects.

7. The issuing Party may modify or revoke an advance ruling:

(a) if the ruling is based on an error:

(i) of fact;

(ii) in the tariff classification of a good or a material that is the subject of the ruling;

(iii) in the application of a value test under Chapter Three (Rules of Origin); or

(iv) in the application of the rules for determining whether a good that re-enters its territory after the good has been exported from its territory to the territory of the other Party for repair or alteration qualifies for duty-free treatment under Article 2.6 (Goods Re-Entered after Repair or Alteration);

(b) if the ruling is not in accordance with an interpretation agreed by the Parties regarding Chapter Two (National Treatment and Market Access for Goods) or Chapter Three (Rules of Origin);

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

(d) to conform with a modification of Chapter Two (National Treatment and Market Access for Goods), Chapter Three (Rules of Origin), this Chapter or the Uniform Regulations; or

(e) to conform with a judicial decision or a change in its domestic law.

8. Each Party shall provide that a modification or revocation of an advance ruling shall be effective on the date on which the modification or revocation is issued, or on a later date as may be specified in the ruling, and shall not be applied to importations of a good that have occurred prior to that date, unless the person to which the advance ruling was issued has not acted in accordance with its terms and conditions.

9. Notwithstanding paragraph 8, the issuing Party shall postpone the effective date of the modification or revocation for a period not exceeding 90 days if the person to which the advance ruling was issued demonstrates that it has relied in good faith on that ruling to its detriment.

10. Each Party shall provide that, if its customs administration examines the value test of a good for which it has issued an advance ruling, the customs administration shall evaluate whether:

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

(b) the exporter's or producer's operations are consistent with the material facts and circumstances on which the advance ruling is based; and

(c) the supporting data and computations used in applying the basis or method for calculating value or allocating cost were correct in all material respects.

11. Each Party shall provide that, if its customs administration determines that a requirement in paragraph 10 has not been satisfied, the Party may modify or revoke the advance ruling if the circumstances warrant.

12. Each Party shall provide that:

(a) if the person to which an advance ruling was issued demonstrates that it used reasonable care and acted in good faith in presenting the facts and circumstances on which the ruling was based; and

(b) the customs administration of a Party determines that the ruling was based on incorrect information, the person to which the ruling was issued shall not be subject to penalties.

13. Each Party shall provide that if it issues an advance ruling to a person that has misrepresented or omitted material facts or circumstances on which the ruling is based, or has failed to act in accordance with the terms and conditions of the ruling, that Party may apply measures that are warranted by the circumstances, in accordance with its domestic law.

14. Each Party shall provide that an advance ruling remains in effect and will be honoured if there is no change in the material facts or circumstances on which it is based, in accordance with its domestic law.

Article 4.11. Review and Appeal

1. Each Party shall grant substantially the same rights of review and appeal of determinations of origin and advance rulings by its customs administration, as it provides to importers in its territory, to a person:

(a) that completes and signs a Certificate of Origin for a good that has been the subject of a determination of origin; or

(b) that has received an advance ruling pursuant to Article 4.10.

2. Further to Articles 19.3 (Administrative Proceedings) and 19.4 (Review and Appeal) , each Party shall provide that the rights of review and appeal referred to in paragraph 1 include access to:

(a) at least one level of administrative review independent of the official or office responsible for the determination under review; and

(b) in accordance with its domestic law, judicial or quasi-judicial review of the determination or decision taken at the final level of administrative review.

Article 4.12. Uniform Regulations

1. The Parties shall establish and implement, through their respective laws, regulations, or administrative policies, by the date of entry into force of this Agreement, Uniform Regulations regarding the interpretation, application, and administration of this Chapter.

2. Each Party shall implement any modification of or addition to the Uniform Regulations within an amount of time as agreed by the Parties.

Article 4.13. Cooperation

1. Each Party shall, in an official language(s), of one of the Parties, notify the other Party of the following determinations, measures, and rulings, including, to the extent practicable, those that are prospective in application:

(a) a determination of origin issued as the result of a verification conducted pursuant to Article 4.6;

(b) a determination of origin that the Party is aware is contrary to a ruling issued by the customs administration of the other Party with respect to the tariff classification or value of a good, or of materials used in the production of a good, or the reasonable allocation of costs where calculating the net cost of a good that is the subject of a determination of origin;

(c) a measure establishing or significantly modifying an administrative policy that is likely to affect future determinations of origin; and

(d) an advance ruling, or a ruling modifying or revoking an advance ruling, pursuant to Article 4.10.

2. The Parties recognise that technical cooperation between the Parties is fundamental to facilitating compliance with the obligations set forth in this Agreement and for reaching a greater degree of trade facilitation.

3. The Parties, through their customs administrations, agree to develop a technical cooperation program under such mutually agreed terms as to the scope, timing, and cost of cooperative measures in customs-related areas.

4. The Parties shall cooperate:

(a) in the enforcement of their respective customs-related laws or regulations implementing this Agreement, and under any customs mutual assistance agreement or other customs-related agreement to which they are party;

(b) to the extent practicable and for the purposes of facilitating the flow of trade between them, in customs-related matters such as the collection and exchange of statistics regarding the importation and exportation of goods, the harmonisation of documentation used in trade, the standardisation of data elements, the acceptance of an international data syntax, and the exchange of information;

(c) to the extent practicable, the harmonisation of customs laboratories methods and exchange of information and personnel between the customs laboratories;

(d) to the extent practicable, in jointly organising training programs on customs-related issues, such as simulated audit environment exercises, for the officials and users who participate directly in customs procedures;

(e) in the development of effective mechanisms for communicating with the trade and business communities;

(f) to the extent practicable, in developing verification standards and a framework to ensure that both Parties act consistently in determining that goods imported into their territories meet the rules of origin set out in Chapter Three (Rules of Origin);

(g) to the extent practicable, in the exchange of information to assist each other in the tariff classification, valuation, and determination of origin of imported and exported goods, for preferential tariff treatment and country of origin marking purposes; and

(h) to the extent practicable, in such international fora as the World Customs Organization (hereinafter referred to as the "WCO") and the Asia-Pacific Economic Cooperation (hereinafter referred to as "APEC"), to achieve mutually recognised goals such as those set out in the WCO SAFE Framework of Standards to Secure and Facilitate Global Trade and APEC Model Measures for Trade Facilitation in RTAs/FTAs.

Article 4.14. Rules of Origin and Customs Committee

1. The Parties hereby establish a Rules of Origin and Customs Committee, composed of representatives of each Party, to consider any matter arising under this Chapter and Chapter Three (Rules of Origin).

2. The Committee shall meet at the request of either Party.

3. The operations of the Committee will include:

(a) reviewing, at the request of either Party, proposed modifications of, or additions to, Chapter Three (Rules of Origin), this Chapter or the Uniform Regulations;

(b) preparing, in a timely manner, amendments to the Harmonized System with a view to reflecting these amendments in Annex 3-A (Product Specific Rules);

(c) reviewing the amendments to the Harmonized System to ensure that each Party's obligations under this Agreement are not altered, and consulting to resolve conflicts between:

(i) amendments to the Harmonized System and Annex 2-D (Tariff Elimination); or

(ii) Annex 2-D (Tariff Elimination) and national nomenclature;

(d) consulting on and endeavouring to resolve a difference that may arise among the Parties on matters related to the classification and valuation of goods under the Harmonized System;

(e) notifying the Commission of any agreed modification of, or addition to, Chapter Three (Rules of Origin), this Chapter or the Uniform Regulations under subparagraphs (a) and (b); and (f) endeavouring to agree on:

(i) the uniform interpretation, application, and administration of Chapter Three (Rules of Origin), this Chapter and the Uniform Regulations;

(ii) modification of, or addition to, Chapter Three (Rules of Origin), this Chapter and the Uniform Regulations;

(iii) any other matter referred to it by a Party; and

(iv) any other customs-related matter arising under this Agreement.

Article 4.15. Objectives and Principles

1. With the objectives of facilitating trade under this Agreement and of cooperating in pursuing trade facilitation initiatives on a multilateral basis, each Party agrees to administer their import and export processes for goods traded under this Agreement on the basis that:

(a) procedures be efficient in order to reduce costs for importers and exporters and simplified where appropriate in order to achieve such efficiencies;

(b) procedures be based on international trade instruments or international standards agreed upon by the Parties;

(c) entry procedures be transparent in order to ensure predictability for importers and exporters;

(d) measures to facilitate trade also support mechanisms to protect persons through effective enforcement of, and compliance with, national requirements;

(e) the personnel and procedures involved in those processes reflect high standards of integrity;

(f) the development of significant modifications to procedures of a Party include, in advance of implementation, consultations with the representatives of the trading community of that Party;

(g) procedures be based on risk assessment principles to focus compliance efforts on transactions that merit attention, thereby promoting effective use of resources and providing incentives for voluntary compliance with the obligations to importers and exporters; and

(h) the Parties encourage cooperation, technical assistance, and the exchange of information, including information on best practices, for the purpose of promoting the application of, and compliance with, the trade facilitation measures agreed upon under this Agreement.

Article 4.16. Release of Goods

1. Each Party shall adopt or maintain simplified customs procedures for the efficient release of goods in order to facilitate trade between the Parties.

2. Pursuant to paragraph 1, each Party shall ensure that its customs administration or other competent authority adopt or maintain procedures that:

(a) provide for the release of unrestricted, uncontrolled, non-regulated, and non-prohibited goods within an amount of time no greater than that required to ensure compliance with its domestic law;

(b) provide, to the extent possible or if applicable, for advance electronic submission and processing of information before physical arrival of goods to enable the release of goods on arrival;

(c) allow goods, other than restricted, controlled, regulated, or prohibited goods, to be released at the first point of arrival, without temporary transfer to warehouses or other facilities; and

(d) in accordance with its domestic law, allow importers to withdraw goods from customs before all applicable customs duties, taxes, and fees have been paid. (2)

3. Each Party shall adopt or maintain procedures under which goods in need of emergency clearance may be released 24 hours a day, seven days a week, including holidays.

4. The Parties recognise that, for certain goods or under certain circumstances, such as goods subject to a quota or to health-related or public safety requirements, releasing the goods may require the submission of more extensive information, before, or at the time of arrival of the goods, to enable the authorities to examine the goods for release.

5. The Parties shall ensure that the requirements of their respective agencies related to the import and export of goods are coordinated to facilitate trade, regardless of whether these requirements are administered by an agency or on behalf of that agency by the customs administration. To further this objective, each Party shall take steps to harmonise the data requirements of its respective agencies with the objective of allowing importers and exporters to present all required data to one agency.

6. The Parties, through their customs administrations, shall establish means of consultation with their trade and business communities to promote greater cooperation and the exchange of electronic information.

(2) Before releasing the goods, a Party may require an importer to provide sufficient guarantee in the form of a surety, a deposit, or some other appropriate instrument, covering the ultimate payment of the customs duties, taxes, and fees in connection with the importation of the goods.

Article 4.17. Automation

Each Party shall use information technology that expedites procedures for the release of goods and shall:

(a) establish a means of providing for the electronic exchange of information between that Party's customs administration and the trading community for the purpose of encouraging rapid release procedures;

(b) endeavour to use international standards for such electronic exchange of information;

(c) endeavour to develop compatible electronic systems between the Parties' customs authorities, to facilitate government-to-government exchange of international trade data; and

(d) endeavour to develop a set of common data elements and processes in accordance with WCO Customs Data Model, and related WCO recommendations and guidelines.

Article 4.18. Risk Management

The Parties shall facilitate and simplify the process and procedures for the release of low-risk goods, and shall improve controls on the release of high-risk goods. For these purposes, the Parties shall base their examination and release procedures and their post-entry verification procedures on risk assessment principles, rather than examining each and every shipment offered for entry in a comprehensive manner for compliance with all import requirements. This shall not preclude the Parties from conducting quality control and compliance reviews, which may require more extensive examinations.

Article 4.19. Express Shipments

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

(a) provide a separate and expedited customs procedure for express shipment, and where applicable, use the WCO Guidelines for the Immediate Release of Consignments by Customs;

(b) provide, to the extent possible or where applicable, for advance electronic submission and processing of information before physical arrival of express shipments to enable their release upon arrival;

(c) to the extent possible, provide for clearance of certain goods with a minimum of documentation;

(d) to the extent possible, provide for release of express shipments within an amount of time no greater than that required to ensure compliance within its domestic law;

(e) apply without regard to weight; and

(f) consistent with the Party's legislation, provide simplified documentary requirements for the entry of low value goods as determined by that Party.

Article 4.20. Transparency

1. Each Party shall promptly publish or otherwise make available, including through electronic means, all its legislation, regulations, and notices of an administrative nature relating to its requirements for imported or exported goods, such as general agency requirements and entry procedures, hours of operation, and points of contacts for information enquiries.

2. This Article does not require a Party to publish, or otherwise make available, law enforcement procedures and internal operational guidelines including those related to conducting risk assessment.

Article 4.21. Definitions

For the purposes of this Chapter:

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

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

exporter means an exporter located in the territory of a Party and an exporter required under this Chapter to maintain records in the territory of that Party regarding exportations of a good;

express shipments means shipments falling under the WCO Guidelines for the Immediate Release of Consignments by Customs;

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

importer means an importer located in the territory of a Party and an importer required under this Chapter to maintain records in the territory of that Party regarding importations of a good;

indirect material has the same meaning as "indirect material" in Article 3.14 (Indirect Materials);

material means "material" as defined in Article 3.20 (Definitions);

net cost of a good means "net cost of a good" as defined in Article 3.20 (Definitions);

preferential tariff treatment means the duty rate applicable to an originating good;

producer means "producer" as defined in Article 3.20 (Definitions);

production means "production" as defined in Article 3.20 (Definitions);

transaction value or ex-works price of the good means "transaction value or ex-works price of the good" as defined in Article 3.20 (Definitions);

Uniform Regulations means "Uniform Regulations" established under Article 4.12; and value means value of a good or material for the purposes of calculating customs duties or for the purposes of applying Chapter Three (Rules of Origin).

Chapter Five. Sanitary and Phytosanitary Measures

Article 5.1. Objectives

The objectives of this Chapter are to minimise the negative effects of sanitary and phytosanitary measures on trade while protecting human, animal and plant life or health in the territory of each Party and enhance the implementation of the SPS Agreement.

Article 5.2. Scope

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

Article 5.3. Rights and Obligations of the Parties

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

Article 5.4. Dispute Settlement

This Chapter is not subject to Chapter Twenty-One (Dispute Settlement).

Article 5.5. Committee on Sanitary and Phytosanitary Measures

1. The Parties hereby establish a Committee on Sanitary and Phytosanitary Measures, composed of representatives of each Party who are responsible for sanitary and phytosanitary matters.

2. Upon entry into force of this Agreement, each Party shall designate a contact point to coordinate the Committee meetings.

3. The objectives of the Committee are to enhance each Party's implementation of the SPS Agreement while respecting each other's rights to adopt measures to protect human, animal or plant life or health, enhance cooperation and consultation on sanitary and phytosanitary matters, and minimise negative effects on trade between the Parties.

4. Each Party shall ensure the participation, as appropriate, of representatives with responsibility for the development, implementation, and enforcement of sanitary and phytosanitary measures from its relevant government authorities in the Committee meetings.

5. Recognising that the management of sanitary and phytosanitary matters must rely on science and risk-based assessment and is best achieved through bilateral cooperation and consultation, the Committee shall seek to enhance present or future relationships between the Parties' agencies with responsibility for sanitary and phytosanitary matters. For these purposes, the Committee shall:

(a) recognise that scientific risk analysis shall be conducted and evaluated by the relevant regulatory agencies of each Party;

(b) enhance mutual understanding of each Party's sanitary and phytosanitary measures, including through the exchange of information relating to each other's measures and the regulatory processes related to those measures;

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

(d) promote bilateral consultations on sanitary and phytosanitary issues under discussion in multilateral and international fora, such as the WTO Committee on Sanitary and Phytosanitary Measures, the Codex Alimentarius Commission, the International Plant Protection Convention, and the World Organisation for Animal Health;

(e) encourage and coordinate the design, implementation, and review of technical and institutional cooperation programs; and

(f) review progress on addressing sanitary and phytosanitary matters that may arise between the Parties.

6. Unless the Parties otherwise agree, the Committee shall meet no later than one year following the entry into force of this Agreement. The Committee shall establish its rules of procedure at its initial meeting. Thereafter, the Committee shall meet

once a year, unless the Parties otherwise agree.

Chapter Six. Standards-related Measures

Article 6.1. Scope and Coverage

1. Except as provided in paragraph 2, this Chapter applies to all standards-related measures that may affect trade in goods between the Parties.

2. This Chapter does not apply to:

(a) purchasing specifications prepared by government bodies for production or consumption requirements of such bodies; and

(b) sanitary and phytosanitary measures as defined in Annex A of the SPS Agreement.

Article 6.2. Extent of Obligations

1. Article 1.4 (Extent of Obligations) does not apply to this Chapter. This Chapter applies only to national governments unless otherwise specified.

2. Each Party shall provide information to sub-national 1 and local governments and authorities to encourage their adherence to this Chapter, as appropriate. For the purposes of this Chapter, sub-national government does not include local government.

Article 6.3. Affirmation of the WTO Agreement on Technical Barriers to Trade and other International Agreements

Further to Article 1.2 (Relation to Other Agreements):

(a) the Parties affirm with respect to each other their existing rights and obligations related to standards-related measures under the Agreement on Technical Barriers to Trade, contained in Annex 1A to the WTO Agreement (hereinafter referred to as the "TBT Agreement") and all other international agreements to which both Parties are party.

(b) Articles 2 through 9 and Annexes 1 and 3 of the TBT Agreement are incorporated into and made part of this Agreement, mutatis mutandis.

Article 6.4. Cooperation

1. The Parties shall strengthen their cooperation in the field of standards-related measures with a view to increasing the mutual understanding of their respective systems and facilitating access to their respective markets.

2. The Parties shall mutually identify trade facilitating bilateral initiatives regarding standards-related measures that are appropriate for particular issues or sectors, taking into consideration the respective Parties' experience in other regional and multilateral agreements or arrangements of which both Parties are party or member.

3. Further to paragraphs 1 and 2, the Parties shall cooperate, in particular, by:

(a) encouraging their standardising bodies to cooperate with the standardising bodies in the territory of the other Party in their participation, as appropriate, in standardising activities, such as through membership in both regional and international standardising bodies;

(b) encouraging their conformity assessment bodies other than the governments of the Parties to participate in the cooperation with the conformity assessment bodies in the territory of the other Party to promote the mutual acceptance of conformity assessment results;

(c) promoting the accreditation of conformity assessment bodies on the basis of relevant international standards and guides; and

(d) promoting the acceptance of results of conformity assessment bodies that have been recognised under a relevant multilateral agreement or arrangement between their respective accreditation systems or bodies.

4. If a Party declines a request from the other Party to engage in negotiations on an agreement for facilitating recognition in

its territory of the results of conformity assessment procedures conducted by bodies in the other Party's territory, it shall explain, at the request of the other Party, the reasons for its decision.

5. In accordance with Articles 2.4 and 5.4 of the TBT Agreement, as incorporated into this Agreement, each Party shall use relevant international standards as a basis for its technical regulations and conformity assessment procedures.

6. The Parties shall, within the context of this Article, expeditiously broaden the exchange of information and give favourable consideration to any written request for discussion.

Article 6.5. Cooperation In Sector-specific Initiatives

1. Each Party shall take all appropriate measures as may be available to it to ensure that sub-national and local governments comply with this Article, as appropriate.

2. The Parties shall cooperate in sector-specific initiatives, including by:

(a) recognising the importance of standards-related measures in the area of medical devices, sharing information on, and promoting the use of, internationally accepted approaches;

(b) reducing possibly redundant testing and certification requirements for pharmaceutical products and medical devices by promoting the use of internationally accepted standards, including those related to Good Manufacturing Practices (GMP) and Good Laboratory Practices (GLP);

(c) taking steps to implement Phase II of the APEC Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (1998) with respect to the other Party as soon as possible. No later than one year after the date this Agreement enters into force, Korea will publish notice of the changes in its legislation that it proposes to make to implement Phase II;

(d) promoting the harmonisation and use of international standards such as standards developed in the International Electrotechnical Commission (IEC) in the area of low voltage devices; encouraging their national certification bodies to be members of the IEC System of Conformity Assessment Schemes for Electrotechnical Equipment and Components-Certification Bodies' Scheme (IECEE-CB Scheme) and to accept each other's IECEE-CB test certificate as the basis for national certification to relevant electric safety requirements in order to reduce duplicative testing and certification requirements;

(e) pursuant to the framework established by the International Laboratory Accreditation Cooperation (ILAC) and the Asia Pacific Laboratory Accreditation Cooperation (APLAC) Mutual Recognition Arrangement (MRAs), promoting the acceptance of test reports for wood building products and related assemblies issued by organisations accredited by the Standards Council of Canada (SCC) and Korean Laboratory Accreditation Scheme (KOLAS);

(f) encouraging cooperation between the National Research Council Institute for Research in Construction (NRC-IRC) and the Korea Institute of Construction Technology (KICT), or their respective successors, to build confidence in their respective research results and test data for wood building products and related assemblies. To facilitate confidence building, the Parties shall encourage the NRC-IRC and the KICT to negotiate a cooperation arrangement; and

(g) establishing, at the request of either Party, a technical ad hoc working group on standards-related measures related to building products and related assemblies that would be composed of relevant officials responsible for standards-related measures in the building products sector.

Article 6.6. Transparency

1. When a Party notifies WTO Members of a proposed technical regulation or conformity assessment procedure under the TBT Agreement, it shall transmit electronically, at the same time, the proposed technical regulation or conformity assessment procedure to the other Party.

2. On request, each Party shall promptly provide the other Party with the regulatory impact analysis statement for the technical regulation that the Party has adopted or is proposing to adopt, provided that it is publicly available.

3. Each Party shall ensure that transparency procedures regarding the development of technical regulations and conformity assessment procedures allow interested parties to participate at an early appropriate stage, when amendments can still be introduced and comments taken into account, except if urgent problems of safety, health, environmental protection, or national security arise or threaten to arise. If consultations respecting the development of technical regulations and conformity assessment procedures are open to the public, each Party shall permit persons of the other Party to participate on terms no less favourable than those accorded to its own persons.

4. Each Party shall recommend that non-governmental bodies in its territory observe paragraph 3 in the consultation process for the development of standards and voluntary conformity assessment procedures.

5. Each Party shall allow a period of at least 60 days for the public and the other Party to provide written comments on proposed standards-related measures, except if urgent problems of safety, health, environmental protection, or national security arise or threaten to arise.

6. For the purposes of paragraphs 1, 2 and 5, a Party may transmit its proposed technical regulations and conformity assessment procedures, their impact analysis statements for the technical regulation, and comments on proposed standards-related measures of the other Party to the enquiry point of the other Party established under Article 10 of the TBT Agreement.

7. When appropriate, each Party shall publish or otherwise make available to the public, in print or electronically, its responses, or a summary of its responses, to significant comments it receives no later than the date it publishes the final technical regulation or conformity assessment procedure.

Article 6.7. Automotive Standards-related Measures

1. A Party shall allow on its market automotive goods originating in the other Party pursuant to the provisions of this Article. Safety Standards Incorporation or Equivalence

2. Korea shall accept as complying with the corresponding Korea Motor Vehicle Safety Standards (hereinafter referred to as "KMVSS" (2)), as amended, automotive goods originating in Canada that comply with:

(a) the United States Federal Motor Vehicle Safety Standards (hereinafter referred to as "FMVSS") and other standards or regulations listed in Annex 6-A; or

(b) the UN regulations 3 and other standards or regulations listed in Appendix 2-C-3 Table 1 of the Free Trade Agreement between the Republic of Korea, of the One Part, and the European Union and its Member States, of the Other Part in accordance with the terms of that Agreement, as amended. (4)

If Korea incorporates any additional FMVSS, UN regulations, or other standards or regulations into its domestic law or otherwise accepts any such additional standards or regulations as equivalent to KMVSS, it shall also accept as complying with the corresponding KMVSS automotive goods of Canada that comply with these standards or regulations, as they are incorporated into, including any adaptations, or deemed equivalent to, its domestic law.

3. Canada shall accept as complying with the corresponding Canadian Motor Vehicle Safety Standards (hereinafter referred to as "CMVSS" (5)), as amended, automotive goods originating in Korea that comply with:

(a) the FMVSS and other standards or regulations listed in Annex 6-B (Table 1), as incorporated into the corresponding CMVSS, including any adaptations provided for in CMVSS; or

(b) the UN regulations listed in Annex 6-B (Table 2), as incorporated into the corresponding CMVSS, including any adaptations provided for in CMVSS.

If Canada incorporates any additional FMVSS, UN regulations, or other standards or regulations into its domestic law or otherwise accepts any such additional standards or regulations as equivalent to CMVSS, it shall also accept as complying with the corresponding CMVSS automotive goods of Korea that comply with these standards or regulations, as they are incorporated into, including any adaptations, or deemed equivalent to, its domestic law.

4. Notwithstanding compliance with the standards or regulations referred to in paragraphs 2 and 3, each Party may:

(a) require that automotive goods be certified and marked as complying with its relevant domestic law;

(b) verify by random sampling in accordance with its domestic law that the automotive good, including an automotive good self-certified by a manufacturer, complies as appropriate with:

(i) an applicable standard or regulation of the Party; or

(ii) an applicable standard or regulation, as set out in paragraphs 2 and 3.

Each Party may require the supplier to withdraw the automotive good from the market in case the good concerned does not comply with the applicable standard or regulation as the case may be;

(c) in exceptional circumstances, require a supplier to withdraw an automotive good from its market if there are urgent and

compelling risks for road safety, public health, or the environment based on substantiated scientific or technical information. Such a temporary emergency measure shall not constitute a means of arbitrary or unjustifiable discrimination against the good of the other Party or a disguised restriction on trade. Before it is implemented, any such measure shall be notified to the other Party and to the supplier with an objective, reasoned, and sufficiently detailed explanation of the motivation for the measure; and

(d) modify its domestic law, including by amending or revising any standard or the manner in which or the extent to which a standard is incorporated into, or deemed equivalent to, its domestic law. Each Party shall maintain the incorporation of the standards or regulations covered by paragraphs 2 and 3 into its domestic law or continue to otherwise accept those standards or regulations as equivalent to its domestic law, unless doing so would provide for a lower level of safety than the level of safety that would be achieved by a modification to its domestic law or, for Canada, would compromise North American integration.

5. If a Party modifies its domestic law pursuant to paragraph 4(d), the Party shall notify the other Party of the modification. Without prejudice to paragraph 4(d), if such modification renders inappropriate the continued incorporation into, or otherwise acceptance as equivalent to, its domestic law of the standards and regulations covered by paragraphs 2 and 3, the Parties may decide to amend accordingly the relevant provisions of this Agreement upon consideration by the Commission.

6. Each Party shall promptly communicate to the concerned manufacturer or importer a decision taken on compliance testing if the manufacturer or importer is deemed by competent national authorities not to be in compliance with relevant laws or regulations, as well as the basis for any such decision and information on available legal remedies.

7. The Parties agree to use relevant Global Technical Regulations, or other guides or recommendations issued by international standardising bodies (hereinafter collectively referred to as "guides or recommendations"), or relevant parts of them, if they exist, as a basis for compliance testing procedures on automotive goods, except if such guides or recommendations are inappropriate for the Party concerned for reasons covered by Article 5.4 of the TBT Agreement and duly explained upon request of the other Party 6 . If a Party proposes to apply a compliance testing procedure that is not based on relevant guides or recommendations, it shall publish in advance the procedure it proposes to adopt, and provide interested persons a reasonable opportunity to comment. Compliance Testing New Technologies

8. A Party shall not prevent or unduly delay the placing on its market of an automotive good on the ground that the good incorporates a new technology or a new feature which has not yet been regulated unless the Party demonstrates at the request of the other Party, based on scientific or technical information, that this new technology or new feature creates a risk for human health, safety, or the environment.

9. If a Party decides to refuse the placing on its market or require the withdrawal from its market of an automotive good on the ground that the good incorporates a new technology or a new feature creating a risk for human health, safety, or the environment, the Party shall immediately notify the other Party and the importer of the good of its decision. The notification shall include all relevant scientific or technical information.

10. The Parties shall endeavour to promote cooperation on automotive goods issues under discussion in the World Forum for Harmonization of Vehicle Regulation (WP.29) within the framework of the United Nations Economic Commission for Europe (UNECE), or its successor.

(2) KMVSS refers to the corresponding standards of the Automobile Management Act of Korea.

(3) For the purposes of this Article, UN regulations means regulations covered by the 1958 Agreement of the World Forum for Harmonization of Vehicle Regulations (WP.29), within the framework of the United Nations Economic Commission for Europe.

(4) For greater certainty, when Korea accepts compliance with UN regulations in conformity with paragraph 2(b), UN ECE type-approval certificates issued by competent authorities shall be considered as providing a presumption of conformity. If Korea finds that a certain good covered by a type-approval certificate does not conform to the approved type, it shall inform Canada. This footnote is without prejudice to Korea's right to take appropriate measures, as set out in paragraph 4(b).

(5) CMVSS refers to the correspondingly numbered sections of Schedules IV and V.1 of the Canadian Motor Vehicle Safety Regulations and Motor Vehicle Tire Safety Regulations.

(6) "Relevant" guides or recommendations in this paragraph are guides or recommendations on compliance testing procedures applicable to a standard or regulation that a Party has incorporated into its domestic law, either by reference or by duplicating the relevant provisions of that standard or regulation. Cooperation

Article 6.8. Committee on Standards-related Measures

1. The Parties hereby establish a Committee on Standards-Related Measures, composed of trade and relevant regulatory officials, as set out in Annex 6-C.

2. The functions of the Committee include:

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

(b) promptly addressing any issues that a Party raises related to the development, adoption, application, or enforcement of standards-related measures;

(c) enhancing cooperation in the development and improvement of standards-related measures and Good Regulatory Practices;

(d) exchanging information on standards-related measures in response to all reasonable requests for such information from a Party;

(e) exchanging information on developments in non-governmental, regional, and multilateral fora for standards-related measures;

(f) reviewing the provisions of this Chapter in light of any developments under the TBT Agreement and, if required, developing recommendations to the Parties for amendments to these provisions in light of such developments;

(g) taking any steps the Parties consider will assist them in implementing the provisions of this Chapter;

(h) as it considers appropriate, reporting to the Commission on the implementation of the provisions of this Chapter;

(i) as it considers appropriate, establishing working groups that may include or consult with non-governmental experts and stakeholders as mutually agreed by the Parties; and

(j) at the request of a Party, consulting on any matters arising under this Chapter.

3. The Committee shall meet at least once a year unless the Parties otherwise agree.

Article 6.9. Definitions

For the purposes of this Chapter:

automotive good means all forms of motor vehicles, systems, and parts thereof falling under Chapters 40, 84, 85, 87, and 94 of the Harmonized System (HS), except the following goods:

(a) tractors (in HS 8701.10, 8701.20, 8709.11, 8709.19, and 8709.90);

(b) snow mobiles and golf carts (in HS 8703.10); and (c) construction machinery (in HS 8413.40, 8425.11, 8425.19, 8425.31, 8425.39, 8425.41, 8425.42, 8425.49, 8426.11, 8426.12, 8426.19, 8426.20, 8426.30, 8426.41, 8426.49, 8426.91, 8426.99, 8427.20, 8428.10, 8428.20, 8428.31, 8428.32, 8428.33, 8428.39, 8428.40, 8428.60, 8428.90, 8429.11, 8429.19, 8429.20, 8429.30, 8429.40, 8429.51, 8429.52, 8429.59, 8430.10, 8430.20, 8430.31, 8430.39, 8430.41, 8430.49, 8430.50, 8430.61, 8430.69, 8431.10, 8431.31, 8431.39, 8431.41, 8431.42, 8431.43, 8431.49, 8474.10, 8474.20, 8474.31, 8474.32, 8474.39, 8474.80, 8474.90, 8479.10, 8701.30, 8704.10, 8705.10, 8705.20, 8705.40, and 8705.90);

Good Regulatory Practices means Good Regulatory Practices as defined by the OECD Guiding Principles for Regulatory Performance (2005); and

standards-related measures means standards, technical regulations, and conformity assessment procedures as defined by the TBT Agreement.

Chapter Seven. Trade Remedies

Section A. Safeguard Measures

Article 7.1. Article XIX of the Gatt 1994 and the Safeguards Agreement

1. Each Party retains its rights and obligations under Article XIX of the GATT 1994, the Safeguards Agreement, and any successor agreements. This Agreement does not confer additional rights or obligations on the Parties with regard to measures taken pursuant to Article XIX of the GATT 1994 and the Safeguards Agreement, except that a Party taking a global safeguard measure may exclude imports of an originating good of the other Party from such measure if those imports are not a substantial cause of serious injury or threat thereof.

2. A Party shall not apply or maintain, with respect to the same good, at the same time:

(a) a bilateral safeguard measure; and

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

Article 7.2. Bilateral Safeguard Measures

1. Subject to paragraph 2, if a good originating in the territory of a Party, as a result of the reduction or elimination of a customs duty provided for under this Agreement, is being imported into the territory of the other Party in such increased quantities and under such conditions that the imports of the good from that Party alone constitute a substantial cause of serious injury, or threat thereof, to a domestic industry producing a like or directly competitive good, the Party into whose territory the good is being imported may, to the minimum extent necessary to remedy or prevent the injury:

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

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

(i) the most-favoured-nation (MFN) applied rate of customs duty in effect at the time the safeguard measure is taken; and

(ii) the MFN applied rate of customs duty in effect on the day immediately preceding the date of entry into force of this Agreement; or

(c) in the case of a customs duty applied to a good on a seasonal basis, increase the rate of customs duty to a level that, for each season, does not exceed the lesser of:

(i) the MFN applied rate of customs duty on the good in effect for the corresponding season immediately preceding the date of application of the safeguard measure; and

(ii) the MFN applied rate of customs duty on the good in effect for the corresponding season immediately preceding the date of entry into force of this Agreement.

2. The following conditions and limitations apply to a proceeding that may result in the application of a safeguard measure pursuant to paragraph 1:

(a) A Party shall, without delay, deliver to the other Party written notice of, and a request for consultations regarding, the initiation of a proceeding that could result in the application of a safeguard measure against a good originating in the territory of the other Party;

(b) Each Party shall ensure that its competent investigating authority completes any such investigation within one year of the date of initiation of the proceeding. A Party shall apply any such safeguard measure no later than one year after the date of initiation of the proceeding, unless the Parties agree otherwise;

(c) A Party shall not maintain a safeguard measure for a period exceeding two years, except that the period may be extended by up to two years if the competent authority determines, in conformity with the procedures set out in paragraphs 1 and 2, and Article 7.3, that the safeguard measure continues to be necessary to prevent or remedy serious injury and to facilitate adjustment and that there is evidence that the industry is adjusting. The total period of application of a safeguard measure, including the period of initial application and any extension thereof, shall not exceed four years; and (d) On the termination of the safeguard measure, the rate of customs duty shall be the rate that, according to that Party's Schedule to Annex 2-D (Tariff Elimination) for the staged elimination of the customs duty, would have been in effect but for the safeguard measure.

3. (a) No later than 30 days after a Party applies a safeguard measure, that Party shall afford an opportunity for the other

Party to consult regarding appropriate trade liberalising 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. The Party applying the safeguard measure (hereinafter referred to as the "applying Party") shall provide such compensation as mutually agreed between the Parties.

(b) If the Parties are unable to agree on compensation within 30 days after consultations begin, the Party against whose originating good the measure is applied may suspend the application of concessions with respect to originating goods of the applying Party that have trade effects substantially equivalent to the safeguard measure.

(c) The applying Party's obligation to provide compensation pursuant to subparagraph (a) and the other Party's right to suspend concessions pursuant to subparagraph (b) shall terminate on the date the safeguard measure terminates.

4. The right of suspension referred to in paragraph 3 shall not be exercised for the first 24 months during which a safeguard measure is in effect, provided that the safeguard measure conforms to the provisions of this Agreement.

Article 7.3. Provisional Safeguard Measures

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

2. Before a Party's competent investigating authority may make a preliminary determination, that Party shall publish a public notice in its official journal setting forth how interested parties, including importers and exporters, may obtain a non-confidential copy of the application requesting a provisional safeguard measure, and shall provide interested parties with at least 20 days after the date the Party publishes the notice to submit evidence and views regarding the application of a provisional safeguard measure. A Party shall not apply a provisional safeguard measure until at least 45 days after the date its competent investigating authority initiates an investigation.

3. The duration of any provisional safeguard measure shall not exceed 200 days, during which time the applying Party shall comply with the requirements of Article 7.5.4.

4. The applying Party shall promptly refund any customs duty increases if the investigation described in Article 7.5.4 does not result in a finding that the requirements of Article 7.2.1 are met. The duration of any provisional safeguard measure shall be counted as part of the period described in Article 7.2.2(c).

Article 7.4. Application of Safeguard Measures

A safeguard measure with respect to a good may only be applied during the transition period for that good.

Article 7.5. Administration of Safeguard Measures

1. Each Party shall ensure the consistent, impartial, and reasonable administration of its laws, regulations, decisions, and rulings governing all safeguard measures.

2. Each Party shall entrust determinations of serious injury, or threat thereof, in safeguard measure proceedings to a competent investigating authority, subject to review by judicial or administrative tribunals, to the extent provided by its domestic law. Negative injury determinations are not subject to modification, except by such review. Each Party shall provide the competent investigating authority empowered under its domestic law to conduct those proceedings with the necessary resources to enable that Party to fulfil its duties.

3. Each Party shall adopt or maintain equitable, timely, transparent, and effective procedures for safeguard measure proceedings, in accordance with the requirements set out in paragraph 4.

4. A Party may apply a safeguard measure only following an investigation by the Party's competent investigating authority in accordance with Articles 3 and 4.2 of the Safeguards Agreement. To this end, Articles 3 and 4.2 of the Safeguards Agreement are incorporated into and made part of this Agreement, mutatis mutandis.

Article 7.6. Dispute Settlement In Safeguard Measures Matters

A Party shall not request the establishment of a panel under Article 21.6 (Establishment of a Panel) regarding proposed safeguard measures.

Section B. Antidumping and Countervailing Duties

Article 7.7. Antidumping and Countervailing Duties

Relation to Other Agreements

1. (a) Except as provided in this Article, in respect of the application of antidumping and countervailing measures the Parties maintain their rights and obligations under the WTO Agreement, and disputes regarding any matter relating to those rights and obligations shall be settled under the WTO Agreement.

(b) Except for paragraphs 2 and 4, this Agreement is not to be construed to impose rights or obligations on a Party with respect to antidumping or countervailing measures. A Party shall not have recourse to dispute settlement under this Agreement for a matter arising under this Article. (1)

Notification and Consultation

2. Upon receipt by a Party's competent authority of a properly documented antidumping or countervailing duty application in respect of imports from the other Party, and before initiating an investigation, that Party shall provide written notification to the other Party of its receipt of the application and afford the other Party a meeting or other similar opportunity regarding the application, consistent with that Party's domestic law. Lesser duty

3. (a) The Parties recognise the desirability of providing for the possibility of imposing antidumping or countervailing duties that are less than the full margin of dumping or amount of subsidy.

(b) In this regard:

(i) Korea shall apply its relevant domestic laws and regulations; and

(ii) Canada shall consider information provided in accordance with its domestic law as to whether imposing an antidumping or countervailing duty would not be in the public interest. After considering this information, the competent authority may consider whether the amount of the antidumping or countervailing duty to be imposed shall be the full margin of dumping or amount of subsidy, or a lesser amount that would be adequate to remove the injury to the domestic industry, in accordance with the domestic law of Canada.

Undertakings

4. (a) After the competent authority of a Party initiates an antidumping or countervailing duty investigation, that Party shall transmit to the other Party's embassy or competent authority written information regarding the Party's laws and procedures for requesting consideration by its authorities of an undertaking as described in the WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 or the WTO Agreement on Subsidies and Countervailing Measures, including the time frames for offering and concluding any such undertaking.

(b) In an antidumping or countervailing duty investigation, where a Party's authority has made a preliminary affirmative determination of dumping or subsidisation and injury caused by that dumping or subsidisation, that Party shall afford due consideration, and adequate opportunity for consultations, to exporters of the other Party regarding proposed undertakings which, if accepted, may result in suspension of the investigation without imposition of antidumping or countervailing duties, through the means provided for in the Party's domestic laws and procedures.

(1) Although recourse to dispute settlement is not available with respect to paragraphs 2 and 4, the Parties affirm that those paragraphs create binding rights and obligations.

Section C. Committee on Trade Remedies

Article 7.8. Committee on Trade Remedies

1. The Parties hereby establish a Committee on Trade Remedies, composed of representatives at an appropriate level from relevant agencies of each Party who have responsibility for trade remedies matters, including antidumping, subsidies and countervailing measures, and safeguards issues.

2. The functions of the Committee, which operates on the basis of consensus in respect of all matters, are to:

(a) enhance each Party's knowledge and understanding of the other's domestic trade remedy laws, policies, and practices;

(b) oversee implementation of this Chapter, including compliance with Articles 7.7.2 and 7.7.4;

(c) improve cooperation between the Parties' agencies having responsibility for trade remedies matters;

(d) provide a forum for the Parties to exchange information on issues relating to trade remedies matters;

(e) establish and oversee the development of educational programs related to the administration of trade remedy law for officials of both Parties; and

(f) provide a forum for the Parties to discuss other relevant topics of mutual interest, including:

(i) international issues relating to trade remedies, including issues relating to international trade negotiations; and

(ii) practices by the Parties' competent authorities in antidumping and countervailing duty investigations, such as the application of "facts available" and verification procedures.

3. The Committee shall meet at least once a year and may meet more frequently as agreed by the Parties.

Section D. Definitions

Article 7.9. Definitions

For the purposes of this Chapter:

competent investigating authority means:

(a) for Canada, the Canadian International Trade Tribunal; and

(b) for Korea, the Korea Trade Commission. or their respective successors;

domestic industry means the producers as a whole of the like or directly competitive good operating in the territory of a Party or producers whose collective production of the like or directly competitive good constitutes a major proportion of the total domestic production of those goods;

safeguard measure means a measure described in Article 7.2;

serious injury means a significant overall impairment of a domestic industry;

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

threat of serious injury means serious injury that, on the basis of facts and not merely on allegation, conjecture, or remote possibility, is clearly imminent; and transition period means the period beginning on the date of entry into force of this Agreement and ending on the date that is the earliest of:

(a) 10 years after the end of the tariff elimination period for that good; or

(b) 15 years after the entry into force of this Agreement.

Chapter Eight. Investment

Section A. Investment

Article 8.1. Scope and Coverage

1. This Chapter applies to measures adopted or maintained by a Party relating to:

(a) investors of the other Party;

(b) covered investments; and

(c) with respect to Articles 8.8, 8.10, and 8.16, all investments in its territory.

2. For greater certainty, this Chapter does not apply to an act or fact that took place or a situation that ceased to exist before the date of entry into force of this Agreement.

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

(a) a national, sub-national, or local government and authority; or

(b) a non-governmental body of a Party in the exercise of powers delegated by a national, sub-national, or local government and authority of the Party.

Article 8.2. Relation to other Chapters

1. In the event of an inconsistency between this Chapter and another Chapter, the other Chapter prevails to the extent of the inconsistency.

2. A requirement by a Party that a service supplier of the other Party post a bond or other form of financial security as a condition of the cross-border supply of a service does not of itself make this Chapter applicable to measures adopted or maintained by the Party relating to such cross-border supply of the service. This Chapter applies to measures adopted or maintained by the Party relating to the posted bond or financial security to the extent that such bond or financial security is a covered investment.

3. This Chapter does not apply to measures adopted or maintained by a Party to the extent that they are covered by Chapter Ten (Financial Services).

Article 8.3. National Treatment

1. Each Party shall accord to investors of the other Party treatment no less favourable than that it accords, in like circumstances, to its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments in its territory.

2. Each Party shall accord to covered investments treatment no less favourable than that it accords, in like circumstances, to investments of its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments in its territory.

3. The treatment accorded by a Party under paragraphs 1 and 2 means, with respect to a sub-national government, treatment no less favourable than the most favourable treatment accorded, in like circumstances, by that sub-national government to investors, and to investments of investors, of the Party of which it forms a part.

Article 8.4. Most-favoured-nation Treatment (1) (2)

1. Each Party shall accord to investors of the other Party treatment no less favourable than that it accords, in like circumstances, to investors of a non-party with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments in its territory.

2. Each Party shall accord to covered investments treatment no less favourable than that it accords, in like circumstances, to investments of investors of a non-party with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments in its territory.

(1) For greater certainty, the treatment accorded by a Party under this Article means, with respect to a sub-national government, treatment accorded, in like circumstances, by that sub-national government to investors, and to investments of investors, of a non-party.

(2) For greater certainty, treatment "with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments" referred to in paragraphs 1 and 2 does not encompass Investor-State Dispute Settlement mechanisms, such as those in Section B of this Chapter that are provided for in international treaties or trade agreements.

Article 8.5. Minimum Standard of Treatment (3)

1. Each Party shall accord to covered investments treatment in accordance with customary international law, including fair

and equitable treatment and full protection and security.

2. For greater certainty, paragraph 1 prescribes the customary international law minimum standard of treatment of aliens as the minimum standard of treatment to be accorded to covered investments. The concepts of "fair and equitable treatment" and "full protection and security" in paragraph 1 do not require treatment in addition to or beyond that which is required by the customary international law minimum standard of treatment of aliens.

3. The obligation in paragraph 1 to provide:

(a) "fair and equitable treatment" includes the obligation not to deny justice in criminal, civil, or administrative adjudicatory proceedings in accordance with the principle of due process; and

(b) "full protection and security" requires each Party to provide the level of police protection required under customary international law.

4. A breach of another provision of this Agreement, or of a separate international agreement, does not establish a breach of this Article.

(3) This Article shall be interpreted in accordance with Annex 8-A.

Article 8.6. Compensation for Losses

1. Each Party shall accord to investors of the other Party, and to covered investments, non-discriminatory treatment with respect to measures it adopts or maintains relating to losses suffered by investments in its territory owing to armed conflict or civil strife.

2. Paragraph 1 does not apply to existing measures relating to subsidies or grants that would be inconsistent with Article 8.3, but for Article 8.9.5(b).

Article 8.7. Senior Management and Boards of Directors

1. A Party shall not require an enterprise of that Party, which is a covered investment, to appoint natural persons of a particular nationality to senior management positions.

2. A Party may require that a majority of the board of directors, or a committee, of an enterprise of that Party, which is a covered investment, be of a particular nationality, or resident in the territory of that Party, provided that the requirement does not materially impair the ability of the investor to exercise control over its investment.

Article 8.8. Performance Requirements

1. A Party shall not, in connection with the establishment, acquisition, expansion, management, conduct, or operation of an investment in its territory of an investor of a Party or of a non-party, impose or enforce a requirement or enforce a commitment or undertaking (4) :

(a) to export a given level or percentage of goods or services;

(b) to achieve a given level or percentage of domestic content;

(c) to purchase, use, or accord a preference to goods produced or services supplied in its territory, or to purchase goods or services from persons in its territory;

(d) to relate the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with that investment;

(e) to restrict sales of goods or services in its territory that the investment produces or supplies by relating those sales to the volume or value of its exports or foreign exchange earnings;

(f) to transfer technology, a production process, or other proprietary knowledge to a person in its territory; or

(g) to supply exclusively from the territory of the Party the goods that the investment produces or the services that it supplies to a specific regional market or to the world market.

2. A measure that requires an investment to use a technology to meet generally applicable health, safety, or environmental requirements is not to be construed to be inconsistent with paragraph 1(f). For greater certainty, Articles 8.3 and 8.4 apply to the measure.

3. A Party shall not make the receipt or continued receipt of an advantage, in connection with the establishment, acquisition, expansion, management, conduct, or operation of an investment in its territory of an investor of a Party or of a non-party, conditional on compliance with any of the following requirements:

(a) to achieve a given level or percentage of domestic content;

(b) to purchase, use, or accord a preference to goods produced in its territory, or to purchase goods from persons in its territory;

(c) to relate the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with that investment; or

(d) to restrict sales of goods or services in its territory that the investment produces or supplies by relating those sales to the volume or value of its exports or foreign exchange earnings.

4. Paragraph 3 is not to be construed to prevent a Party from making the receipt or continued receipt of an advantage, in connection with an investment in its territory of an investor of a Party or of a non-party, conditional on compliance with a requirement to locate production, supply a service, train or employ workers, construct or expand particular facilities, or carry out research and development, in its territory. (5)

5. Paragraph 1(f) does not apply: (a) if a Party authorises use of an intellectual property right pursuant to Article 31 of the TRIPS Agreement, or to measures requiring the disclosure of proprietary information that fall within the scope of, and are consistent with, Article 39 of the TRIPS Agreement; or

(b) if the requirement is imposed or the commitment or undertaking is enforced by a court, administrative tribunal, or competition authority to remedy a practice determined after judicial or administrative process to be anti-competitive under the Party's competition laws. (6)

6. The provisions of:

(a) paragraphs 1(b), (c), (f) and (g), and 3(a) and (b), do not apply to qualification requirements for goods or services with respect to export promotion and foreign aid programs;

(b) paragraphs 1(b), (c), (f) and (g), and 3(a) and (b), do not apply to procurement by a Party or a state enterprise; and

(c) paragraphs 3(a) and (b) do not apply to requirements imposed by an importing Party relating to the content of goods necessary to qualify for preferential tariffs or preferential quotas.

7. Paragraphs 1 and 3 do not apply to a commitment, undertaking, or requirement other than those set out in those paragraphs.

8. This Article does not preclude enforcement of a commitment, undertaking, or requirement between private parties, if a Party did not impose or require the commitment, undertaking, or requirement. For the purposes of this Article, private parties include designated monopolies or state enterprises, if such entities are not exercising delegated governmental authority.

(4) For greater certainty, a condition for the receipt or continued receipt of an advantage pursuant to paragraph 3 does not constitute a "commitment or undertaking" for the purposes of this paragraph.

(5) For greater certainty, paragraph 1 is not to be construed to prevent a Party, in connection with the establishment, acquisition, expansion, management, conduct, or operation of an investment of an investor of a Party or of a non-party in its territory, from imposing or enforcing a requirement or enforcing a commitment or undertaking to locate production, train or employ workers, or construct or expand particular facilities, in its territory, provided that such activity is consistent with paragraph 1(f).

(6) The Parties recognise that a patent does not necessarily confer market power.

Article 8.9. Non-conforming Measures

1. Articles 8.3, 8.4, 8.7, and 8.8 do not apply to:

(a) an existing non-conforming measure that is maintained by:

(i) the national government of a Party, as set out in its Schedule to Annex I;

(ii) a sub-national government of a Party, as set out by that Party in its Schedule to Annex I (7) ; or

(iii) a local government of a Party (8);

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

(c) an amendment to a non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not diminish the conformity of the measure, with Articles 8.3, 8.4, 8.7 and 8.8, as it existed immediately before the amendment.

2. Articles 8.3, 8.4, 8.7, and 8.8 do not apply to a measure that a Party adopts or maintains with respect to sectors, sub-sectors, or activities, as set out in its Schedule to Annex II.

3. A Party shall not, under a measure adopted after the date of entry into force of this Agreement and set out in its Schedule to Annex II, require an investor of the other Party, by reason of its nationality, to sell or otherwise dispose of an investment existing at the time the measure becomes effective.

4. Articles 8.3 and 8.4 do not apply to a measure that is an exception to, or derogation from, the obligations under Article 16.6 (National Treatment) as specifically provided in that Article.

5. Articles 8.3, 8.4, and 8.7 do not apply to:

(a) procurement by a Party or a state enterprise; or

(b) subsidies or grants provided by a Party or a state enterprise, including government-supported loans, guarantees, and insurance.

(7) For the purposes of this Article, sub-national government does not include local government.

(8) For Korea, local government means a local government as defined in the Local Autonomy Act.

Article 8.10. Investment and Environment

1. This Chapter is not to be construed to prevent a Party from adopting, maintaining, or enforcing a measure consistent with this Chapter that it considers appropriate to ensure that investment activity in its territory is undertaken in a manner sensitive to environmental concerns.

2. The Parties recognise that it is inappropriate to encourage investment by relaxing domestic health, safety, or environmental measures. Accordingly, a Party should not waive or otherwise derogate from, or offer to waive or otherwise derogate from, such measures as an encouragement for the establishment, acquisition, expansion, or retention in its territory of an investment of an investor. If a Party considers that the other Party has offered such an encouragement, that Party may request consultations with the other Party and the Parties shall consult with a view to avoiding any such encouragement.

