Israel - Vietnam Free Trade Agreement

The Government of the State of Israel (“Israel”) and the Government of the Socialist Republic of Viet Nam (“Viet Nam”), hereinafter referred collectively to as “the Parties” and individually as a “Party”, resolved to:

STRENGTHEN the special bonds of friendship and cooperation between them;

CONTRIBUTE to the harmonious development and expansion of world trade;

REDUCE obstacles to their bilateral trade;

STRENGTHEN their economic relations and promote economic cooperation, in particular for the development of trade and investments;

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

CREATE an expanded and stable market for their goods and services and establish clear and mutually advantageous rules in order to foster a favourable environment for their trade and investments;

PROMOTE the harmonious development of their trade as well as the expansion and diversification of their mutual cooperation in fields of common interest;

REAFFIRM their membership in the World Trade Organization and their commitment to comply with their respective rights and obligations under the Marrakesh Agreement Establishing the World Trade Organization and other agreements to which both Parties are party; and

HAVE AGREED in pursuit of the above, to conclude the following Free Trade Agreement (“this Agreement”) as follows:

Chapter 1. INITIAL PROVISIONS AND GENERAL DEFINITIONS

Section A. Initial Provisions

Article 1.1. Establishment of a Free Trade Area

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

Article 1.2. Objectives

The objectives of this Agreement are to:

(a) liberalise and facilitate trade in goods and services between the Parties;

(b) improve investment opportunities through promotion and protection of investments and investment activities in the Parties;

(c) promote cooperation and coordination for the effective enforcement of competition laws in each Party;

(d) improve the business environment in each Party;

(e) establish a framework to enhance closer cooperation in the fields covered by this Agreement; and

(f) create effective procedures for the implementation of this Agreement, and for the resolution of disputes.

Article 1.3. Relation to other Agreements

1. The Parties affirm their rights and obligations under existing agreements to which both Parties are party, including the WTO Agreements.

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

Article 1.4. Extent of Obligations

Each Party shall ensure that necessary measures are taken in order to give effect to the provisions of this Agreement, including their observance by its local governments and authorities, unless otherwise provided for in this Agreement.

Section B. General Definitions

Article 1.5. Definitions of General Application

For the purposes of this Agreement, unless otherwise specified:

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

customs duty means any customs or import duty or any charge of any kind imposed in connection with the importation of goods, including any form of surtax or surcharge in connection with such importation, but does not include any:

(a) charge equivalent to an internal tax imposed in consistency with Article III: 2 of the GATT 1994, in respect of like, directly competitive or substitutable goods of the Party, or in respect of goods from which it has been manufactured or produced in whole or in part;

(b) duty imposed pursuant to a Party's law in a manner that is consistent with Chapter 5 (Trade Remedies);

(c) duty imposed pursuant to any agricultural safeguard measure taken under Article 5 of the Agreement on Agriculture;

(d) fee or other charge in connection with importation commensurate with the cost of services provided; or

(e) premiums collected on an imported good arising out of any tendering or auction system in respect of the administration of quantitative import restrictions in accordance with a WTO Agreement or tariff rate quotas.

days means calendar days, including weekends and holidays;

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

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

Harmonized System (HS) means the Harmonized Commodity Description and Coding System governed by The International Convention on the Harmonized Commodity Description and Coding System, including its General Rules of Interpretation, Section Notes, and Chapter Notes, and their amendments, as adopted and implemented by the Parties in their respective tariff laws;

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

natural person of a Party means a national of Viet Nam or of Israel, according to their respective legislation;

person means a natural person or a juridical person;

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

WTO means the World Trade Organization.

Chapter 2. TRADE IN GOODS

Article 2.1. Definitions

For the purposes of this Chapter:

Agreement on Agriculture means the WTO Agreement on Agriculture contained in Annex 1 of the WTO Agreement;

agricultural goods means those goods referred to in Article 2 of the Agreement on Agriculture;

agricultural export subsidies shall have the meaning assigned to that term in Article 1(e) of the Agreement on Agriculture, including any amendment of that Article;

consular transactions means requirements that goods of a Party intended for export to the territory of the other Party must first be submitted to the supervision of the Consul of the importing Party in the territory of the exporting Party for the purpose of obtaining consular invoices or consular visas for commercial invoices, certificates of origin, manifests, shippers' export declarations, or any other customs documentation required on or in connection with importation;

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

Article 2.2. Scope and Coverage

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

Article 2.3. National Treatmebt

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

2. Paragraph 1 shall not apply to the measures set out in Annex 2A (Exceptions to Articles 2.3 (National Treatment) and 2.5 (Import and Export Restrictions)).

Article 2.4. Reduction or Elimination of Customs Duties

1. Except as otherwise provided in this Agreement, neither Party may increase any existing customs duty, or adopt any new customs duty or charges having equivalent effect, on an originating good.

2. For greater certainty, a Party may:

(a) modify a tariff on a good for which no tariff preference is claimed under this Agreement;

(b) raise a customs duty to the level established in its Schedule following a unilateral reduction for the respective year; or

(c) maintain or increase a customs duty as authorised by the Dispute Settlement Body established by Annex 2 of the WTO Agreement or as authorised by an Agreement under the WTO Agreement.

3. Except as otherwise provided in this Agreement, each Party shall progressively reduce or eliminate its customs duties on originating goods in accordance with its Schedule of tariff commitments in Annex 2B (Reduction or Elimination of Customs Duties).

4. On the request of either Party, the Parties shall consult about considering accelerating the reduction and/or elimination of customs duties set out in their Schedules in Annex 2B (Reduction or Elimination of Customs Duties). An agreement between the Parties to accelerate the reduction and/or elimination of a customs duty on an originating good shall be carried out in accordance with Chapter 13 (Administration) of this Agreement.

5. A Party may at any time unilaterally accelerate the reduction and/or elimination of customs duties on originating goods of the other Party set out in its Schedule in Annex 2B (Reduction or Elimination of Customs Duties). A Party shall inform the other Party as early as practicable before the new rate of customs duty takes effect.

Article 2.5. Import and Export Restrictions

1. Except as otherwise provided in this Agreement, neither Party shall adopt or maintain any prohibition or restriction on the importation of any good of the other Party or on the exportation or sale for export of any good destined for the territory of

the other Party, except in accordance with Article XI of the GATT 1994 and its interpretative notes; and to this end, Article XI of the GATT 1994 and its Interpretative Notes are incorporated into and made a part of this Agreement, mutatis mutandis.

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, a Party from adopting or maintaining:

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

(b) import licensing conditioned on the fulfillment of a performance requirement.

3. Paragraph 1 and 2 shall not apply to the measures set out in Annex 2A (Exceptions to Articles 2.3 (National Treatment) and 2.5 (Import and Export Restrictions)).

4. For the purposes of this Article, performance requirement means a requirement that:

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

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

(c) a person benefiting from a waiver of customs duties or an import license purchase other goods or services in the territory of the Party granting the waiver of customs duties or the import license, or accord a preference to domestically produced goods;

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

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

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

(f) subsequently exported;

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

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

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

5. In the event that a Party introduces a measure imposing a prohibition or restriction with respect to the exportation of goods to the other Party, the Party imposing the measures, shall ensure transparency of such measures and full compliance with the obligations under this Agreement and the WTO Agreement with a view to minimizing possible distortions to trade. Upon request of a Party, the Parties shall enter into consultations regarding the measure introduced under this paragraph.

Article 2.6. Trade Related Non-Tariff Measures

1. Further to Chapter 12 (Transparency), the Parties recognise the importance of ensuring the transparency of non-tariff measures affecting trade between the Parties and recognise that any such measures should not create an unnecessary obstacle to trade between the Parties.

2. To this end, the Sub-Committee on Trade in Goods established in Article 2.12 (Sub- Committee on Trade in Goods) shall, when a Party identifies a specific non-tariff measure, review the measure and consider approaches that may better facilitate trade between the Parties and present to the Parties the results of its consideration, including any recommendation. If necessary, the results of the consideration and recommendations of the Sub-Committee on Trade in Goods shall be submitted at the next meeting of the Joint Committee for consideration or action.

Article 2.7. Import Licensing

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

Annex 1A to the WTO Agreement.

2. Each Party shall notify the other Party of its existing import licensing procedures within 30 days of the entry into force of this Agreement unless they were already notified or provided under Article 5 or paragraph 3 of Article 7 of the Import Licensing Agreement. The notification shall contain the same information as referred to in Article 5 or paragraph 3 of Article 7 of the Import Licensing Agreement.

3. To the extent required by its law, before applying any new or modified import licensing procedure, a Party shall publish the new procedure or modification on an official government website at least 21 days before the new procedure or modification takes effect.

4. Upon request of the other Party, a Party shall respond within 60 days to an enquiry regarding any import licensing procedure which it intends to adopt or has adopted or maintained.

Article 2.8. Administrative Fees and Formalities

1. The Parties agree that fees, charges, formalities and requirements imposed in connection with the importation and exportation of goods shall be consistent with their obligations under GATT 1994.

2. No Party shall require consular transactions, including related fees and charges, in connection with any good imported from the other Party.

3. No Party shall levy fees and charges on or in connection with importation or exportation on an ad valorem basis.

4. Each Party shall make available through the internet a current list of the fees and charges it imposes in connection with importation or exportation.

Article 2.9. Agricultural Export Subsidies

No Party shall adopt or maintain any export subsidy or other measures with equivalent effects, as defined in the WTO Agreement on Agriculture, on trade in originating agricultural goods, in accordance with this Agreement.

Article 2.10. Administration of Trade Regulations

In accordance with Article X of GATT 1994, each Party shall administer in a uniform, impartial and reasonable manner, all its laws, regulations, judicial decisions and administrative rulings pertaining to:

(a) the classification or the valuation of goods for customs purposes;

(b) rates of duty, taxes or other charges;

(c) requirements, restrictions or prohibitions on imports or exports;

(d) the transfer of payments; and

(e) issues affecting sale, distribution, transportation, insurance, warehousing, inspection, exhibition, processing, mixing or other use of goods for customs purposes.

Article 2.11. Contact Points and Consultations

1. Each Party shall designate a contact point to facilitate communication among the Parties on any matter relating to this Chapter.

2. Where a Party considers that any proposed measure or an amendment to an existing measure of the other Party may affect trade in goods between the Parties, that Party may, through the contact point, request detailed information relating to that measure and, if necessary, request consultations with a view to resolving any concerns about the measure. The other Party shall respond within a reasonable period of time to such requests for information and consultations.

Article 2.12. Sub-Committee on Trade In Goods

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

2. The Sub-Committee shall meet upon the request of either Party or the Joint Committee to consider any matter arising

under this Chapter and Chapter 5 (Trade Remedies).

3. The Sub-Committee shall meet at such venues and times as may be agreed by the Parties. Meetings may be held by any means as mutually determined by the Parties.

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

(a) reviewing and monitoring the implementation and operation of the Chapters referred to in paragraph 2;

(b) identifying and recommending measures to resolve any difference that may arise, and to promote and facilitate improved market access, including any acceleration of tariff commitments under Article 2.4 (Reduction or Elimination of Customs Duties);

(c) recommending to the Joint Committee to establish any working groups, as it deems necessary; and

(d) undertaking any additional work that the Joint Committee may assign.

Chapter 3. RULES OF ORIGIN

Article 3.1. Definitions

For the purposes of this Chapter:

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

Chapters, Headings and Subheadings means the chapters, the headings and the subheadings (two, four and six-digit codes respectively) used in the nomenclature which makes up the Harmonized System or HS;

CIF means the value of the goods imported, including freight and insurance costs to the port of importation in Israel or in Viet Nam;

classification refers to the classification of a product or material under a particular heading or sub-heading;

Competent Authorities refers to:

For Israel, the Customs Directorate of the Israel Tax Authority of the Ministry of Finance, or its successor;

For Viet Nam, the Ministry of Industry and Trade or the General Department of Viet Nam Customs under the Ministry of Finance, or its successor;

consignment means goods which are either sent simultaneously from one exporter to one consignee or covered by a single transport document covering their shipment from the exporter to the consignee or, in the absence of such a document, by a single invoice;

customs value means the value as determined in accordance with Article VII of GATT 1994 and the Agreement on Implementation of Article VII of GATT 1994 (WTO Agreement on Customs Valuation);

ex-works price means the price paid for the product ex-works to the manufacturer in Israel or in Viet Nam in whose undertaking the last working or processing is carried out, provided the price includes the value of all the materials used and all other costs related to its production, excluding any internal taxes which are or may be repaid when the product obtained is exported;

goods mean both materials and products;

FOB means the free-on-board value of the goods;

fungible materials means materials that are of the same kind and commercial quality, with the same technical and physical characteristics, and which cannot be distinguished from another, once they are incorporated into the finished good.

Issuing Authority refers to:

For Israel, The Customs Directorate of the Israel Tax Authority of the Ministry of Finance;

For Viet Nam, the Ministry of Industry and Trade or an Authority designated to issue a certificate of origin as notified to the

other Party in accordance with this Chapter;

material means any ingredient, raw material, component or part, etc., used in the production of a good or physically incorporated into a good or subjected to a process in the production of another good;

production means any kind of working or processing, including assembly or specific operations such as growing, mining, harvesting, farming, raising, breeding, extracting, gathering, collecting, capturing, fishing, trapping, hunting or manufacturing;

product means the product manufactured, even if it is intended for later use in another manufacturing operation;

Value of Non-Originating Materials is the CIF value at the time of importation or the earliest ascertained price paid for all non-originating materials that are acquired by the producer in the production of the good.

Article 3.2. Originating Good

For the purposes of implementing this Agreement, the following goods shall be considered as originating in a Party:

(a) goods wholly obtained or produced in the Party within the meaning of Article 3.4 (Wholly Obtained Goods);

(b) goods produced in a Party exclusively from originating materials from Israel or Viet Nam, and meet all other applicable requirements of this Chapter; or

(c) goods produced entirely in a Party incorporating materials which have not been obtained there, provided that such materials have undergone sufficient working or processing in a Party within the meaning of Article 3.5 (Sufficiently Worked or Processed Goods).

Article 3.3. Cumulation of Origin

1. Bilateral Cumulation

Notwithstanding Article 3.2 (Originating Goods), goods originating in one of the Parties shall be considered as goods originating in the other Party and it shall not be necessary that such goods had undergone working or processing.

2. The Parties may agree to review this Article within the framework of the Joint Committee with a view to providing for other forms of cumulation for the purposes of qualifying goods as originating goods under this Agreement.

Article 3.4. Wholly Obtained Goods

The following shall be considered as wholly produced or obtained in Israel or in Viet Nam:

(a) minerals extracted from the soil or subsoil of any of the Parties, including its territorial seas, continental shelf or exclusive economic zone;

(b) plants and vegetable goods grown, harvested, picked or gathered there;

(c) live animals born and raised there;

(d) goods obtained from aquaculture there;

(e) goods from live animals as in subparagraph (c);

(f) goods obtained by hunting, trapping, collecting, capturing and fishing there, including fishing in its territorial sea continental shelf or in the exclusive economic zone;

(g) used articles collected there fit only for the recovery of raw materials including used tyres fit only for retreading;

(h) waste and scrap resulting from utilization, consumption or manufacturing operations conducted there;

(i) goods of sea fishing, and other marine goods taken from the waters in the high seas, only if done by any vessel registered or recorded with a Party and entitled to fly the flag of that Party in accordance with its domestic law;

(j) goods taken or extracted from the waters, seabed or subsoil outside the territorial sea of a Party, provided that the Party has rights to exploit such waters, seabed or subsoil;

(k) goods produced on board any factory ship registered or recorded with a Party and entitled to fly the flag of that Party, exclusively from the goods referred to in subparagraphs (i) and (j); and

(l) goods produced in any of the Parties exclusively, from the goods specified in subparagraphs (a) to (k).

Article 3.5. Sufficiently Worked or Processed Goods

For the purposes of Article 3.2(c), goods which are not wholly obtained are considered to be sufficiently worked or processed when the conditions set out in the list in Annex 3A (Product Specific Rules of Origin) are fulfilled. (1)

Those conditions indicate, for all goods covered by this Agreement, the working or processing which must be carried out on non-originating materials used in manufacturing and apply only in relation to such materials. Accordingly, it follows that if non-originating materials undergo sufficient working or processing, which results in an originating good, and when that good is used in the subsequent manufacture of another good, no account shall be taken of the non-originating material contained therein.

(1) If a good is subject to Article 3.5.1, the installation of substantial software developed in a Party shall be taken into account as a manufacturing process.

Article 3,6. De Minimis

1. A good that does not undergo a change in tariff classification pursuant to Article 3.5.1 and Annex 3A (Product Specific Rules of Origin) shall be considered as originating if:

(a) the value of all non-originating materials used in its production that do not undergo the required change in tariff classification does not exceed 10 percent of the ex-works price of the good or for Chapters 15 through 24 of the Harmonized System 10 percent of the weight of the good;

(b) the good meets all other applicable criteria set forth in this Chapter for qualifying as an originating good; and

(c) any of the percentages given in Annex 3A (Product Specific Rules of Origin) for the maximum value of non-originating materials are not exceeded through the application of this paragraph.

2. A good provided for in Chapters 50 through 63 of the Harmonized System that is not an originating good, because certain fibres or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification set out in Annex 3A (Product Specific Rules of Origin), shall nonetheless be considered as originating if the total weight of all such fibres or yarns in that component is not more than 10 percent of the total weight of that component.

Article 3.7. Insufficient Working or Processing

1. The following operations shall be considered as insufficient working or processing to confer the status of originating goods, whether or not the requirements of Article 3.5 (Sufficiently Worked or Processed Goods) are satisfied:

(a) preserving operations to ensure that the goods remain in good condition during transport and storage;

(b) simple (2) changing of packaging and breaking-up and assembly of packages;

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

(d) simple (3) painting and polishing operations;

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

(f) ironing or pressing of textiles;

(g) operations to colour sugar or form sugar lumps; partial or total milling of crystal sugar;

(h) peeling, stoning and shelling, of fruits, nuts and vegetables;

(i) sharpening, simple (4) grinding or simple cutting;

(j) sifting, screening, sorting, classifying, grading and matching (including the making-up of sets of articles);

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

(l) dilution in water or other substances, providing that the characteristics of the goods remain unchanged;

(m) simple (5) placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple packaging operations;

(n) simple (6) assembly of parts of articles to constitute a complete article or disassembly of goods into parts;

(o) simple (7) mixing of goods, whether or not of different kinds;

(p) a combination of two or more of the above operations; and

(q) slaughter of animals.

(2) "Simple"; generally describes activities which need neither special skills nor machines, apparatus or equipment especially produced or installed for carrying out the activity. Simple mixing does not include a chemical reaction. A chemical reaction means a process (including a biochemical process) which results in a molecule with a new structure by breaking intermolecular bonds and forming new intramolecular bonds, or by altering the spatial arrangement of atoms in a molecule.

(3) see footnote 1.

(4) see footnote 1.

(5) see footnote 1.

(6) see footnote 1.

(7) see footnote 1.

Article 3.8. Unit of Qualification

1. The unit of qualification for the application of the provisions of this Chapter shall be the particular product which is considered to be the basic unit when determining classification using the nomenclature of the Harmonized System.

It follows that:

(a) When a product composed of a group or assembly of articles is classified under the terms of the Harmonized System in a single subheading, the whole constitutes the unit of qualification; and

(b) When a consignment consists of a number of identical goods classified under the same subheading of the Harmonized System, each product must be taken individually when applying the provisions of this Chapter.

2. Where, under General Rule 5 of the Harmonized System, packaging is included with the product for classification purposes, it shall be included for the purposes of determining origin.

Article 3.9. Accounting Segregation

1. For the purpose of establishing if a product is originating when originating and non-originating fungible materials that are mixed or physically combined, are utilized in its manufacture, the origin of such materials can be determined by any of the inventory management methods applicable in the Party.

2. Where considerable cost or material difficulties arise in keeping separate stocks of originating and non-originating materials which are identical and interchangeable, the Customs Authorities may authorize the so-called "accounting segregation" method to be used for managing such stocks.

3. This method must be able to ensure that the number of goods obtained which could be considered as "originating" is the same as that which would have been obtained if there had been physical segregation of the stocks.

4. This method is recorded and applied on the basis of the general accounting principles applicable in the Party where the product was manufactured.

5. The beneficiary of this facilitation may issue or apply for proofs of origin, as the case may be, for the quantity of goods which may be considered as originating. At the request of the Competent Authorities, the beneficiary shall provide a statement of how the quantities have been managed.

Article 3.10. Accessories, Spare Parts and Tools

Accessories, spare parts and tools dispatched with a piece of equipment, machine, apparatus or vehicle, which are part of the normal equipment and included in the price thereof or which are not separately invoiced, shall be regarded as one with the piece of equipment, machine, apparatus or vehicle in question.

Article 3.11. Sets

Sets, as defined in General Rule 3 of the Harmonized System, shall be regarded as originating when all component goods are originating. Nevertheless, when a set is composed of originating and non-originating goods, the set as a whole shall be regarded as originating, provided that the CIF value of the non-originating goods does not exceed 15 percent of the ex-works price of the set.

Article 3.12. Neutral Elements

In order to determine whether a good originates, it shall not be necessary to determine the origin of the following which might be used in its manufacture:

(a) energy and fuel;

(b) plant and equipment, including goods to be used for their maintenance;

(c) machines, tools, dyes and moulds; spare parts and materials used in the maintenance of equipment and buildings; lubricants, greases, compounding materials and other materials used in production or used to operate equipment and buildings; gloves, glasses, footwear, clothing, safety equipment and supplies; catalysts and solvents; equipment, devices and supplies used for testing or inspecting the product; and

(d) other goods which do not enter into the final composition of the product.

Article 3.13. Principle of Territoriality

1. Except as provided for in Article 3.3 (Cumulation of Origin) and paragraph 3 of this Article, the conditions for acquiring originating status set out in Article 3.5 (Sufficiently Worked or Processed Goods), of this Chapter must be fulfilled without interruption in Israel or in Viet Nam.

2. Where originating goods exported from Israel or from Viet Nam to a non-party, are returned to the exporting Party, they must be considered as non-originating, unless it can be demonstrated to the satisfaction of the Customs Authorities that:

(a) the returning goods are the same as those exported; and

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

3. The Parties may agree to review this Article within the framework of the Joint Committee.

Article 3.14. Direct Transport

1. The preferential treatment provided under this Agreement applies only to goods, satisfying the requirements of this Chapter, which are transported directly between Israel and Viet Nam.

2. However, goods constituting one single consignment may be transported through other territories with, should the

occasion arise, trans-shipment or temporary warehousing in such territories, under the surveillance of the Customs Authorities therein, provided that:

(a) they are not intended for trade, consumption, use or employment in the non-party where the goods were in transit; and

(b) they do not undergo operations other than unloading, reloading, splitting of a consignment or any operation designed to preserve them in good condition.

3. Evidence that the conditions set out in paragraph 1 have been fulfilled shall be supplied to the Customs Authorities of the importing Party by the production of:

(a) any single through transport documents, that meet international standards and that proves that the goods were directly transported from the exporting Party through the non-party where the goods are in transit to the importing Party; or

(b) a certificate issued by the Customs Authorities of the non-party where the goods were in transit which contains an exact description of the goods, the date and place of loading and re-loading of the goods in that non-party and the conditions under which the goods were placed; or

(c) in the absence of any of the above documents, any other documents that will prove the direct shipment.

4. Goods exported from one of the Parties will retain their originating status when re-imported into that Party.

Article 3.15. Exhibitions

1. Originating goods, sent for exhibition in a non-party other than Israel or Viet Nam and sold after the exhibition for importation in Israel or in Viet Nam shall benefit on importation from the provisions of this Agreement provided it is shown to the satisfaction of the Customs Authorities that:

(a) an exporter has consigned these goods from Israel or Viet Nam to the non-party in which the exhibition is held and has exhibited them there;

(b) the goods have been sold or otherwise disposed of by that exporter to a person in Israel or in Viet Nam;

(c) the goods have been consigned during the exhibition or immediately thereafter in the non-party to which they were sent for exhibition; and

(d) the goods have not, since they were consigned for exhibition, been used for any purpose other than demonstration at the exhibition.

2. A proof of origin must be issued or made out in accordance with the provisions of this Chapter and submitted to the Customs Authorities of the importing Party in the normal manner. The name and address of the exhibition must be indicated thereon.

3. Paragraph 1 shall apply to any trade, industrial, agricultural or crafts exhibition, fair or similar public show or display which is not organized for private purposes in shops or business premises with a view to the sale of foreign goods, and during which the goods remain under customs control.

Article 3.16. Proof of Origin

1. Goods originating in a Party shall, on importation into the other Party, benefit from preferential tariff treatment under this Agreement upon submission of a Proof of Origin in accordance with the domestic law of the importing Party, which shall be completed in English.

2. Any of the following shall be considered a Proof of Origin:

(a) a certificate of origin in paper or electronic format issued by a Competent Authority as per the specimen in Annex 3B (Certificate of Origin);

(b) an electronic certificate of origin issued by a Competent Authority in accordance with Article 3.17 (Electronic Origin Data Exchange);

(c) a declaration subsequently referred to as the "Origin Declaration", in the cases specified in Article 3.22 (Conditions for Making out an Origin Declaration), which describes the goods concerned in sufficient detail to enable them to be identified.

3. For the purposes of this Chapter, “paper format” means a Certificate of Origin manually or electronically signed, stamped,

and issued in the exporting Party directly from the Competent Authority's system and printed by the Competent Authority, producer or exporter, or his authorized representative.

4. Notwithstanding paragraph 1, originating goods within the meaning of this Chapter shall, in the cases specified in Article 3.26 (Exemptions from Proofs of Origin), benefit from this Agreement without it being necessary to submit any of the documents referred to above.

Article 3.17. Electronic Origin Data Exchange

1. For the purposes of Article 3.16.2(b), the Sub-Committee on Customs and Rules of Origin shall endeavour to develop an electronic system for the exchange of electronic certificates of origin and origin information to ensure the effective and efficient implementation of this Chapter.

2. For the purposes of this Chapter, “an electronic certificate of origin” means a Certificate of Origin that is transmitted electronically.

Article 3.18. Procedures for the Issuance of Certificates of Origin

1. Certificates of Origin shall be issued by the Competent Authority of the exporting Party, having been made by the exporter or under the exporter's responsibility by his authorized representative, in accordance with the domestic regulations of the exporting Party.

2. The exporter applying for the issuance of a Certificate of Origin shall be prepared to submit at any time, at the request of the Competent Authority of the exporting Party, all appropriate documents proving the originating status of the goods concerned, as well as the fulfilment of the other requirements of this Chapter.

3. Certificates of Origin shall be issued if the goods to be exported can be considered as goods originating in the exporting Party in accordance with Article 3.2 (Originating Goods).

4. The Competent Authority shall take any steps necessary to verify the originating status of the goods and the fulfilment of the other requirements of this Chapter. For this purpose, they shall have the right to call for any evidence and to carry out any inspection of the exporter's books or any other check considered appropriate.

5. Each Certificate of Origin will be assigned a specific number by the Competent Authority.

6. Certificates of Origin shall be issued by the Competent Authority and made available to the exporter as soon as the actual exportation has been effected or ensured, or within three working days after the said date subject to each Party’s domestic law.

Article 3.19. Certificates of Origin Issued Retrospectively

1. Notwithstanding Article 3.18(6), a Certificate of Origin may exceptionally be issued after the exportation of the goods to which it relates if it was not issued at the time of exportation or within three working days as mentioned in Article 3.18(6), because of errors or involuntary omissions or special circumstances or it is demonstrated to the satisfaction of the Competent Authority that the Certificate was issued but was not accepted at importation for technical reasons.

2. For the implementation of paragraph 1, the exporter must indicate in his application the place and date of exportation of the goods to which the Certificate of Origin relates, and state the reasons for his request.

3. The Competent Authority may issue a Certificate of Origin retrospectively only after verifying that the information supplied in the exporter's application conforms with that in the corresponding file.

4. It shall be indicated on the Certificates of Origin issued in accordance with this Article that they were issued retrospectively in the appropriate field as detailed in Annex 3B (Certificate of Origin). The Certificates of Origin issued retrospectively, which shall bear the date of issue retrospectively, shall take effect from that date.

5. The provisions of this Article may be applied to goods which comply with the provisions of this Agreement, including this Chapter, and which on the date of entry into force of this Chapter are either in transit or are in Israel or in Viet Nam in temporary storage under customs control, subject to the submission to the Customs Authorities of the importing Party, within six months of the said date, of a Certificate of Origin issued retrospectively by the Competent Authority of the exporting Party together with the documents showing that the goods have been transported directly in accordance with the provisions of Article 3.14 (Direct Transport).

Article 3.20. Duplicate Certificates of Origin

1. In the event of theft, loss or destruction of a Certificate of Origin in paper format, the exporter may apply to the Competent Authority that issued it for a duplicate made out on the basis of the export documents in their possession.

2. It shall be indicated in the appropriate field on the Certificates of Origin issued in accordance with this Article that they are duplicates, as detailed in Annex 3B (Certificate of Origin).

3. The duplicate, which shall bear the date of issue of the original Certificate of Origin, shall take effect from that date.

Article 3.21. Approved Exporter

1. The Competent Authorities of the exporting Party may authorise any exporter, (hereinafter "approved exporter"), who exports goods under this Agreement, to make out Origin Declarations, a specimen of which appears in Annex 3C (Approved Exporter Declaration Pursuant to Article 3.21), irrespective of the value of the goods concerned, in accordance with appropriate conditions in the respective law of the exporting Party. An exporter seeking a such authorisation must offer to the satisfaction of the Competent Authorities all guarantees necessary to verify the originating status of the goods as well as the fulfilment of the other requirements of this Chapter.

2. The Competent Authorities may grant the status of an approved exporter, subject to any conditions which they consider appropriate as specified in each Party's domestic law.

3. The Competent Authorities shall grant to the approved exporter an authorisation number which shall appear on the Origin Declaration. The text of the Origin Declaration appears in Annex 3C (Approved Exporter Declaration Pursuant to Article 3.21).

4. The Competent Authorities shall monitor the use of the authorisation by the approved exporter.

5. The Competent Authorities may withdraw the authorisation at any time. They shall do so where the approved exporter no longer offers the guarantees referred to in paragraph 1, no longer fulfils the conditions referred to in paragraph 2 or otherwise makes incorrect use of the authorisation.

Article 3.22. Conditions for Making Out an Origin Declaration

1. An Origin Declaration as referred to in Article 3.16 (2)(c) may be made out by an approved exporter within the meaning of Article 3.21 (Approved Exporter) or by any exporter where the value of the originating good does not exceed 1000 dollars. The text of the Origin Declaration appears in Annex 3D (Origin Declaration Pursuant to Article 3.21).