Article 811. Expropriation and Compensation (9)

1. A Party shall not expropriate or nationalise a covered investment, directly or indirectly, through a measure equivalent to expropriation or nationalisation (hereinafter referred to as "expropriation"), except:

(a) for a public purpose;

(b) in a non-discriminatory manner;

(c) in accordance with due process of law; and

(d) on payment of prompt, adequate, and effective compensation.

2. The compensation referred to in paragraph 1(d) shall:

(a) be paid without delay;

(b) be equivalent to the fair market value of the expropriated investment immediately before the expropriation took place ("the date of expropriation");

(c) include interest at a commercially reasonable rate accrued from the date of expropriation until the date of payment; (d) not reflect any change in value that occurs as a result of prior knowledge of the intended expropriation;

(e) be fully realisable and freely transferable; and (f) be payable in a freely usable or freely convertible currency.

3. The affected investor shall have the right under the law of the expropriating Party to a prompt review, by a judicial or other independent authority of that Party, of its case and of the valuation of its investment in accordance with the principles set out in this Article.

4. This Article does not apply to compulsory licenses granted in relation to intellectual property rights under the TRIPS Agreement, or to the revocation, limitation, or creation of intellectual property rights, provided that the issuance, revocation, limitation, or creation is consistent with the WTO Agreement.

(9) For greater certainty, Article 8.11.1 shall be interpreted in accordance with Annex 8-B.

Article 8.12. Transfers

1. Each Party shall permit transfers relating to a covered investment to be made freely, and without delay, into and out of its territory. Those transfers include:

(a) contributions to capital, including the initial contribution;

(b) profits, dividends, interest, capital gains, royalty payments, management fees, technical assistance, and other fees;

(c) proceeds from the sale of all or part of the covered investment or from the partial or complete liquidation of the covered investment;

(d) payments made under a contract entered into by the investor, or the covered investment, including payments made pursuant to a loan agreement;

(e) payments made pursuant to Articles 8.6 and 8.11; and

(f) payments arising out of a dispute.

2. Each Party shall permit transfers relating to a covered investment to be made in a freely usable currency. Transfers shall be made at the market rate of exchange prevailing at the time of transfer.

3. Each Party shall permit returns in kind relating to a covered investment to be made as authorised or specified in a written agreement between the Party and a covered investment or an investor of the other Party.

4. Notwithstanding paragraphs 1, 2, and 3, a Party may prevent a transfer through the equitable, non-discriminatory, and good faith application of its domestic law relating to:

(a) bankruptcy, insolvency, or the protection of the rights of creditors;

(b) issuing, trading or dealing in securities, futures, options, or derivatives;

(c) criminal or penal offences;

(d) financial reports of transfers when necessary to assist law enforcement or financial regulatory authorities; or

(e) compliance with orders or judgments in judicial or administrative proceedings.

5. A Party shall not require its investors to transfer, or penalise its investors for failure to transfer the income, earnings, profits, or other amounts derived from, or attributable to investments in the territory of the other Party.

6. Paragraph 5 is not to be construed to prevent a Party from imposing a measure through the equitable, non-discriminatory, and good faith application of its domestic law relating to the matters referred to in paragraphs 4(a) through (e).

7. Notwithstanding paragraph 1, a Party may restrict transfers of returns in kind in circumstances where it could otherwise restrict those transfers under this Agreement and as set out in paragraph 4.

Article 8.13. Subrogation

1. If a Party or an agency of a Party makes a payment to one of its investors under a guarantee or a contract of insurance that it has entered into in respect of an investment, the other Party shall recognise the validity of the subrogation in favour of that Party or the agency of the Party to a right or title held by the investor.

2. A Party or an agency of a Party which is subrogated to the rights of an investor in accordance with paragraph 1, is entitled in all circumstances to the same rights as those of the investor in respect of the investment. These rights may be exercised by the Party or an agency of the Party, or by the investor if the Party or an agency of the Party so authorises.

Article 8.14. Denial of Benefits

1. A Party may deny the benefits of this Chapter to an investor of the other Party that is an enterprise of that Party and to investments of that investor if persons of a non-party own or control the enterprise and the denying Party adopts or maintains measures with respect to the non-party or a person of the non-party that prohibit transactions with the enterprise or that would be violated or circumvented if the benefits of this Chapter were accorded to the enterprise or to its investments.

2. A Party may deny the benefits of this Chapter to an investor of the other Party that is an enterprise of that Party and to investments of that investor if the enterprise has no substantial business activities in the territory of the other Party under whose domestic law it is constituted or organised and persons of a non-party, or of the denying Party, own or control the enterprise.

Article 8.15. Special Formalities and Information Requirements

1. Article 8.3 is not to be construed to prevent a Party from adopting or maintaining a measure that prescribes special formalities in connection with the establishment of investments by investors of the other Party, including a requirement that investments be legally constituted under the laws or regulations of the Party, provided that those formalities do not materially impair the protections afforded by a Party to investors of the other Party and investments of investors of the other Party under this Chapter.

2. Notwithstanding Articles 8.3 and 8.4, a Party may require an investor of the other Party, or its investment in the Party's territory, to provide routine information concerning that investment solely for informational or statistical purposes. The Party shall protect such business information that is confidential from disclosure that would prejudice the competitive position of the investor or the investment. This paragraph is not to be construed to prevent a Party from otherwise obtaining or disclosing information in connection with the equitable and good faith application of its law.

Article 8.16. Corporate Social Responsibility

Each Party should encourage enterprises operating within its territory or subject to its jurisdiction to voluntarily incorporate internationally recognised standards of corporate social responsibility in their practices and their internal policies, including statements of principle that are endorsed or supported by the Parties. These principles address issues such as labour, environment, human rights, community relations, and anti-corruption.

Section B. Investor-State Dispute Settlement

Article 8.17. Purpose

Without prejudice to the rights and obligations of the Parties under Chapter Twenty-One (Dispute Settlement), this Section establishes a mechanism for the settlement of investment disputes.

Article 8.18. Claim by an Investor of a Party on Its Own Behalf

An investor of a Party may submit to arbitration under this Section a claim that the other Party has breached an obligation under Section A, other than Articles 8.10, 8.15, and 8.16 and that the investor has incurred loss or damage by reason of, or arising out of, that breach.

Article 8.19. Claim by an Investor of a Party on Behalf of an Enterprise

1. An investor of a Party, on behalf of an enterprise of the other Party that is a juridical person that the investor owns or controls directly or indirectly, may submit to arbitration under this Section a claim that the other Party has breached an obligation under Section A, other than Articles 8.10, 8.15, and 8.16 and that the enterprise has incurred loss or damage by reason of, or arising out of, that breach.

2. If an investor makes a claim pursuant to this Article and the investor or a non-controlling investor in the enterprise makes a claim pursuant to Article 8.18 arising out of the same events that gave rise to the claim under this Article, and two or more of the claims are submitted to arbitration pursuant to Article 8.23, the claims should be heard together by a Tribunal established under Article 8.28, unless the Tribunal finds that the interests of a disputing party would be prejudiced as a result.

3. An investment shall not make a claim under this Section.

Article 8.20. Notice of Intent to Submit a Claim to Arbitration

1. The disputing investor shall deliver to the disputing Party written notice of its intent to submit a claim to arbitration (hereinafter referred to as the "Notice of Intent") at least 90 days before submitting the claim. The Notice of Intent must specify:

(a) the name and address of the disputing investor and, if a claim is made under Article 8.19, the name and address of the enterprise;

(b) the provisions of this Agreement alleged to have been breached and any other relevant provisions;

(c) the legal and the factual basis for the claim, including the measures at issue; and

(d) the relief sought and the approximate amount of damages claimed.

2. The disputing investor shall also deliver, with its Notice of Intent, evidence establishing that it is an investor of the other Party. Examples of evidence that might be relevant include a copy of a title to property, a deed of incorporation of the enterprise, share certificates, and a joint venture agreement.

Article 8.21. Consultation and Negotiation

In the event of an investment dispute, the disputing investor and the disputing Party shall initially seek to resolve the dispute through consultation and negotiation, which may include the use of non-binding third-party procedures.

Article 8.22. Conditions Precedent to Submission of a Claim to Arbitration

1. A disputing investor may submit a claim to arbitration pursuant to Article 8.18 only if:

(a) the disputing investor consents to arbitration in accordance with the procedures set out in this Agreement;

(b) at least six months have elapsed since the events giving rise to the claim;

(c) not more than three years have elapsed from the date on which the disputing investor first acquired, or should have first acquired, knowledge of the alleged breach and knowledge that the disputing investor has incurred loss or damage thereby;

(d) the disputing investor has delivered the Notice of Intent required under Article 8.20; and

(e) the disputing investor and, if the claim is for loss or damage to an interest in an enterprise of the other Party that is a juridical person that the disputing investor owns or controls directly or indirectly, the enterprise, waive their right to initiate or continue before an administrative tribunal or court under the domestic law of any Party, or other dispute settlement procedures, proceedings with respect to the measure of the disputing Party that is alleged to be a breach referred to in Article 8.18, except as set out in Annex 8-C.

2. A disputing investor may submit a claim to arbitration pursuant to Article 8.19 only if:

(a) both the disputing investor and the enterprise consent to arbitration in accordance with the procedures set out in this Agreement;

(b) at least six months have elapsed since the events giving rise to the claim;

(c) not more than three years have elapsed from the date on which the enterprise first acquired, or should have first acquired, knowledge of the alleged breach and knowledge that the enterprise has incurred loss or damage thereby;

(d) the disputing investor has delivered the Notice of Intent required pursuant to Article 8.20; and

(e) both the disputing investor and the enterprise waive their right to initiate or continue before an administrative tribunal or court under the domestic law of any Party, or other dispute settlement procedures, proceedings with respect to the measure of the disputing Party that is alleged to be a breach referred to in Article 8.19, except as set out in Annex 8-C.

3. A consent and waiver required by this Article shall be delivered to the disputing Party and shall be included in the submission of a claim to arbitration.

4. A waiver from the enterprise under paragraph 1(e) or 2(e) shall not be required only if a disputing Party has deprived a disputing investor of control of the enterprise.

5. Failure to meet any of the conditions precedent provided for in paragraphs 1, 2, and 3 nullifies the consent of the Parties given in Article 8.24.

Article 8.23. Submission of a Claim to Arbitration

1. Except as provided in Annex 8-C, a disputing investor who meets the conditions precedent provided for in Article 8.22 may submit the claim to arbitration:

(a) under the ICSID Convention, if both Parties are party to the Convention;

(b) under the ICSID Additional Facility Rules, if only one Party is a party to the ICSID Convention;

(c) under the UNCITRAL Arbitration Rules; or

(d) if the disputing parties agree, to any other arbitration institution or under any other arbitration rules.

2. The applicable arbitration rules govern the arbitration unless they are modified by this Section.

Article 8.24. Consent to Arbitration

1. Each Party consents to the submission of a claim to arbitration in accordance with the procedures set out in this Agreement.

2. The consent given in paragraph 1 and the submission by a disputing investor of a claim to arbitration shall satisfy the requirement of:

(a) Chapter II of the ICSID Convention and the ICSID Additional Facility Rules for written consent of the parties; and

(b) Article II of the New York Convention for an agreement in writing.

Article 8.25. Arbitrators

1. Except in respect of a Tribunal established pursuant to Article 8.28, and unless the disputing parties agree otherwise, the Tribunal shall be composed of three arbitrators, one arbitrator appointed by each of the disputing parties and the third, who shall be the presiding arbitrator, appointed by agreement of the disputing parties.

2. Arbitrators must:

(a) have expertise or experience in public international law, international trade or international investment rules, or the resolution of disputes arising under international trade or international investment agreements; and

(b) be independent of, and not be affiliated with or take instructions from, either Party or the disputing investor.

3. The disputing parties should agree on the arbitrators' remuneration. If the disputing parties do not agree on such remuneration before the Tribunal is constituted, the prevailing ICSID rate for arbitrators applies.

Article 8.26. Constitution of a Tribunal by the Secretary-general

1. The Secretary-General shall serve as appointing authority for an arbitration under this Section if a Party fails to appoint an arbitrator or the disputing parties are unable to agree on a presiding arbitrator.

2. If a Tribunal, other than a Tribunal established pursuant to Article 8.28, is not constituted within 90 days from the date that a claim is submitted to arbitration, the Secretary-General, at the request of either disputing party, shall appoint, in his or her discretion, the arbitrator or arbitrators not yet appointed. The presiding arbitrator shall not be a national of either Party.

Article 8.27. Agreement to Appointment of Arbitrators

For the purposes of Article 39 of the ICSID Convention and Article 7 of Schedule C to the ICSID Additional Facility Rules, and without prejudice to an objection to an arbitrator based on a ground other than nationality:

(a) the disputing Party agrees to the appointment of each individual member of a Tribunal established under the ICSID Convention or the ICSID Additional Facility Rules;

(b) a disputing investor referred to in Article 8.18 may submit a claim to arbitration, or continue a claim, under the ICSID Convention or the ICSID Additional Facility Rules, only if the disputing investor agrees in writing to the appointment of each individual member of the Tribunal; and

(c) a disputing investor referred to in Article 8.19.1 may submit a claim to arbitration, or continue a claim, under the ICSID Convention or the ICSID Additional Facility Rules, only if the disputing investor and the enterprise agree in writing to the appointment of each individual member of the Tribunal.

Article 8.28. Consolidation

1. A Tribunal established under this Article shall be established under the UNCITRAL Arbitration Rules and shall conduct its proceedings in accordance with those Rules, unless otherwise provided in this Section.

2. If a Tribunal established under this Article is satisfied that claims submitted to arbitration under Article 8.23 have a question of law or fact in common, the Tribunal may, in the interests of fair and efficient resolution of the claims, and after hearing the disputing parties, by order:

(a) assume jurisdiction over, and hear and determine together, all or part of the claims; or

(b) assume jurisdiction over, and hear and determine one or more of the claims, the determination of which it believes would assist in the resolution of the others.

3. A disputing party that seeks an order under paragraph 2 shall request that the Secretary-General establish a Tribunal and shall specify in the request:

(a) the name of the disputing Party or disputing investors against which the order is sought;

(b) the nature of the order sought; and

(c) the grounds for the order sought.

4. The disputing party shall deliver a copy of the request to the disputing Party or disputing investors against which the order is sought.

5. The Secretary-General shall, within 60 days of receipt of the request, establish a Tribunal composed of three arbitrators appointed from the ICSID Panel of Arbitrators. To the extent arbitrators are not available from that Panel, appointments shall be at the discretion of the Secretary-General. The Secretary-General shall appoint one member who is a national of the disputing Party, one member who is a national of the Party of the disputing investors and a presiding arbitrator, who is not a national of either Party.

6. If a Tribunal is established pursuant to this Article, a disputing investor that has submitted a claim to arbitration pursuant to Article 8.23 and that has not been named in a request made pursuant to paragraph 3 may submit a written request to the Tribunal that it be included in an order made pursuant to paragraph 2, and shall specify in the request: (a) the name and address of the disputing investor; (b) the nature of the order sought; and (c) the grounds for the order sought.

7. A disputing investor referred to in paragraph 6 shall deliver a copy of its request to the disputing parties named in a

request made pursuant to paragraph 3.

8. A Tribunal established pursuant to Article 8.23 does not have jurisdiction to decide a claim, or a part of a claim, over which a Tribunal established pursuant to this Article has assumed jurisdiction.

9. On the application of a disputing party, a Tribunal established pursuant to this Article, pending its decision pursuant to paragraph 2, may order that the proceedings of a Tribunal established pursuant to Article 8.23 be stayed, unless the latter Tribunal has already adjourned its proceedings.

Article 8.29. Notice to the Non-disputing Party

A disputing Party shall deliver to the non-disputing Party a copy of the Notice of Intent and other documents, such as the Notice of Arbitration and the Statement of Claim, within 30 days of the date that those documents are delivered to the disputing Party.

Article 8.30. Documents

1. The non-disputing Party is entitled, at its cost, to receive from the disputing Party:

(a) a copy of the evidence that has been tendered to the Tribunal;

(b) copies of all pleadings filed in the arbitration; and

(c) copies of the written arguments of the disputing parties.

2. The non-disputing Party receiving information pursuant to paragraph 1 shall treat the information on the same basis as the Party providing the information treats them.

Article 8.31. Participation by the Non-disputing Party

1. On written notice to the disputing parties, the non-disputing Party may make oral or written submissions to a Tribunal on a question of interpretation of this Agreement. Upon the request of a disputing party, the non-disputing Party shall submit its oral submission in writing.

2. The non-disputing Party shall treat the information it receives at hearings on the same basis as the Party providing the information treats them.

Article 8.32. Place of Arbitration

1. Unless otherwise agreed by the disputing parties, a Tribunal shall hold an arbitration in the territory of a Party that is a party to the New York Convention, selected in accordance with:

(a) the ICSID Additional Facility Rules, if the arbitration is under those Rules or the ICSID Convention; or

(b) the UNCITRAL Arbitration Rules, if the arbitration is under those Rules.

2. Unless otherwise agreed by the disputing parties, the Tribunal may determine a place for meetings and hearings, other than the legal place of arbitration. In doing so, the Tribunal shall take into consideration, its convenience for the parties and the arbitrators, the location of the subject matter, and the proximity of the evidence.

Article 8.33. Language of Proceedings

1. Unless otherwise agreed by the disputing parties, the language of the arbitration proceedings, including hearings, decisions, and awards, shall be:

(a) French and English if Canada is a disputing Party; and

(b) Korean and English if Korea is a disputing Party.

2. Communications, submissions, witness statements and documentary evidence can be submitted in either one of the language of the arbitration without a translation.

Article 8.34. Preliminary Objections to Jurisdiction or Admissibility

If issues relating to jurisdiction or admissibility are raised as preliminary objections, the Tribunal shall, whenever possible, decide the matter before proceeding to the merits.

Article 8.35. Transparency of Arbitral Proceedings

1. Subject to paragraphs 2, 3, and 4, the disputing Party shall, after receiving the following documents, promptly transmit them to the non-disputing Party and make them available to the public:

(a) the Notice of Intent;

(b) the Notice of Arbitration;

(c) pleadings, memorials, and briefs submitted to the Tribunal by a disputing party and any written submissions submitted pursuant to Articles 8.28, 8.31, and 8.36;

(d) minutes or transcripts of hearings of the Tribunal, if available; and

(e) orders, awards, and decisions of the Tribunal.

2. The Tribunal shall conduct hearings open to the public and shall determine, in consultation with the disputing parties, the appropriate logistical arrangements. However, a disputing party that intends to use information designated as protected information in a hearing shall advise the Tribunal. The Tribunal shall make appropriate arrangements to protect the information from disclosure.

3. This Section does not require a disputing Party to disclose protected information or to furnish or allow access to information that it may withhold in accordance with Articles 22.2 (National Security) and 22.5 (Disclosure of Information).

4. Any protected information that is submitted to the Tribunal shall be protected from disclosure in accordance with the following procedures:

(a) subject to subparagraph (d), the disputing parties or the Tribunal shall not disclose to the non-disputing Party or to the public any protected information if the disputing party that provided the information clearly designates it in accordance with subparagraph (b);

(b) a disputing party claiming that certain information constitutes protected information shall clearly designate the information at the time it is submitted to the Tribunal;

(c) a disputing party shall, at the time it submits a document containing information claimed to be protected information, also submit a redacted version of the document that does not contain such protected information. Only the redacted version shall be provided to the non-disputing Party and made public in accordance with paragraph 1;

(d) the Tribunal shall decide an objection by a disputing party regarding the designation of information claimed to be protected information. If the Tribunal determines that such information was not properly designated, the disputing party that submitted the information may:

(i) withdraw all or part of its submission containing such information; or

(ii) agree to resubmit complete and redacted documents with corrected designations in accordance with the Tribunal's determination and subparagraph (c).

In either case, the other disputing party shall, if necessary, resubmit complete and redacted documents which either remove the information withdrawn under (i) by the disputing party that first submitted the information or redesignate the information consistent with the designation under (ii) of the disputing party that first submitted the information; and

(e) at the request of a disputing Party, the Commission shall consider issuing a decision in writing regarding a determination by the Tribunal that information claimed to be protected was not properly designated. If the Commission issues a decision within 60 days of such a request, it shall be binding on the Tribunal, and the decision or award issued by the Tribunal must be consistent with that decision. If the Commission does not issue a decision within 60 days, the Tribunal's determination shall remain in effect only if the non-disputing Party submits a written statement to the Commission within that period that it agrees with the Tribunal's determination.

5. This Section does not require a disputing Party to withhold from the public information required to be disclosed in accordance with its domestic law.

6. Each Party may share with officials of its respective national, sub-national, and local governments all relevant unredacted documents in the course of dispute settlement under this Agreement, but it shall ensure that those persons protect any confidential information in those documents.

Article 8.36. Submissions by a Non-disputing Party

1. Any person of a Party, or a person with a significant presence in the territory of a Party, that wishes to file a written submission with a Tribunal (hereinafter referred to as the "applicant") shall apply for leave from the Tribunal to file a non-disputing party submission, in accordance with Annex 8-D. The applicant shall attach the submission to the application.

2. The applicant shall serve the application for leave to file a non-disputing party submission and its written submission on all disputing parties and the Tribunal.

3. The Tribunal shall set an appropriate date for the disputing parties to comment on the application for leave to file a non-disputing party submission.

4. In determining whether to grant leave to file a non-disputing party submission, the Tribunal shall consider, among other things, the extent to which:

(a) the non-disputing party submission would assist the Tribunal in the determination of a factual or legal issue related to the arbitration by bringing a perspective, particular knowledge or insight that is different from that of the disputing parties;

(b) the non-disputing party submission would address a matter within the scope of the dispute; and

(c) the non-disputing party has a significant interest in the arbitration.

5. The Tribunal shall ensure that:

(a) the non-disputing party submission does not disrupt the proceedings;

(b) the non-disputing party submission does not unduly burden or unfairly prejudice a disputing party; and

(c) disputing parties are given an opportunity to present their observations on the non-disputing party submission.

6. After consulting the disputing parties, the Tribunal shall decide whether to grant leave to file a non-disputing party submission. If leave to file a non-disputing party submission is granted, the Tribunal shall set an appropriate date for the disputing parties to respond in writing to the non-disputing party submission. By that date, the non-disputing Party may, pursuant to Article 8.31, address any issues of interpretation of this Agreement presented in the non-disputing party submission.

7. The Tribunal that grants leave to file a non-disputing party submission is not required to address the submission at any point in the arbitration, and the non-disputing party that files the submission is not entitled to make further submissions in the arbitration.

8. The provisions pertaining to public access to hearings and documents pursuant to Article 8.35 govern access to hearings and documents by non-disputing parties that file applications pursuant to this Article.

Article 8.37. Governing Law

1. A Tribunal established under this Section shall decide the issues in dispute in accordance with this Agreement and applicable rules of international law.

2. The Commission's interpretation of a provision of this Agreement shall be binding on a Tribunal established under this Section and an award under this Section shall be consistent with that interpretation

Article 8.38. Interpretation of Annexes

1. If the disputing Party asserts as a defence that the measure alleged to be a breach is within the scope of a reservation or exception set out in Annex I, Annex II or Annex III, the Tribunal shall, at the request of that disputing Party, request the Commission to interpret the issue. Within 60 days of delivery of the request, the Commission shall submit in writing its interpretation to the Tribunal.

2. Further to Article 8.37.2, the interpretation by the Commission submitted under paragraph 1 is binding on the Tribunal. If the Commission fails to submit an interpretative decision within 60 days, the Tribunal shall decide the issue.

Article 8.39. Expert Reports

Without prejudice to the appointment of other kinds of experts, if authorised by the applicable arbitration rules, the Tribunal, at the request of a disputing party or, unless the disputing parties disapprove, on its own initiative, may appoint one or more experts to report to it in writing on a factual issue concerning environmental, health, safety or other scientific matters raised by a disputing party in a proceeding, subject to such terms and conditions as the disputing parties may agree.

Article 8.40. Interim Measures of Protection

The Tribunal may order an interim measure of protection to preserve the rights of a disputing party, or to ensure that the Tribunal's jurisdiction is made fully effective, including an order to preserve evidence in the possession or control of a disputing party or to protect the Tribunal's jurisdiction. The Tribunal shall not order attachment or enjoin the application of the measure alleged to constitute a breach referred to in Article 8.18 or 8.19. For the purposes of this Article, an order includes a recommendation.

Article 8.41. Final Award

1. If the Tribunal makes a final award against a disputing Party, the Tribunal may award, separately or in combination, only:

(a) monetary damages and any applicable interest; or

(b) restitution of property, in which case the award shall provide that the disputing Party may pay monetary damages and any applicable interest in lieu of restitution.

The Tribunal may also award costs in accordance with the applicable arbitration rules.

2. Subject to paragraph 1, if a claim is made pursuant to Article 8.19.1:

(a) an award of monetary damages and any applicable interest shall state that the monetary damages and interest are paid to the enterprise;

(b) an award of restitution of property shall provide that restitution be made to the enterprise; and

(c) the award shall provide that it is made without prejudice to a right that a person may have in the relief under applicable domestic law. 3.

The Tribunal shall not order a disputing Party to pay punitive damages.

Article 8.42. Finality and Enforcement of an Award

1. An award made by the Tribunal does not have binding force except between the disputing parties and in respect of that particular case.

2. Subject to paragraph 3 and the applicable review procedure for an interim award, a disputing party shall abide by and comply with an award without delay.

3. A disputing party shall not seek enforcement of a final award until:

(a) in the case of a final award made under the ICSID Convention:

(i) 120 days have elapsed from the date the award was rendered and no disputing party has requested revision or annulment of the award; or

(ii) revision or annulment proceedings have been completed; or

(b) in the case of a final award under the ICSID Additional Facility Rules or the UNCITRAL Arbitration Rules:

(i) 90 days have elapsed from the date the award was rendered and no disputing party has commenced a proceeding to revise, set aside, or annul the award; or

(ii) a court has dismissed or allowed an application to revise, set aside, or annul the award, and there is no further appeal.

4. Each Party shall provide for the enforcement of an award in its territory.

5. If the disputing Party fails to abide by or comply with a final award, the Party of the disputing investor may refer the matter to a dispute settlement panel under Chapter Twenty-One (Dispute Settlement). The Party of the disputing investor may seek the following in these proceedings:

(a) a determination that the failure to abide by or comply with the final award is inconsistent with the obligations of this Agreement; and

(b) a recommendation that the disputing Party abide by or comply with the final award.

6. A disputing investor may seek to enforce an arbitration award under the ICSID Convention, or the New York Convention regardless of whether proceedings are taken pursuant to paragraph 5.

7. A claim that is submitted to arbitration under this Section is considered to arise out of a commercial relationship or transaction for the purposes of Article I of the New York Convention.

Article 8.43. Procedural and other Matters

Time when a Claim is Submitted to Arbitration

1. A claim is submitted to arbitration under this Section when:

(a) the Request for Arbitration pursuant to paragraph1 of Article 36 of the ICSID Convention is received by the Secretary-General;

(b) the Notice of Arbitration pursuant to Article 2 of Schedule C of the ICSID Additional Facility Rules is received by the Secretary-General; or

(c) the Notice of Arbitration given under the UNCITRAL Arbitration Rules is received by the disputing Party.

Service of Documents

2. Notices and other documents shall be delivered to a Party at the place named for that Party below:

(a) for Canada: Office of the Deputy Attorney General of Canada Justice Building 284 Wellington Street Ottawa, Ontario K1A 0H8; and

(b) for Korea: International Legal Affairs Division Building #1, Government Complex-Gwacheon 47, Gwanmun-ro, Gwacheon-si, Gyeonggi-do Republic of Korea,

or their respective successors.

Receipts under Insurance or Guarantee Contracts

3. In an arbitration under this Section, a disputing Party shall not assert, as a defence, counterclaim, right of setoff, or otherwise, that the disputing investor has received or will receive, pursuant to an insurance or guarantee contract, indemnification or other compensation for all or part of its alleged damages.

Article 8.44. Exclusions

The dispute settlement provisions of this Section and of Chapter Twenty-One (Dispute Settlement) shall not apply to the matters referred to in Annex 8-F.

Article 8.45. Definitions

For the purposes of this Chapter:

confidential information means confidential business information and information that is privileged or otherwise protected from disclosure under a Party's domestic law;

covered investment means, with respect to a Party, an investment in its territory of an investor of the other Party existing on the date of entry into force of this Agreement, or established, acquired, or expanded thereafter;

disputing investor means an investor that makes a claim under Section B;

disputing Party means a Party against which a claim is made under Section B;

disputing party means the disputing investor or the disputing Party;

enterprise means an "enterprise" as defined in Article 1.8 (Definitions of General Application) and a branch of an enterprise;

enterprise of a Party means an enterprise constituted or organised under the domestic law of a Party, and a branch of that enterprise located in the territory of a Party and carrying out business activities there;

freely usable currency means "freely usable currency" as determined by the International Monetary Fund under its Articles of Agreement and amendments thereto;

ICSID means the International Centre for Settlement of Investment Disputes;

ICSID Convention means the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, done at Washington on 18 March 1965;

intellectual property rights means copyright and related rights, trademark rights, rights in geographical indications, rights in the industrial designs, patent rights, rights in layout designs of integrated circuits, and rights in relation to protection of undisclosed information;

investment means any asset that an investor owns or controls, directly or indirectly, that has the characteristics of an investment, including such characteristics as the commitment of capital or other resources, the expectation of gain or profit, the assumption of risk, and a certain duration. Forms that an investment may take include:

(a) an enterprise;

(b) shares, stock, and other forms of equity participation in an enterprise;

(c) bonds, debentures, other debt instruments, and loans (10) ;

(d) futures, options, and other derivatives;

(e) turnkey, construction, management, production, concession, revenue-sharing, and other similar contracts;

(f) intellectual property rights; and

(g) other tangible or intangible, movable or immovable property, and related property rights, such as leases, mortgages, liens, and pledges (11).

For the purposes of this Agreement, a claim to payment that arises solely from the commercial sale of goods and services is not an investment, unless it is a loan that has the characteristics of an investment. investment of an investor of a Party means an investment owned or controlled directly or indirectly by an investor of that Party;

investor of a Party (12) means a Party or a state enterprise thereof, or a national or enterprise of a Party that seeks to make, is making, or has made an investment in the territory of the other Party, provided however that:

(a) a natural person who is a dual citizen is deemed to be exclusively a national of the State of his or her dominant and effective citizenship; and

(b) a natural person who is a citizen of a Party and a permanent resident of the other Party is deemed to be exclusively a national of the Party of which that natural person is a citizen;

investor of a non-party means an investor other than an investor of a Party, that seeks to make, is making, or has made an investment;

New York Convention means the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York on 10 June 1958;

non-disputing Party means the Party that is not a party to an investment dispute under Section B;

Secretary-General means the Secretary-General of ICSID; transfers include international payments;

Tribunal means an arbitration tribunal established pursuant to Article 8.23 or Article 8.28;

UNCITRAL Arbitration Rules means the arbitration rules of the United Nations Commission on International Trade Law, approved by the United Nations General Assembly on 15 December 1976.

(10) Some forms of debt, such as bonds, debentures, and long-term notes, are more likely to have the characteristics of an investment, while other forms of debt are less likely to have such characteristics.

(11) For greater certainty, market share, market access, expected gains, and opportunities for profit-making are not, by themselves, investments.

(12) For greater certainty, it is understood that an investor of a Party "seeks" to make an investment in the territory of the other Party only if the investor has taken concrete steps necessary to make said investment, such as when the investor has made an application for a permit or license authorising the establishment of an investment.

Annex 8-A. Customary International Law

The Parties confirm their shared understanding that “customary international law” generally and as specifically referenced in Article 8.5 results from a general and consistent practice of States that they follow from a sense of legal obligation. With regard to Article 8.5, the customary international law minimum standard of treatment of aliens refers to all customary international law principles that protect the investments of aliens.

Annex 8_B. Expropriation

The Parties confirm their shared understanding that:

(a) indirect expropriation results from an action or a series of actions by a Party that have an effect equivalent to direct expropriation without formal transfer of title or outright seizure;

(b) an action or series of actions by a Party cannot constitute an expropriation unless it interferes with a tangible or intangible property right in an investment and eliminates all or nearly all of its value;

(c) the determination of whether an action or a series of actions by a Party, in a specific fact situation, constitute an indirect expropriation requires a case-by-case, fact-based inquiry that considers all relevant factors relating to the investment, including:

(i) the economic impact of the government action, although the sole fact that an action or a series of actions by a Party, in a specific fact situation, has an adverse effect on the economic value of an investment does not establish that an indirect expropriation has occurred;

(ii) the extent to which the government action interferes with distinct, reasonable investment-backed expectations (13); and

(iii) the character of the government action, including its objectives and context. Relevant considerations could include whether the government action imposes a special sacrifice on the particular investor or investment that exceeds what the investor or investment should be expected to endure for the public interest; and

(d) except in rare circumstances, such as, for example, when an action or a series of actions are so severe in the light of their purpose that they cannot be reasonably viewed as having been adopted and applied in good faith, non-discriminatory regulatory actions of a Party that are designed and applied to protect legitimate public welfare objectives, such as, public health, safety, environment, and real estate price stabilisation through, for example, measures to improve the housing conditions for low-income households, do not constitute indirect expropriations

(13) For greater certainty, whether an investor’s investment-backed expectations are reasonable depends in part, on the nature and extent of governmental regulation in the relevant sector. For example, an investor’s expectations that regulations will not change are less likely to be reasonable in a heavily regulated sector than in a less heavily regulated sector.

(14) For greater certainty, the list of “legitimate public welfare objectives” in subparagraph (d) is not exhaustive.

Annex 8-C. Submission of a Claim to Arbitration

1. An investor of Canada shall not submit to arbitration under Section B a claim that Korea has breached an obligation under Section A:

(a) on the investor's own behalf pursuant to Article 8.18; or

(b) on behalf of an enterprise of Korea that is a juridical person that the investor owns or controls directly or indirectly pursuant to Article 8.19,

if the investor or the enterprise, respectively, has alleged that breach of an obligation under Section A in proceedings before a court or administrative tribunal of Korea.

2. If an investor of Canada or an enterprise of Korea that is a juridical person that an investor of Canada owns or controls directly or indirectly makes an allegation that Korea has breached an obligation under Section A before a judicial or administrative tribunal of Korea, that election is final and that investor shall not thereafter allege the same breach in an arbitration under Section B.

3. Paragraphs 1 and 2 do not preclude an investor of Canada from initiating an action that seeks interim injunctive relief and does not involve the payment of monetary damages before a judicial or administrative tribunal of Korea, provided that the action is brought for the sole purpose of preserving the disputing investor's or the enterprise's rights and interests during the pendency of the arbitration.

4. An investor of Korea may initiate or continue proceedings for injunctive, declaratory or other extraordinary relief, not involving the payment of damages, before a judicial or administrative tribunal under the domestic law of Canada.

Annex 8-D. Submissions by Non-Disputing Parties

1. An application for leave to file a non-disputing party submission must:

(a) be made in writing, and be dated and signed by the person filing the application, and include the address and other contact details of the applicant;

(b) not exceed five typed pages;

(c) describe the applicant, including, if relevant, its membership and legal status (for example, company, trade association or other non-governmental organisation), its general objectives, the nature of its activities, and any parent organisation (including any organisation that directly or indirectly controls the applicant);

(d) disclose whether the applicant has an affiliation, direct or indirect, with a disputing party;

(e) identify any government, person or organisation that has provided any financial or other assistance to prepare the submission;

(f) specify the nature of the interest that the applicant has in the arbitration;

(g) identify the specific issues of fact or law in the arbitration that the applicant has addressed in its written submission;

(h) explain, by referring to the factors specified in Article 8.36.4, why the Tribunal should accept the submission; and

(i) be made in a language of the arbitration.

2. The submission filed by a non-disputing party must:

(a) be dated and signed by the person filing the submission;

(b) be concise, and not exceed 20 typed pages, including any appendices;

(c) set out a precise statement supporting the applicant's position on the issues; and

(d) only address matters within the scope of the dispute.

Annex 8-E. Possibility of a Bilateral Appellate Mechanism

Within three years after the date this Agreement enters into force, the Parties shall consider whether to establish a bilateral appellate body or similar mechanism to review awards rendered pursuant to Article 8.42 in arbitrations commenced after they establish the appellate body or similar mechanism.

Annex 8-F. Exclusions from Dispute Settlement

A decision by Canada following a review under the Investment Canada Act, with respect to whether or not to permit an investment that is subject to review, is not subject to the dispute settlement provisions of Section B of this Chapter or of Chapter Twenty-One (Dispute Settlement).

Chapter Nine. Cross-border Trade In Services

Article 9.1. Scope and Coverage

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

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

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

(c) the access to and use of distribution, transport, or telecommunications networks and services in connection with 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 means measures adopted or maintained by:

(a) a national , sub-national, or local government and authority; or

(b) a non-governmental body of a Party in the exercise of powers delegated by a national, sub-national, or local government and authority of the Party.

3. Notwithstanding paragraph 1, Articles 9.4 and 9.7 apply to measures adopted or maintained by a Party affecting the supply of a service in its territory by a covered investment 1 as defined in Article 8.45 (Definitions).

4. This Chapter does not apply to:

(a) financial services as defined in Article 10.20 (Definitions);

(b) air services, including domestic and international air transportation services, whether scheduled or non-scheduled, and related services in support of air services, other than:

(i) aircraft repair and maintenance services;

(ii) the selling and marketing of air transport services; or

(iii) computer reservation system (CRS) services;

(c) procurement by a Party or a state enterprise; or

(d) subsidies or grants provided by a Party or a state enterprise, including government-supported loans, guarantees, or insurance.

5. This Chapter is not to be construed to impose an obligation on a Party with respect to a national of the other Party seeking access to its employment market, or a national of the other Party employed on a permanent basis in its territory, and does not confer that national a right with respect to that access or employment.

6. This Chapter does not apply to services supplied in the exercise of governmental authority in a Party's territory.

(1) For greater certainty, the application of Articles 9.4 and 9.7 to measures adopted or maintained by a Party affecting the supply of a service in its territory by a covered investment is limited by the scope and coverage specified in this Article, subject to any applicable non-conforming measures and exceptions. For greater certainty, this Chapter, including this paragraph, is not subject to investor-State dispute settlement under Section B of Chapter Eight (Investor – State Dispute Settlement).

Article 9.2. National Treatment

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

2. The treatment accorded by a Party under paragraph 1 means, with respect to a sub-national government, treatment no less favourable than the most favourable treatment accorded, in like circumstances, by that sub-national government to service suppliers of the Party of which it forms a part.

Article 9.3. Most-favoured-nation Treatment

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

Article 9.4. Market Access

A Party shall not adopt or maintain, either on the basis of its entire territory or on the basis of a sub-national government, a measure that:

(a) imposes limitations on:

(i) the number of service suppliers, whether in the form of numerical quotas, monopolies, exclusive service suppliers, or the requirement of an economic needs test;

(ii) the total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;

(iii) the total number of service operations or the total quantity of service output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test (2) ; or

(iv) the total number of natural persons that may be employed in a particular service sector or that a service supplier may employ and who are necessary for, and directly related to, the provision of a specific service in the form of numerical quotas or the requirement of an economic needs test; or

(b) restricts or requires specific types of legal entity or joint venture through which a service supplier may supply a service.

(2) This sub-subparagraph does not apply to measures of a Party that limit inputs for the supply of services.

Article 9.5. Local Presence

A Party shall not require a service supplier of the other Party to establish or maintain a representative office or any form of enterprise, or to be resident, in its territory as a condition for the cross-border supply of a service.

Article 9.6. Non-conforming Measures

1. Articles 9.2 through 9.5 do not apply to:

(a) an existing non-conforming measure that is maintained by:

(i) the national government of a Party, as set out in its Schedule to Annex I;

(ii) a sub-national government of a Party as set out by that Party in its Schedule to Annex I (3) ; or

(iii) a local government of a Party (4) ;

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

(c) an amendment to a non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Articles 9.2 through 9.5.

2. Articles 9.2 through 9.5 do not apply to a measure that a Party adopts or maintains with respect to sectors, sub-sectors, or

activities, as set out in its Schedule to Annex II. 3. Annex 9-A sets out specific commitments with regard to consultation regarding a non-conforming measure adopted or maintained by a sub-national government.

(3) For the purposes of this Article, sub-national government does not include local government.

(4) For Korea, local government means a local government as defined in the Local Autonomy Act.

Article 9.7. Domestic Regulation

1. If a Party requires authorisation for the supply of a service covered by this Chapter, the Party, through its competent authorities, shall, within a reasonable period of time after the submission of an application considered complete under its laws and regulations, inform the applicant of the decision concerning the application. At the request of the applicant, the Party, through its competent authorities, shall provide, without undue delay, information concerning the status of the application.

2. The Parties note their mutual obligations related to domestic regulation in Article VI:4 of the GATS and affirm their commitment respecting the development of any necessary disciplines pursuant to Article VI:4 of the GATS. To the extent that any such disciplines are adopted by the WTO Members, the Parties shall, as appropriate, review them jointly with a view to determining whether this Article needs to be supplemented.

Article 9.8. Recognition

1. For the purposes of fulfilment, in whole or in part, of its standards or criteria for the authorisation, licensing, or certification of service suppliers, and subject to the requirements of paragraph 5, a Party may recognise the education or experience obtained, requirements met, or licenses or certifications granted in a particular country. Such recognition, which may be achieved through harmonisation or otherwise, may be based on an agreement or arrangement with the country concerned or may be accorded autonomously.

2. If a Party recognises, autonomously or by agreement or arrangement, the education or experience obtained, requirements met, or licenses or certifications granted in the territory of a non-party, Article 9.3 is not to be construed to require the Party to accord such recognition to the education or experience obtained, requirements met, or licenses or certifications granted in the territory of the other Party.

3. On request of the other Party, a Party shall promptly provide information, including appropriate descriptions, concerning a recognition agreement or arrangement that the Party or relevant bodies in its territory have concluded.

4. A Party that is a party to an agreement or arrangement of the type referred to in paragraph 1, whether existing or future, shall afford adequate opportunity for the other Party, if the other Party is interested, to negotiate accession to such an agreement or arrangement or to negotiate a comparable one with that other Party. If a Party accords recognition autonomously, it shall afford adequate opportunity for the other Party to demonstrate that education, experience, licenses, or certifications obtained or requirements met in that other Party's territory should be recognised.

5. A Party shall not accord recognition in a manner which would constitute a means of discrimination between countries in the application of its standards or criteria for the authorisation, licensing, or certification of service suppliers, or a disguised restriction on trade in services.

6. The Parties shall endeavour to ensure that the relevant bodies in their respective territories:

(a) exchange information and enter into negotiations with the relevant bodies of the other Party to develop an agreement or arrangement referred to in paragraph 1;

(b) meet within 12 months of the date of entry into force of this Agreement, to develop an agreement or arrangement referred to in paragraph 1, for sectors set out in Annex 9-B;

(c) be guided by Annex 9-C for the negotiations of such agreement or arrangement; and

(d) provide notification following the conclusion of an agreement or arrangement to the Commission.

7. On receipt of a notification referred to in paragraph 6(d), the Commission shall review the agreement or arrangement within a reasonable period of time to determine whether it is consistent with this Agreement. Based on the Commission's

review, each Party shall ensure that its respective competent authorities, if appropriate, implement the agreement or arrangement within a mutually agreed period of time.

Article 9.9. Temporary Licensing

1. If the Parties agree, each Party shall encourage the relevant bodies in its territory to develop procedures for the temporary licensing of professional service suppliers of the other Party.

2. Notwithstanding Article 9.8, each Party shall endeavour to ensure that the relevant bodies in their respective territories:

(a) exchange information and enter into negotiations with the relevant bodies of the other Party to develop procedures for the temporary licensing of professional service suppliers of the other Party;

(b) meet within 12 months of the date of entry into force of this Agreement, to develop procedures referred to in subparagraph (a) for the sectors set out in Annex 9-B;

(c) be guided by Annex 9-C for the negotiations concerning procedures referred to in subparagraph (a); and

(d) provide notification to the Commission regarding the implementation of any such procedures by the relevant bodies in the Parties' respective territories.

3. On receipt of a notification referred to in paragraph 2(d), the Commission shall review the procedures within a reasonable period of time to determine whether they are consistent with this Agreement. Based on the Commission's review, each Party shall ensure that its respective competent authorities, if appropriate, implement the procedures within a mutually agreed period of time.

4. If a relevant body in the territory of a Party implements procedures for the temporary licensing of professional service suppliers of a non-party, the Party shall notify the existence of such procedures promptly to the other Party and shall, within a reasonable period of time, provide information on the terms and conditions that were agreed upon for the implementation of the procedures.

Article 9.10. Denial of Benefits

1. A Party may deny the benefits of this Chapter to a service supplier of the other Party if the service supplier is an enterprise owned or controlled by persons of a non-party, and the denying Party adopts or maintains measures with respect to the non-party or a person of the non-party that prohibit transactions with the enterprise or that would be violated or circumvented if the benefits of this Chapter were accorded to the enterprise.

2. A Party may deny the benefits of this Chapter to a service supplier of the other Party if the service supplier is an enterprise owned or controlled by persons of a non-party or of the denying Party that has no substantial business activities in the territory of the other Party.

Article 9.11. Payments and Transfers

1. Each Party shall permit all payments and transfers relating to the cross-border supply of services to be made freely and without delay into and out of its territory.

2. Each Party shall permit such payments and transfers relating to the cross-border supply of services to be made in a freely usable currency at the market rate of exchange prevailing at the time of payment or transfer.

3. Notwithstanding paragraphs 1 and 2, a Party may prevent or delay a payment or transfer through the equitable, non-discriminatory, and good faith application of its law relating to:

(a) bankruptcy, insolvency, or the protection of the rights of creditors;

(b) issuing, trading, or dealing in securities, futures, options, or derivatives;

(c) financial reporting or record keeping of transfers when necessary to assist law enforcement or financial regulatory authorities;

(d) criminal or penal offences; or

(e) ensuring compliance with orders or judgments in judicial or administrative proceedings.

Article 9.12. Definitions

For the purposes of this Chapter:

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

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

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

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

(b) in the territory of a Party 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 by a covered investment, as defined in Article 8.45 (Definitions);

enterprise means an "enterprise" as defined in Article 1.8 (Definitions of General Application) and a branch of an enterprise;

enterprise of a Party means an enterprise constituted or organised under the domestic law of a Party, and a branch of that enterprise located in the territory of a Party and carrying out business activities there;

professional services means services, the supply of which requires specialised post-secondary education, or equivalent training or experience or examination, and for which the right to practice is granted or restricted by a Party, but does not include services supplied by tradespersons or crew members of a vessel or aircraft;

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

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

service supplier of a Party means a person of that Party that seeks to supply or supplies a service (5).

(5) For the purposes of Articles 9.2 and 9.3, the treatment that a Party is required to accord to a service supplier of the other Party pursuant to these Articles extends to the relevant services supplied by that service supplier. For the purposes of Articles 9.2 and 9.3, "service suppliers" has the same meaning as "services and service suppliers" as used in Articles XVII and II of the GATS, respectively.

Chapter Ten. Financial Services

Article 101. Scope and Coverage

1. This Chapter applies to measures adopted or maintained by a Party relating to:

(a) financial institutions of the other Party;

(b) investors of the other Party, or investments of those investors, in financial institutions in the Party's territory; and

(c) cross-border trade in financial services.

2. Chapters Eight (Investment) and Nine (Cross-Border Trade in Services) apply to measures described in paragraph 1 only to the extent that those Chapters or Articles of those Chapters are incorporated into this Chapter.

(a) Articles 8.10 (Investment and Environment), 8.11 (Expropriation and Compensation), 8.12 (Transfers), 8.14 (Denial of Benefits), 8.15 (Special Formalities and Information Requirements) and 9.10 (Denial of Benefits) are incorporated into and made a part of this Chapter.

(b) Section B of Chapter Eight (Investor-State Dispute Settlement) is incorporated into and made a part of this Chapter solely for claims that a Party has breached Articles 8.11 (Expropriation and Compensation), 8.12 (Transfers), and 8.14 (Denial of

Benefits) as incorporated into this Chapter.

(c) Article 9.11 (Payments and Transfers) is incorporated into and made a part of this Chapter to the extent that cross-border trade in financial services is subject to obligations pursuant to Article 10.5.

3. This Chapter is not to be construed to prevent a Party, including its public entities, from exclusively conducting or providing in its territory:

(a) activities or services forming part of a public retirement plan or statutory system of social security; or

(b) activities or services for the account, with the guarantee or using the financial resources of the Party, including its public entities.

4. This Chapter does not apply to domestic laws, regulations, or requirements governing the procurement by government entities of financial services purchased for governmental purposes and not with a view to commercial resale or use in the supply of services for commercial sale.

Article 10.2. National Treatment

1. Each Party shall accord to investors of the other Party treatment no less favourable than that it accords to its own investors in like circumstances, with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of financial institutions and investments in financial institutions in its territory.

2. Each Party shall accord to financial institutions of the other Party and to investments of investors of the other Party in financial institutions treatment no less favourable than that it accords to its own financial institutions and to investments of its own investors in financial institutions, in like circumstances, with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of financial institutions and investments.

3. For the purposes of the national treatment obligations in Article 10.5.1, a Party shall accord to cross-border financial service suppliers of the other Party treatment no less favourable than that it accords to its own financial service suppliers, in like circumstances, with respect to the supply of the relevant service.

4. The treatment that a Party is required to accord under paragraphs 1, 2 and 3 means, with respect to measures adopted or maintained by a sub-national government, treatment no less favourable than the most favourable treatment accorded, in like circumstances, by that sub-national government to investors in financial institutions, financial institutions, investments of investors in financial institutions, and financial service suppliers of the Party of which it forms a part.

Article 10.3. Most-favoured-nation Treatment

Each Party shall accord to investors of the other Party, financial institutions of the other Party, investments of investors of the other Party in financial institutions, and cross-border financial service suppliers of the other Party treatment no less favourable than that it accords to investors, financial institutions, investments of investors in financial institutions, and cross-border financial service suppliers of a non-party, in like circumstances.

Article 10.4. Market Access for Financial Institutions

A Party shall not adopt or maintain, with respect to financial institutions of the other Party, or investors of the other Party seeking to establish such institutions, either on the basis of its entire territory or on the basis of a sub-national government, a measure that: (a) imposes limitations on:

(i) the number of financial institutions in the form of numerical quotas, monopolies, exclusive service suppliers, or the requirement of an economic needs test;

(ii) the total value of financial service transactions or assets in the form of numerical quotas, or the requirement of an economic needs test;

(iii) the total number of financial service operations or the total quantity of financial services output expressed in terms of designated numerical units in the form of quotas, or the requirement of an economic needs test (1) ; or

(iv) the total number of natural persons that may be employed in a particular financial service sector or that a financial institution may employ and who are necessary for, and directly related to, the supply of a specific financial service in the form of numerical quotas, or the requirement of an economic needs test; or

(b) restricts or requires specific types of legal entity or joint venture through which a financial institution may supply a service.

(1) This sub-subparagraph does not apply to measures of a Party which limit inputs for the supply of financial services.

Article 10.5. Cross-border Trade (2)

1. Each Party shall permit, under terms and conditions that accord national treatment, cross-border financial service suppliers of the other Party to supply the services specified in Annex 10-A.

2. Each Party shall permit persons located in its territory, and its nationals, wherever they are located, to purchase financial services from cross-border financial service suppliers of the other Party located in the territory of the other Party. This obligation does not require a Party to permit such suppliers to do business or solicit in its territory. Subject to paragraph 1, each Party may define "doing business" and "solicitation" for the purposes of this obligation.

3. Without prejudice to other means of prudential regulation of cross-border trade in financial services, a Party may require the registration of cross-border financial service suppliers of the other Party and of financial instruments.

(2) A Party may require a cross-border financial service supplier of the other Party to provide information, solely for informational or statistical purposes, on the financial services it has supplied within the territory of the Party. The Party shall protect confidential business information from disclosure that would prejudice the competitive position of the supplier.

Article 10.6. New Financial Services (3)

A Party shall permit a financial institution of the other Party to supply a new financial service that the Party would permit its own financial institutions, in like circumstances, to supply without additional legislative action by the Party. Notwithstanding Article 10.4(b), a Party may determine the institutional and juridical form through which the new financial service may be supplied and may require authorisation for the supply of the service. If a Party requires a financial institution to obtain authorisation to supply a new financial service, the Party shall decide within a reasonable time whether to issue the authorisation and the authorisation may only be refused for prudential reasons.