2. The exporter making out an Origin Declaration shall be prepared to submit at any time, upon request of the Competent Authority of the exporting Party, all appropriate documents proving the originating status of the goods concerned, as well as the fulfilment of the other requirements of this Chapter.

3. An Origin Declaration shall be made out by the exporter by typing, stamping or printing on the invoice, the delivery note or another commercial document, the declaration, the text of which appears in Annex 3C (Approved Exporter Declaration Pursuant to Article 3.21) and Annex 3D (Origin Declaration Pursuant to Article 3.21). If the declaration is hand-written, it shall be written in ink in block letters.

Article 3.23. Validity of Proofs of Origin

1. Proofs of origin shall be valid for twelve months from the date of issue in the exporting Party and must be submitted within that period to the Customs Authorities of the importing Party.

2. Proofs of origin which are submitted to the Customs Authorities of the importing Party after the final date for presentation specified in paragraph 1 may be accepted for the purposes of applying preferential treatment, where the failure to submit these documents by the final date set is due to exceptional circumstances.

3. In other cases of belated presentation, the Customs Authorities of the importing Party may accept the proofs of origin where the goods have been imported before the said final date.

Article 3.24. Submission of Proofs of Origin

Proofs of origin shall be submitted to the Customs Authorities of the importing Party in accordance with its domestic law, including the procedures applicable to that Party.

Article 3.25. Importation by Instalments

Where, upon request of the importer and on the conditions laid down by the Customs Authorities of the importing Party, dismantled or non-assembled goods within the meaning of General Rule 2(a) of the Harmonized System are imported by instalments, a single proof of origin for such goods shall be submitted to the Customs Authorities upon the importation of the first instalment.

Article 3.26. Exemptions from Proofs of Origin

1. Goods sent as small packages from private persons to private persons or forming part of travellers' personal luggage shall be admitted as originating goods without requiring the submission of a proof of origin, provided that such goods are not imported by way of trade and have been declared as meeting the requirements of this Chapter and where there is no doubt as to the veracity of such a declaration. In the case of goods sent by post, this declaration can be made on the customs declaration or on a sheet of paper annexed to that document.

2. Imports which are occasional and consist solely of goods for the personal use of the recipients or travellers or their families shall not be considered as imports by way of trade if it is evident from the nature and quantity of the goods that no commercial purpose is in view.

3. Furthermore, the total value of these goods shall not exceed US $300 in the case of small packages or US $1000 in the case of goods forming part of travellers' personal luggage.

Article 3.27. Supporting Documents

The documents referred to in Articles 3.16(3) and 3.19(2) and that are used for the purposes of proving that goods covered by a Certificate of Origin or an Origin Declaration can be considered as goods originating in Israel or in Viet Nam and fulfil the other requirements of this Chapter may consist inter alia of the following:

(a) direct evidence of the processes carried out by the exporter or supplier to obtain the goods concerned, contained, for example in his accounts or internal bookkeeping;

(b) documents proving the originating status of materials used, issued or made out in Israel or in Viet Nam where these documents are used in accordance with domestic law;

(c) documents proving the working or processing of materials in Israel or in Viet Nam, issued or made out in Israel or in Viet Nam, where these documents are used in accordance with domestic law;

(d) Certificates of Origin or Origin Declarations proving the originating status of materials used, issued or made out in Israel or in Viet Nam in accordance with this Chapter;

(e) appropriate evidence concerning working or processing undergone outside Israel or Viet Nam by application of Article 3.13 (Principle of Territoriality) of this Chapter, proving that the requirements of that Article have been satisfied.

Article 3.28. Preservation of Proofs of Origin and Supporting Documents

1. The exporter applying for the issue of the Certificate of Origin shall keep the documents referred to in Article 3.18 (Procedures for the Issuance of Certificates of Origin) for at least five years.

2. The exporter making out an invoice declaration shall keep a copy of this invoice declaration, as well as the documents referred to in Article 3.22 (Conditions for Making out an Origin Declaration) for at least five years.

3. The Competent Authority in the exporting Party that issued a Certificate of Origin shall keep any document relating to the application procedure referred to in Article 3.18 (Procedures for the Issuance of Certificates of Origin) for at least five years.

4. The Customs Authorities of the importing Party shall keep the Certificates of Origin and the invoice declarations submitted to them for at least five years.

Article 3.29. Discrepancies and Formal Errors

1. The discovery of slight discrepancies between the statements made in a proof of origin and those made in the documents submitted to the customs office for the purpose of carrying out the formalities for importing the goods shall not ipso facto render a proof of origin null and void if it is duly established that the document does correspond to the goods submitted.

2. Obvious formal errors on a proof of origin should not cause it to be rejected if these errors are not such as to create doubts concerning the correctness of the statements made in it.

Article 3.30. Mutual Assistance

1. The Competent Authorities of Israel and Viet Nam shall provide each other with the addresses of the Competent Authorities responsible for verifying Certificates and origin declarations.

2. In order to ensure the proper application of this Chapter, Israel and Viet Nam shall assist each other, through their respective Competent Authorities, in checking the authenticity of the Certificates of Origin, the invoice declarations and the correctness of the information given in these documents.

Article 3.31. Verification of Proofs of Origin

1. Subsequent verifications of proofs of origin shall be carried out at random or whenever the Customs Authorities of the importing Party have reasonable doubts as to the authenticity of proofs of origin, the originating status of the goods concerned or the fulfilment of the other requirements of this Chapter.

2. For the purposes of implementing the provisions of paragraph 1, the Customs Authorities of the importing Party shall transmit requests for verification of origin through electronic means to the Competent Authorities of the exporting Party. The request for verification by post or by email shall include the number of the Certificate or in the case of an Invoice Declaration, a copy thereof. In support of the request for verification, where needed, the reasons for the request should be indicated, and any documents and information obtained suggesting that the information given on the proofs of origin is incorrect should be attached.

3. The verification shall be carried out by the Competent Authorities of the exporting Party. For this purpose, they shall have the right to call for any evidence and to carry out any inspection of the exporter's books or any other check considered appropriate.

4. If the Customs Authorities of the importing Party decide to suspend the granting of preferential treatment to the goods concerned while awaiting the results of the verification, release of the goods shall be offered to the importer subject to any precautionary measures judged necessary.

5. The Customs Authorities requesting the verification shall be informed of the results of this verification by post or email means as soon as possible. These results must indicate clearly whether the information contained in the proofs of origin and the supporting documents is correct, and whether the goods concerned can be considered as goods originating in Israel or Viet Nam and fulfil the other requirements of this Chapter.

6. If there is no reply within 10 months of the date of the verification request or if the reply does not contain sufficient information to determine the authenticity of the proofs of origin or the real origin of the goods, the requesting Customs Authorities shall, except in exceptional circumstances, refuse entitlement to the preferences.

7. This Article shall not preclude the exchange of information or the granting of any other assistance as provided for in customs cooperation agreements.

Article 3.32. Denial of Preferential Treatment

1. Only for the following specific reasons, the preferential treatment may be refused without verification of the Proofs of Origin:

(a) the requirements on direct transport of Article 3.14 (Direct Transport) have not been fulfilled;

(b) the importer fails to submit the Proof of Origin to the Customs Authority of the importing Party within the period specified in the importing Party’s law;

(c) the issuing authority of the exporting Party or the exporter did not sign the Certificate of Origin electronically or manually.

2. If the Customs Authority of the importing Party denies a claim for preferential tariff treatment, it shall provide the decision

in writing to the importer that includes the reasons for the decision.

Article 3.33. Dispute Settlement

1. Where disputes arise in relation to the verification procedures of Article 3.31 (Verification of Proofs of Origin) which cannot be settled between the Customs Authorities requesting verification and the Competent Authorities responsible for carrying out the verification or where a question is raised by one of those Customs Authorities as to the interpretation of this Chapter, the matter shall be submitted to the Sub-committee on Customs and Rules of Origin established by the Joint Committee in accordance with Chapter 13 (Administration of the Agreement) of this Agreement. If no solution is reached, Chapter 14 (Dispute Settlement) of this Agreement shall apply.

2. In all cases, the settlement of disputes between the importer and the Customs Authorities of the importing Party shall be under the legislation of said Party.

Article 3.34. Amendments to the Chapter

1. The Joint Committee may decide to amend the provisions of this Chapter.

2. The Joint Committee may modify specific rules of origin in the framework of Annex 3A (Product Specific Rules of Origin) of this Chapter by mutual agreement.

Article 3.35. Sub-Committee on Customs and Rules of Origin

1. The Sub-Committee on Customs and Rules of Origin established by the Joint Committee in accordance with Chapter 13 (Administration of the Agreement) of this Agreement may review the provisions of this Chapter and submit a proposal for a decision to be adopted by the Joint Committee to amend it.

2. The Sub-Committee on Customs and Rules of Origin shall endeavour to agree upon the uniform administration of the rules of origin and valuation matters relating to the rules of origin and technical, interpretative or administrative matters relating to this Chapter.

Chapter 4. CUSTOMS ADMINISTRATION AND TRADE FACILITATION

Article 4.1. Customs Cooperation

1. The Parties shall cooperate in order to ensure the correct implementation and operation of the provisions of this Agreement as they relate to:

(a) importations or exportations within the framework of this Agreement;

(b) preferential treatment and claims procedures;

(c) verification procedures;

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

(e) restrictions or prohibitions on imports or exports.

2. Each Party shall designate official Contact Points and provide details thereof to the other Party, with a view to facilitating the effective implementation of this Chapter and Chapter 3 (Rules of Origin). If a matter cannot be resolved through the Contact Points, it shall be referred to the Subcommittee on Customs and Rules of Origin as set out in this Chapter.

3. The Parties, through their respective Customs Authorities, shall provide each other with mutual assistance in customs matters in accordance with the provisions of Annex 4A (Mutual Assistance in Customs Matters) in order to ensure the implementation of this Chapter.

Article 4.2. Customs Procedures

1. The Parties shall ensure that their customs procedures are applied in a manner that is predictable, consistent, fair and transparent.

2. Pursuant to paragraph 1, the Parties shall:

(a) simplify their customs procedures to the greatest extent possible;

(b) make use of information and communications technology in their customs procedures; and

the Parties recognise that electronic filing in trade and in the transfer of trade-related information and electronic versions of documents is an alternative to paper-based methods that will significantly enhance the efficiency of trade through the reduction of cost and time. Therefore, the Parties shall cooperate with a view to implementing and promoting paperless customs procedures.

Article 4.3. Release of Goods

1. Each Party shall endeavour to ensure that its Customs Authority adopt or maintain procedures that:

(a) provide for the release of goods within a period no greater than that required to ensure compliance with its customs law;

(b) provide for advance electronic submission and processing of information before the physical arrival of goods to enable their release upon arrival; and

(c) allow goods to be released at the point of arrival, without temporary transfer to warehouses or other facilities.

Article 4.4. Risk Management

1. In administering customs procedures and to the extent possible, each Customs Authority shall focus resources on high-risk shipments of goods.

2. The above shall not preclude a Party from conducting control which may require more extensive examinations.

Article 4.5. Transparency

The Parties shall promptly publish or otherwise make publicly available, including on the Internet, their laws, regulations, administrative procedures, and administrative rulings of general application on customs matters that pertain to or affect the operation of this Agreement, so as to enable interested persons and parties to become acquainted with them.

Article 4.6. Advance Rulings

1. In accordance with its domestic law, each Party shall endeavour to provide, through its Customs Authority or other Competent Authority, for the expeditious issuance of written advance rulings as follows:

(a) the Customs Authority in the importing Party shall endeavour to issue advance rulings concerning the classification of goods and the appropriate method or criteria, and the application thereof to be used for determining the customs value under a particular set of facts; and

(b) the Customs Authorities in the exporting Party shall endeavour to issue advance rulings concerning compliance with the rules of origin as set forth in Chapter 3 (Rules of Origin).

2. Each Party shall adopt or maintain procedures for the issuance of such advance rulings, including the details of the information required for processing an application for a ruling.

3. A Party may decline to issue an advance ruling if the facts and circumstances forming the basis of the advance ruling are the subject of an investigation or an administrative or judicial review. The Party that declines to issue an advance ruling shall promptly notify the requester in writing, setting forth the relevant facts and the basis for its decision to decline to issue the advance ruling.

4. Each Party shall provide that advance rulings shall be in force from the date of issuance, or another date specified in the ruling. Subject to paragraph 1 to paragraph 3, an advance ruling shall remain in force provided that the facts or circumstances on which the ruling is based remain unchanged, or for the period specified in the laws, regulations or administrative rulings of the Party that provided the ruling.

Article 4.7. Review and Appeal

Regarding its determinations on customs matters, each Party shall grant access to:

(a) at least one level of administrative review, within the same institution, of the official or authority responsible for the determination under review; and

(b) judicial review of the determination or decision taken at the final level of administrative review.

Article 4.8. Confidentiality

1. A Party shall maintain confidentiality of the information provided by the other Party pursuant to Chapter 3 (Rules of Origin) and this Chapter, and protect such information from disclosure that could prejudice the competitive position of the person providing the information. Any violation of confidentiality shall be treated in accordance with the domestic legislation of each Party.

2. The information mentioned in paragraph 1 shall not be disclosed without the specific permission of the Party providing such information, except to the extent that it may be required to be disclosed for law enforcement purposes or in the course of judicial proceedings in accordance with the relevant applicable domestic law of the Party who received the information.

Article 4.9. Subcommittee on Customs and Rules of Origin

1. The Parties agree to establish a Subcommittee on Customs and Rules of Origin to address any customs-related issues relevant to:

(a) the uniform interpretation, application and administration of Chapter 3 (Rules of Origin), and this Chapter;

(b) addressing issues on tariff classification valuation and determination of the origin of goods for the purposes of this Agreement;

(c) reviewing rules of origin;

(d) including in their bilateral dialogue regular updates on changes in their respective law; and

(e) considering any other customs-related issues, referred to it by the Customs Authorities of the Parties, by the Parties or by the Joint Committee.

2. The Subcommittee on Customs and Rules of Origin will meet within one year from the date of entry into force of this Agreement and shall meet thereafter as agreed upon by the Parties alternately in Israel or in Viet Nam.

3. The Subcommittee on Customs and Rules of Origin shall comprise representatives of customs and, if necessary, other Competent Authorities from each Party and shall draw up its own rules of procedure at its first meeting.

4. The Subcommittee on Customs and Rules of Origin may formulate resolutions, recommendations or opinions which it considers necessary and report to the Parties or to the Joint Committee.

5. The Subcommittee on Customs and Rules of Origin may draft uniform procedures, which it considers necessary, to be submitted to the Joint Committee for its approval.

Chapter 5. Trade Remedies

Section A. Bilateral Safeguard Measures

Article 5.1. Definitions

For the purposes of this Chapter:

(i) for Israel, the Commissioner of Trade Levies, in the Ministry of Economy and Industry or the corresponding unit in the Ministry of Agriculture and Rural Development;

(ii) for Viet Nam, Trade Remedies Authority, in the Ministry of Industry and Trade;

or their successors;

domestic industry means the producers as a whole of the like or directly competitive goods of a Party or whose collective output of the like or directly competitive goods constitutes a major proportion of the total production of such goods;

originating goods as defined in Chapter 3 (Rules of Origin);

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

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

transition period means, in relation to particular goods, the three year period beginning on the date of entry into force of this Agreement, except where the tariff elimination or reduction for the good occurs over a longer period of time, in which case the transition period shall be the period of the staged tariff elimination for that good.

Article 5.2. Application of a Bilateral Safeguard Measure

1. Subject to Article 5.8 (Imposition of Global Safeguard Measures) of this Chapter, a Party may apply a bilateral safeguard measure:

(a) only during the transition period; and

(b) if as a result of the reduction or elimination of a duty pursuant to this Agreement, an originating good is being imported into the Party's territory in such increased quantities, in absolute terms or relative to domestic production, and under such conditions that the imports of the originating good from that Party alone constitute a substantial cause of serious injury, or threat thereof, to a domestic industry.

3. If the conditions set out in paragraph 1 are met, a Party may to the minimum extent necessary to prevent or remedy serious injury, or threat thereof:

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

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

(i) the most-favoured-nation (MFN) applied rate of duty in effect at the time the measure is applied, or

(ii) the base rate as specified in the schedule to Annex 2B (Reduction or Elimination of Customs Duties)

3. A Party that applies a bilateral safeguard measure under subparagraph 2(b) of this Article may consider to minimize the negative impacts of the measure on bilateral trade by establishing a tariff quota for the product concerned under the agreed preference established in this Agreement.

(a) The tariff quota shall not be less than the average imports of the product concerned in the 36 months prior to the period used for determining the existence of serious injury.

(b) The amount of goods included in the tariff quota may be imported under the rate provided in the Annex 2B (Reduction or Elimination of Customs Duties).

(c) The amount of goods beyond the tariff quota may be imported under the rate of duty established in subparagraph 2 (b) of this Article.

Article 5.3. Limitations for Applying a Bilateral Safeguard Measure

1. Bilateral safeguard measures shall not be applied in the first year of the transition period.

2. A bilateral safeguard measure shall not be applied except to the minimum extent and for such time as may be necessary to prevent or remedy serious injury and to facilitate adjustment and, it shall not be applied for a period exceeding two years.

However, this period may be extended for up to one additional year if the competent authorities of the importing Party determine, in conformity with the procedures specified in Article 5.4 (Investigation Procedures), that the measure continues to be necessary to prevent or remedy serious injury and to facilitate adjustment and that there is evidence that the industry is adjusting, provided that the total period of application of a safeguard measure, including the period of initial application and any extension thereof, shall not exceed three years. The Party maintaining the measure beyond a one year period shall progressively liberalise it at annual intervals during the period of application.

3. Neither Party shall apply a bilateral safeguard measure more than once against the same good.

4. Upon termination of the bilateral safeguard measure, the rate of duty shall be the level which would have been in effect had the measure not been imposed. If a tarrif quota was applied as a bilateral safeguard measure, it will be eliminated upon

termination of the bilateral safeguard measure.

5. Bilateral safeguard measures shall not be applied or maintained after the transition period. Upon request of a Party, the Joint Committee shall evaluate whether to continue for certain goods the bilateral safeguard measure mechanism included in this Chapter. For greater certainty, such request by a Party to the Joint Committee should be made prior to the termination of the transition period.

6. No Party shall apply or maintain a bilateral safeguard measure under this section for any product imported under a tariff rate quota (TRQ) established by the Parties under this Agreement.

Article 5.4. Investigation Procedures

1. A Party shall apply a bilateral safeguard measure only following an investigation, by the Party's competent authority in accordance with its internal legislation and Articles 3 and 4.2(c) of the WTO Agreement on Safeguards (hereinafter "the Safeguards Agreement"); and to this end, Articles 3 and 4.2(c) of the Safeguards Agreement are incorporated into and made part of this Agreement, mutatis mutandis.

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

Article 5.5. Provisional Bilateral Safeguard Measures

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

2. The Party intending to take provisional bilateral safeguard measures shall immediately notify the other Party and provide a notification containing all pertinent information, which shall include preliminary evidence of serious injury or threat thereof caused by increased imports, a precise description of the product involved and the proposed measure, as well as the proposed date of introduction and its expected duration. A Party shall not apply a provisional bilateral safeguard measure until at least 45 days after the date its competent authorities initiate an investigation. The duration of any provisional bilateral safeguard measure shall not exceed 200 days, during which time the Party shall comply with the requirements of Article 5.4 (Investigation Procedures).

Article 5.6. Notification and Consultations

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

(a) initiating a bilateral safeguard proceeding under this Chapter;

(b) making a finding of serious injury, or threat thereof, caused by increased imports under Article 5.2 (Application of a Bilateral Safeguard Measure); and

(c) taking a decision to apply or extend provisional or final bilateral safeguard measures.

2. A Party shall provide to the other Party a copy of the public version of the investigation reports under Article 5.4.1 of its competent investigating authority.

3. If a Party whose good is subject to a bilateral safeguard proceeding under this Chapter requests within 10 days from receipt of a notification as specified in paragraph 1(b) to hold consultations, the Party conducting that proceeding shall enter into consultations with the requesting Party with a view to finding an appropiate and mutually acceptable solution. If the Parties fail to find a mutually acceptable solution within 30 days of the notification being made, the Party may apply the measures.

Article 5.7. Compensation

1. No later than 30 days after it applies a safeguard measure, a Party shall afford an opportunity for the other Party to consult with it regarding appropriate trade liberalising compensation in the form of concessions having substantially

equivalent trade effects or equivalent to the value of the additional duties expected to result from the measure. The applying Party shall provide such compensation as the Parties mutually agree.

2. If the Parties are unable to agree on compensation through consultation under paragraph 1 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.

3. A Party shall notify the other Party in writing at least 30 days before suspending concessions under paragraph 2.

4. The obligation to provide compensation under paragraph 1 and right to suspend concessions under paragraph 2 shall terminate on the date of the termination of the safeguard measure.

5. Any compensation shall be based upon the total period of application of the provisional safeguard measure and of the safeguard measure.

Section B. Global Safeguard Measures

Article 5.8. Imposition of Global Safeguard Measures

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

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

(a) a bilateral safeguard measure; and

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

3. For imports of goods originating from the territory of a Party to the territory of the other Party that are not a cause of serious injury or threat thereof to the domestic industry producing like or directly competing goods of the importing Party, the safeguard measures with respect to imports of such goods do not apply.

4. When determining whether the imports from the other Party is a cause of serious injury or threat thereof, the competent investigating authority of the importing Party may consider such factors as the import shares and the amount of imports of the other Party, and the changes thereof, among others.

5. The following conditions and limitations shall apply to a proceeding that may result in global safeguard measures under this Article:

(a) the Party initiating such a proceeding shall, without delay, deliver to the other Party written notice thereof, including all pertinent information leading to the initiation of the global safeguard investigation and offer the possibility for consultations to the other Party;

(b) where, as a result of a measure, the rate of a customs duty is increased, the margin of preference under this Agreement shall be maintained;

(c) upon the termination of the measure, the rate of a customs duty shall be the preferential rate which would have been in effect had the measure not been imposed. If a tariff quota was applied as a global safeguard measure, it will be eliminated upon termination of the global safeguard measure.

Section C. Anti-dumping and Countervailing Measures

Article 5.9. Anti-dumping and Countervailing Measures

1. Both Parties agree that anti-dumping and countervailing measures should be used in full compliance with Article VI of GATT 1994, WTO Agreement on Implementation of Article VI of GATT 1994 and WTO Agreement on Subsidies and Countervailing Measures.

2. The Parties shall ensure full and meaningful disclosure of all essential facts and considerations which form the basis for the decision to apply anti- dumping and countervailing measures. Disclosures shall be made in writing and allow interested parties sufficient time to respond with comments. After final disclosure interested parties shall be given at least seven days to make these comments.

3. The competent investigating authority shall, upon receiving a properly documented application by or on behalf of its domestic industry for the initiation of the investigation in respect of a good from the other Party, and before proceeding to initiate such an anti-dumping investigation, notify the other Party at least 10 working days in advance of the date of initiation of such investigation.

4. If, in an anti-dumping or countervailing duty investigation that involves imports from the other Party, the investigating authority determines that a timely response to a request for information does not comply with its request:

(a) the investigating authority shall inform the interested party that submitted the response of the nature of the deficiency and, to the extent practicable in light of time limits established to complete the anti-dumping or countervailing duty action, provide that interested party with an opportunity to remedy or explain the deficiency.

(b) if that interested Party submits further information in response to that deficiency and the investigating authority finds that the response is not satisfactory, or that the response is not submitted within the applicable time limits, and if the investigating authority disregards all or part of the original and subsequent responses, the investigating authority shall explain in the determination or other written document the reason for disregarding the information.

5. All interested parties shall be granted the right to be heard in order to express their views during anti-dumping and anti-subsidy investigations.

6. In an anti-dumping or countervailing duty investigation, prior to the imposition of a provisional measure and prior to the definitive determination, the exporting Party may request consultations with a view of seeking a solution acceptable to the Parties. The importing Party shall enter into consultations with the requesting Party. Such consultations shall not delay or impede the investigation and its subsequent proceedings by the Party in accordance with the relevant WTO Agreements.

7. An anti-dumping or countervailing duty imposed by a Party shall not exceed the margin of dumping or countervailable subsidy, and the Party shall endeavour to ensure that the amount of this duty is less than that margin if such lesser duty would be adequate to remove the injury to the domestic industry.

8. Anti-dumping or countervailing measures may not be applied by a Party where, on the basis of the information made available during the investigation, it can clearly be concluded that it is not in the public interest to apply such measures. In determining the public interest, the Party shall take into account, inter alia, the interests of the domestic industry, importers, representative users and representative consumers based on the relevant information provided to the investigating authorities.

9. The Party whose good is subject to an anti-dumping or countervailing measure imposed by the other Party has the right to request consultations. Upon request, the other Party shall enter into consultation with the requesting Party.

Section D. General Provision

Article 5.10. Selection of Measures

In each section, the Parties, in selecting measures relating to that section, shall give priority to those measures which cause less economic impact on bilateral trade.

Chapter 6. SANITARY AND PHYTOSANITARY MEASURES

Article 6.1. Definitions

1. For the purposes of this Chapter:

(a) Competent Authorities mean those recognised by each Party as responsible for developing, implementing and administering the SPS measures within its territory as listed in Annex 6A.

(b) SPS Agreement means the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement).

2. The Parties may agree on other definitions for the application of this Chapter, taking into consideration the glossaries and definitions used by the relevant international organisations, such as the CODEX Alimentarius Commission (CODEX), World Organisation for Animal Health (WOAH), and the International Plant Protection Convention (IPPC).

3. The definitions contained in Annex A of the SPS Agreement shall apply.

Article 6.2. Objectives

The objectives of this Chapter are to:

(a) enhance practical implementation of the principles and disciplines contained within the SPS Agreement and applicable international standards, guidelines and recommendations developed by relevant international organisations;

(b) facilitate trade between the Parties and ensure that SPS measures imposed by each Party do not create unnecessary obstacles to trade while protecting human, animal or plant life or health in the territory of each Party; and

(c) provide a means to strengthen communication, cooperation and resolution on SPS issues that affect trade between the Parties and other agreed matters of interest to the Parties, taking into account the different levels of development between the Parties.

Article 6.3. Scope

This Chapter shall apply to the preparation, adoption and application of all SPS measures of a Party which may directly or indirectly affect the bilateral trade of the Parties.

Article 6.4. General Provisions

The Parties reaffirm their existing rights and obligations with respect to each other under the SPS Agreement and incorporate it into this Agreement.

Article 6.5. SPS Contact Points

1. For the purpose of facilitating communication on SPS trade-related matters, the Parties agree to establish Contact Points as follows:

(a) For Israel, the Ministry of Economy and Industry, Foreign Trade Administration, or its successor; and

(b) For Viet Nam, Viet Nam SPS Office, the Ministry of Agriculture and Rural Development, or its successor.

2. For the purpose of implementing the provisions of this Agreement, the Parties agree to share information related to Competent Authorities of each Party with responsibility for sanitary and phytosanitary measures, listed in Annex 6A (Competent Authorities).

3. The Parties shall ensure the information provided under paragraphs 1 and 2 (including Annex 6A) are kept up to date.

Article 6.6. Adaptation to Regional Conditions

1. The Parties recognise the concept of adaptation to regional conditions as set out in Article 6 of the SPS Agreement, and shall take into account the relevant guidance of the SPS Agreement and the relevant international standard-setting bodies.

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

Article 6.7. Equivalence

1. The Parties recognise that the application of the equivalence principle set out in Article 4 of the SPS Agreement is an important tool for trade facilitation and has mutual benefits for both exporting and importing countries.

2. Equivalence can be accepted for a specific SPS measure or measures related to a certain product or category of products, or on a system-wide basis.

3. The importing Party shall accept the sanitary and phytosanitary measures of the exporting Party as equivalent if the exporting Party objectively demonstrates that its measures achieve the importing Party's appropriate level of sanitary and phytosanitary protection. To facilitate a determination of equivalence, a Party shall, on request, advise the other Party of the objective of any relevant sanitary or phytosanitary measures.

4. The Parties shall initiate the consultation process of equivalence determination within a reasonable period of time. The determination of equivalence shall be finalised after the demonstration of equivalence of the proposed measures by the

exporting Party.

5. In case of multiple requests from the exporting Party, the Parties shall agree within the Committee referred to in Article 6.10 (Sub-Committee on SPS) on order of priority in which they shall initiate the process. The importing Party shall endeavour to prioritise the requests for equivalence in respect of those products which it has historically imported from the exporting Party.

6. The consideration by a Party of a request from the other Party for recognition of the equivalence of its measures with regard to a specific product shall not in itself be a reason to disrupt or suspend ongoing imports from that Party of the product in question. When an equivalence determination is made, it shall be formally recorded and applied to the trade between the Parties in the relevant area.

7. For the purpose of ensuring that sanitary and phytosanitary measures of the exporting Party consistently meet the importing Party's requirements, the exporting Party shall, upon request, allow the auditing of its systems including procedures of inspection and testing by the exporting Party.

Article 6.8. Procedure of Listing Establishments

1. After the initiation of the exporting Party, subject to each Party's internal procedures and processes, and upon request of the importing Party, the exporting Party shall inform the importing Party of its list of establishments which comply with the importing Party's requirements for approval and for which satisfactory sanitary guarantees have been provided.

2. Upon request of the exporting Party, the importing Party shall approve within 45 working days the list of establishments referred to in paragraph 1, without prior inspection of individual establishments.

3. If the importing Party requests additional information, the time period referred to in paragraph 2 shall be extended by up to 30 working days. Following the approval of the list of establishments, the importing Party shall take necessary measures, in accordance with its applicable legal procedures, to allow the importation of products concerned.

4. If the importing Party rejects the request for approval, it shall inform without delay the exporting Party of the reasons upon which that rejection was based.

5. The Competent Authority of the importing Party has the right to suspend or withdraw the import approval of an individual or several establishments in the event of fundamental non-compliance. The importing Party will inform the exporting Party of such decision.

Article 6.9. Communication and Exchange of Information

1. The Parties acknowledge the value of exchanging information on their respective SPS measures.

2. Each Party shall provide timely and appropriate information directly to both Contact Point and Competent Authorities of the other Party, in accordance with its WTO obligations:

(a) where any changes in its sanitary and phytosanitary status, including important epidemiological findings, may affect the trade between the Parties;

(b) on results of import checks in case of rejected or non-compliant consignments; or

(c) on results of verification procedures, such as inspections or on site audits.

Article 6.10. Sub-Committee on SPS

1. The Parties shall establish a Sub-Committee on SPS measures ("the SPS Sub- Committee"), under the Joint Committee described in Article 13.1 (Establishment of the Joint Committee) of this Agreement, to facilitate cooperation and to consider any matter relating to the implementation of this Chapter.

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

(a) developing the necessary procedures or arrangements for the implementation of this Chapter;

(b) monitoring the implementation of this Chapter;

(c) providing a forum to exchange information, expertise, and experience in the field of SPS matters and for discussion of

problems arising from the application of certain sanitary or phytosanitary measures with a view to reaching mutually acceptable solutions and promptly addressing any matters that may create unnecessary obstacles to trade among the Parties; and

(d) carrying out any other functions as mutually agreed by the Parties.

3. In addition, the Sub-Committee's functions may include:

(a) promoting the use of international standards by Parties in their respective adoption and application of SPS measures; and

(b) identifying, initiating and reviewing technical assistance projects and activities among the Parties.

4. The Parties may inform each other through the SPS Sub-Committee of decisions related to the authorization of imports, exchange of information, transparency, recognition of regionalization, equivalency and alternative measures, and any other matter referred to in the above paragraphs.

5. The SPS Sub-Committee shall consist of appropriate representatives of each Party with responsibility for SPS measures and all decisions made by the Sub-Committee shall be by mutual agreement.

6. The SPS Sub-Committee may establish technical working groups as required to undertake specific tasks.

7. The SPS Sub-Committee shall meet in person within one year from the date of entry into force of this Agreement and annually thereafter, when practicable, as mutually determined by the Parties. Meetings may be conducted via teleconference, video conference, or through other means as mutually agreed by the Parties.

Article 6.11. Technical Cooperation

1. The Parties agree to explore the opportunity for technical cooperation in SPS areas, with a view to enhance their understanding the other Party's regulatory systems, build capacities of the Parties, foster confidence between Competent Authorities of the Parties, and minimize negative effects on bilateral trade.

2. The Parties shall give due consideration to cooperation relating to SPS issues. Such cooperation, which shall be on mutually agreed terms and conditions, may include, but is not limited to:

(a) furthering the exchange of experience and cooperation in the development and application of domestic SPS measures as well as international standards;

(b) strengthening cooperation with respect to, inter alia, risk analysis methodology, disease or pest control methods, and laboratory testing techniques;

(c) developing exchange programs for relevant officials of Competent Authorities, for the purposes of building capacity and confidence of the Parties regarding animal disease and plant pest management;

(d) exchanging information, upon request of a Party, on the outbreak of any significant animal disease or incident related to food safety, and follow-up measures including related domestic regulations and their explanations;

(e) enhancing cooperation and exchange of experience between the WTO SPS Enquiry Points or the Competent Authorities of the Parties;

(f) considering potential joint research and sharing the result of such research in SPS areas including animal disease, plant pest and food safety; and

(g) any other cooperative activity mutually agreed by the Parties.

Article 6.12. Consultations

1. Where a Party considers that a SPS measure affecting trade between the Parties warrants further discussion, it may, through the Contact Point, request a full explanation of the SPS measure and if necessary, request to hold consultations to resolve the issue. The other Party shall respond in a timely manner to any request for such explanations or consultations.

2. The Parties shall make every effort to resolve the issue through consultations on a timeline mutually agreed upon by both sides. Should the consultations fail to achieve resolution, the matter shall be forwarded to the Joint Committee referred to in Article 13.1 (Establishment of the Joint Committee).

Article 6.13. Emergency Measures

1. Emergency measures imposed by an importing Party shall be notified in writing to the other Party through the Competent Authorities of the exporting country within two working days of the decision to implement them along with the associated reasons including any serious or significant human, animal or plant life or health risk, food emergencies that could affect the commodities for which trade takes place. Upon request, consultations between the Competent Authorities shall be held within 10 working days of the notification. All communication shall also be forwarded to the designated Contact Points. The Parties shall consider any information provided through such consultations.

2. The importing Party shall consider the information provided by the exporting Party, in a timely manner, when making decisions with respect to consignments that, at the time of adoption of emergency measures, are being transported between the Parties. The importing Party shall consider the most suitable and proportional solution in order to avoid unnecessary disruptions to trade.

Chapter 7. TECHNICAL BARRIERS TO TRADE

Article 7.1. Definitions

For the purposes of this Chapter:

(a) TBT Agreement means the WTO Agreement on Technical Barriers to Trade, as may be amended.

(b) Technical Regulation, Standard and Conformity Assessment Procedures shall have the meanings assigned to those terms in Annex 1 of the TBT Agreement.

Article 7.2. Objectives

The objectives of this Chapter are to:

(a) increase and facilitate trade through:

(i) enhancing transparency;

(ii) promoting good regulatory practices and greater regulatory cooperation; and

(iii) strengthening joint cooperation between the Parties.

(b) ensure that technical regulations, standards and conformity assessment procedures do not create unnecessary obstacles to trade.

Article 7.3. Scope

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

2. Technical specifications prepared by governmental bodies for production or consumption requirements of such bodies which are covered by Chapter 10 (Government Procurement), to the extent they apply, are not subject to the provisions of this Chapter.

3. This Chapter does not apply to sanitary and phytosanitary measures as defined in Annex A, paragraph 1 of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement), which are covered in Chapter 6 (Sanitary and Phytosanitary Measures).

Article 7.4. General Provisions

1. The Parties reaffirm their rights and obligations under the TBT Agreement.

2. The following provisions of the TBT Agreement are incorporated into and made part of this Agreement:

(a) Articles 2 to 9 of the TBT Agreement;

(b) Annexes 1 and 3 of the TBT Agreement.

3. For greater certainty, nothing in this Chapter shall prevent a Party from adopting or maintaining technical regulations, standards or conformity assessment procedures in accordance with its rights and obligations under this Agreement and the TBT Agreement.

Article 7.5. International Standards, Guides and Recommendations

1. The Parties recognise the important role that international standards, guides and recommendations can play in supporting greater regulatory alignment, good regulatory practice and reducing unnecessary barriers to trade.

2. In this respect, and further to Articles 2.4 and 5.4 and Annex 3 of the TBT Agreement, to determine whether there is an international standard, guide or recommendation within the meaning of Articles 2 and 5 and Annex 3 of the TBT Agreement, each Party shall apply the Decisions and Recommendations adopted by the WTO Committee on Technical Barriers to Trade Since 1 January 1995, (G/TBT/1/Rev.13), as may be revised, issued by the WTO Committee on Technical Barriers to Trade.

Article 7.6. Conformity Assessment Procedures

1. The Parties recognise that a broad range of mechanisms exists to facilitate the acceptance in a Party's territory of the results of conformity assessment procedures conducted in the other Party's territory. Such mechanisms may include the:

(a) use of accreditation to qualify conformity assessment bodies including designation of conformity assessment bodies;

(b) acceptance of the results of conformity assessment procedures conducted by conformity assessment bodies located in the other Party's territory with respect to specific technical regulations;

(c) recognition of existing regional, international and multilateral recognition agreements and arrangements between conformity assessment bodies;

(d) designation of conformity assessment bodies located in the territory of the other Party to carry out conformity assessment activities, or recognition of the other Party's designation of conformity assessment bodies;

(e) unilateral recognition of the results of conformity assessment procedures performed in the other Party's territory;

(f) acceptance of a supplier's declaration of conformity; and

(g) facilitation of voluntary arrangements between conformity assessment bodies located in the territory of each Party to accept the results of each other's conformity assessment procedures.

2. The Parties may exchange information on these and other similar mechanisms with a view to facilitating acceptance of conformity assessment results proposed by a Party.

3. If a Party declines:

(a) A request from the other Party to engage in negotiations or conclude an agreement on facilitating recognition in its territory of the results of conformity assessment procedures;

(b) the results of a conformity assessment procedure conducted in the territory of the other Party by a recognised conformity assessment body under bilateral recognition agreement and arrangement; or

(c) accreditation, designation or other recognition under bilateral or multilateral recognition agreement or arrangement to which the Parties are one of the signatures or a side to, with respect to a body assessing conformity with that technical regulation or standard in the territory of the other Party,

it shall explain the reasons for its decision.

Article 7.7. Transparency

1. The Parties acknowledge the importance of transparency in decision-making, including providing a meaningful opportunity for persons to provide comments on proposed technical regulations and conformity assessment procedures. Where a Party publishes a notice or notification under Article 2.9 or 5.6 of the TBT Agreement, it:

(a) may include in the notice the objectives and rationale of the proposed technical regulation or conformity assessment procedure; drafting bodies and development period thereof; and

(b) shall transmit the notification with the proposal electronically to the other Party through the Enquiry Point the Party has established under Article 10 of the TBT Agreement, at the same time as it notifies WTO Members of the proposal. Each Party should allow at least 60 days for the other Party to make comments in writing on the proposals. A Party that is able to extend a time limit beyond 60 days, for example, 90 days, is encouraged to do so.

2. A Party shall give appropriate consideration to the comments received from the other Party when a proposed technical regulation is submitted for public comment and, upon request of the other Party, provide written answers to the comments made by such other Party.

3. Each Party is encouraged to provide sufficient time between the end of the comment period and the adoption of the notified technical regulation or conformity assessment procedure, for its consideration of, and preparation of responses to, the comments received.

4. The Parties shall ensure that all adopted technical regulations and conformity assessment procedures are publicly available.

Article 7.8. Information Exchange and Technical Discussions

1. A Party may request technical discussions with the other Party with the aim of resolving any matter that arises under this Chapter.

2. The Parties shall discuss the matter raised within 60 days of the date of the request. If the requesting Party considers that the matter is urgent, it may request that any discussions take place within a shorter time frame. The responding Party shall give positive consideration to that request.

3. The Parties shall make every effort to resolve the matter as expeditiously as possible.

4. Requests for information or technical discussions and communications shall be conveyed through the respective contact points designated pursuant to Article 7.11 (Contact Points).

Article 7.9. Cooperation on TBT Related Issues

1. With a view to facilitate trade, the Parties shall strengthen their cooperation in the field of technical regulations, standards and conformity assessment procedures.

2. The Parties recognise that there might be a broad range of mechanisms to support cooperation initiatives, including:

(a) promoting the use of good regulatory practices to improve the efficiency and effectiveness of technical regulations, standards and conformity assessment procedures;

(b) giving favourable consideration, upon request of the other Party, to any sector specific proposal for further cooperation;

(c) increasing their bilateral cooperation in the relevant regional and international organisations and fora dealing with the issues covered by this Chapter;

(d) providing technical advice and assistance, on mutually agreed terms and conditions, to improve practices related to the development, implementation and review of technical regulations, standards and conformity assessment procedures;

(e) providing technical assistance and cooperation, on mutually agreed terms and conditions, to build capacity and support the implementation of this Chapter.

Article 7.10. Sub-Committee on Technical Barriers to Trade

1. The Parties hereby establish a Sub-Committee on Technical Barriers to Trade (hereinafter: the Sub-Committee), composed of relevant government representatives of each Party and coordinated by:

(a) In the case of Israel: the Ministry of Economy and Industry, Foreign Trade Administration or its successor;

(b) In the case of Viet Nam: the Ministry of Science and Technology or its successor.

2. Through the Sub-Committee, the Parties shall strengthen their joint work in the fields of technical regulations, standards and conformity assessment procedures with a view to facilitating trade between the Parties;

3. The Sub-Committee’s functions include:

(a) (a) monitoring the implementation and operation of this Chapter and identifying any potential amendments to or interpretations of those commitments pursuant to Chapter 13 (Administration of the Agreement);

(b) (b) monitoring any technical discussions on matters that arise under this Chapter;

(c) (c) reviewing this Chapter in light of any developments under the TBT Agreement, and developing recommendations for amendments to this Chapter in light of those developments;

(d) (d) reporting to the Joint Committee on the implementation and operation of this Chapter;

(e) (e) carrying out other functions as may be delegated by the Joint Committee of the Agreement;

(f) (f) deciding on priority areas of mutual interest for future work under this Chapter and considering proposals for new sector-specific initiatives or other initiatives;

(g) (g) encouraging cooperation between the Parties in matters that pertains to this Chapter, including the development, review or modification of technical regulations, standards and conformity assessment procedures; and

(h) (h) facilitating the identification of technical capacity needs.

Article 7.11. Contact Points

1. Contact Points are responsible for communications relating to matters arising under this Chapter including ensuring communication with the relevant institutions and authorities in their respective territories as necessary for the implementation and administration of this Chapter.

2. The Contact Points are:

(a) For Israel, the Foreign Trade Administration in the Ministry of Economy and Industry or its successor.

(b) For Viet Nam, Directorate for Standards, Metrology and Quality under the Ministry of Science and Technology, or its successor; and

3. Each Party shall provide the other Party with the contact details of its contact point and shall promptly notify of any change or any amendment to the information regarding its contact point.

Chapter 8. Cross-Border Trade In Services

Article 8.1. 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;

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

(a) the constitution, acquisition or maintenance of an enterprise, or

(b) the creation or maintenance of a branch or a representative office,

within the territory of a Party for the purpose of supplying a service;

computer reservation system services means services provided by computerized 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 natural person of a Party in the territory of the other Party,

but does not include the supply of a service in the territory of a Party by a covered investment;

enterprise means an “enterprise” as defined in Article 9.1 (Definitions), and a branch of an enterprise;

enterprise of a Party means an enterprise organized or constituted under the laws of a Party, or a branch located in the territory of that Party, and carrying out substantial business activities there;

financial services means any service of a financial nature including those defined in paragraph 5(a) of the Annex on Financial Services of GATS;

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

service supplier of a Party means a person of that Party that supplies a service (1).

(1) For the purposes of Articles 8.3 (National Treatment) and 8.4 (Most-Favoured-Nation Treatment), “service suppliers” has the same meaning as “services and service suppliers” as used in Articles II and XVII of GATS.

Article 8.2. Scope

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

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

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

(c) the access to and use of distribution, transport, or telecommunications networks and services in connection with the supply of a service.

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

(a) central or local governments and authorities; and

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

3. Notwithstanding paragraph 1, Articles 8.5 (Market Access), 8.8 (Domestic Regulation), and 8.9 (Transparency in Developing and Applying Regulations) shall also apply to measures adopted or maintained by a Party affecting the supply of a service in its territory through commercial presence.

4. Notwithstanding paragraph 1, this Chapter shall not apply to:

(a) financial services (2);

(2) For greater certainty, this exclusion includes financial service suppliers as defined in the Annex on Financial Services of GATS.

(b) government procurement;

(c) 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 during which an aircraft is withdrawn from service;

(ii) the selling and marketing of air transport services; and

(iii) computer reservation system (CRS) services; or

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

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

Article 8.3. National Treatment

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

Article 8.4. Most-Favoured-Nation Treatment (3)

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

(3) For greater certainty, nothing in this Article shall be interpreted as extending the scope of this Chapter.

Article 8.5. Market Access

No Party may adopt or maintain, either on the basis of a regional subdivision or on the basis of its entire territory, measures that:

1. impose limitations on:

(a) the number of service suppliers, whether in the form of numerical quotas, monopolies, exclusive service suppliers, or the requirement of an economic needs test;

(b) the total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;

(c) the total number of service operations or the total quantity of services output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test (4); or

(4) Subparagraph (c) does not cover measures of a Party which limit inputs for the supply of services.

(d) the total number of natural persons that may be employed in a particular service sector or that a service supplier may employ and who are necessary for, and directly related to, the supply of a specific service in the form of numerical quotas or the requirement of an economic needs test; or

2. restrict or require specific types of legal entities or joint ventures through which a service supplier may supply a service.

Article 8.6. Local Presence

No Party may 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 8.7. Non-Conforming Measures

1. Articles 8.3 (National Treatment), 8.4 (Most Favoured Nation Treatment), 8.5 (Market Access) and 8.6 (Local Presence) shall not apply to:

(a) any existing non-conforming measure that is maintained by a Party at:

(i) the central level of government, as set out by that Party in its Schedule in Annex I (Reservations for Existing Measures) ;

(ii) a local level of government;

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

(c) an amendment to any non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the measure, as it existed at the date of the entry into force of this Agreement with Article 8.3 (National Treatment), Article 8.4 (Most-Favoured-Nation Treatment), Article 8.5 (Market Access) and Article 8.6 (Local Presence).

2. Articles 8.3 (National Treatment) through 8.6 (Local Presence) shall not apply to any measure that a Party adopts or

maintains with respect to sectors, sub-sectors, or activities as set out in its Schedule in Annex II (Reservations for Future Measures).

Article 8.8. Domestic Regulation

1. Where a Party requires authorization for the supply of a service, the Party's competent authorities shall, within a reasonable 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's competent authorities shall provide, without undue delay, information concerning the status of the application. This obligation shall not apply to authorization requirements that a Party adopts or maintains with respect to sectors, sub-sectors, or activities as set out in its Schedule in Annex II (Reservations for Future Measures).

2. With a view to ensuring that measures related to qualification requirements and procedures, technical standards, and licensing requirements do not constitute unnecessary barriers to trade in services, while recognising the right to regulate and to introduce new regulations on the supply of services in order to meet national policy objectives, each Party shall endeavour to ensure, as appropriate for individual sectors, that such measures are:

(a) based on objective and transparent criteria, such as competence and the ability to supply the service;

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

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

3. If the results of the negotiations related to Article VI:4 of the GATS (or the results of any similar negotiations undertaken in other multilateral fora in which the Parties participate) enter into effect, this Article shall be amended, as appropriate, after consultations among the Parties, to bring those results into effect under this Agreement. The Parties shall coordinate such consultations, as appropriate.

Article 8.9. Transparency In Developing and Applying Regulations (5)

(5) For greater certainty, "regulations" includes regulations establishing or applying to licensing authorization or criteria at the central and local levels of government.

Further to Chapter 12 (Transparency):

(a) Each Party shall establish or maintain appropriate mechanisms for responding to inquiries from interested persons regarding its regulations related to the subject matter of this Chapter.

(b) To the extent possible, each Party shall allow reasonable time between the publication of final regulations related to the subject matter of this Chapter and their effective date.

Article 8.10. Recognition

1. For the purposes of the fulfilment, in whole or in part, of its standards or criteria for the authorization, licensing, or certification of services suppliers, and subject to the requirements of paragraph 5, a Party may recognize 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 upon an agreement or arrangement with the country concerned or may be accorded autonomously.

2. Where 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, nothing in Article 8.4 (Most-Favoured-Nation Treatment) shall 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 written request of the other Party, where appropriate, a Party shall endeavour to provide information concerning any recognition agreement or arrangement that the Party or relevant bodies in either Party are a party to, within a reasonable period of time.

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 its accession to such an agreement or arrangement or to negotiate a comparable one with it. Where 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 the other Party's territory should be recognised.

5. No Party may accord recognition in a manner that would constitute a means of discrimination between countries in the application of its standards or criteria for the authorization, licensing, or certification of service suppliers, or a disguised restriction on trade in services.

Article 8.11. Payments and Transfers

1. Each Party shall permit all transfers and payments related 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 transfers and payments related 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 transfer.

3. Notwithstanding paragraphs 1 and 2, a Party may prevent or delay a transfer or payment through the equitable, non-discriminatory, and good faith application of its laws related 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 8.12. Restrictions to Safeguard the Balance-of-Payments

1. The Parties shall endeavour to avoid the imposition of restrictions to safeguard the balance of payments.

2. In the event of serious balance-of-payments and external financial difficulties or threat thereof, a Party may adopt or maintain restrictions on trade in services, including on payments or transfers for transactions. It is recognised that particular pressures on the balance of payments of a Party in the process of economic development or economic transition may necessitate the use of restrictions to ensure, inter alia, the maintenance of a level of financial reserves adequate for the implementation of its programme of economic development or economic transition.

3. The restrictions referred to in paragraph 2:

(a) shall not discriminate against the other Party;

(b) shall be consistent with the Articles of the Agreement of the International Monetary Fund done at New Hampshire on July 22, 1944;

(c) shall avoid unnecessary damage to the commercial, economic, and financial interests of the other Party;

(d) shall not exceed those necessary to deal with the circumstances described in paragraph 2;

(e) shall be temporary and be phased out progressively as the situation specified in paragraph 2 improves.

4. In determining the incidence of such restrictions, Parties may give priority to the supply of services which are more essential to their economic or development programmes. However, such restrictions shall not be adopted or maintained for the purpose of protecting a particular service sector.

5. Any restrictions adopted or maintained under paragraph 2, or any changes therein, shall be promptly notified to the Joint Committee.

Article 8.13. 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:

(a) does not maintain diplomatic relations with the non-Party; or

(b) adopts or maintains measures with respect to the non-Party or a person of the non-Party that prohibit transactions with the enterprise or that would be violated or circumvented if the benefits of this Chapter were accorded to the enterprise.

Article 8.14. Exceptions

Article 8.4 (Most-Favoured-Nation Treatment) shall not be construed so as to oblige one Party to extend to the service suppliers of the other Party the benefit of any treatment, preference or privilege resulting from any existing or future customs union,free trade area agreement, common market, economic union, monetary union or similarinternational agreement, to which either Party is or will be a party.

Chapter 9. INVESTMENT

Section A. General Provision

Article 9.1. Definitions

For the purposes of this Chapter:

claimant means an investor of a Party that is a party to an investment dispute with the other Party;

covered investment means, with respect to a Party, an investment:

(a) in its territory;

(b) directly or indirectly owned or controlled by an investor of the other Party; and

(c) existing on the date of entry into force of this Agreement, or made or acquired thereafter;

disputing parties means both the claimant and the respondent;

enterprise means any legal person or any other entity duly constituted or organised under the applicable legislation, including any corporation, trust, partnership, sole proprietorship, joint venture, association, organisation or company;

enterprise of a Party means an enterprise that is constituted or organised under the legislation of that Party and has substantial business activities in the territory of that Party;

freely usable currency means "freely usable currency" as defined under the Articles of Agreement of the International Monetary Fund;

ICSID means the International Centre for Settlement of Investment Disputes;

ICSID Additional Facility Rules means the Rules Governing the Additional Facility for the Administration of Proceedings by the Secretariat of 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, March 18, 1965;

investment means every kind of asset, made in accordance with the legislation of the Party in whose territory the investment is made, that an investor owns or controls, directly or indirectly, that has the characteristics of an investment, such as the

commitment of capital or other resources, the expectation of gain or profit, and the assumption of risk. Forms that an investment may take include (1):

(1) An investment includes the amounts yielded by an investment, in particular, profit, interest, capital gains, dividends, royalties and fees. A change in the form in which assets are invested does not affect their character as an investment, provided that the change is effected in accordance with the applicable legislation of the Party in whose territory the investment is made.

(a) an enterprise;

(b) shares, stock and other forms of equity participation in an enterprise;

(c) bonds, debentures and other forms of debt of an enterprise;

(d) a loan to an enterprise;

(e) futures, options and other derivatives;

(f) rights under contract, including turnkey, construction, management, production, or revenue-sharing contracts;

(g) claims to money and to any performance under contract having a financial value;

(h) intellectual property rights and goodwill;

(i) concessions and similar rights conferred by law or by contract, including concessions to search for, extract or exploit natural resources; and

(j) any other movable and immovable property, and any related property rights, such as leases, mortgages, liens and pledges;

For greater certainty, investment shall not include:

(a) public debt;

(b) claims to money that arise solely from commercial contracts for the sale of goods or services by a natural person or enterprise in the territory of a Party to a natural person or enterprise in the territory of the other Party;

(c) the extension of credit, including bank loans, in connection with a commercial transaction, such as trade financing; or

(d) an order or judgment entered in a judicial or administrative action, or an arbitral award;

investor of a Party means:

(a) with respect to the Socialist Republic of Viet Nam:

i. an enterprise of the Socialist Republic of Viet Nam; or

ii. a natural person who is a national of the Socialist Republic of Viet Nam but not a national or a permanent resident of the State of Israel; and

(b) with respect to the State of Israel:

i. an enterprise of the state of Israel; or

ii. a natural person who is a national or permanent resident of the State of Israel but not a national of the Socialist Republic of Viet Nam;

that has made, is making or seeks to make an investment in the territory of the other Party;

legislation with respect to a Party means the laws, regulations and administrative orders of that Party;

New York Convention means the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York, 10 June 1958;

respondent means the Party that is a party to an investment dispute;

Secretary-General means the Secretary-General of ICSID;

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

UNCITRAL Arbitration Rules means the Arbitration Rules of the United Nations Commission on International Trade Law, as revised in 2010.

Article 9.2. 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.

2. This Chapter shall not apply to measures adopted or maintained by a Party with regard to financial services.

3. For greater certainty, this Chapter shall not bind either Party in relation to an act or fact that took place or a situation that ceased to exist before the date of entry into force of this Agreement.

4. In the event of any inconsistency between this Chapter and another Chapter, the other Chapter shall prevail to the extent of the inconsistency, except with regard to Article 9.16 (Taxation Measures).

5. This Chapter shall not apply to any measure relating to the conduct of tenders or bidding processes of government procurement.

6. For greater certainty, the mere fact that a subsidy (2) or grant has not been issued, renewed or maintained, or has been modified or reduced, by a Party, does not constitute a breach of this Chapter, even if there is loss or damage to the covered investment as a result.

(2) For Viet Nam, "subsidy" includes investment incentives, and investment assistance such as production site assistance, human resources training and competitiveness strengthening activities, such as assistance for technology, research and development, legal aids, market information and promotion.

Article 9.3. Right to Regulate

1. For the purposes of this Agreement, the Parties reaffirm their right to regulate within their territories to achieve legitimate policy objectives, such as the protection of public health, safety, the environment or public morals, social or consumer protection or the promotion and protection of cultural diversity, through the good faith application of their laws and regulations.

2. For greater certainty, the mere fact that a Party regulates, including through a modification to its laws, in a manner which negatively affects an investment or interferes with an investor's expectations, including its expectations of profits, does not amount to a breach of an obligation under this Agreement.

Section B. Non-Discrimination and Liberalisation of Investment

Article 9.4. 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, maintenance, use, enjoyment or disposal 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 in its territory of its own investors with respect to the establishment, acquisition, expansion, management, maintenance, use, enjoyment or disposal of investments in its territory.

Article 9.5. Most-Favoured Nation Treatment

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 any non-Party with respect to the establishment, acquisition, expansion, management, maintenance, use, enjoyment or disposal 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 in its territory of investors of any non-Party with respect to the establishment, acquisition, expansion, management, maintenance, use, enjoyment or disposal of investments in its territory.

3. For greater certainty, the treatment referred to in this Article does not encompass definitions or any investor-state dispute settlement procedures or mechanism, including mechanisms and procedures similar to those set out in Section D (Investor – State Dispute Settlement).

4. For greater certainty, substantive provisions in other international investment treaties and other trade agreements where not accompanied by measures that are adopted or maintained by a Party pursuant to those provisions, do not, by themselves constitute "treatment", and thus cannot give rise to a breach of this Article. (3)

(3) For greater certainty, the Parties reaffirm their understanding that this article shall be interpreted in accordance with the principle of ejusdem generis.

Article 9.6. Performance Requirements

1. Neither Party may, in connection with the establishment, acquisition, expansion, management, maintenance, use, enjoyment or disposal of an investment in its territory of an investor of the other Party, impose or enforce any requirement or enforce any commitment or undertaking:

(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 provided in its territory, or to purchase goods or services from a natural person or an enterprise in its territory;

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

(e) to restrict sales of goods or services in its territory that such investment produces or supplies by relating such sales in any way 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 natural person or an enterprise in its territory, except those undertaken in a manner not inconsistent with the TRIPS Agreement.

2. The provisions of paragraph 1 do not preclude either Party from conditioning the receipt or continued receipt of an advantage, in connection with establishment, acquisition, expansion, management, maintenance, use, enjoyment or disposal of an investment in its territory of an investor of the other Party, on compliance with:

(a) any requirement other than the requirements set forth in subparagraphs 1(b), 1(c), 1(d), and 1(e);

(b) a requirement to locate production, supply or acquire a service, train or employ workers, construct or expand particular facilities, or carry out research and development, in its territory;

(c) the requirements set forth in subparagraphs 1(b) and 1(c), when the requirements relating to the content of goods necessary to qualify for preferential tariffs or preferential quotas are imposed by an importing Party; and

3. Subparagraphs 1(a), 1(b) and 1(c) do not apply to qualification requirements for goods or services with respect to export promotion.

4. Subparagraph 1(f) shall not apply when a requirement is imposed or the commitment or undertaking is enforced by a court of justice, administrative tribunal or competition authority to remedy a determined violation of competition laws.

5. This Article does not preclude enforcement of any commitment, undertaking, or requirement between private parties, where a Party did not impose or require the commitment, undertaking, or requirement.

6. For greater certainty, paragraph 1 does not apply to any requirement other than the requirements set out in that paragraph.

Article 9.7. Senior Management and Board of Directors

1. No Party may require that an enterprise of that Party, that is a covered investment, appoint to senior management positions a natural person of any particular nationality.

2. Notwithstanding paragraph 1, a Party may require that a majority or less of the board of directors, or any committee thereof, of an enterprise of that Party that is a covered investment, be a national of that Party 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 9.8. Non-Conforming Measures

1. Article 9.4 (National Treatment), Article 9.5 (Most-Favoured Nation Treatment), Article 9.6 (Performance Requirements)

and Article 9.7 (Senior Management and Boards of Directors) shall not apply to:

(a) any existing non-conforming measure that is maintained by a Party at:

(i) the central level of government, as set out by that Party in its Schedule to Annex I;

(ii) a local level of government;

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

(c) an amendment or modification to any non-conforming measure referred to in subparagraph (a), provided that the amendment or modification does not decrease the conformity of the measure, as it existed immediately before the date of entry into force of this Agreement, with Articles 9.4 (National Treatment), 9.5 (Most-Favoured National Treatment), 9.6 (Performance Requirement) and 9.7 (Senior Management and Boards of Directors).

2. Articles 9.4 (National Treatment), 9.5 (Most-Favoured Nation Treatment), 9.6 (Performance Requirements) and 9.7 (Senior Management and Board of Directors) shall not apply to any measure that a Party adopts or maintains with respect to sectors,sub-sectors or activities set out in its Schedule in Annex II.

3. Neither Party shall, under any measure adopted after the date of entry into force of this Agreement and covered by its Schedule in Annex II, require an investor of the other Party, by reason of its nationality, to sell or otherwise dispose of an investment that exists at the time the measure becomes effective.

4. The Parties confirm their understanding that, when a new sector, which does not exist at the time of the entry into force of this Agreement, emerges in a Party after the date of entry into force of this Agreement and that Party, therefore, wishes to amend the Annexes to this Chapter, the Parties shall, upon request by that Party, enter immediately into discussion with a view to amending the Annexes.