(3) The Parties understand that this Article does not prevent a financial institution of a Party from applying to the other Party to consider authorising the supply of a financial service that is supplied in neither Party's territory. Such application is subject to the domestic law of the Party to which the application is made and, for greater certainty, is not subject to the obligations of this Article.

Article 10.7. Treatment of Certain Information

This Chapter does not require a Party to furnish or allow access to:

(a) information related to the financial affairs and accounts of individual customers of financial institutions or cross-border financial service suppliers; or

(b) confidential information the disclosure of which would impede law enforcement or otherwise be contrary to the public interest or prejudice legitimate commercial interests of particular enterprises.

Article 10.8. Senior Management and Boards of Directors (4)

1. A Party shall not require financial institutions of the other Party to engage natural persons of a particular nationality as senior managerial or other essential personnel.

2. A Party shall not require that more than a simple majority of the board of directors of a financial institution of the other Party be composed of nationals of the Party, or natural persons residing in the territory of the Party.

(4) For greater certainty, this Article does not limit a Party's ability to require the chief executive officer of a financial institution established under its law to reside within its territory.

Article 10.9. Non-conforming Measures

1. Articles 10.2 through 10.5 and Article 10.8 do not apply to:

(a) an existing non-conforming measure that is maintained by:

(i) the national government of a Party, as set out in Section A of its Schedule to Annex III;

(ii) a sub-national government of a Party as set out by that Party in Section A of its Schedule to Annex III (5) ; or

(iii) a local government of a Party (6) ;

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

(c) an amendment to a non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Articles 10.2, 10.3, 10.4, and10.8. (7)

2. Articles 10.2 through 10.5 and Article 10.8 do not apply to a measure that a Party adopts or maintains with respect to sectors, sub-sectors, or activities, as set out by that Party in Section B of its Schedule to Annex III.

3. A non-conforming measure set out in a Party's Schedule to Annex I or II as not subject to Article 8.3 (National Treatment), 8.4 (Most-Favoured-Nation Treatment), 9.2 (National Treatment), or 9.3 (Most-Favoured-Nation Treatment) shall be treated as a non-conforming measure not subject to Article 10.2 or 10.3, as the case may be, to the extent that the measure, sector, sub-sector, or activity set out in the non-conforming measure is covered by this Chapter.

(5) For the purposes of this Article, sub-national government does not include local government.

(6) For Korea, local government means a local government as defined in the Local Autonomy Act.

(7) For greater certainty, Article 10.5 applies to an amendment to any non-conforming measure referred to in subparagraph (a) only to the extent that the amendment decreases the conformity of the measure, as it existed on the date of entry into force of the Agreement, with Article 10.5.

Article 10.10. Exceptions

1. This Chapter, or Chapter Eight (Investment), Chapter Nine (Cross-Border Trade in Services), Chapter Eleven (Telecommunications), Chapter Twelve (Temporary Entry for Business Persons), Chapter Thirteen (Electronic Commerce), Chapter Fourteen (Government Procurement), or Chapter Fifteen (Competition Policy, Monopolies and State Enterprises), are not to be construed to prevent a Party from adopting or maintaining measures for prudential reasons (8) , including for the protection of investors, depositors, policy holders, or persons to whom a fiduciary duty is owed by a financial institution or cross-border financial service supplier, or to ensure the integrity and stability of the financial system. If such measures do not conform to the provisions of this Agreement referred to in this paragraph, they shall not be used as a means of avoiding the Party's commitments or obligations under such provisions.

2. This Chapter, or Chapter Eight (Investment), Chapter Nine (Cross-Border Trade in Services), Chapter Eleven (Telecommunications), Chapter Thirteen (Electronic Commerce), or Chapter Fifteen (Competition Policy, Monopolies and State Enterprises), do not apply to non-discriminatory measures of general application taken by a public entity in pursuit of monetary and related credit policies or exchange rate policies. This paragraph shall not affect a Party's obligations under Article 8.8 (Performance Requirements), with respect to measures covered by Chapter Eight (Investment) or under Articles 8.12 (Transfers) and 9.11 (Payments and Transfers).

3. Notwithstanding Articles 8.12 (Transfers) and 9.11 (Payments and Transfers), as incorporated into this Chapter, a Party may prevent or limit transfers by a financial institution or cross-border financial service supplier to, or for the benefit of, an affiliate of or person related to that institution or supplier, through the equitable, non-discriminatory, and good faith application of measures relating to maintenance of the safety, soundness, integrity, or financial responsibility of financial institutions or cross-border financial service suppliers. This paragraph does not prejudice any other provision of this Agreement that permits a Party to restrict transfers.

4. For greater certainty, this Chapter is not to be construed to prevent the adoption or enforcement by a Party of measures necessary to secure compliance with its domestic laws or regulations that are not inconsistent with this Chapter, including those relating to the prevention of deceptive and fraudulent practices or to deal with the effects of a default on financial services contracts, subject to the requirement that those measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on investment in financial institutions or cross-border trade in financial services.

5. The Parties recognise the importance of accommodating new financial services in their markets consistent with prudential requirements. The Parties confirm that Article 10.6 does not apply to cross-border trade in financial services or any new financial service that the Party would not permit its own financial institutions, in like circumstances, to supply. The Parties further confirm that a Party may apply prudential regulations to new financial services.

(8) The Parties understand that the term "prudential reasons" includes the maintenance of the safety, soundness, integrity, or financial responsibility of individual financial institutions or cross-border financial service suppliers.

Article 10.11. Transparency

1. The Parties recognise that transparent regulations and policies governing the activities of financial institutions and cross-border financial service suppliers are important in facilitating access of foreign financial institutions and foreign cross-border financial service suppliers to, and their operations in, each other's market. Each Party commits to promote regulatory transparency in financial services.

2. Each Party shall ensure that all measures of general application to which this Chapter applies are administered in a reasonable, objective, and impartial manner.

3. In lieu of Article 19.1 (Publication), each Party shall, to the extent practicable:

(a) publish in advance regulations of general application relating to the subject matter of this Chapter that it proposes to adopt;

(b) provide interested persons and the other Party with a reasonable opportunity to comment on those proposed regulations; and

(c) allow reasonable time between the publication of final regulations and their effective date.

4. Each Party should, at the time it adopts final regulations and to the extent practicable, address in writing substantive comments received from interested persons with respect to the proposed regulations.

5. Each Party shall ensure that the rules of general application adopted or maintained by self-regulatory organisations of the Party are promptly published or otherwise made available in a manner as to enable interested persons to become acquainted with them.

6. Each Party shall maintain or establish appropriate mechanisms that will, as soon as practicable, respond to inquiries from interested persons regarding measures of general application relating to the subject matter covered by this Chapter.

7. Each Party's regulatory authorities shall make available to interested persons the requirements, including any documentation required, for completing applications relating to the supply of financial services.

8. At the request of an applicant, a Party's regulatory authority shall inform the applicant of the status of its application. If the authority requires additional information from the applicant, it shall notify the applicant without undue delay.

9. A Party's regulatory authority shall make an administrative decision on a completed application of an investor in a financial institution, a financial institution, or a cross-border financial service supplier of the other Party relating to the supply of a financial service within 120 days, and shall promptly notify the applicant of the decision. An application shall not be considered complete until all relevant hearings are held and all necessary information is received. If it is not practicable for a decision to be made within 120 days, the regulatory authority shall notify the applicant without undue delay and shall endeavour to make the decision within a reasonable time.

10. At the request of an unsuccessful applicant, a regulatory authority that has denied an application shall, to the extent practicable, inform the applicant of the reasons for denial of the application.

Article 10.12. Self-regulatory Organisations

If a Party requires a financial institution or a cross-border financial service supplier of the other Party to be a member of, participate in, or have access to, a self-regulatory organisation to provide a financial service in or into its territory, the Party shall ensure that the self-regulatory organisation observes the obligations of Articles 10.2 and 10.3.

Article 10.13. Payment and Clearing Systems

Under terms and conditions that accord national treatment, each Party shall grant financial institutions of the other Party access to payment and clearing systems operated by public entities, or to payment and clearing systems operated by any entity exercising any governmental authority delegated to it by a Party, and to official funding and refinancing facilities available in the normal course of ordinary business. This Article is not to be construed to confer access to the Party's lender of last resort facilities.

Article 10.14. Recognition

1. A Party may recognise prudential measures of a non-party in the application of measures covered by this Chapter. This recognition may be:

(a) accorded unilaterally;

(b) achieved through harmonisation or other means; or

(c) based upon an agreement or arrangement with the non-party.

2. A Party according recognition of prudential measures pursuant to paragraph 1 shall provide adequate opportunity to the other Party to demonstrate that circumstances exist in which there are or would be equivalent regulation, oversight, implementation of regulation, and, if appropriate, procedures concerning the sharing of information between the Parties.

3. If a Party accords recognition of prudential measures pursuant to paragraph 1(c) and the circumstances set out in paragraph 2 exist, the Party shall provide adequate opportunity to the other Party to negotiate accession to the agreement or arrangement, or to negotiate a comparable agreement or arrangement.

Article 10.15. Specific Commitments

Annex 10-B sets out certain specific commitments by each Party.

Article 1016. Financial Services Committee

1. The Parties hereby establish a Financial Services Committee. The principal representative of each Party shall be an official of the Party's authority responsible for financial services set out in Annex 10-C.

2. The Committee shall:

(a) supervise the implementation of this Chapter and its further elaboration;

(b) consider issues regarding financial services that are referred to it by a Party; and

(c) participate in dispute settlement procedures pursuant to Article 10.19.

3. The Committee shall meet annually, or as it otherwise decides, to assess the functioning of this Agreement as it applies to financial services. The Committee shall inform the Commission of the results of each meeting.

Article 10.17. Consultations

1. A Party may request consultations with the other Party regarding a matter arising under this Agreement that affects financial services. The other Party shall give sympathetic consideration to the request and any request to include regulatory authorities of the other Party in these consultations. The Parties shall report the results of their consultations to the Committee.

2. Consultations pursuant to this Article shall include officials of the authorities specified in Annex 10-C.

3. For greater certainty, this Article is not to be construed to require a Party to derogate from its relevant domestic law regarding sharing of information among financial regulators or the requirements of an agreement or arrangement between

financial authorities of the Parties, or require regulatory authorities to take an action that would interfere with specific regulatory, supervisory, administrative, or enforcement matters.

Article 10.18. Dispute Settlement

1. Chapter Twenty-One (Dispute Settlement), as modified by this Article, applies to the settlement of disputes arising under this Chapter.

2. If a Party claims that a dispute arises under this Chapter, Article 21.7 (Panel Composition) shall apply, except that:

(a) if the Parties so agree, the panel must be composed entirely of panelists meeting the qualifications in paragraph 3; and

(b) in any other case:

(i) each Party may select panellists meeting the qualifications set out in paragraph 3 or in Article 21.7 (Panel Composition), except that each panellist may be a national of either Party; and

(ii) the chair of the panel must meet the qualifications set out in paragraph 3, unless the Parties agree otherwise.

3. Financial services panellists must:

(a) have expertise or experience in financial services law or practice, which may include the regulation of financial institutions; and

(b) meet the qualifications set out in Article 21.7 (Panel Composition) except that, other than the chair of the panel, each panellist may be a national of either Party.

4. Notwithstanding Article 21.11 (Non-Implementation – Suspension of Benefits), if a panel finds a measure to be inconsistent with this Agreement and the measure affects:

(a) only the financial services sector, the complaining Party may suspend benefits only in the financial services sector;

(b) the financial services sector and any other sector, the complaining Party may suspend benefits in the financial services sector that have an effect equivalent to the effect of the measure in the Party's financial services sector; or

(c) only a sector other than the financial services sector, the complaining Party shall not suspend benefits in the financial services sector.

Article 10.19. Investor-state Dispute Settlement In Financial Services

1. If an investor of a Party submits a claim under Article 8.18 (Claim by an Investor of a Party on Its Own Behalf) or 8.19 (Claim by an Investor of a Party on Behalf of an Enterprise) to arbitration under Section B of Chapter Eight (Investor-State Dispute Settlement) and the disputing Party invokes an exception pursuant to Article 10.10, the Tribunal shall, at the request of the disputing Party, refer the matter in writing to the Committee for a decision. The Tribunal shall not proceed until it receives the decision or report under this Article.

2. In a referral pursuant to paragraph 1, the Committee shall decide whether and to what extent Article 10.10 is a valid defence to the claim of the investor. The Committee shall transmit a copy of its decision to the Tribunal and to the Commission. The decision shall be binding on the Tribunal.

3. If the Committee has not decided the issue within 60 days of the receipt of the referral pursuant to paragraph 1, either Party may request the establishment of a panel pursuant to Article 21.6 (Establishment of a Panel). The panel shall be constituted in accordance with Article 10.18 and shall transmit its final report to the Committee and to the Tribunal. The report shall be binding on the Tribunal.

4. If a Party does not request the establishment of a panel pursuant to paragraph 3 within 10 days after the expiration of the 60-day period, the Tribunal may proceed to decide the matter.

Article 10.20. Definitions

For the purposes of this Chapter:

cross-border financial service supplier of a Party means a person of a Party that is engaged in the business of supplying a financial service within the territory of the Party and that seeks to supply or supplies a financial service through the cross-

border supply of those services;

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

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

(b) in the territory of a Party 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 financial service in the territory of a Party by an investment in that territory;

financial institution means a financial intermediary or other enterprise that is authorised to do business and regulated or supervised as a financial institution under the domestic law of the Party in whose territory it is located;

financial institution of the other Party means a financial institution, including a branch, located in the territory of a Party that is controlled by a person of the other Party;

financial service means a service of a financial nature. Financial services include all insurance and insurance-related services, and all banking and other financial services, excluding insurance, as well as services incidental or auxiliary to a service of a financial nature. Financial services include the following activities:

Insurance and insurance-related services

(a) direct insurance (including co-insurance):

(i) life; or

(ii) non-life;

(b) reinsurance and retrocession;

(c) insurance intermediation, such as brokerage and agency;

(d) services auxiliary to insurance, such as consultancy, actuarial, risk assessment, and claim settlement services;

Banking and other financial services (excluding insurance)

(e) acceptance of deposits and other repayable funds from the public;

(f) lending of all types, including consumer credit, mortgage credit, factoring, and financing of commercial transactions;

(g) financial leasing;

(h) payment and money transmission services, including credit, charge and debit cards, travellers checks, and bankers drafts;

(i) guarantees and commitments;

(j) trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:

(i) money market instruments, including checks, bills, and certificates of deposits;

(ii) foreign exchange;

(iii) derivative products, including futures and options;

(iv) exchange rate and interest rate instruments, including products such as swaps, and forward rate agreements;

(v) transferable securities; or

(vi) other negotiable instruments and financial assets, including bullion;

(k) participation in issues of all kinds of securities, including underwriting and placement as agent, (whether publicly or privately) and provision of services related to such issues;

(l) money broking;

(m) asset management such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;

(n) settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;

(o) provision and transfer of financial information, financial data processing and related software by suppliers of other financial services; and

(p) advisory, intermediation, and other auxiliary financial services on all the activities listed in subparagraphs (e) through (o), including credit reference and analysis, investment and portfolio research and advice, and advice on acquisitions and on corporate restructuring and strategy;

financial service supplier of a Party means a person of a Party that is engaged in the business of supplying a financial service within the territory of that Party;

investment means "investment" as defined in Article 8.45 (Definitions), except that, with respect to "loans" and "debt instruments" referred to in that Article: (a) a loan to or debt instrument issued by a financial institution is an investment only where it is treated as regulatory capital by the Party in whose territory the financial institution is located; and

(b) a loan granted by or debt instrument owned by a financial institution, other than a loan to or debt instrument of a financial institution referred to in subparagraph (a), is not an investment;

for greater certainty, a loan granted by or debt instrument owned by a cross-border financial service supplier, other than a loan to or debt instrument issued by a financial institution, is an investment if such loan or debt instrument meets the criteria for investments set out in Article 8.45 (Definitions);

investor of a Party (9) means a Party or state enterprise thereof, or a person of a Party, that seeks to make, is making, or has made an investment in the territory of the other Party. A natural person who is a dual citizen is deemed to be exclusively a national of a State of his or her dominant and effective citizenship. A natural person who is a citizen of a Party and a permanent resident of the other Party is deemed to be exclusively a national of the Party of which he or she is a citizen;

new financial service means a financial service not supplied in a Party's territory that is supplied within the territory of the other Party, and includes a new form of delivery of a financial service or the sale of a financial product that is not sold in the Party's territory;

person of a Party means "person of a Party" as defined in Article 1.8 (Definitions of General Application) and, for greater certainty, does not include a branch of an enterprise of a non-party;

public entity means a central bank or monetary authority of a Party, or a financial institution owned or controlled by a Party. A central bank or monetary authority of a Party, or a financial institution that performs a financial regulatory function and is owned or controlled by a Party is not considered a designated monopoly or a state enterprise for the purposes of Chapter Fifteen (Competition Policy, Monopolies and State Enterprises); and

self-regulatory organisation means a non-governmental body, including securities or futures exchange or market, clearing agency, or other organisation or association, that exercises regulatory or supervisory authority over financial service suppliers or financial institutions by statute or delegation from national, sub-national, or local governments or authorities. A self-regulatory organisation is not considered a designated monopoly or a state enterprise for the purposes of Chapter Fifteen (Competition Policy, Monopolies and State Enterprises).

(9) It is understood that an investor of a Party "seeks" to make an investment in the territory of the other Party only if the investor has taken concrete steps necessary to make said investment, such as when the investor has made an application for a permit or license authorising the establishment of an investment.

Chapter Eleven. Telecommunications

Article 11.1. Scope and Coverage

1. This Chapter applies to:

(a) measures adopted or maintained by a Party affecting access to and use of public telecommunications transport networks and services;

(b) measures adopted or maintained by a Party relating to obligations of suppliers of public telecommunications transport networks and services;

(c) other measures adopted or maintained by a Party relating to public telecommunications transport networks and services; and

(d) measures adopted or maintained by a Party relating to the supply of value-added services.

2. This Chapter does not apply to measures adopted or maintained by a Party affecting the transmission by any means of telecommunications, including broadcast or cable distribution, of radio or television programming intended for reception by the public.

3. This Chapter is not to be construed to:

(a) require a Party to authorise a service supplier of the other Party to establish, construct, acquire, lease, operate, or supply telecommunications transport networks or services, other than as specifically provided in this Agreement; or

(b) require a Party, or require a Party to oblige any service supplier under its jurisdiction, to establish, construct, acquire, lease, operate, or supply telecommunications transport networks or services not offered to the public generally.

Article 11.2. Access to and Use of Public Telecommunications Transport Networks and Services

1. Subject to a Party's right to restrict the supply of a service in accordance with the reservations in its Schedule to Annex I or II, a Party shall ensure that enterprises of the other Party are accorded access to and use of public telecommunications transport networks and services on reasonable and non-discriminatory terms and conditions, including as set out in paragraphs 2 through 6.

2. Each Party shall ensure that enterprises of the other Party have access to and use of any public telecommunications transport networks and services offered within or across its borders, including private leased circuits, and to this end shall ensure, subject to paragraphs 5 and 6, that such enterprises are permitted to:

(a) purchase or lease and attach terminal or other equipment which interfaces with the public telecommunications transport networks and services;

(b) interconnect private leased or owned circuits with public telecommunications transport networks and services of that Party or with circuits leased or owned by another enterprise;

(c) use operating protocols of their choice; and

(d) perform switching, signalling, and processing functions.

3. Each Party shall ensure that enterprises of the other Party may use public telecommunications transport networks and services for the movement of information in its territory or across its borders, including for intra-corporate communications of such enterprises, and for access to information contained in data bases or otherwise stored in machine-readable form in the territory of either Party.

4. Further to Article 22.1(General Exceptions) and notwithstanding paragraph 3, a Party may take measures necessary to ensure the security and confidentiality of messages or to protect the privacy of users of public telecommunications transport services. These measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade in services.

5. Each Party shall ensure that a condition is not imposed on access to and use of public telecommunications transport networks or services other than as necessary to:

(a) safeguard the public service responsibilities of suppliers of public telecommunications transport networks and services, in particular their ability to make their networks or services available to the public generally;

(b) protect the technical integrity of public telecommunications transport networks and services; or

(c) ensure that service suppliers of the other Party do not supply services limited by the Party's reservations under Annex I or II.

6. Provided that they satisfy the criteria in paragraph 5, conditions for access to and use of public telecommunications transport networks or services may include:

(a) restrictions on resale or shared use of such services;

(b) a requirement to use specified technical interfaces, including interface protocols, for interconnection with such networks and services;

(c) requirements, where necessary, for the inter-operability of such services;

(d) type approval of terminal or other equipment which interfaces with the network and technical requirements relating to the attachment of such equipment to such networks;

(e) restrictions on interconnection of private leased or owned circuits with such networks or services or with circuits leased or owned by another service supplier; and

(f) notification, registration, and licensing.

Article 11.3. Licensing Procedure

1. If a license is required to supply public telecommunications transport networks or services, each Party shall make publicly available:

(a) all the licensing criteria, and the amount of time normally required to reach a decision concerning an application for a license; and

(b) the terms and conditions for individual licenses.

2. The decision on the application for a license will be made within a reasonable period of time, and in the event of a denial of a license, the reasons will be made known to the applicant upon request.

Article 11.4. Conduct of Major Suppliers

Competitive Safeguards

1. Each Party shall maintain appropriate measures to prevent suppliers that, alone or together, are a major supplier from engaging in or continuing anti-competitive practices.

2. The anti-competitive practices referred to in paragraph 1 above must include in particular:

(a) engaging in anti-competitive cross-subsidisation;

(b) using information obtained from competitors with anti-competitive results; and

(c) not making available to other service suppliers, on a timely basis, technical information about essential facilities and commercially relevant information that is necessary for those suppliers to provide services.

Interconnection

3. Each Party shall ensure that a major supplier provides interconnection:

(a) at any technically feasible point in the network;

(b) under non-discriminatory terms, conditions, including technical standards and specifications, and rates;

(c) of a quality no less favourable than that provided for its own like services or for like services of non-affiliated service suppliers or of its subsidiaries or other affiliates;

(d) in a timely fashion, on terms, conditions (including technical standards and specifications), and cost-oriented rates that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the supplier need not pay for network components or facilities that it does not require for the services to be provided; and

(e) on request, at points in addition to the network termination points offered to the majority of users, subject to charges that reflect the cost of construction of necessary additional facilities.

4. Each Party shall make the procedure applicable for interconnection to a major supplier publicly available.

5. Each Party shall ensure that a major supplier makes publicly available either its interconnection agreements or reference interconnection offer.

Article 11.5. Universal Service

Each Party has the right to define the kind of universal service obligation it wishes to maintain. Such obligation is not anti-competitive per se, provided that it is administered in a transparent, non-discriminatory, and competitively neutral manner and is not more burdensome than necessary for the kind of universal service defined by the Party.

Article 11.6. Allocation and Use of Scarce Resources

1. Each Party shall administer its procedures for the allocation and use of scarce resources, including frequencies, numbers, and rights of way, in an objective, timely, transparent, and non-discriminatory manner.

2. Each Party shall make the current state of allocated frequency bands publicly available but shall not be required to provide detailed identification of frequencies allocated for specific government use.

3. Notwithstanding Article 9.4 (Market Access), each Party retains the right to establish and apply its spectrum and frequency management policies, which may limit the number of suppliers of public telecommunications transport services. Each Party also retains the right to allocate frequency bands based on present and future needs.

Article 11.7. Regulatory Body

1. Each Party shall ensure that its regulatory body is separate from, and not accountable to, a supplier of public telecommunications transport networks or services and value-added services. 2. Each Party shall ensure that its regulatory body's decisions and procedures are impartial with respect to all market participants.

Article 11.8. Enforcement

Each Party shall maintain appropriate procedures and authority to enforce domestic measures relating to the obligations under this Chapter. Those procedures and authority must include the ability to impose appropriate sanctions, which may include financial penalties, corrective orders, or the modification, suspension, or revocation of licences.

Article 11.9. Resolution of Domestic Telecommunication Disputes

Recourse

1. Further to Article 19.3 (Administrative Proceedings), each Party shall ensure that:

(a) suppliers of public telecommunications transport networks or services or value-added services of the other Party have timely recourse to its regulatory body to resolve disputes regarding domestic measures relating to matters covered in Articles 11.2 and 11.4 excluding interconnection; and

(b) suppliers of public telecommunications transport networks or services of the other Party requesting interconnection with a major supplier in the Party's territory have, within a reasonable and publicly specified amount of time, recourse to a regulatory body to resolve disputes regarding the appropriate terms, conditions, and rates for interconnection with that major supplier.

Reconsideration

2. Each Party shall ensure that any supplier of public telecommunications transport networks or services or value added services that is aggrieved by the determination or decision of a regulatory body may petition that body to reconsider that determination or decision. This petition shall not constitute grounds for non-compliance with the determination or decision of the regulatory body.

3. Reconsideration shall not apply to a determination or decision of a regulatory body with respect to:

(a) disputes between service suppliers or between service suppliers and users; or

(b) the establishment and application of spectrum and frequency management policies. Judicial Review

4. Each Party shall ensure that any supplier of public telecommunications transport networks or services that is aggrieved by the determination or decision of a regulatory body has the opportunity to appeal that determination or decision to an independent judicial or administrative authority. This obligation does not add to the obligations set out in Article 19.4 (Review and Appeal).

Article 11.10. Transparency

In addition to the other provisions in this Chapter relating to transparency, each Party shall make publicly available:

(a) its measures relating to public telecommunications transport networks or services and value added services, including:

(i) tariffs and other terms and conditions of service;

(ii) specifications of technical interfaces;

(iii) conditions applying to attachment of terminal or other equipment to public telecommunications transport networks; and

(iv) notification, permit, registration, or licensing requirements, if any; and

(b) information on bodies responsible for preparing, amending, and adopting standards related measures.

Article 11.11. Forbearance

The Parties recognise the importance of relying on market forces to achieve wide choices in the supply of telecommunications services. To this end, and to the extent provided in its domestic law, each Party may refrain from applying a regulation to a service when:

(a) enforcement of the regulation is not necessary to prevent unreasonable or discriminatory practices;

(b) enforcement of the regulation is not necessary to protect consumers; and

(c) it is consistent with the public interest, including promoting and enhancing competition between suppliers of public telecommunications transport networks and services.

Article 11.12. Conditions for the Provision of Value-added Services

1. A Party shall not require a person that provides value-added services to:

(a) supply those services to the public generally;

(b) cost-justify its rates;

(c) file a tariff;

(d) connect its networks with a particular customer or network; or

(e) conform with a particular standard or technical regulation for connecting to another network, other than a public telecommunications transport network.

2. Notwithstanding paragraph 1, a Party may take the actions listed in paragraph 1 to remedy a practice of a supplier of value-added services that the Party has found in a particular case to be anti-competitive under its domestic law, or to otherwise promote competition or safeguard the interests of consumers.

Article 11.13. Relation to other Chapters

In the event of an inconsistency between this Chapter and another Chapter, this Chapter prevails to the extent of the inconsistency.

Article 11.14. Relation to International Organisations and Agreements

The Parties recognise the importance of international standards for global compatibility and interoperability of telecommunication networks or services and undertake to promote those standards through the work of relevant international bodies, including the International Telecommunication Union and the International Organization for Standardization.

Article 11.15. Definitions

For the purposes of this Chapter: enterprise means an "enterprise" as defined in Article 1.8 (Definitions of General Application) and a branch of an enterprise;

essential facilities means facilities of a public telecommunications transport network or service that:

(a) are exclusively or predominantly provided by a single or a limited number of suppliers; and

(b) cannot feasibly be economically or technically substituted in order to supply a service;

interconnection means linking suppliers providing public telecommunications transport services to allow the users of one supplier to communicate with users of another supplier and to access services provided by another supplier;

intra-corporate communications means telecommunications through which an enterprise communicates within the enterprise or with or among its subsidiaries, branches and, subject to a Party's domestic law, affiliates, but does not include commercial or non-commercial services that are provided to enterprises that are not related subsidiaries, branches or affiliates, or that are offered to customers or potential customers. For the purposes of this definition, subsidiaries, branches and, where applicable, affiliates are as defined by each Party in its domestic law;

major supplier means a supplier that has the ability to materially affect the terms of participation having regard to price and supply in the relevant market for public telecommunications transport networks or services as a result of:

(a) control over essential facilities; or

(b) the use of its position in the market; network termination points means the final demarcation of the public telecommunications transport network at the user's premises;

non-discriminatory means terms and conditions no less favourable than those accorded to any other user of like public telecommunications transport networks or services under like circumstances;

public telecommunications transport network means the public telecommunications infrastructure that permits telecommunications between and among defined network termination points;

public telecommunications transport service means a telecommunications transport service that a Party requires, explicitly or in effect, to be offered to the public generally that involves the real-time transmission of customer-supplied information between two or more points without any end-to-end change in the form or content of the customer's information. This service may include, inter alia, telegraph, telephone, telex, and data transmission;

regulatory body means the body responsible for the regulation of telecommunications;

service supplier means a person of a Party that is seeking to supply or supplies a service, including a supplier of telecommunications networks or services;

supply of a service means the provision of a service:

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

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

(c) in the territory of a Party by a covered investment as defined in Chapter Eight (Investment), in that territory; or

(d) by a national of a Party in the territory of the other Party; telecommunication means the transmission and reception of signals by any electromagnetic means;

user means a service consumer or a service supplier; and

value-added services mean services that add value to the customer's information by enhancing its form or content, or by providing for its storage and retrieval.

Chapter Twelve. Temporary Entry for Business Persons

Article 12.1. General Principles

This Chapter reflects the preferential trading relationship between the Parties, the desirability of facilitating temporary entry on a reciprocal basis and of establishing transparent criteria and procedures for temporary entry, and the need to ensure border security and to protect the domestic labour force and permanent employment in their respective territories.

Article 12.2. General Obligations

1. Each Party shall apply its measures relating to this Chapter in accordance with Article 12.1 and, in particular, shall apply expeditiously those measures so as to avoid unduly impairing or delaying trade in goods or services or conduct of investment activities under this Agreement.

2. This Chapter does not prevent a Party from applying measures to regulate the entry of natural persons into, or the temporary stay in, its territory, including those measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across its borders, provided that such measures are not applied in such a manner as to unduly impair or delay trade in goods or services or the conduct of activities under this Agreement. The sole fact of requiring a visa, or other document authorising entry or work for a business person, or for natural persons shall not be regarded as unduly impairing or delaying trade in goods or services or the conduct of activities under this Agreement.

Article 12.3. Grant of Temporary Entry

1. Each Party shall grant temporary entry to business persons who otherwise comply with existing immigration measures related to public health, safety and national security applicable to temporary entry, in accordance with this Chapter, including Annex 12-A.

2. A Party may refuse to issue a work permit or authorisation to a business person if the temporary entry of that person might affect adversely:

(a) the settlement of a labour dispute that is in progress at the place or intended place of employment; or

(b) the employment of a person who is involved in such dispute.

3. If a Party refuses pursuant to paragraph 2 to issue a work permit or authorisation, it shall inform in writing the business person of the reasons for the refusal.

4. Each Party shall limit fees for processing applications for temporary entry of business persons to the approximate cost of services rendered.

Article 12.4. Provision of Information

1. Recognising the importance to the Parties of transparency of information on temporary entry and further to Article 19.1 (Publication), each Party shall, after the date of entry into force of this Agreement, make available through any means, information on its measures relating to this Chapter.

2. Each Party shall collect and maintain data respecting the granting of temporary entry under this Chapter to business persons of the other Party who have been issued a work permit or authorisation. On the request of a Party, the other Party shall make such information available to the other Party in accordance with its domestic law.

Article 12.5. Contact Points

1. Each Party hereby establishes a contact point:

(a) for Canada: Director Temporary Resident Policy Immigration Branch Citizenship and Immigration Canada; and

(b) for Korea: Director Border Control Division Korea Immigration Service Ministry of Justice, or their respective successors.

2. The contact points shall meet at least once each year, unless otherwise agreed, to exchange information as described in Article 12.4 and to consider matters pertaining to this Chapter, such as:

(a) the implementation and administration of this Chapter;

(b) the development and adoption of common criteria, definitions and interpretations for the implementation of this Chapter;

(c) the development of measures to further facilitate temporary entry of business persons on a reciprocal basis; and

(d) proposed modifications to this Chapter.

Article 12.6. Dispute Settlement

1. A Party shall not initiate proceedings under Chapter Twenty-One (Dispute Settlement) regarding a refusal to grant temporary entry under this Chapter unless:

(a) the matter involves a pattern of practice; and

(b) the business person has exhausted the normal administrative remedies regarding the particular matter.

2. The remedies referred to in paragraph 1(b) are deemed to be exhausted if a final determination in the matter has not been issued by the competent authority within one year of the initiation of an administrative proceeding, and the failure to issue a determination is not attributable to delay caused by the business person.

Article 12.7. Relation to other Chapters

Except for this Chapter and Chapters One (Initial Provisions and General Definitions), Nineteen (Transparency), Twenty (Institutional Provisions and Administration) and Twenty-Three (Final Provisions), this Agreement does not impose an obligation on a Party regarding its immigration measures.

Article 12.8. Definitions

For the purposes of this Chapter:

business person means a national of a Party who is engaged in trade in goods, the provision of services or the conduct of investment activities;

contract service supplier means an employee of an enterprise who is engaged in the supply of a contracted service as an employee of an enterprise. That enterprise has a service contract from an enterprise of the other Party, who is the final consumer of the service which is supplied. The contract and duration of stay shall comply with the domestic law of the other Party;

independent professional means a self-employed professional who seeks to engage, as part of a service contract granted by an enterprise or a service consumer of the other Party, in an activity at a professional level, provided that the person possesses the necessary education, or satisfies accreditation or licensing requirements as stipulated for the profession;

management trainee on professional development means an employee who has a Bachelor or Baccalaureate degree or who has a license at a professional level concerning the intra-company activity, who is on a temporary work assignment intended to broaden an employee's knowledge of and experience in a company in preparation for a senior leadership position within the company;

pre-arranged professional service means a professional service to be provided in the territory of the other Party, the terms of which have been determined and documented prior to the entry of the professional into the territory of the other Party;

professional means a national of a Party who is engaged in a specialty occupation as stated in Appendix 12-A-2 who is not engaged in the field of education; and

temporary entry means entry into the territory of a Party by a business person of the other Party without the intent to establish permanent residence, and does not apply to measures regarding citizenship or employment on a permanent basis.

Chapter Thirteen. Electronic Commerce

Article 13.1. Scope of Application

1. The Parties confirm that trade conducted by electronic means is subject to the provisions of this Agreement, including those in Chapters Two (National Treatment and Market Access for Goods), Nine (Cross-Border Trade in Services), Ten (Financial Services), Eleven (Telecommunications), and Fourteen (Government Procurement). In particular, the Parties recognise the importance of Article 11.2 (Access to and Use of Public Telecommunications Transport Networks and Services) in enabling trade conducted by electronic means.

2. The Parties also confirm that this Chapter does not impose obligations on a Party to allow digital products to be delivered electronically, except in accordance with the commitments of that Party in other Chapters.

Article 13.2. General Provisions

1. The Parties recognise the economic growth and opportunities provided by electronic commerce and the applicability of WTO rules to electronic commerce.

2. Considering the potential of electronic commerce as a social and economic development tool, the Parties recognise the importance of:

(a) clarity, transparency, and predictability in their domestic regulatory frameworks in facilitating, to the maximum extent possible, the development of electronic commerce;

(b) encouraging self-regulation by the private sector to promote trust and confidence in electronic commerce, having regard to the interests of users, through initiatives such as industry guidelines, model contracts, and codes of conduct;

(c) facilitating electronic commerce through interoperability, innovation, and competition;

(d) ensuring that global and domestic electronic commerce policy takes into account the interest of all stakeholders, including business, consumers, non-government organisations, and relevant public institutions; and

(e) facilitating the use of electronic commerce of small-and medium-sized enterprises and developing countries.

3. Each Party shall endeavour to adopt measures to facilitate trade conducted by electronic means by addressing issues relevant to the electronic environment.

4. The Parties recognise the importance of avoiding unnecessary barriers to trade conducted by electronic means. Having regard to national policy objectives, each Party shall endeavour to prevent measures that: (a) unduly hinder trade conducted by electronic means; or (b) have the effect of treating trade conducted by electronic means more restrictively than trade conducted by other means.

Article 13.3. Customs Duties

1. A Party shall not apply customs duties, fees, or charges on or in connection with digital products delivered electronically.

2. For greater certainty, this Chapter does not preclude a Party from imposing internal taxes or other internal charges on digital products delivered electronically, provided that such taxes or charges are imposed in a manner consistent with this Agreement.

Article 13.4. Protection of Personal Information

Each Party shall adopt or maintain measures for the protection of the personal information of the users of electronic commerce. In the development of personal information protection standards, each Party shall take into account international standards of relevant international organisations.

Article 13.5. Paperless Trade Administration

1. Each Party shall endeavour to make trade administration documents available to the public in electronic form.

2. Each Party shall endeavour to accept trade administration documents submitted electronically as the legal equivalent of the paper version of those documents.

Article 13.6. Consumer Protection

1. The Parties recognise the importance of maintaining and adopting transparent and effective measures to protect consumers from fraudulent and deceptive commercial practices when they engage in electronic commerce.

2. To this end, the Parties should exchange information on their experiences in protecting consumers engaged in electronic commerce.

Article 13.7. Cooperation

Recognising the global nature of electronic commerce, the Parties affirm the importance of:

(a) working together to facilitate the use of electronic commerce by small-and medium-sized enterprises;

(b) sharing information and experiences on laws, regulations, and programs pertaining to electronic commerce, including those related data privacy, consumer confidence, security in electronic communications, electronic authentication, intellectual property rights, and electronic government;

(c) working to maintain cross-border flows of information as an essential element in fostering a vibrant environment for electronic commerce;

(d) fostering electronic commerce by encouraging the private sector to adopt codes of conduct, model contracts, guidelines, and enforcement mechanisms; and

(e) actively participating in regional and multilateral fora to promote the development of electronic commerce.

Article 13.8. Relation to other Chapters

In the event of an inconsistency between this Chapter and another Chapter, the other Chapter prevails to the extent of the inconsistency.

Article 13.9. Definitions

For the purposes of this Chapter: delivered electronically means delivered through telecommunications, alone or in conjunction with other information and communication technologies;

digital product means computer programs, text, video, images, sound recordings, or other products that are digitally encoded and produced for commercial sale or distribution;

personal information means any information related to an identified or identifiable natural person;

telecommunications means the transmission and reception of signals by any electromagnetic means;

trade administration document means forms that a Party issues or controls that must be completed by or for an importer or exporter in connection with the importation or exportation of goods; and

trade conducted by electronic means means trade conducted through telecommunications, alone or in conjunction with other information and communication technologies.

Chapter Fourteen. Government Procurement

Article 14.1. Objectives

The Parties affirm their interest in further expanding bilateral trading opportunities in each Party's government procurement market.

Article 14.2. Existing Rights and Obligations

1. The Parties affirm their rights and obligations under the GPA.

2. This Chapter is not to be construed to derogate from any rights or obligations of the Parties under the GPA.

Article 14.3. Scope

1. This Chapter incorporates by reference the rights and obligations as listed in the Annex to the WTO Protocol Amending the GPA (hereinafter referred to as the "revised GPA"), with the exception of Articles V and XVIII through XXII. These rights and obligations apply mutatis mutandis to the procurement covered by Annexes 14-A through 14-G.

2. For the purpose of promoting consistency with the revised GPA, should further revisions be made to the revised GPA that affect the rights and obligations that are incorporated into this Agreement pursuant to paragraph 1, the revisions shall be incorporated in this Agreement, except as agreed by the Parties pursuant to the amendment procedure referred to in Article 23.2 (Amendments).

Article 14.4. Modifications and Rectifications

1. A Party shall notify the other Party of a proposed rectification of Annex 14-A, withdrawal of an entity from Annex 14-A, or other modification of Annex 14-A (hereinafter referred to as the "modification"). The Party proposing the modification (hereinafter referred to as the "modifying Party") shall include in the notification:

(a) for a proposed withdrawal of an entity from Annex 14-A in the exercise of its rights on the grounds that government control or influence over the entity's covered procurement has been effectively eliminated, evidence that such government control or influence has been effectively eliminated; or

(b) for any other proposed modification, information as to the likely consequences of the change for the mutually agreed coverage provided under this Chapter.

2. If the other Party objects to the proposed modification, it shall notify the modifying Party of its objection within 30 days of the notification of the proposed modification and include the reasons for its objection.

3. The Parties shall seek to resolve any objection through consultations. In such consultations, the Parties shall consider the proposed modification and, in the case of a notification pursuant to paragraph 1(b), any claim for compensatory adjustments, with a view to maintaining a balance of rights and obligations and a comparable level of mutually agreed coverage provided in this Chapter prior to such notification.

4. If a Party proposes a modification pursuant to paragraph 1(b), the modifying Party shall offer to the other Party appropriate compensatory adjustments, if such adjustments are necessary to maintain a level of coverage comparable to that which existed prior to the modification. Such modification shall become effective if the other Party does not notify the modifying Party of any objection to the proposed modification within 30 days of the notification. A Party need not provide compensatory adjustments if the Parties agree that the proposed modification covers a procuring entity over which a Party has effectively eliminated its control or influence over the entity's covered procurement.

5. The Commission shall adopt a proposed modification only when the other Party:

(a) does not object in writing to the proposed modification within 30 days of the notification provided pursuant to paragraph 1; or

(b) submits to the modifying Party a written notice withdrawing the objection.

Article 14.5. Further Negotiations

If, after the entry into force of this Agreement, a Party accords to a non-party greater access to its government procurement market than the access that is accorded to the other Party, that Party may, at the request of the other Party, enter into negotiations regarding the extension of the same access to the other Party on a reciprocal basis.

Article 14.6. Committee on Government Procurement

1. Recognising the ongoing work of the WTO Committee on Government Procurement, the Parties shall endeavour to cooperate in pursuing issues of mutual interest.

2. For issues of a bilateral nature, the Parties hereby establish a Committee on Government Procurement, which shall meet as mutually agreed to address matters such as:

(a) facilitating cooperation to increase mutual understanding of each Party's government procurement system;

(b) exchanging relevant information;

(c) exploring market access expansion; or

(d) any other matter related to the operation of this Chapter.

3. For the purpose of paragraph 2, each Party hereby designates the following governmental authority as its enquiry point to facilitate communication between the Parties on any matter regarding government procurement: (a) for Korea, the Ministry of Trade, Industry, and Energy; and

(b) for Canada, the Department of Foreign Affairs, Trade and Development, or their respective successors.

Article 14.7. Entry Into Force

This Chapter enters into force on the later of the date of entry into force of the revised GPA for both Parties or the date of entry into force of this Agreement pursuant to Article 23.4 (Entry into Force).

Chapter Fifteen. Competition Policy, Monopolies and State Enterprises

Article 15.1. Competition Law and Policy

1. Each Party shall adopt or maintain measures to proscribe anti-competitive business conduct and take appropriate action with respect thereto, recognising that such measures will enhance the fulfilment of the objectives of this Agreement. To this end, the Parties shall consult from time to time on the effectiveness of measures undertaken by each Party.

2. Each Party recognises that the measures it adopts or maintains to proscribe anti-competitive business conduct and the enforcement actions it takes pursuant to those measures shall be consistent with the principles of transparency, non-discrimination, and procedural fairness. Exclusions from these measures shall be transparent. Each Party should periodically assess its own exclusions to determine whether they are necessary to achieve its overriding policy objectives.

3. The Parties recognise the importance of cooperation and coordination among their authorities to further effective competition law enforcement in the free trade area. The Parties shall cooperate on issues of competition law enforcement policy, including mutual legal assistance, notification, consultation, and exchange of information relating to the enforcement of competition laws and policies in the free trade area.

4. No recourse may be had to any form of dispute settlement under this Agreement for any matter arising under this Article.

Article 15.2. Monopolies (1)

1. This Agreement is not to be construed to prevent a Party from maintaining or designating a monopoly.

2. If a Party intends to designate a monopoly and the designation may affect the interests of a person of the other Party, the designating Party shall, whenever possible, provide prior notification, in writing, of the designation to the other Party.

3. Each Party shall ensure, through regulatory control, administrative supervision, or the application of other measures, that a privately-owned monopoly that it designates or a government monopoly that it maintains or designates:

(a) acts in a manner that is not inconsistent with the Party's obligations under this Agreement whenever such a monopoly exercises any regulatory, administrative, or other governmental authority that the Party has delegated to it in connection with the monopoly good or service, such as the power to grant import or export licenses, approve commercial transactions, or impose quotas, fees, or other charges;

(b) except to comply with terms of its designation (2) that are not inconsistent with subparagraph (c) or (d), acts solely in accordance with commercial considerations in its purchase or sale of the monopoly good or service in the relevant market (3), including with regard to price, quality, availability, marketability, transportation, and other terms and conditions of purchase or sale (4) ;

(c) provides non-discriminatory treatment to covered investments, to goods of the other Party, and to service providers of the other Party when it purchases or sells the monopoly good or service in the relevant market (5); and

(d) does not use its monopoly position to engage, directly or indirectly, including through its dealings with its parent, subsidiaries, or other enterprises with common ownership, in anticompetitive practices in a non-monopolised market in its territory, if such practices adversely affect a covered investment.

4. Paragraph 3 does not apply to government procurement.

(1) For the purposes of this Article and Article 15.3, "maintain" means designated prior to the date of entry into force of this Agreement and existing on that date.

(2) For greater certainty, terms of designation may be amended.

(3) For greater certainty, this provision applies to the sale of the designated monopoly good or service in the case of a designated monopoly

supplier and to the purchase of the designated monopoly good or service in the case of a designated monopoly buyer.

(4) This provision is not to be construed to prevent a designated monopoly from supplying the monopoly good or service in accordance with specified rates approved, or other terms or conditions established, by a regulatory authority of a Party, provided that such rates or other terms or conditions are not inconsistent with subparagraph (c) or (d).

(5) For greater certainty, this provision applies to the sale of the monopoly good or service in the case of a designated monopoly supplier and to the purchase of the monopoly good or service in the case of a designated monopoly buyer.

Article 15.3. State Enterprises

1. This Agreement is not to be construed to prevent a Party from maintaining or establishing a state enterprise.

2. Each Party shall ensure, through regulatory control, administrative supervision, or the application of other measures, that a state enterprise that it maintains or establishes acts in a manner that is not inconsistent with the Party's obligations under this Agreement whenever such enterprise exercises regulatory, administrative, or other governmental authority that the Party has delegated to it, such as the power to expropriate, grant licenses, approve commercial transactions, or impose quotas, fees, or other charges.

3. Each Party shall ensure that a state enterprise that it maintains or establishes accords non-discriminatory treatment in the sale of its goods or services to covered investments.

Article 15.4. Differences In Pricing

Articles 15.2 and 15.3 are not to be construed to prevent a monopoly or state enterprise from charging different prices in different markets, or within the same market, if such differences are based on normal commercial considerations, such as taking account of supply and demand conditions.

Article 15.5. Definitions

For the purposes of this Chapter:

delegated means transferring to the monopoly or state enterprise, or authorising the exercise by the monopoly or state enterprise of, governmental authority through a legislative grant, a government order, a directive, or other act;

designate means to establish, designate or authorise, or to expand the scope of, a monopoly to cover an additional good or service, after the date of entry into force of this Agreement;

government procurement means procurement by governmental agencies of goods or services, or a combination thereof, for governmental purposes and not with a view to commercial sale or resale or with a view to use in the production of goods or the provision of services for commercial sale or resale;

government monopoly means a monopoly that is owned or controlled through ownership interests by the national government of a Party, or by another such monopoly;

in accordance with commercial considerations means consistent with normal business practices of privately-held enterprises in the relevant business sector or industry;

market means the geographic and commercial market for a good or service;

monopoly means an entity, including a consortium or government agency, that in a relevant market in the territory of a Party is designated as the sole provider or purchaser of a good or service, but does not include an entity that has been granted an exclusive intellectual property right solely by reason of such grant;

non-discriminatory treatment means the better of national treatment or most-favoured-nation treatment, as set out in the relevant provisions of this Agreement, including the terms and conditions set out in the relevant Annexes thereto; and

state enterprise means, except as set out in Annex 15-A, an enterprise owned or controlled through ownership interests, by a Party.

Chapter Sixteen. Intellectual Property

Article 16.1. Objectives

The objectives of this Chapter are to:

(a) facilitate international trade and economic, social and cultural development through the dissemination of ideas, technology, and creative works;

(b) achieve an adequate and effective level of protection and enforcement of intellectual property rights;

(c) achieve a balance between the rights of intellectual property right-holders and the legitimate interests of intellectual property users with regard to intellectual property; and

(d) strengthen the Parties' cooperation in the field of intellectual property.

Article 16.2. Scope of Intellectual Property

For the purposes of this Chapter, intellectual property refers to all categories of intellectual property that are the subject of Sections 1 through 7 of Part II of the TRIPS Agreement.

Article 16.3. Affirmation of International Agreement

The Parties affirm their rights and obligations under the TRIPS Agreement and other intellectual property agreements to which both Parties are party.

Article 16.4. Nature and Scope of Obligation

1. Each Party may provide more extensive protection for, and enforcement of, intellectual property rights under that Party's domestic law than this Chapter requires, provided that the more extensive protection does not contravene this Chapter.

2. Each Party shall be free to determine the appropriate method of implementing this Agreement within its own legal system and practice.

3. This Agreement does not create any obligation with respect to the distribution of resources between enforcement of intellectual property rights and enforcement of law in general.

Article 16.5. Public Health Concerns

1. The Parties recognise the importance of the Declaration on the TRIPS Agreement and Public Health (hereinafter referred to as the "Doha Declaration") adopted on 14 November 2001 by the WTO Ministerial Conference. In interpreting and implementing the rights and obligations under this Chapter, the Parties are entitled to rely on the Doha Declaration.

2. The Parties shall contribute to the implementation of, and respect, the Decision of the WTO General Council of 30 August 2003 on the Implementation of paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health, as well as the Protocol amending the TRIPS Agreement, done at Geneva on 6 December 2005.

Article 16.6. National Treatment

1. In respect of all categories of intellectual property covered in this Chapter, each Party shall accord to nationals of the other Party treatment no less favourable than that it accords to its own nationals with regard to the protection of intellectual property pursuant to Articles 3 and 5 of the TRIPS Agreement.

2. In respect of the rights of performers and producers of phonograms, a Party may satisfy the obligation in paragraph 1 by providing national treatment to the nationals of the other Party specifically granted in this Chapter in accordance with the WIPO Performances and Phonograms Treaty, done 20 December 1996 at Geneva (hereinafter referred to as the "WPPT").

Article 16.7. Exhaustion

This Chapter does not affect the freedom of the Parties to determine whether and under what conditions the exhaustion of

intellectual property rights applies.

Article 16.8. Disclosure of Information

This Chapter does not require a Party to disclose information that would impede law enforcement, be contrary to that Party's domestic law, or be exempt from disclosure under that Party's domestic law.

Article 16.9. Trademarks

Trademarks Protection

1. A Party shall not require, as a condition of registration, that signs be visually perceptible, or deny registration of a trademark solely on the grounds that the sign of which it is composed is a sound. (1)

2. Each Party shall provide that trademarks include collective marks and certification marks. A Party is not obligated to treat certification marks as a separate category in that Party's domestic law, provided that such marks are protected.

3. Each Party shall provide that the owner of a registered trademark has the exclusive right to prevent all third parties not having the owner's consent from using in the course of trade identical or similar signs, at least for goods or services that are identical or similar to the goods or services in respect of which the owner's trademark is registered, where such use would result in a likelihood of confusion. In the case of the use of an identical sign for identical goods or services, a likelihood of confusion shall be presumed. The rights described above shall not prejudice any existing prior rights, nor shall they affect the possibility of each Party making rights available on the basis of use.

Exceptions to Trademarks Rights

4. Each Party may provide limited exceptions to the rights conferred by a trademark, such as fair use of descriptive terms, provided that those exceptions take account of the legitimate interests of the owner of the trademark and of third parties. Well-Known Trademarks

5. A Party shall not require, as a condition for determining that a mark is a well-known mark, that the mark has been registered in the territory of that Party or in another jurisdiction. Each Party shall make available remedies to the owner of a well-known trademark, whether or not such mark:

(a) is registered;

(b) is included on a list of well-known marks; or

(c) has already been recognised as being well-known.