5. Articles 9.4 (National Treatment) and 9.5 (Most-Favoured Nation Treatment) shall not apply to any measure covered by the exceptions to, or derogations from, obligations under the TRIPS Agreement.

6. Articles 9.4 (National Treatment), 9.5 (Most-Favoured Nation Treatment), 9.6 (Performance Requirements) and 9.7 (Senior Management and Board of Directors) shall not apply to:

(a) any measure that a Party adopts or maintains with respect to governmentprocurement;

(b) Subsidies or grants provided by a Party, including government-supported loans, guarantees, and insurance

Article 9.9. Special Formalities and Information Requirements

1. Nothing in Article 9.4 (National Treatment) shall be construed to prevent a Party from adopting or maintaining a measure that prescribes special formalities in connection with covered investments, such as a requirement that covered investments be legally constituted or registered under the requirements of its legislation, provided that such formalities do not materially impair the protections afforded by the Party to investors of the other Party and to covered investments pursuant to this Chapter and are not used as means of avoiding the Party's commitments or obligations under this Chapter.

2. Notwithstanding Article 9.4 (National Treatment) and Article 9.5 (Most- Favoured Nation Treatment), a Party may require an investor of the other Party or its covered investment to provide information concerning that investment solely for informational or statistical purposes. The Party shall protect such information that is confidential from any disclosure that would prejudice the competitive position of the investor or its covered investment.

Section C. Investment Promotion and Protection

Article 9.10. Scope of Investment Protection

This Section applies to investors of a Party who had made covered investment in the territory of the other Party, and their covered investments.

Article 9.11. Treatment of Investments

1. Covered investments shall be accorded fair and equitable treatment and shall enjoy full protection and security in the territory of the other Party in accordance with applicable customary international law.

2. For greater certainty, "full protection and security" refers to the Party's obligations to act as may be reasonably necessary to protect the physical security of investors and covered investments.

3. For greater certainty, the "full protection and security" does not imply, in any case, better police protection than that accorded to nationals of the Party where the investment has been made.

4. For greater certainty, a determination that there has been a breach of another provision of this Agreement, or of a separate international agreement, does not establish that there has been a breach of this Article.

Article 9.12. Losses and Compensation

1. Notwithstanding paragraph 9.8(6)(b), each Party shall accord to investors of the other Party that have suffered a loss or damage relating to their investments in the territory of the former Party due to war or other armed conflict, revolution, a state of national emergency, revolt, insurrection, riot or other such similar activity in the territory of that former Party, treatment, as regards restitution, indemnification, compensation or any other settlement, that is no less favourable than that which it accords to its own investors or investors of a non- Party.

2. Without prejudice to paragraph 1, if an investor, suffers a loss in the territory of the other Party resulting from:

(a) requisitioning of its property by the Party's forces or authorities; or

(b) destruction of its property by the Party's forces or authorities, which was not caused in combat action or was not required by the necessity of the situation,

the Party shall provide the investor with restitution or adequate compensation for such loss.

3. Any payment under this Article shall be effectively realisable, freely transferable and freely convertible at the market exchange rate into freely usable currencies.

Article 9.13. Expropriation and Compensation (4)

(4) This Article shall be interpreted in accordance with Annex 9A(Expropriation).

1. A Party shall not expropriate or nationalise a covered investment either directly, or indirectly through measures having an effect equivalent to expropriation or nationalisation ("expropriation"), except:

(a) for a public purpose;

(b) when made in accordance with the legislation of the Party;

(c) in a non-discriminatory manner; and

(d) when accompanied by compensation, in accordance with paragraph 2.

2. The compensation shall:

(a) be paid without delay and in a freely usable currency;

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

(c) not reflect any change in value occurring because the intended expropriation had become known earlier;

(d) be fully realisable and freely transferable; and

(e) include interest, at a commercially reasonable rate for that currency, accrued from the date of expropriation until the date of payment.

3. Notwithstanding paragraphs 1 and 2, where Viet Nam is the expropriating Party, any measure of direct expropriation relating to land shall be:

(a) for a purpose in accordance with the applicable domestic legislation (5); and

(5) The applicable domestic legislation is Law on Land 2013 (Viet Nam) and Decree No. 44/2014/ND-CP dated 15 May 2014 Regulating Land Prices, as amended on the date of entry into force of this Agreement for Viet Nam.

(b) upon payment of compensation that follow the general trends in the market value of the land use right, while recognising the applicable domestic legislation which will be implemented in good faith in a non-discriminatory, and equitable manner.

4. Without prejudice to Section D (Investor – State Dispute Settlement), the investors affected shall have a right, under the legislation of the Party making the expropriation, to prompt review, by a judicial or other independent authority of that Party, of the legality of the expropriation and of the valuation of their investment, in accordance with the principles set out in this Article.

5. This Article does not apply to the issuance of compulsory licenses granted in relation to intellectual property rights in accordance with the TRIPS Agreement, or to the revocation, limitation, or creation of intellectual property rights, to the extent that such issuance, revocation, limitation, or creation is consistent with the TRIPS Agreement.

Article 9.14. Transfers (6)

(6) For greater certainty, Annex 9-B (Temporary Safeguard Measures) shall apply to Article 9.14 (Transfers).

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

(a) contributions to capital, including the initial contribution and additional amounts to maintain, or increase the investment;

(b) profits, dividends, interest, capital gains, royalties, management fees, technical assistance fees and other fees, or other current incomes accruing from the covered investment;

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

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

(e) payments made in accordance with Articles 9.12 (Losses and Compensation) and 9.13 (Expropriation and Compensation); and

(f) payments arising out of a dispute referred to in Section D (Investor – State Dispute Settlement).

2. Each Party shall allow such transfers to be made in a freely usable currency at the market rate of exchange prevailing at the time of transfer.

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

(a) the payment of taxes and dues;

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

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

(d) criminal or penal offences;

(e) financial reporting or record keeping of transfers when necessary to assist law enforcement, taxation authorities or financial regulatory authorities;

(f) ensuring compliance with an order or judgment in judicial or administrative proceedings; or

(g) social security, public retirement, or compulsory savings schemes.

Article 9.15. Subrogation

1. If a Party or its designated agency makes a payment to one of its investors under a guarantee, a contract of insurance or other form of indemnity it has entered into in respect of an investment in the territory of the other Party, the other Party shall recognise:

(a) the assignment, to the former Party or its designated agency, of any right or claim of the investor in respect of such investment, that formed the basis of such payment; and

(b) the right of the former Party or its designated agency to exercise by virtue of subrogation such right or claim to the same extent as the original right or claim of the investor.

2. For greater certainty, the Party or its designated agency shall be entitled in all circumstances to:

(a) the same treatment in respect of the rights and claims acquired by it by virtue of the assignment referred to in paragraph 1; and

(b) the same payments due pursuant to those rights and claims, as the investor referred to in paragraph 1 was entitled to receive by virtue of this Chapter in respect of the investment.

3. If a Party or its designated agency has made a payment to its investor and has taken over rights and claims of the investor under paragraph 1, that investor shall not, unless authorised in writing by the Party or its designated agency to act on behalf of the Party or its designated agency making the payment, pursue those rights and claims against the other Party. In the exercise of subrogated rights or claims, a Party or its designated agency exercising such rights or claims shall disclose evidence of the subrogation or transfer of rights from the investor to the Party or its designated agency to the other Party.

4. In the exercise of subrogated rights or claims, a Party or the agency of the Party exercising such rights or claims shall disclose the coverage of the claims arrangement with its investors to the relevant Party.

Article 9.16. Taxation Measures (7)

(7) This Article shall be interpreted in accordance with Annex 9C (Taxation and Expropriation).

1. Nothing in this Section shall impose obligations with respect to taxation measures except as expressly provided in paragraph 3.

2. Nothing in this Agreement shall affect the rights and obligations of either Party under any tax convention. In the event of any inconsistency between this Agreement and any such convention, that convention shall prevail to the extent of the inconsistency.

3. Articles 9.13 (Expropriation and Compensation) and 9.6 (Performances requirements) shall apply to taxation measures.

Article 9.17. 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 the other Party and to its covered investments if persons of a non- Party own or control the enterprise and the denying Party (8):

(8) For greater certainty, the benefits of this Chapter may be denied by a Party, in accordance with this Article, at any time, including after the institution of arbitration proceedings in accordance with Section D (Investor – State Dispute Settlement).

(a) does not maintain diplomatic relations with the non - Party; or

(b) adopts or maintains measures with respect to the non - Party or a person of the non - Party that prohibit transactions with the enterprise or that would be violated or circumvented if the benefits of this Chapter were accorded to the enterprise or to its investments.

2. For the purpose of this Article, an enterprise is:

(a) “owned” by an investor if more than 50 percent of the equity interest in it is beneficially owned by the investor; and

(b) “controlled” by an investor if the investor has the power to name a majority of its directors or otherwise to legally direct its actions.

Article 9.18. General Exceptions

1. Notwithstanding Article 9.5 (Most-Favoured Nation Treatment), nothing in this Agreement shall be construed so as to oblige a Party to extend to the investors of the other Party and to their covered investments the benefits of any treatment

resulting from:

(a) any bilateral or multilateral international agreement for the promotion and protection of investment which was signed prior to the date of entry into force of this Agreement;

(b) any existing or future customs union, free trade area agreement, common market, economic union or similar international agreement, to which either Party is a party or may become a party, within the meaning of "customs union" or "free trade area" in accordance with Article XXIV of the GATT 1994 and Article V of the GATS; or

(c) any existing or future bilateral or multilateral agreement concerning intellectual property.

2. Subject to the requirements that such measures are not applied in an arbitrary or unjustifiable manner, and do not constitute a disguised restriction on international trade or investment, nothing in this Agreement shall be construed to prevent a Party from adopting, maintaining, enforcing measures including environmental measures, that it considers necessary:

(a) to protect human, animal or plant life or health;

(b) to protect public morals or to maintain public order, provided that the measure may only be invoked where a genuine and sufficiently serious threat is posed to one of the fundamental interests of society;

(c) to ensure safety;

(d) to protect national treasures of artistic, historic or archaeological value;

(e) to conserve living or non-living exhaustible natural resources, provided that such measures are made effective in conjunction with restrictions on domestic production or consumption; or

(f) to secure compliance with the legislation which are not inconsistent with the provisions of this Chapter including those relating to:

(i) the prevention of deceptive and fraudulent practices or to deal with the effects of a default on contract; and

(ii) the protection of the privacy of the individual in relation to the processing and dissemination of personal data and the protection of confidentiality of personal records and accounts.

2. Nothing in this Agreement shall prevent a Party from adopting or maintaining reasonable measures for prudential reasons, including:

(a) the protection of investors, depositors, policy holders, policy claimants, as well as financial market participants, or persons to whom a fiduciary duty is owed by a financial institution;

(b) the maintenance of the safety, soundness, integrity or financial responsibility of financial institutions; and

(c) ensuring the integrity and stability of the Party's financial system.

Such measures shall be taken in good faith and shall not be used as means of avoiding a Party´s commitments or obligations under this Agreement.

Section D. Investor – State Dispute Settlemen

Article 9.19. Consultation and Negotiation

1. In the event of an investment dispute, the claimant and the respondent should initially seek to resolve the dispute through consultation and negotiation, which may include the use of non-binding, third-party procedures.

2. The claimant shall deliver to the respondent a written request for consultations setting out the following:

(a) the name and address of the claimant and its covered investment;

(b) the nature of the claim, including the measure or measures alleged to breach the provisions of this Chapter, and a brief description of facts regarding said measure or measures;

(c) the relief sought and the initial assessment of amount of damages claimed; and

(d) indication and supporting documents that the claimant is an investor of the other Party and that it owns or controls the

covered investment with respect to which a request for consultations was submitted.

3. For greater certainty, the initiation of consultations and negotiations shall not be construed as recognition of the jurisdiction of a tribunal.

Article 9.20. Submission of Claim to Arbitration

1. In the event that an investment dispute cannot be settled by consultation and negotiation according to Article 9.19 (Consultation and Negotiation) within six months from the date on which the claimant requested in writing the respondent for consultation and negotiation, the claimant may, only on its own behalf, submit to arbitration under this Article, a claim that:

2. the respondent has breached an obligation under:

i. Section C (Investment Promotion and Protection); or

ii. Articles 9.4 (National Treatment), 9.5 (Most-Favoured Nation Treatment), 9.7 (Senior Management and Board of Directors) and 9.6 (Performance Requirement) with regard to management, maintenance, use, enjoyment or disposal of investments, and

(b) the claimant has incurred loss or damage by reason of, or arising out of, that breach.

2. For greater certainty, a claimant may only submit a claim with regards to an investment as defined in Article 9.1 (Definitions).

3. The extent of the claim referred to in paragraph 1 shall not exceed the monetary value of the loss or damage caused to the investor as a result of the breach mentioned in paragraph 1.

4. At least 90 days before submitting any claim to arbitration under this Section, a claimant shall deliver to the respondent a written notice of its intention to submit the claim to arbitration (notice of intent). The notice shall specify:

(a) the name and address of the claimant and its covered investment;

(b) for each claim, the provision of Section C (Investment Promotion and Protection) alleged to have been breached and any other relevant provisions;

(c) the legal and factual basis for each claim;

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

(e) indication and supporting documents establishing that the claimant is an investor of the other Party and that it owns or controls the covered investment in respect of which a request for consultations was submitted.

5. Provided that six months have elapsed since the claimant requested in writing the respondent for consultation and negotiation, the claimant may submit a claim referred to in paragraph 2 to arbitration:

(a) under the ICSID Convention, provided that both Parties are parties to the ICSID Convention;

(b) under the ICSID Additional Facility Rules, provided that either Party, but not both, is a party to the ICSID Convention;

(c) under the UNCITRAL Arbitration Rules; or

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

6. The claimant shall provide with the notice of arbitration:

(a) the name of the arbitrator that the claimant appoints; or

(b) the claimant's written consent for the Secretary-General to appoint that arbitrator.

7. A claim shall be deemed submitted to arbitration under this Article when the claimant's notice of or request for arbitration:

(a) referred to in paragraph 1 of Article 36 of the ICSID Convention is received by the Secretary-General of ICSID;

(b) referred to in Article 2 of Schedule C of the ICSID Additional Facility Rules is received by the Secretary-General of ICSID;

(c) referred to in Article 3 of the UNCITRAL Arbitration Rules, together with the statement of claim referred to in Article 20 of the UNCITRAL Arbitration Rules, are received by the respondent; or

(d) under any other arbitration institution or arbitration rules selected under subparagraph 3(d) is received by the respondent, unless otherwise specified by such institution or in such rules.

A claim asserted by the claimant for the first time after such notice of arbitration is submitted shall be deemed submitted to arbitration under this Article on the date of its receipt under the applicable arbitral rules.

Article 9.21. Consent of Each Party to Arbitration

1. Each Party hereby consents to the submission of a claim to arbitration under this Article in accordance with this Chapter.

2. The claimant shall deliver its consent in accordance with the procedures provided for in this Section at the time of submitting a claim pursuant to Article 9.20 (Submission of a Claim to Arbitration).

3. The consent under paragraphs 1 and 2 and the submission of a claim to arbitration under this Article shall be deemed to satisfy the requirements of:

(a) Chapter II of the ICSID Convention or 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 9.22. Conditions and Limitations on Consent of Each Party

1. No claim may be submitted to arbitration under this Article if more than three years have elapsed from the date on which the claimant first acquired, or should have first acquired, knowledge of the breach alleged under paragraph 1 of Article 9.20 (Submission of Claim to Arbitration) and knowledge that the claimant has incurred loss or damage.

2. No claim may be submitted to arbitration under this Section unless:

(a) the claimant consents in writing to arbitration in accordance with the procedures set out in this Article;

(b) the notice of arbitration is accompanied, for claims submitted to arbitration under Article 9.20 (Submission of Claim to Arbitration), by the claimant's written waiver of any right to initiate or continue, before any administrative tribunal or court under the law of either Party, or other dispute settlement procedures, including those in other bilateral or multilateral agreements which both Parties are parties to, any proceeding with respect to the subject matter of its claim or to any measure alleged to constitute a breach referred to in Article 9.20 (Submission of Claim to Arbitration); and

(c) no judgment or award has been delivered on the subject matter of the dispute with regard to any measure alleged to constitute a breach referred to in paragraph 2 of Article 9.20 (Submission of Claim to Arbitration) before any administrative tribunal or court under the law of either Party, other dispute settlement procedures or under the mechanisms mentioned in subparagraph (b).

Article 9.23. Selection of Arbitrators

1. Unless the disputing parties otherwise agree, the tribunal shall comprise 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. The Secretary-General shall serve as appointing authority for an arbitration under this Section. If the Secretary-General is a national of either Party or a national of a non-Party that does not maintain diplomatic relations with either Party or otherwise prevented from discharging the said function, the Deputy Secretary-General shall be invited to make the appointment.

3. If a tribunal has not been constituted within 90 days of the date a claim is submitted to arbitration under this Section, the Secretary-General, on the request of a disputing party, shall appoint, in his or her discretion, the arbitrator or arbitrators not yet appointed. The Secretary-General shall not appoint a national of either Party as the presiding arbitrator unless the disputing parties otherwise agree.

4. Arbitrators shall not be nationals of states not having diplomatic relations with either Party.

Article 9.24. Place of Arbitration

1. The claimant and the respondent may agree on the place of arbitration.

2. If the claimant and the respondent fail to reach an agreement regarding the place of arbitration, the tribunal shall determine the place of arbitration provided:

(a) that the place shall be in the area of a Party or in the area of a non-Party that is a party to the New York Convention;

(b) that the determined place of arbitration is in accordance with the applicable arbitrational rules.

Article 9.25. Places of Hearings and Procedural Language

1. The claimant and the respondent may agree on the place of a hearing, subject to the applicable arbitration rules.

2. If the claimant and the respondent fail to reach an agreement regarding the place of a hearing, the tribunal shall determine the place of a hearing, provided:

(a) that the determined place of the hearing is in accordance with the applicable arbitrational rules;

(b) that the tribunal has taken both disputing parties' interests under consideration with regard to the financial burden of the arbitration procedure; and

(c) that if the determined place of the hearing is in the territory of a non- Party it shall be a non- Party with which both Parties have diplomatic relations.

3. Unless the claimant and the respondent agree otherwise, the procedural language of the proceedings shall be English.

4. Any language or languages selected under paragraph 3 shall be made in accordance with the applicable arbitration rules.

Article 9.26. Conduct of Arbitration

1. In an arbitration procedure under this Section, the respondent shall not assert, as a defence, counterclaim, right of setoff or otherwise, that the claimant has received or will receive indemnification or other compensation for all or part of the alleged damages pursuant to an insurance or guarantee contract.

2. Unless the disputing parties have agreed to another expedited procedure for making preliminary objections, the Party which is the party to the dispute may, no later than 30 days after the constitution of the tribunal, and in any event before the first session of the tribunal, file an objection that a claim is manifestly without legal merit. The Party which is the party to the dispute shall specify as precisely as possible the basis for the objection. The tribunal, after giving the disputing parties the opportunity to present their observations on the objection, shall, at its first session or promptly thereafter, notify the disputing parties of its decision on the objection. The decision of the tribunal shall be without prejudice to the right of the Party which is the party to the dispute to file an objection to the jurisdiction of the tribunal or to object, in the course of the proceedings, that a claim lacks legal merit.

3. The tribunal may order security for costs at a proposal of the respondent. The tribunal shall especially consider ordering security for costs when there is a reason to believe:

(a) that the claimant will be unable to pay, if ordered to do so, a reasonable part of attorney fees and other costs to the Party which is the party to the dispute; or

(b) that the claimant has divested assets to avoid the consequences of the arbitral proceedings.

Should the claimant fail to pay the security for costs ordered by the tribunal within the time period set by the tribunal, the tribunal may order the suspension or termination of the arbitral proceedings.

Article 9.27. Third-Party Funding

1. An investor shall file a written notice to the other disputing party and the arbitral tribunal disclosing the name and address of any non-party from which the investor, directly or indirectly, has received funds for the pursuit or defence of the proceeding through a donation or grant, or in return for remuneration dependent on the outcome of the proceeding ("third-party funding"). If the non-party providing funding is a juridical person, the notice shall include the names of the persons and entities that own and control that juridical person.

2. The investor shall file the notice referred to in paragraph 1 upon submission of the request for arbitration, or immediately

upon concluding a third-party funding arrangement after submission. The investor shall immediately notify the arbitral tribunal and the other disputing party of any changes to the information in the notice.

3. The tribunal may order disclosure of further information regarding the funding agreement and the non-party providing funding.

Article 9.28. Governing Law

1. Subject to paragraph 3, when a claim is submitted under this Section, the tribunal shall decide the issues in dispute in accordance with this Chapter and applicable rules of international law, and take into consideration, as matter of fact, any relevant domestic law of the disputing Party. (9)

(9) For greater certainty, a Party may not invoke the provisions of its domestic law as a justification for its failure to perform this Chapter.

2. The tribunal shall not have jurisdiction to determine the legality of a measure, alleged to constitute a breach of this Chapter, under the domestic law of a Party.

3. In cases where reference to the TRIPS Agreement is made in an arbitration procedure under this Section, the tribunal shall consider relevant interpretation in reports of panels and the Appellate Body adopted by the WTO Dispute Settlement Body regarding substantially equivalent rights or obligations of the Parties under the TRIPS Agreement, or other multilateral intellectual property treaties.

4. When serious concerns arise as regards issues of interpretation which may affect matters relating to this Section, the Parties may adopt, at any time, joint interpretations of provisions of this Agreement. Any such interpretation shall be binding upon the tribunal.

5. For greater certainty, the tribunal shall be bound by the interpretation given to the domestic law by the courts or authorities which are competent to interpret the relevant domestic law, and any meaning given to the relevant domestic law made by the tribunal shall not be binding upon the courts and the authorities of either Party.

Article 9.29. Awards

1. Where a tribunal makes a final award against a respondent, the tribunal may award:

(a) monetary damages and applicable interest;

(b) restitution of property, in which case the award shall provide that the respondent may pay monetary damages and any applicable interest, in lieu of restitution; or

(c) both.

2. A tribunal may also award costs and attorney’s fees in accordance with this Section and the applicable arbitration rules. At the request of the respondent, the award will specify the account for transfer of money or the person to whom restitution should be made.

3. Without prejudice to paragraph 2 and to the claimant's right to claim that they are not adequately compensated, the monetary value of the award made under paragraph 1 shall not be greater than the loss suffered by the investor as a result of the breach determined by the tribunal, reduced by any prior damages or compensation already provided in relation to the same factual dispute. For the calculation of monetary damages, the tribunal shall take into account any restitution of property or repeal or modification of the measure, or other mitigating factors.

4. A tribunal may not award punitive damages.

5. An award made by a tribunal shall have no binding force except between the disputing parties and in respect of the particular case.

6. Subject to the applicable arbitration rules and the applicable review procedure for an interim award, a disputing party shall abide by and comply with an award without delay.

7. Each Party shall provide for the enforcement of an award in its territory.

8. A disputing party may seek enforcement of an arbitration award under the ICSID Convention or the New York Convention.

Section E. Final Provisions

Article 9.30. Duration and Termination

1. In respect of investments made while this Agreement is in force, the provisions of Sections A (General Provisions), C (Investment Promotion and Protection) and D (Investor-State Dispute Settlement) of this Chapter and relevant provisions of Chapter 1 (Initial Provisions and General Definitions) and Chapter 11 (Exceptions) shall continue in effect with respect to such investments for a period of ten years after the date of termination of this Agreement unless otherwise agreed by the Parties thereafter.

Annex 9A. Expropriation

The Parties confirm their shared understanding that:

1. An action or a series of actions by a Party cannot constitute an expropriation unless it interferes with a tangible or intangible property right or property interest in an investment.

2. Expropriation may be direct or indirect:

(a) direct expropriation occurs when an investment is nationalised or otherwise directly expropriated through formal transfer of title or outright seizure; and

(b) indirect expropriation occurs if a measure or series of measures of a Party has an effect equivalent to direct expropriation, in that it substantially deprives the investor of the fundamental attributes of property in its investment, including the right to use, enjoy and dispose of its investment, without formal transfer of title or outright seizure.

3. The determination of whether a measure or series of measures of a Party, in a specific fact situation, constitutes an indirect expropriation requires a case-by-case, fact-based inquiry that takes into consideration, among other factors:

(a) the economic impact of the measure or series of measures, although the sole fact that a measure or series of measures of a Party has an adverse effect on the economic value of an investment does not establish that an indirect expropriation has occurred;

(b) the duration of the measure or series of measures of a Party;

(c) the extent to which the measure or series of measures interferes with distinct, reasonable investment-backed expectations (10); and

(10) Whether an investor's investment-backed expectations are reasonable depends, to the extent relevant, on factors such as whether the government provided the investor with binding written assurances and the nature and extent of governmental regulation or the potential for government regulation in the relevant sector.

(d) the character of the measure or series of measures, notably their object, context and intent.

4. For greater certainty, except in the rare circumstance when the impact of a measure or series of measures is so severe in light of its purpose that it appears manifestly excessive, non-discriminatory measures of a Party that are designed and applied to protect legitimate public welfare objectives, such as health, safety and the environment, do not constitute indirect expropriations.

Annex 9B. Temporary Safeguard Measures

1. A Party may adopt or maintain restrictive measures with regard to payments or transfers for transactions related to investments:

(a) in the event of serious balance-of-payments and the external financial difficulties or threat thereof; or

(b) in exceptional cases where movements of capital cause or threaten to cause serious difficulties for macroeconomic management, in particular monetary and exchange rate policies.

2. Restrictive measures referred to in paragraph 1 shall:

(a) be applied in such a manner that the other Party is treated no less favourably than any non-Party;

(b) be consistent with the Articles of Agreement of the International Monetary Fund;

(c) not exceed those necessary to deal with the circumstances set out in paragraph 1;

(d) be temporary and be phased out progressively as the situation specified in paragraph 1 improves;

(e) avoid unnecessary damages to the commercial, economic and financial interests of the other Party; and

3. The Party which has adopted any measure under paragraph 1 shall notify the other Party, as soon as possible, as to the measures taken, and the expected timetable for their removal.

Annex 9C. 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 9A (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 should 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.

Annex 9D. Submission of a Claim to Arbitration with respect to Subparagraphs 2(b) and 2(c) of Article 9.22 (Conditions and Limitations on Consent of Each Party)

1. An investor of the State of Israel shall not submit to arbitration under Section D (Investor – State Dispute Settlement) a claim that Viet Nam has breached an obligation under Section B (Non-Discrimination and Liberalisation of Investment) or under Section C (Investment Promotion and Protection), if the investor has alleged that breach of an obligation under Section B (Non-Discrimination and Liberalisation of Investment) or Section C (Investment Promotion and Protection) in any proceedings before a court or administrative tribunal of Viet Nam.

2. For greater certainty, where an investor of the State of Israel makes an allegation that Viet Nam has breached an obligation under Section B (Non-Discrimination and Liberalisation of Investment) or Section C (Investment Promotion and Protection) before a court or administrative tribunal of Viet Nam, that selection shall be final, and the investor may not thereafter allege that breach, in an arbitration under Section D (Investor – State Dispute Settlement).

3. Notwithstanding subparagraphs 2(b) and 2(c) of Article 9.22 (Conditions and Limitations on Consent of Each Party), the claimant may initiate or continue an action that seeks interim injunctive relief that does not involve the payment of monetary damages before an administrative tribunal or court of justice under the law of the respondent, provided that the action is brought for the sole purpose of preserving the claimant's rights and interests during the pendency of the arbitration.

Chapter 10. GOVERNMENT PROCUREMENT

Article 10.1. Cooperation

1. The Parties recognise the importance of cooperation in the field of government procurement in accordance with their respective laws and regulations and given the available resources.

2. The Parties shall cooperate for the purposes of improving transparency, promoting fair competition and the use of electronic technologies in the field of government procurement.

3. Each Party shall inform the other Party as soon as possible of any significant modification of its laws, regulations and

procedures relating to government procurement.

4. The cooperation activities shall include the exchange of, where appropriate, non- confidential information, consultations, as provided for in Article 10.3 (Consultations), and technical assistance.

5. The Parties shall endeavour to cooperate in the following activities:

(a) exchanging experience and information, such as regulatory frameworks, best practices and statistics;

(b) developing and expanding the use of electronic means in government procurement;

(c) capacity building for government officials in best government procurement practices;

(d) strengthening the institutional framework for the fulfilment of this Chapter; and

(e) enhancing the ability to provide multilingual access to procurement opportunities.

6. The Parties shall develop further cooperation activities such as holding seminars for suppliers to inform them of each Party's laws, regulations and procedures relating to government procurement.

7. The Parties shall endeavour to cooperate in order to promote and facilitate the participation of goods suppliers and service providers from the Parties in government procurement tenders of the Parties, in particular in the following areas:

(a) medical equipment;

(b) pharmaceutical products;

(c) agriculture technologies;

(d) water technologies;

(e) software; and

(f) information technology.

Article 10.2. Information on the Procurement System

1. For purposes of transparency, each Party shall make its laws and regulations relating to government procurement publicly available.

2. The Parties shall exchange the lists of media resources in which the Parties publish relevant information on government procurement.

3. Each Party shall endeavour to establish and maintain electronic means for publishing its laws and regulations and information on government procurement, given available resources.

4. Each Party may expand the content of government procurement information and the scope of the services provided through electronic means.

Article 10.3. Consultations

1. On request of a Party, the other Party shall provide responses on the issues related to government procurement within a reasonable period of time.

2. In the event of any disagreement relating to the application of this Chapter, the Parties shall make every effort to reach a mutually satisfactory resolution through consultations.

3. Each Party shall accord positive consideration to, and afford adequate opportunity for, consultations regarding the implementation of this Chapter.

4. A request for such consultations shall be submitted to the other Party's Contact Point established under Article 10.5 (Contact Points). Unless the Parties agree otherwise, they shall hold consultations within 60 days of the date of receipt of the request.

5. Consultations may be conducted in the form of a meeting or by other means agreed by the Parties.

Article 10.4. Non-Application of Dispute Settlement

Any matter arising under this Chapter shall not be subject to the dispute settlement mechanism provided for in Chapter 14 (Dispute Settlement) of this Agreement.

Article 10.5. Contact Points

1. Each Party shall designate a Contact Point to monitor the implementation of this Chapter. The Contact Points listed in Annex 10A shall work collaboratively to facilitate the implementation of this Chapter.

2. Each Party shall promptly notify the other Party of any change to its Contact Point.

Article 10.6. Review

Within three years of the date of entry into force of this Agreement, the Parties shall review this Chapter within the framework of the Joint Committee, and, subject to a decision by the Joint Committee, enter into negotiations with a view to providing each other with access to their respective government procurement markets on a reciprocal basis.

Chapter 11. EXCEPTIONS

Article 11.1. General Exceptions

1. For the purposes of Chapter 2 (Trade in Goods), Chapter 3 (Rules of Origin), Chapter 4 (Customs Procedures and Trade Facilitation), Chapter 5 (Trade Remedies), Chapter 6 (Sanitary and Phytosanitary Measures), and Chapter 7 (Technical Barriers to Trade), Article XX of GATT 1994 and its interpretative notes are incorporated into and made part of this Agreement, mutatis mutandis.

2. The Parties understand that the measures referred to in Article XX(b) of GATT 1994 include environmental measures necessary to protect human, animal, or plant life or health, and that Article XX(g) of GATT 1994 applies to measures relating to the conservation of living and non-living exhaustible natural resources.

3. For the purposes of Chapters 8 (Cross-Border Trade in Services) and 9 (Investment), Article XIV of GATS (including its footnotes) is incorporated into and made part of this Agreement, mutatis mutandis.

4. 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. The Parties understand that the measures referred to in Article XIV(a) of GATS include measures aimed at maintaining internal public order.

Article 11.2. Security Exceptions

Nothing in this Agreement shall be construed to:

(a) require a Party to furnish or allow access to any information the disclosure of which it determines to be contrary to its essential security interests; or

(b) preclude a Party from applying measures that it considers necessary for the fulfilment of its obligations with respect to the maintenance or restoration of international peace or security, or the protection of its own essential security interests.

Article 11.3. Taxation

1. This Agreement does not apply to taxation measures.

2. Notwithstanding paragraph 1:

(a) Article 2.3 (National Treatment) and the other provisions of this Agreement necessary to give effect to that Article shall apply to a taxation measure to the same extent as does Article III of the GATT 1994;

(b) Article 8.3 (National Treatment) and the other provisions of this Agreement necessary to give effect to that Article shall apply to taxation measures to the same extent as does Article XVII of the GATS; and

(c) Article 8.4 (Most Favored Nation Treatment), shall apply to taxation measures to the same extent as does Article II of the

GATS

3. This Agreement does not affect the rights and obligations of a Party under a tax convention. In the event of inconsistency between this Agreement and a tax convention, the tax convention prevails to the extent of the inconsistency.

Article 11.4. Disclosure of Information

1. Each Party shall, in accordance with its domestic laws and regulations, maintain the confidentiality of information provided in confidence by the other Party pursuant to this Agreement.

2. Nothing in this Agreement shall be construed to require a Party to furnish or allow access to confidential information, the disclosure of which would impede law enforcement, or otherwise be contrary to public interest, or which would prejudice the legitimate commercial interests of individuals or of particular enterprises, public or private.

Chapter 12. TRANSPARENCY

Article 12.1. Publication

1. For the purposes of this Chapter:

(a) “measure of general application” includes laws, regulations, procedures and administrative rulings of general application that may have an impact on any matter covered by this Agreement; and

(b) “interested person” means any person that may be affected by a measure of general application.

2. Each Party shall ensure that measures of general application:

(a) are published promptly via an officially designated medium, including where possible electronic means, in such a manner as to enable governments and interested persons to become acquainted with them; and

(b) to the extent required by its law, allow for a sufficient period of time between publication and entry into force of such measures.

3. To the extent required by its law, each Party shall:

(a) publish in advance any such measure referred to in paragraph 1 that it proposes to adopt; and

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

Article 12.2. Provision of Information

Upon request of another Party, each Party shall provide information and respond to questions pertaining to any measure of general application that the requesting Party considers might materially affect the operation of this Agreement.

Article 12.3. Administrative Proceedings

In order to ensure that a measure of general application affecting a matter covered by this Agreement is applied in a consistent, impartial, and reasonable manner, a Party shall ensure that, in an administrative proceeding involving a specific case, if a measure referred to in Article 12.1 (Publication) is applied to a particular person or good of the other Party:

(a) whenever possible, a person of the other Party who is directly affected by a proceeding is given reasonable notice, in accordance with domestic procedures, when that 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;

(b) a person referred to in subparagraph (a) is afforded a reasonable opportunity to present facts and arguments in support of the person’s position prior to a final administrative action when permitted by time, the nature of the proceeding, and the public interest; and

(c) the administrative proceeding is conducted in accordance with its law.

Chapter 13. ADMINISTRATION OF THE AGREEMENT

Article 13.1. Establishment of the Joint Committee

1. The Parties hereby establish the Joint Committee.

2. The Joint Committee shall be composed of relevant government officials of each Party and shall be co-chaired by senior officials of the Parties from ministries primarily responsible for international trade.

Article 13.2. Procedures of the Joint Committee

1. The Joint Committee shall, normally, convene once every two years or when necessary upon request in writing of either Party.

2. Unless the Parties otherwise agree, meetings of the Joint Committee shall be held alternately in each country, or by any technological means available.

3. All decisions of the Joint Committee shall be taken by mutual agreement.

4. The Joint Committee shall adopt its own rules of procedure, as well as its meeting schedule and the agenda for its meetings.

Article 13.3. Functions of the Joint Committee

1. The Joint Committee shall:

(a) monitor and review the implementation and operation of this Agreement;

(b) supervise and coordinate the work of all bodies established under this Agreement;

(c) evaluate and adopt decisions as envisaged in this Agreement regarding any subject matter which is referred to it by any subcommittee, working group and other bodies established under this Agreement;

(d) establish the amount of remuneration and expenses to be paid to arbitrators under Chapter 14 (Dispute Settlement) taking into consideration WTO standards regarding remuneration;

(e) without prejudice to Chapter 14 (Dispute Settlement) and other relevant provisions of this Agreement, seek to prevent and to solve problems which might arise in areas covered by this Agreement, or resolve disputes that may arise regarding the interpretation or application of this Agreement;

(f) consider any other matters that may affect the operation of this Agreement and carry out any other functions as the Parties may agree; and

(g) consider ways to further enhance trade and investment relations between the Parties.

2. The Joint Committee may:

(a) consider and recommend to the Parties any amendments to this Agreement. If such amendment is agreed upon by the Parties, it shall enter into force in accordance with the procedure set forth in Article 15.3 (Entry into Force);

(b) modify by a Joint Committee decision:

(i) the Schedules to Annex 2B (Reduction or Elimination of Customs Duties), with the purpose of adding one or more goods excluded in the Tariff Elimination Schedule;

(ii) the phase-out periods established in Annex 2B (Reduction or Elimination of Customs Duties), with the purpose of accelerating the tariff reduction;

(iii) the specific rules of origin established in Annex 3A (Rules of Origin – Specific Rules of Origin); and

(iv) the Rules of Procedure for Arbitral Tribunal Proceedings established in Annex 14-A and the Code of Conduct established in Annex 14-B.

Each Party shall make any modifications referred to in this subparagraph, subject to the completion of its applicable internal legal procedures and upon notification of such, within such period as the Parties may agree; and

(c) adopt interpretive decisions concerning this Agreement binding on arbitral tribunals established under Article 14. 8

(Dispute Settlement – Request for the Establishment of an Arbitral Tribunal) and tribunals established under Article 9.23 (Selection of Arbitrators).

3. For the purposes of this Article, the Parties shall exchange information upon the request of either Party.

Article 13.4. Establishment of Subcommittees, Working Groups and other Bodies

1. The Parties hereby establish the following subcommittees comprising representatives from both Parties:

(a) Sub-committee on Trade in Goods;

(b) Sub-committee on Customs and Rules of Origin

(c) Sub-committee on Sanitary and Phytosanitary measures;

(d) Sub-Committee on Technical Barriers to Trade;

2. The Joint Committee may establish subcommittees, working groups, or any other bodies comprised of appropriate representatives from both Parties and delegate responsibilities to them in order to assist it in the performance of its tasks. The composition, duties and rules of procedure of such subcommittees, working groups or other bodies shall be in accordance with the relevant provisions of this Agreement or determined by the Joint Committee consistent with this Agreement.

3. The subcommittees, working groups and other bodies shall inform the Joint Committee, sufficiently in advance, of their schedule of meetings and of the agenda of those meetings. The subcommittees, working groups and other bodies, shall submit summaries of their meetings to the Joint Committee.

4. All decisions of the subcommittees, working groups and other bodies shall be taken by mutual agreement.

Article 13.5. Free Trade Agreement Coordinators

1. Each Party shall appoint a Free Trade Agreement Coordinator and notify the other Party of the details of such Coordinator within 60 days after the date of entry into force of this Agreement, as follows:

(a) For Viet Nam, the Multilateral Trade Policy Department, the Ministry of Industry and Trade, or its successor; and

(b) For Israel, Bilateral Agreements Department, Foreign Trade Administration, Ministry of Economy and Industry, or its successor.

2. The Coordinators shall jointly:

(a) develop agendas;

(b) make other preparations for the Joint Committee meetings;

(c) follow-up on the Joint Committee's decisions as appropriate;

(d) act as contact points to facilitate communication between the Parties on any matter covered by this Agreement, unless otherwise provided for in this Agreement;

(e) receive any notifications and information submitted under this Agreement, unless otherwise provided for in this Agreement;

(f) assist the Joint Committee in any other matter referred to them by the Joint Committee; and

(g) identify, upon request of the other Party, the office or official responsible for the matter and assist, as necessary, in facilitating communication with the requesting Party.

Chapter 14. DISPUTE SETTLEMENT

Article 14.1. Objective

1. The objective of this Chapter is to provide an effective and efficient dispute settlement process between the Parties for the avoidance and settlement of disputes arising under this Agreement.

2. The Parties shall endeavour to agree on the interpretation and application of this Agreement and shall make all efforts through cooperation, and consultations, to arrive at a mutually satisfactory solution concerning any matter raised under the scope of this Chapter.

Article 14.2. Scope

Except for matters arising under Chapter 10 (Government Procurement), and as otherwise provided in this Agreement, this Chapter shall apply with respect to the avoidance or settlement of all disputes between the Parties regarding the interpretation or application of this Agreement wherever a Party considers that:

(a) a measure of the other Party is inconsistent with its obligations under this Agreement; or

(b) the other Party has otherwise failed to carry out its obligations under this Agreement; or

(c) a benefit it could reasonably have expected to accrue to it under a provision of Chapters 2 (Trade in Goods), 3 (Rules of Origin), or 4 (Customs Administration and Trade Facilitation) is being nullified or impaired as a result of the application of a measure of the other Party that is not inconsistent with this Agreement, within the meaning of Article XXIII:1(b) of the GATT 1994.

Article 14.3. Mutually Agreed Solution

The Parties may reach a mutually agreed solution to a dispute under this Chapter at any time. The Parties shall jointly notify the Joint Committee of any such solution. Upon notification of the mutually agreed solution, any dispute settlement procedure under this Chapter shall be terminated.

Article 14.4. Consultations

1. Any dispute with respect to any matter referred to in Article 14.2 (Scope) shall, as far as possible, be settled by consultations between the Parties.

2. Any request for consultations shall be submitted in writing and shall give the reasons for the request, including identification of the measures or other matter referred to in Article 14.2 (Scope), and an indication of the legal basis of the request, including the provisions of the Agreement considered to be applicable.

3. If a request for consultation is made pursuant to paragraph 2, the Party to which the request is made shall reply to the request within 15 days after the date of its receipt and shall enter into consultations within a period of no more than 30 days after the date of receipt of the request, with a view to reaching a mutually agreed solution.

4. Consultations in cases of urgency, including those involving perishable goods shall be held within 15 days after the date of receipt of the request.

5. Consultations shall take place, unless the Parties agree otherwise, in the territory of the Party complained against.

6. The Parties shall make every effort to reach a mutually satisfactory solution to any matter through consultations. To this end, the Parties shall:

(a) provide sufficient information as may be reasonably available to it to enable a full examination of how the matter or measure subject to consultation might affect the operation of the Agreement; and

(b) treat as confidential any information exchanged during the consultations.

Article 14.5. Good Offices, Conciliation or Mediation

1. The Parties may at any stage of any dispute settlement procedure under this Chapter agree to undertake good offices, conciliation or mediation. Good offices, conciliation or mediation may begin at any time and be suspended or terminated by either Party at any time.

2. All proceedings and any documents submitted under this Article shall be confidential and without prejudice to the rights of either Party in any further proceedings under this Agreement or other proceedings.

Article 14.6. Choice of Forum

Disputes regarding any matter covered both by this Agreement and the WTO Agreement or any other free trade agreement to which both Parties are party may be settled in either forum selected by the complaining Party. Once dispute settlement procedures are initiated under Article 14.8 (Request for the Establishment of an Arbitral Tribunal) to this Agreement or under Article 6 of the Understanding on Rules and Procedures Governing the Settlement of Disputes contained in Annex 2 to the WTO Agreement or any other free trade agreement to which both Parties are party, the forum thus selected shall be used to the exclusion of the other fora.

Article 14.7. Qualification of Arbitrators

1. All arbitrators shall:

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

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

(c) be independent of, and not be affiliated with or take instructions from either Party;

(d) be nationals of states having diplomatic relations with both Parties; and

(e) comply with the Code of Conduct attached as Annex 14B (Code of Conduct) to this Agreement.

2. An individual shall not serve as a member of an arbitral tribunal for a dispute in which that person has participated under Article 14.5 (Good Offices, Conciliation or Mediation).

Article 14.8. Request for the Establishment of an Arbitral Tribunal

1. Unless the Parties agree otherwise, the complaining Party that requested consultations under Article 14.4 (Consultations) may request the establishment of an arbitral tribunal if the Parties failed to resolve the matter:

(a) within 60 days of the date of receipt of the request for consultations; or

(b) within 25 days of the date of receipt of the request for consultations for matters referred to in Article 14.4(4).

2. Requests for the establishment of an arbitral tribunal shall be made in writing to the Party complained against. The complaining Party shall identify in its request the specific measure or other matter at issue, and clearly present the legal basis for the complaint, including indicating the relevant provisions of this Agreement.

Article 14.9. Terms of Reference of the Arbitral Tribunal

Unless the Parties otherwise agree, within 20 days after the date of receipt of the request for the establishment of the arbitral tribunal, the terms of reference of the arbitral tribunal shall be:

“To examine, in the light of the relevant provisions of this Agreement, the matter referred to in the request for the establishment of an arbitral tribunal pursuant to Article 14.8(2), and to make findings, determinations and any jointly requested recommendations, as provided in Article 14.12(4).”

Article 14.10. Composition of the Arbitral Tribunal

1. The Parties shall apply the following procedures in establishing an arbitral tribunal:

(a) the arbitral tribunal shall comprise three arbitrators, unless the Parties agree otherwise;

(b) within 30 days after the date of receipt of the request for the establishment of the arbitral tribunal, each Party shall notify the other Party of its appointment of an arbitrator and propose up to four candidates, who are not nationals of either Party and do not have their usual place of residence in either Party, to serve as the chair of the arbitral tribunal. If a Party fails to appoint an arbitrator within this time, the arbitrator shall be appointed by the other Party from the candidates proposed for the chair by the Party that failed to appoint an arbitrator, if such a list exists or, in the absence of such a list, from the other Party's proposed candidates.

(c) the Parties shall endeavour to agree on a third arbitrator who shall serve as chair from among the candidates proposed, within 15 days from the date the second arbitrator has been appointed or selected. If the Parties fail to decide on a chair within this time period, within a further seven days, the chair shall be appointed after selection by lot, from the candidates

proposed, in the presence of representatives of both Parties.

2. The date of establishment of the arbitral tribunal shall be the date upon which the chair is appointed.

3. In case a Party raises a reasoned objection against an arbitrator regarding his or her compliance with the Code of Conduct attached as Annex 14B (Code of Conduct), the Parties shall follow the procedures provided for in rules 18 to 20 of Annex 14A (Rules of Procedure).

4. If an arbitrator appointed by a Party withdraws, is removed or becomes unable to serve, a replacement shall be appointed by that Party within 30 days and, in cases of urgency, within 15 days, failing which the replacement shall be appointed by the other Party from the candidates proposed for the chair in accordance with the second sentence of paragraph 1(b).

5. If the chair of the arbitral tribunal withdraws, is removed or becomes unable to serve, the Parties shall endeavour to decide on the appointment of a replacement within 30 days and, in cases of urgency, within 15 days, failing which the replacement shall be appointed in accordance with paragraph 1(c).

6. If an appointment in paragraph 4 or paragraph 5 would require selecting from the list of candidates proposed for chair and there are no remaining candidates, each Party shall propose up to three additional candidates within 30 days and, within a further seven days the arbitrator or the chair shall be appointed after selection by lot, from the candidates proposed, in the presence of representatives of both Parties.

Article 14.11. Function of Arbitral Tribunals

1. The arbitral tribunal shall make an objective assessment of the matter before it, in accordance with the request for the establishment of an arbitral tribunal, including an examination of the facts of the case and their applicability and consistency with this Agreement. If the arbitral tribunal determines that a measure is inconsistent with a provision of this Agreement, it shall recommend that the Party complained against bring the measure into conformity with that provision.

2. The arbitral tribunal shall base its report on the relevant provisions of this Agreement and on the information provided by the Parties during the proceedings, including submissions, evidence and arguments made at the hearings.

3. The arbitral tribunal established under this Chapter shall consider the provisions of this Agreement in accordance with applicable customary rules of interpretation of treaties including those set forth in the Vienna Convention on the Law of Treaties, done at Vienna on 23 May 1969. The report of the arbitral tribunal cannot add to or diminish the rights and obligations of the Parties provided for in this Agreement.

Article 14.12. Proceedings of Arbitral Tribunals

1. Unless agreed otherwise by the Parties, the arbitral tribunal shall apply the Rules of Procedure attached as Annex 14A (Rules of Procedure) that shall ensure:

(a) confidentiality of the proceedings and all written submissions to, and communications with, the arbitral tribunal;

(b) that the deliberations, sessions and meetings of the arbitral tribunal shall be held in closed sessions;

(c) that the hearings of the arbitral tribunal shall be held in open sessions, unless a Party requests otherwise;

(d) a right for each Party to at least one hearing before the arbitral tribunal;

(e) an opportunity for each Party to provide initial and rebuttal submissions;

(f) the ability of the arbitral tribunal to seek information, technical advice and expert opinions; and

(g) the protection of confidential information.

2. An arbitral tribunal shall adopt its decisions by consensus. In the event that an arbitral tribunal is unable to reach consensus, it shall adopt its decisions by majority vote.

3. Unless the Parties agree otherwise, the venue for the proceedings shall be at the capital of the Party complained against.

4. Unless the Parties otherwise agree, the arbitral tribunal shall, within 90 days after the chair is appointed, present to the Parties an initial report. The report shall include:

(a) findings of fact;

(b) the determination of the arbitral tribunal as to whether:

(i) the measure at issue is inconsistent with obligations in this Agreement; or

(ii) a Party has otherwise failed to carry out its obligations in this Agreement.

(c) any recommendations other than payment of monetary compensation that the Parties have jointly requested for the resolution of the dispute; and

(d) the reasons for the findings and determinations.

5. The arbitral tribunal shall allow the Parties 14 days to review the draft of the report prior to its finalization and shall include a discussion of any comments by the Parties in its report.

6. The arbitral tribunal shall present a final report to the Parties within 30 days of the presentation of the initial report, unless the Parties otherwise agree. When the arbitral tribunal considers that it cannot issue its report within 120 days after the date of its establishment, it shall inform the Parties in writing of the reasons for the delay and shall indicate the estimated period of time within which it will issue its report. Under no circumstances shall a report be issued later than 150 days after the date of establishment of the arbitral tribunal.

7. In cases of urgency, including those involving perishable goods, the arbitral tribunal shall make every effort to issue its report within 45 days from the date of its establishment. Under no circumstances shall the report be issued later than 75 days after the establishment of the arbitral tribunal. The arbitral tribunal shall give a preliminary ruling within 10 days of its establishment, on whether it deems the case to be urgent.

8. The report shall be final and binding on the Parties. The final report of the arbitral tribunal shall set out the elements specified in paragraph 4 of this Article.

9. Unless otherwise agreed by the Parties, the report of the arbitral tribunal may be published by either Party within 15 days after it is issued to the Parties, subject to the protection of confidential information.

Article 14.13. Suspension and Termination of Proceedings

1. Where the Parties agree, the Arbitral Tribunal may suspend its work at any time for a period not exceeding 12 months from the date of such agreement. If the work of the arbitral tribunal has been suspended for more than 12 months, the authority of the tribunal shall lapse unless the Parties agree otherwise.

2. In the event that the Parties reach a mutually satisfactory solution to the dispute, the Parties shall terminate the proceedings of an arbitral tribunal established under this Chapter.

3. Unless the Parties agree otherwise, suspension or termination of the proceedings is without prejudice to the rights of either Party in another proceeding on the same matter under this Chapter.

4. Before the arbitral tribunal issues its report, it may, at any stage of the proceedings, propose to the Parties that the dispute be settled amicably.

Article 14.14. Implementation of Report

1. The report of the arbitral tribunal shall be complied with promptly unless the Parties agree otherwise. If it is impracticable to do so, the Parties shall endeavour to agree on a reasonable period of time to comply. In the absence of such agreement, within 30 days from the date of the issuance of the report, either Party may request the original arbitral tribunal to determine the length of the reasonable period of time, in light of the particular circumstances of the case. A guideline for the arbitral tribunal shall be that the reasonable time to comply with the report should not exceed 15 months from the date the report was issued. However, in exceptional circumstances such reasonable period of time may be longer, but shall not exceed 24 months from the date the report was issued. The ruling of the arbitral tribunal should be given within 30 days from that request.

2. In case of disagreement as to the existence of a measure complying with the report of the arbitral tribunal or to the consistency of that measure with the report of the arbitral tribunal, such dispute shall be decided by the same arbitral tribunal before compensation can be sought or suspension of benefits can be applied in accordance with Article 14.15 (Compensation and Suspension of Benefits). In the event the original arbitral tribunal, or any of its members, is not available, the procedures established in Article 14.10 (Composition of the Arbitral Tribunal) shall apply. The ruling of the arbitral tribunal shall normally be rendered within 90 days of the request to the original arbitral tribunal or from the date of

the appointment of the last arbitrator in the event that the original arbitral tribunal or any of its members is not available.

Article 14.15. Compensation and Suspension of Benefits

1. If the Party concerned does not comply with the report within a reasonable period of time as provided for in Article 14.14(1), or notifies the complaining Party that it does not intend to do so, or if the arbitral tribunal determines that the responding Party did not comply with the arbitral tribunal report in accordance with Article 14.14(2), that Party shall, if so requested by the complaining Party, enter into consultations with a view to agreeing on a mutually acceptable compensation. If no such agreement has been reached within 20 days from the request, the complaining Party shall be entitled to suspend the application of benefits granted under this Agreement but only at a level equivalent to those affected by the measure or matter that the arbitral tribunal has found to be inconsistent with this Agreement.

2. In considering what benefits to suspend, the complaining Party should first seek to suspend benefits in the same sector or sectors as that affected by the measure or matter that the arbitral tribunal has found to be inconsistent with this Agreement. The complaining Party that considers it is not practicable or effective to suspend benefits in the same sector or sectors may suspend benefits in other sectors.

3. The complaining Party shall notify the Party complained against of the benefits which it intends to suspend, the grounds for such suspension and when suspension will commence, no later than 30 days before the date on which the suspension is due to take effect. Within 20 days from the receipt of such notification, the Party complained against may request the original arbitral tribunal to rule on whether the benefits which the complaining Party intends to suspend are at a level equivalent to those affected by the measure found to be inconsistent with this Agreement, and whether the proposed suspension is in accordance with paragraphs 1 and 2. In the event that the original arbitral tribunal or any of its members is not available, the procedures established in Article 14.10 (Composition of the Arbitral Tribunal) shall apply. The ruling of the arbitral tribunal shall be given within 45 days from the receipt of such request. Benefits shall not be suspended until the arbitral tribunal has issued its ruling.

4. Compensation and suspension of benefits shall be temporary measures and shall only be applied by the complaining Party until the measure or matter found to be inconsistent with this Agreement has been withdrawn or amended so as to bring it into conformity with this Agreement, or until the Parties have resolved the dispute otherwise.

5. At the request of a Party, the original arbitral tribunal shall rule on the conformity with the final report of any implementing measures adopted after the suspension of benefits and, in light of such ruling, whether the suspension of benefits should be terminated or modified. In the event the original arbitral tribunal, or any of its members, is not available, the procedures established in Article 14.10 (Composition of the Arbitral Tribunal) shall apply. The ruling of the arbitral tribunal shall be given within 30 days from the date of that request.

Article 14.16. Time Frames

All time frames stipulated in this Chapter may be reduced, waived or extended by mutual agreement of the Parties.

Article 14.17. Remuneration and Expenses

The remuneration and expenses of the arbitral tribunal shall be borne in equal parts by the Parties in accordance with Annex 14A (Rules of Procedure). All other expenses not specified in Annex 14A (Rules of Procedure) shall be borne by the Party incurring those expenses.

Annex 14-A. RULES OF PROCEDURE

Definitions

1. For the purposes of this Annex:

adviser means a person retained by a Party to advise or assist the Party related with the arbitral tribunal proceeding;

arbitral tribunal means an arbitral tribunal established under Article 14.10 (Composition of the Arbitral Tribunal);

arbitrator means a member of an arbitral tribunal established under Article 14.10 (Composition of the Arbitral Tribunal);

assistant means a person who, under the terms of appointment by an arbitrator, conducts research or provides other professional assistance to that arbitrator;

complaining Party means a Party that requests the establishment of an arbitral tribunal under Article 14.8 (Request for the Establishment of an Arbitral Tribunal);

court reporter means a designated note-taker;

expert means a person or body from whom the arbitral tribunal seeks information and technical advice pursuant to Rules 28 to 30 (Role of Experts) of this Annex;

legal holiday means every Friday, Saturday and Sunday and any other day designated by a Party as an official holiday;

Party complained against means a Party that received the request for the establishment of an arbitral tribunal under Article 14.8 (Request for the Establishment of an Arbitral Tribunal);

proceedings means an arbitral tribunal proceeding; and

representative means an employee of a government department or agency or of any other government entity of a Party.

2. Any reference made in these rules of procedure to an Article is a reference to the appropriate Article in Chapter 14 (Dispute Settlement).

Administration of Proceedings

3. The Party in whose territory the proceedings take place shall be in charge of the logistical administration of dispute settlement proceedings, in particular the organization of hearings, unless the Parties agree otherwise.

Composition of Arbitral Tribunal

4. The date of the appointment of the arbitrator shall be considered as the date upon which the candidate submits its written acceptance to the Parties. If the candidate fails to communicate its acceptance to the Parties, within three days after the candidate was informed of its selection, such candidate shall be deemed not to accept the appointment.

Written Submissions and Other Documents

5. Each Party shall deliver the original and no less than four copies of any written submission to the arbitral tribunal and one copy to the Embassy of the other Party. Delivery of submissions and any other document related to the arbitral tribunal proceeding may be made by facsimile or other means of electronic transmission if the Parties so agree. Where a Party delivers physical copies of written submissions or any other document related to the arbitral tribunal proceeding, that Party shall deliver an electronic version of such submissions or other document at the same time.

6. The deadlines are counted from the following date of the receipt of such submission or documents. The complaining Party shall deliver a complete initial written submission to the Party complained against no later than 30 days after the date on which the last arbitrator is appointed. The Party complained against shall, in turn, deliver a written counter-submission no later than 30 days after the date of receipt of the initial written submission of the complaining Party.

7. The arbitral tribunal shall establish, in consultation with the Parties, dates for the delivery of the subsequent written rebuttal submissions of the Parties and any other written submission that the arbitral tribunal and the Parties agree are appropriate.

8. A Party may at any time correct minor errors of a clerical nature in any written submission or other document related to the arbitral tribunal proceeding by delivering a new document clearly indicating the changes.

9. If the last day for delivery of a document falls on a legal holiday observed by a Party or on any other day on which the government offices of that Party are closed by order of the government or by force majeure, the document may be delivered on the next business day.

Burden of Proof

10. A Party asserting that a measure of the other Party is inconsistent with its obligations under this Agreement, or that the other Party has otherwise failed to carry out its obligations under this Agreement, or that a benefit the Party could reasonably have expected to accrue to it is being nullified or impaired as a result of a measure that is not inconsistent with this Agreement, shall have the burden of proving its assertions.

11. A Party asserting that a measure is subject to an exception under this Agreement shall have the burden of proving that the exception applies.

Operation of Arbitral Tribunals

12. The chair of the arbitral tribunal shall preside at all of its meetings. An arbitral tribunal may delegate to the chair of the arbitral tribunal authority to make administrative decisions regarding the proceedings. Unless the Parties agree otherwise, the arbitral tribunal within seven days of its establishment shall contact the Parties in order to discuss administrative matters.

13. The arbitral tribunal may conduct its business by any appropriate means, including technological means such as telephone, facsimile transmission, and video or computer links.

14. Only arbitrators may take part in the deliberations of the arbitral tribunal. The arbitral tribunal may, in consultation with the Parties, employ such number of assistants, interpreters or translators, or court reporters as may be required for the proceeding and permit them to be present during such deliberations.

15. Where a procedural question arises that is not addressed by these rules, an arbitral tribunal may, in consultation with the Parties, adopt an appropriate procedure that is consistent with this Agreement.

16. The time period applicable to the arbitral tribunal proceedings shall be suspended for a period that begins on the date on which any member of the arbitral tribunal becomes unable to act and ends on the date on which the successor is appointed.

17. An arbitral tribunal may, upon mutual agreement between the Parties, modify any time period applicable in the proceedings and make other procedural or administrative adjustments as may be required in the proceedings. An arbitral tribunal, in consultation with the Parties, may, in light of unforeseen developments, modify a time period applicable in the arbitral tribunal proceedings and make other procedural or administrative adjustments required for the fairness or efficiency of the proceeding.

Removal of an Arbitrator

18. Where a Party considers that an arbitrator or the chair is not in compliance with the requirements of the Code of Conduct and for this reason must be replaced, that Party shall immediately notify the other Party. Upon receipt of such notice, the Parties shall consult and, if they so decide, shall replace the arbitrator or the chair and select a replacement.

19. If the Parties fail to decide on the need to replace an arbitrator within 10 days of receipt of a notice mentioned in Rule 18, either Party may request that the matter be referred to the chair of the arbitral tribunal, whose decision shall be final. The chair shall render a decision within 10 days of the request. If the chair decides that the arbitrator should be replaced, a replacement shall be selected using the procedure set out in Article 14.10(4).

20. If the Parties cannot reach a decision on the need to replace the chair within 10 days of receipt of a notice mentioned in Rule 18, a replacement shall be selected using the procedure set out in Article 14.10(5).