6. Article 6bis of the Paris Convention for the Protection of Industrial Property (1967) done 14 July 1967 at Stockholm (hereinafter referred to as the "Paris Convention") shall apply, mutatis mutandis, to goods or services that are not identical or similar to those identified by a well-known trademark (2), whether registered or not, provided that use of that trademark in relation to those goods or services would indicate a connection between those goods or services and the owner of the trademark, and provided that the interests of the owner of the trademark are likely to be damaged by such use.

7. Each Party shall provide for appropriate measures to refuse or cancel the registration and prohibit the use of a trademark that is identical or similar to a well-known trademark, for related goods or services, if the use of that trademark is likely to cause confusion. Registration and Applications of Trademarks

8. Each Party shall provide a system for the registration of trademarks, in which the reasons for a refusal to register a trademark are communicated in writing and may be provided electronically to the applicant. The Party shall provide to the applicant an opportunity to contest that refusal and to judicially appeal a final refusal.

9. Each Party shall introduce the possibility to oppose trademark applications.

10. Each Party shall provide, to the extent possible, a publicly available electronic information system of trademark applications and registered trademarks.

11. Each Party shall provide that initial registration and each renewal of registration of a trademark shall be for a term of no less than 10 years.

(1) A Party may require an adequate representation, or description, of the sign.

(2) For the purpose of determining whether a mark is well-known, a Party shall not require that the reputation of the trademark extend beyond the sector of the public that normally deals with the relevant goods or services.

Article 16.10. Protection of Geographical Indications (3)

1. Canada shall, with respect to the geographical indications (4) of "GoryeoHongsam", "GoryeoBaeksam", "GoryeoSusam", and "IcheonSsal" and their translations, respectively, "Korean Red Ginseng", "Korean White Ginseng", "Korean Fresh Ginseng" and "Icheon Rice", provide the legal means (5) for interested parties to prevent:

(a) the use of any means in the designation or presentation of a good that indicates or suggests that the good in question originates in a geographical area other than the true place of origin in a manner that misleads the public as to the geographical origin of the good;

(b) the use of any of these geographical indications for ginseng or rice, as the case may be, that does not originate in the place indicated by the geographical indication in question, even where the true origin of the relevant good is indicated or the geographical indication is used in translation or transcription or accompanied by expressions such as "kind", "type", "style", "imitation" or the like; and

(c) any other use that constitutes an act of unfair competition within the meaning of Article 10bis of the Paris Convention.

2. Korea shall, with respect to the geographical indications of "Canadian Whisky" and "Canadian Rye Whisky", provide the legal means for interested parties to prevent:

(a) the use of any means in the designation or presentation of a good that indicates or suggests that the good in question originates in a geographical area other than the true place of origin in a manner that misleads the public as to the geographical origin of the good;

(b) the use of any of these geographical indications for a spirit that does not originate in the place indicated by the geographical indication in question, even where the true origin of the spirit is indicated or the geographical indication is used in translation or transcription or accompanied by expressions such as "kind", "type", "style", "imitation" or the like; and

(c) any other use that constitutes an act of unfair competition within the meaning of Article 10bis of the Paris Convention.

3. If a trademark has been applied for or registered in good faith, or if rights to a trademark have been acquired through use in good faith, in the territory of a Party before the entry into force of this Agreement, measures adopted to implement this Article in that Party shall not prejudice the eligibility for or the validity of the registration of the trademark, or the right to use the trademark, on the basis that the trademark is identical with, or similar to, a geographical indication.

4. A Party is not obligated under this Article to protect geographical indications that are not, or cease to be protected in their place of origin, or that have fallen into disuse in that place.

5. A Party may provide that any request made under this Article in connection with the use or registration of a trademark must be presented within five years after the adverse use of the protected indication has become generally known in that Party or after the date of registration of the trademark in that Party provided that the trademark has been published by that date, if such date is earlier than the date on which the adverse use became generally known in that Party, provided that the geographical indication is not used or registered in bad faith.

(3) Geographical indications are, for the purposes of this Article, indications which identify a good as originating in the territory of a Party, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.

(4) For greater certainty, an individual component of a multi-component term that is protected as a geographical indication in a Party under this Article shall not be protected in that Party where the individual component is a term customary in the common language as the common name for the associated goods.

(5) "Legal means" includes recognition of these terms without additional action required by the geographical indication right-holder and the provision of remedies consistent with Articles 16.13.1 through 16.13.4, 16.13.6, and 16.13.7. Parties shall discuss enforcement issues such as civil or border measures, etc. under the Committee established pursuant to Article 16.18. The Parties may apply opposition and cancellation

procedures to the protection provided for in paragraphs 1 and 2.

Article 16.11. Copyright and Related Rights

Protection Granted

1. Each Party shall comply with:

(a) the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, done at Rome on 26 October 1961 (hereinafter referred to as the "Rome Convention");

(b) the Berne Convention for the Protection of Literary and Artistic Works (1971), done at Paris on 24 July 1971 (hereinafter referred to as the "Berne Convention"); (c) the WIPO Copyright Treaty, done at Geneva on 20 December 1996 (hereinafter referred to as the "WCT"); and (d) the WPPT.

Rights of Copyright Holder

2. Each Party shall provide (6) that authors, performers, and producers of phonograms have the right to authorise or prohibit all reproductions of their works and other subject matters including performances (7) and phonograms in any manner or form. (8) (9)

Right to Remuneration for Broadcasting and Communication to the Public

3. Each Party shall provide to performers and producers of phonograms the right to a single equitable remuneration for the direct or indirect use of phonograms published for commercial purposes for broadcasting or for any communication to the public. (10)

(6) The Parties reaffirm that it is a matter for each Party's law to prescribe that works in general or any specified categories of works, performances and phonograms shall not be protected by copyright or related rights unless they have been fixed in some material form.

Protection of Technological Measures

4. Each Party shall provide adequate legal protection and effective legal remedies against the circumvention of effective technological measures (11) that are used by authors, performers or producers of phonograms in connection with the exercise of their rights in, and that restrict acts in respect of, their works, performances, and phonograms, which are not authorised by the authors, performers or producers of phonograms concerned or permitted by law.

5. In order to provide the adequate legal protection and effective legal remedies referred to in paragraph 4, each Party shall provide protection against at least:

(a) to the extent provided by its law:

(i) the unauthorised circumvention of an effective technological measure carried out knowingly or with reasonable grounds to know; and

(ii) the offering to the public by marketing of a device or product, including computer programs, or a service, as a means of circumventing an effective technological measure; and

(b) the manufacture, importation, or distribution of a device or product, including computer programs, or provision of a service that:

(i) is primarily designed or produced for the purpose of circumventing an effective technological measure; or

(ii) has only a limited commercially significant purpose other than circumventing an effective technological measure.

6. In implementing paragraphs 4 and 5, a Party is not obligated to require that the design of, or the design and selection of parts and components for, a consumer electronics, telecommunications, or computing product provide for a response to a particular technological measure, so long as the product does not otherwise contravene that Party's measures implementing these paragraphs. This Agreement does not require a Party to mandate interoperability in that Party's law, i.e., there is no obligation for the Information Communication Technology industry to design devices, products, components, or services to correspond to certain technological protection measures.

7. In providing adequate legal protection and effective legal remedies pursuant to paragraph 4, a Party may adopt or

maintain appropriate limitations or exceptions to measures implementing paragraphs 4 and 5. The obligations set forth in paragraphs 4 and 5 are without prejudice to the rights, limitations, exceptions, or defences to copyright or related rights infringement under a Party's domestic law.

Protection of Rights Management Information

8. To protect electronic rights management information (12) , each Party shall provide adequate legal protection and effective legal remedies against any person knowingly performing without authority any of the following acts knowing, or having reasonable grounds to know, that it will induce, enable, facilitate, or conceal an infringement of any copyright or related rights:

(a) to remove or alter any electronic rights management information;

(b) to distribute, import for distribution, broadcast, communicate, or make available to the public copies of works, performances, or phonograms, knowing that electronic rights management information has been removed or altered without authority.

9. In providing adequate legal protection and effective legal remedies pursuant to paragraph 8, a Party may adopt or maintain appropriate limitations or exceptions to measures implementing paragraph 8. The obligations set forth in paragraph 8 are without prejudice to the rights, limitations, exceptions, or defences to copyright or related rights infringement under a Party's law.

Protection of Encrypted Program-Carrying Satellite Signals

10. Each Party shall make it a criminal or civil offense:

(a) to manufacture, import, sell, lease, or otherwise make available a device or system that is primarily of assistance in decoding an encrypted program-carrying satellite signal without the authorisation of the lawful distributor of such signal; and

(b) to receive, in connection with commercial activities, or further distribute, an encrypted program-carrying satellite signal that has been decoded without the authorisation of the lawful distributor of the signal.

Each Party shall provide that any civil offense established under subparagraph (a) or (b) is actionable by any person that holds an interest in the content of the signal.

(7) For the purposes of this Chapter, a "performance" means a performance fixed in a phonogram unless otherwise specified.

(8) The agreed statements in the WCT and WPPT that are applicable to the rights of reproduction provided by the agreements and treaties listed in paragraph 1 apply as well to this paragraph, including any agreed statements concerning limitations and exceptions.

(9) A Party may determine limitations and exceptions with regard to temporary reproductions under that Party's domestic law.

(10) A Party may satisfy the obligation in this paragraph by implementing such a right in accordance with the WPPT. Protection of Technological Measures

(11) For the purposes of this Article, "technological measures" means any technology, device, or component that, in the normal course of its operation, is designed to prevent or restrict acts, in respect of works, performances, or phonograms, which are not authorised by authors, performers or producers of phonograms, as provided for by a Party's domestic law. Without prejudice to the scope of copyright or related rights contained in a Party's domestic law, technological measures are deemed effective where the use of protected works, performances, or phonograms is controlled by authors, performers or producers of phonograms through the application of a relevant access control or protection process, such as encryption or scrambling, or a copy control mechanism, which achieves the objective of protection.

(12) For the purposes of this Article, "rights management information" means: (a) information that identifies the work, the performance, or the phonogram; the author of the work, the performer of the performance, or the producer of the phonogram; or the owner of any right in the work, performance, or phonogram; (b) information about the terms and conditions of use of the work, performance, or phonogram; or (c) any numbers or codes that represent the information described in (a) and (b) above; when any of these items of information is attached to a copy

of a work, performance, or phonogram, or appears in connection with the communication or making available of a work, performance, or phonogram to the public.

Article 16.12. Patents

1. Each Party shall make patents available for any invention, whether a product or process, in all fields of technology, provided that the invention is new, involves an inventive step, and is capable of industrial application (13) . In addition, each Party confirms that patents shall be available for any new uses or methods of using a known product, provided that the invention is new, involves an inventive step, and is capable of industrial application.

Exclusion from Patentability

2. Each Party may exclude from patentability:

(a) inventions, the prevention within that Party's territory of the commercial exploitation of which is necessary to protect ordre public or morality, including to protect human, animal or plant life or health or to avoid serious prejudice to the environment, provided that such exclusion is not made merely because the exploitation is prohibited by that Party's domestic law;

(b) diagnostic, therapeutic, and surgical methods for the treatment of humans or animals; and

(c) plants and animals other than micro-organisms, and essentially biological processes for the production of plants or animals other than non-biological and microbiological processes. However, each Party shall provide for the protection of plant varieties either by patents or by an effective sui generis system or by any combination thereof.

Limited Exceptions to Patent Rights

3. Each Party may provide limited exceptions to the exclusive rights conferred by a patent, provided that those exceptions do not unreasonably conflict with a normal exploitation of the patent and do not unreasonably prejudice the legitimate interests of the patent owner, taking account of the legitimate interests of third parties.

(13) For the purposes of this Article, a Party may treat the term "inventive step" as synonymous with "non-obvious" and the term "capable of industrial application" as synonymous with "useful."

Article 16.13. Enforcement of Intellectual Property Rights

General Obligations

1. Each Party shall provide that enforcement procedures are available under that Party's domestic law so as to permit effective action against any act of infringement of intellectual property rights covered by this Chapter, including expeditious remedies to prevent infringements and remedies which constitute a deterrent to further infringements. These procedures shall be applied in a manner so as to avoid the creation of barriers to legitimate trade and to provide for safeguards against their abuse.

2. Each Party shall provide that the procedures adopted, maintained, or applied to implement this Chapter are fair and equitable, and provide for the rights of all participants subject to such procedures to be appropriately protected. Each Party shall also provide that these procedures are not unnecessarily complicated or costly, or entail unreasonable time-limits or unwarranted delays.

3. In implementing this Chapter, each Party shall take into account the need for proportionality between the seriousness of the infringement, the interests of third parties, and the applicable measures, remedies, and penalties.

4. This Chapter is not to be construed to require a Party to make its officials subject to liability for acts undertaken in the performance of their official duties. Presumption of Authorship or Ownership

5. In civil proceedings involving copyright or related rights, each Party shall provide for a presumption that, in the absence of proof to the contrary, the person whose name is indicated as the author, performer, or producer of the work, performance, or phonogram in the usual manner is the designated right holder in such work, performance, or phonogram. Each Party shall also provide for a presumption that, in the absence of proof to the contrary, the copyright or related rights subsist in such subject matter.

Civil and Administrative Procedures and Remedies (14)

6. Each Party shall make available to right holders (15) civil judicial procedures concerning the enforcement of any intellectual property right.

7. To the extent that any civil remedy can be ordered as a result of administrative procedures on the merits of a case, each Party shall provide that those procedures conform to principles equivalent in substance to those set forth in this Article.

Injunctions

8. Each Party shall provide that, in civil judicial proceedings concerning the enforcement of intellectual property rights, that Party's judicial authorities have the authority to issue an order against a person to desist from an infringement, inter alia, to prevent goods that involve the infringement of an intellectual property right from entering into the channels of commerce.

9. Notwithstanding the other provisions of this Article, a Party may limit the remedies available against use by governments or by third parties authorised by a government, without the authorisation of the right holder, to the payment of remuneration, provided that the Party complies with the provisions of Part II of the TRIPS Agreement specifically addressing that use. In other cases, the remedies under this Article shall apply or, where these remedies are inconsistent with a Party's law, declaratory judgments and adequate compensation shall be available.

Damages (16) (17)

10. Each Party shall provide that, in civil judicial proceedings concerning the enforcement of intellectual property rights, that Party's judicial authorities have the authority to order the infringer who, knowingly or with reasonable grounds to know, engaged in infringing activity to pay the right holder damages adequate to compensate for the injury the right holder has suffered as a result of the infringement (18) . In determining the amount of damages for infringement of intellectual property rights, a Party shall provide that its judicial authorities have the authority to consider, inter alia, any legitimate measure of value the right holder submits, which may include lost profits or the value of the infringed goods or services measured by the market price or the suggested retail price.

11. At least in cases of copyright or related rights infringement and trademark counterfeiting, each Party shall provide that, in civil judicial proceedings, that Party's judicial authorities have the authority to order the infringer to pay the right holder the infringer's profits that are attributable to the infringement. A Party may presume those profits to be the amount of damages referred to in paragraph 10.

12. At least with respect to infringement of copyright or related rights protecting works, phonograms, and performances, and in cases of trademark counterfeiting, each Party shall also establish or maintain a system that provides for one or more of the following:

(a) pre-established damages;

(b) presumptions (19) for determining the amount of damages sufficient to compensate the right holder for the harm caused by the infringement; or (c) at least for copyright, additional damages.

13. If a Party provides the remedy referred to in paragraph 12(a) or the presumptions referred to in paragraph 12(b), that Party shall ensure that either its judicial authorities or the right holder has the right to choose such a remedy or presumptions as an alternative to the remedies referred to in paragraphs 10 and 11.

14. Each Party shall provide that its judicial authorities, where appropriate, have the authority to order, at the conclusion of civil judicial proceedings concerning infringement of at least copyright or related rights, trademarks, and patents, that the prevailing party be awarded payment by the losing party of court costs or fees, appropriate lawyer's fees, or other expenses as provided for under that Party's domestic law.

Other Remedies

15. At least with respect to pirated copyright goods and counterfeit trademark goods, each Party shall provide that, in civil judicial proceedings, at the right holder's request, that Party's judicial authorities have the authority to order that the infringing goods be destroyed, except in exceptional circumstances, without compensation of any sort.

16. Each Party shall further provide that, in civil judicial proceedings, its judicial authorities have the authority to order that materials and implements that have been used in the manufacture or creation of such infringing goods, be, without undue delay and without compensation of any sort, destroyed or disposed of outside the channels of commerce in a manner so as to minimise the risks of further infringements.

17. A Party may provide for the remedies described in paragraphs 15 and 16 to be carried out at the infringer's expense.

Information related to Infringement

18. Without prejudice to each Party's domestic law governing privilege, the protection of confidentiality of information sources, or the processing of personal data, each Party shall provide that, in civil judicial proceedings concerning the enforcement of intellectual property rights, that Party's judicial authorities have the authority, in accordance with that Party's domestic law, to order the infringer or, in the alternative, the alleged infringer, to provide to the right holder or to the judicial authorities, at least for the purpose of collecting evidence, relevant information as provided for in that Party's applicable domestic law that the infringer or alleged infringer possesses or controls. This information may include information regarding a person involved in any aspect of the infringement or alleged infringement and regarding the means of production or the channels of distribution of the infringing or allegedly infringing goods or services, including the identification of third persons alleged to be involved in the production and distribution of such goods or services and of their channels of distribution.

19. Each Party shall provide that in relation to a civil judicial proceeding concerning the enforcement of intellectual property rights, that Party's judicial or other authorities have the authority to impose sanctions on a party, counsel, experts, or other persons subject to the court's jurisdiction, for violation of judicial orders concerning the protection of confidential information produced or exchanged in connection with that proceeding.

Provisional Measures

20. Each Party shall provide that its judicial authorities have the authority to order prompt and effective provisional measures:

(a) against a party or, if appropriate, a third party over whom the relevant judicial authority exercises jurisdiction, to prevent an infringement of any intellectual property right from occurring, and in particular, to prevent goods that involve the infringement of an intellectual property right from entering into the channels of commerce; and

(b) to preserve relevant evidence in regard to the alleged infringement.

21. Each Party shall provide that its judicial authorities have the authority to adopt provisional measures inaudita altera parte if appropriate, in particular where any delay is likely to cause irreparable harm to the right holder, or where there is a demonstrable risk of evidence being destroyed. In proceedings conducted inaudita altera parte, each Party shall provide that Party's judicial authorities with the authority to act expeditiously on requests for provisional measures and to make a decision without undue delay.

22. At least in cases of copyright or related rights infringement and trademark counterfeiting, each Party shall provide that, in civil judicial proceedings, that Party's judicial authorities have the authority to order the seizure or other taking into custody of suspect goods, and of materials and implements relevant to the act of infringement, and, at least for trademark counterfeiting, documentary evidence, either originals or copies thereof, relevant to the infringement.

23. Each Party shall provide that its authorities have the authority to require the applicant, with respect to provisional measures, to provide any reasonably available evidence in order to satisfy themselves with a sufficient degree of certainty that the applicant's right is being infringed or that such infringement is imminent, and to order the applicant to provide a security or equivalent assurance sufficient to protect the defendant and to prevent abuse. Each Party shall provide that such security or equivalent assurance does not unreasonably deter recourse to procedures for such provisional measures.

24. Each Party may provide that if the provisional measures are revoked, if they lapse due to any act or omission by the applicant, or if it is subsequently found that there has been no infringement of an intellectual property right, the judicial authorities have the authority to order the applicant, upon request of the defendant, to provide the defendant appropriate compensation for any injury caused by these measures.

(14) A Party may exclude protection of undisclosed information from the scope of this Article.

(15) For the purposes of this Article, "right holder" includes a federation or an association having the legal standing and authority to assert such rights, and also includes a person that exclusively has any one or more of the intellectual property rights encompassed in a given intellectual property.

(16) For greater certainty, a Party may exclude from the application of this Article cases of copyright or related rights infringement where an infringer did not knowingly, or with reasonable grounds to know, engage in infringing activity.

(17) For greater certainty, a Party is not obliged to provide for the possibility of the remedies in paragraphs 10 through 12 to be ordered in parallel.

(18) A Party may also provide that the right holder is not be entitled to any of the remedies set out in paragraphs 10 through 14 in the case of a finding of non-use of a trademark.

(19) The presumptions referred to in this subparagraph may include a presumption that the amount of damages is: (a) the quantity of the goods infringing the right holder's intellectual property right in question and actually assigned to third persons, multiplied by the amount of profit per unit of goods which would have been sold by the right holder if there had not been the act of infringement; (b) a reasonable royalty; or (c) a lump sum on the basis of elements such as at least the amount of royalties or fees which would have been due if the infringer had requested authorisation to use the intellectual property right in question.

Article 16.14. Special Requirements Related to Border Measures

Scope of Border Measures

1. For the purposes of this Article, goods infringing an intellectual property right include goods that are subject to footnote 14 of Article 51 of the TRIPS Agreement.

2. The provisions in this Article may apply to in-transit (20) shipments or goods.

3. A Party may apply the provisions set forth in this Article to goods put on the market in another country by or with the consent of the right holder.

Provision of Information from the Right Holder

4. Each Party shall permit that Party's competent authorities to request that a right holder supply relevant information to assist the competent authorities in taking the border measures referred to in this Article. A Party may also allow a right holder to supply relevant information to that Party's competent authorities.

Ex Officio Action

5. Each Party shall adopt or maintain procedures with respect to import and export shipments under which that Party's competent authorities may action upon their own initiative to suspend the release of, or to detain, goods suspected of infringing an intellectual property right.

Application by the Right Holder

6. Each Party shall adopt or maintain procedures with respect to import and export shipments under which a right holder may request the competent authorities of the Party providing the procedures to suspend the release of, or to detain, goods suspected of infringing an intellectual property right.

7. Each Party may provide that, if the applicant has abused the procedures described in this Article or if there is due cause, that Party's competent authorities have the authority to deny, suspend, or void the application.

Security or Equivalent Assurance

8. Each Party shall provide that its competent authorities have the authority to require a right holder that requests the procedures provided for in paragraph 6 to provide a reasonable security or equivalent assurance sufficient to protect the defendant and the competent authorities and to prevent abuse. Each Party shall provide that this security or equivalent assurance does not unreasonably deter recourse to these procedures. A Party may provide that such security may be in the form of a bond conditioned to hold the defendant harmless from any loss or damage resulting from any suspension of the release of, or detention of, the goods in the event the competent authorities determine that the goods are not infringing.

Determination as to Infringement

9. Each Party shall adopt or maintain procedures by which that Party's competent authorities may determine, within a reasonable period after the initiation of the procedures described in paragraphs 5, 6, and 7, if the goods suspected of infringing an intellectual property right infringe an intellectual property right.

Remedies

10. Each Party shall provide that its competent authorities have the authority to order the destruction of goods following a determination referred to in paragraph 9 that the goods are infringing. In cases where those goods are not destroyed, each Party shall ensure that, except in exceptional circumstances, those goods are disposed of outside the channels of commerce in a manner so as to avoid harm to the right holder.

11. In regard to counterfeit trademark goods, the simple removal of the trademark unlawfully affixed is not sufficient, other than in exceptional cases, to permit release of the goods into the channels of commerce.

12. A Party may provide that its competent authorities have the authority to impose administrative penalties following a determination referred to in paragraph 9 that the goods are infringing.

Fees

13. Each Party shall provide that an application fee, storage fee, or destruction fee to be assessed by that Party's competent authorities in connection with the procedures described in this Article not be used to unreasonably deter recourse to these procedures. Disclosure of Information

14. Each Party may, without prejudice to that Party's law pertaining to the privacy or the confidentiality of information, authorise that Party's competent authorities, where they have detained, or seized, goods suspected of infringing an intellectual property right, to provide a right holder who has filed a request for assistance with information about goods that could assist them in pursuing a remedy. This information may include the description and quantity of the goods, the name and address of the consignor, importer, exporter or consignee, and, if known, the country of origin of the goods and the name and address of the manufacturer of the goods.

Small Consignment and Personal Luggage

15. Each Party may exclude from the application of this Article small quantities of goods of a non-commercial nature contained in travellers' personal luggage or sent in small consignments.

(20) "In-transit " means the movement of shipments or goods under customs procedures under which shipments or goods are: (a) transported under customs control from one customs office to another; or (b) transferred under customs control from the importing means of transport to the exporting means of transport within the area of one customs office which is the office of both importation and exportation.

Article 16.15. Criminal Procedures and Remedies

1. Each Party shall provide for criminal procedures and penalties to be applied at least in cases of wilful trademark counterfeiting or copyright or related rights piracy on a commercial scale.

2. Each Party shall provide for criminal procedures and penalties to be applied in accordance with that Party's laws and regulations for the unauthorised copying of a cinematographic work, or any part thereof, from a performance in a movie theatre.

Penalties

3. For offences specified in paragraphs 1 and 2, each Party shall provide penalties that include imprisonment as well as monetary fines (21) sufficiently high to provide a deterrent to future acts of infringement, consistent with the level of penalties applied for crimes of a corresponding gravity.

Seizure, Forfeiture, and Destruction

4. With respect to the offences specified in paragraphs 1 and 2 for which a Party provides criminal procedures and penalties, that Party shall provide that its competent authorities have the authority to order the seizure of suspected counterfeit trademark goods or pirated copyright goods, related materials and implements used in the commission of the alleged offence, documentary evidence relevant to the alleged offence, and the assets derived from, or obtained directly or indirectly through, the alleged infringing activity.

5. If a Party requires the identification of items subject to seizure as a prerequisite for issuing an order referred to in paragraph 4, that Party shall not require the items to be described in greater detail than necessary to identify them for the purpose of seizure.

6. With respect to the offences specified in paragraphs 1 and 2 for which a Party provides criminal procedures and penalties,

that Party shall provide that its competent authorities have the authority to order the forfeiture or destruction of all counterfeit trademark goods or pirated copyright goods. In cases where counterfeit trademark goods and pirated copyright goods are not destroyed, the competent authorities shall ensure that, except in exceptional circumstances, those goods are disposed of outside the channels of commerce in a manner so as to avoid causing harm to the right holder. Each Party shall provide that the forfeiture or destruction of those goods occur without compensation of any sort to the infringer.

7. With respect to the offences specified in paragraphs 1 and 2 for which a Party provides criminal procedures and penalties, that Party shall provide that its competent authorities have the authority to order the forfeiture or destruction of materials and implements predominantly used in the creation of counterfeit trademark goods or pirated copyright goods and, at least for serious offences, of the assets derived from, or obtained directly or indirectly through, the infringing activity. Each Party shall provide that the forfeiture or destruction of such materials, implements, or assets shall occur without compensation of any sort to the infringer.

8. With respect to the offences specified in paragraphs1 and 2 for which a Party provides criminal procedures and penalties, that Party may provide that its judicial authorities have the authority to order:

(a) the seizure of assets, the value of which corresponds to that of the assets derived from, or obtained directly or indirectly through, the allegedly infringing activity; and

(b) the forfeiture of assets, the value of which corresponds to that of the assets derived from, or obtained directly or indirectly through, the infringing activity.

Ex Officio Criminal Enforcement

9. Each Party shall provide that, in appropriate cases, that Party's competent authorities may act upon their own initiative to initiate investigation or legal action with respect to the criminal offences specified in paragraphs 1 and 2 for which that Party provides criminal procedures and penalties.

(21) For greater certainty, there is no obligation for a Party to provide for the possibility of imprisonment and monetary fines to be imposed in parallel.

Article 16.16. Special Measures Against Copyright Infringers on the Internet

1. Each Party's civil and criminal enforcement procedures to the extent set forth in this Chapter shall apply to infringement of copyright or related rights over digital networks, which may include the unlawful use of means of widespread distribution for infringing purposes.

2. A Party may provide, in accordance with that Party's domestic law, that Party's competent authorities with the authority to order an online service provider to disclose expeditiously to a right holder information sufficient to identify a subscriber whose account was allegedly used for infringement, if that right holder has filed a legally sufficient claim for copyright or related rights infringement, and if that information is being sought for the purpose of protecting or enforcing those rights.

3. Each Party shall endeavour to promote cooperative efforts within the business community to effectively address copyright or related rights infringement while preserving legitimate competition and, consistent with that Party's domestic law, preserving fundamental principles such as freedom of expression, fair process, and privacy.

4. Each Party shall provide measures to curtail copyright and related right infringement on the Internet or other digital network.

5. Each Party shall implement these procedures in a manner that avoids the creation of barriers to legitimate activity, including electronic commerce and, consistent with that Party's domestic law, preserves fundamental principles such as freedom of expression, fair process, and privacy. (22)

Article 16.17. Cooperation

1. To further the objectives in Article 16.1, the Parties agree to increase opportunities for cooperation in the field of intellectual property. Areas of cooperation may include:

(a) patents, trade secrets, industrial design and related rights;

(b) trademarks and related rights, including geographical indications;

(c) copyright and related rights;

(d) intellectual property management, registration and exploitation;

(e) intellectual property protection in the digital environment to facilitate the growth and development of e-commerce;

(f) intellectual property education and awareness programmes;

(g) issues related to non-parties, particularly with respect to shared mutual concerns such as anti-counterfeiting and piracy;

(h) issues related to the implementation of paragraph 6 of the Doha Declaration;

(i) intellectual property and development; and

(j) other issues of mutual interest concerning intellectual property.

2. This cooperation may include:

(a) promoting the development of contacts among the Parties' respective agencies which have an interest in the field of intellectual property; (b) exchanging information on:

(i) each Party's policies, legislative provisions, activities, and experiences in the field of intellectual property;

(ii) the implementation of intellectual property systems aimed at promoting the efficient registration of intellectual property rights; and

(iii) appropriate initiatives to promote public awareness of intellectual property rights;

(c) providing to the other Party, and updating as required, contact points for the authorities responsible for the enforcement of laws and regulations relevant to counterfeit and pirated goods;

(d) exchanging experts to contribute to a better understanding of each Party's intellectual property policies and experiences;

(e) policy dialogue on intellectual property in non-parties and intellectual property initiatives in multilateral and regional forums;

(f) facilitating exchanges among relevant academic and research institutions; and

(g) those other activities as may be jointly determined by the Parties.

(22) For instance, without prejudice to a Party's law, adopting or maintaining a regime providing for limitations on the liability of, or on the remedies available against, online service providers while preserving the legitimate interests of right holder.

Article 16.18. Committee on Intellectual Property

1. The Parties hereby establish a Committee on Intellectual Property composed of representatives of each Party with expertise in intellectual property.

2. The Committee shall be co-chaired by a representative of each Party.

3. The Committee shall:

(a) discuss topics relevant to the protection and enforcement of intellectual property rights covered by this Chapter, and any other relevant issues;

(b) provide a forum for consultations pursuant to Article 16.19; and

(c) oversee the Parties' cooperation under this Chapter. 4. The Committee shall meet annually or as otherwise agreed.

Article 16.19. Consultations

1. Either Party may request consultations with the other Party regarding any actual or proposed measure or any other matter which that Party considers might negatively affect its intellectual property interests.

2. Upon a request pursuant to paragraph 1, the Parties agree to consult within the framework of the Committee to consider ways of reaching mutually satisfactory solutions. In doing so, the Parties shall:

(a) endeavour to provide sufficient information to enable a full examination of the matter; and

(b) treat any confidential or proprietary information exchanged in the course of consultations on the same basis as the Party providing the information.

3. If the Parties are unable to reach a mutually satisfactory solution pursuant to consultations under paragraph 2, either Party may refer the matter to the Commission.

Chapter Seventeen. Environment

Article 17.1. Context and Objectives

1. Recalling Agenda 21 on Environment and Development of 1992, and the Johannesburg Plan of Implementation on Sustainable Development of 2002, the Parties affirm their commitments to promoting the development of international trade in such a way as to contribute to the objective of sustainable development.

2. The Parties recognise that economic development and environmental protection are interdependent and mutually reinforcing components of sustainable development, and underline the benefit of cooperation on trade-related environmental issues as part of a global approach to trade and sustainable development.

3. The Parties recognise that it is inappropriate to set or use their environmental law in a manner that would constitute a disguised restriction on trade or investment between the Parties.

Article 17.2. Right to Regulate and Levels of Protection

Recognising the right of each Party to establish that Party's own levels of environmental protection, and to adopt or modify accordingly that Party's relevant laws and policies, each Party shall seek to ensure that those laws and policies provide for and encourage high levels of environmental protection, and where relevant, are consistent with the agreements referred to in Article 17.3, and shall strive to continue to improve those laws and policies.

Article 17.3. Multilateral Environmental Agreements

1. The Parties recognise the value of international environmental governance and agreements as a response of the international community to global or regional environmental problems and commit to consulting and cooperating as appropriate with respect to trade-related environmental issues of mutual interest.

2. The Parties affirm their commitments to the effective implementation in their respective laws and practices of the multilateral environmental agreements to which both Parties are party.

Article 17.4. Trade Favouring Environmental Protection

The Parties shall strive to facilitate and promote trade and investment in environmental goods and services, including through addressing related non-tariff barriers.

Article 17.5. Upholding Levels of Protection In the Application and Enforcement of Laws

1. A Party shall not fail to effectively enforce its environmental law, through a sustained or recurring course of action or inaction, in a manner affecting trade or investment between the Parties.

2. The Parties recognise that a Party has not failed to effectively enforce its environmental law in a particular case if the action or inaction in question by agencies or officials of that Party reflects a reasonable exercise of their discretion in respect of investigatory, prosecutorial, regulatory, or compliance matters, or results from bona fide decisions to allocate resources to enforcement in respect of other environmental matters determined to have higher priorities.

3. The Parties recognise that it is inappropriate to encourage trade or investment by weakening or reducing the protections afforded in each Party's respective environmental law. Accordingly, each Party shall not waive or otherwise derogate from, or offer to waive or otherwise derogate from environmental law in a manner that weakens or reduces the protections

afforded in that law to encourage trade or investment between the Parties.

Article 17.6. Scientific Information

The Parties recognise the importance, when preparing and implementing measures aimed at protecting the environment that affect trade between the Parties, of taking account of scientific and technical information, and relevant international standards, guidelines, or recommendations.

Article 17.7. Access to Remedies and Procedural Guarantees

1. Each Party shall, in accordance with that Party's domestic law, ensure that its authorities competent to enforce environmental law give due consideration to alleged violations of that law brought to their attention by interested persons residing or established in its territory.

2. Each Party shall ensure that judicial, quasi-judicial, or administrative proceedings for the enforcement of its environmental law are available under its law, and are fair, equitable, transparent, and comply with due process of law. Hearings in those proceedings shall be open to the public, in accordance with that Party's applicable law, except if the administration of justice otherwise requires.

3. Each Party shall ensure that persons with a legally recognised interest under that Party's law in a particular matter have appropriate access to proceedings referred to in paragraph 2 for the enforcement of that Party's environmental law and to seek remedies for violation of that law.

4. Each Party shall provide that final decisions on the merits of a case in the proceedings referred to in paragraph 2 are in writing, preferably state the reasons on which the decisions are based, and are made available to the parties to the proceedings in a timely manner and, in accordance with that Party's domestic law, to the public.

5. Each Party shall provide that parties to the proceedings referred to in paragraph 2 have the right, as appropriate, and in accordance with applicable law, to seek review in accordance with due process and, where warranted, correction of decisions issued in those proceedings.

6. Articles 19.3 (Administrative Proceedings) and 19.4 (Review and Appeal) do not apply to this Chapter.

Article 17.8. Transparency

1. Each Party shall ensure that its laws respecting any matter covered by this Chapter are promptly published or otherwise made available so that interested persons and the other Party can become acquainted with them.

2. Each Party shall publish or otherwise make available in advance, to the extent possible, any such law that it proposes to adopt, so that the other Party or interested persons may provide comments.

3. Article 19.1 (Publication) does not apply to this Chapter.

Article 17.9. Public Information

1. Each Party shall promote public awareness of that Party's environmental law by ensuring the availability of information relating to such law to the public.

2. Each Party shall provide for the receipt and the consideration of enquiries from persons residing or established in that Party's territory on matters related to the implementation of this Chapter.

Article 17.10. Cooperation

Recognising the importance of cooperating on trade-related aspects of environmental issues in order to achieve the objectives of this Agreement, the Parties commit to cooperate on matters of mutual interest, subject to the availability of resources. The Parties may involve the public and interested stakeholders in the development and implementation, as appropriate, of cooperative activities. The areas of cooperation shall be determined and their implementation shall be monitored by the Environmental Affairs Council.

Article 17.11. Institutional Mechanism

1. Each Party shall designate an official within that Party's administration who shall serve as a contact point for the purpose of implementing this Chapter.

2. The Parties hereby establish an Environmental Affairs Council. The Council shall be composed of senior representatives responsible for environmental matters from within the administration of each Party.

3. The Council shall meet within the first year of the entry into force of this Agreement, and thereafter as necessary, to discuss matters of common interest, to oversee the implementation of this Chapter, and to review, as appropriate, progress under this Chapter.

Article 17.12. Government Consultations

1. The Parties shall at all times endeavour to agree on the interpretation and application of this Chapter through dialogue, consultations, and cooperation.

2. A Party may request consultations with the other Party regarding any matter arising under this Chapter, by delivering a written request to the contact point of the other Party. 1 The request shall identify the matter at issue and shall provide the other Party with sufficient information for a full examination of the matter raised. Consultations shall commence promptly after a Party delivers a request for consultations.

3. The Parties shall make every attempt to arrive at a mutually satisfactory resolution of the matter.

4. If a Party considers that the matter needs further discussion, that Party may request that the Council be convened to consider the matter by delivering a written request to the contact point of the other Party. The Council shall convene promptly and endeavour to agree on a resolution of the matter. The resolution of the Council shall be made public unless the Council otherwise decides.

5. If the consultations under paragraph 4 fail to resolve the matter, a Party may request higher level consultations by delivering a written request to the contact point of the other Party. Such consultations shall proceed within 30 days of the request for such consultations unless the Parties agree otherwise. Consultations for Article17.5.1 are restricted to those matters with merit where trade or investment effect can be established.

Article 17.13. Panel of Experts (2)

1. If the matter is not satisfactorily addressed through consultations under Article 17.12, a Party may, 120 days after the delivery of a request for consultations under Article 17.12.2, request that a Panel of Experts be convened to examine the matter. Unless the Parties agree otherwise, the terms of reference of the Panel of Experts shall be "to examine the matter referred to in the request for the establishment of a Panel of Experts in light of the relevant provisions of the Environment Chapter and to issue a report making recommendations for the resolution of the matter". (3) The procedures set out in Annex 17-A apply to the selection of panellists.

2. If in the final report, the Panel of Experts determines that a Party has not complied with that Party's obligations under this Chapter, the Parties shall, within 90 days from the issuance of the final report, endeavour to agree on the implementation of the recommendations of the report in a mutually satisfactory manner. The agreed outcome by the Parties on the recommendations shall be made public promptly. The implementation of the recommendations of the Panel of Experts shall be monitored by the Council.

3. Subject to the provisions of this Chapter, Annexes 21-B (Code of Conduct for Members of Panel) and 21-C (Model Rules of Procedure) apply, mutatis mutandis, unless the Parties otherwise agree.

(2) Prior to the request for a Panel of Experts, a Party should consider whether that Party maintains environmental law that is substantially equivalent in scope to those that would be the subject of the panel review.

(3) For greater clarity, a report shall include recommendations only, and shall not address the issue of remedy, such as trade sanctions or fines.

Article 17.14. Protection of Information

This Chapter is not to be construed to require a Party to release information that would be otherwise prohibited or exempt from disclosure under that Party's laws and regulations, including those concerning access to information and privacy.

Article 17.15. Dispute Settlement

A Party shall not have recourse to Chapter Twenty-One (Dispute Settlement) for any matter arising under this Chapter, except as otherwise provided in this Chapter.

Article 17.16. Application to the Provinces of Canada

Notwithstanding Article 1.4 (Extent of Obligations), the application of this Chapter to the provinces of Canada is subject to Annex 17-B.

Article 17.17. Definitions

For the purposes of this Chapter:

environmental law means any law, statutory or regulatory provision, or other legally binding measure, of a Party, the primary purpose of which is the protection of the environment, or the prevention of a danger to human life or health, through:

(a) the prevention, abatement, or control of the release, discharge, or emission of pollutants or environmental contaminants;

(b) the management of chemicals and waste and the dissemination of information related thereto; or

(c) the conservation and protection of wild flora or wild fauna, including endangered species, their habitat, and protected natural areas,

but does not include any measure directly related to worker health and safety, nor a measure the primary purpose of which is managing the commercial harvest or exploitation, or subsistence or aboriginal harvesting, of natural resources.

Annex 17-1. Procedures Related to Panel of Experts

1. For the purposes of selecting the panellists, the following procedures shall apply:

(a) the Panel of Experts shall be composed of three panel members;

(b) within 30 days of receiving the request to establish a Panel of Experts, each Party shall select one panellist; and

(c) if a Party fails to select that Party's panellist within such period, the other Party shall select, within a further seven days, the panellist from among qualified individuals who are nationals of the Party that failed to select its panellist.

2. For the purposes of selecting the chair, the following procedures apply:

(a) the Party that is subject to a request shall provide the requesting Party with the names of three qualified candidates who are not nationals of either Party. The names shall be provided within 30 days of receiving the request to establish a Panel of Experts;

(b) the requesting Party may choose one of the candidates to be the chair or if the names were not provided or none of the candidates are acceptable, provide the Party that is subject to the request with the names of three candidates who are not nationals of either Party and who are qualified to be the chair. Those names shall be provided no later than seven days after receiving the names under subparagraph (a) or 37 days after the receipt of the request for the establishment of the Panel of Experts; and

(c) the Party that is subject to the request may choose one of the three candidates to be the chair within seven days of receiving the names under subparagraph (b), failing which the chair shall be selected by lot from the candidates proposed by the Parties pursuant to subparagraphs (a) and (b) within a further seven days.

3. The experts proposed as panellists must be individuals with specialised knowledge or expertise in environmental law, or issues addressed in this Chapter and, to the extent possible, the resolution of disputes arising under international agreements. The panellists must be independent, serve in their individual capacities and not take instructions from any organisation or government with regard to issues related to the matter at stake, or be affiliated with the government of either Party.

4. Unless the Parties otherwise decide, the Panel of Experts shall perform its functions according to Annexes 21-B (Code of

Conduct for Members of Panel) and 21-C (Model Rules of Procedure), which apply mutatis mutandis, and shall ensure, in particular, that:

(a) each Party has the opportunity to provide written and oral submissions to the Panel of Experts;

(b) non-governmental organisations, institutions, and persons with relevant information or expertise in the Parties' territories have the opportunity to provide written submissions to the Panel of Experts; and

(c) at least one hearing is held before the Panel of Experts for each panel proceeding, which shall be open to the public, subject to domestic legislation regarding access to information and privacy.

5. Unless the Parties otherwise agree, the Panel of Experts shall, within 120 days of the last expert being selected, present to the Parties an interim report, setting out the findings of fact as well as any determinations the Panel of Experts has made and containing recommendations on the matter. Each Party may provide comments to the Panel of Experts on the interim report within 45 days of its issuance. After considering any such comments, the Panel of Experts may reconsider its report or make any further examination as appropriate. The Panel of Experts shall issue the final report to the Parties within 60 days of the issuance of the interim report. Each Party shall make the final report publicly available within 30 days of its issuance.

Annex 17-B. Application to Provinces of Canada

1. Following the entry into force of this Agreement, Canada shall provide to Korea through diplomatic channels a written declaration indicating the provinces for which Canada is to be bound in respect of matters within their jurisdiction. The declaration becomes effective on the date of receipt by Korea.

2. Canada shall use its best efforts to make this Chapter applicable to as many provinces as possible.

3. Canada shall notify Korea six months in advance of any modification to its declaration.

4. Canada shall not request consultations under Article 17.12, at the instance of the government of a province not included in the declaration noted above.

Chapter Eighteen. Labour

Article 18.1. Statement of Shared Commitments

The Parties affirm their obligations as members of the International Labour Organization (hereinafter referred to as the "ILO"), including those in the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-Up (1998) (hereinafter referred to as the "ILO Declaration").

Section A. Obligations

Article 18.2. General Obligations

Affirming full respect for each Party's Constitution and labour law and recognising the right of each Party to establish its own labour standards in its territory, adopt or modify accordingly its labour law, and set its priorities in the execution of its labour policies, each Party shall ensure that its labour law embodies and provides protection for the principles concerning the following internationally recognised labour rights (1) :

(a) freedom of association and the effective recognition of the right to collective bargaining;

(b) the elimination of all forms of forced or compulsory labour;

(c) the effective abolition of child labour and a prohibition on the worst forms of child labour;

(d) the elimination of discrimination in respect of employment and occupation;

(e) acceptable minimum employment standards, such as minimum wages and overtime pay, for wage earners, including those not covered by collective agreements;

(f) the prevention of occupational injuries and illnesses;

(g) compensation in cases of occupational injuries or illnesses; and

(h) non-discrimination in respect of working conditions for migrant workers.

(1) To establish a violation of an obligation under this Article, a Party must demonstrate that the other Party has failed to ensure its labour law embodies and provides protection for the principles concerning the internationally-recognised labour rights referred to in this Article in a matter related to trade or investment.

Article 18.3. Non-derogation

A Party shall not waive or otherwise derogate from, or offer to waive or otherwise derogate from, that Party's labour law implementing Article 18.2 in a matter related to trade or investment, if the waiver or derogation would be inconsistent with the rights set out in that Article.

Article 18.4. Government Enforcement Action (2)

1. Each Party shall effectively enforce its labour law through appropriate government action, such as:

(a) appointing and training inspectors;

(b) monitoring compliance and investigating suspected violations;

(c) requiring record keeping and reporting;

(d) encouraging the establishment of worker-management committees to address labour regulation of the workplace;

(e) providing or encouraging mediation, conciliation and arbitration services; and

(f) initiating, in a timely manner, proceedings to seek appropriate sanctions or remedies for violations of its labour law.

2. Each Party shall ensure that its competent authorities give due consideration, in accordance with that Party's domestic law, to a request by an employer, employee or their representatives, or another interested person, for an investigation of an alleged violation of the Party's labour law.

(2) To establish a violation under this Article, a Party must demonstrate that the other Party has failed to effectively enforce its labour law through a sustained or recurring course of action or inaction in a matter related to trade or investment, and that the matter of dispute is covered by mutually-recognised labour law.

Article 18.5. Private Action

Each Party shall ensure that a person with a legally-recognised interest under that Party's domestic law has appropriate access to proceedings before a tribunal that can:

(a) enforce the Party's labour law and give effect to such person's labour rights; and

(b) remedy breaches of the Party's labour law or rights.

Article 18.6. Procedural Guarantees

1. Each Party shall ensure that investigations or proceedings referred to in Articles 18. 4.1(b), 18.4.1(f), and 18.5:

(a) are fair, equitable and transparent and to this end that they comply with the due process of law;

(b) are open to the public except if it is not appropriate for the proper administration of these proceedings; and

(c) do not entail unreasonable fees, delays or time limits.

2. Each Party shall provide that final decisions on the merits of the case in proceedings referred to in paragraph 1 are in writing, preferably state the reasons on which the decisions are based, and are made available to the parties to the proceedings in a timely manner and, in accordance with its domestic law, to the public.

3. Each Party shall provide that parties to those proceedings have the right, as appropriate and in accordance with applicable domestic law, to seek review in accordance with due process and, if warranted, correction of decisions issued in

those proceedings.

Article 18.7. Public Information

Each Party shall make available to the public information respecting its labour law, including information related to enforcement and compliance procedures.

Section B. Institutional Mechanisms

Article 18.8. Labour Ministerial Council

1. The Parties hereby establish a Labour Ministerial Council composed of Ministers responsible for labour affairs of the Parties or their designees.

2. The Council shall meet within the first year after the date of entry into force of this Agreement and thereafter as often as it considers necessary to discuss matters of common interest, and to oversee the implementation of and review progress under this Chapter.

3. The Council may consider any matter within the scope of this Chapter and take such other action in the exercise of its functions as the Parties may agree.

4. The Council shall review the operation and effectiveness of the Chapter in the light of experience within five years after the date of entry into force of this Agreement or such other period as may be agreed by the Council.

Article 18.9. National Points of Contact

Each Party shall designate an office within their governmental department responsible for labour affairs that shall serve as a national point of contact (hereinafter referred to as the "NPC") and provide to the other Party its contact information by diplomatic note.

Article 18.10. Public Communications

1. Each Party shall provide for the submission and receipt and periodically make available a list of public communications on labour law matters that:

(a) are raised by a national of the Party or an entity that is established in the territory of the Party;

(b) arise in the territory of the other Party; and (c) pertain to obligations under Section A.

2. Each Party shall review such matters, as appropriate, in accordance with domestic procedures pursuant to Annex 18-B.

Article 18.11. Cooperative Activities

The Parties may initiate cooperative labour activities for the promotion of the objectives of this Chapter, enhancement of workers' welfare and the promotion of better understanding by each Party of the other Party's labour system, as set out in Annex 18-A.

Article 18.12. General Consultations

1. The Parties shall at all times endeavour to agree on the interpretation and application of this Chapter.

2. A Party may request consultations with the other Party regarding obligations under this Chapter by delivering a written request to the NPC of the other Party. The Parties shall make every attempt, including through cooperation, consultations and the exchange of information, to address a matter that might affect its operation.

3. If the Parties are unable to resolve the matter, the requesting Party may use the procedures provided under Article 18.13.

Section C. Procedures for Review of Obligations

Article 18.13. Labour Consultations

1. A Party may request in writing consultations with the other Party at the ministerial level to discuss matters related to obligations in Section A. The Party that is subject to the request shall respond within 60 days.

2. Each Party shall provide the other Party with sufficient information under its control to allow a full examination of the matters raised, subject to a requirement in its domestic law regarding confidentiality of personal and commercial information.

3. To facilitate discussion of the matters under consideration, either Party may call upon one or more independent experts to prepare a report, which shall be made public within 90 days of its receipt by the Ministers. The Parties shall make every effort to agree upon selection of the expert or experts and shall cooperate with the expert or experts in the preparation of the report.

4. Labour consultations shall be concluded no later than 180 days after the request unless the Parties otherwise agree.

Article 18.14. Review Panel (3) (4)

1. Following the conclusion of labour consultations, the Party that requested the consultations may request that a Review Panel be convened if it considers that:

(a) the other Party has failed to comply with its obligations under Section A; and

(b) the matter has not been satisfactorily addressed through labour consultations.

2. Unless otherwise agreed by the Parties, the Review Panel shall be established and perform its functions in a manner consistent with this Section.

3. The Review Panel shall determine, within 30 days after the last panellist is selected, whether the matter is related to trade or investment and shall cease its functions if it determines that the matter is not related to trade or investment.

4. The review shall be conducted in accordance with the procedures set out in Annex 18-D.

(3) Recognising the principle of reciprocity, prior to the request for a Review Panel, each Party shall consider whether the obligations under this Chapter apply to a reasonably meaningful portion of its own labour force in its own territory.

(4) A Party should resort to dispute settlement under this Article only in cases with merit that are related to trade or investment.

Article 18.15. Panellists

1. A Review Panel shall be composed of three panellists.

2. Panellists shall:

(a) be chosen on the basis of expertise in labour matters or other appropriate disciplines, objectivity, reliability, and sound judgment;

(b) be independent of, and not be affiliated with or take instructions from, either Party; and

(c) comply with the Code of Conduct set out in Annex 21-B (Code of Conduct for Members of Panels) which applies mutatis mutandis.

3. If either Party believes that a panellist is in violation of the code of conduct, the Parties shall consult and, if they agree, the panellist shall be removed and a new panellist shall be selected in accordance with the procedures set out in Annex 18-D that were used to select the panellist who was removed. The time limits shall run from the date of their agreement to remove the panellist.

4. Individuals shall not serve as panellists with respect to a review in which they have, or a person or organisation with which they are affiliated has, an interest.

5. The chairperson shall not be a national of either Party.

6. Panellists shall be selected in accordance with the procedures set out in Annex 18-D.

Article 18.16. Information for the Review Panel

1. The Parties shall be entitled to make written and oral submissions to the Review Panel in accordance with the relevant provisions of Annex 21-C (Model Rules of Procedure) which apply mutatis mutandis.

2. The Review Panel may invite or receive and consider written submissions and any other information from organisations, institutions, the public and persons with relevant information or expertise.