Hearings

21. The chair of the arbitral tribunal shall fix the date and time of the initial hearing and any subsequent hearings in consultation with the Parties and the arbitrators, and then notify the Parties of those dates and times in writing no later than 15 days prior to the hearings.

22. The arbitral tribunal may convene additional hearings if the Parties so agree.

23. All arbitrators shall be present during the entirety of any hearing.

24. No later than five days before the date of a hearing, each Party shall deliver to the other Party and the arbitral tribunal a list of the names of those persons who will be present at the hearing on behalf of that Party and of other representatives or advisers who will be attending the hearing.

25. Each hearing shall be conducted by the arbitral tribunal in a manner that ensures that the complaining Party and the Party complained against are afforded equal time for arguments, replies and counter-replies.

26. Hearings shall be open to the public, unless a Party requests otherwise. The hearings shall be held in closed session when the submissions and arguments of a Party contain confidential information. The arbitral tribunal may, in consultation with the Parties, adopt appropriate logistical arrangements and procedures to ensure that hearings are not disrupted by the attendance of the public.

27. The arbitral tribunal shall arrange the preparation of hearing transcripts, if any, and shall, as soon as possible after any such transcripts are prepared, deliver a copy to each Party.

Role of Experts

28. Upon request of a Party, or on its own initiative, the arbitral tribunal may seek information and technical advice from any person or body that it deems appropriate, relating to the factual or legal issues before it, subject to Rules 29 and 30 and such additional terms and conditions as the Parties may agree upon. The requirements set out in Article 14.7 (Qualification of Arbitrators) shall apply to the experts or bodies, as appropriate.

29. Before the arbitral tribunal seeks information or technical advice, it shall:

(a) notify the Parties of its intention to seek information or technical advice pursuant to Rule 28 and the reasons for seeking it. In addition, the arbitral tribunal shall identify the expert from whom or which the information or technical advice is sought. The arbitral tribunal shall provide the Parties with an adequate period of time to submit comments; and

(b) provide the Parties with a copy of any information or technical advice received pursuant to Rule 28 and provide them with an adequate period of time to submit comments.

30. When the arbitral tribunal takes into consideration the information or technical advice received pursuant to Rule 28 for the preparation of its report, it shall also take into consideration any comments or observations submitted by the disputing Parties with respect to such information or technical advice.

Questions in Writing

31. The arbitral tribunal may at any time during the proceedings address questions in writing to one or both Parties. The Parties shall receive a copy of any questions put forward by the arbitral tribunal.

32. Each Party shall also provide a copy of its written response to the arbitral tribunal's questions to the other Party. The Parties shall be given the opportunity to provide written comments on the reply of the other Party within seven days of the date of delivery.

Ex Parte Contacts

33. Neither Party may communicate with the arbitral tribunal without notifying the other Party. The arbitral tribunal shall not communicate with a Party in the absence of, or without notifying, the other Party.

34. No arbitrator may discuss any aspect of the substantive subject matter of the proceedings with the Parties in the absence of the other arbitrators.

Availability of Information

35. The Parties shall maintain the confidentiality of the arbitral tribunal's hearings, deliberations and initial report, and all written submissions to, and communications with, the arbitral tribunal, in accordance with the following procedures:

(a) a Party may make available to the public at any time its own written submissions;

(b) to the extent it considers necessary to protect personal privacy or legitimate commercial interests of particular enterprises, public or private, or to address essential confidentiality concerns, a Party may designate specific information included in its written submissions, or that it has presented in the arbitral tribunal hearing, for confidential treatment;

(c) a Party shall treat as confidential any information submitted by the other Party to the arbitral tribunal that the latter Party has designated as confidential pursuant to subparagraph (b); and

(d) each Party shall take such reasonable steps necessary to ensure that experts, interpreters, translators, court reporters and other individuals involved in the arbitral tribunal proceedings maintain the confidentiality of the arbitral tribunal proceedings.

Remuneration and Payment of Expenses

36. Unless the Parties otherwise agree, the expenses of the arbitral tribunal, the remuneration of the arbitrators and their assistants, their travel and lodging expenses, and all general expenses shall be borne in equal shares between the Parties.

37. Each arbitrator shall keep a record and render a final account of his or her time and expenses, and those of any assistant, and the arbitral tribunal shall keep a record and render a final account of all general expenses.

Language

38. All proceedings relating to the dispute settlement proceedings shall be conducted in the English language.

39. Any document submitted for use in any proceedings pursuant to this Chapter shall be in the English language. If any

original document is not in the English language the Party submitting such document shall provide an English translation of that document.

Time Limits

40. All time limits laid down in this Chapter, including the limits for the arbitral tribunals to issue their rulings, shall be counted in calendar days, the first day being the day following the act or fact to which they refer.

Annex 14-B. CODE OF CONDUCT

Definitions

1. For the purposes of this Annex:

arbitrator means a member of an arbitral tribunal established under Article 14.10 (Composition of the Arbitral Tribunal);

assistant means a person who, under the terms of appointment by an arbitrator, conducts research or provides other professional assistance for the arbitrator;

expert means a person or body from whom the arbitral tribunal seeks information and technical advice pursuant to Rules 28 to 30 (Role of Experts) of the Rules of Procedure in Annex 14A (Rules of Procedure);

proceeding, unless otherwise specified, means an arbitral tribunal proceeding under this Chapter; and

staff means persons under the direction and control of the arbitral tribunal or of an arbitrator, other than assistants.

Responsibilities to the Process

2. Every arbitrator shall avoid impropriety and the appearance of impropriety, shall be independent and impartial, shall avoid direct and indirect conflicts of interests and shall observe high standards of conduct so that the integrity and impartiality of the dispute settlement process are preserved.

Disclosure Obligations

3. Prior to confirmation of his or her appointment as an arbitrator 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 reasonable efforts to become aware of any such interests, relationships and matters. The candidate shall disclose such interests, relationships and matters by completing and providing the Undertaking Form attached to this Annex to the Joint Committee for consideration by the Parties.

4. Without limiting the generality of the obligation in Rule 3, candidates shall disclose the following interests, relationships and matters:

(a) any direct or indirect financial, business, property, professional or personal interest, past or existing, of the candidate:

(i) in the proceeding or in its outcome; and

(ii) in an administrative, arbitral or court proceeding or another tribunal or committee proceeding that involves an issue that may be decided in the proceeding for which the candidate is under consideration ;

(b) any financial, business, property, professional or personal interest, past or existing, of the candidate's employer, partner, business associate or family member:

(i) in the proceeding or in its outcome; and

(ii) in an administrative, arbitral or court proceeding or another tribunal or committee proceeding that involves issues that may be decided in the proceeding for which the candidate is under consideration;

(c) any past or existing financial, business, professional, family or social relationship with a person or entity that has an interest in the proceeding, or the Party’s counsel, representative or adviser, or any such relationship involving a candidate's employer, partner, business associate or family member; and

(d) public advocacy, including statements of personal opinion, or legal or other representation concerning an issue in dispute in the proceeding or involving the same type of goods, services or investments.

5. Once appointed, an arbitrator shall continue to make all reasonable efforts to become aware of any interests, relationships and matters referred to in Rules 3 and 4 and shall disclose them by communicating them in writing to the Joint Committee for consideration by the Parties. The obligation to disclose is a continuing duty, which requires an arbitrator to disclose any such interests, relationships and matters that may arise during any stage of the proceeding.

6. This Annex does not determine whether or under what circumstances the Parties will disqualify a candidate, or an arbitrator from being appointed to or serving as a member of an arbitral tribunal, on the basis of disclosures made.

Performance of Duties by Arbitrators

7. In addition to this Annex, an arbitrator shall comply with the provisions of the Chapter 14 (Dispute Settlement) and Annex 14A (Rules of Procedure).

8. Upon appointment, an arbitrator shall perform his or her duties thoroughly and expeditiously throughout the course of the proceeding with fairness and diligence.

9. An arbitrator shall consider only those issues raised in the proceeding and necessary to issue the reports and rulings of the arbitral tribunal and shall not delegate any of his or her duties to any other person, except as provided for in Rule 12 of Annex 14A (Rules of Procedure).

10. An arbitrator shall take all appropriate steps to ensure that his or her assistants and staff are aware of, and comply with this Annex, mutatis mutandis.

11. An arbitrator shall not engage in ex parte communications concerning the proceeding.

12. An arbitrator shall not communicate matters concerning actual or potential violations of this Annex unless the communication is to both Parties or is necessary to ascertain whether that arbitrator has violated or may violate this Annex.

Independence and Impartiality of Arbitrators

13. An arbitrator shall be independent and impartial. An arbitrator shall act in a fair manner and shall avoid creating an appearance of impropriety, bias or that he or she would benefit from the decision or ruling of the arbitral tribunal.

14. An arbitrator shall not be influenced by self-interest, outside pressure, political considerations, public clamor, loyalty to a Party, or fear of criticism.

15. An arbitrator shall not, directly or indirectly, incur any obligation or accept any benefit that would in any way interfere, or appear to interfere, with the proper performance of the arbitrator’s duties.

16. An arbitrator shall not use his or her position on the arbitral tribunal to advance any personal or private interests. An arbitrator shall avoid actions that may create the impression that others are in a special position to influence the arbitrator.

17. An arbitrator shall not allow past or existing financial, business, professional, family or social relationships, or responsibilities to influence the arbitrator's conduct or judgment.

18. An arbitrator shall avoid entering into any relationship, or acquiring any financial interest, that is likely to affect the arbitrator's impartiality or that might reasonably create an appearance of impropriety or bias.

Obligations of Former Arbitrators

19. A former arbitrator shall avoid actions that may create the appearance that he or she was biased in carrying out his or her duties or derived advantage or benefit from the decisions or rulings of the arbitral tribunal.

Maintenance of Confidentiality

20. An arbitrator or former arbitrator shall not at any time disclose or use any non- public information concerning a proceeding or acquired during a proceeding except for purposes of the proceeding and shall not, in any case, disclose or use any such information to gain personal advantage or advantage for others or to affect adversely the interest of others.

21. An arbitrator or former arbitrator shall not disclose an arbitral tribunal report or parts thereof prior to its publication.

22. An arbitrator or former arbitrator shall not at any time disclose the deliberations of an arbitral tribunal or any arbitrator’s view except as required by law.

Mediators and Conciliators and Experts

23. The provisions described in this code of conduct shall apply, mutatis mutandis, to mediators, conciliators and experts.

UNDERTAKING IN THE MATTER OF PROCEEDING (TITLE)

I have read the Code of Conduct for dispute settlement procedures for the Viet Nam- Israel Free Trade Agreement (the Code of Conduct) and affirm that I comply with the standards and obligations set out in that Code of Conduct.

To the best of my knowledge there is no reason why I should not accept appointment/selection as an arbitrator/mediator/conciliator/assistant/expert in this proceeding.

The following matters could potentially be considered to affect my independence or impartiality, or might create an appearance of impropriety or an apprehension of bias in the proceeding:

[Set out the details of any interests covered by paragraph 3, and in particular all relevant information covered by paragraph 4.]

I recognize that, once appointed/selected, I have a continuing duty to uphold all obligations specified in this Code of Conduct including to make all reasonable efforts to become aware of any interest, relationship, or matter referred to in this Code of Conduct that may arise during any stage of the proceedings. I will disclose in writing any applicable interest, relationship, or matter to the Parties as soon as I become aware of it.

Signature_____

Name_____

Date_____

Chapter 15. FINAL PROVISIONS

Article 15.1. Annexes, Appendices and Footnotes

The annexes, appendices and footnotes to this Agreement shall constitute integral parts of this Agreement.

Article 15.2. Amendments

1. The Parties may agree upon any amendments to this Agreement in writing.

2. Amendments to this Agreement shall enter into force and constitute an integral part of this Agreement in accordance with the procedures set forth in Article 15.3 (Entry into force).

Article 15.3. Entry Into Force

This Agreement shall enter into force 60 days after the date of the latter Diplomatic Note by which the Parties notify each other that their internal legal procedures for the entry into force of the Agreement have been completed or any other period that the Parties may agree.

Article 15.4. Duration and Termination

1. This Agreement shall be valid for an indefinite period.

2. Either Party may terminate this Agreement by means of a written Diplomatic Note to the other Party. Such termination shall become effective six months after the date of receipt of such notification by the other Party.

Article 15.5. Amendments to the WTO Agreement

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

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this

Agreement.

Done at _____, on _____ 2023 which corresponds to the _____ day of _____ in the year 5783 in the Hebrew calendar, in two original copies in the English language, both texts being equally authentic.

ANNEX I. RESERVATIONS FOR EXISTING MEASURES SCHEDULE OF THE STATE OF ISRAEL

EXPLANATORY NOTE

1. Israel's schedule to this Annex sets out, pursuant to subparagraph 1 of Article 8.7 (Non-Conforming Measures) and 9.8(Non-Conforming Measures), its existing measures that are not subject to some or all of the obligations imposed by:

(a) Article 8.3 (National Treatment) or 9.4 (National Treatment);

(b) Article 8.4 (Most-Favored-Nation Treatment) or 9.5 (Most-Favored-Nation Treatment);

(c) Article 8.5 (Market Access):

(d) Article 8.6 (Local Presence);

(e) Article 9.6 (Performance Requirements); or

(f) Article 9.7 (Senior Management and Board of Directors)

2. Each Schedule entry sets out the following elements:

(a) “Sector” refers to the sector for which the entry is made;

(b) “Sub-Sector”, where referenced, refers to the specific sub-sector for which the entry is made;

(c) “Industry Classification”, where referenced, and only for transparency purposes, refers to the activity covered by the non-conforming measure, according to domestic or international industry classification codes;

(d) “Obligations Concerned” specifies the obligations referred to in paragraph 1 that, pursuant to subparagraph 1(a) of Article 8.7 and subparagraph 1(a) of Article 9.8, do not apply to the listed measure(s);

(e) “Measures” identifies the laws, regulations or other measures for which the entry is made. A measure cited in the “Measures” element:

(i) means the measure as amended, continued or renewed as of the date of entry into force of this Agreement, and

(ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure; and

(f) “Description” sets out the non-conforming measure or provides a general description 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 the light of the relevant provisions of this Agreement against which the entry is taken, and the “Measures” element shall prevail over all the other elements.

4. For the purposes of this Annex the term “CPC” means Provisional Central Product Classification (Statistical Papers Series M No. 77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991).

5. A Schedule entry for a requirement to be an Israeli national or resident is inscribed with respect to Article 8.6 (Local Presence) and Article 8.3 (National Treatment).

6. For greater certainty, a Schedule entry for a requirement to be an Israeli national or resident inscribed with respect to 8.3 (National Treatment) or Article 9.4 (National Treatment) shall be considered a limitation with respect to Article 8.5 (Market Access) as well.

7. For greater certainty, in accordance with Article 8.1.3, a Schedule entry for a non-conforming measure with respect to Article 8.5 (Market Access) shall also apply to measures adopted or maintained by Israel affecting the supply of a service in its territory through commercial presence, notwithstanding the heading of the Description element.

1 Sector: All

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Senior Management and Board of Directors (Article 9.7)

Measures: The Companies Law, 1999 (Articles 115, 118A, 239 and 240).

Description: Investment

A public corporation or a company that has issued debt securities to the public (hereafter Debenture Company) must have on its board of directors at least two outside directors.

All outside directors of a public company must be Israeli residents.

All outside directors shall be members of the audit committee and of the remuneration committee and form a majority thereof. There shall be no fewer than three members in the audit committee and no fewer than three members in the remuneration committee.

However, a public company or a debenture company whose shares or debt - or part of them- were offered to the public outside Israel, or that is registered in a stock exchange outside Israel, can appoint outside directors who are not Israeli residents.

2 Sector: All

Obligations Concerned:

Performance Requirements (Article 9.6)

Measures: Bankruptcy Ordinance, 1980

Companies Law, 1999 (Articles 350-351)

Companies Ordinance, 1983

Description: Investment

When an investor or an investment is declared bankrupt or insolvent and subject to debt restructuring proceedings, Israel may demand a transfer of technology, a production process or other proprietary knowledge to the extent necessary for the proceedings.

3 Sector: All

Obligations Concerned:

Market Access (8.5)

National Treatment (Articles 8.3 and 9.4)

Performance Requirements (Article 9.6)

Local Presence (Article 8.6)

Measures: Law for Hazardous Substances, 1993

Law for the Prevention of Asbestos Hazards and Damaging Dust, 2011

Law of Environmental Treatment of Electrical and Electronic Equipment and Batteries, 2012

Water Law, 1959

Hazardous Substances Regulations (Import and Export of Hazardous Substances), 1994

Law for the Regulation of the Practice of Pest Control, 2016

Law for the Treatment of Packing Material, 2011

Business Licensing Regulations (Disposal of Hazardous Material Waste), 1990

Description: Cross-Border Trade in Services and Investment

1. Nationality or residency of Israel is required for hazardous substances handler permit.

2. A refuse disposal enterprise for environmental treatment of electrical and electronic equipment and batteries shall employ only nationals or residents of Israel.

3. Certain hazardous materials may only be treated by the Environmental Services Company.

4. Nationality or residency of Israel is required to obtain a permit for collection and treatment of asbestos.

5. At least one employee of an asbestos contractor, that performs dismantling and removal of asbestos, shall be a national or resident of Israel.

6. Export of packaging material waste is limited to 20 percent of the recycling objective in accordance with the Law for the Treatment of Packing Material, 2011.

7. Obtainment of permit for export of hazardous substances requires authorization by the Ministry of Environmental Protection.

4 Sector: Electronic Signature

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Measures: Electronic Signature Law, 2001 (Articles 11 and 22)

Description: Cross-Border Trade in Services and Investment

1. Registration as a “foreign issuer of electronic certificate” may be subject to additional conditions as set out in the Electronic Signature Law, 2001.

2. Registration as an issuer of electronic certificate other than a “foreign issuer of electronic certificate” requires to be a national or permanent resident of Israel or an enterprise incorporated in Israel and having its main operations and center of business in Israel.

5 Sector: Fishery

Obligations Concerned:

National Treatment (Article 9.4)

Measures: Fishery Regulation, 1937 (Articles 2-3)

Description: Investment

Issuance, continuation and amendment of fishery license require authorization by the Ministry of Agriculture. Israel reserves the right not to issue a fishery license for foreign nationals or enterprises under Fishery Regulation, 1937.

6 Sector: Business Services

Sub-Sector: Legal Services

Industry Classification: CPC 861

Obligations Concerned:

National Treatment (Article 9.4)

Local Presence (Article 8.6)

Measures: Bar Association Law, 1961 (Articles 20, 42, 98-98M)

Description: Cross-Border Trade in Services and Investment

1. Israeli residency is required for obtaining a license to practice Israeli law.

2. Foreign licensed lawyers may give legal services pertaining to foreign law or international law in Israel provided that they

are registered with the Israeli Bar Association.

7 Sector: Business Services

Sub-Sector: Taxation Services

Industry Classification: CPC 863

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Performance Requirements (Article 9.6)

Local Presence (Article 8.6)

Measures: Income Tax Ordinance [New Version], 1961 (Article 236)

Regulation of Representation by Tax Consultants Law, 2005 (Article 10)

Description: Cross-Border Trade in Services and Investment

A corporation's tax return to the Tax Authority must be certified by an auditor licensed in Israel. An auditor may be either an accountant or a tax consultant, licensed in Israel. Israeli residency requirement for tax consultancy license.

8 Sector: Business Services

Sub-Sector: Veterinary Services

Industry Classification: CPC 932

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Local Presence (Article 8.6)

Measures: Veterinarians Law, 1991 (Articles 5 and 17)

Description: Cross-Border Trade in Services and Investment

1. Israeli residency or nationality is required to obtain a license.

2. Foreign veterinarians, who are not Israeli residents or nationals, may obtain a permit from the Ministry of Agriculture for advising, teaching and research.

9 Sector: Business Services

Sub-Sector: Tower crane operator; mobile crane operator

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Local Presence (Article 8.6)

Measures: Guidelines for renewing or amending certification for tower crane operators and mobile crane operators, Nb 441679

Description: Cross-Border Trade in Services and Investment

Israeli residency or nationality required in order to obtain authorization to operate.

10 Sector: Business Services

Sub-Sector: Building Cleaning Services, except of disinfecting and exterminating services

Obligations Concerned:

Local Presence (Article 8.6)

National Treatment (Articles 8.3 and 9.4)

Senior Management and Board of Directors (Article 9.7)

Measures: Law of Employment of Workers by Private

Employment Contractors, 1996

Companies Law, 1999, Article 1

Description: Cross-Border Trade in Services and Investment

1. A private employment contractor enterprise for employment of workers in the building cleaning servicesshall appoint at least one position holder who is a national or resident of Israel.

2. The granting of a license may be conditioned upon the existence of a local office.

Note: For the purposes of this Schedule entry, “position holder” is the director general, chief business officer, deputy director general, vice director general or any persons in equivalent positions, member of the board of directors or other officers who directly report to the director general, as defined in Article 1 of the Companies Law, 1999. Further it is understood that director general is an equivalent position to chief executive officer.

11 Sector: Communications

Sub-Sector: Domestic Fixed Line Services, International Communications Services and Radio and Mobile Telephone Services

Obligations Concerned:

National Treatment (Article 8.3 and 9.4)

Local Presence (Article 8.6)

Senior Management and Board of Directors (Article 9.7)

Measures: Communications Regulations (Telecommunications and Broadcasting) (Procedures and Conditions for Obtaining a General License for the Provision of Domestic Fixed-Line Telecommunication Services), 2000, Article 11

Communication Law (Telecommunications and Broadcasting), 1982, Articles 4-4H and 6-7

Communications Regulations (Telecommunications and Broadcasting) (Procedures and Conditions for Obtaining a Unified General License), 2010, Article 10

Description: Cross-Border Trade in Services and Investment

1. In an enterprise supplying domestic fixed line services:

(a) foreign holding is limited to 80 percent;

(b) 75 percent of the members of the board of directors shall be nationals of Israel who are residents ofIsrael; and

(c) the director general shall be a national of Israel who is a resident of Israel.

2. In an enterprise supplying international communications services:

(a) foreign holding is limited to 74 percent;

(b) majority of the members of the board of directors shall be nationals of Israel who are residents of Israel;

(c) the director general shall be a national of Israel who is a resident of Israel; and

(d) the enterprise shall be incorporated in Israel and have its main operations and center of business inIsrael.

3. In an enterprise supplying radio and mobile telephone services:

(a) foreign holding is limited to 80 percent;

(b) majority of the members of the board of directors shall be nationals of Israel who are residents ofIsrael; and

(c) the enterprise shall be incorporated in Israel and have its main operations and center of business in Israel.

12 Sector: Communications

Sub-Sector: Broadcasting

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Performance Requirements (Article 9.6)

Local Presence (Article 8.6)

Senior Management and Board of Directors (Article 9.7)

Measures: Broadcasting Authority Law, 1965 (Articles 44C-44F)

Communication Law (Telecommunications and Broadcasting), 1982 (Articles 4-4H and 6-7)

Communications Regulations (Terms and Conditions for Satellite Broadcasting License), 1998 (Articles 13, 20 and 21)

Second Authority for Television and Radio Law, 1990 (Articles 41 and 59)

Public Broadcasting Law, 2014 (Article 64)

Description: Cross-Border Trade in Services and Investment

1. In an enterprise that holds a license for cable broadcasting at least 26 percent of the means of control in the enterprise shall be held by nationals of Israel who are residents of Israel. The license shall not be granted to an enterprise in which a foreign government holds shares, but the Minister of Communications may authorize an indirect holding in the licensee of up to 10 percent by such an enterprise.

2. In an enterprise that holds a license for satellite broadcasting:

(a) at least 26 percent of the means of control in the enterprise shall be held by nationals of Israel who are residents of Israel;

(b) its main operations and center of business are located in Israel;

(c) a majority of its members of the board of directors and any persons in equivalent positions shall be nationals of Israel who are residents of Israel; and

(d) its director general or any persons in equivalent management position shall be a national of Israel who is a resident of Israel.

3. At least 51 percent of the means of control in a holder of a concession for operating commercial television broadcasting or regional radio broadcasting must be held by nationals of Israel who are residents of Israel.

4. In television broadcasting, including satellite and cable broadcasting, each broadcasting enterprise operating under license or concession is committed to spend a certain amount of its annual budget for local production, as defined in the legislation listed in the “Measures” element and to broadcast it.

13 Sector: Educational Services

Sub-Sector: Driving Instructor

Industry Classification: Part of CPC 929

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Local Presence (Article 8.6)

Measures: Road Transport Regulations, 1961 (Articles 213C, 247, 251)

Description: Cross-Border Trade in Services and Investment

Israeli residency or nationality is required to obtain a driving instructor license.

14 Sector: Tourism

Sub-Sector: Travel Agencies and Tour Operators

Tourist Guides Services

Industry Classification: CPC 7471, 7472

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Local Presence (Article 8.6)

Measures: Tourism Services Regulations (Tourist Guides), 1967 (Articles 2 and 9E)

Description: Cross-Border Trade in Services and Investment

1. Israeli residency or nationality is required to obtain a tourist guide license.

2. Only licensed tourist guides may be employed by travel agencies and operators to guide their tours in Israel.

15 Sector: Transport

Sub-Sector: Maritime Transport

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Local Presence (Article 8.6)

Measures: Shipping Law (Vessels), 1960

Ports Ordinance, 1971

Ports Regulations (Safety of Navigation), 1982

Shipping Law (Seafarers), 1973

Maritime Regulations (Seafarers), 2002

Maritime Regulations (Seafarers) (Staffing of Vessels and Tugboats with Israeli Seafarers), 2016

Shipping and Ports Authority Law, 2004

Shipping Law (Foreign Sea Vessel under Israeli Control), 2005

Description: Cross-Border Trade in Services and Investment

1. In order to register in the Israeli vessel registry and carry an Israeli flag, a majority ownership of a vessel by a national of Israel or an enterprise incorporated in Israel or by Israel is required (“Israeli Vessel.")

2. A foreign vessel that is controlled by a national or resident of Israel or by an enterprise incorporated in Israel shall be registered in Israel in accordance with Shipping Law (Foreign Sea Vessel under Israeli Control), 2005 (“Foreign Vessel”).

3. Israeli seafarers are required in order to operate an Israeli vessel or a foreign vessel referred to in paragraph 2.

4. Seafarer certificate requires nationality of Israel.

Providing a certificate to non-residents is subject to prior approval by the Administrator of Shipping and Ports.

16 Sector: Transportation

Sub-Sector: Aircraft repair and maintenance services as defined in the GATS Annex on Air Transport Services

Obligations Concerned:

Market Access (Article 8.5)

Measures: Air Navigation Regulations (Approved Maintenance Organizations), 2013 (Article 25)

Description: Investment

The number of service suppliers of base maintenance and repair in each airport can be limited, due to available space constraints.

17 Sector: Transportation

Sub-Sector: Motor vehicle

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Performance Requirements (Article 9.6)

Local Presence (Article 8.6)

Senior Management and Board of Directors (Article 9.7)

Measures: Supervision Order on Commodities and Services (Imports of Motor Vehicle and Services to Motor Vehicle), 1978, Article 3

Law of Licensing of Services and Professions in the Motor Vehicle Sector, 2016, Articles 2, 20, 41, 42, 44, 68, 97, 98, 136, 143 and 149

Companies Law, 1999, Article 1

Description: Cross-Border Trade in Services and Investment

1. License is required in order to commercially import motor vehicles. The director general and at least one interested party as defined in Article 1 of the Companies Law, 1999, of a corporation applying for licensure, shall be nationals or residents of Israel.

2. License is required in order to manufacture and market motor vehicles or to trade in motor vehicles and the license holder must be:

(a) a national or resident of Israel who is a sole proprietor; or

(b) a registered corporation in Israel whose director general and at least one interested party as defined in Article 1 of the Companies Law, 1999, are nationals or permanent residents of Israel.

3. License is required in order to brokerage in motor vehicle private import and the license holder must be:

(a) a national or resident of Israel who is a sole proprietor; or

(b) an employee of a registered corporation in Israel whose director general and at least one interested party as defined in Article 1 of the Companies Law, 1999, are nationals or residents of Israel.

4. License is required in order to manufacture traffic products, as defined in Article 2 of the Law of Licensing of Services and Professions in the Motor Vehicle Sector, 2016, and the license holder must be:

(a) a sole proprietor; or

(b) a registered corporation in Israel the director general and at least one interested party as defined in Article 1 of the Companies Law, 1999, of which are nationals or residents of Israel.

5. Israel may determine that certain traffic products, as defined in Article 97 of the Law of Licensing of Services and Professions in the Motor Vehicle Sector, 2016, are made for marketing in the Israeli market alone.

6. Nationality or permanent residency of Israel is required for licensure as a motor vehicle appraiser.

7. Nationality or residency of Israel is required for licensure as a professional manager of a motor vehicle service center (garage) and at least one licensed professional manager is required to be available on the premises in order to operate a motor vehicle garage.

Note 1: “Traffic Product” as defined in Article 2 of the Law of Licensing of Services and Professions in the Motor Vehicle

Sector, 2016, is an accessory, a part, system of parts, an appliance with the exception of an appliance that is a work tool used by garages or manufacturers only, a device or substance that is a liquid, solid or gas, that is used or designed to be used for assembly, maintenance or the proper operation of a motor vehicle or for ensuring thesafety of a motor vehicle or for ensuring user safety or for his convenience.

Note 2: For the purposes of this Schedule, it is understood that director general is an equivalent position to chief executive officer.

Note 3: For the purposes of this Schedule, “interested party”, as defined in Article 1 of the Companies Law, 1999, is:

(a) a substantial shareholder;

(b) a person with the power to appoint one or more members of the board of directors or the director general; or

(c) a person who serves in the enterprise as a member of the board of directors or as a director general.

18 Sector: Transportation

Sub-Sector: Driving Licenses and Road Transport Services, including Passenger Transportation Services, Motor Vehicle

Mechanics Safety Officer

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Local Presence (Article 8.6)

Measures: Road Transport Regulations, 1961 (Articles 175-190, 213-213H, 216, 221, 221A, 247, 251, 531, 567, 567B and 582)

Road Transport Ordinance (Article 14)

Supervision Order on Commodities and Services (Purchase, Installation and Maintenance of Taxi Meters), 1984

Companies Law, 1999 (Article 1)

Description: Cross-Border Trade in Services and Investment

1. Israeli residency or nationality is required to obtain certain types of driving licenses, in accordance with Articles 175-185, 189 and 190 of Road Transport Regulations, 1961.

2. Israeli residency or nationality is required for obtaining a taxi operator license.

3. Israeli residency or nationality is required for an individual working in installation or maintenance oftaxi meters and an enterprise operating in installation or maintenance of taxi meters must have at least oneinterested party, as defined in Article 1 of the Companies Law, 1999, who is a national or permanent resident of Israel.

4. Israeli residency or nationality is required for authorization to work as a motor vehicle mechanics safety officer.

19 Sector: Road Transportation

Sub-Sector: Transportation of freight

Transportation of furniture

Rental of commercial vehicles with operator

Industry Classification: CPC 71233, 71239, 71234, 7124

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Local Presence (Article 8.6)

Measures: Road Transport Regulations, 1961 (Article 189)

Freight Services Regulations, 2001 (Article 2 and 24)

Law of Transport Services, 1997

Description: Cross-Border Trade in Services and Investment

Israeli residency or nationality is required in order to obtain a license to transport freight over 10 tons or hazardous materials of any weight.

The professional manager and the operator of haulage shall be a national or resident of Israel.

20 Sector: Transportation

Sub-Sector: Customs Agents

Industry Classification: CPC 749**

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Local Presence (Article 8.6)

Measures: Customs Agent Law, 1964 (Articles 4 and 5).

Description: Cross-Border Trade in Services and Investment

Israeli residency or nationality is required to obtain a Customs agent’s license.

All customs firms, including foreign customs firms, must employ at least one Israeli licensed custom agent as an active manager, clerk or as a partner.

ANNEX II. RESERVATIONS FOR FUTURE MEASURES. SCHEDULE OF THE STATE OF ISRAEL

EXPLANATORY NOTE

1. Israel's schedule to this Annex sets out, pursuant to subparagraph 2 of Article 8.7 (Non-Conforming Measures) and 9.8 (Non-Conforming Measures), the specific sectors, sub-sectors or activities for which Israel 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 9.4 (National Treatment);

(b) Article 8.4 (Most-Favored-Nation Treatment) or 9.5 (Most-Favored-Nation Treatment);

(c) Article 8.5 (Market Access):

(d) Article 8.6 (Local Presence);

(e) Article 9.6 (Performance Requirements); or

(f) Article 9.7 (Senior Management and Board of Directors)

2. Each Schedule entry sets out the following elements:

(a) “Sector” refers to the sector for which the entry is made;

(b) “Sub-Sector”, where referenced, refers to the specific sub-sector for which the entry is made;

(c) “Industry Classification”, where referenced, and only for transparency purposes, refers to the activity covered by the nonconforming measure, according to domestic or international industry classification codes;

(d) “Obligations Concerned” specifies the obligations referred to in paragraph 1 that, pursuant to paragraph 2 of Article 8.7 (Non-Conforming Measures) and paragraph 2 of Article 9.8 (Non-Conforming Measures) do not apply to the sectors, sub-sectors or activities listed in the entry;

(e) “Description” sets out the scope or nature of the sectors, sub-sectors or activities covered by the entry; and

(f) “Existing Measures”, where specified, identifies, for transparency purposes, a non-exhaustive list of existing measures that apply to the sectors, sub-sectors or activities covered by the entry.

3. In the interpretation of an entry, all elements of the entry shall be considered.

The “Description” element shall prevail over all other elements.

4. For the purposes of this Annex the term “CPC” means Provisional Central Product Classification (Statistical Papers Series M No. 77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991).

5. In case of any inconsistency between Scheduled Entry No. 50 and any other scheduled entry, the latter shall prevail.

6. In case Israel will use Entry No. 8 (d) mutual recognition in different fields, this same Entry shall become applicable for Viet Nam as well.

1 Sector: All

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Market Access (Article 8.5)

Local Presence (Article 8.6)

Performance Requirements (Article 9.6)

Senior Management and Board of Directors (Article 9.7)

Description: Cross-Border Trade in Services and Investment

Israel reserves the right to adopt or maintain any measure to promote policy objectives for the benefit of socially or economically disadvantaged groups, including, minorities, disabled persons, military veterans and first-degree family members of Israeli fallen soldiers and the development of its peripheral areas.

2 Sector: All

Sub-Sector: Privatization

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Market Access (Article 8.5)

Local Presence (Article 8.6)

Performance Requirements (Article 9.6)

Senior Management and Board of Directors (Article 9.7)

Description: Cross-Border Trade in Services and Investment

1. When transferring or disposing of its equity interests in, or the assets of, a state enterprise or a governmental entity, Israel reserves the right to:

(a) prohibit or impose limitations on the ownership of such interests or assets by investors or investments;

(b) impose limitations on the ability of investors or investments as owners of such interests or assets to control any resulting enterprise;

(c) adopt or maintain any measure relating to the nationality or permanent residency of members of the board of directors, position holders or certain officers of any resulting enterprise; or

(d) impose limitations on the location of management, main operations and center of business of any resulting enterprise.

Note: For the purposes of this Schedule entry, “position holder” is the director general, chief business officer, deputy director general, vice director general or any persons in equivalent positions, member of the board of directors or other officers who directly report to the director general, as defined in Article 1 of the Companies Law, 1999. Further it is understood that director general is an equivalent position to chief executive officer.

2. In the event where the supply of services, which is restricted to designated enterprises or governmentalentities, is liberalized to those other than the designated enterprises or governmental entities, or inthe event where such designated enterprises or governmental entities no longer operate on a noncommercial basis, Israel reserves the right to adopt or maintain any measure related to those activities.

Existing Measures: Government Companies Law (including Special State Share), 1975

Government Companies Order (Announcement on Essential State Interests in Ashot Ashkelon Industries Ltd.), 2005

Government Companies Order (Announcement on Essential State Interests in Oil Refineries Ltd.), 2007

Government Companies Order (Announcement on Essential State Interests in Oil Refinery – Ashdod Ltd.), 2006

Government Companies Order (Announcement on Essential State Interests in El-Al Israel Airlines Ltd.), 2004

Government Companies Order (Announcement on Essential State Interests in IMI Systems Ltd.), 2016

Special State Share in Israel Chemicals Ltd. and in its Subsidiary Companies

Special State Share in Zim Integrated Shipping Services Ltd.

Special State Share in El-Al Israel Airlines Ltd.

3 Sector: All

Sub-Sector: Concessions, Licenses

Obligations Concerned:

Market Access (Article 8.5)

Performance Requirements (Article 9.6)

Description: Cross-Border Trade in Services and Investment

Israel reserves the right to adopt or maintain any measure in granting concessions and exclusive licenses.

4 Sector: All

Sub-Sector:

Obligations Concerned:

Performance Requirements (Article 9.6)

Senior Management and Board of Directors (Article 9.7)

Description: Investment

1. Members of the board of directors, position holders and certain officers in public bodies as defined in Security of Public Bodies Law, 1998, and persons in certain positions with cyber security responsibilities, are required to be nationals or residents of Israel and to hold appropriate security clearances.

2. Israel reserves the right to demand the imposition or enforcement of the purchase or use of goods produced or services provided in its Territory, when the demand is mainly related to cyber security and is in conformance with national cyber security policy.

Note: For the purposes of this Schedule entry, “position holder” is the director general, chief business officer, deputy director general, vice director general or any persons in equivalent positions, member of the board of directors or other officers who directly report to the director general, as defined in Article 1 of the Companies Law, 1999. Further it is understood that director general is an equivalent position to chief executive officer.

Existing Measures: Security of Public Bodies Law, 1998

Government Decision 2443 of 2015

Government Decision 2444 of 2015

5 Sector: All

Sub-Sector:

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Most-Favored- Nation Treatment (Articles 8.4 and 9.5)

Market Access (Article 8.5)

Performance Requirements (Article 9.6)

Senior Management and Board of Directors (Article 9.7)

Description: Investment

Israel reserves the right to adopt or maintain any measure with respect to an investment to supply a service in the exercise of governmental authority.

6 Sector: All

Sub-Sector:

Obligations Concerned:

Most-Favored- Nation Treatment (Articles 8.4 and 9.5)

Description: Cross-Border Trade in Services and Investment

1. Israel reserves the right to adopt or maintain any measure that accords differential treatment to services suppliers or investors of other countries or their investments under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.

2. Israel reserves the right to adopt or maintain any measure that accords differential treatment to services suppliers or investors of other countries or their investments under any bilateral or multilateral international agreement in force or signed after the date of entry into force of this Agreement.

3. The treatment referred to in paragraph 2, with regards to the Most-Favored-Nation Treatment provision in Chapter 9 (Investment), does not include the treatment with respect to the management, maintenance, use, enjoyment or disposal of investments in its territory.

7 Sector: Defense Industry

Sub-Sector:

Obligations Concerned:

National Treatment (Article 9.4)

Most-Favored- Nation Treatment (Article 9.5)

Performance Requirements (Article 9.6)

Senior Management and Board of Directors (Article 9.7)

Description: Investment

Israel reserves the right to adopt or maintain any measure with regard to the defense industry sector.

Existing Measures: Defense Export Control Law, 2007

Defense Corporations Law, 2005

8 Sector: All

Sub-Sector:

Obligations Concerned:

Most-Favored- Nation Treatment (Articles 8.4 and 9.5)

Description: Cross-Border Trade in Services and Investment Israel reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral agreement or arrangement regarding:

(a) aviation;

(b) maritime matters, including search and rescue and salvage;

(c) co-production and distribution in film, video and television;

(d) mutual recognition in different fields; or

(e) cooperation in aeronautics and space.

9 Sector: All

Sub-Sector:

Obligations Concerned:

Market Access (Article 8.5)

Description: Cross-Border Trade in Services and Investment

Public monopolies

Services considered as public utilities may be subject to public monopolies. Public utilities exist in sectors such as communications, technical testing and analysis services, water transmission, environmental services, services incidental to forestry and logging, health services andtransport services.

Existing Measures:

10 Sector: Land and Real Estate

Sub-Sector:

Obligations Concerned:

National Treatment (Article 9.4)

Description: Investment

The acquisition of rights to land and real estate by foreign nationals or companies controlled by foreign nationals issubject to the prior approval of the Israel Land Authority Council

Existing Measures: Israel's Land Law, 1960

11 Sector: Gambling and Betting Services

Sub-Sector:

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Market Access (Article 8.5)

Local Presence (Article 8.6)

Performance Requirements (Article 9.6)

Senior Management and Board of Directors (Article 9.7)

Description: Cross-Border Trade in Services and Investment

Israel reserves the right to adopt or maintain any measure with regard to gambling and betting services.

12 Sector: Human Health

Sub-Sector:

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Market Access (Article 8.5)

Local Presence (Article 8.6)

Performance Requirements (Article 9.6)

Senior Management and Board of Directors (Article 9.7)

Description: Cross-Border Trade in Services and Investment

Israel reserves the right to adopt or maintain any measure with regard to human health including health institutions, equipment, services, data exchange and products, medical and dental services and services provided by midwives,nurses, physiotherapists and paramedical personnel.

13 Sector: Law Enforcement and Correctional Services

Sub-Sector:

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Market Access (Article 8.5)

Local Presence (Article 8.6)

Performance Requirements (Article 9.6)

Senior Management and Board of Directors (Article 9.7)

Description: Cross-Border Trade in Services and Investment

Israel reserves the right to adopt or maintain any measure with regard to law enforcement and correctional services.

14 Sector: Social Services

Sub-Sector:

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Market Access (Article 8.5)

Local Presence (Article 8.6)

Performance Requirements (Article 9.6)

Senior Management and Board of Directors (Article 9.7)

Description: Cross-Border Trade in Services and Investment

Israel reserves the right to adopt or maintain any measure with regard to social services including income security or insurance, social security or insurance, social welfare, public housing and child care.

15 Sector: Satellite broadcasting

Cable broadcasting

Television or radio broadcasting

Satellite telecommunications Services

Sub-Sector:

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Local Presence (Article 8.6)

Performance Requirements (Article 9.6)

Senior Management and Board of Directors (Article 9.7)

Description: Cross-Border Trade in Services and Investment

1. Members of the boards of directors and position holders in a licensee of satellite broadcasting, cable broadcasting, television broadcasting or radio broadcasting are required to be nationals of Israel who are residents of Israel in some cases with security clearance and are subject to approval by the relevant regulator.

2. Israel reserves the right to adopt or maintain any measure with regard to licensing of satellite communications facilities for the transmission of voice, data, text, sound and full motion picture video between network termination points and with regard to licensing of services for the transmission of television and radio programs to the consumer by a satellite system.

Note: For the purposes of this Schedule entry, “position holder” is the director general, chief business officer, deputy director general, vice director general or any persons in equivalent positions, member of the board of directors or other officers who directly report to the director general, as defined in Article 1 of the Companies Law, 1999. Further it is understood that director general is an equivalent position to chief executive officer.

16 Sector: Identity Management, Biometric Technology, Biometric Information and Databases

Sub-Sector:

Obligations Concerned:

National Treatment (Article 9.4)

Performance Requirements (Article 9.6)

Senior Management and Board of Directors (Article 9.7)

Description: Investment

1. Israel reserves the right to impose or enforce any of the following requirements, with regard to identity management, biometric technology and biometric information and databases:

(a) to restrict the exportation or sale for export;

(b) to purchase or use goods produced or services provided in its Territory; and

(c) to transfer technology, a production process or other proprietary knowledge to a natural person or an enterprise in its Territory.

2. Members of the board of directors, position holders and certain officers in an enterprise responsible for identity management and/or managing of a biometric information and database may be required to be nationals or residents of Israel, in some cases with security clearance and the enterprise may be required to be incorporated in Israel and have its main operations and center of business in Israel.

Note: For the purposes of this Schedule entry, “position holder” is the director general, chief business officer, deputy director general, vice director general or any persons in equivalent positions, member of the board of directors or other officers who directly report to the director general, as defined in Article 1 of the Companies Law, 1999. Further it is understood that director general is an equivalent position to chief executive officer.

17 Sector: Agriculture

Sub-Sector: Dairying including Cattle, Goats and Sheep Dairying

Poultry and Eggs

Honey including Beekeeping

Groundnuts

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Market Access (Article 8.5)

Local Presence (Article 8.6)

Performance Requirements (Article 9.6)

Description: Cross-Border Trade in Services and Investment

Israel reserves the right to adopt or maintain any measure relating to agriculture sectors listed in the “Sub-Sector” element, including services incidental to these agricultural sectors.

18 Sector: Mining including Phosphates Mining, Quarrying and Services Incidental to Mining and Quarrying

Sub-Sector:

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Market Access (Article 8.5)

Local Presence (Article 8.6)

Performance Requirements (Article 9.6)

Senior Management and Board of Directors (Article 9.7)

Description: Cross-Border Trade in Services and Investment

Israel reserves the right to adopt or maintain any measure with regard to mining including phosphates mining, quarrying and services incidental to mining and quarrying. Services incidental to mining including:

- Economic and scientific activities related to evaluation of a basin

- Geologic, geophysical, geochemical activities and geoscientific data gathering related to the location of mineral deposits, oil and gas

- Well drilling and testing

- Mapping on water, land and transition zones through seismic or other imagining techniques

- Geological and geophysical interpretation

- Reservoir simulation

- Risk analysis

- Reserve estimation

- Data management and analysis, including computer modelling

- Conceptual engineering

- Resource and facilities description

- Screening

- Site preparation and survey

- Feasibility and appraisal

Existing Measures: Mining Ordinance

19 Sector: Energy, Gas, Oil and Electricity

Sub-Sector:

Obligations Concerned:

Market Access (Article 8.5)

Local Presence (Article 8.6)

Description: Cross-Border Trade in Services and Investment

Israel reserves the right to adopt or maintain any measure with regard to energy, gas, oil and electricity.

20 Sector: Energy

Sub-Sector: Gas, including Natural Gas, and Oil

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Performance Requirements (Article 9.6)

Senior Management and Board of Directors (Article 9.7)

Description: Cross-Border Trade in Services and Investment

1. Israel reserves the right to adopt or maintain any measure with regard to the natural gas sector and to essential services in the oil sector.

2. Israel may require a petroleum right holder, as defined in the Oil Law, 1952, to supply certain amount of oil or oil products for domestic consumption and usage.

3. Israel reserves the right to adopt or maintain any measure involving national treatment or performance requirements, with regard to oil distillates and oil refineries and with regard to pipeline transport of oil and natural gas including crude or refined oil and oil products.

4. Israel reserves the right to adopt or maintain any measure with regard to storage of liquids or gases and bulk storage services of liquids (oil or liquefied gas) or gases and with regard to oil and gas exploration and production.

Existing Measures: Government Decision 442 of 2013

Government Decision 476 of 2015

Government Decision 1465 of 2016

Natural Gas Sector Law, 2002

Gas Law (Safety and Licensing), 1989

Oil Law, 1952

Oil Supervisor’s Guidelines for Licensing of Onshore Oil Exploration

21 Sector: Energy

Sub-Sector: Liquefied Petroleum Gas (LPG)

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Performance Requirements (Article 9.6)

Senior Management and Board of Directors (Article 9.7)

Description: Cross-Border Trade in Services and Investment

1. Nationality and residency of Israel are required for a natural person applying for licensure as a gas supplier, gas agent or a gas technician/engineer.

2. Members of the board of directors, position holders and certain officers in an LPG licensed enterprise are required to be nationals of Israel who are residents of Israel, in some cases with security clearance.

3. Foreign ownership in an LPG licensed enterprise may be restricted.

4. Foreign LPG technicians may be subject to time limited license.

5. Israel reserves the right to adopt or maintain any measure involving performance requirements, withregard to LPG marketing and exporting.

Note: For the purposes of this Schedule entry, “position holder” is the director general, chief business officer, deputy director general, vice director general or any persons in equivalent positions, member of the board of directors or other officers who directly report to the director general, as defined in Article 1 of the Companies Law, 1999. Further it is understood that director general is an equivalent position to chief executive officer.

Existing Measures: Gas Law (Safety and Licensing), 1989

Natural Gas Sector Law, 2002

22 Sector: Energy

Sub-Sector: Electricity

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Performance Requirements (Article 9.6)

Senior Management and Board of Directors (Article 9.7)

Description: Cross-Border Trade in Services and Investment

1. A licensee as a supplier of an electricity service who provides an essential service, as defined in the Electricity Market Law, 1996, shall be subject to the following conditions:

(a) the licensee shall be controlled by nationals of Israel who are residents of Israel;

(b) the maximum rate of means of control in the licensee to be held, directly or indirectly, by nonresidents of Israel, is subject to a determination by the Minister of National Infrastructures; and

(c) members of the board of directors, position holders and certain officers in the licensee are required to be nationals of Israel who are residents of Israel, in some cases with security clearance.

2. Members of the board of directors, position holders and certain officers in an enterprise licensed to transmit, distribute, supply or produce electricity are required to be nationals of Israel who are residents of Israel, in some cases with security clearance.

3. Foreign ownership in an enterprise licensed to transmit, distribute, supply or produce electricity may be restricted.

4. Nationality of Israel is required for licensure of a natural person to transmit, distribute, supply or produce electricity.

5. Approval of guarantees of a foreign bank to a licensee for selling electricity is subject to the consideration of the Electricity Authority.

Note: For the purposes of this Schedule entry, “position holder” is the director general, chief business officer, deputy director general, vice director general or any persons in equivalent positions, member of the board of directors or other officers who directly report to the director general, as defined in Article 1 of the Companies Law, 1999. Further it is understood that director general is an equivalent position to chief executive officer.

Existing Measures: Electricity Market Law, 1996

The Electricity Authority Book of Standards

23 Sector: Business Services

Sub-Sector: Investigation services

Industry Classification: CPC 87301

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Market Access (Article 8.5)

Local Presence (Article 8.6)

Performance Requirements (Article 9.6)

Senior Management and Board of Directors (Article 9.7)

Description: Cross-Border Trade in Services and Investment

Israel reserves the right to adopt or maintain any measure with regard to Investigation services.

24 Sector: Business Services

Sub-Sector: Services incidental to hunting and forestry

Industry Classification: Part of CPC 881

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Market Access (Article 8.5)

Local Presence (Article 8.6)

Performance Requirements (Article 9.6)

Senior Management and Board of Directors (Article 9.7)

Description: Cross-Border Trade in Services and Investment

Israel reserves the right to adopt or maintain any measure with regard to services incidental to hunting and forestry.

25 Sector: Business Services

Sub-Sector: Placement and supply of personnel

Industry Classification: CPC 872

Obligations Concerned:

National Treatment (Article 8.3)

Market Access (Article 8.5)

Local Presence (Article 8.6)

Description: Cross-Border Trade in Services

Israel reserves the right to adopt or maintain any measure with regard to placement and supply of personnel.

26 Sector: Business Services

Sub-Sector: Rental/Leasing Services without Operators

Industry Classification: CPC 831

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Market Access (Article 8.5)

Local Presence (Article 8.6)

Performance Requirements (Article 9.6)

Senior Management and Board of Directors (Article 9.7)

Description: Cross-Border Trade in Services and Investment

Israel reserves the right to adopt or maintain any measure with regard to rental/leasing services without operators, except rental or leasing concerning office machinery and equipment.

27 Sector: Business Services

Sub-Sector: Technical testing and analysis services

Industry Classification: CPC 8676

Obligations Concerned:

Market Access (Article 8.5)

Local Presence (Article 8.6)

Description: Cross-Border Trade in Services and Investment

Israel reserves the right to adopt or maintain any measure regarding technical testing and analysis services for purposes of regulatory recognition, including requiring that these services shall be supplied by an approved laboratory established in Israel.

Existing Measures: Standards Law,1953 (Article 12)

28 Sector: Business Services

Sub-Sector: Appraisal Services

Industry Classification:

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Market Access (Article 8.5)

Local Presence (Article 8.6)

Performance Requirements (Article 9.6)

Senior Management and Board of Directors (Article 9.7)

Description: Cross-Border Trade in Services and Investment

Israel reserves the right to adopt or maintain any measure with regard to appraisal services, except appraisal services for motor vehicles.

29 Sector: Business Services

Sub-Sector: Driving test examiners

Industry Classification:

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Market Access (Article 8.5)

Local Presence (Article 8.6)

Performance Requirements (Article 9.6)

Senior Management and Board of Directors (Article 9.7)

Description: Cross-Border Trade in Services and Investment

Israel reserves the right to adopt or maintain any measure with regard to driving test examiners.

30 Sector: Business Services

Sub-Sector: Credit reporting services

Collection agency services

Other business services n.e.c.

Industry Classification: CPC 87901, 87902 and 87909

Obligations Concerned:

Market Access (Article 8.5)

Local Presence (Article 8.6)

Description: Cross-Border Trade in Services and Investment

Israel reserves the right to adopt or maintain any measure with regard to credit reporting services, collection agencyservices and other business services n.e.c.

31 Sector: Communication Services

Sub-Sector: Postal and Courier Services

Industry Classification: CPC 7511 and 7512

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Market Access (Article 8.5)

Local Presence (Article 8.6)

Performance Requirements (Article 9.6)

Senior Management and Board of Directors (Article 9.7)

Description: Cross-Border Trade in Services and Investment

Israel reserves the right to adopt or maintain any measure with respect to postal and courier services below 500 gram per addressed item.

32 Sector: Communication Services

Sub-Sector:

Industry Classification:

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Market Access (Article 8.5)

Local Presence (Article 8.6)

Performance Requirements (Article 9.6)

Senior Management and Board of Directors (Article 9.7)

Description: Cross-Border Trade in Services and Investment

Israel reserves the right to adopt or maintain certain safeguards with regard to essential communication services, as defined in the Communication Law (Telecommunications and Broadcasting), 1982.

Such safeguards may include measures dealing with:

(a) control, means of control or the ability to appoint a position holder in a licensee;

(b) location of management, main operations and center of business; and

(c) members of the board of directors, position holders and certain officers.

Note: For the purposes of this Schedule entry, “position holder” is the director general, chief business officer, deputy director general, vice director general or any persons in equivalent positions, member of the board of directors or other officers who directly report to the director general, as defined in Article 1 of the Companies Law, 1999. Further it is understood that director general is an equivalent position to chief executive officer.

Existing Measures: Government Companies Law, 1975 Communication Law (Telecommunications and Broadcasting), 1982

Telecommunications Order (Determination of Essential Service Provided by “Bezeq” the Israel Telecommunication Corp, Ltd.), 1997

33 Sector: Communication Services

Sub-Sector: Promotion and advertising services

Industry Classification: CPC 96111

Obligations Concerned:

Market Access (Article 8.5)

Local Presence (Article 8.6)

Description: Cross-Border Trade in Services

For cross-border trade in services supplied from the territory of one Party into the territory of the other Party, Israel reserves the right to adopt or maintain any measure with regard to promotion and advertising services.

34 Sector: Communication Services

Sub-Sector: Radio and television services

Radio and television transmission services

Industry Classification: CPC 9613 and 7524

Obligations Concerned:

Market Access (Article 8.5)

Local Presence (Article 8.6)

Performance Requirements (Article 9.6)

Description: Cross-Border Trade in Services and Investment

Israel reserves the right to adopt or maintain any measure with regard to radio and television services and radio and television transmission services.

35 Sector: Construction and construction related engineering

Sub-Sector:

Industry Classification:

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Market Access (Article 8.5)

Local Presence (Article 8.6)

Performance Requirements (Article 9.6)

Senior Management and Board of Directors (Article 9.7)

Most-Favored- Nation Treatment (Articles 8.4 and 9.5)

Description: Cross-Border Trade in Services and Investment

Israel reserves the right to adopt or maintain any measure with respect to construction and construction related engineering services.

36 Sector: Distribution Services

Sub-Sector:

Industry Classification: CPC 62112, 62113, 62117, 62226, 62228, 6225, 6227, 63107, 63108, 6321 and 63299

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Market Access (Article 8.5)

Local Presence (Article 8.6)

Performance Requirements (Article 9.6)

Senior Management and Board of Directors (Article 9.7)

Description: Cross-Border Trade in Services and Investment

Israel reserves the right to adopt or maintain any measure with regard to distribution services as follows:

- Commission agents' services for alcoholic beverages, tobacco products, fuels, pharmaceutical and medical goods and cosmetics.

- Wholesale trade services for alcoholic beverages, tobacco products, pharmaceutical and medical goods and cosmetics, intermediate products, other than agricultural and waste and scrap and materials for recycling.

- Food retailing services for alcoholic beverages and tobacco products.

- Non-food retailing services for pharmaceutical and medical goods and cosmetics.

- Retail sales of Specialized retail sales of non-food products.

37 Sector: Educational Services

Sub-Sector:

Industry Classification: CPC 921, 922, 924, and part of 923 and 929

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Market Access (Article 8.5)

Local Presence (Article 8.6)

Performance Requirements (Article 9.6)

Senior Management and Board of Directors (Article 9.7)

Description: Cross-Border Trade in Services and Investment

Israel reserves the right to adopt or maintain any measure with regard to educational services except for:

- instruction for car, bus, truck and motorcycle driving;

- preparatory courses for admission tests to colleges and universities and language tuition; and

- cross border trade in higher education services

38 Sector: Treatment of Waste

Sub-Sector:

Industry Classification:

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Market Access (Article 8.5)

Local Presence (Article 8.6)

Performance Requirements (Article 9.6)

Senior Management and Board of Directors (Article 9.7)

Description: Cross-Border Trade in Services and Investment

Israel reserves the right to adopt or maintain any measure with regard to treatment of hazardous waste and with regard to the development of domestic treatment capacities.

39 Sector: Tourism and travel-related services

Sub-Sector: Travel Agencies and Tour Operators

Industry Classification: CPC 7471

Obligations Concerned:

Market Access (Article 8.5)

Local Presence (Article 8.6)

Description: Cross-Border Trade in Services

Israel reserves the right to adopt or maintain any measure with regard to travel agencies and tour operators.

40 Sector: Tourism and travel-related services

Sub-Sector: Tourist Guides Services

Industry Classification: CPC 7472

Obligations Concerned:

Market Access (Article 8.5)

Local Presence (Article 8.6)

Description: Cross-Border Trade in Services

Israel reserves the right to adopt or maintain any measure with regard to tourist guides services.

41 Sector: Transportation

Sub-Sector: Maritime Transport Services

Industry Classification:

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Market Access (Article 8.5)

Local Presence (Article 8.6)

Performance Requirements (Article 9.6)

Description: Cross-Border Trade in Services and Investment

Israel reserves the right to adopt or maintain any measure with regard to cabotage and maritime offshore services.

Cabotage means a commercial activity which is performed by a vessel and is one of the following:

(a) transport of goods and passengers of which the starting point and ending point is a port, ship, facility or installation that is in the coastal or internal waters or the maritime area, without calling another international port, except for the re-positioning of owned/leased empty containers which serve the owner of the vessels for transporting goods; or

(b) any other activity performed in the coastal or internal waters or maritime area;

as defined in the Law of Shore Maritime Transport (Permit to Foreign Vessel), 2005.

Existing Measures: Law of Cabotage (Permit for a Foreign Sea Vessel), 2005

Cabotage Ordinance (Permit for a Foreign Sea Vessel) (Request for Permit), 2012:

42 Sector: Transportation

Sub-Sector: Air transport services

Industry Classification:

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Market Access (Article 8.5)

Local Presence (Article 8.6)

Performance Requirements (Article 9.6)

Senior Management and Board of Directors (Article 9.7)

Description: Cross-Border Trade in Services and Investment

Israel reserves the right to adopt or maintain any measure with regard to air transport services and services supplied at airports, except aircraft repair and maintenance services and computer reservation system as defined in GATS Annex on Air Transport.

43 Sector: Transportation

Sub-Sector: Airports and Ports

Industry Classification:

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Performance Requirements (Article 9.6)

Senior Management and Board of Directors (Article 9.7)

Description: Cross-Border Trade in Services and Investment

Israel reserves the right to adopt or maintain any measure with regard to airports and ports, including construction and

services supplied or operated at ports and including subjecting ports development and assets companies, port companies and authorized companies, as defined in the Shipping and Ports Authority Law, 2004, to an order of essential state interests, or to any other restrictions.

Existing Measures: Shipping and Ports Authority Law, 2004 Ports Ordinance, 1971

Shipping and Ports Order (Announcement on Essential State Interests in Eilat Port Company Ltd.), 2012

Airports Authority Law, 1977

44 Sector: Transportation

Sub-Sector: Transportation services via space, the rental of space craft and space transport ancillary services

Industry Classification: CPC 733, part of 734

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Market Access (Article 8.5)

Local Presence (Article 8.6)

Performance Requirements (Article 9.6)

Senior Management and Board of Directors (Article 9.7)

Description: Cross-Border Trade in Services and Investment

Israel reserves the right to adopt or maintain any measure with regard to transportation services via space, the rental of space craft and space transport ancillary services.