Article 18.17. Initial Report

1. Unless the Parties otherwise agree, the Review Panel shall base its report on the submissions and arguments of the Parties and on information before it pursuant to Article 18.16. 2. Unless the Parties otherwise agree, the Review Panel shall, within 180 days after the last panellist is selected, issue to the Parties an initial report containing:

(a) findings of fact;

(b) its determination as to whether the Party that is subject to the request has failed to comply with its obligations under Section A or any other determination requested in the terms of reference; and

(c) its recommendations, if any, for addressing the matter.

3. Panellists may furnish separate opinions on matters that are not the subject of unanimous agreement. The Review Panel, however, shall not disclose which panellists are associated with majority or minority opinions.

4. Either Party may submit written comments to the Review Panel on its initial report within 45 days of presentation of the report.

5. After considering such written comments, the Review Panel, on its own initiative or on the request of either Party, may:

(a) request the views of the Parties;

(b) reconsider its report; and

(c) make any further examination that it considers appropriate.

Article 18.18. Final Report

1. The Review Panel shall issue to the Parties a final report, including any separate opinions on matters not unanimously agreed to, within 90 days of the issuance of the initial report, unless the Parties otherwise agree.

2. The Parties shall make the final report available to the public within 120 days after it is issued to the Parties.

3. If, in the final report, the Review Panel determines that the Party that was subject to the request has failed to comply with its obligations under Section A, the Parties may develop, within the following 90 days or such longer period as they may decide, a mutually satisfactory action plan to implement the Review Panel's recommendations.

4. Following the expiry of the period pursuant to paragraph 3, if the Parties are unable to decide on an action plan or the Party that was subject to the request is failing to implement the action plan according to its terms, the requesting Party may request in writing that the Review Panel be reconvened with a view to determining whether a monetary assessment needs to be set and paid in accordance with Annex 18-E.

Section D. General Provisions

Article 18.19. Enforcement Principle

This Chapter is not to be construed to empower a Party's authorities to undertake labour law enforcement activities in the territory of the other Party.

Article 18.20. Private Rights

A Party shall not provide for a right of action under its domestic law against the other Party on the ground that the other Party has acted in a manner inconsistent with this Chapter.

Article 18.21. Security of Domestic Procedures

The decisions by each Party's tribunals, or pending decisions, as well as related proceedings, shall not be subject to revision or be reopened under this Chapter.

Article 18.22. Protection of Information

1. A Party that receives information identified by the other Party as confidential or proprietary information shall protect such information as confidential or proprietary.

2. Confidential or proprietary information provided to the Review Panel under this Chapter shall be treated in accordance with paragraph 32 of Annex 21-C (Confidentiality) which applies mutatis mutandis.

Article 18.23. Cooperation with International and Regional Organisations

The Parties may, as appropriate and by agreement, seek the assistance of the International Labour Office or any other competent international and regional organisation that has the necessary expertise and resources to enhance cooperation under this Chapter.

Article 18.24. Dispute Settlement

A Party shall not have recourse to Chapter Twenty-One (Dispute Settlement) for any matter arising under this Chapter, except as otherwise provided in this Chapter.

Article 18.25. Definitions

For the purposes of this Chapter:

due process means that proceedings are conducted by decision-makers who are impartial and independent and do not have an interest in the outcome of the matter, that the parties to the proceedings are entitled to support or defend their respective positions and to present information or evidence, and that the decision is based on such information or evidence;

forced or compulsory labour does not include compulsory military service, certain civic obligations, prison labour not for private purposes and work exacted in cases of emergency;

labour law means laws, regulations, and, where applicable, jurisprudence that implement and protect the labour principles and rights set out in Article 18.2;

mutually-recognised labour law means labour law that addresses the same general subject matter in a manner in both Parties that provides rights, protections or standards, although for greater certainty the law of a Party need not be substantially similar to the law of the other Party in order to constitute a mutually-recognised labour law; and

person means a natural person, an enterprise, or an organisation of employers or workers.

Annex 18-A. Cooperative Activities

1. The NPCs established under Article 18.9 shall serve as the contact points for cooperative labour activities.

2. Officials of the labour ministries and other appropriate agencies and ministries shall cooperate to:

(a) establish priorities for cooperative activities on labour matters;

(b) develop specific cooperative activities in accordance with such priorities;

(c) exchange information regarding labour law and practices in each Party;

(d) exchange information on ways to improve labour law and practices, including best labour practices; and

(e) advance understanding of, respect for, and effective implementation of the principles reflected in the ILO Declaration.

3. Cooperative activities between the Parties may include the following subjects:

(a) policy issues of common interest and their effective application: legislation, practice, and implementation related to freedom of association and collective bargaining, non-discrimination in employment, child labour, forced labour, occupational health and safety, compensation for work-related injury or illness, employment standards, work benefits, and migrant workers;

(b) labour-management relations: forms of cooperation and dispute resolution among workers, management and governments;

(c) social safety net programs: social programs for workers and their families and unemployment assistance programs;

(d) human resource development and management: skills development and life-long learning and training;

(e) programs, methodologies and experience regarding productivity improvement;

(f) labour statistics; and

(g) such other matters as the Parties may agree.

4. Cooperative activities agreed upon under paragraph 3 may be implemented through:

(a) exchanges of delegations, professionals and specialists, including study visits and other technical exchanges;

(b) exchange of information, standards, regulations and procedures, and best practices, including publications and monographs;

(c) organisation of joint conferences, seminars, workshops, meetings, training sessions and outreach and education programs;

(d) development of collaborative projects or demonstrations;

(e) joint research projects, studies and reports, including through engagement of independent experts with recognised expertise;

(f) cooperation within international fora such as the ILO on labour-related issues; and

(g) other forms of technical exchanges or cooperation to which the Parties may agree.

5. In identifying areas for cooperation and carrying out cooperative activities, the Parties shall consider the views of their respective worker and employer representatives.

The Parties shall carry out the cooperative activities with due regard for the economic, social cultural, and legislative differences between them.

Annex 18-B. Public Communications

Public communication procedures of each Party regarding the right of a person to submit a public communication to the NPC shall indicate, inter alia:

(a) the requirements regarding the acceptance of communications, including that:

(i) except in exceptional circumstances, relief before domestic tribunals has been pursued and that matters pending before such tribunals will not be accepted, provided that the tribunal's proceedings conform to Article 18.5;

(ii) except in exceptional circumstances, matters pending before an international body will not be accepted;

(iii) communications that are trivial, frivolous, or vexatious will not be accepted; and

(iv) communication must be substantially different from previous communications or include new or supplemental information not available in previous communications;

(b) that there will be early consultation with the other Party;

(c) that the final report will consider relevant information, including that provided by the submitter, the other Party and other interested persons, as well as indicate how to obtain access to that information; and

(d) that the public notification of the acceptance for review and of the release of the final report will indicate how to obtain access to any response of the other Party.

Annex 18-C. Extent of Obligations

1. At the time of entry into force of this Agreement, Canada shall provide to Korea through diplomatic channels a written declaration with a list of any provinces for which Canada is to be bound in respect of matters within their jurisdiction. The declaration shall be effective on delivery to Korea, and shall carry no implication as to the internal distribution of powers within Canada. Canada shall notify Korea six months in advance of any modification to its declaration.

2. Canada shall not request consultations, or the establishment of a Review Panel, under Section C at the instance, or primarily for the benefit, of the government of a province not included in the declaration made under paragraph 1.

3. Korea shall not request the establishment of a Review Panel, under Section C, concerning a matter related to a labour law of a province unless that province is included in the declaration made under paragraph 1.

4. Canada shall, no later than the date on which the Review Panel is convened pursuant to Article 18.14 respecting a matter within the scope of paragraph 3, notify Korea in writing of whether any recommendation of the Review Panel in a final report under Article 18.18 or monetary assessment determined pursuant to Annex 18-E with respect to Canada shall be addressed to Her Majesty in right of Canada or Her Majesty in right of the province concerned.

5. Canada shall use its best efforts to make this Chapter applicable to as many of its provinces as possible.

Annex 18-D. Procedures Related to Review Panels

Review Panel Selection Procedures

1. For the purposes of selecting a panellist, the following procedures shall apply:

(a) within 20 days of the receipt of the request for the establishment of a Review Panel, each Party shall select one panellist;

(b) if a Party fails to select its panellist within such period, the other Party shall select the panellist from among qualified individuals who are nationals of the Party that has failed to select its panellist; and

(c) the following procedures apply to the selection of the chairperson:

(i) the Party that is subject to the request shall provide the Party that made the request with the names of three individuals who are qualified to be the chairperson. The names shall be provided no later than 20 days after the receipt of the request for the establishment of a Review Panel;

(ii) the Party that made the request may choose one of the individuals to be the chairperson or, if the names were not provided or none of the individuals is acceptable, provide the Party that is subject to the request with the names of three individuals who are qualified to be the chairperson. Those names shall be provided no later than five days after receiving the names under subparagraph (i) or 25 days after the receipt of the request for the establishment of a Review Panel; and

(iii) the Party that is subject to the request may choose one of the three individuals to be the chairperson, no later than five days after receiving the names under sub-subparagraph (ii), in default of which the Parties shall immediately request the Director General of the International Labour Office to appoint a chairperson within 25 days.

Rules of Procedure

2. The rules of procedure under Article 21.8 (Rules of Procedure) apply mutatis mutandis to Review Panel proceedings under this Chapter.

3. The Parties shall agree on a separate budget for each set of Review Panel proceedings under this Chapter. The Parties shall contribute equally to the budget, unless they agree otherwise.

Terms of Reference of Panels

4. Unless the Parties otherwise agree within 30 days after the Review Panel is convened, the terms of reference shall be:

“To examine, in light of the relevant provisions of this Chapter, whether the Party that was subject to the request has failed to comply with its obligations under Section A, and to make findings, determinations and recommendations in accordance with Articles 18.17.1 and 18.17.2.”

Annex 18-E. Monetary Assessments

1. The Review Panel shall be reconvened as soon as possible after delivery of the request pursuant to Article 18.18.4. Within 90 days after being reconvened, the Review Panel shall determine whether the terms of the action plan have been implemented or the non-compliance otherwise remedied.

2. In the event of a negative determination pursuant to paragraph 1 and at the request of the complaining Party, the Review Panel shall assess an annual monetary assessment equivalent to the degree of adverse trade effects related to the non-compliance within the meaning of Article 18.14.1 or the non-compliance with the action plan and the Review Panel may adjust the assessment to reflect:

(a) mitigating factors, such as good faith efforts made by the Party to begin remedying such non-compliance after the final report of the Review Panel, bona fide reasons for the Party's failure to comply with such obligations; and

(b) aggravating factors, such as the pervasiveness and duration of the Party's failure to comply with its obligations.

3. Monetary assessments shall be paid into an interest-bearing fund designated by the Council and shall be expended at the direction of the Council to implement the action plan or other appropriate measures.

4. 90 days from the date on which the Review Panel determines the amount of the monetary assessment pursuant to paragraph 2, or at any time thereafter, the complaining Party may provide notice in writing to the other Party demanding payment of the monetary assessment. The monetary assessment shall be paid in equal, quarterly instalments beginning 120 days after the requesting Party provides such notice and ending upon decision of the Parties or upon the date of the Review Panel determination pursuant to paragraph 5.

5. If the Party that was subject to the review considers that it has eliminated the non-compliance, it may refer the matter to the Review Panel by providing written notice to the other Party. The Review Panel shall be reconvened within 60 days of that notice and issue its report within 90 days thereafter.

6. In Canada, the procedure for enforcement of the monetary assessment is the following:

(a) Korea may file in a court of competent jurisdiction a certified copy of a Review Panel determination under paragraph 2 above only if Canada has failed to comply with the terms of a notice provided under paragraph 4 within 180 days of the notice being provided;

(b) when filed, the Review Panel determination, for purposes of enforcement, becomes an order of the court;

(c) Korea may take proceedings for the enforcement of a Review Panel determination that is made an order of the court, in that court, against the person in Canada against whom the Review Panel determination is addressed in accordance with paragraph 4 of Annex 18-C;

(d) proceedings to enforce a Review Panel determination that has been made an order of the court are to be conducted in Canada by way of summary proceedings, provided that the court shall promptly refer a question of fact or a question of interpretation of the Review Panel determination to the Review Panel that made the determination, and the decision of the Review Panel shall be binding on the court;

(e) a Review Panel determination that has been made an order of the court is not subject to domestic review or appeal; and

(f) an order made by the court in proceedings to enforce a Review Panel determination that has been made an order of the court is not subject to review or appeal.

7. Korea shall provide for the enforcement of the monetary assessment in its territory

Chapter Nineteen. Transparency

Article 19.1. Publication

1. Each Party shall ensure that its laws, regulations, procedures, and administrative rulings of general application respecting a 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 shall:

(a) publish in advance any such measure that it proposes to adopt; and

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

Article 19.2. Notification and Provision of Information

1. To the maximum extent possible, each Party shall notify the other Party of any actual or proposed measure that the Party considers might materially affect the operation of this Agreement or otherwise substantially affect the other Party's interests under this Agreement.

2. At the request of the other Party, a Party shall promptly provide information and respond to questions pertaining to an actual or proposed measure, whether or not the other Party was previously notified of that measure.

3. Any notification or information provided pursuant to this Article is without prejudice as to whether the measure is consistent with this Agreement.

Article 19.3. Administrative Proceedings

With a view to administering 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 proceedings applying measures referred to in Article 19.1 to particular persons, goods, or services of the other Party in specific cases:

(a) whenever possible, persons of the other Party that are directly affected by a proceeding are provided reasonable notice, in accordance with that Party's domestic procedures, when a proceeding is initiated, including a description of the nature of the proceeding, a statement of the legal authority under which the proceeding is initiated, and a general description of the issues in controversy;

(b) persons referred to in subparagraph (a) are afforded a reasonable opportunity to present facts and arguments in support of their positions prior to any final administrative action when permitted by time, the nature of the proceeding, and the public interest; and

(c) its procedures are consistent with the Party's domestic law.

Article 19.4. Review and Appeal

1. Each Party shall establish or maintain judicial, quasi-judicial, or administrative tribunals or procedures for the purpose of the prompt review and, if warranted, correction of final administrative actions regarding matters covered by this Agreement. Each Party shall ensure that such tribunals are impartial and independent of the office or authority entrusted with administrative enforcement and do not have any substantial interest in the outcome of the matter.

2. Each Party shall ensure that, in any tribunals or procedures referred to in paragraph 1, the parties to the proceeding are provided with the right to:

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

(b) a decision based on the evidence and submissions of record or, if required by the Party's domestic law, the record compiled by the administrative authority.

3. Each Party shall ensure, subject to appeal or further review as provided in its domestic law, that the decisions referred to in paragraph 2(b) are implemented by, and govern the practice of, the offices or authorities with respect to the administrative action at issue.

Article 19.5. Cooperation on Promoting Increased Transparency

The Parties agree to cooperate in bilateral, regional, and multilateral fora on ways to promote transparency in respect of international trade and investment.

Article 19.6. Policy on Non-discriminatory Purchase and Use of Goods and Services

Each Party affirms that it is not its policy to discourage private persons in its territory from purchasing or using goods or services of the other Party.

Article 19.7. Definitions

For the purposes of this Chapter:

administrative ruling of general application means an administrative ruling or interpretation that applies to all persons and fact situations that fall generally within its ambit and that establishes a norm of conduct but does not include:

(a) a determination or ruling made in an administrative or quasi-judicial proceeding that applies to a particular person, good, or service of the other Party in a specific case; or

(b) a ruling that adjudicates with respect to a particular act or practice.

Chapter Twenty. Institutional Provisions and Administration

Article 20.1. Joint Commission

1. The Parties hereby establish a Joint Commission, composed of representatives of the Parties. The Commission shall be co-chaired by representatives of the Parties at the Ministerial level, or their designees.

2. The Commission shall:

(a) supervise the implementation of this Agreement;

(b) review the general functioning of this Agreement;

(c) supervise the further elaboration of this Agreement;

(d) consider ways to further enhance trade relations between the Parties;

(e) supervise the work of all committees, subcommittees, working groups, and other bodies established under this Agreement, including those listed in Annex 20-A;

(f) without prejudice to the rights conferred in Chapter Twenty-One (Dispute Settlement), endeavour to resolve disputes that may arise regarding the interpretation or application of this Agreement; and

(g) consider any other matter that may affect the operation of this Agreement.

3. The Commission may:

(a) adopt interpretive decisions concerning this Agreement, which shall be binding on dispute settlement panels established under Article 21.6 (Establishment of a Panel) and on Tribunals established under Section B of Chapter Eight (Investor-State Dispute Settlement);

(b) seek the advice of non-governmental persons;

(c) take any other action in the exercise of its functions as the Parties may agree; and

(d) consider amendments or modifications to the rights and obligations under this Agreement, and amendments to Annex 1-A (Multilateral Environmental Agreements);

(e) establish the amounts of remuneration and expenses that will be paid to the dispute settlement panellists; and

(f) adopt its own rules of procedure.

4. The revisions referred to in paragraph 3(d) are subject to the completion of the necessary domestic legal procedures of either Party.

5. The Commission may establish committees, subcommittees, working groups or other bodies. Except as otherwise provided in this Agreement, the committees, subcommittees, working groups, and other bodies shall work under a mandate approved by the Commission.

6. Decisions and recommendations of the Commission shall be taken by mutual agreement.

7. The Commission shall convene once a year, or upon the request, in writing, of either Party. Unless otherwise agreed by the Parties, sessions of the Commission shall be held alternately in the territory of each Party, or by any technological means available.

8. Each Party shall treat confidential information exchanged in relation to a meeting of the Commission or a body established under this Agreement on the same basis as the Party providing the information.

Article 202. Agreement Coordinators

1. Each Party shall appoint an Agreement Coordinator (hereinafter referred to as the "Coordinator") and notify the other Party within 60 days following the entry into force of this Agreement.

2. The Coordinators shall:

(a) coordinate the work of all committees, subcommittees, working groups and other bodies established under this Agreement;

(b) recommend to the Commission the establishment of other committees, subcommittees, working groups and other bodies as they consider necessary to assist the Commission;

(c) follow up on any decisions taken by the Commission, as appropriate;

(d) receive notifications and information provided under this Agreement and, as necessary, facilitate communications between the Parties on a matter covered by this Agreement; and

(e) consider other matters that may affect the operation of this Agreement as mandated by the Commission.

3. The Coordinators shall meet as often as required.

4. Either Party may at any time request in writing that a special meeting of the Coordinators be held. The meeting shall take place within 30 days of receipt of the request.

Annex 20-A. Committees, Sub-Committees, Working Groups, and Other Bodies

1. The Committees established are:

(a) Committee on Trade in Goods;

(b) Rules of Origin and Customs Committee;

(c) Committee on Sanitary and Phytosanitary Measures;

(d) Committee on Standards-Related Measures;

(e) Committee on Trade Remedies;

(f) Financial Services Committee;

(g) Committee on Government Procurement;

(h) Committee on Intellectual Property; and

(i) Committee on Outward Processing Zones on the Korean Peninsula;

2. The Sub-Committees established are:

(a) Sub-Committee on Trade in Forest Products; and

(b) Sub-Committee on Trade in Automotive Goods;

3. The Working Group, which may be established on request of a Party, is:

Working Group on Standards-Related Measures related to Building Products and Related Assemblies;

4. Other Bodies established are:

(a) Environmental Affairs Council; and

(b) Labour Ministerial Council.

Annex 20-B. Committee on Outward Processing Zones on the Korean Peninsula

1. Recognising Korea’s constitutional mandate and security interests, and the corresponding interests of Canada, and both

Parties' commitment to promoting peace and prosperity on the Korean Peninsula, and the importance of intra-Korean economic cooperation toward that goal, the Parties hereby establish a Committee on Outward Processing Zones on the Korean Peninsula. The Committee shall review whether the conditions on the Korean Peninsula are appropriate for further economic development through the establishment and development of outward processing zones.

2. The Committee shall be composed of officials of the Parties. The Committee shall meet on or before the first anniversary of the entry into force of this Agreement and at least once annually thereafter, or at a time as mutually agreed.

3. The Committee shall identify geographic areas that may be designated outward processing zones. The Committee shall determine whether any such outward processing zone has met the criteria established by the Committee. The Committee shall also establish a maximum threshold for the value of the total input of the originating final good that may be added within the geographic area of the outward processing zone.

Chapter Twenty-One. Dispute Settlement

Section A. Dispute Settlement

Article 21.1. Cooperation

The Parties shall endeavour at all times to agree on the interpretation and application of this Agreement, and shall make every attempt through cooperation and consultations to arrive at a mutually satisfactory resolution of a matter that may affect its operation.

Article 21.2. Scope and Coverage

Except as otherwise provided in this Agreement, the dispute settlement provisions of this Section apply with respect to the avoidance or settlement of all disputes between the Parties regarding the interpretation or application of this Agreement or wherever a Party considers that:

(a) a measure of the other Party is inconsistent with its obligations under this Agreement;

(b) the other Party otherwise fails to carry out its obligations under this Agreement; or

(c) there is nullification or impairment in the sense of Annex 21-A.

Article 21.3. Choice of Forum

1. Subject to paragraph 2, disputes regarding a matter arising under both this Agreement and another trade agreement to which both Parties are party, including the WTO Agreement, may be settled in either forum at the discretion of the complaining Party.

2. Notwithstanding paragraph 1, if a Party complained against claims that its measures are subject to Article 1.3 (Relation to Multilateral Environmental Agreements) and requests in writing that the matter be considered under this Agreement, the complaining Party may, in respect of that matter, thereafter have recourse to dispute settlement procedures solely under this Agreement.

3. If the complaining Party requests the establishment of a dispute settlement panel under an agreement referred to in paragraph 1, the forum selected shall be used to the exclusion of the other, unless the Party complained against makes a request pursuant to paragraph 2.

Article 21.4. Consultations

1. A Party may request in writing consultations with the other Party regarding a matter referred to in Article 21.2.

2. The Party requesting consultations shall deliver the request to the other Party and shall set out the reasons for the request, including the identification of the measure or other matter at issue and an indication of the legal basis for the complaint.

3. With respect to disputes relating to automotive goods, a Party may refer a matter referred to in Article 21.2 to the Sub-Committee on Trade in Automotive Goods established under Annex 2-C by delivering written notification to the other Party in accordance with the requirements set out in paragraph 2. This Sub-Committee shall endeavour to resolve the matter

through consultations conducted in accordance with paragraphs 5, 6 and 7.

4. Subject to paragraph 5, the Parties shall enter into consultations within 30 days of the date of receipt of the request for consultations by the Party complained against, unless the Parties agree otherwise.

5. In cases of urgency, including those that concern perishable goods or motor vehicles, the Parties shall enter into consultations within 10 days of the date of receipt of the request for consultations by the Party complained against.

6. The Parties shall make every attempt to arrive at a mutually satisfactory resolution of a matter through consultations under this Article. To this end, the Parties shall:

(a) provide sufficient information to enable a full examination of the measure or other matter at issue; and

(b) treat any confidential or proprietary information exchanged in the course of consultations on the same basis as the Party providing the information.

7. Consultations are confidential and without prejudice to the rights of the Parties in proceedings under this Chapter.

Article 21.5. Good Offices, Conciliation and Mediation

1. The Parties may agree to undertake alternative methods of dispute resolution, such as good offices, conciliation, or mediation.

2. Alternative methods of dispute resolution are conducted according to procedures agreed to by the Parties.

3. Unless the Parties agree otherwise, procedures established under this Article may begin at any time and be suspended or terminated at any time by either Party.

4. Proceedings involving good offices, conciliation, or mediation are confidential and without prejudice to the rights of the Parties in any other proceedings.

Article 21.6. Establishment of a Panel

1. Unless the Parties agree otherwise, if a matter referred to Article 21.2 is not resolved by recourse to consultations referred to Article 21.4 within:

(a) 35 days of the date of the receipt of the request for consultations; or

(b) 10 days of the date of the receipt of the request for consultations in cases of urgency, as referred to in Article 21.4.5;

the complaining Party may, through written notification to the Party complained against, refer the matter to a dispute settlement panel. The panel is established upon receipt by the Party complained against of the written notification of the complaining Party.

2. In its written notification of panel establishment, the complaining Party shall identify the specific measures or other matter at issue and provide a brief summary of the legal basis of the complaint sufficient to present the problem clearly.

Article 21.7. Panel Composition

1. In this Section, the "Receipt Date" means the date on which the written notification by one Party for the establishment of a panel referred to in Article 21.6.1 is received by the other Party.

2. The panel shall be composed of three members.

3. Within 30 days after the Receipt Date or 10 days in cases of motor vehicles, each Party shall appoint a panellist and propose up to four candidates, who are neither nationals of either Party nor have their usual place of residence in the territory of either Party, to serve as the chair of the panel (hereinafter referred to as "the chair").

4. Each Party shall notify the other Party in writing of its panel member appointment and its proposed candidates to serve as the chair. If a Party fails to appoint a panellist in accordance with this Article, the panellist shall be selected by lot from the candidates proposed by each Party to serve as the chair in accordance with paragraph 3.

5. Within 60 days after the Receipt Date or 15 days in cases of motor vehicles, the Parties shall endeavour to agree on and appoint the chair from among the candidates proposed. If the Parties are unable to agree on the chair within this time

period, within an additional period of seven days, or within an additional period of four days in cases of motor vehicles, the chair shall be selected by lot from the candidates proposed by each Party in accordance with paragraph 3.

6. If a panellist appointed by a Party is unable to serve, withdraws or is removed, a replacement shall be appointed by that Party within 30 days, or within 10 days in cases of motor vehicles, failing which the replacement shall be appointed in accordance with paragraph 4. If the chair is unable to serve, withdraws or is removed, the Parties shall promptly agree on the appointment of a replacement, failing which the replacement shall be appointed by a selection by lot from among the remaining candidates previously proposed by each Party to serve as the chair in accordance with paragraph 3. If there are no remaining candidates, each Party shall propose up to three additional candidates satisfying the criteria set out in paragraph 3 and the chair shall be selected by lot from among them. In any such case, any time period applicable to the proceeding is suspended for a period beginning on the date the panellist or the chair is unable to serve, withdraws or is removed and ending on the date the replacement is selected.

7. Each panellist shall:

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

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

(c) be independent of, and not be affiliated with, or take instructions from either Party;

(d) not be employed by either Party; and

(e) comply with the Code of Conduct for Members of Panels set out in Annex 21-B.

8. If a Party believes that a panellist does not satisfy a qualification set out in paragraph 7 or has failed to comply with the Code of Conduct for Members of Panels set out in Annex 21-B, the Parties shall consult and, if they agree, the panellist shall be removed.

Article 21.8. Rules of Procedure

1. A panel established under this Chapter shall follow the Model Rules of Procedure set out in Annex 21-C. A panel may establish, in consultation with the Parties, supplementary rules of procedure that do not conflict with the provisions of this Chapter.

2. Unless the Parties agree otherwise, the rules of procedure of a panel shall ensure:

(a) that each Party has the opportunity to provide initial and rebuttal written submissions;

(b) subject to subparagraph (g), that a Party may make available to the public either Party's written submissions, written versions of its oral statements, and written responses to requests or questions from the panel at any time after such information is submitted to the panel;

(c) that each Party has the right to at least one hearing before the panel;

(d) subject to subparagraph (g), that hearings of the panel are open to the public;

(e) that the panel considers requests from non-governmental entities located in either Party's territory to provide written views regarding the dispute that may assist the panel in evaluating the submissions and arguments of the Parties;

(f) that all submissions and comments made to the panel are available to the other Party; and

(g) the protection of confidential information (1).

3. Unless the Parties agree otherwise, the terms of reference of the panel shall be:

"To examine, in the light of the relevant provisions of this Agreement, the matter referred to in the written notification of the panel establishment, and to make findings, determinations, and recommendations as provided in Article 21.9."

4. If a complaining Party wishes to argue that there is nullification or impairment of benefits in the sense of Annex 21-A, the terms of reference shall so indicate.

5. If a Party wishes the panel to make findings as to the degree of adverse effects of any measure determined to be inconsistent with the obligations of this Agreement or as to the degree of nullification or impairment in the sense of Annex

21-A, the terms of reference shall so indicate.

6. At the request of a Party, or on the panel's own initiative, the panel may seek information and technical advice from any person or body that it deems appropriate, provided that the Parties so agree and subject to any terms and conditions agreed to by the Parties.

7. The panel may rule on its own jurisdiction.

8. Findings, determinations, and recommendations of the panel in the sense of Article 21.9 shall be made by a majority of its members. Panellists may provide separate opinions on matters not unanimously agreed.

9. The expenses of a panel proceeding under this Section, including the remuneration of its members, shall be borne by the Parties in equal shares.

(1) As provided under Articles 22.2 (National Security) and 22.5 (Disclosure of Information), a panel shall not require a Party to furnish or allow access to information of the type identified in those provisions.

Article 21.9. Panel Reports

1. Unless the Parties otherwise agree, the panel shall issue reports in accordance with the provisions of this Section.

2. The panel shall base its reports on the relevant provisions of this Agreement, applied and interpreted in accordance with the rules of interpretation of public international law, including Articles 31, 32, and 33 of the Vienna Convention on the Law of Treaties, done at Vienna on 23 May 1969, on the submissions and arguments of the Parties and on information and technical advice put before it pursuant to the provisions of this Section.

3. Within 90 days after the three panellists are appointed, or within 50 days in cases of motor vehicles, the panel shall issue to the Parties an initial report containing its findings of fact and its determinations as to:

(a) whether the measure at issue is inconsistent with a Party's obligations under this Agreement;

(b) whether there is nullification or impairment in the sense of Annex 21-A; or

(c) any other issue included in the terms of reference.

4. The panel shall include in its initial report the basic rationale behind its findings and determinations.

5. At the request of a Party, the panel shall include in its initial report recommendations for the resolution of the dispute.

6. A Party may submit written comments to the panel regarding its initial report. After considering these comments, the panel, on its own initiative or at the request of a Party, may:

(a) request the views of a Party;

(b) reconsider its report; or

(c) make any further examination that it considers appropriate.

7. The panel shall issue to the Parties a final report within 30 days of the issuance of the initial report, or within 17 days in cases of motor vehicles.

8. Notwithstanding the provisions of Article 21.8 and Annex 21-C, the initial report of the panel shall be confidential. The final report of the panel may be published by either Party 15 days after it is issued to the Parties, subject to the protection of confidential information.

Article 21.10. Implementation of the Final Report

1. On receipt of the final report of a panel, the Parties shall agree on the resolution of the dispute, which, unless the Parties agree otherwise, shall be in conformity with the determinations and recommendations, if any, of the panel.

2. Wherever possible, the resolution shall be the removal of a measure not conforming to this Agreement or the removal of nullification or impairment in the sense of Annex 21-A. If the Parties fail to agree on the resolution of the dispute, the Parties may agree to compensation in lieu of the removal of a measure or of the removal of nullification or impairment.

3. If the Parties do not agree on a resolution pursuant to paragraph 1 within 30 days of the issuance of the final report of the panel, or within 10 days in cases of motor vehicles, or within another period as the Parties may agree, the Party complained against shall, at the request of the complaining Party, enter into negotiations with a view to agreeing on compensation referred to in paragraph 2.

Article 21.11. Non-implementation – Suspension of Benefits

1. If no agreement on compensation is reached pursuant to Article 21.10.3 within 20 days, or within 10 days in cases of motor vehicles, from the date of the complaining Party's request for compensation, or if 30 days, or 10 days in cases of motor vehicles, have passed since the issuance of the final report if compensation is not requested by the complaining Party pursuant to Article 21.10.3, the complaining Party may:

(a) at any time thereafter, provide written notification to the Party complained against that it intends to suspend the application to the Party complained against of benefits of equivalent effect. The notification shall specify the level of benefits that the complaining Party intends to suspend; or

(b) implement the suspension 30 days, or 10 days in cases of motor vehicles, after the later of the date on which it provides notice to the other Party under subparagraph (a) or the date on which the panel issues its determination under paragraph 3, as the case may be.

2. In considering what benefits to suspend pursuant to paragraph 1:

(a) the complaining Party should first seek to suspend benefits in the same sector or sectors as that or those affected by the measure or other matter that the panel has found to be inconsistent with the obligations of this Agreement or in the same sector or sectors where nullification or impairment in the sense of Annex 21-A has been found to exist; and

(b) the complaining Party that does not consider it is practicable or effective to suspend benefits in the same sector or sectors may suspend benefits in other sectors.

3. If the Party complained against considers that the level of benefits that the complaining Party intends to suspend pursuant to paragraph 1 is manifestly excessive, the Party complained against may request in writing that the original panel established under Article 21.6 be reconvened to rule on this matter. This request shall be notified to the complaining Party within 30 days, or within seven days in cases of motor vehicles, of the receipt of the written notification provided by the complaining Party under paragraph 1(a). The panel shall be composed, to the extent possible, of the panellists who served on the original panel. If an original panellist is unable to serve on the panel established under this paragraph, a replacement panellist shall be appointed in accordance with Article 21.7, applied mutatis mutandis. Articles 21.8 and 21.9 apply to procedures adopted and reports issued by a panel established under this paragraph, with the exception that the panel shall issue a single final report within 45 days, or within 25 days in cases of motor vehicles, of its establishment, or, if an original panellist is unable to serve on the panel established under this paragraph, from the date of the last appointment of any replacement panellist. A complaining Party may suspend benefits that are consistent with the panel ruling under this paragraph.

4. The suspension of benefits shall be temporary and shall only be applied by the complaining Party until the measure found to be inconsistent with the obligations of this Agreement has been withdrawn or amended so as to bring it into conformity with this Agreement, or the Parties have otherwise reached agreement on a resolution of the dispute.

Article 21.12. Compliance Review

If there is disagreement as to the existence or consistency with this Agreement of measures taken to comply with the determinations or recommendations of a panel established under Article 21.6, a Party may refer the matter to a dispute settlement panel (hereinafter referred to as the "compliance panel") through written notification to the other Party. The compliance panel is established upon receipt by the other Party of the written notification (2). In the written notification of compliance panel establishment, the Party shall identify the matter at issue and provide a brief summary of the legal basis of the complaint sufficient to present the problem clearly. A compliance panel established under this paragraph shall be composed, to the extent possible, of the panellists who served on the original panel established under Article 21.6. If an original panellist is unable to serve on the compliance panel established under this paragraph, a replacement panellist shall be appointed in accordance with Article 21.7, applied mutatis mutandis. Articles 21.8 and 21.9 apply to procedures adopted and reports issued by a compliance panel. Where a complaining Party has suspended benefits in accordance with Article 21.11, it may continue to suspend such benefits during proceedings under this paragraph. A compliance panel may include in its final report a recommendation that such suspension be terminated or that the amount of benefits suspended be modified.

(2) In interpreting the terms "the existence or consistency with" and "measures taken to comply", a compliance panel established under this Article shall take into account relevant jurisprudence under the Dispute Settlement Understanding.

Section B. Domestic Proceedings and Private Commercial Dispute Settlement

Article 21.13. Referrals of Matters from Judicial or Administrative Proceedings

1. If an issue of interpretation or application of this Agreement arises in a domestic judicial or administrative proceeding of a Party that either Party considers would merit its intervention, or if a court or administrative body solicits the views of a Party, that Party shall notify the other Party. The Commission shall endeavour to agree on an appropriate response as expeditiously as possible.

2. The Party in whose territory the court or administrative body is located shall submit any agreed interpretation of the Commission to the court or administrative body in accordance with the rules of that forum. 3. If the Commission is unable to agree, either Party may submit its own views to the court or administrative body in accordance with the rules of that forum.

Article 21.14. Private Rights

A Party shall not provide for a right of action under its domestic law against the other Party on the ground that a measure of that other Party is inconsistent with this Agreement.

Article 21.15. Alternative Dispute Resolution

1. To the extent possible, each Party shall encourage and facilitate the use of arbitration and other means of alternative dispute resolution for the settlement of international commercial disputes between private parties in the free trade area established under Article 1.1 (Establishment of a Free Trade Area).

2. To this end, each Party shall provide appropriate procedures to ensure observance of agreements to arbitrate and for the recognition and enforcement of arbitral awards in such disputes.

3. A Party shall be deemed to be in compliance with paragraph 2 if it is a party to, and is in compliance with, the New York Convention.

Anex 21-A. Nullification and Impairment

1. If a Party considers that any benefit it could reasonably have expected to accrue to it under any provision of:

(a) Chapters Two (National Treatment and Market Access for Goods), Three (Rules of Origin), Four (Origin Procedures and Trade Facilitation), and Seven (Trade Remedies);

(b) Chapter Nine (Cross-Border Trade in Services); or

(c) Chapter Fourteen (Government Procurement);

is nullified or impaired as a result of the application of any measure that is not inconsistent with this Agreement, in the sense of Article XXIII(1)(b) of GATT 1994, Article XXIII(3) of GATS or Article XXII(2) of GPA, the Party may have recourse to dispute settlement under Section A of this Chapter. A panel established pursuant to Section A of this Chapter shall take into account relevant jurisprudence under the Dispute Settlement Understanding concerning Article XXIII(1)(b) of GATT 1994, Article XXIII(3) of GATS or Article XXII(2) of GPA.

2. A Party shall not invoke:

(a) paragraph 1(a), to the extent that the benefit arises from a cross-border trade in services provision of Chapters Two (National Treatment and Market Access for Goods), Three (Rules of Origin), Four (Origin Procedures and Trade Facilitation), and Seven (Trade Remedies); or

(b) paragraph 1(b);

with respect to any measure subject to an exception under Article 22.1 (General Exceptions). In addition, a Party shall not

invoke paragraphs 1(a), (b), and (c) with respect to any measure subject to the exception under Article 22.6 (Cultural Industries).

Annex 21-B. Code of Conduct for Members of Panels

Definitions

1. For the purposes of this Annex:

(a) panellist means a member of a panel established under Article 21.6;

(b) candidate means a natural person who is under consideration for selection as a member of a panel under Article 21.7;

(c) assistant means a natural person who, under the terms of appointment of a panellist, conducts researches or provides assistance to the panellist;

(d) proceeding, unless otherwise specified, means a panel proceeding under this Chapter; and

(e) staff, in respect of a panellist, means natural persons under the direction and control of the panellist, other than assistants.

Responsibilities to the Process

2. Every candidate and panellist shall avoid impropriety and the appearance of impropriety, shall be independent and impartial, shall avoid direct and indirect conflicts of interests, and shall observe high standards of conduct so that the integrity and impartiality of the dispute settlement mechanism is preserved. Former panellists must comply with the obligations established in paragraphs 15 through 18.

Disclosure Obligations

3. Prior to confirmation of his or her selection as a panellist under this Agreement, a candidate shall disclose any interest, relationship or matter that is likely to affect his or her independence or impartiality or that might reasonably create an appearance of impropriety or bias in the proceeding. To this end, a candidate shall make all reasonableefforts to become aware of any such interests, relationships and matters.

4. A candidate or panellist shall only communicate matters concerning actual or potential violations of this Annex to the Commission for consideration by the Parties.

5. Once selected, a panellist shall continue to make all reasonable efforts to become aware of any interests, relationships, or matters referred to in paragraph 3 and shall disclose them. The disclosure obligation is a continuing duty that requires a panellist to disclose any such interests, relationships, or matters that may arise during any stage of the proceeding. The panellist shall disclose such interests, relationships, or matters byinforming the Commission, in writing, for consideration by the Parties.

Duties of Panellists

6. Upon selection, a panellist shall perform his or her duties thoroughly and expeditiously throughout the course of the proceeding with fairness and diligence.

7. A panellist shall consider only those issues raised in the proceeding and necessary for a ruling and shall not delegate this duty to another person.

8. A panellist shall take all appropriate steps to ensure that his or her assistant and staff are aware of, and comply with paragraphs 2 through 5, 16, 17, and 18.

9. A panellist shall not engage in ex parte contacts concerning the proceeding.

Independence and Impartiality of Panellists

10. A panellist shall be independent and impartial, shall avoid creating an appearance of impropriety or bias, and shall not be influenced by self-interest, outside pressure, political considerations, public clamour, loyalty to a Party or fear of criticism.

11. A panellist shall not, directly or indirectly, incur any obligation or accept any benefit that would in any way interfere, or appear to interfere, with the proper performance of his or her duties.

12. A panellist shall not use his or her position on the panel to advance personal or private interests and shall avoid actions

that may create the impression that others are in a special position to influence him or her.

13. A panellist shall not allow financial, business, professional, family or social relationships or responsibilities to influence his or her conduct or judgement.

14. A panellist shall avoid entering into a relationship or acquiring a financial interest that is likely to affect his or her impartiality or that might reasonably create an appearance of impropriety or bias.

Obligations of Former Panellists

15. All former panellists shall avoid actions that may create the appearance that they were biased in carrying out their duties or derived advantage from the decision or ruling of the panel.

Confidentiality

16. Neither a panellist nor a former panellist shall disclose or use, at any time, non-public information concerning a proceeding or acquired during a proceeding, except for the purposes of that proceeding, or disclose or use, in any case, such information to gain personal advantage or advantage for others or to adversely affect the interest of others.

17. A panellist shall not disclose a panel ruling or parts thereof prior to its publication in accordance with this Agreement.

18. A panellist or former panellist shall not disclose, at any time, the deliberations of a panel or a panellist's view.

Annex 21-C. Model Rules of Procedure

Application

1. The following rules of procedure apply to dispute settlement proceedings under this Chapter unless the Parties otherwise agree.

Definitions

2. For the purposes of this Annex:

adviser means a natural person retained by a Party to advise or assist the Party in connection with the panel proceeding;

assistant means a natural person who, under the terms of appointment of a panellist, conducts research or provides assistance to the panel;

candidate means a natural person who is under consideration for selection as a member of a panel under Article 21.7;

complaining Party means a Party that requests the establishment of a panel under Article 21.6;

public holiday means every Saturday and Sunday and any other day designated by a Party as a holiday for the purposes of these rules and notified to the other Party;

panel means a dispute settlement panel established under Article 21.6;

panellist means a member of a panel established under Article 21.6;

Party complained against means the Party that is alleged to be in violation of the provisions referred to in Article 21.2; and

representative of a Party means an employee of a government department or agency or of any other government entity of a Party.

3. A reference made in these rules of procedure to an Article is a reference to the appropriate Article in this Chapter.

Administration of Proceedings

4. The Party in whose territory the hearing takes place shall be in charge of the logistical administration of the dispute settlement proceedings, in particular the organisation of hearings, unless the Parties decide otherwise.

Notifications

5. The Parties and the panel shall transmit a request, notice, written submission, or other document by delivery against receipt, registered post, courier, facsimile transmission, telex, telegram, or any other means of telecommunication that provides a record of the sending thereof.

6. A Party shall provide a copy of each of its written submissions to the other Party and to each of the panellists. A copy of the document shall also be provided in electronic format.

7. All notifications shall be addressed to the Ministry of Trade, Industry and Energy of Korea, or its successor and to the Department of Foreign Affairs, Trade and Development of Canada, or its successor, respectively.

8. Minor errors of a clerical nature in a request, notice, written submission, or other document related to the panel proceeding may be corrected by delivery of a new document clearly indicating the changes.

9. If the last day for delivery of a document falls on a public holiday of Korea or Canada, the document may be delivered on the next business day.

Commencement of Panel Proceeding

10. Unless the Parties decide otherwise, the Parties shall meet with or contact the panel within seven days of the appointment of the three panellists in order to determine such matters as the Parties or the panel deems appropriate, including the remuneration and expenses to be paid to the panellists, which will be in accordance with WTO standards.

11. The Parties shall notify the agreed terms of reference to the panel within two days of the appointment of the three panellists.

Initial Submissions

12. The complaining Party shall deliver its initial written submission no later than 20 days after the appointment of the three panellists. The Party complained against shall deliver its written counter-submission no later than 20 days after the date of delivery of the initial written submission.

Conduct of Panel Proceedings

13. The chair of the panel shall preside at all its meetings. The panel may delegate to the chair authority to make administrative and procedural decisions.

14. Unless otherwise provided for in this Agreement, the panel may conduct its activities by any means, including telephone, facsimile transmissions, or computer links.

15. Only panellists may take part in the deliberations of the panel, but the panel may permit its assistants to be present at its deliberations.

16. The drafting of any ruling shall remain the exclusive responsibility of the panel and must not be delegated.

17. If a procedural question arises that is not covered by the provisions of this Chapter, including this Annex, the panel may adopt an appropriate procedure that is compatible with those provisions.

18. When the panel considers that there is a need to modify any time limit applicable in the proceedings or to make any other procedural or administrative adjustment, it shall inform the Parties in writing of the reasons for the change or adjustment and of the period or adjustment needed.

Hearings

19. The chair of the panel shall fix the date and time of the hearing in consultation with the Parties and the other members of the panel, and confirm this information in writing to the Parties. This information shall also be made publicly available by the Party in charge of the logistical administration of the proceedings unless the hearing is closed to the public.

20. Unless the Parties agree otherwise, the hearings shall alternate between the territories of the Parties with the first hearing to take place in the territory of the Party complained against.

21. The panel may convene additional hearings if the Parties so agree.

22. All panellists shall be present during the entirety of any hearing.

23. The following persons may attend the hearing, irrespective of whether the hearing is closed to the public or not:

(a) representatives of the Parties;

(b) advisers to the Parties;

(c) administrative staff, interpreters, translators, and court reporters; and

(d) panellists' assistants.

Only the representatives and advisers of the Parties may address the panel.

24. No later than five days before the date of a hearing, each Party shall deliver to the panel a list of the names of persons who will make oral arguments or presentations at the hearing on behalf of that Party and of other representatives or advisers who will be attending the hearing.

25. Hearings shall be open to the public, unless the Parties decide otherwise. Hearings shall be held in closed session when the submissions and arguments of a Party contain confidential information.

26. The panel shall conduct the hearing in the following manner, ensuring that the complaining Party and the Party complained against are afforded equal time:

argument

(a) argument of the complaining Party; and

(b) argument of the Party complained against;

rebuttal argument

(a) argument of the complaining Party; and

(b) counter-reply of the Party complained against.

27. The panel may direct questions to either Party at any time during the hearing.

28. The panel shall arrange for a transcript of each hearing to be prepared and delivered to the Parties as soon as possible after the hearing.

29. Each Party may deliver a supplementary written submission concerning a matter that arises during the hearing within 10 days of the date of the hearing.

Questions in Writing

30. The panel may at any time during the proceedings address questions in writing to a Party or both Parties. Each Party shall receive a copy of any questions put by the panel.

31. A Party shall also provide a copy of its written response to the panel's questions to the other Party. Each Party shall be given the opportunity to provide written comments on the other Party's reply within five days of the date of delivery.

Confidentiality

32. The Parties and their advisers shall maintain the confidentiality of the panel hearings if the hearings are held in closed session, in accordance with paragraph 25. Each Party and its advisers shall treat as confidential any information submitted by the other Party to the panel which that Party has designated as confidential. If a Party submits a confidential version of its written submissions to the panel, it shall also, upon request of the other Party, provide a non-confidential summary of the information contained in its submissions that could be disclosed to the public no later than 15 days after the date of either the request or the submission, whichever is later. This paragraph does not preclude a Party from disclosing statements of its own positions to the public to the extent that, when making reference to information submitted by the other Party, it does not disclose any information designated by the other Party as confidential.

Ex Parte Contacts

33. The panel shall not meet with or contact a Party in the absence of the other Party, nor shall a Party communicate with the panel or individual panellists without notifying the other Party.

34. Subject to paragraph 13, no member of the panel may discuss an aspect of the subject matter of the proceedings with a Party or both Parties in the absence of the other panellists.

Amicus Curiae Submissions

35. Unless the Parties decide otherwise, within three days of the date of the appointment of the three panellists, the panel may receive unsolicited written submissions from interested persons of the Parties, provided that they are made within 10 days of the date of the appointment of the three panellists, that they are concise and in no case longer than 15 typed pages,

including any annexes, and that they are directly relevant to the factual and legal issues under consideration by the panel.

36. The submission must contain a description of the person making the submission, including its nationality or place of establishment, the nature of its activities and the source of its financing, and specify the nature of the interest that the person has in the proceeding.

37. The panel shall list in its ruling all the submissions it has received that conform to paragraphs 35 and 36. The panel is not obliged to address in its ruling the factual or legal arguments made in these submissions. A submission obtained by the panel under paragraphs 35 and 36 shall be submitted to the Parties for their comments.

Cases of Urgency

38. In cases of urgency referred to in Article 21.6.1(b), the panel shall adjust, as appropriate, the time limits referred to in this Annex.

Translation and Interpretation

39. During the consultations referred to in Article 21.4, and no later than the meeting referred to in paragraph 10, the Parties shall endeavour to agree on a common working language for the proceedings before the panel.

40. If the Parties are unable to agree on a common working language, each Party shall expeditiously arrange for and bear the costs of the translation of its written submissions into the language chosen by the other Party and the Party complained against shall arrange for the interpretation of oral submissions into the languages chosen by the Parties.

41. Panel rulings shall be issued in the language or languages chosen by the Parties.

42. The costs incurred for translation of a panel ruling shall be borne equally by the Parties.

43. A Party may provide comments on any translated version of a document drawn up in accordance with paragraph 40.

Calculation of Time Limits

44. If, by reason of the application of paragraph 9, a Party receives a document on a date other than the date of the last day for delivery of that document, any period of time that is calculated on the basis of the date of the last day for delivery of that document shall be calculated from the date that document was actually received.

Chapter Twenty-Two. Exceptions

Article 22.1. General Exceptions

1. For the purposes of Chapters Two (National Treatment and Market Access for Goods), Three (Rules of Origin), Four (Origin Procedures and Trade Facilitation), Five (Sanitary and Phytosanitary Measures), Six (Standards-Related Measures), Seven (Trade Remedies), and Thirteen (Electronic Commerce), Article XX of the GATT 1994 and, for greater certainty, its interpretative notes are incorporated into and made part of this Agreement, mutatis mutandis. The Parties understand that the measures referred to in Article XX(b) of the GATT 1994 include environmental measures necessary to protect human, animal or plant life or health. The Parties further understand that Article XX(g) of the GATT 1994 applies to measures relating to the conservation of living and non-living exhaustible natural resources.

2. For the purposes of Chapters Nine (Cross-Border Trade in Services), Eleven (Telecommunications), Twelve (Temporary Entry for Business Persons), and Thirteen (Electronic Commerce), Articles XIV (a), (b) and (c) of GATS are incorporated into and made part of this Agreement, mutatis mutandis. The Parties understand that the measures referred to in Article XIV(b) of GATS include environmental measures necessary to protect human, animal or plant life or health.

3. For the purposes of Chapter Eight (Investment), subject to the requirement that those measures are not applied in a manner that would constitute arbitrary or unjustifiable discrimination between investments or between investors, or a disguised restriction on international trade or investment, this Agreement is not to be construed to prevent a Party from adopting or enforcing measures necessary:

(a) to protect human, animal or plant life or health;

(b) to ensure compliance with laws and regulations that are not inconsistent with this Agreement; or

(c) for the conservation of living or non-living exhaustible natural resources.

Article 22.2. National Security

This Agreement is not to be construed:

(a) to require either Party to furnish or allow access to information if that Party determines that the disclosure of the information would be contrary to its essential security interests;

(b) to prevent either Party from taking actions that it considers necessary for the protection of its essential security interests:

(i) relating to the traffic in arms, ammunition, and implements of war and to traffic and transactions in other goods, materials, services, and technology undertaken directly or indirectly for the purpose of supplying a military or other security establishment;

(ii) taken in time of war or other emergency in international relations; or

(iii) relating to the implementation of national policies or international agreements respecting the non-proliferation of nuclear weapons or other nuclear explosive devices; or

(c) to prevent either Party from taking action in pursuance of its obligations under its international agreements for the maintenance of international peace and security.

Article 22.3. Taxation

1. Except as set out in this Article, this Agreement does not apply to a taxation measure.

2. (a) This Agreement does not affect the rights and obligations of either Party under a tax convention. In the event of inconsistency between this Agreement and a tax convention, the tax convention shall prevail to the extent of the inconsistency.

(b) In the case of a tax convention between the Parties, the competent authorities under that convention shall have the sole responsibility for determining whether an inconsistency exists between this Agreement and that convention.

3. Notwithstanding paragraph 2:

(a) Article 2.2 (National Treatment) and the provisions of this Agreement necessary to give effect to that Article apply to a taxation measure to the same extent as Article III of the GATT 1994; and

(b) Articles 2.8 (Export Duties, Taxes or Other Charges) and 2.9 (Most-Favoured-Nation Treatment for Internal Taxes and Emissions Regulations) apply to a taxation measure.

4. Subject to paragraphs 2 and 5:

(a) Articles 9.2 (National Treatment), 10.2 (National Treatment), and 10.5 (Cross-Border Trade) apply to a taxation measure on income, on capital gains, or on the taxable capital of corporations that relates to the purchase or consumption of particular services, except that this subparagraph does not prevent a Party from conditioning the receipt or continued receipt of an advantage relating to the purchase or consumption of particular services on requirements to provide the service in its territory; and

(b) Articles 8.3 (National Treatment) and 8.4 (Most-Favoured-Nation Treatment), Articles 9.2 (National Treatment) and 9.3 (Most-Favoured-Nation Treatment), and Articles 10.2 (National Treatment) and10.3 (Most-Favoured-Nation Treatment) apply to all taxation measures, other than those on income, on capital gains, or on the taxable capital of corporations, or taxes on inheritances and gifts.

5. Paragraph 4 does not:

(a) impose a most-favoured-nation obligation with respect to an advantage accorded by a Party pursuant to a tax convention;

(b) impose a national treatment obligation with respect to the conditioning of a receipt, or continued receipt, of an advantage relating to the contributions to, or income of, pension trusts or pension plans on a requirement that a Party maintain continuous jurisdiction over the pension trust or pension plan;

(c) apply to a non-conforming provision of an existing taxation measure;

(d) apply to the continuation or prompt renewal of a non-conforming provision of an existing taxation measure;

(e) apply to an amendment to a non-conforming provision of an existing taxation measure to the extent that the amendment does not decrease its conformity, at the time of the amendment, with the Articles referred to in paragraph 4; or

(f) apply to a new taxation measure that is aimed at ensuring the equitable and effective imposition or collection of taxes (including, for greater certainty, any measure that is taken by a Party in order to ensure compliance with the Party's taxation system or to prevent the avoidance or evasion of taxes) and that does not arbitrarily discriminate between persons, goods, or services of the Parties.

6. Subject to paragraph 2, and without prejudice to the rights and obligations of the Parties under paragraph 3, Article 8.8 (Performance Requirements) applies to taxation measures.

7. Article 8.11 (Expropriation and Compensation) applies to a taxation measure. However, an investor shall not invoke Article 8.11 (Expropriation and Compensation) as the basis for a claim under Article 8.18 (Claim by an Investor of a Party on its Own Behalf) or 8.19 (Claim by an Investor of a Party on Behalf of an Enterprise) if it has been determined pursuant to this paragraph that the measure is not an expropriation. The investor shall refer to the designated authorities, at the time that it gives its Notice of Intent under Article 8.20 (Notice of Intent to Submit a Claim to Arbitration), the issue of whether that taxation measure is not an expropriation. If the designated authorities do not agree to consider the issue or, having agreed to consider it, fail to agree that the measure is not an expropriation within a period of 180 days of such referral, the investor may submit its claim to arbitration under Article 8.23 (Submission of a Claim to Arbitration).

8. This Agreement is not to be construed to require a Party to furnish or allow access to information the disclosure of which would be contrary to the Party's law protecting information concerning the taxation affairs of a taxpayer.

Article 22.4. Transfers

1. Chapters Eight (Investment), Nine (Cross-Border Trade in Services), and Ten (Financial Services) are not to be construed to prevent Korea from applying measures pursuant to Article 6 of the Foreign Exchange Transactions Act, provided that such measures (1) :

(a) are in effect for a period not to exceed one year; however, if extremely exceptional circumstances arise such that Korea seeks to extend such measures, Korea will coordinate in advance with Canada concerning the implementation of a proposed extension;

(b) are not confiscatory;

(c) do not constitute a dual or multiple exchange rate practice;

(d) do not otherwise interfere with investors' ability to earn a market rate of return in the territory of Korea on restricted assets (2) ;

(e) avoid unnecessary damage to the commercial, economic, or financial interests of Canada;

(f) are temporary and phased out progressively as the situation calling for imposition of such measures improves;

(g) are applied in a manner consistent with Articles 8.3, 9.2, and 10.2 (National Treatment) and Articles 8.4, 9.3, and 10.3 (Most-Favoured-Nation Treatment) subject to Korea's Schedules to Annex I, Annex II, and Annex III; and

(h) are promptly published by the Ministry of Strategy and Finance or the Bank of Korea, or their respective successors.

2. Paragraph 1 does not apply to measures that restrict:

(a) payments or transfers for current transactions, unless:

(i) the imposition of such measures complies with the procedures stipulated in the Articles of Agreement of the International Monetary Fund (3) ; and

(ii) Korea coordinates such measures in advance with Canada; or

(b) payments or transfers associated with foreign direct investment.

(1) Korea shall endeavour to provide that such measures will be price-based.

(2) For greater certainty, the term "restricted assets" in this subparagraph refers only to assets invested in the territory of Korea by an investor of Canada that are restricted from being transferred out of the territory of Korea.

(3) "Current transactions" shall have the meaning set forth in Article XXX(d) of the Articles of Agreement of the International Monetary Fund and, for greater certainty, shall include interest pursuant to a loan orbond on any restricted amortisation payments coming due during the period that controls on capitaltransactions are applied.

Article 22.5. Disclosure of Information

1. This Agreement is not to be construed to require a Party to furnish or allow access to information the disclosure of which would impede law enforcement or would be contrary to the Party's law protecting the deliberative and policy-making processes of the executive branch of government at the cabinet level, personal privacy, or the financial affairs and accounts of individual customers of financial institutions.

2. This Agreement is not to be construed to require, during the course of any dispute settlement procedure under this Agreement, a Party to furnish or allow access to information protected under its competition laws, or a competition authority of a Party to furnish or allow access to other information that is privileged or otherwise protected from disclosure.

Article 22.6. Cultural Industries

This Agreement is not to be construed to apply to measures adopted or maintained by either Party with respect to cultural industries except as specifically provided in Articles 1.6 (Cultural Cooperation) and 2.3 (Tariff Elimination).

Article 22.7. World Trade Organization Waivers

To the extent that there are overlapping rights and obligations in this Agreement and the WTO Agreement, measures adopted by a Party in conformity with a waiver decision adopted by the WTO pursuant to Article IX of the WTO Agreement are deemed to be also in conformity with this Agreement. The conforming measure of either Party shall not give rise to legal actions by an investor of a Party against the other Party under Section B of Chapter Eight (Investor-State Dispute Settlement).

Article 22.8. Definitions

For the purposes of this Chapter:

competition authority means:

(a) for Canada, the Commissioner of Competition; and

(b) for Korea, the Korea Fair Trade Commission, or their respective successors;

cultural industries means persons engaged in any of the following activities:

(a) the publication, distribution, or sale of books, magazines, periodicals or newspapers in print or machine readable form but not including the sole activity of printing or typesetting any of the foregoing;

(b) the production, distribution, sale or exhibition of film or video recordings;

(c) the production, distribution, sale or exhibition of audio or video music recordings;

(d) the publication, distribution, or sale of music in print or machine readable form;

(e) radio communications in which the transmissions are intended for direct reception by the general public;

(f) radio, television and cable broadcasting undertakings; or

(g) satellite programming and broadcast network services;

designated authority means:

(a) for Canada, the Assistant Deputy Minister for Tax Policy, Department of Finance; and

(b) for Korea, the Deputy Minister for Tax and Customs, Ministry of Strategy and Finance, or their respective successors;

information protected under its competition laws means:

(a) for Canada, information within the scope of Section 29 of the Competition Act, or any successor provision; and

(b) for Korea, information within the scope of Articles 22-2, 50 and 62 of the Monopoly Regulation and Fair Trade Act;

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

taxes and taxation measures do not include:

(a) a "customs duty" as defined in Article 1.8 (Definitions of General Application); or

(b) the measures listed in exceptions (b) and (c) to that definition.

Annex 22-A. Taxation and Expropriation

The determination of whether a taxation measure, in a specific fact situation, constitutes an expropriation requires a case-by-case, fact-based inquiry that considers all relevant factors relating to the investment, including the factors listed in Annex 8-B (Expropriation) and the following considerations:

(a) the imposition of taxes does not generally constitute an expropriation. The mere introduction of a new taxation measure or the imposition of a taxation measure in more than one jurisdiction in respect of an investment generally does not in and of itself constitute an expropriation;

(b) a taxation measure that is consistent with internationally recognised tax policies, principles, and practices does not constitute an expropriation. In particular, a taxation measure aimed at preventing the avoidance or evasion of taxation measures generally does not constitute an expropriation;

(c) a taxation measure that is applied on a non-discriminatory basis, as opposed to a taxation measure that is targeted at investors of a particular nationality or at specific taxpayers, is less likely to constitute an expropriation; and

(d) a taxation measure generally does not constitute an expropriation if it was already in force when the investment was made and information about the measure was publicly available.

Chapter Twenty-Three. Final Provisions

Article 23.1. Annexes, Appendices and Footnotes

The Annexes, Appendices, and footnotes to this Agreement constitute integral parts of this Agreement.

Article 23.2. Amendments

The Parties may agree, in writing, to amend this Agreement. An amendment shall enter into force after the Parties exchange written notifications certifying that they have completed their respective applicable legal requirements and procedures, on the date agreed by the Parties.

Article 23.3. Reservations

This Agreement shall not be subject to unilateral reservations or unilateral interpretative declarations.

Article 23.4. Entry Into Force

Each Party shall notify the other Party in writing of the completion of the domestic procedures required for the entry into force of this Agreement. Except as provided in Article 14.7 (Entry into Force), this Agreement shall enter into force 30 days from the date of the second of these notifications or on such other date as the Parties may agree.

Article 23.5. Duration and Termination

This Agreement shall remain in force unless terminated by either Party by written notification to the other Party of its

intention to terminate this Agreement. This Agreement shall terminate six months after the date of such notification.

Article 23.6. Authentic Texts

The English, French, and Korean texts of this Agreement are equally authentic.

IN WITNESS WHEREOF, the undersigned, being duly authorised by their respective Governments, have signed this Agreement. DONE at , this day of 2014, in duplicate, in the English, French, and Korean languages.

FOR CANADA

FOR THE REPUBLIC OF KOREA

Annex I. Reservations for Existing Measures

Schedule of Canada. Explanatory Notes

1. Canada's Schedule to this Annex sets out, pursuant to Articles 8.9.1 and 9.6.1, Canada's existing measures that do not conform with some or all of the obligations imposed by:

(a) Article 8.3 (National Treatment) or 9.2 (National Treatment);

(b) Article 8.4 (Most-Favoured-Nation Treatment) or 9.3 (Most-Favoured-Nation Treatment);

(c) Article 8.7 (Senior Management and Boards of Directors);

(d) Article 8.8 (Performance Requirements);

(e) Article 9.4 (Market Access); or

(f) Article 9.5 (Local Presence).

2. Each reservation sets out the following elements:

(a) Sector refers to the general sector in which the reservation is taken;

(b) Sub-sector refers, where applicable, to the specific sector in which the reservation is taken;

(c)Industry Classification refers, where applicable, to the activity covered by the reservation according to industry classification codes;

(d) Type of Reservation specifies the obligation referred to in paragraph 1 for which a reservation is taken;

(e) Measures (1) identifies the laws, regulations, or other measures, as qualified, where indicated, by the Description element, for which the reservation is taken. A measure cited in the Measureselement:

(i) means the measure as amended, continued, or renewed as of the date of entry into force of this Agreement; and

(ii) includes a subordinate measure adopted or maintained under the authority of and consistent with the measure; and

(f) Description sets out the non-conforming aspects of the measure for which the reservation is taken.

3. In the interpretation of a reservation, all elements of the reservation, with the exception of Industry Classification, shall be considered. A reservation shall be interpreted in light of the relevant Articles of the Chapters against which the reservation is taken. To the extent that:

(a) the Measures element is qualified by a liberalisation commitment from the Description element, the Measures element as so qualified shall prevail over all other elements; and

(b) the Measures element is not so qualified, the Measures element shall prevail over all other elements, unless a discrepancy between the Measures element and the other elements considered in their totality is so substantial and material that it would be unreasonable to conclude that the Measures element should prevail, in which case the other

elements shall prevail to the extent of that discrepancy.

4. In accordance with Articles 8.9.1(a) and 9.6.1(a), and subject to Articles 8.9.1(c) and 9.6.1(c), the Articles of this Agreement specified in the Type of Reservation element of a reservation do not apply to the non-conforming aspects of the law, regulation, or other measure identified in the Measures element of that reservation.

5. Where Canada maintains a measure that requires a service provider be a citizen, permanent resident, or resident of its territory as a condition to the provision of a service in its territory, a reservation for that measure taken with respect to Article 9.2 (National Treatment), 9.3 (Most-Favoured-Nation Treatment), 9.4 (Market Access) or 9.5 (Local Presence) shall operate as a reservation with respect to Article 8.3 (National Treatment), 8.4 (Most-Favoured-Nation Treatment), or 8.8 (Performance Requirements) to the extent of that measure.

6. For greater certainty, National Treatment (Article 9.2) and Local Presence (Article 9.5) are separate disciplines and a measure that is only inconsistent with Local Presence (Article 9.5) need not be reserved against National Treatment (Article 9.2).

7. For purposes of this Annex:

CPC means Central Product Classification (CPC) numbers as set out in Statistical Office of the United Nations, Statistical Papers, Series M, No.77, Provisional Central Product Classification, 1991; and

SIC means Standard Industrial Classification numbers as set out in Statistics Canada, Standard Industrial Classification, fourth edition, 1980.

(1) For greater certainty, a change in the level of government at which a measure is administered or enforced does not, by itself, decrease the conformity of the measure with the obligations referred to in Articles 8.9.1 and 9.6.1.

Annex I. Schedule of Canada

Sector: All Sectors

Sub-sector:

Industry Classification:

Type of Reservation:

National Treatment (Article 8.3)

Senior Management and Boards of Directors (Article 8.7)

Performance Requirements (Article 8.8)

Measures:

Investment Canada Act, R.S.C. 1985, c. 28 (1st Supp.)

Investment Canada Regulations, SOR/85-611, as qualified by paragraphs 8 through 12 of the Description element

Description:

Investment

1. Under the Investment Canada Act, the following acquisitions of Canadian businesses by a non-Canadian are subject to review by the Director of Investments:

(a) a direct acquisition of a Canadian business with assets of Can$5 million or more;

(b) an indirect acquisition of a Canadian business with assets of Can$50 million or more; and

(c) an indirect acquisition of a Canadian business with assets between Can$5 million and Can$50 million that represent more than 50 percent of the value of the assets of all the entities the control of which is being acquired, directly or indirectly, in the transaction in question.

2. For the purposes of this reservation:

“non-Canadian” means an individual, government or agency thereof or an entity that is not Canadian; and

“Canadian” means a Canadian citizen or permanent resident, a government in Canada or agency thereof, or a Canadian-controlled entity as described in the Investment Canada Act.

3. In addition, the specific acquisition or establishment of a new business in designated types of business activities relating to Canada’s cultural heritage or national identity, which are normally notifiable, may be subject to review if the Governor-in-Council authorises a review in the public interest.

4. An investment subject to review under the Investment Canada Act may not be implemented unless the Minister responsible for the Investment Canada Act advises the applicant that the investment is likely to be of net benefit to Canada. This determination is made in accordance with 6 factors described in the Act, summarised as follows:

(a) the effect of the investment on the level and nature of economic activity in Canada, including the effect on employment, on the use of parts, components and services produced in Canada and on exports from Canada;

(b) the degree and significance of participation by Canadians in the investment;

(c) the effect of the investment on productivity, industrial efficiency, technological development and product innovation in Canada;

(d) the effect of the investment on competition within an industry or industries in Canada;

(e) the compatibility of the investment with national industrial, economic and cultural policies, taking into consideration industrial, economic and cultural policy objectives enunciated by the government or legislature of any province likely to be significantly affected by the investment; and

(f) the contribution of the investment to Canada’s ability to compete in world markets.

5. In making a net benefit determination, the Minister, through the Director of Investments, may review plans under which the applicant demonstrates the net benefit to Canada of the proposed acquisition. An applicant may also submit undertakings to the Minister in connection with a proposed acquisition that is the subject of review. In the event that an applicant fails to comply with an undertaking, the Minister may seek a court order directing compliance or any other remedy authorised under the Investment Canada Act.

6. A non-Canadian who establishes or acquires a Canadian business, other than those that are subject to review as described above must notify the Director of Investments.

7. The Director of Investments will review an “acquisition of control”, as defined in the Investment Canada Act, of a Canadian business by an investor of Korea if the value of the gross assets of the Canadian business is not less than the applicable threshold.

8. The higher review threshold, calculated as set out in paragraph 13, does not apply to an acquisition in the cultural businesses sector.

9. Notwithstanding the definition of “investor of a Party” in Article 8.45, only investors who are nationals of Korea or entities controlled by nationals of Korea as provided for in the Investment Canada Act may benefit from the higher review threshold.

10. An indirect “acquisition of control” of a Canadian business by an investor of Korea in a sector other than those sectors identified in paragraph 8 is not reviewable.

11. Notwithstanding Article 8.8 (Performance Requirements), Canada may impose requirements or enforce a commitment or undertaking in connection with the establishment, acquisition, expansion, conduct or operation of an investment of an investor of Korea or of a non-Party for the transfer of technology, production process or other proprietary knowledge to a national or enterprise, affiliated to the transferor, in Canada in connection with the review of an acquisition of an investment under the Investment Canada Act.

12. Except for requirements, commitments or undertakings relating to technology transfer as set out in paragraph 11 of this reservation, Article 8.8 (Performance Requirements) applies to requirements, commitments or undertakings imposed or enforced under the Investment Canada Act. Article 8.8 (Performance Requirements) shall not apply to any requirement, commitment or undertaking imposed or enforced in connection with a review under the Investment Canada Act to locate production, carry out research and development, employ or train workers, or construct or expand particular facilities, in Canada.

13. For an investor of Korea, the applicable threshold for review is Can$354 million for 2014. In January of each subsequent

year the amount will be determined by the Minister using the following formula:

Annual Adjustment =

(Current Nominal GDP at Market Prices ÷ Previous Year Nominal GDP at Market Prices) x amount determined for previous year

"Current Nominal GDP at Market Prices" means the average of the Nominal Gross Domestic Products at Market Prices for the most recent 4 consecutive quarters.

"Previous Year Nominal GDP at Market Prices" means the average of the Nominal Gross Domestic Products at Market Prices for the 4 consecutive quarters for the comparable period in the year preceding the year used in calculating the Current Nominal GDP at Market Prices.

For the above-mentioned purposes, the amounts will be rounded to the nearest million dollars.

Sector: All Sectors

Sub-sector:

Industry Classification:

Type of Reservation:

National Treatment (Article 8.3)

Senior Management and Boards of Directors (Article 8.7)

Measures: As set out in the Description element.

Description: Investment

1. Canada or a province or territory, when selling or disposing of its equity interests in, or the assets of, an existing state enterprise or an existing governmental entity, may prohibit or impose limitations on the ownership of such interests or assets and on the ability of owners of such interests or assets to control a resulting enterprise by investors of Korea or of a non-party or their investments. With respect to such a sale or other disposition, Canada or a province or territory may adopt or maintain a measure relating to the nationality of senior management or members of the board of directors.

2. For the purposes of this reservation:

(a) a "measure" adopted or maintained after the date of entry into force of this Agreement that, at the time of sale or other disposition, prohibits or imposes a limitation on the ownership of equity interests or assets or imposes a nationality requirement described in this reservation is an existing measure; and

(b) "state enterprise" means an enterprise owned or controlled through ownership interests by Canada or a province or territory, and includes an enterprise established after the date of entry into force of this Agreement solely for the purposes of selling or disposing of equity interests in, or the assets of, an existing state enterprise or governmental entity.

Sector: All Sectors

Sub-sector:

Industry Classification:

Type of Reservation: National Treatment (Article 8.3)

Measures:

Canada Business Corporations Act, R.S.C. 1985, c. C-44

Canada Business Corporations Regulations, 2001, SOR/2001-512

Canada Cooperatives Act, S.C. 1998, c.1

Canada Cooperatives Regulations, SOR/99-256

Description: Investment

1. A corporation may place constraints on the issue, transfer and ownership of shares in a federally incorporated corporation. The object of those constraints is to permit a corporation to meet Canadian ownership or control requirements, under certain laws set out in the Canada Business Corporations Regulations, 2001, in sectors where Canadian ownership or control is required as a condition to receive licences, permits, grants, payments or other benefits. In order to maintain certain Canadian ownership levels, a corporation is permitted to sell shareholders' shares without the consent of those shareholders, and to purchase its own shares on the open market.

2. The Canada Cooperatives Act provides that constraints may be placed on the issue or transfer of investment shares of a cooperative to a person not resident in Canada, to permit cooperatives to meet Canadian ownership requirements to obtain a licence to carry on a business, to become a publisher of a Canadian newspaper or periodical or to acquire investment shares of a financial intermediary and in sectors where Canadian ownership or control is a required condition to receive licences, permits, grants, payments and other benefits. Where the ownership or control of investment shares would adversely affect the ability of a cooperative to maintain a level of Canadian ownership or control, the Canada Cooperatives Act provides for the limitation of the number of investment shares that may be owned or for the prohibition of the ownership of investment shares.

3. For the purposes of this reservation Canadian means "Canadian" as defined in the Canada Business Corporations Regulations, 2001 or in the Canada Cooperatives Regulations.

Sector: All Sectors

Sub-sector:

Industry Classification:

Type of Reservation: Senior Management and Boards of Directors (Article 8.7)

Measures:

Canada Business Corporations Act, R.S.C. 1985, c. C-44

Canada Business Corporations Regulations, 2001, SOR/2001-512

Canada Cooperatives Act, S.C. 1998, c.1

Canada Cooperatives Regulations, SOR/99-256

Canada Corporations Act, R.S.C. 1970, c. C-32

Special Acts of Parliament incorporating specific companies

Description: Investment

1. The Canada Business Corporations Act requires, for most federally incorporated corporations, that 25 percent of directors be resident Canadians and, if such corporations have fewer than four directors, at least one director must be a resident Canadian. As provided in the Canada Business Corporations Regulations, 2001, a simple majority of resident Canadian directors is required for corporations in the following sectors: uranium mining; book publishing or distribution; book sales, if the sale of books is the primary part of the corporation's business, and film or video distribution. Similarly, corporations that, by an Act of Parliament or Regulation, are individually subject to minimum Canadian ownership requirements are required to have a majority of resident Canadian directors.

2. For the purposes of the Canada Business Corporations Act, "resident Canadian" means an individual who is a Canadian citizen ordinarily resident in Canada, a citizen who is a member of a class set out in the Canada Business Corporations Regulations, 2001, or a permanent resident as defined in the Immigration and Refugee Protection Act other than a permanent resident who has been ordinarily resident in Canada for more than 1 year after becoming eligible to apply for Canadian citizenship.

3. In the case of a holding corporation, not more than 1/3 of the directors need be resident Canadians if the earnings in Canada of the holding corporation and its subsidiaries are less than 5 percent of the gross earnings of the holding corporation and its subsidiaries.

4. The Canada Cooperatives Act requires that not less than two-thirds of the directors be members of the cooperative. At least 25 percent of directors of a cooperative must be resident in Canada; if a cooperative has only three directors, at least one director must be resident in Canada.

5. For the purposes of the Canada Cooperatives Act, a resident of Canada is defined in the Canada Cooperatives Regulations as an individual who is a Canadian citizen and who is ordinarily resident in Canada; a Canadian citizen who is ordinarily resident in Canada and who is a member of a class set out in the Canada Cooperatives Regulations, or a permanent resident as defined in the Immigration and Refugee Protection Act other than a permanent resident who has been ordinarily resident in Canada for more than one year after becoming eligible to apply for Canadian citizenship.

6. Under Part IV of the Canada Corporations Act, a simple majority of the elected directors of a Special Act corporation must be resident in Canada and citizens of a Commonwealth country. This requirement applies to every joint stock company incorporated subsequent to 22 June 1869 by any Special Act of Parliament.

Sector: All Sectors

Sub-sector:

Industry Classification:

Type of Reservation: National Treatment (Article 8.3)

Measures:

Citizenship Act, R.S.C. 1985, c. C-29

Foreign Ownership of Land Regulations, SOR/79-416

Description: Investment

1. The Foreign Ownership of Land Regulations are made pursuant to the Citizenship Act and the Agricultural and Recreational Land Ownership Act, RSA 1980, c. A-9. In Alberta, an ineligible person or foreign-owned or -controlled corporation may only hold an interest in controlled land consisting of a maximum of 2 parcels containing, in the aggregate, a maximum of 20 acres.

2. For the purposes of this reservation:

ineligible person means:

(a) a natural person who is not a Canadian citizen or permanent resident;

(b) a foreign government or foreign government agency; or

(c) a corporation incorporated in a country other than Canada;

controlled land means land in Alberta but does not include:

(a land of the Crown in right of Alberta;

(b) land within a city, town, new town, village or summer village; and

(c) mines or minerals.

Sector: All Sectors

Sub-sector:

Industry Classification:

Type of Reservation: National Treatment (Article 8.3)

Measures:

Air Canada Public Participation Act, R.S.C. 1985, c. 35 (4th Supp.)

Canadian Arsenals Limited Divestiture Authorization Act, S.C. 1986, c. 20

Eldorado Nuclear Limited Reorganization and Divestiture Act, S.C. 1988, c. 41

Nordion and Theratronics Divestiture Authorization Act, S.C. 1990, c. 4

Description: Investment

1. A “non-resident” or “non-residents” may not own more than a specified percentage of the voting shares of the corporation to which each Act applies. For some companies the restrictions apply to individual shareholders, while for others the restrictions may apply in the aggregate. If there are limits on the percentage that an individual Canadian investor can own, these limits also apply to non-residents. The restrictions are as follows:

Air Canada: 25 percent in the aggregate;

Cameco Limited (formerly Eldorado Nuclear Limited): 15 percent per non-resident natural person, 25 percent in the aggregate;

Nordion International Inc.: 25 percent in the aggregate;

Theratronics International Limited: 49 percent in the aggregate; and

Canadian Arsenals Limited: 25 percent in the aggregate.

2. For the purposes of this reservation, "non-resident" includes:

(a) a natural person who is not a Canadian citizen and not ordinarily resident in Canada;

(b) a corporation incorporated, formed or otherwise organised outside Canada;

(c the government of a foreign State or a political subdivision of a government or foreign State , or a person empowered to perform a function or duty on behalf of such a government;

(d) a corporation that is controlled directly or indirectly by a person or an entity referred to in subparagraphs (a) through (c);

(e) a trust:

(i) established by a person or an entity referred to in subparagraphs (b) through (d), other than a trust for the administration of a pension fund for the benefit of natural persons the majority of whom are resident in Canada, or

(ii) in which a person or an entity referred to in subparagraphs (a) through (d) has more than 50 percent of the beneficial interest; and

(f) a corporation that is controlled directly or indirectly by a trust referred to in subparagraph (e).

Sector: All Sectors

Sub-sector: Industry Classification:

Type of Reservation: Local Presence (Article 9.5)

Measure: Export and Import Permits Act, R.S.C. 1985, c. E-19

Description: Cross-Border Trade in Services

Only a natural person ordinarily resident in Canada, an enterprise with its head office in Canada or a branch office in Canada of a foreign enterprise may apply for and be issued an import or export permit or transit authorisation certificate for a good or related service subject to controls under the Export and Import Permits Act.

Sector: Business Service Industries

Sub-sector: Customs Brokers

Industry Classification:

SIC 7794 Customs Brokers

CPC 749 Other supporting and auxiliary transport services

Type of Reservation:

National Treatment (Article 9.2)

Local Presence (Article 9.5)

Senior Management and Boards of Directors (Article 8.7)

Measures:

Customs Act, R.S.C. 1985, c. 1 (2nd Supp.)

Customs Brokers Licensing Regulations, SOR/86-1067

Description: Cross-Border Trade in Services and Investment

To be a licensed customs broker in Canada:

(a) a natural person must be a Canadian national;

(b) a corporation must be incorporated in Canada with a majority of its directors being Canadian nationals; and

(c) a partnership must be composed of persons who are Canadian nationals, or corporations incorporated in Canada with a majority of their directors being Canadian nationals.

Sector: Business Service Industries

Sub-sector: Duty Free Shops

Industry Classification:

SIC 6599 Other Retail Stores, Not Elsewhere Classified (limited to duty free shops)

CPC 631, 632 (limited to duty-free shops)

Type of Reservation:

National Treatment (Articles 8.3 and 9.2)

Local Presence (Article 9.5)

Measures:

Customs Act, R.S.C. 1985, c. 1 (2nd Supp.)

Duty Free Shop Regulations, SOR/86-1072

Description: Cross-Border Trade in Services and Investment

1. To be a licensed duty free shop operator at a land border crossing in Canada, a natural person must:

(a) be a Canadian national;

(b) be of good character;

(c) be principally resident in Canada; and

(d) have resided in Canada for at least 183 days of the year preceding the year of application for the licence.

2. To be a licensed duty free shop operator at a land border crossing in Canada, a corporation must:

(a) be incorporated in Canada; and

(b) have all of its shares beneficially owned by Canadian nationals who meet the requirements of paragraph 1.

Sector: Business Service Industries

Sub-sector: Examination Services relating to the Export and Import of Cultural Property

Industry Classification: SIC 999 Other Services, Not Elsewhere Classified (limited to cultural property examination services)

CPC 96321 Museum services except for historical sites and buildings (limited to cultural property examination services)

CPC 87909 Other business services n.e.c. (limited to cultural property examination services)

Type of Reservation: Local Presence (Article 9.5)

Measure: Cultural Property Export and Import Act, R.S.C. 1985, c. C-51

Description: Cross-Border Trade in Services

1. Only a resident of Canada or an institution in Canada may be designated as an expert examiner of cultural property for the purposes of the Cultural Property Export and Import Act.

2. For the purposes of this reservation:

"institution" means an entity that is publicly owned and operated solely for the benefit of the public, that is established for educational or cultural purposes and that conserves objects and exhibits them;

"resident of Canada" means a natural person who is ordinarily resident in Canada, or a corporation that has its head office in Canada or maintains an establishment in Canada to which employees employed in connection with the business of the corporation ordinarily report for work.

Sector: Business Service Industries

Sub-sector: Patent Agents

Industry Classification:

SIC 999 Other Services, Not Elsewhere Classified (limited to patent agency)

CPC 8921 Patents

Type of Reservation:

National Treatment (Article 9.2)

Local Presence (Article 9.5)

Measures:

Patent Act, R.S.C. 1985, c. P-4

Patent Rules, SOR/96-423

Description: Cross-Border Trade in Services

To represent a person in the prosecution of a patent application or in other business before the Patent Office, a patent agent must be resident in Canada and registered by the Patent Office.

Sector: Business Service Industries

Sub-sector: Trade-mark Agents

Industry Classification:

SIC 999 Other Services, Not Elsewhere Classified (limited to trade-mark agency)

CPC 8922 Trademarks

Type of Reservation:

National Treatment (Article 9.2)

Local Presence (Article 9.5)

Measures:

Trade-marks Act, R.S.C. 1985, c. T-13

Trade-marks Regulations, SOR/96-195; SOR/2007-91, s.1

Description: Cross-Border Trade in Services

To represent a person in the prosecution of an application for a trade-mark or in other business before the Trade-Mark Office, a trade-mark agent must be resident in Canada and registered by the Trade-marks Office.

Sector: Energy

Sub-sector: Oil and Gas

Industry Classification:

SIC 071 Crude Petroleum and Natural Gas Industries

CPC 883 Services incidental to mining

Type of Reservation: National Treatment (Article 8.3)

Measures:

Canada Petroleum Resources Act, R.S.C. 1985, c. 36 (2nd Supp.)

Territorial Lands Act, R.S.C. 1985, c. T-7

Federal Real Property and Federal Immovables Act, S.C. 1991, c. 50

Canada-Newfoundland Atlantic Accord Implementation Act, S.C. 1987, c. 3

Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act, S.C. 1988, c. 28

Description: Investment

1. This reservation applies to production licences issued for “frontier lands” and “offshore areas” (areas not under provincial jurisdiction) as defined in the applicable measures.

2. A person who holds an oil and gas production licence or shares therein must be a corporation incorporated in Canada.

Sector: Energy

Sub-sector: Oil and Gas

Industry Classification:

SIC 071 Crude Petroleum and Natural Gas Industries

CPC 883 Services incidental to mining

Type of Reservation:

Performance Requirements (Article 8.8)

Local Presence (Article 9.5)

Measures:

Canada Oil and Gas Production and Conservation Act, R.S.C. 1985, c. O-7, as amended by the Canada Oil and Gas Operations Act, S.C. 1992, c. 35

Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act, S.C. 1988, c. 28

Canada-Newfoundland Atlantic Accord Implementation Act, S.C. 1987, c. 3

Measures implementing the Canada-Yukon Oil and Gas Accord, including the Canada-Yukon Oil and Gas Accord Implementation Act, 1998, c.5, s. 20 and the Oil and Gas Act, RSY 2002, c. 162

Measures implementing the Northwest Territories Oil and Gas Accord, including implementing measures that apply to or are adopted by Nunavut as the successor territories to the former Northwest Territories

Measures implementing the Canada-Quebec Gulf of St. Lawrence Petroleum Resources Accord

Description: Cross-Border Trade in Services and Investment

1. Under the Canada Oil and Gas Operations Act, a “benefits plan” must be approved by the Minister in order to be authorised to proceed with an oil and gas development project.

2. A “benefits plan” is a plan for the employment of Canadians and for providing Canadian manufacturers, consultants, contractors and service companies with a full and fair opportunity to participate on a competitive basis in the supply of

goods and services used in proposed work or activity referred to in the benefits plan.

3. The benefits plan contemplated by the Canada Oil and Gas Operations Act permits the Minister to impose on the applicant an additional requirement to ensure that disadvantaged individuals or groups have access to training and employment opportunities or can participate in the supply of goods and services used in proposed work referred to in the benefits plan.

4. Provisions continuing those set out in the Canada Oil and Gas Operations Act are included in laws which implement the Canada-Yukon Oil and Gas Accord.

5. Provisions continuing those set out in the Canada Oil and Gas Operations Act will be included in laws or regulations to implement the Northwest Territories Oil and Gas Accord and the Canada-Quebec Gulf of St. Lawrence Petroleum Resources Accord. For the purposes of this reservation these accords shall be deemed, once concluded, to be existing measures.

6. The Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act and the Canada-Newfoundland Atlantic Accord Implementation Act have the same requirement for a benefits plan but also require that the benefits plan ensures that:

(a) the corporation or other body submitting the plan establishes in the applicable province an office where appropriate levels of decision-making are to take place, prior to carrying out work or an activity in the offshore area;

(b) expenditures be made for research and development to be carried out in the province, and for education and training to be provided in the province; and

(c) first consideration be given to goods produced or services provided from within the province, where those goods or services are competitive in terms of fair market price, quality and delivery.

7. The Boards administering the benefits plan under these Acts may also require that the plan include provisions to ensure that disadvantaged individuals or groups, or corporations owned or cooperatives operated by them, participate in the supply of goods and services used in proposed work or activity referred to in the plan.

8. In addition, Canada may impose a requirement or enforce a commitment or undertaking for the transfer of technology, a production process or other proprietary knowledge to a person of Canada in connection with the approval of development projects under the applicable Acts.

Sector: Energy

Sub-sector: Oil and Gas

Industry Classification:

SIC 071 Crude Petroleum and Natural Gas Industries

CPC 883 Services incidental to mining

Type of Reservation: Performance Requirements (Article 8.8)

Measures:

Canada-Newfoundland Atlantic Accord Implementation Act, S.C. 1987, c. 3

Hibernia Development Project Act, S.C. 1990, c. 41

Description: Investment

1. Under the Hibernia Development Project Act, Canada and the Hibernia Project Owners may enter into agreements. Those agreements may require the Project Owners to undertake to perform certain work in Canada and Newfoundland and to use their best efforts to achieve specific Canadian and Newfoundland target levels in relation to the provisions of a “benefits plan” required under the Canada-Newfoundland Atlantic Accord Implementation Act. “Benefits plans” are further described in the Schedule of Canada, Annex I at pages I-CA-25-27.

2. In addition, Canada may impose in connection with the Hibernia project a requirement or enforce a commitment or undertaking for the transfer of technology, a production process or other proprietary knowledge to a national or enterprise in Canada.

Sector: Energy

Sub-sector: Uranium

Industry Classification:

SIC 0616 Uranium Mines

CPC 883 Services incidental to mining

Type of Reservation:

National Treatment (Article 8.3)

Most-Favoured-Nation Treatment (Article 8.4)

Measures:

Investment Canada Act, R.S.C. 1985, c. 28 (1st Supp.)

Investment Canada Regulations, SOR/85-611

Non-Resident Ownership Policy in the Uranium Mining Sector, 1987

Description: Investment

1. Ownership by “non-Canadians”, as defined in the Investment Canada Act, of a uranium mining property is limited to 49 percent at the stage of first production. Exceptions to this limit may be permitted if it can be established that the property is in fact “Canadian controlled” as defined in the Investment Canada Act.

2. Exemptions from the policy are permitted, subject to approval of the Governor-in-Council, only in cases where Canadian participants in the ownership of the property are not available. Investments in properties by non-Canadians, made prior to December 23, 1987 and that are beyond the permitted ownership level, may remain in place. An increase in non-Canadian ownership is not permitted.

Sector: Professional, Technical and Specialized Services

Sub-sector: Professional Services

Industry Classification: CPC 862 Auditing Services

Type of Reservation:

National Treatment (Article 9.2)

Most-Favoured-Nation Treatment (Article 9.3)

Local Presence (Article 9.5)

Measures:

Bank Act, S.C. 1991, c. 46

Insurance Companies Act, S.C. 1991, c. 47

Cooperative Credit Associations Act, S.C. 1991, c. 48

Trust and Loan Companies Act, S.C. 1991, c. 45

Description: Cross-Border Trade in Services

1. Banks are required to have a firm of accountants to be auditors of the bank. A firm of accountants must be qualified as set out in the Bank Act. Among the qualifications required is that two or more members of the firm must be ordinarily resident in Canada and that the member of the firm jointly designated by the firm and the bank to conduct the audit must be ordinarily resident in Canada.

2. An insurance company, a cooperative credit association, and a trust or loan company require an auditor who can either be a natural person or a firm of accountants. An auditor of such an institution must be qualified as set out in the Insurance Companies Act, the Cooperative Credit Associations Act or the Trust and Loan Companies Act, as the case may be. In the case where a natural person is appointed to be the auditor of such a financial institution, among the qualifications required

is that the person must be ordinarily resident in Canada. In the case where a firm of accountants is appointed to be the auditor of such a financial institution, the member of the firm jointly designated by the firm and the financial institution to conduct the audit must be ordinarily resident in Canada.

Sector: Transportation

Sub-sector: Air Transportation

Industry Classification:

CPC 73 Air Transport Services (passenger and freight)

Specialty air services, as set out in the Description section below

CPC 7512 Courier Services

Type of Reservation: National Treatment (Article 9.3)

Measures:

Canada Transportation Act, S.C. 1996, c. 10

Aeronautics Act, R.S.C. 1985, c. A-2

Canadian Aviation Regulations, SOR/96-433:

Part II, Subpart 2 “Aircraft Markings & Registration”;

Part IV “Personnel Licensing & Training”; and

Part VII “Commercial Air Services”.

Description: Investment

The Canada Transportation Act, in Section 55, defines “Canadian” in the following manner:

“… ‘Canadian’ means a Canadian citizen or a permanent resident within the meaning of the Immigration and Refugee Protection Act, a government in Canada or an agent of such a government or a corporation or other entity that is incorporated or formed under the laws of Canada or a province or territory, that is controlled in fact by Canadians and of which at least seventy-five per cent, or such lesser percentage as the Governor in Council may by regulation specify, of the voting interests are owned and controlled by Canadians…”

Regulations made under the Aeronautics Act incorporate by reference the definition of “Canadian” found in the Canada Transportation Act. These Regulations require that a Canadian operator of commercial air services operate Canadian-registered aircraft. These regulations require an operator to be Canadian in order to obtain a Canadian Air Operator Certificate and to qualify to register aircraft as “Canadian”.

Only “Canadians” may provide the following commercial air transportation services:

(a) “domestic services” (air services between points, or from and to the same point, in the territory of Canada, or between a point in the territory of Canada and a point not in the territory of another country);

(b) “scheduled international services” (scheduled air services between a point in the territory of Canada and a point in the territory of another country) where those services have been reserved to Canadian carriers under existing or future air services agreements;

(c) “non-scheduled international services” (non-scheduled air services between a point in the territory of Canada and a point in the territory of another country) where those services have been reserved to Canadian carriers under the Canada Transportation Act;

(d) “specialty air services” (include, but are not limited to: aerial mapping, aerial surveying, aerial photography, forest fire management, fire-fighting, aerial advertising, glider towing, parachute jumping, aerial construction, heli-logging, aerial inspection, aerial surveillance, flight training, aerial sightseeing and aerial crop spraying).

No foreign individual is qualified to be the registered owner of a Canadian-registered aircraft.

Further to the Canadian Aviation Regulations, a corporation incorporated in Canada, but that does not meet the Canadian

ownership and control requirements, may only register an aircraft for private use where a significant majority of use of the aircraft (at least 60 percent) is in Canada.

The Canadian Aviation Regulations also have the effect of limiting foreign-registered private aircraft registered to “non-Canadian” corporations to be present in Canada for a maximum of 90 days per twelve-month period. Such foreign-registered private aircraft would be limited to private use, as would be the case for Canadian-registered aircraft requiring a private operating certificate.

Sector: Transportation

Sub-sector: Air Transportation

Industry Classification: Not CPC defined. Aircraft repair and maintenance services, as defined in Article 9.12 (Definitions)

Type of Reservation: Local Presence (Article 9.5)

Measures:

Aeronautics Act, R.S.C. 1985, c. A-2

Canadian Aviation Regulations, SOR/96-433:

Part IV “Personnel Licensing & Training”;

Part V “Airworthiness”;

Part VI “General Operating & Flight Rules”; and

Part VII “Commercial Air Services”.

Description: Cross-Border Trade in Services

Aircraft and other aeronautical product repair, overhaul or maintenance activities required to maintain the airworthiness of Canadian-registered aircraft and other aeronautical products must be performed by persons meeting Canadian aviation regulatory requirements (that is, approved maintenance organisations and aircraft maintenance engineers). Certifications are not provided for persons located outside Canada, except sub-organisations of approved maintenance organisations that are themselves located in Canada.

Sector: Transportation

Sub-sector: Land Transportation

Industry Classification:

SIC 456 Truck Transport Industries

SIC 4572 Interurban and Rural Transit Systems Industry

SIC 4573 School Bus Operations Industry

SIC 4574 Charter and Sightseeing Bus Services Industry

CPC 7121 Other scheduled passenger transportation by land other than by railway

CPC 7122 Other non-scheduled passenger transportation by land other than by railway

CPC 7123 Freight transportation by land other than by railway

CPC 7512 Courier Services

Type of Reservation:

National Treatment (Article 9.2)

Local Presence (Article 9.5)

Measures:

Motor Vehicle Transport Act, R.S.C. 1985, c. 29 (3rd Supp.), as amended by S.C. 2001, c. 13

Canada Transportation Act, S.C. 1996, c. 10

Customs Tariff, 1997, c. 36

Description: Cross-Border Trade in Services

Only persons of Canada using Canadian-registered and either Canadian built or duty-paid trucks or buses, may provide truck or bus services between points in the territory of Canada.

Sector: Transportation

Sub-sector: Water Transportation

Industry Classification:

SIC 4541 Freight and Passenger Water Transport Industry

SIC 4542 Ferry Industry

SIC 4543 Marine Towing Industry

SIC 4549 Other Water Transport Industries

SIC 4553 Marine Salvage Industry

SIC 4559 Other Service Industries Incidental to Water Transport

CPC 721 Transport services (passenger and freight) by sea-going vessels

CPC 722 Transport services (passenger and freight) by non-sea-going vessels

CPC 745 Supporting services for water transport

CPC 5133/5223 Construction for waterways, harbours, dams and other water works

Any other commercial marine activity undertaken from a vessel

Type of Reservation:

National Treatment (Articles 8.3 and 9.2)

Local Presence (Article 9.5)

Measure: Canada Shipping Act, 2001, S.C. 2001, c. 26

Description: Cross-Border Trade in Services and Investment

1. To register a vessel in Canada, the owner of that vessel or the person who has exclusive possession of that vessel must be:

(a) a Canadian citizen or a permanent resident within the meaning of subsection 2(1) of the Immigration and Refugee Protection Act;

(b) a corporation incorporated under the domestic law of Canada or a province or territory; or

(c) when the vessel is not already registered in another country, a corporation incorporated under the laws of a country other than Canada if one of the following is acting with respect to all matters relating to the vessel, namely:

(i) a subsidiary of the corporation that is incorporated under the domestic law of Canada or a province or territory,

(ii) an employee or director in Canada of a branch office of the corporation that is carrying on business in Canada, or

(iii) a ship management company incorporated under the domestic law of Canada or a province or territory.

2. A vessel registered in a foreign country which has been bareboat chartered may be listed in Canada for the duration of the charter while the vessel's registration is suspended in its country of registry, if the charterer is:

(a) a Canadian citizen or permanent resident as defined in subsection 2(1) of the Immigration and Refugee Protection Act; or

(b) a corporation incorporated under the domestic law of Canada or a province or territory.

Sector: Transportation

Sub-sector: Water Transportation

Industry Classification:

SIC 4541 Freight and Passenger Water Transport Industry

SIC 4542 Ferry Industry

SIC 4543 Marine Towing Industry

SIC 4549 Other Water Transport Industries

SIC 4553 Marine Salvage Industry

SIC 4554 Piloting Service, Water Transport Industry

SIC 4559 Other Service Industries Incidental to Water Transport

CPC 721 Transport services by sea-going vessels

CPC 722 Transport services by non-sea-going vessels

CPC 745 Supporting services for water transport

CPC 5133/5223 Construction for waterways, harbours, dams and other water works

Any other commercial marine activity undertaken from a vessel

Type of Reservation:

National Treatment (Article 9.2)

Local Presence (Article 9.5)

Measures:

Canada Shipping Act, 2001, S.C. 2001, c. 26

Marine Personnel Regulations, SOR/2007-115

Description: Cross-Border Trade in Services

Masters, mates, engineers and certain other seafarers must hold certificates granted by the Minister of Transport as a requirement of service on Canadian-registered vessels. Such certificates may be granted only to Canadian citizens or permanent residents.

Sector: Transportation

Sub-sector: Water Transportation

Industry Classification:

SIC 4554 Piloting Service, Water Transport Industry

CPC 74520 Pilotage and berthing services

Type of Reservation:

NationalTreatment (Article 9.2)

Local Presence (Article 9.5)

Measures:

Pilotage Act, R.S.C. 1985, c. P-14

General Pilotage Regulations, SOR/2000-132

Atlantic Pilotage Authority Regulations, C.R.C., c. 1264

Laurentian Pilotage Authority Regulations, C.R.C., c. 1268

Great Lakes Pilotage Regulations, C.R.C., c. 1266

Pacific Pilotage Regulations, C.R.C., c. 1270

Description: Cross-Border Trade in Services

Subject to the Schedule of Canada, Annex II, at pages II-CA-12-13, a licence or a pilotage certificate issued by the relevant regional Pilotage Authority is required to provide pilotage services in the compulsory pilotage waters of the territory of Canada. Only a Canadian citizens or permanent residents may obtain such a licence or pilotage certificate. A permanent resident of Canada who has been issued a pilot's licence or pilotage certificate must become a Canadian citizen within 5 years of receipt of such licence or pilotage certificate in order to retain it.

Sector: Transportation

Sub-sector: Water Transportation

Industry Classification:

SIC 454 Water Transport Industry

CPC 721 Transportation services by sea-going vessels

CPC 722 Transportation services by non-sea-going vessels

Type of Reservation: Local Presence (Article 9.5)

Measure: Shipping Conferences Exemption Act 1987, R.S.C. 1985, c. 17 (3rd Supp.)

Description: Cross-Border Trade in Services

Members of a shipping conference must maintain jointly an office or agency in the region of Canada where they operate. A shipping conference is an association of ocean carriers that has the purpose or effect of regulating rates and conditions for the transportation by those carriers of goods by water.

Sector: Transportation

Sub-sector: Water Transportation

Industry Classification:

SIC 4541 Freight and Passenger Water Transport Industry

SIC 4542 Ferry Industry

SIC 4543 Marine Towing Industry

CPC 721 Transportation services by sea-going vessels

CPC 722 Transportation services by non-sea-going vessels

Type of Reservation: Most-Favoured-Nation Treatment (Article 9.3)

Measure: Coasting Trade Act, S.C. 1992, c. 31

Description: Cross-Border Trade in Services

The prohibitions under the Coasting Trade Act, set out in Schedule of Canada, Annex II, at pages II-CA-9-11, do not apply to a vessel that is owned by the U.S. Government when used solely for the purpose of transporting goods owned by the U.S. Government from the territory of Canada to supply Distant Early Warning sites.

Sector: Communications

Sub-sector:

Telecommunications Transport Networks and Services

Radiocommunication

Industry Classification: CPC 752 Telecommunications Services

Type of Reservation:

National Treatment (Article 8.3)

Senior Management and Boards of Directors (Article 8.7)

Measures:

Telecommunications Act, S.C. 1993, c. 38

Canadian Telecommunications Common Carrier Ownership and Control Regulations, SOR/94-667

Radiocommunication Act, R.S.C., 1985, c. R-2

Radiocommunication Regulations, SOR/96-484

Description: Investment

1. Canada reserves the right to adopt or maintain a measure:

(a) limiting foreign investment in facilities-based telecommunications service suppliers, provided that the measure adopted or maintained by Canada does not limit foreign investment to less than a cumulative total of 46.7 percent of voting interest, based on 20 percent direct investment and 33.3 percent indirect investment;

b) requiring that facilities-based telecommunications service suppliers be controlled in fact by a Canadian;

(c) requiring that at least 80 percent of the members of the board of directors of facilities-based telecommunications service suppliers be Canadian; and

2. The following exceptions apply to this reservation:

(a) foreign investment is allowed up to 100 percent for suppliers conducting operations under an international submarine cable licence;

(b) mobile satellite systems of a foreign service supplier may be used by a Canadian service provider to provide services in Canada;

(c) fixed satellite systems of a foreign service supplier may be used to provide services between points in Canada and all points outside Canada;

(d) foreign investment is allowed up to 100 percent for suppliers conducting operations under a satellite authorisation; and

(e) foreign investment is allowed up to 100 percent for facilities-based telecommunications service suppliers that have revenues, including those of its affiliates, from the provision of telecommunications services in Canada representing less than 10 percent of the total telecommunications services annual revenues in Canada.

Sector: All Sectors

Sub-sector:

Industry Classification:

Type of Reservation:

National Treatment (Articles 8.3 and 9.2)

Most-Favoured Nation Treatment (Articles 8.4 and 9.3)

Local Presence (Article 9.5)

Senior Management and Boards of Directors (Article 8.7)

Performance Requirements (Article 8.8)

Measure: All existing non-conforming measures of all provinces and territories.

Description: Cross-Border Trade in Services and Investment

For purposes of transparency only, Appendix I-A sets out an illustrative, non-binding list of non-conforming measures maintained at the sub-national level of government.

Appendix I-A. Illustrative List of Canada's Sub-National Non-conforming Measures (2)

Illustrative List of Canada's Sub-National Non-conforming Measures

Sector	Non-conforming measure by jurisdiction
Accounting, auditing and bookkeeping services	Residency: Saskatchewan, British Columbia, Ontario, Nova Scotia, Quebec, Prince Edward Island, Newfoundland & Labrador, Manitoba, Alberta.
	Local Presence: Saskatchewan, Newfoundland & Labrador, Manitoba, Ontario
Architectural services	Residency: Nova Scotia, Newfoundland & Labrador
	Corporate Form: Prince Edward Island requires non-resident firms to maintain a higher percentage of practitioners in a partnership
Engineering services and integrated engineering services	Residency: Saskatchewan, British Columbia, Ontario, New Brunswick, Alberta
Urban planning and landscape architecture services	Residency: Newfoundland & Labrador, Saskatchewan
Real estate services	Residency: Alberta, Quebec, Yukon, Manitoba, British Columbia, Nova Scotia, Prince Edward Island, Newfoundland & Labrador.
	Local Presence: Saskatchewan, Ontario, Nova Scotia, Prince Edward Island, Newfoundland & Labrador, Alberta
Management consulting services	Residency: Newfoundland & Labrador
Toll refining	Performance Requirement: Ontario requires treatment or refinement of base metals in Canada
Placement and supply services of personnel	Local Presence: Ontario
Investigation and security services	Senior Managers and Board of Directors: Newfoundland & Labrador
	Local Presence: Ontario
Related scientific and technical consulting	Residency: Ontario, British Columbia, Newfoundland & Labrador

services	
	Citizenship: British Columbia, Manitoba
	Local Presence: Saskatchewan
	Training Requirement: Ontario requires training to be completed in province for accreditation for land surveyors
Other business services	Residency: Saskatchewan, Ontario, Nova Scotia
	Local Presence: Saskatchewan, Newfoundland & Labrador, Nova Scotia, Prince Edward Island
Distribution services	Citizenship: Quebec
	Local Presence: Quebec, Saskatchewan, Newfoundland & Labrador, Nova Scotia, British Columbia, Ontario
	Economic Needs Test: Prince Edward Island
Tourism and travel related services	Residency: Alberta, British Columbia, Ontario
	Residency/Citizenship: Alberta, Saskatchewan, Nova Scotia, Newfoundland & Labrador, Quebec
	Local Presence: Ontario, Quebec
	Taxation: Ontario requires non-residents to pay 20 percent land transfer tax
Road transport services (Passenger transportation)	Economic Need Test: British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia, Newfoundland & Labrador, Nunavut, Northwest Territories
Road transport services (Freight transportation)	Local Presence: Quebec Economic Need Test: Saskatchewan, Newfoundland & Labrador

(2) This document is provided for transparency purposes only, and is neither exhaustive nor binding. The information contained in this document is drawn from Canada's May 2005 Revised Conditional Offer on Services (TN/S/O/CAN/Rev.1, 23 May 2005).

Schedule of Korea. Explanatory Notes

1. Korea's Schedule to this Annex sets out, pursuant to Articles 8.9.1 and 9.6.1, Korea's existing measures that do not conform with some or all of the obligations imposed by:

(a) Article 8.3 (National Treatment) or 9.2 (National Treatment);

(b) Article 8.4 (Most-Favoured-Nation Treatment) or 9.3 (Most-Favoured-Nation Treatment);

(c) Article 8.7 (Senior Management and Boards of Directors);

(d) Article 8.8 (Performance Requirements);

(e) Article 9.4 (Market Access); or

(f) Article 9.5 (Local Presence).

2. Each entry sets out the following elements:

(a) Sector refers to the sector for which the entry is made;

(b) Obligations Concerned specifies the Articles referred to in paragraph 1 that, pursuant to Articles 8.9.1(a) and 9.6.1(a), do not apply to the non-conforming aspects of the law, regulation, or other measure, as set out in paragraph 3;

(c) Measures (1) identifies the laws, regulations, or other measures for which the entry is made. A measure cited in the Measures element:

(i) means the measure as amended, continued, or renewed as of the date of entry into force of this Agreement; and

(ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure; and

(d) Description sets out commitments, if any, for liberalisation on the date of entry into force of this Agreement, and the remaining non-conforming aspects of the measure for which the entry is made.

3. In the interpretation of an entry, all elements of the entry shall be considered. An entry shall be interpreted in light of the relevant Articles of the Chapters against which the entry is made. To the extent that:

(a) the Measures element is qualified by a liberalisation commitment from the Description element, the Measures element as so qualified shall prevail over all other elements; and

(b) the Measures element is not so qualified, the Measures element shall prevail over all other elements, unless any discrepancy between the Measures element and the other elements considered in their totality is so substantial and material that it would be unreasonable to conclude that the Measures element should prevail, in which case the other elements shall prevail to the extent of that discrepancy.

4. In accordance with Articles 8.9.1(a) and 9.6.1(a), and subject to Articles 8.9.1(c) and 9.6.1(c), the Articles of this Agreement specified in the Obligations Concerned element of an entry do not apply to the non-conforming aspects of the law, regulation, or other measure identified in the Measures element of that entry.

5. If Korea maintains a measure that requires that a service provider be a citizen, permanent resident, or resident of its territory as a condition to the provision of a service in its territory, a Schedule entry for that measure taken with respect to Article 9.2 (National Treatment), 9.3 (Most-Favoured-Nation Treatment), or 9.5 (Local Presence) shall operate as a Schedule entry with respect to Article 8.3 (National Treatment), 8.4 (Most-Favoured-Nation Treatment), or 8.8 (Performance Requirements) to the extent of that measure.

6. For greater certainty, National Treatment (Article 9.2) and Local Presence (Article 9.5) are separate disciplines and a measure that is only inconsistent with Local Presence (Article 9.5) need not be reserved against National Treatment (Article 9.2).

(1) For greater certainty, a change in the level of government at which a measure is administered or enforced does not, by itself, decrease the conformity of the measure with the obligations referred to in Articles 8.9.1 and 9.6.1.

Annex I. Schedule of Korea

1. Sector: Construction Services

Obligations Concerned: Local Presence (Article 9.5)

Measures: Framework Act on the Construction Industry (Law No. 12012, 6 August 2013), Articles 9 and 10

Enforcement Decreeof the Framework Act on the Construction Industry (Presidential Decree No. 24616, 17 June 2013), Article 13

Enforcement Regulations of the Framework Act on the Construction Industry (Ordinance of the Ministry of Land, Infrastructure and Transport No.10, 17 June 2013), Articles 2 and 3

Information and Communication Construction Business Act (Law No. 11690, 23 March 2013), Article 14

Fire Fighting System Installation Business Act (Law No. 11782, 22 May 2013), Articles 4 and 5

Enforcement Decree of the Fire Fighting System Installation Business Act (Presidential Decree No. 24417, 23 March 2013), Article 2 (Table 1)

Enforcement Regulations of the Fire Fighting System Installation Business Act (Ordinance of the Ministry of Security and Public Administration No. 3, 23 March 2013), Article 2

Description: Cross-Border Trade in Services

A person that supplies construction services in Korea must, prior to the signing of the first contract related to such services, establish an office in Korea.

2. Sector: Leasing, Rental, Maintenance, Repair, Sales, and Disposal Services Related to Construction Machinery and Equipment

Obligations Concerned: Local Presence (Article 9.5)

Measures: Construction Machinery Management Act (Law No. 11919, 16 July 2013), Article 21

Enforcement Decreeof the Construction Machinery Management Act (Presidential Decree No. 24443, 23 March 2013), Articles 13, 14, 15, and 15-2

Enforcement Regulations of the Construction Machinery Management Act (Ordinance of the Ministry of Land, Infrastructure and Transport No. 1, 23 March 2013), Articles 57 through 63, 65-2, and 65-3

Description: Cross-Border Trade in Services

A person that supplies leasing, rental, maintenance, repair, sales, and disposal services related to construction machinery and equipment must establish an office in Korea.

3. Sector: Transportation Services – Automobile Maintenance, Repair, Sales, Disposal, and Inspection Services; Automobile License Plate Issuing Services

Obligations Concerned: Market Access (Article 9.4)

Local Presence (Article 9.5)

Measures: Automobile Management Act (Law No. 11929, July 16, 2013), Articles 20, 44, 44-2, 45, 45-2 and 53

Enforcement Regulations of the Automobile Management Act (Ordinance of the Ministry of Land, Infrastructure and Transport No. 24, 6 September 2013), Articles 7, 8, 83, 87, and 111

Rule on Enforcement of Comprehensive Inspection of Automobiles, Etc. (Ordinance of the Ministry of Land, Infrastructure and Transport No. 1, 23 March 2013), Article 16

Description: Cross-Border Trade in Services

A person that supplies automobile management services (which includes used car sales, maintenance, auto dismantling, and recycling services) must establish an office in Korea and obtain authorisation from the head of the si/gun/gu (municipal authorities), which is subject to an economic needs test, as appropriate.

A person that supplies automobile inspection services that is designated as a “designated repair facility” must establish an office in Korea.

A person that supplies license plate manufacturing, delivery, and seal services that is designated as a “license plate issuing agency” must establish an office in Korea.

4. Sector: Distribution Services – Wholesale and Retail Distribution of Tobacco and Liquor

Obligations Concerned: Market Access (Article 9.4)

Local Presence (Article 9.5)

Measures: Tobacco Business Act (Law No. 11690, 23 March 2013), Articles 12, 13, and 16

Enforcement Decreeof the Tobacco Business Act (Presidential Decree No. 24519, 26 April 2013), Articles 4 and 5

Enforcement Regulationsof the Tobacco Business Act (Ordinance of the Ministry of Strategy and Finance No. 131, 3 March 2010), Articles 5, 7, and 7-3

Liquors Act (Law No. 11873, 7 June 2013), Articles 8 through 10

Enforcement Decree of the Liquors Act (Presidential Decree No. 24638, 28 June 2013), Article 9

Notice on Sales of Liquor by Telecommunication Means (Notice of the National Tax Service No. 2012-68, 1 October 2012)

Notice on Designation of Zone for Liquor License (Notice of the National Tax Service No. 2013-15, 1 April 2013)

Description: Cross-Border Trade in Services

A person that supplies tobacco wholesale (including importation) or retail distribution services must establish an office in Korea.

Only designated tobacco retailers may sell tobacco to retail buyers. The sale of tobacco to retail buyers by mail or in electronic commerce is prohibited.

The distance between places of business of tobacco retailers must be at least 50 meters.

A person that supplies liquor wholesale distribution services must establish an office in Korea and obtain authorisation from the head of the relevant tax office, which is subject to an economic needs test.

The sale of liquor by telephone or in electronic commerce is prohibited.

5. Sector: Agriculture and Livestock

Obligations Concerned: National Treatment (Article 8.3)

Measures: Foreign Investment Promotion Act (Law No. 11535, 11 December 2012), Article 4

Enforcement Decree of the Foreign Investment Promotion Act (Presidential Decree No. 24638, 28 June 2013), Article 5

Regulations on Foreign Investment and Introduction of Technology (Notice of the Ministry of Trade, Industry and Energy, No. 2013-37, 30 May 2013), Attached table 2

Description: Investment

Foreign persons shall not:

(i) invest in an enterprise engaged in rice or barley farming; or

(ii) hold 50 percent or more of the equity interest in an enterprise engaged in beef cattle farming.

6. Sector: Business Services – An-gyung-sa (Optician and Optometry) Services

Obligations Concerned: Market Access (Article 9.4)

Local Presence (Article 9.5)

Measures: Medical Technicians Act (Law No. 11860, 4 June 2013), Article 12

Enforcement Regulationsof the Medical Technicians Act (Ordinance of the Ministry of Health and Welfare No. 193, 17 April 2013), Article 15

Description: Cross-Border Trade in Services

Only a natural person that is a licensed an-gyung-sa(optician or optometrist) that has established an office in Korea may engage in optician or optometry services.

An an-gyung-sa (optician or optometrist) shall not establish more than one office in Korea.

7. Sector: Wholesale and Retail Distribution Services

Obligations Concerned: Market Access (Article 9.4)

Local Presence (Article 9.5)

Measures: Pharmaceutical Affairs Act (Law No.12074, 13 August 2013), Articles 42 and 45

Enforcement Decree on the Pharmaceutical Affairs Acts (Presidential Decree No. 24479, 23 March 2013), Article 31-2

Enforcement Decree on the Standards of Facilities of Manufacturer and Importers of Medicinal Products, Etc. (Presidential Decree No. 24479, 23 March 2013), Articles 6

Supply and Demand of Oriental Medicinal Herbs Regulations (Notice of the Ministry of Health and Welfare No. 2013-63, 18 April 2013), Articles 4 and 12

Medical Devices Act (Law No. 12107, 13 August 2013), Article 15

Enforcement Regulations of the Medical Devices Act (Ordinance of the Prime Minister No. 1016, 23 March 2013), Article 20

Health Functional Foods Act (Law No. 11508, 22 October 2012), Article 6

Enforcement Regulations of the Health Functional Foods Act (Ordinance of the Prime Minister No. 1010, 23 March 2013), Articles 2 and 5

Food Sanitation Act (Law No. 11819, 22 May 2013), Articles 24, 36 and 37

Enforcement Decree of the Food Sanitation Act (Presidential Decree No. 24800, 16 October 2013), Articles 23 and 24

Enforcement Regulations of the Food Sanitation Act (Ordinance of the Prime Minister No. 1041, 25 October 2013), Articles 23 and 36 (attached table 14)

Act on the Control of Narcotics, Etc. (Law No. 11984, 30 July 2013), Articles 6 and 6-2

Description: Cross-Border Trade in Services

A person that supplies wholesale trade services must establish an office in Korea in order to receive an import business license to supply such services with respect to:

(a) pharmaceuticals and related items;

(b) medical devices; or

(c) health functional foods (including dietary supplements).

To supply the following services a person must establish an office in Korea:

(a) transportation, sales, and preservation (cold storage) of food and food additives;

(b) food supply services;

(c) food inspection services; or

(d) narcotic drug wholesale and retail distribution services.

The Minister of Health and Welfare controls the supply and demand of the wholesale distribution of imported designated han-yak-jae (Asian medicinal herbs).

Certain liquor-selling bars and the wholesale and retail distribution of narcotics require authorisation by the relevant authority.

8. Sector: Retail Distribution of Pharmaceuticals

Obligations Concerned: Market Access (Article 9.4)

Local Presence (Article 9.5)

Measures: Pharmaceutical Affairs Act (Law No. 12074, 13 August 2013), Articles 20 and 21

Enforcement Decree on the Pharmaceutical Affairs Act (Presidential Decree No. 24479, 23 March 2013), Article 22-2

Description: Cross-Border Trade in Services

A person that supplies pharmaceutical product retail distribution services (including distribution of han-yak-jae (Asian medicinal herbs)) must establish a pharmacy in Korea.

That person shall not establish more than one pharmacy or establish a pharmacy in the form of a corporation.

9. Sector: Transportation Services – Rail Transportation and Incidental Services

Obligations Concerned: National Treatment (Article 9.2)

Market Access (Article 9.4)

Measures: Railroad Enterprise Act (Law No. 11690, 23 March 2013), Articles 5, 6, and 12

Korea Railroad Corporation Act (Law No. 12025, 6 August 2013), Article 9

Rail Construction Act (Law No. 12023, 6 August 2013), Article 8

Framework Act on Rail Industry Development (Law No. 11690, 23 March 2013), Articles 3, 20, 21, 26, and 38

Korea Rail Network Authority Act (Law No. 11690, 23 March 2013), Article 7

Description: Cross-Border Trade in Services

The existing regulation broadly states that only juridical persons that have obtained authorisation from the Minister of Land, Infrastructure and Transport may supply railroad transportation services. In practice, however, only juridical persons of Korean nationality (of which shares are 100 percent owned by the shareholders with Korean nationality) established by a Korean national may supply railroad transportation services on railroad routes constructed on or before 30 June 2005.

Only juridical persons that have obtained authorisation from the Minister of Land, Infrastructure and Transport may supply railroad transportation services on railroad routes constructed on or after 1 July 2005. Such authorisation is subject to an economic needs test.

Only the national or local level of government or the Korea Rail Network Authority may supply rail construction services and maintain and repair government-owned rail facilities (including high-speed rail). However, juridical persons that meet the criteria in the Private Investment in Social Infrastructure Act (Law No. 12345, 28 January 2014) may supply rail construction services.

10. Sector: Transportation Services – Passenger Road Transportation Services (not including Taxis and Scheduled Passenger Road Transportation Services)

Obligations Concerned: Local Presence (Article 9.5)

Measures: Passenger Transport Service Act (Law No. 12020, 6 August 2013), Articles 4 and 5

Enforcement Decree of the Passenger Transport Service Act (Presidential Decree No. 24443, 23 March, 2013), Article 3

Enforcement Regulationsof the Passenger Transport Service Act (Ordinance of the Ministry of Land, Infrastructure and Transport No. 35, 7 November 2013), Article 11

Tramway Transportation Act (Law No. 11647, 22 March 2013), Article 4

Enforcement Regulationsof the Tramway Transportation Act (Ordinance of the Ministry of Land, Infrastructure and Transport No. 1, 23 March 2013), Article 3

Description: Cross-Border Trade in Services

A person that supplies passenger road transportation services, not including taxis and scheduled passenger road transportation services, must establish an office in the dang-hae-ji-yeok (relevant geographic area) in Korea.

11. Sector: Transportation Services – International Maritime Cargo Transportation and Maritime Auxiliary Services

Obligations Concerned: National Treatment (Article 9.2)

Market Access (Article 9.4)

Local Presence (Article 9.5)

Measures: Maritime Transportation Act (Law No. 12092, 13 August 2013), Articles 24 and 33

Enforcement Regulations of the Maritime Transportation Act (Ordinance of the Ministry of Oceans and Fisheries No. 1, 24 March 2013), Articles 16, 19, 22, and 23

Pilotage Act (Law No. 11690, 23 March 2013), Article 6

Ship Investment Company Act (Law No. 11756, 5 April 2013), Articles 3 and 31

Description: Cross-Border Trade in Services

A person that supplies international maritime cargo transportation must be organised as a chu-sik-hoe-sa (stock company) in Korea and registered according to the Maritime Transportation Act. A ship investment company must also be organised as a chu-sik-hoe-sa (stock company) in Korea and registered according to the Ship Investment Company Act.

A person that supplies shipping brokerage service, maritime agency services, and vessel maintenance services must be a company as stipulated under the Korean Commercial Act and registered according to the Maritime Transportation Act.

Only a Korean national may supply maritime pilotage services.

12. Sector: Transportation Services – Air Transportation Services

Obligations Concerned: National Treatment (Article 8.3)

Senior Management and Boards of Directors (Article 8.7)

Measures: Aviation Act (Law No. 12026, 6 August 2013), Articles 2, 3, 6, 112, 113, 114, 129, 132 and 135

Enforcement Regulations of the Aviation Act(Ordinance of the Ministry of Land, Infrastructure and Transport No. 569, 15 February 2013), Articles 14-2, 15, 278, 278-3, 296-2, 298, and 299

Description: Investment

The following persons shall not supply scheduled or non-scheduled domestic air transportation services or supply international air transportation services as Korean air carriers:

(a) a foreign national;

(b) a foreign government or a foreign gong-gong-dan-che (organization for public purposes);

(c) an enterprise organised under foreign law;

(d) an enterprise in which any of the persons referred to in subparagraphs (a) through (c) owns 50 percent or more of the equity interest, or has control; or

(e) an enterprise organised under Korean law whose dae-pyo-ja (representative: for example, a chief executive officer, president, or similar principal senior officer) is a foreign national or half or more of whose senior management are foreign nationals.

A person that owns an aircraft or is authorised to operate a chartered aircraft must register the aircraft with the Minister of Land, Infrastructure and Transport. The persons listed in subparagraphs (a) through (e) are not allowed to register an aircraft.

For the purposes of this entry, non-scheduled air transportation services include point-to-point transportation services, flight tour services, and charter flight services.

13. Sector: Transportation Services – Aircraft-Use Services

Obligations Concerned: National Treatment (Article 8.3)

Senior Management and Boards of Directors (Article 8.7)

Measures: Aviation Act (Law No. 12026, 6 August 2013), Articles 3, 6, and 134

Enforcement Regulations of the Aviation Act (Ordinance of the Ministry of Land, Infrastructure and Transport No. 569, 15 February 2013), Articles 15-2, 298, and 299-2

Description: Investment

A person that supplies aircraft-sa-yong (use) services must register its self-owned or chartered aircraft with the Minister of Land, Infrastructure and Transport.

The following persons shall not register an aircraft:

(a) a foreign national;

(b) a foreign government or a foreign gong-gong-dan-che (organization for public purposes);

(c) an enterprise organised under foreign law;

(d) an enterprise in which any of those referred to in subparagraphs (a) through (c) owns 50 percent or more of the equity interest, or has control; or

(e) an enterprise organised under Korean law whose dae-pyo-ja(representative: for example, a chief executive officer, president, or similar principal senior officer) is a foreign national or half or more of whose senior management are foreign nationals.

For the purposes of this entry, aircraft-sa-yong (use) services are services using an aircraft, and supplied upon request, for hire, other than for passenger or freight transportation, including aerial fire-fighting, forestry fire management, aerial advertising, flight training, aerial mapping, aerial investigation, aerial spraying, aerial photographing and other aerial agricultural activities, aerial inspections and observations, glider towing, parachute jumping, aerial construction, and heli-logging.

14. Sector: Transportation Services – Road Transportation Support Services

Obligations Concerned: Market Access (Article 9.4)

Local Presence (Article 9.5)

Measures: Passenger Transport Service Act (Law No. 12020, 6 August 2013), Articles 36 and 37

Enforcement Regulations of the Passenger Transport Service Act (Ordinance of the Ministry of Land, Infrastructure and Transport No. 35, 7 November 2013), Article 73

Parking Lot Service Act (Law No. 11690, 23 March 2013), Article 12

Road Traffic Act (Law No. 12045, 13 August 2013), Article 36

Description: Cross-Border Trade in Services

A person that supplies parking lot services, bus terminal operation services, or car towing and storage services must establish a place of business in the relevant geographic area in Korea and obtain an authorisation from the Minister of Land, Infrastructure and Transport, head of local police, or head of si/gun, as appropriate, which is subject to an economic needs test.

15. Sector: Courier Services

Obligations Concerned: Market Access (Article 9.4)

Local Presence (Article 9.5)

Measures: Aviation Act (Law No. 12026, August 6, 2013), Article 139

Enforcement Regulations of the Aviation Act (Ordinance of the Ministry of Land, Infrastructure and Transport No. 569, 15 February 2013), Article 306

Trucking Transport Business Act (Law No. 11933, 16 July 2013), Articles 3, 24, and 29

Enforcement Regulations of Trucking Transport Business Act (Ordinance of the Ministry of Land, Infrastructure and Transport No. 19, 11 July 2013), Articles 6, 34, and 41-2

Description: Cross-Border Trade in Services

To supply international courier services that include commercial document delivery services, pursuant to Article 3 of the Enforcement Decree of the Postal Services Act (Presidential Decree No. 24442, 23 March 2013), a person must establish an office in Korea.

In order to obtain a trucking business license from the Minister of Land, Infrastructure and Transport, a domestic courier services supplier must establish an office in the relevant geographic area. Such a license is subject to an economic needs test.

For greater certainty, a person who acquired an existing domestic courier business does not need to obtain a new trucking business license provided that the acquirer operates under the same terms and conditions as set out in the acquiree's license.

16. Sector: Telecommunications Services

Obligations Concerned: National Treatment (Articles 8.3 and 9.2)

Market Access (Article 9.4)

Local Presence (Article 9.5)

Measures: Telecommunications Business Act (Law No. 12035, 13 August 2013), Articles 6, 7, 8, 21, and 87

Telecommunications Business Act (Law No. 5385, 28 August 1997), Addenda Article 4

Radio Waves Act (Law No. 11712, 23 March 2013), Articles 13 and 20

Description: Cross-Border Trade in Services and Investment

A license for facilities-based public telecommunications services or a registration for non-facilities-based public telecommunications services shall be granted only to a juridical person organised under Korean law.

A license for facilities-based public telecommunications services shall not be granted to or held by a juridical person organised under Korean law in which a foreign government, foreign person, or deemed foreign person holds in the aggregate more than 49 percent of the juridical person's total voting shares.

A foreign government, foreign person, or deemed foreign person shall not, in the aggregate, hold more than 49 percent of the total voting shares of a facilities-based supplier of public telecommunications services. In addition, with respect to KT Corporation (KT), a foreign government, foreign person, or deemed foreign person shall not be the largest shareholder of KT, except if it holds less than five percent of the total voting shares of KT.

No later than two years after this Agreement enters into force, Korea shall permit:

(a) a deemed foreign person to hold up to 100 percent of the total voting shares of a facilities-based supplier of public telecommunications services organised under Korean law, other than KT and SK Telecom Co., LTD (SK Telecom); and

(b) a facilities-based supplier of public telecommunications services organised under Korean law in which a deemed foreign person holds up to 100 percent of its total voting shares to obtain or hold a license for facilities-based public telecommunications services.

A foreign government, or its representative, or a foreign person shall not obtain or hold a radio station license.

A foreign person shall not supply cross-border public telecommunications services into Korea, except through a commercial arrangement with a supplier of public telecommunications services that is licensed in Korea.

For the purposes of this entry:

(a) "deemed foreign person" means a juridical person organised under Korean law in which a foreign government or a foreign person (including a "specially related person" under relevant Korean laws or regulations) is the largest shareholder and holds 15 percent or more of that juridical person's total voting shares, but does not include a juridical person that holds less than one percent of the total voting shares of a facilities-based supplier of public telecommunications services;

(b) consistent with Article 5.2 of the Telecommunications Business Act, a facilities-based supplier is a supplier that owns transmission facilities;

(c) consistent with Article 5.3 of the Telecommunications Business Act, a non-facilities-based supplier is a supplier that does not own transmission facilities (but may own a switch, router, or multiplexer) and supplies its public telecommunication services through transmission facilities of a licensed facilities-based supplier; and

(d) consistent with subparagraph 3 of Article 2 of the Telecommunications Basic Act (Law No. 11690, 23 March 2013), "transmission facilities" means wireline or wireless transmission facilities (including circuit facilities) that connect transmitting points with receiving points.

17. Sector: Real Estate Brokerage and Appraisal Services

Obligations Concerned: Local Presence (Article 9.5)

Measures: Act on Duties of a Licensed Real Estate Broker and Filing of Real Estate Transactions (Law No. 11866, 4 June 2013), Article 9

Enforcement Decree of theAct on Duties of a Licensed Real Estate Broker and Filing of Real Estate Transactions (Presidential Decree No. 24443, 23 March 2013), Article 13

Enforcement Regulations of theAct on Duties of a Licensed Real Estate Broker and Filing of Real Estate Transactions (Ordinance of the Ministry of Land, Infrastructure and Transport No. 1, 23 March 2013), Article 4

Public Notice of Values and Appraisal of Real Estate Act (Law No. 11690, 23 March 2013), Article 27

EnforcementDecree of thePublic Notice of Values and Appraisal of Real Estate Act (Presidential Decree No.23919, 29 June 2012), Articles 65, 66, and 68

Enforcement Regulations of thePublic Notice of Values and Appraisal of Real Estate Act (Ordinance of the Ministry of Land, Infrastructure and Transport No. 1, 23 March 2013), Articles 25 and 26

Description: Cross-Border Trade in Services

A person that supplies real estate brokerage services or real estate appraisal services must establish an office in Korea.

18. Sector: Retail, Leasing, Rental and Repair Services Related to Medical Devices

Obligations Concerned: Local Presence (Article 9.5)

Measures: Medical Devices Act (Law No. 12107, 13 August 2013), Articles 16 and 17

Enforcement Regulations of the Medical Devices Act (Ordinance of the Prime Minister No. 1016, 23 March 2013), Articles 22 and 24

Description: Cross-Border Trade in Services

A person that supplies retail, leasing, rental, or repair services related to medical devices must establish an office in Korea.

19. Sector: Rental Services – Automobiles

Obligations Concerned: Local Presence (Article 9.5)

Measures: Passenger Transport Service Act (Law No. 12020, 6 August 2013), Articles 28 and 29

Enforcement Regulations of the Passenger Transport Service Act (Ordinance of the Ministry of Land, Infrastructure and Transport No. 35, 7 November 2013), Article 60, 61, 62, and 64

Description: Cross-Border Trade in Services

A person that supplies automobile rental services must establish an office in Korea.

20. Sector: Scientific Research Services

Obligations Concerned: National Treatment (Articles 8.3 and 9.2)

Measures: Marine Scientific Research Act (Law No. 12091, 13 August 2013), Articles 6, 7, and 8

Territorial Sea and Contiguous Zone Act (Law No. 10524, 4 April 2011), Article 5

Description: Cross-Border Trade in Services and Investment

A foreign person, a foreign government, or a Korean enterprise owned or controlled by a foreign person that intends to conduct marine scientific research in the territorial waters or exclusive economic zone or continental shelf of Korea must obtain prior authorisation or consent from the Minister of Oceans and Fisheries whereas a Korean national or a Korean enterprise not owned or controlled by a foreign person need only to provide notification to the Minister of Oceans and Fisheries.

21. Sector: Professional Services – Legal Services

Obligations Concerned: Market Access (Article 9.4)

Local Presence (Article 9.5)

Measures: Attorney-at-law Act (Law No. 11825, 28 May 2013), Articles 4, 7, 21, 34, 45, 58-6, 58-22, and 109

Certified Judicial Scriveners Act (Law No. 8920, 21 March 2008), Articles 2, 3, and 14

Notary Public Act (Law No. 11823, 28 May 2013), Articles 10, 16, and 17

Description: Cross-Border Trade in Services

Only a byeon-ho-sa (Korean-licensed lawyer) registered with the Korean Bar Association may supply legal services.

Only a byeon-ho-sa (Korean-licensed lawyer) may establish the following types of legal entity: beop-yool-sa-mu-so (law office), beop-mu-beop-in (law company with the characteristics of partnership), beop-mu-beop-in (yoo-han) (limited liability law company), or beop-mu-jo-hap (limited liability partnership law office). For greater certainty, a person that is not a Korean-licensed lawyer shall not invest in any of such types of legal entity.

A byeon-ho-sa (Korean-licensed lawyer) or beop-mu-sa (Korean-certified judicial scrivener) who practices in Korea must establish an office in the jurisdiction of the district court in which he or she practices. A gong-jeung-in (Korean notary public) must establish an office in the jurisdiction of the district office of the public prosecutor in which he or she practices.

This entry is subject to the commitments undertaken in the 36th entry in Korea's Schedule to Annex II.

22. Sector: Professional Services – Labour Affairs Consulting Services

Obligations Concerned: Local Presence (Article 9.5)

Measures: Certified Labor Affairs Consultant Act (Law No. 10321, 25 May 2010), Articles 5, 7-2, 7-3, and 7-4

Enforcement Decree of the Certified Labor Affairs Consultant Act (Presidential Decree No. 24447, 23 March 2013), Articles 15 and 19

Enforcement Regulations of the Certified Labor Affairs Consultant Act (Ordinance of the Ministry of Employment and Labor No. 78, 23 March 2013), Articles 6 and 10

Description: Cross-Border Trade in Services

A person that supplies labour affairs consulting services must establish an office in Korea and be a gong-in-no-mu-sa (Korean-licensed labor affairs consultant) registered under the Certified Labor Affairs Consultant Act.

For greater certainty, an enterprise that supplies labour affairs consulting services must consist of at least two gong-in-no-mu-sa (Korean-licensed labor affairs consultant) (including the natural person who is the founder) and must obtain authorisation from the Minister of Employment and Labor.

23. Sector: Professional Services – Patent Attorney (byeon-ri-sa)

Obligations Concerned: Market Access (Article 9.4)

Local Presence (Article 9.5)

Measures: Patent Attorney Act (Law No. 11962, 30 July 2013), Articles 3, 5, 6-2, and 6-3

Description: Cross-Border Trade in Services

Only a byeon-ri-sa (Korean-licensed patent attorney) who is registered with the Korean Intellectual Property Office may supply patent attorney services.

Only a byeon-ri-sa (Korean-licensed patent attorney) may establish a gae-in-sa-mu-so (sole proprietorship) or a teuk-heo-beop-in (patent law firm). For greater certainty, a person that is not a Korean-licensed patent attorney shall not invest in either of these types of legal entity.

A byeon-ri-sa (Korean-licensed patent attorney) may establish only one office.

24. Sector: Professional Services – Accounting and Auditing Services

Obligations Concerned: Market Access (Article 9.4)

Local Presence (Article 9.5)

Measures: Certified Public Accountant Act (Law No. 10866, 21 July 2011), Articles 2, 7, 12, 18, and 23

External Audit of Stock Companies Act (Law No. 11845, 28 May 2013), Article 3

Description: Cross-Border Trade in Services

Only a gae-in-sa-mu-so (sole proprietorships), gam-sa-ban (auditing task forces) or hoe-gye-boep-in (limited liability accounting corporation) established in Korea by gong-in-hoe-gye-sa (Korean-certified public accountants) registered under the Certified Public Accountant Act may supply accounting and auditing services. For greater certainty, a person that is not a Korean-registered certified public accountant shall not invest in any of these types of legal entity.

Only gong-in-hoe-gye-sa(Korean-certified public accountants) in an auditing task force or an accounting corporation may supply auditing services regulated under the External Audit of Stock Companies Act.

This entry is subject to the commitments undertaken in the 37th entry in Korea's Schedule to Annex II.

25. Sector: Professional Services – Tax Accountant (se-mu-sa)

Obligations Concerned: Market Access (Article 9.4)

Local Presence (Article 9.5)

Measures: Certified Tax Accountant Act (Law No. 11610, 1 January 2013), Articles 6, 13, 16-3, 16-4, and 20

Enforcement Decree of the Corporate Tax Act (Presidential Decree No. 24824, 5 November 2013), Article 97

Enforcement Regulations of the Corporate Tax Act (Ordinance of the Ministry of Strategy and Finance No. 325, 23 March 2013), Article 50-3

Enforcement Decree of the Income Tax Act (Presidential Decree No. 24574, 11 June 2013), Article 131

Enforcement Regulations of the Income Tax Act (Ordinance of the Ministry of Strategy and Finance No. 323, 23 February 2013), Article 65-3

Guidelines Governing the Work of Tax Agents (Order of the National Tax Service No. 1761, 24 August 2009), Articles 20 and 22

Description: Cross-Border Trade in Services

Only a se-mu-sa-mu-so (tax office), se-mu-jo-jeong-ban (tax reconciliation task forces) or, se-mu-beop-in (limited liability tax agency corporation) established in Korea by se-mu-sa (Korean-certified tax accountants) registered under the Certified Tax Accountant Act may supply se-mu-sa (Korean-certified tax accountants) services, including tax reconciliation services and tax representative services. For greater certainty, a person that is not a Korean-registered certified tax accountant shall not invest in any of these types of legal entity.

Only a se-mu-jo-jeong-ban (tax reconciliation task forces) or a se-mu-beop-in (limited liability tax agency corporation) may supply tax reconciliation services.

This entry is subject to the commitments undertaken in the 38th entry in Korea's Schedule to Annex II.

26. Sector: Professional Services – Customs Clearance Services

Obligations Concerned: Market Access (Article 9.4)

Local Presence (Article 9.5)

Measures: Customs Broker Act (Law No. 10570, 8 April 2011), Articles 3, 7, and 9

Description: Cross-Border Trade in Services

Only a gwan-se-sa (customs broker) licensed under the Customs Brokers Act, a corporation incorporated by such customs brokers, or a corporation licensed to engage in the customs-clearance brokerage business under the Customs Broker Act may supply customs-clearance services.

A person that supplies customs-clearance services must establish an office in Korea.

27. Sector: Engineering and Other Technical Services – Industrial Safety, Health Institution, and Consulting Services

Obligations Concerned: Local Presence (Article 9.5)

Measures: Industrial Safety and Health Act (Law No. 11882, 12 June 2013), Articles 15, 16, and 52-4

Enforcement Decree of the Industrial Safety and Health Act (Presidential Decree No. 24684, 6 August 2013), Article 15-2, 15-3, 19-2, and 19-3

Enforcement Regulations of the Industrial Safety and Health Act (Ordinance of the Ministry of Employment and Labor No. 86, 6 August 2013), Articles 17, 18, 20, 21, and 136-8

Description: Cross-Border Trade in Services

A person that supplies safety and health management or diagnostic services to industrial workplaces must establish an office in Korea.

A person that supplies industrial safety or hygiene consulting services, such as evaluation and instruction on safety in a work process and evaluation and instruction on the improvement of work environments, must establish an office in Korea.

28. Sector: Engineering and Other Technical Services – Architectural Services, Engineering Services, Integrated Engineering Services, Urban Planning and Landscape Architectural Services

Obligations Concerned: Local Presence (Article 9.5)

Measures: Certified Architects Act (Law No. 11690, 23 March 2013), Article 23

Enforcement Decree of the Certified Architects Act (Presidential Decree No. 24443, 23 March 2013), Articles 22 and 23

Enforcement Regulationsof the Certified Architects Act (Ordinance of the Ministry of Land, Infrastructure and Transport No. 1, 23 March 2013), Article 13

Engineering Industry Promotion Act (Law No. 12299, 21 January 2014), Article 21

Professional Engineers Act (Law No. 11690, 23 March 2013), Article 6

Special Act on the Safety Control of Public Structures (Law No. 11928, 6 July 2013), Article 9

Enforcement Decreeof the Special Act on the Safety Control of Public Structures (Presidential Decree No. 24443, 23 March 2013), Article 11

Construction Technology Management Act (Law No. 11690, 23 March 2013), Articles 25 and 28

Enforcement Decreeof the Construction Technology Management Act (Presidential Decree No. 24390, 20 February 2013), Articles 91 and 108

Enforcement Regulations of the Construction Technology Management Act (Ordinance of the Ministry of Land, Infrastructure and Transport No. 4, 1 April 2013), Article 48

Act on Land Survey, Hydrographic Survey and Cadastral Records (Law No. 11943, 17 July 2013), Articles 44 and 54

Enforcement Decreeof the Act on Land Survey, Hydrographic Survey and Cadastral Records (Presidential Decree No. 24596, 11 June 2013), Articles 34, 35, 36, 45, 46, and 47

Environmental Testing and Inspection Act (Law No. 11690, 23 March 2013), Article 16

Thermal Spring Management Act (Law No. 11896, 16 July 2013), Article 7

Fire Fighting System Installation Business Act (Law No. 11782, 22 May 2013), Article 4

Description: Cross-Border Trade in Services

A person that supplies architectural services, engineering services, integrated engineering services, urban planning and landscape architectural services, or surveying services must establish an office in Korea.

For greater certainty, this entry does not apply to the supply of services by a foreign architect through a joint contract with a Korean-licensed architect.

29. Sector: Business Services – Electronic Billboard Operator Services and Outdoor Advertisement Services

Obligations Concerned: Senior Management and Boards of Directors (Article 8.7)

Performance Requirements (Article 8.8)

Local Presence (Article 9.5)

Measures: Broadcasting Act (Law No. 12093, 13 August 2013), Articles 13 and 73

Outdoor Advertisements, Etc. Management Act (Law No. 11690, 23 March 2013), Article 11

Enforcement Decree of the Outdoor Advertisements, Etc. Management Act (Presidential Decree No. 24632, 21 June 2013), Articles 14 and 44

Desciption: Cross-Border Trade in Services and Investment

A foreign national or a Korean national who serves as a dae-pyo-ja (representative: for example, a chief executive officer, president, or similar principal senior officer) of a foreign enterprise shall not serve as the dae-pyo-ja (representative: for example, a chief executive officer, president, or similar principal senior officer) or chief programmer of an enterprise that supplies electronic billboard operator services.

At least 20 percent of the electronic billboard programs must be non-commercial public advertisements provided by the national or local government.

A person that supplies outdoor advertising services must establish an office in Korea.

30. Sector: Business Services – Job Placement Services, Labor Supply and Worker Dispatch Services, and Education Services for Seafarers

Obligations Concerned: National Treatment (Article 8.3 and 9.2)

Market Access (Article 9.4)

Local Presence (Article 9.5)

Measures: Employment Security Act (Law No.11048, 15 September 2011), Articles 19 and 33

Enforcement Decree of the Employment Security Act (Presidential Decree No. 24076, 31 August 2012), Articles 21 and 33

Enforcement Regulations of the Employment Security Act (Ordinance of the Ministry of Employment and Labor No. 72, 27 December 2012), Articles 18 and 36

Act Relating to Protection for Dispatched Workers (Law No. 11668, 22 March 2013), Articles 7, 8, 9, and 10

Enforcement Decree of the Act Relating to Protection for Dispatched Workers (Presidential Decree No. 23853, 12 June 2012), Article 3

Enforcement Regulations of the Act Relating to Protection for Dispatched Workers (Ordinance of the Ministry of Employment and Labor No. 64, 2 August 2012), Articles 3, 4, and 5

Special Act on Designation and Management of Free Economic Zones (Law No. 11690, 23 March 2013), Article 17

Seafarers Act (Law No. 11690, 23 March 2013), Articles 109, 110, 112, 115, 116, 117, 142, and 143

Korea Institute of Maritime and Fisheries Technology Act (Law No. 11690, 23 March 2013), Article 5

Description: Cross-Border Trade in Services and Investment

A person that supplies job placement services for a fee, worker supply services, or worker dispatch (secondment) services must establish an office in Korea.

For transparency purposes, as of 29 October 2013 the types of business to which workers may be seconded are limited to the 32 businesses set forth in the Enforcement Decree of the Act Relating to Protection for Dispatched Workers, but the Minister of Employment and Labor may expand the types of business and the secondment period, pursuant to the review and determination by the Committee of the Free Economic Zone.

Only the Korea Seafarers Welfare and Employment Center and regional offices of the Minister of Oceans and Fisheries may supply seafaring labour supply services.

To become an agent for seafarer personnel management services, a person must register with the Minister of Oceans and Fisheries as a chu-sik-hoe-sa (stock company) under the Korean Commercial Code.

Only the Korea Institute of Maritime and Fisheries Technology may provide education and training for seafarers.

31. Sector: Investigation and Security Services

Obligations Concerned: Market Access (Article 9.4)

Local Presence (Article 9.5)

Measures: Certified Private Security Act (Law No. 11690, 23 March 2013), Articles 3 and 4

Enforcement Decree of the Certified Private Security Act (Presidential Decree No. 24419, 23 March 2013), Articles 3 and 4

Enforcement Regulations of the Certified Private Security Act (Ordinance of the Ministry of Security and Public Administration, No. 20, 22 October 2013), Article 3

Description: Cross-Border Trade in Services

Only a juridical person organised under Korean law may supply security services in Korea.

For transparency purposes, only five types of security services are permitted in Korea:

(a) shi-seol-gyung-bee (facility security);

(b) ho-song-gyung-bee (escort security);

(c) shin-byun-bo-ho (personal security);

(d) gee-gye-gyung-bee (mechanized security); and

(e) teuk-soo-gyung-bee (special security).

32. Sector: Transportation Services – Aircraft Maintenance and Repair Services

Obligations Concerned: Local Presence (Article 9.5)

Measures: Aviation Act (Law No. 12026, 6 August 2013), Articles 137,137-2, and 138

Enforcement Regulations of the Aviation Act (Ordinance of the Ministry of Land, Infrastructure and Transport No. 569, 15 February 2013), Articles 16, 304, and 305

Description: Cross-Border Trade in Services

A person that supplies aircraft maintenance and repair services must establish an office in Korea.

33. Sector: Education Services – Higher Education

Obligations Concerned: National Treatment (Articles 8.3 and 9.2)

Senior Management and Boards of Directors (Article 8.7)

Market Access (Article 9.4)

Measures: Higher Education Act (Law No. 12036, 13 August 2013), Articles 3, 4, 32, 42, and 43

Enforcement Decree of the Higher Education Act (Presidential Decree No. 24847, 20 November 2013), Article 28

Private School Act (Law No. 11622, 23 January 2013), Articles 3, 5, 10, and 21

Enforcement Decree of the Private School Act (Presidential Decree No. 24665, 22 July 2013), Article 9-3

Decree on the Establishment of the Korea National Open University (Presidential Decree No. 24423, 23 March 2013), Articles 1 and 2

Description: Cross Border Trade in Services and Investment

At least 50 percent of the members of the board of directors of a private higher education institution must be Korean

nationals. If a foreign person contributes at least 50 percent of the basic property of a higher education institution, less than two thirds of the members of the board of directors of such an institution may be foreign nationals.

For the purposes of this entry, basic property means real estate, property designated as basic property by the articles of association, property incorporated into the basic property according to decisions of the board of directors, and an annual budgetary surplus reserve of the institution.

Only non-profit school juridical persons approved by the Minister of Education may establish higher education institutions (other than the types of institutions listed in Annex II) in Korea.

The Minister of Education may restrict the total number of students per year in the fields of medicine, pharmacology, veterinary medicine, traditional Asian medicine, medical technicians, and higher education for pre-primary, primary, and secondary teachers, and higher education institutions located in the Seoul Metropolitan Area.

For the purposes of this entry, "Seoul Metropolitan Area" includes the Seoul Metropolitan City, Incheon Metropolitan City, and Gyeonggi Province.

Only the national or local governments of Korea may establish higher education institutions for training of primary school teachers. Only the national government may establish higher education institutions that supply higher education services to the public through broadcasting.

34. Sector: Education Services – Adult Education

Obligations Concerned: National Treatment (Articles 8.3 and 9.2)

Market Access (Article 9.4)

Measures: Act on the Establishment and Operation of Private Teaching Institutes and Extracurricular Lessons (Law No. 11690, 23 March 2013), Articles 2, 2-2, and 13

Enforcement Decree of the Act on the Establishment and Operation of Private Teaching Institutes and Extracurricular Lessons Act (Presidential Decree No. 24423, 23 March 2013), Article 12

Lifelong Education Act (Law No. 11770, 22 May 2013), Articles 30 and 33 through 38

Foreign Investment Promotion Act (Law No. 11535, 11 December 2012), Article 4

Regulations on Foreign Investment and Introduction of Technology (Notice of the Ministry of Trade, Industry and Energy, No. 2013-37, 30 May 2013), Attached table 1

Description: Cross Border Trade in Services and Investment

The types of adult education institutions that a foreign person may establish in Korea are limited to:

(a) hag-won (private teaching institutes for adults) related to lifelong and vocational education; and

(b) no later than the date this Agreement enters into force, lifelong adult education facilities operated for the purposes other than recognising educational qualifications or conferring diplomas, which include:

(i) education facilities annexed to workplaces, non-governmental organisations, schools, and media organisations;

(ii) educational facilities related to the development of knowledge and human resources; and

(iii) on-line lifelong education facilities,

all of which are established for adults.

For the purposes of this entry, hag-won (private teaching institutes for adults) are facilities that provide tutoring services on subjects related to lifelong or vocational education to 10 people or more for a period of 30 days or longer.

A foreign national hired by a private teaching institute for adults as a lecturer must possess at least a bachelor's degree or the equivalent and reside in Korea.

35. Sector: Education Services – Vocational Competency Development Training Services

Obligations Concerned: Local Presence (Article 9.5)

Measures: Workers' Vocational Competency Development Act (Law No. 11690, 23 March 2013), Articles 28, 32, and 36

Enforcement Decree of the Workers' Vocational Competency Development Act (Presidential Decree No. 24628, 21 June 2013), Articles 24 and 26

Enforcement Regulation of theWorkers' Vocational Competency Development Act (Ordinance of the Ministry of Employment and Labor No. 57, 8 June 2012), Articles 12, 14, and 18

Description: Cross-Border Trade in Services

A person that supplies vocational competency development training services must establish an office in Korea.

36. Sector: Veterinary Services

Obligations Concerned: Market Access (Article 9.4)

Local Presence (Article 9.5)

Measures: Veterinary Affairs Act (Law No. 11354, 22 February 2012), Articles 17, 22-2, 22-4, and 22-5

Civil Act (Law No. 11728, 5 April 2013), Article 32

Description: Cross-Border Trade in Services

Only a person that is a licensed soo-eui-sa (veterinarian) that has established an office in Korea, dong-mul-jin-ryo-bub-in (animal hospital legal entity) or bee-young-ri-bub-in (non-profit legal entity) may engage in veterinary or aquatic animal disease inspection services.

37. Sector: Environmental Services – Waste Water Treatment Services, Waste Management Services, Air Pollution Treatment Services, Environmental Preventive Facilities Business, Environmental Impact Assessment, Soil Remediation and Groundwater Purification Services, and Toxic Chemical Control Services

Obligations Concerned: Local Presence (Article 9.5)

Measures: Water Quality and Ecosystem Conservation Act (Law No. 11915, 16 July 2013), Article 62

Support for Environmental Technology and Environmental Industry Act (Law No. 11713, 23 March 2013), Article 15

Soil Environment Conservation Act (Law No. 11464, 1 June 2012), Article 23-7

Groundwater Act (Law No. 11803, 22 May 2013), Article 29-2

Clean Air Conservation Act (Law No. 11750, 5 April 2013), Article 68

Environmental Impact Assessment Act (Law No. 11690, 23 March 2013), Article 54

Toxic Chemicals Control Act (Law No. 11690, 23 March 2013), Article 20

Wastes Control Act (Law No. 11965, 30 July 2013), Article 25

Enforcement Decree of the Wastes Control Act (Presidential Decree No. 24543, 28 May 2013), Article 8

Description: Cross-Border Trade in Services

A person that supplies the environmental services listed in the Sector heading must establish an office in Korea.

38. Sector: Performance Services

Obligations Concerned: National Treatment (Article 9.2)

Measures: Public Performance Act (Law No. 11048, 15 September 2011), Articles 6 and 7

Enforcement Decree of the Public Performance Act (Presidential Decree No. 23759, 1 May 2012), Articles 4 and 6

Enforcement Regulations of the Public Performance Act (Ordinance of the Ministry of Culture, Sports and Tourism No. 94, 25 November 2011), Article 4

Enforcement Regulations of the Immigration Control Act (Ordinance of the Ministry of Justice No. 799, 10 October 2013), Table 5

Description: Cross-Border Trade in Services

A foreign person who intends to engage in a public performance in Korea, or a person who intends to invite a foreign person to engage in a public performance in Korea must obtain a recommendation from the Korea Media Rating Board.

39. Sector: News Agency (News-tong-sin-sa) Services

Obligations Concerned: National Treatment (Articles 8.3 and 9.2)

Senior Management and Boards of Directors (Article 8.7)

Market Access (Article 9.4)

Local Presence (Article 9.5)

Measures: Act on Promotion of News Communications (Law No. 11690, 23 March 2013), Articles 7, 8, 9, 9-5, 16, and 28

Enforcement Decree of the Act on Promotion of News Communications (Presidential Decree No. 24183, 20 November 2012), Articles 4 and 10

Radio Waves Act (Law No. 11712, 23 March 2013), Article 20

Description: Cross-Border Trade in Services and Investment

A news-tong-sin-sa (news agency) organised under foreign law may supply news-tong-sin (news communications) in Korea only under a contract with a news agency organised under Korean law, which has a radio station license, such as Yonhap News.

The following persons may not supply news agency services in Korea:

(a) a foreign government;

(b) a foreign person;

(c) an enterprise organised under Korean law whose dae-pyo-ja (representative: for example, a chief executive officer, president, or similar principal senior officer) is not a Korean national or is a person not domiciled in Korea; or

(d) an enterprise organised under Korean law in which a foreign person holds 25 percent or more equity interest.

The following persons may not serve as a dae-pyo-ja (representative: for example, a chief executive officer, president, or similar principal senior officer) or editor of a news agency, or serve as im-won (a member of the board of directors) of Yonhap News or the News Agency Promotion Committee:

(a) a foreign national; or

(b) a Korean national not domiciled in Korea.

A foreign news agency may establish a branch or office in Korea for the sole purpose of collecting news. For greater certainty, such branch or office may not distribute news-tong-sin (news communications) in Korea.

The following persons may not obtain a radio station license:

(a) a foreign national;

(b) a foreign government or its representative; or

(c) an enterprise organised under foreign law.

For greater certainty, this entry is without prejudice to the scope and application of Article 22.6 (Cultural Industries).

40. Sector: Manufacturing of Biological Products

Obligations Concerned: Performance Requirements (Article 8.8)

Measures: Pharmaceutical Affairs Act (Law No. 12074, 13 August 2013), Article 42

Regulations on Safety of Pharmaceuticals, Etc. (Ordinance of the Prime Minister No. 1022, 23 March 2013), Article 11

Description: Investment

A person who manufactures blood products must procure raw blood materials from a blood management body in Korea.

41. Sector: Distribution Services – Agriculture and Livestock

Obligations Concerned: National Treatment (Articles 8.3 and 9.2)

Market Access (Article 9.4)

Measures: Grain Management Act (Law No. 11641, 22 March 2013), Article 12

Livestock Industry Act (Law No. 11690, 23 March 2013), Articles 30 and 34

Seed Industry Act (Law No. 11704, 23 March 2013), Article 142

Feed Management Act (Law No. 11690, 23 March 2013), Article 6

Ginseng Industry Act (Law No. 11690, 23 March 2013), Article 20

Foreign Investment Promotion Act (Law No. 11535, 11 December 2012), Article 4

Enforcement Decree of the Foreign Investment Promotion Act (Presidential Decree No. 24638, 28 June 2013), Article 5

Regulations on Foreign Investment and Introduction of Technology (Notice of the Ministry of Trade, Industry and Energy,No. 2013-37, 30 May 2013), Attached table 2

Act on Distribution and Price Stabilization of Agricultural and Fishery Products (Law No. 12059, 13 August 2013), Articles 15, 17, and 43

Notice on TRQ Products (Ministry of Agriculture, Food and Rural Affairs Notice No. 2013-29, 16 May 2013), Articles 14 and 20-2

Description: Cross-Border Trade in Services and Investment

A foreign person shall not hold 50 percent or more of the shares or equity interest of an enterprise engaged in yook-ryu (meat) wholesale.

Only the Livestock Cooperatives under the Agriculture Cooperative Act may establish and manage a ga-chook-sijang (livestock market) in Korea.

Only a local government may establish a gong-yeong-domae-sijang (public wholesale market).

Only producers' organisations or public interest corporations prescribed in the Enforcement Decree of the Act on Distribution and Price Stabilization of Agricultural and Fishery Products may establish a gong-pan-jang (joint wholesale market).

For greater certainty, Articles 9.2 (National Treatment) and 9.4 (Market Access) do not prevent Korea from adopting or maintaining any measure with respect to the administration of the WTO Tariff-Rate-Quota.

42. Sector: Energy Industry – Electric Power Generation Other Than Nuclear Power Generation; Electric Power Transmission, Distribution and Sales

Obligations Concerned: National Treatment (Article 8.3) (2)

Measures: Financial Investment Services and Capital Markets Act (Law No. 11845, 28 May 2013), Article 168

Enforcement Decree of the Financial Investment Services and Capital Markets Act (Presidential Decree No. 24697, 27 August 2013), Article 187

Foreign Investment Promotion Act (Law No. 11535, 11 December 2012), Articles 4 and 5

Enforcement Decreeof the Foreign Investment Promotion Act (Presidential Decree No. 24638, 28 June 2013), Article 5

Consolidated Public Notice for Foreign Investment (Public Notice of the Ministry of Trade, Industry and Energy No. 2013-102, 27 May 2013), Attached table

Designation of Public Corporation (Notice of the Ministry of Finance and Economy, No. 2000-17, 28 September 2000)

Financial Investment Service Regulations (Financial Services Commission Notice No. 2013-40, 4 December 2013), Sec. 6-2

Description: Investment

The aggregate foreign share of Korea Electric Power Corporation's (KEPCO) issued stocks shall not exceed 40 percent. A foreign person may not become the largest shareholder of KEPCO.

The aggregate foreign share of power generating facilities, including cogeneration facilities of heat and power (GHP) for the district heating system (DHS), shall not exceed 30 percent of the total facilities in the territory of Korea.

The aggregate foreign share of electric power transmission, distribution and sales businesses should be less than 50 percent. A foreign person shall not be the largest shareholder.

43. Sector: Energy Industry – Gas Industry

Obligations Concerned: National Treatment (Article 8.3) (2)

Measures: Act on the Improvement of Managerial Structure and Privatization of Public Enterprises (Law No. 11845, 28 May 2013), Article 19

Financial Investment Services and Capital Markets Act (Law No. 11845, 28 May 2013), Article 168

Foreign Investment Promotion Act (Law No. 11535, 11 December 2012), Articles 4 and 5

Articles of Incorporation of the Korea Gas Corporation (9 August 2013), Article 11

Description: Investment

Foreign persons, in the aggregate, shall not own more than 30 percent of the equity of Korea Gas Corporation KOGAS).

(2) Paragraph (a) of the eighth entry of Korea's Schedule to Annex II does not apply to this entry.

Annex II. Reservations for Future Measures

Schedule of Canada. Explanatory Notes

1. Canada's Schedule to this Annex sets out, pursuant to Articles 8.9.2 and 9.6.2, the specific sectors, sub-sectors, or activities for which Canada may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

(a) Article 8.3 (National Treatment) or 9.2 (National Treatment);

(b) Article 8.4 (Most-Favoured-Nation Treatment) or 9.3 (Most-Favoured-Nation Treatment);

(c) Article 8.7 (Senior Management and Boards of Directors);

(d) Article 8.8 (Performance Requirements);

(e) Article 9.4 (Market Access); or

(f) Article 9.5 (Local Presence).

2. Each reservation sets out the following elements:

(a) Sector refers to the general sector in which the reservation is taken;

(b) Sub-sector refers, where applicable, to the specific sector in which the reservation is taken;

(c) Industry Classification refers, where applicable, to the activity covered by the reservation according to domestic industry classification codes;

(d) Type of Reservation specifies the obligation referred to in paragraph 1 for which a reservation is taken;

(e) Description sets out the scope of the sector, sub-sector, or activities covered by the reservation; and

(f) Existing Measures identifies, for transparency purposes, existing measures that apply to the sector, sub-sector or activities covered by the reservation.

3. In accordance with Articles 8.9.2 and 9.6.2, the Articles of this Agreement specified in the Type of Reservation element of a reservation do not apply to the sectors, sub-sectors, and activities identified in the Description element of that reservation.

4. In the interpretation of a reservation, all elements of the reservation, with the exception of Industry Classification, shall be considered. The Description element shall prevail over all other elements.

5. For the purposes of this Annex:

CPC means Central Product Classification (CPC) numbers as set out in Statistical Office of the United Nations, Statistical Papers, Series M, No. 77, Provisional Central Product Classification, 1991; and

SIC means Standard Industrial Classification (SIC) numbers as set out in Statistics Canada, Standard Industrial Classification, fourth edition, 1980.

6. For greater certainty, National Treatment (Article 9.2) and Local Presence (Article 9.5) are separate disciplines and a measure that is only inconsistent with Local Presence (Article 9.5) need not be reserved against National Treatment (Article 9.2).

Annex II. Schedule of Canada

Sector: Aboriginal Affairs

Sub-sector:

Industry Classification:

Type of Reservation: National Treatment (Articles 8.3 and 9.2)

Most-Favoured-Nation Treatment (Articles 8.4 and 9.3)

Local Presence (Article 9.5)

Senior Management and Boards of Directors (Article 8.7)

Performance Requirements (Article 8.8)

Description: Cross-Border Trade in Services and Investment

Canada reserves the right to adopt or maintain a measure denying investors of Korea and their investments, or service providers of Korea, rights or preferences provided to aboriginal peoples.

Existing Measure: Constitution Act, 1982, being Schedule B of the Canada Act 1982 (U.K.), 1982, c. 11

Sector: All Sectors

Sub-sector:

Industry Classification:

Type of Reservation: National Treatment (Article 8.3)

Description: Investment

Canada reserves the right to adopt or maintain a measure relating to residency requirements for the ownership of oceanfront land by investors of Korea, or their investments.

Existing Measures:

Sector: Fisheries

Sub-sector: Fishing and services incidental to fishing

Industry Classification: SIC 031 Fishing Industry

SIC 032 Services Incidental to Fishing

CPC 882 Services Incidental to Fishing

Type of Reservation: National Treatment (Articles 8.3 and 9.2)

Most-Favoured-Nation Treatment (Articles 8.4 and 9.3)

Description: Cross-Border Trade in Services and Investment

Canada reserves the right to adopt or maintain a measure with respect to licensing fishing or fishing related activities, including entry of foreign fishing vessels to Canada's exclusive economic zone, territorial sea, internal waters or ports and use of any services therein.

Existing Measures: Fisheries Act, R.S.C. 1985, c. F-14

Coastal Fisheries Protection Act, R.S.C. 1985, c. 33

Coastal Fisheries Protection Regulations, C.R.C. 1978, c. 413

Commercial Fisheries Licensing Policy

Policy on Foreign Investment in the Canadian Fisheries Sector, 1985

Sector: Government Finance

Sub-sector: Securities

Industry Classification: SIC 8152 Finance and Economic Administration

Type of Reservation: National Treatment (Article 8.3)

Description: Investment

Canada reserves the right to adopt or maintain a measure relating to the acquisition, sale or other disposition by nationals of Korea of bonds, treasury bills or other kinds of debt securities issued by the Government of Canada or a Canadian sub-national government.

Existing Measure: Financial Administration Act, R.S.C. 1985, c. F-11

Sector: Minority Affairs

Sub-sector:

Industry Classification:

Type of Reservation: National Treatment (Articles 8.3 and 9.2)

Local Presence (Article 9.5)

Senior Management and Boards of Directors (Article 8.7)

Performance Requirements (Article 8.8)

Description: Cross-Border Trade in Services and Investment

Canada reserves the right to adopt or maintain a measure conferring rights or privileges to a socially or economically disadvantaged minority.

Existing Measures:

Sector: Social Services

Sub-sector:

Industry Classification:

Type of Reservation: National Treatment (Articles 8.3 and 9.2)

Most-Favoured-Nation Treatment (Articles 8.4 and 9.3)

Local Presence (Article 9.5)

Senior Management and Boards of Directors (Article 8.7)

Description: Cross-Border Trade in Services and Investment

Canada reserves the right to adopt or maintain a measure with respect to providing public law enforcement and correctional services, as well as the following services to the extent that they are social services established or maintained for a public purpose: income security or insurance, social security or insurance, social welfare, public education, public training, health, and child care.

Existing Measures:

Sector: Transportation

Sub-sector: Air Transportation

Industry Classification: Not CPC-defined, rather aircraft repair and maintenance services, as defined in the Cross-Border Trade in Services Chapter

Type of Reservation: Most-Favoured-Nation Treatment (Article 9.3)

Description: Cross-Border Trade in Services

Canada reserves the right to selectively negotiate agreements or arrangements with other States, organisations of States, aeronautical authorities or service providers, to recognise their accreditation of repair, overhaul and maintenance facilities and certification by such facilities of work performed on Canadian-registered aircraft and other related aeronautical products.

Existing Measures:

Sector: Transportation

Sub-sector: Air Transportation

Industry Classification: Not CPC-defined, rather selling and marketing of air transport services, as defined in the Cross-Border Trade in Services Chapter

Type of Reservation: National Treatment (Article 9.2)

Most-Favoured-Nation Treatment (Article 9.3)

Local Presence (Article 9.5)

Description: Cross-Border Trade in Services

Canada reserves the right to adopt or maintain a measure affecting the selling and marketing of an air transportation service.

Existing Measures:

Sector: Transportation

Sub-sector: Water Transportation

Industry Classification: SIC 4129 Other Heavy Construction

SIC 4541 Freight and Passenger Water Transport Industry

SIC 4542 Ferry Industry

SIC 4543 Marine Towing Industry

SIC 4549 Other Water Transport Industries

SIC 4552 Harbour and Port Operation Industries (limited to berthing, bunkering and other vessel operations in a port)

SIC 4553 Marine Salvage Industry

SIC 4554 Piloting Service, Water Transport Industry

SIC 4559 Other Service Industries Incidental to Water Transport (not including landside aspects of port activities)

CPC 5133/5223 Construction work for waterways, harbours, dams and other water works

CPC 721 Transportation services by sea-going vessels

CPC 722 Transportation services by non-sea-going vessels

CPC 745 Supporting services for water transport

Other marine activities of a commercial nature, as set out in the Description section below

Type of Reservation: National Treatment (Articles 8.3 and 9.2)

Most-Favoured-Nation Treatment (Articles 8.4 and 9.3)

Local Presence (Article 9.5)

Senior Management and Boards of Directors (Article 8.7)

Performance Requirements (Article 8.8)

Description: Cross-Border Trade in Services and Investment

Canada reserves the right to adopt or maintain a measure affecting the investment in or provision of marine cabotage services, including:

(a) the transportation of either goods or passengers by vessel between points in the territory of Canada or above the continental shelf of Canada, either directly or by way of a place outside Canada; but with respect to waters above the continental shelf of Canada, the transportation of either goods or passengers only in relation to the exploration, exploitation or transportation of the mineral or non living natural resources of the continental shelf of Canada; and

(b) the engaging by vessel in any other marine activity of a commercial nature in the territory of Canada and, with respect to waters above the continental shelf, in such other marine activities of a commercial nature that are in relation to the exploration, exploitation or transportation of the mineral or non-living natural resources of the continental shelf of Canada.

This reservation relates to, among other things, local presence requirements for service providers entitled to participate in these activities, to criteria for the issuance of a temporary cabotage licence to foreign vessels and to limits on the number of cabotage licences issued to foreign vessels.

For greater certainty this reservation applies, inter alia, to feeder services.

Existing Measures: Coasting Trade Act, S.C. 1992, c. 31

Canada Shipping Act, 2001, S.C. 2001, c. 26

Customs Act, R.S.C. 1985, c. 1 (2nd Supp.)

Customs and Excise Offshore Application Act, R.S.C. 1985, c. C-53

Sector: Transportation

Sub-sector: Water Transportation

Industry Classification: SIC 4541 Freight and Passenger Water Transport Industry

SIC 4542 Ferry Industry

SIC 4543 Marine Towing Industry

SIC 4549 Other Water Transport Industries

SIC 4551 Marine Cargo Handling Industry

SIC 4552 Harbour and Port Operation Industries

SIC 4553 Marine Salvage Industry

SIC 4554 Piloting Service, Water Transport Industry

SIC 4559 Other Service Industries Incidental to Water Transport

CPC 721 Transport services by sea-going vessels

CPC 722 Transport services by non-sea-going vessels

CPC 745 Supporting services for water transport

Any other marine activity of a commercial nature in waters of mutual interest

Type of Reservation: Most-Favoured-Nation Treatment (Article 9.3)

Description: Cross-Border Trade in Services

Canada reserves the right to adopt or maintain a measure affecting the implementation of agreements, arrangements and other formal or informal undertakings with other countries with respect to maritime activities in waters of mutual interest in areas such as pollution control (including double hull requirements for oil tankers), safe navigation, barge inspection standards, water quality, pilotage, salvage, drug abuse control and maritime communications.

Existing Measures:

Sector: Technical Testing and Analysis Services

Sub-sector: Maritime Technical Testing and Analysis Services

Industry Classification: CPC 8676 Technical Testing and Analysis Services

Type of Reservation: Local Presence (Article 9.5)

Most-Favoured-Nation Treatment (Articles 8.4 and 9.3)

Description: Cross-Border Trade in Services and Investment

Canada reserves the right to adopt or maintain a measure affecting the statutory inspection and certification of vessels on behalf of Canada.

Sector: All Sectors

Sub-sector:

Industry Classification:

Type of Reservation: Most-Favoured-Nation Treatment (Article 8.4)

Description: Investment

Canada reserves the right to adopt or maintain a measure that accords differential treatment to countries under a bilateral or multilateral international agreement in force or signed prior to 1 January 1994.

Canada reserves the right to adopt or maintain a measure that accords differential treatment to a country under an existing or future bilateral or multilateral agreement relating to:

(a) aviation;

(b) fisheries; or

(c) maritime matters, including salvage.

Existing Measures:

Sector: All Sectors

Sub-sector:

Industry Classification:

Type of Reservation: Market Access (Article 9.4)

Description: Cross-Border Trade in Services

Canada reserves the right to adopt or maintain a measure that is not inconsistent with Canada's obligations under Article XVI of the GATS.

For purposes of this reservation only, Canada's Schedule of Specific Commitments is modified as indicated in Appendix II-A.

Existing Measures:

Appendix II-A. Canadian Sectors Covered by Article XVI of the GATS

For the following Sectors, Canada's obligations under Article XVI of the GATS are improved:

Canadian Sectors and their Market Access Improvements

Sector/Sub-sector	Market Access Improvements
Accounting, Auditing, and Book-keeping services	Under Mode 1 remove: **Auditing**. Commercial presence requirement: Nova Scotia. Citizenship requirement for accreditation: Manitoba and Quebec. Permanent residence requirement for accreditation: Ontario. Under Mode 2 remove: **Auditing.** Commercial presence requirement: Nova Scotia. Citizenship requirement for accreditation: Manitoba and Quebec. Permanent residence requirement for accreditation: Ontario
Architects	Under Mode 1 remove: Architects. Citizenship requirement for accreditation: Quebec
Engineering services	Under Mode 1 remove: Consulting Engineers. Commercial presence requirement for accreditation: Manitoba. Engineers. Permanent residence requirement for accreditation: Newfoundland and Labrador, Nova Scotia. Citizenship requirement for accreditation: Quebec. Under Mode 2 remove: Consulting Engineers. Commercial presence requirement for accreditation: Manitoba. Engineers. Permanent residence requirement for accreditation: Newfoundland and Labrador, Nova Scotia. Citizenship requirement for accreditation: Quebec
Integrated engineering services	Under Mode 1 remove: Consulting Engineers. Commercial presence requirement for accreditation: Manitoba. Engineers. Permanent residence requirement for accreditation: Newfoundland and Labrador, Nova Scotia. Citizenship requirement for accreditation: Quebec. Under Mode 2 remove: Consulting Engineers. Commercial presence requirement for accreditation: Manitoba. Engineers. Permanent residence requirement for accreditation: Newfoundland and Labrador, Nova Scotia. Citizenship requirement for accreditation: Quebec
Urban planning and landscape architectural services	Under Mode 1 remove: Community/ Urban Planning. Citizenship requirement for use of title: Quebec
Real estate services	Under Mode 1 remove: Chartered Appraisers. Citizenship requirement for use of title: Quebec
Management consulting services	Under Mode 1 remove: Agrologists. Citizenship requirement for accreditation: Quebec. Professional Administrators and Certified Management Consultants. Citizenship requirement for use of title: Quebec Professional Corporation of Administrators. Industrial Relations Counsellors. Citizenship requirement for use of title: Quebec. Under Mode 2 remove: Agrologists. Citizenship requirement for accreditation: Quebec

Investigation and security services	Under Mode 3 remove: Business and Personnel Information Investigations. Foreign ownership restriction to 25% in total and 10% by any individual holding shares: Ontario
Related scientific and technical consulting services	Under Mode 1 remove: Land Surveyors. Citizenship requirement for accreditation: Nova Scotia and Quebec. Subsurface Surveying Services. Citizenship requirement for accreditation: Quebec. Professional Technologist. Citizenship requirement for accreditation: Quebec. Chemists. Citizenship requirement for accreditation: Quebec. Under Mode 2 remove: Land Surveyors. Citizenship requirement for accreditation: Nova Scotia and Quebec. Subsurface Surveying Services. Citizenship requirement for accreditation: Quebec
Other business services	Under Mode 1 remove: Certified Translators and Interpreters. Citizenship requirement for use of title: Quebec. Under Mode 2 remove: Certified Translators and Interpreters. Citizenship requirement for use of title: Quebec. Under Mode 3 remove: Collection Agencies. Foreign Ownership restriction to 25% in total and 10% by any individual: Ontario
Courier services	Under Mode 3 remove: Economic needs test (Criteria related to approval include: examination of the adequacy of current levels of service; market conditions establishing the requirement for expanded service; the effect of new entrants on public convenience, including the continuity and quality of service, and the fitness, willingness and ability of the applicant to provide proper service.): Nova Scotia and Manitoba
General construction work for civil engineering	Under Mode 3 remove: Construction. An applicant and holder of a water power site development permit must be incorporated in Ontario
Wholesale trade services	Under Mode 1 remove: Marketing of Fish Products (Nova Scotia): Nova Scotia residents require ministerial approval to enter into agreements with non residents
Railway passenger and freight transport	Under Mode 1 remove: cabotage limitation
Road Passenger Transportation	Under Mode 3 remove: Interurban bus transport and scheduled services: Public convenience and needs test (Criteria related to approval include: examination of the adequacy of current levels of service; market conditions establishing the requirement for expanded service; the effect of new entrants on public convenience, including the continuity and quality of service, and the fitness, willingness and ability of the applicant to provide proper service.): Prince Edward Island
Road Freight transportation	Under Mode 3 remove: Highway freight transportation. Public convenience and needs test (Criteria related to approval include: examination of the adequacy of current levels of service; market conditions establishing the requirement for expanded service; the effect of new entrants on public convenience, including the continuity and quality of service, and the fitness, willingness and ability of the applicant to provide proper service.): British Columbia, Manitoba, Ontario, Prince Edward Island, Nova Scotia
Telecommunications	Under Mode 3 remove: Nova Scotia: no person may vote more than 1,000 shares

	of Maritime Telegraph and Telephone Ltd.

Schedule of Korea. Explanatory Notes

1. Korea's Schedule to this Annex sets out, pursuant to Articles 8.9.2 and 9.6.2, the specific sectors, sub-sectors, or activities for which Korea may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

(a) Article 8.3 (National Treatment) or 9.2 (National Treatment);

(b) Article 8.4 (Most-Favoured-Nation Treatment) or 9.3 (Most-Favoured-Nation Treatment);

(c) Article 8.7 (Senior Management and Boards of Directors);

(d) Article 8.8 (Performance Requirements);

(e) Article 9.4 (Market Access); or

(f) Article 9.5 (Local Presence).

2. Each entry sets out the following elements:

(a) Sector refers to the sector for which the entry is made;

(b) Obligations Concerned specifies the Articles referred to in paragraph 1 that, pursuant to Articles 8.9.2 and 9.6.2, do not apply to the sectors, sub sectors, or activities scheduled in the entry; and

(c) Description sets out the scope of the sectors, sub-sectors, or activities covered by the entry.

3. In accordance with Articles 8.9.2 and 9.6.2, the Articles of this Agreement specified in the Obligations Concerned element of an entry do not apply to the sectors, sub-sectors, and activities identified in the Description element of that entry.

4. In the interpretation of an entry, all elements of the entry shall be considered equally.

5. For greater certainty, National Treatment (Article 9.2) and Local Presence (Article 9.5) are separate disciplines and a measure that is only inconsistent with Local Presence (Article 9.5) need not be reserved against National Treatment (Article 9.2).

Annex II. Schedule of Korea

1. Sector:

All Sectors

Obligations Concerned:

National Treatment (Article 8.3)

Performance Requirements (Article 8.8)

Description:

Investment

1. Korea reserves the right to adopt or maintain, with respect to the establishment or acquisition of an investment, a measure that is necessary for the maintenance of public order pursuant to Article 4 of the Foreign Investment Promotion Act (2012) and Article 5 of the Enforcement Decree of the Foreign Investment Promotion Act (2012), provided that the measure is applied in accordance with the procedural requirements set out in the Foreign Investment Promotion Act (2012), Enforcement Decree of the Foreign Investment Promotion Act (2012), and other applicable law.

2. Without prejudice to any claim that may be submitted to arbitration pursuant to Articles 8.18 and 8.19, a claimant may submit to arbitration under Section B of Chapter Eight (Investment) a claim that:

(a) Korea has adopted or maintained a measure for which it has provided notice pursuant to paragraph 1; and

(b) the claimant or, as the case may be, an enterprise of Korea that is a juridical person that the claimant owns or controls

directly or indirectly, has incurred loss or damage by reason of, or arising out of, the measure.

In the event of such a claim, Section B of Chapter Eight (Investment) shall apply, mutatis mutandis, and all references in Section B of Chapter Eight (Investment) to a breach, or to an alleged breach, of an obligation under Section A of Chapter Eight (Investment) shall be understood to refer to the measure, which would constitute a breach of an obligation under Section A of Chapter Eight (Investment) but for this entry. However, no award may be made in favour of the claimant, if Korea establishes to the satisfaction of the tribunal that the measure satisfies all the conditions listed in paragraph 1.

3. This entry does not apply to the extent that a measure referred to in paragraph 1 is subject to Chapter Ten (Financial Services).

2. Sector:

All Sectors

Obligations Concerned:

National Treatment (Articles 8.3 and 9.2)

Senior Management and Boards of Directors (Article 8.7)

Performance Requirements (Article 8.8)

Local Presence (Article 9.5)

Description:

Investment

Korea reserves the right to adopt or maintain any measure with respect to the transfer or disposition of equity interests or assets held by state enterprises or governmental authorities.

Such a measure shall be implemented pursuant to of Chapter Nineteen (Transparency).

Notwithstanding Article 10.9.3, this entry is not treated as a non-conforming measure not subject to Article 10.2 (National Treatment).

This entry does not apply to former private enterprises that are owned by the state as a result of corporate reorganisation processes.

For the purposes of this entry:

A state enterprise includes any enterprise created for the sole purpose of selling or disposing of equity interests or assets of state enterprise or governmental authorities.

Cross-Border Trade in Services and Investment

Without prejudice to Korea’s Schedules to Annex I and Annex II, Korea reserves the right to adopt or maintain any measure with respect to the transfer to the private sector of all or any portion of services provided in the exercise of governmental authority.

3. Sector:

Acquisition of Land

Obligations Concerned:

National Treatment (Article 8.3)

Description:

Investment

Korea reserves the right to adopt or maintain any measure with respect to the acquisition of land by foreign persons, except that a juridical person shall continue to be permitted to acquire land where the juridical person:

(a) is not deemed foreign pursuant to Article 2 of the Foreigner’s Land Acquisition Act; and

(b) is deemed foreign under the Foreigner's Land Acquisition Act or is a branch of a foreign juridical person subject to approval or notification in accordance with the Foreigner's Land Acquisition Act, if the land is to be used for any of the following legitimate business purposes:

(i) land used for ordinary business activities;

(ii) land used for housing for senior management; and

(iii) land used for fulfilling land-holding requirements stipulated by pertinent laws.

Korea reserves the right to adopt or maintain any measure with respect to the acquisition of farmland by foreign persons.

4. Sector:

Firearms, Swords, Explosives, and Similar Items

Obligations Concerned:

National Treatment (Articles 8.3 and 9.2)

Senior Management and Boards of Directors (Article 8.7)

Performance Requirements (Article 8.8)

Local Presence (Article 9.5)

Description:

Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to the firearms, swords, explosives, gas sprays, electric shocks, and crossbows sector, including the manufacture, use, sale, storage, transport, import, export, and possession of firearms, swords, explosives, gas sprays, electric shocks, and crossbows.

5. Sector:

Disadvantaged Groups

Obligations Concerned:

National Treatment (Articles 8.3 and 9.2)

Most-Favoured-Nation Treatment (Articles 8.4 and 9.3)

Senior Management and Boards of Directors (Article 8.7)

Performance Requirements (Article 8.8)

Local Presence (Article 9.5)

Description:

Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure that accords rights or preferences to socially or economically disadvantaged groups, such as the disabled, persons who have rendered distinguished services to the state, and ethnic minorities.

6. Sector:

State-Owned Electronic Information System

Obligations Concerned:

National Treatment (Articles 8.3 and 9.2)

Senior Management and Boards of Directors (Article 8.7)

Performance Requirements (Article 8.8)

Local Presence (Article 9.5)

Description:

Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure affecting the administration and operation of any state owned electronic information system that contains proprietary government information or information gathered pursuant to the regulatory functions and powers of the government.

This entry does not apply to payments and settlement systems related to financial services.

7. Sector:

Social Services

Obligations Concerned:

National Treatment (Articles 8.3 and 9.2)

Most-Favoured-Nation Treatment (Articles 8.4 and 9.3)

Senior Management and Boards of Directors (Article 8.7)

Performance Requirements (Article 8.8)

Local Presence (Article 9.5)

Description:

Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to the provision of law enforcement and correctional services, and the following services to the extent that they are social services established or maintained for public purposes: income security or insurance, social security or insurance, social welfare, public training, health, and child care.

8. Sector:

All Sectors

Obligations Concerned:

Market Access (Article 9.4)

Description:

Cross-Border Trade in Services

Korea reserves the right to adopt or maintain any measure that is not inconsistent with Korea's obligations pursuant to Article XVI of GATS as set out in Korea's Schedule of Specific Commitments under the GATS (GATS/SC/48, GATS/SC/48/Suppl.1, GATS/SC/48/Suppl.1/Rev.1, GATS/SC/48/Suppl.2, GATS/SC/48/Suppl.3, and GATS/SC/48/Suppl.3/Rev.1).

For the purposes of this entry only, Korea's Schedule is subject to the following modifications:

(a) for any sector and subsector with regard to which Korea's Annex I contains an entry (other than an entry with regard to "All Sectors") that does not list Market Access as one in the Obligations Concerned element, "None" is inscribed in the Market Access column for modes 1, 2, and 3, and "Unbound except as indicated in the Horizontal commitments section" is inscribed for mode 4;

(b) for any sector and subsector with regard to which Korea's Annex I contains an entry (other than an entry with regard to "All Sectors") that lists a limitation to the Market Access obligation, that limitation is inscribed in the Market Access column with regard to the appropriate mode of supply; and

(c) for any sector and subsector listed in Appendix II A, Korea's Schedule is modified as indicated in the Appendix II-A.

These modifications does not affect any limitation relating to sub-paragraph (f) of paragraph 2 of Article XVI of GATS inscribed in the Market Access column of Korea's Schedule.

For greater certainty, an entry of “None” in the Market Access column of Korea’s Schedule is not construed to alter the application of Article 9.5 (Local Presence) as modified by Article 9.6 (Non-Conforming Measures).

9. Sector:

All Sectors

Obligations Concerned:

Most-Favoured-Nation Treatment (Articles 8.4 and 9.3)

Description:

Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.

Korea reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force or signed after the date of entry into force of this Agreement involving:

(a) aviation;

(b) fisheries;

(c) maritime matters, including salvage; or

(d) railroad transportation.

10. Sector:

Environmental Services – Treatment and Supply Services for Potable Water; Collection and Treatment Services for Municipal Sewage; Collection, Transportation, and Disposal Services for Municipal Refuse; Sanitation and Similar Services; Nature and Landscape Protection Services (Except for Environmental Impact Assessment Services)

Obligations Concerned:

National Treatment (Articles 8.3 and 9.2)

Performance Requirements (Article 8.8)

Local Presence (Article 9.5)

Description:

Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to the following environmental services: treatment and supply of potable water; collection and treatment of municipal sewage; collection, transportation, and disposal of municipal refuse; sanitation and similar services; and nature and landscape protection services (except for environmental impact assessment services).

This entry does not apply to the supply of the aforementioned services pursuant to a contract between private parties, to the extent private supply of such services is permitted under relevant laws and regulations.

11. Sector:

Atomic Energy – Nuclear Power Generation; Manufacturing and Supply of Nuclear Fuel; Nuclear Materials; Radioactive Waste Treatment and Disposal (including treatment and disposal of spent and irradiated nuclear fuel); Radioisotope and Radiation Generation Facilities; Monitoring Services for Radiation; Services Related to Nuclear Energy; Planning, Maintenance, and Repair Services

Obligations Concerned:

National Treatment (Articles 8.3 and 9.2)

Senior Management and Boards of Directors (Article 8.7)

Performance Requirements (Article 8.8)

Local Presence (Article 9.5)

Description:

Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to the atomic energy industry.

12. Sector:

Energy Services – Electric Power Generation Other Than Nuclear Power Generation; Electric Power Transmission, Distribution, and Sales; Electricity Business

Obligations Concerned:

National Treatment (Articles 8.3 and 9.2)

Senior Management and Boards of Directors (Article 8.7)

Performance Requirements (Article 8.8)

Local Presence (Article 9.5)

Description:

Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to electric power generation, transmission, distribution, and sales.

Any such measure shall not decrease the level of foreign ownership permitted in the electric power industry as provided by the 42nd entry in Korea's Schedule to Annex I.

Notwithstanding this entry, Korea shall not adopt or maintain any measure inconsistent with Article 8.8.1(f).

13. Sector:

Energy Services – Gas industry

Obligations Concerned:

National Treatment (Articles 8.3 and 9.2)

Senior Management and Boards of Directors (Article 8.7)

Performance Requirements (Article 8.8)

Local Presence (Article 9.5)

Description:

Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to the import and wholesale distribution of natural gas and the operation of terminals and the national high pressure pipeline network.

Any such measure does not decrease the level of foreign ownership permitted in the gas industry as provided by the 43rd entry in Korea's Schedule to Annex I.

14. Sector:

Distribution Services – Commission Agents' Services, Wholesaling and Retailing of Agricultural Raw Materials and Live Animals (nong chuk san mul)

Obligations Concerned:

National Treatment (Articles 8.3 and 9.2)

Performance Requirements (Article 8.8)

Local Presence (Article 9.5)

Description:

Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to:

(a) commission agents' services;

(b) wholesaling (including importation) services; and

(c) retailing services,

with respect to rice, ginseng, and red ginseng.

15. Sector:

Transportation Services – Passenger Road Transportation Services (Taxi Services and Scheduled Passenger Road Transportation Services)

Obligations Concerned:

National Treatment (Articles 8.3 and 9.2)

Most-Favoured-Nation Treatment (Articles 8.4 and 9.3)

Senior Management and Boards of Directors (Article 8.7)

Performance Requirements (Article 8.8)

Local Presence (Article 9.5)

Description:

Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to taxi services and scheduled passenger road transportation services.

16. Sector:

Transportation Services – Freight Road Transportation Services (not including Road Transportation Services Related to Courier Services)

Obligations Concerned:

Most-Favoured-Nation Treatment (Articles 8.4 and 9.3) Senior Management and Boards of Directors (Article 8.7) Performance Requirements (Article 8.8) Local Presence (Article 9.5)

Description:

Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to freight road transportation services, not including road transportation of containerised freight (excluding cabotage) by international shipping companies and road transportation services related to courier services.

17. Sector:

Transportation Services – Internal Waterways Transportation Services and Space Transportation Services

Obligations Concerned:

National Treatment (Articles 8.3 and 9.2)

Most-Favoured-Nation Treatment (Articles 8.4 and 9.3)

Senior Management and Boards of Directors (Article 8.7)

Performance Requirements (Article 8.8)

Local Presence (Article 9.5)

Description:

Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to internal waterways transportation services and space transportation services.

18. Sector:

Transportation Services – Storage and Warehousing Services

Obligations Concerned:

National Treatment (Articles 8.3 and 9.2)

Description:

Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to storage and warehousing services related to rice.

19. Sector:

Communication Services – Non-monopoly Postal Services

Obligations Concerned:

National Treatment (Articles 8.3 and 9.2)

Description:

Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to:

(a) the supply of support services to postal offices by military service personnel or other personnel of equivalent status; and

(b) the determination of the total number of vehicles that belong to the Ministry of Science, ICT and Future Planning and the allocation of those vehicles to postal offices, for which the Ministry of Science, ICT and Future Planning does not need authorisation from the Minister of Land, Infrastructure and Transport.

For greater certainty, the Korean Postal Authority reserves its exclusive rights under domestic law for collecting, processing, and delivering domestic and international letters. This exclusive right is not affected in any way or form by any provisions in this Agreement. Such exclusive right of the Korean Postal Authority includes the right of access to its postal network and operation thereof.

20. Sector:

Communication Services – Broadcasting and Telecommunications Services

Obligations Concerned:

National Treatment (Articles 8.3 and 9.2)

Most-Favoured-Nation Treatment (Articles 8.4 and 9.3)

Senior Management and Boards of Directors (Article 8.7)

Performance Requirements (Article 8.8)

Market Access (Article 9.4)

Local Presence (Article 9.5)

Description:

Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to subscription-based video services.

For the purposes of this entry, “subscription-based video services” means subscription-based video services that are supplied to end-users over dedicated transmission capacity that the supplier owns or controls (including by leasing) and includes Internet Protocol-based Television (IPTV) and Interactive Broadcasting.

For greater certainty, this entry is without prejudice to the scope and application of Article 22.6 (Cultural Industries).

21. Sector:

Communication Services – Broadcasting and Audio-Visual Services

Obligations Concerned:

Most-Favoured-Nation Treatment (Articles 8.4 and 9.3) Performance Requirements (Article 8.8)

Description:

Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any preferential co-production arrangement for film or television productions. Official co-production status, which may be granted to a co-production produced under such a co-production arrangement, confers national treatment on works covered by a co-production arrangement.

22. Sector:

Communication Services – Broadcasting and Audio-Visual Services

Obligations Concerned:

National Treatment (Articles 8.3 and 9.2)

Performance Requirements (Article 8.8)

Description:

Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure setting criteria for determining whether broadcasting or audio-visual programs are Korean.

For greater certainty, this entry is without prejudice to the scope and application of Article 22.6 (Cultural Industries).

23. Sector:

Business Services – Real Estate Services (not including Real Estate Brokerage and Appraisal Services)

Obligations Concerned:

National Treatment (Articles 8.3 and 9.2)

Performance Requirements (Article 8.8)

Local Presence (Article 9.5)

Description:

Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to real estate development, supply, management, sale, and rental services, except for brokerage and appraisal services.

24. Sector:

Business Services – Insolvency and Receivership Services

Obligations Concerned:

National Treatment (Articles 8.3 and 9.2)

Senior Management and Boards of Directors (Article 8.7)

Local Presence (Article 9.5)

Description:

Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to insolvency and receivership services.

Korea reserves the right to adopt or maintain any measure with respect to corporate restructuring services, including corporate restructuring companies, corporate restructuring partnerships, and corporate restructuring vehicles.

For greater certainty, this entry is not construed to negatively affect current legitimate investment banking services subject to rights and obligations under Chapter Ten (Financial Services).

25. Sector:

Digital Audio or Video Services

Obligations Concerned:

National Treatment (Articles 8.3 and 9.2)

Most-Favoured-Nation Treatment (Articles 8.4 and 9.3)

Performance Requirements (Article 8.8)

Local Presence (Article 9.5)

Description:

Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure to ensure that, upon a finding by the Government of Korea that Korean digital audio or video content or genres thereof is not readily available to Korean consumers, access to such content is not unreasonably denied to Korean consumers. With respect to digital audio or video services targeted at Korean consumers, Korea reserves the right to adopt or maintain any measure to promote the availability of such content.

A measure adopted or maintained pursuant to the paragraph above shall be implemented in accordance with Chapter Nineteen (Transparency) as applicable, be based on objective criteria, and be no more trade-restrictive or burdensome than necessary.

For the purposes of this entry, “digital audio or video service” means a service that provides streaming audio content, films, or other video downloads or streaming video content regardless of the type of transmission (including through the Internet), but does not include broadcasting services as defined by the Broadcasting Act or subscription-based video services as defined in the 20th entry in this Annex.

For greater certainty, this entry is without prejudice to the scope and application of Article 22.6 (Cultural Industries).

26. Sector:

Business Services – Cadastral Surveying Services and Cadastral Map-Related Services

Obligations Concerned:

National Treatment (Articles 8.3 and 9.2)

Description:

Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to cadastral surveying services and cadastral map-related services.

27. Sector:

Business and Environmental Services – Examination, Certification, and Classification of Agricultural Raw Materials and Live Animals (nong chuk san mul)

Obligations Concerned:

National Treatment (Articles 8.3 and 9.2)

Local Presence (Article 9.5)

Description:

Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to examination, certification, and classification of agricultural raw materials and live animal products.

28. Sector:

Business Services – Services Incidental to Agriculture, Hunting, Forestry, and Fishing

Obligations Concerned:

National Treatment (Articles 8.3 and 9.2)

Senior Management and Boards of Directors (Article 8.7)

Performance Requirements (Article 8.8)

Local Presence (Article 9.5)

Description:

Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to services incidental to agriculture, forestry, and livestock, including genetic improvement, artificial insemination, rice and barley polishing, and activities related to a rice processing complex.

Korea reserves the right to adopt or maintain any measure with respect to the supply of services incidental to agriculture, hunting, forestry, and fishing by the Agricultural Cooperatives, the Forestry Cooperatives, and the Fisheries Cooperatives.

29. Sector:

Fishing

Obligations Concerned:

National Treatment (Article 8.3)

Description:

Investment

Korea reserves the right to adopt or maintain any measure with respect to fishing activities in Korea's territorial waters and exclusive economic zone.

30. Sector:

Publishing of Newspapers

Obligations Concerned:

National Treatment (Articles 8.3 and 9.2)

Senior Management and Boards of Directors (Article 8.7)

Local Presence (Article 9.5)

Description:

Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to the publishing (including printing and distribution) of newspapers.

For greater certainty, this entry is without prejudice to the scope and application of Article 22.6 (Cultural Industries).

31. Sector:

Education Services – Pre-Primary, Primary, Secondary, Higher, and Other Education

Obligations Concerned:

National Treatment (Articles 8.3 and 9.2)

Most-Favoured-Nation Treatment (Articles 8.4 and 9.3)

Senior Management and Boards of Directors (Article 8.7)

Performance Requirements (Article 8.8)

Local Presence (Article 9.5)

Description:

Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to pre-primary, primary, and secondary education; health and medicine-related higher education; higher education for prospective pre-primary, primary, and secondary teachers; professional graduate education in law; distance education at all education levels (except adult education services, provided that such services do not confer academic credit, diplomas, or degrees); and other education services.

32. Sector:

Social Services – Human Health Services

Obligations Concerned:

National Treatment (Articles 8.3 and 9.2)

Most-Favoured-Nation Treatment (Articles 8.4 and 9.3)

Senior Management and Boards of Directors (Article 8.7)

Performance Requirements (Article 8.8)

Local Presence (Article 9.5)

Description:

Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to human health services.

33. Sector:

Recreational, Cultural, and Sporting Services – Motion Picture Promotion, Advertising, or Post-Production Services

Obligations Concerned:

National Treatment (Articles 8.3 and 9.2)

Most-Favoured-Nation Treatment (Articles 8.4 and 9.3)

Performance Requirements (Article 8.8)

Local Presence (Article 9.5)

Description:

Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to motion picture promotion, advertising, or post-production services.

For greater certainty, this entry is without prejudice to the scope and application of Article 22.6 (Cultural Industries).

34. Sector:

Recreational, Cultural, and Sporting Services – Museum and Other Cultural Services

Obligations Concerned:

National Treatment (Articles 8.3 and 9.2)

Senior Management and Boards of Directors (Article 8.7)

Performance Requirements (Article 8.8)

Local Presence (Article 9.5)

Description:

Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to the conservation, reconstruction and restoration of cultural heritage and properties, including the excavation, appraisal, or dealing of cultural heritage and properties.

35. Sector:

Other Recreational Services

Obligations Concerned:

National Treatment (Article 8.3)

Description:

Investment

Korea reserves the right to adopt or maintain any measure with respect to tourism in rural, fishery, and agricultural sites.

36. Sector:

Legal Services - Foreign Legal Consultants

Obligations Concerned:

National Treatment (Articles 8.3 and 9.2)

Senior Management and Boards of Directors (Article 8.7)

Local Presence (Article 9.5)

Description:

Cross-Border Trade in Services and Investment

1. Korea reserves the right to adopt or maintain any measures including:

(a) restrictions on certification, approval, registration, admission, and supervision of, and any other requirements with respect to, foreign-licensed lawyers or foreign law firms supplying any type of legal services in Korea;

(b) restrictions on foreign-licensed lawyers or foreign law firms entering into partnerships, commercial associations, affiliations, or any other type of relationship regardless of legal form, with byeon ho-sa (Korean-licensed lawyers), Korean law firms, beop-mu-sa (Korean-certified judicial scriveners), byeon-ri-sa (Korean-licensed patent attorneys), gong-in-hoe-gye-sa (Korean certified public accountants), se-mu-sa (Korean-certified tax accountants), or gwan-se-sa (Korean customs

brokers);

(c) restrictions on foreign-licensed lawyers or foreign law firms hiring byeon-ho-sa (Korean-licensed lawyers), beop-mu-sa (Korean-certified judicial scriveners), byeon-ri-sa (Korean-licensed patent attorneys), gong-in-hoe-gye-sa (Korean certified public accountants), se-mu-sa (Korean certified tax accountants), or gwan-se-sa (Korean customs brokers) in Korea; and

(d) restrictions on senior management and the board of directors of legal entities supplying foreign legal consulting services, including with respect to the chairman.

2. Notwithstanding paragraph 1,

(a) no later than the date this Agreement enters into force, Korea shall allow, subject to certain requirements consistent with this Agreement, Canadian law firms to establish representative offices (Foreign Legal Consultant offices or FLC offices) in Korea, and attorneys licensed in Canada to provide legal advisory services regarding the laws of the jurisdiction in which they are licensed and public international law as foreign legal consultants in Korea;

(b) no later than two years after the date this Agreement enters into force, Korea shall allow FLC offices, subject to certain requirements consistent with this Agreement, to enter into specific cooperative agreements with Korean law firms in order to be able to jointly deal with cases where domestic and foreign legal issues are mixed, and to share profits derived from such cases; and

(c) no later than five years after the date this agreement enters into force, Korea shall allow Canadian law firms to establish, subject to certain requirements consistent with this Agreement, joint venture firms with Korean law firms. Korea may impose restrictions on the proportion of voting shares or equity interests of the joint venture firms. For greater certainty, such joint ventures may, subject to certain requirements, employ Korean-licensed lawyers as partners or associates.

3. Korea shall maintain, at a minimum, the measures adopted to implement its commitments in paragraph 2.

4. For the purposes of this entry, “Canadian law firm” means a law firm organised under Canadian law and headquartered in Canada.

37. Sector:

Professional Services – Foreign Certified Public Accountants

Obligations Concerned:

National Treatment (Articles 8.3 and 9.2)

Senior Management and Boards of Directors (Article 8.7)

Local Presence (Article 9.5)

Description:

Cross-Border Trade in Services and Investment

1. Korea reserves the right to adopt or maintain any measures, including:

(a) restrictions on certified public accountants or accounting corporations registered under foreign laws hiring gong-in-hoe-gye-sa (Korean-certified public accountants);

(b) restrictions on foreign-certified public accountants providing auditing services in Korea; and

(c) restrictions on senior management and the board of directors of legal entities supplying certified public accountancy services, including with respect to the chairman.

2. Notwithstanding paragraph 1,

(a) no later than the date this Agreement enters into force, Korea shall allow, subject to certain requirements consistent with this Agreement:

(i) Canadian Chartered Accountants registered in Canada or accounting corporations organised under Canadian law to supply accounting consulting services relating to Canadian or international accounting laws and standards through offices established in Korea; and

(ii) Canadian Chartered Accountants registered in Canada to work in hoe-gye-beop-in (Korean accounting corporations); and

(b) no later than five years after the date this Agreement enters into force, Korea shall allow Canadian Chartered Accountants registered in Canada to invest in any hoe-gye-beop-in(Korean accounting corporations), subject to certain requirements consistent with this Agreement, provided that:

(i) gong-in-hoe-gye-sa (Korean registered certified public accountants) shall own more than 50 percent of the voting shares or equity interest of the hoe-gye-beop-in; and

(ii) any single Canadian Chartered Accountants registered in Canada owns less than 10 percent of the voting shares or equity interests of the hoe-gye-beop-in.

3. Korea shall maintain, at a minimum, the measures adopted to implement its commitments in paragraph 2.

4. For the purposes of this entry, a “Canadian accounting corporation” means an accounting corporation or partnership organised under Canadian law and headquartered in Canada.

38. Sector:

Professional Services - Foreign Certified Tax Accountants

Obligations Concerned:

National Treatment (Articles 8.3 and 9.2)

Senior Management and Boards of Directors (Article 8.7)

Local Presence (Article 9.5)

Description:

Cross-Border Trade in Services and Investment

1. Korea reserves the right to adopt or maintain any measures, including:

(a) restrictions on certified tax accountants or tax agency corporations registered under foreign laws hiring se-mu-sa (Korean certified tax accountants) or gong-in-hoe-gye-sa (Korean-certified public accountants);

(b) restrictions on foreign-certified tax accountants providing tax reconciliation services and tax representative services in Korea; and

(c) restrictions on senior management and the board of directors of legal entities supplying certified tax accountancy services, including with respect to the chairman.

2. Notwithstanding paragraph 1,

(a) no later than the date this Agreement enters into force, Korea shall allow, subject to certain requirements consistent with this Agreement:

(i) the establishment of offices in Korea by Canadian certified tax accountants registered in Canada or tax agency corporations organised under Canadian laws to provide tax consulting services with respect to Canadian or international tax laws and taxation system; and

(ii) Canadian certified tax accountants registered in Canada to work in se-mu-beop-in (Korean tax agency corporations); and

(b) no later than five years after this Agreement enters into force, Korea shall allow Canadian certified tax accountants registered in Canada to invest in any se-mu-beop-in(Korean tax agency corporations), subject to certain requirements consistent with this Agreement, provided that:

(i) se-mu-sa (Korean-certified tax accountants) shall own more than 50 percent of the voting shares or equity interests of the se-mu-beop-in; and

(ii) any single Canadian certified tax accountant registered in Canada owns less than 10 percent of the voting shares or equity interests of the se-mu-beop-in.

3. Korea shall maintain, at a minimum, the measures adopted to implement its commitments in paragraph 2.

4. For the purposes of this entry, a “Canadian tax agency corporation” means a tax agency corporation or partnership organised under Canadian law and headquartered in Canada.

39. Sector:

Business Services

Obligations Concerned:

National Treatment (Article 9.2)

Local Presence (Article 9.5)

Description:

Cross-Border Trade in Services

Korea reserves the right to adopt or maintain any measure with respect to the exportation and re-exportation of controlled commodities, software, and technology.

Only persons residing in Korea may apply for a license to export or re-export such commodities, software, or technology.

40. Sector:

All Sectors

Obligations Concerned:

National Treatment (Article 8.3)

Senior Management and Boards of Directors (Article 8.7)

Performance Requirements (Article 8.8)

Description:

Investment

Korea reserves the right to adopt or maintain any measure with respect to an investment to supply a service in the exercise of governmental authority, as defined in Article 9.1 (Scope and Coverage) such as law enforcement and correctional services. This entry does not apply to:

(a) an investor or covered investment that has entered into an agreement with Korea with respect to the supply of such services; or

(b) a measure adopted or maintained by Korea to the extent that the measure is subject to Chapter Ten (Financial Services).

41. Sector:

Transportation Services – Maritime Passenger

Transportation and Maritime Cabotage

Obligations Concerned:

National Treatment (Articles 8.3 and 9.2)

Most-Favoured-Nation Treatment (Articles 8.4 and 9.3)

Senior Management and Boards of Directors (Article 8.7)

Performance Requirements (Article 8.8)

Local Presence (Article 9.5)

Description:

Cross-Border Trade in Services and Investment

Korea reserves the right to adopt or maintain any measure with respect to the provision of international maritime passenger transportation services, maritime cabotage, and the operation of Korean vessels, including the following measures:

(a) A person that supplies international maritime passenger transportation services must obtain a license from the Minister of Oceans and Fisheries, which is subject to an economic needs test.

(b) Without prejudice to the scope of activities which may be considered as cabotage under the relevant national legislation, maritime cabotage is reserved for Korean vessels, which are assumed to cover transportation of passengers or goods between a port or point located in the entire Korean peninsula and any adjacent Korean islands and another port or point located in the entire Korean peninsula and any adjacent Korean islands, including on its continental shelf as provided in the UNCLOS, and traffic originating and terminating in the same port or point located in the entire Korean peninsula and any adjacent Korean islands. “Korean vessel” means:

(i) a vessel owned by the Korean government, a state enterprise, or an institution established under the Ministry of Oceans and Fisheries;

(ii) a vessel owned by a Korean national;

(iii) a vessel owned by an enterprise organised under the Korean Commercial Code; and

(iv) a vessel owned by an enterprise organised under foreign law that has its principal office in Korea and whose dae-pyo-ja (representative; for example, a chief executive officer, president, or similar principal senior officer) is a Korean national. In the event there is more than one, all dae-pyo-ja must be Korean nationals.

Appendix II-A. Korean Sectors Covered by Article XVI of the GATS

For the following Sectors/Sub-sectors, Korea’s obligations pursuant to Article XVI of the General Agreement on Trade in Services as set out in Korea’s Schedule of Specific Commitments under the GATS (GATS/SC/48, GATS/SC/48/Suppl.1, GATS/SC/48/Suppl.1/Rev.1, GATS/SC/48/Suppl.2, GATS/SC/48/Suppl.3, and GATS/SC/48/Suppl.3/Rev.1) are improved as described.

Sector/Sub-sector	**Market Access Improvements**
Research and development services: a. Research and development services on natural sciences b. Research and development services on social sciences and humanities c. Interdisciplinary research and development services	Insert new commitments with “None” for modes 1 and 2, “Unbound” for mode 3 and “Unbound except as indicated in the Horizontal Commitments section.” for mode 4; Modify mode 1 and 2 limitations from “Unbound” to “None”; Insert new commitments with “None” for modes 1 and 2, “Unbound” for mode 3 and “Unbound except as indicated in the Horizontal Commitments section” for mode 4
Market research and public opinion polling services	Modify mode 1 and 2 limitations from “Unbound” to “None”
Services incidental to mining	Modify mode 1 and 2 limitations from “Unbound” to “None”
Packaging services	Modify mode 1 and 2 limitations from “Unbound” to “None”
Convention services other than Convention agency services	Insert new commitments with “None” for mode 1, 2 and 3 and “Unbound except as indicated in the Horizontal Commitments section” for mode 4
Tourism and travel related services: a. Beverage serving services without entertainment. Excluding rail and air transport related facilities in beverage serving services without entertainment; b. Tour operator services; c. Tourist guides services	Insert new commitments with “Unbound*” for mode 1, “None” for mode 2 and 3 and “Unbound except as indicated in the Horizontal Commitments section” for mode 4; Insert new commitments with “None” for mode 1, 2 and 3 and “Unbound except as indicated in the Horizontal Commitments section” for mode 4; Modify mode 3 from “Only travel agencies are allowed to supply tourist guide services” to “None”