45 Sector: Transportation

Sub-Sector: Transportation services by railway

Industry Classification: CPC 711

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Market Access (Article 8.5)

Local Presence (Article 8.6)

Performance Requirements (Article 9.6)

Senior Management and Board of Directors (Article 9.7)

Description: Cross-Border Trade in Services and Investment

Israel reserves the right to adopt or maintain any measure with regard to transportation services via railway.

46 Sector: Transportation

Sub-Sector: Road transport services

Industry Classification: CPC 7121, 7122, 7123, 7124, 6112, 8867 and 744

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Market Access (Article 8.5)

Local Presence (Article 8.6)

Performance Requirements (Article 9.6)

Senior Management and Board of Directors (Article 9.7)

Description: Cross-Border Trade in Services and Investment

Israel reserves the right to adopt or maintain any measure with regard to road transport services and supporting services for road transport, except parking services and commercial road vehicle maintenance and minor repair services.

47 Sector: Pipeline transport

Sub-Sector: Oil and natural gas pipeline transport, including crude and refined oil, oil products and natural gas

Industry Classification: CPC 7131 and 7193

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Market Access (Article 8.5)

Local Presence (Article 8.6)

Performance Requirements (Article 9.6)

Senior Management and Board of Directors (Article 9.7)

Description: Cross-Border Trade in Services and Investment

Israel reserves the right to adopt or maintain any measure with regard to oil distillates and oil refineries and oil and natural gas pipeline transport, including crude and refined oil, oil products and natural gas.

48 Sector: Services Auxiliary to All Modes of Transport

Sub-Sector: Storage and warehouse services

Freight transport agency services

Other supporting and auxiliary transport services

Industry Classification: CPC 742, 748, 749

Obligations Concerned:

Market Access (Article 8.5)

Local Presence (Article 8.6)

Description: Cross-Border Trade in Services

Israel reserves the right to adopt or maintain any measure with regard to storage and warehouses services, freight transport agency services and other supporting and auxiliary transport services.

Description: Investment

Israel reserves the right to adopt or maintain any measure with regard to storage and warehouses services, freight transport agency services and other supporting and auxiliary transport services, except customs agents.

49 Sector: All

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Market Access (Article 8.5)

Local Presence (Article 8.6)

Performance Requirements (Article 9.6)

Senior Management and Board of Directors (Article 9.7)

Description: Cross-Border Trade in Services and Investment

Israel reserves the right to adopt or maintain any measure with regard to new services other than those classified positively and explicitly in CPC Prov.

50 Sector: All

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Market Access (Article 8.5)

Local Presence (Article 8.6)

Performance Requirements (Article 9.6)

Senior Management and Board of Directors (Article 9.7)

Description: Cross-Border Trade in Services and Investment

Israel reserves the right to adopt or maintain any measure with regard to the supply of services that were not technically feasible on the date of entry into force of this Agreement.

51 Sector: All

Obligations Concerned:

National Treatment (Articles 8.3 and 9.4)

Market Access (Article 8.5)

Most-Favored- Nation Treatment (Articles 8.4 and 9.5)

Description: Cross-Border Trade in Services and Investment

Israel reserves the right to adopt or maintain any measure with regard to the supply of a service by a national of a Party in the territory of the other Party, except for executives, managers, specialists and business visitors included in Israel's schedule of specific commitments to the GATS, titled GATS/SC/44.

52 Sector: Community, Social and Personal Services

Sub-Sector: Services of membership organizations

Other services

Private household with employed persons

Services provided by extraterritorial organizations and bodies

Industry Classification: CPC 95, 97, 98 and 99

Obligations Concerned:

National Treatment (Article 8.3)

Market Access (Article 8.5)

Local Presence (Article 8.6)

Description: Cross-Border Trade in Services and Investment

Israel reserves the right to adopt or maintain any measure with regard to the services of membership organizations, private household with employed persons, services provided by extraterritorial organizations and bodies and other services in the Sector Community, Social and Personal Services.

ANNEX I. RESERVATIONS FOR EXISTING MEASURES. SCHEDULE OF VIET NAM

EXPLANATORY NOTES

1. The Schedule of Viet Nam to this Annex sets out, pursuant to Article 8.7 (Non- Conforming Measures) and Article 9.8 (Non-Conforming Measures), Viet Nam's existing measures that are not subject to some or all of the obligations imposed by:

(a) Article 8.3 (National Treatment) or Article 9.4 (National Treatment);

(b) Article 8.4 (Most-Favoured-Nation Treatment) or Article 9.5 (Most-Favoured-Nation Treatment);

(c) Article 9.6 (Performance Requirements);

(d) Article 9.7 (Senior Management and Boards of Directors);

(e) Article 8.5 (Market Access); or

(f) Article 8.6 (Local Presence).

2. Each Schedule entry sets out the following elements:

(a) Sector refers to the sector for which the entry is made;

(b) Sub-Sector, where referenced, refers to the specific subsector for which the entry is made;

(c) Industry Classification, where referenced, refers to the activity covered by the nonconforming measure, according to the provisional CPC codes as used in the Provisional Central Product Classification (Statistical Papers Series M No. 77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991);

(d) Obligations Concerned specifies the obligations referred to in paragraph 1 that, pursuant to subparagraph (a) of Article 8.7.1 (Non-Conforming Measures) and subparagraph (a) of Article 9.8.1 (Non-Conforming Measures), do not apply to the listed measure(s) as indicated in the introductory note for Viet Nam's Schedule;

(e) Level of Government indicates the level of government maintaining the listed measures;

(f) Measures identifies the laws, regulations or other measures for which the entry is made. A measure cited in the Measures element:

(i) means the measure as amended, continued or renewed as of the date of entry into force of this Agreement, and

(ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure; and

(g) Description, as indicated in the introductory note for Viet Nam's Schedule, either sets out the non-conforming measure or provides a general non-binding description of the measure for which the entry is made.

3. Article 8.6 (Local Presence) and Article 8.3 (National Treatment) are separate disciplines and a measure that is only inconsistent with Article 8.6 (Local Presence) need not be reserved against Article 8.3 (National Treatment).

INTRODUCTORY NOTES

1. Description sets out the non-conforming measure for which the entry is made.

2. In accordance with Article 8.7 (Non-Conforming Measures) of Chapter 8 (Cross-Border Trade in Services) and Article 9.8 (Non-Conforming Measures) of Chapter 9 (Investment), the articles of this Agreement specified in the Obligations Concerned element of an entry do not apply to the non-conforming measures identified in the Description element of that entry.

3. Classification numbers, where referenced in the Sub-Sector element, refers to the activity covered by the non-conforming measure according to the provisional CPC codes as used in the Provisional Central Product Classification (Statistical Papers Series M No. 77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991).

1. Sector: Professional Services

Sub-Sector: Legal Services (CPC 861)

Obligations Concerned: Market Access

National Treatment

Senior Management and Boards of Directors

Level of Government: Central

Measures: - Law No. 20/2012/QH13 amending the Law on Lawyers No. 65/2006/QH11 dated 29 June 2006

- Decree No. 123/2013/ND-CP dated 14 October 2013

Description: Cross-Border Trade in Services and Investment

1. Foreign lawyers organisations (1) may provide legal services in Viet Nam, through the following forms:

(1) A "foreign lawyers organisation" is an organisation of practising lawyers established in any commercial corporate form in a foreign country (including firms, companies, corporations, etc.) by one or more foreign lawyers or law firms.

(a) branches of foreign lawyers organisations;

(b) wholly foreign limited liability law firm;

(c) joint venture limited liability law firm; and

(d) partnerships between foreign lawyer organisations and Viet Nam's law partnerships.

Foreign lawyers organisations are not allowed to:

(i) participate in legal proceedings in the capacity of defenders or representatives of their clients before the courts of Viet Nam;

(ii) participate in legal documentation and certification services (2) of the laws of Viet Nam; and

(2) For greater certainty, "legal documentation and certification services" include notary services and other services asprovided in Vietnamese law, but do not include commercial contracts and business charters. Drafting on such matters as commercial contracts and business charters may be conducted by Vietnamese lawyers working in foreign lawyer organisations.

(iii) participate in procedure for child adoption, marriage, civil status and Vietnamese nationality.

Foreign lawyers organisations must commit and ensure to have at least two foreign lawyers including chief of branch, director of foreign law firm, presenting and practicing in Viet Nam for at least 183 days within any 12 consecutive months.

2. Sector: Professional Services

Sub-Sector: Legal Services (CPC 861)

Obligations Concerned: Market Access

National Treatment

Senior Management and Boards of Directors

Level of Government: Central

Measures: Law No. 20/2012/QH13 amending the Law on Lawyers No. 65/2006/QH11 dated 29 June 2006

Description: Cross-Border Trade in Services and Investment

Foreign lawyers may provide legal services in Viet Nam, through the following forms:

(a) working individually for a Viet Nam-based branch or foreign lawyers organisations;

(b) working under contract for a branch, foreign lawyers organisations, and Vietnamese lawpracticing organisations.

Foreign lawyers practising law in Viet Nam are not permitted to advise on Vietnamese law unless they have graduated from a Vietnamese law college and satisfy requirements applied to like Vietnamese lawyers. They are not allowed to defend or represent clients before the courts of Viet Nam.

3. Sector: Professional Services

Sub-Sector: Auditing services (CPC 862)

Obligations Concerned: Local Presence

Level of Government: Central

Measures: - Law on Independent Audit No. 67/2011/QH12 dated 29 March 2011

- Decree No. 17/2012/ND-CP dated 13 March 2012

- Circular No. 202/2012/TT-BTC dated 19 November 2012

- Circular No. 203/2012/TT-BTC dated 19 November 2012

Description: Cross-Border Trade in Services

Foreign services suppliers are not permitted to supply auditing services unless they meet the requirements of local presence in Viet Nam.

4. Sector: Professional Services

Sub-sector: Engineering services (CPC 8672);

Integrated engineering services (CPC 8673)

Obligations Concerned:

Market Access

National Treatment

Level of Government: Central

Source of Measure: - Administrative measures

- Law on Investment No. 61/2020/QH14 dated 17 June 2020

Description: Investment

Investment related to topographical, geotechnical, hydro geological and environmental surveys and technical surveys for urban-rural development planning, sectoral development planning are subject to the authorizationof the Government of Viet Nam (3).

(3) For greater transparency, this commitment allows the maintenance or adoption of limitations or restrictions for national security and public order reasons that would be justified under Article XIV and Article XIV bis of the GATS.

5. Sector: Professional Services

Sub-sector: Urban planning and urban landscape architectural services (CPC 8674)

Obligations Concerned:

Market Access

National Treatment

Level of Government: Central

Source of Measure: - Administrative measures

- Law on Architecture No. 40/2019/QH14 dated 13 June 2019

- Law on Urban Planning No 30/2009/QH12 dated 17 June 2009

Description: Cross-Border Trade in Services and Investment

Foreign service suppliers must be authenticated by an architect who has appropriate practicing certificate working in a Vietnamese architectural organisation which has juridical entity status, and comply with relevantlaws and regulations of Viet

Nam.

The responsible foreign architects working in foreign-invested enterprises must have the professional practicing certificate granted or recognized by the Government of Viet Nam.

In some areas, subject to the regulations of the Government of Viet Nam for national security and social stability purposes, foreign service suppliers may not be permitted to provide this service (4).

(4) For greater transparency, this commitment allows the maintenance or adoption of limitations or restrictions for national security and public order reasons that would be justified under Article XIV and Article XIV bis of the GATS.

6. Sector: Professional Services

Sub-sector: Veterinary services (CPC 932)

Obligations Concerned:

Market Access

National Treatment

Level of Government: Central

Measures: Administrative measures

Description: Investment

Foreign investment to supply veterinary services may not be permitted in Viet Nam unless such services are supplied by natural persons in the form of private professional practice.

7. Sector: Computer and Related Services (CPC 841-845, CPC 849)

Sub-sector:

Obligations Concerned:

Market Access

National Treatment

Senior Management and Boards of Directors

Level of Government: Central

Source of Measure: Administrative measures

Description: Investment

The chief of the branch has to be a resident in Viet Nam.

8. Sector: Distribution services

Sub-Sector: Commission agents' services (CPC 621, 61111, 6113, 6121);

Wholesale trade services (CPC 622, 61111, 6113, 6121);

Retailing services (CPC 631, 632, 61112, 6113, 6121) (5)

(5) For transparency purposes, these services include multi-level sales by properly trained and certified Vietnamese individual commission agents away from a fixed location for which remuneration is received both for the sales effort and for sales support services that result in additional sales by other contracted distributors.

Obligations Concerned: Market Access

National Treatment

Level of Government: Central

Measures: Decree No. 09/2018/ND-CP dated 15 January 2018

Description: Investment

The establishment of outlets for retail services (beyond the first one) shall be allowed on the basis of an Economic Needs Test (ENT).

Applications to establish more than one outlet shall be subject to pre-established publicly available procedures, and approval shall be based on objective criteria. The main criteria of the ENT includethe number of existing service suppliers in a particular geographicarea, the stability of market and geographic scale.

The establishment of outlets for retail services with area of less than 500 square metres in areas that are planned for commercial activities by the People's Committee of cities and provinces, and on which the construction of infrastructure has been finished, is not subject to the ENT requirement.

9. Sector: Distribution services

Sub-sector: Franchising services (CPC 8929)

Obligations Concerned:

Market Access

National Treatment

Senior Management and Boards of Directors

Level of Government: Central

Source of Measure: - Administrative measures

Description: Investment

The chief of the branch has to be a resident in Viet Nam.

10. Sector: Other Business Services

Sub - sector: Advertising services, including online advertising services (CPC 871)

Obligations Concerned:

Market Access

National Treatment

Local Presence

Level of Government: Central

Source of Measure: - Administrative measures

- Law on Advertising No. 16/2012/QH13 dated 21 June 2012

- Decree No. 181/2013/NĐ-CP dated 14 November 2013

- - Decree No. 70/2021/NĐ-CP dated 20 July 2021 amending Decree No. 181/2013/NĐ-CP dated 14 November 2013

- - Law on Investment No. 61/2020/QH14 dated 17 June 2020

Description: Cross-Border Trade in Services and Investment

Foreign services suppliers are not permitted to supply advertising services unless they meet the requirements of local presence in Viet Nam.

Foreign investors are only permitted to establish joint venture or business cooperation contract with Vietnamese partners

who are legally authorized to do advertising services or the purchase of shares in a Vietnamese enterprise, with less than 100% foreign ownership.

The advertising for wines and spirits shall be subject to State regulations, which are applied on a non-discriminatory basis.

11. Sector: Other Business Services

Sub - sector: Management consultant services (CPC 865);

Services related to management consulting (CPC 866)

Obligations Concerned:

Market Access

National Treatment

Senior Management and Boards of Directors

Level of Government: Central

Source of Measure: - Administrative measures

- Law on Enterprise No. 59/2020/QH14 dated 17 June 2020

- Law on Investment No. 61/2020/QH14 dated 17 June 2020

- Law on Trade No. 36/2005/QH11 dated 14 June 2005

- Law on Commercial Arbitration No. 54/2010/QH12 dated 17 June 2010

Description: Investment

The chief of the branch has to be a resident in Viet Nam.

12. Sector: Other Business Services

Sub - sector: Technical testing and analysis services (CPC 8676)

Obligations Concerned:

Market Access

National Treatment

Level of Government: Central

Source of Measure: - Administrative measures

Description: Investment

Where Viet Nam allows private suppliers of technical testing and analysis services access to a sector previously closed to private sector competition on the grounds that these services had been supplied in the exercise of governmental authority, such services shall be allowed without limitation on foreign ownership five years after such access to private sector competition is allowed.

Access to certain geographic areas may be restricted for national security reasons.

13. Sector: Other Business Services

Sub - sector: Services incidental to agriculture, hunting and forestry (CPC 881)

Obligations Concerned:

Market Access

National Treatment

Level of Government: Central

Source of Measure: - Administrative measures

- Law on Enterprise No. 59/2020/QH14 dated 17 June 2020

- Law on Investment No. 61/2020/QH14 dated 17 June 2020

- Law on Forestry No. 16/2017 dated 15 November 2017

Description: Investment

Foreign investment to supply services incidental to agriculture, hunting and forestry may not be supplied except through a business cooperation contract, a joint venture or the purchase of shares in a Vietnamese enterprise. In the case of a joint venture or the purchase of shares in an enterprise, foreign equity shall not exceed 51 per cent.

Foreign investments in these sectors are restricted to certain geographical areas as may be approved on a case-by-case basis (6).

(6) For greater transparency, this allows the maintenance or adoption of limitations or restrictions for national security and public order reasons in accordance with Article XIV and Article XIV bis of the GATS.

14. Sector: Other Business Services

Sub - sector: - Services incidental to mining (CPC 883)

- Related scientific and technical consulting services (CPC 86751, 86752 and 86753)

Obligations Concerned:

Market Access

National Treatment

Level of Government: Central

Source of Measure: - Administrative measures

- Law on Enterprise No. 59/2020/QH14 dated 17 June 2020

- Law on Investment No. 61/2020/QH14 dated 17 June 2020

Description: Cross-Border Trade in Services and Investment

Companies without a commercial presence may be required to be registered with the competent authority of the Government of Viet Nam under the terms outlined in Viet Nam's applicable laws.

The supply of services related to prospecting, surveying, exploration and exploitation is subject to the applicable laws and regulations of Viet Nam.

15. Sector: Communication services

Sub - sector: Postal services and courier services (7) (CPC 7511, 7512**)

(7) Books and catalogues are included hereunder.

Obligations Concerned:

Market Access

National Treatment

Level of Government: Central

Source of Measure: - Law of Post No. 49/2010/QH12 dated 17 June 2010

- Decree No. 31/2021/ND-CP dated 26 March 2021

- Decree No. 47/2011/ND-CP dated 17 June 2011

- Degree No. 25/2022/ND-CP dated 12 April 2022 on amendments to some Articles of Degree No. 47/2011/ND-CP dated June 17 2011 on elaboration of some contents of the Law of Post.

Description: Investment

Foreign investment of more than 15 billion VND (0.75 million USD) in this subsector is required to be evaluated before being submitted to the Prime Minister for investment certification.

Viet Nam reserves the right to adopt and maintain any measure relating to the public postal services and exclusive/dedicated postal services.

16. Sector: Telecommunications Services

Sub - sector: Basic Services

a. Voice telephone services (CPC 7521)

b. Packet-switched data transmission services (CPC 7523**)

c. Circuit-switched data transmission services (CPC 7523**)

d. Telex services (CPC 7523**)

e. Telegraph services (CPC 7523**)

f. Facsimile services (CPC 7521** + 7529**)

g. Private leased circuit services (CPC 7522** + 7523**)

o*. Other services

- Videoconference services (CPC 75292)

- Video Transmission services, excluding broadcasting (8)

(8) Broadcasting is defined as the uninterrupted chain of transmission required for the distribution of TV and radio program signals to the general public, but does not cover contribution links between operators.

- Radio based services includes:

* Mobile telephone (terrestrial and satellite)

* Mobile data (terrestrial and satellite)

* Paging

* PCS

* Trunking

- Internet Exchange Service (IXP)(9)

(9) Services providing internet access service (IAS) suppliers with connection between them and to the international Internet backbone.

- Virtual Private Network (VPN) (10)

(10) Services, provided on commercial terms, establishing and managing a private network over public (shared) networks for the purpose of carrying out, on a non-profit basis, voice and data telecommunications between members of a closed user group defined prior to the creation of the VPN. Such group may include a corporate group or organisation, or a group of legal entities with an established relationship affiliated through the pursuit of a common interest. Initial members of a closed user group using VPN service must be listed in a dialing or routing plan approved by the Competent Authority and subject to its oversight. VPN service suppliers shall notify to the Competent Authority changes of membership at least two working weeks prior to actually commencing commercial service and can commence commercial service provided

that no objection from the Competent Authority is issued during these two weeks. Members are not allowed to resell VPN services to unaffiliated third parties. Virtual private networks are not allowed to carry/transfer traffic of/between unaffiliated third parties. VPN services can be offered by licensed foreign invested service suppliers bundled with Internet access service and value-added services from (h) to (n).

Value-added Services

h. Electronic mail (CPC 7523 **)

i. Voice mail (CPC 7523 **)

j. On-line information and database retrieval (CPC 7523**)

k. Electronic data interchange (EDI) (CPC 7523**)

l. Enhance/value-added facsimile services, including store and forward, store and retrieve (CPC 7523**)

m. Code and protocol conversion

n. On-line information and data processing (incl. transaction processing) (CPC 843**)

o. Other services

- Internet Access Services IAS

Obligations Concerned:

Market Access

National Treatment

Performance Requirements

Level of Government: Central

Source of Measure: - Administrative measures

- Law on Telecommunications No. 41/2009/QH12 dated 23 November 2009

- Decree No 25/2011/ND-CP dated 6 April 2011

- Degree 81/2016/ND-CP dated 1 July 2016 on amendments to some Articles of Degree 25/2011/ND-CP on detailed provisions and instructions for implementation of the Law on Telecommunication 2009

Description: Cross-Border Trade in Services and Investment

- Wire-based and mobile terrestrial services: Foreign service suppliers may only offer service through commercial arrangements with an entity established in Viet Nam and licensed to provide international telecommunications services.

- Satellite-based services: Foreign service suppliers are not allowed to supply satellite-based services unless the services are offered through commercial arrangements with Vietnamese international satellite service suppliers duly licensed in Viet Nam, except satellite-based services offered to off-shore/on sea based business customers, government institutions, facilities-based service suppliers, radio and television broadcasters, official international organisations' representative offices, diplomatic representatives and consulates, high tech and software development parks and multinational companies (11) that are licensed to use satellite-earth stations.

(11) For the purposes of this entry, a multinational is a corporation which: (a) has a commercial presence in Viet Nam; (b) operates in at least one other Party; (c) has been in operation for at least five years; and (d) is licensed to use satellite services in at least one other Party.

Investment

(a) Non facilities-based services: (12)

(12) For the purposes of this entry, a "non-facilities based service supplier" means a service supplier which does not own transmission capacity but contracts for such capacity including submarine cable capacity, including on a long-term basis, from a facilities-based supplier. A non facilities- based supplier is not otherwise excluded from owning telecommunications equipment within their premises and permitted public

service provision points (POP).

Basic and valued added services: foreign investment to supply non facilities-based services may not be permitted except through a joint venture or the purchase of shares in a Vietnamese enterprise, with foreign equity not exceeding 65 per cent, or 70 per cent in the case of virtual privatenetworks.

For foreign investment projects in supplying telecommunications networks or services in Viet Nam which must to have undertakings approval on such investment by the competent authorities in accordance with the domestic laws and regulations, the investment registration authority must send the relevant documents to the Ministry of Information and Communications for reviewing and having comments in writing.

(b) Facilities-based services:

(i) Basic services: foreign investment to provide facilities-based services may not be permitted except through a joint venture or the purchase of shares in a Vietnamese enterprise duly licensed in Viet Nam, with foreign equity not exceeding 49 per cent.

(ii) Valued added services: foreign investment to provide facilities-based services may not be permitted except through a joint venture or the purchase of shares in a Vietnamese enterprise duly licensed in Viet Nam, with foreign equity not exceeding 50 per cent.

Viet Nam reserves the right to adopt and maintain any measure relating to submarine cable system, including international submarine cable system, except for consortium submarine cable links where Viet Nam is a member, foreign service suppliers may be permitted to up to 100 per cent ownership of submarine cable transmission capacity (e.g. IRU or consortium ownership) terminating at a licensed submarine cable landing station in Viet Nam and may sell such capacity to international facilities-based service suppliers licensed in Viet Nam and international VPN and IXP service suppliers licensed in Viet Nam.

Foreign investment in this subsector is required to be evaluated by provincial competent authorities in accordance with governmental investment policies for investment license.

17. Sector: Audio-visual Services

Sub - sector: Motion picture production (CPC 96112)

Motion picture distribution (CPC 96113)

Motion picture projection service (CPC 96121)

Obligations Concerned:

Market Access

National Treatment

Level of Government: Central

Source of Measure: - Administrative measures

- Law on Enterprise No. 59/2020/QH14 dated 17 June 2020

- Law on Investment No. 61/2020/QH14 dated 17 June 2020

- Law No. 31/2009/QH12 dated 18 June 2009 amending and supplementing a number of Articles of the Law on Cinematography No.62/2006/QH11 dated 29 June 2006

- Decree No. 54/2010/ND-CP dated 21 May 2010

Description: Investment

Foreign investment to provide motion picture production, distribution and projection services may not be permitted except through a business cooperation contract or a joint venture with a Vietnamese partner legally authorised to provide such services, or the purchase of shares in a Vietnamese enterprise legally authorised to provide such services. In the case of a joint venture or the purchase of shares in an enterprise, foreign equity shall not exceed 51 per cent.

For motion picture projection service, foreign organisations and individuals are not permitted to engage in business

cooperation contract or joint-venture with Viet Nam’s houses of culture, public cinema clubs and societies, mobile projection teams, or owners or operators of temporary film-projection locations.

All films must have their content censored by Viet Nam's competent authorities.

18. Sector: Construction and related engineering services

Sub - sector: General construction work for building (CPC 512);

General construction work for civil engineering (CPC 513);

Installation and assembly work (CPC 514, 516);

Building completion and finishing work (CPC 517) and Other (CPC 511, 515, 518)

Obligations Concerned:

Market Access

National Treatment

Local Presence

Level of Government: Central

Source of Measure: - Administrative measures

- Law on Enterprise No. 59/2020/QH14 dated 17 June 2020

- Law on Investment No. 61/2020/QH14 dated 17 June 2020

- Law on Trade No. 36/2005/QH11 dated 14 June 2005

- Law on Construction No. 50/2014/QH13 dated 18 June 2014

- Decree No. 01/2021/ND-CP dated 04 January 2021

- Decree No. 31/2021/ND-CP dated 26 March 2021

- Decree No. 07/2016/ND-CP dated 25 January 2016

- Decree No. 15/2021/ND-CP dated 03 March 2021

Description: Investment

Foreign enterprises have to be juridical persons of the other Party.

The chief of the branch has to be a resident in Viet Nam.

19. Sector: Audio-visual Services

Sub-Sector:

Obligations Concerned:

Market Access

Performance Requirement

Level of Government: Central

Measures: - Law on Cinematography No. 62/2006/QH11 dated 29 June 2006

- Law No. 31/2009/QH12 amending and supplementing a number of Articles of Law on Cinematography No. 62/2006/QH11 dated 18 June 2009

- Decree No 54/2010/ND-CP dated 21 May 2010

Description: Investment

Cinemas must screen Vietnamese films on the occasion of major anniversaries of the country.

The ratio of screening Vietnamese films to total films shall not be less than 20 per cent on an annual basis. Cinemas should show at least one Vietnamese film between the hours of 18:00 and 22:00.

20. Sector: Educational services (13)

(13) Only in technical, natural sciences and technology, business administration and business studies, economics, accounting, international law and language training fields.

Sub - sector: Higher education services (CPC 923)

Adult education (CPC 924)

Other education services (CPC 929 including foreign language training)

Obligations Concerned:

Market Access

National Treatment

Level of Government: Central

Source of Measure: - Administrative measures

- Law on Enterprise No. 59/2020/QH14 dated 17 June 2020

- Law on Investment No. 61/2020/QH14 dated 17 June 2020

- Law on Education No. 43/2019/QH14 dated 14 June 2019

- Law on Higher Education No. 34/2018/QH14 dated 19 November 2018

Description: Investment

Foreign investment to supply educational services in the following fields of study is not permitted: national security, defence, political science, religion, Vietnamese culture and other fields of study necessary to protect Vietnamese public morals. This limitation shall not prevent the supply of educational services in fields of study where Viet Nam is bound under any other trade agreement.

The education content with regard to the above sub-sectors must be approved by Viet Nam's competent authorities.

21. Sector: Environmental services

Sub - sector: Sewage Services (CPC 9401)

Refuse disposal services (CPC 9402) (14)

(14) Import of refuse is forbidden by law. Treatment and disposal of hazardous waste is regulated by Law.

Other services - Cleaning services of exhaust gases (CPC 94040);

Noise abatement services (CPC 94050)

Obligations Concerned:

Market Access

National Treatment

Level of Government: Central

Source of Measure: - Administrative measures

- Law on Enterprise No. 59/2020/QH14 dated 17 June 2020

- Law on Investment No. 61/2020/QH14 dated 17 June 2020

- Law on Environment Protection No. 72/2020/QH14 dated 17 November 2020

- Decree No. 08/2022/ND-CP dated 10 January 2022

Description: Investment

For the purpose of ensuring public welfare, foreign-invested enterprises are restricted from collecting refuse directly from households. They are only permitted to provide services at the refuse collection points as specified by local municipal and provincial authorities.

Access to certain geographic areas may be restricted for national security reasons.

22. Sector: Health related and social services

Sub - sector: Hospital services (CPC 9311);

Medical and dental services (CPC 9312)

Obligations Concerned:

Market Access

National Treatment

Level of Government: Central

Source of Measure: - Administrative measures

- Law on Enterprise No. 59/2020/QH14 dated 17 June 2020

- Law on Investment No. 61/2020/QH14 dated 17 June 2020

- Decree No. 87/2011/ND-CP dated 27 September 2011

Description: Investment

Foreign service suppliers and investors are permitted to invest and provide services through the establishment of 100% foreign-invested hospital, joint venture with Vietnamese partners or through business cooperation contract.

23. Sector Tourism and travel related services

Sub - sector: Travel agencies and tour operator services (CPC 7471)

Obligations Concerned:

Market Access

National Treatment

Level of Government: Central

Source of Measure:

- Administrative measures

- Law on Enterprise No. 59/2020/QH14 dated 17 June 2020

- Law on Investment No. 61/2020/QH14 dated 17 June 2020

- - Law on Tourism No. 09/2017/QH14 dated 19 June 2017

- - Decree No. 168/2017/ND-CP dated 31 December 2017

Description: Investment

Foreign investors and service suppliers are not permitted to provide travel agencies and tour operator services except through joint ventures with Vietnamese partners or the purchase of shares in Vietnamese enterprises, with no foreign ownership limitation to do such services.

Tourist guides in foreign-invested enterprises shall be Vietnamese citizens.

Only foreign investment to supply inbound services and domestic travel for inbound tourists as an integral part of inbound services is permitted.

24. Sector Recreational, Cultural and Sporting Services

Sub - sector: Entertainment services (including theatre, live bands and circus services) (CPC 9619)

Obligations Concerned:

Market Access

National Treatment

Level of Government: Central

Source of Measure: - Administrative measures

- Law on Enterprise No. 59/2020/QH14 dated 17 June 2020

- Law on Investment No. 61/2020/QH14 dated 17 June 2020

- Law on Tourism No. 09/2017/QH14 dated 19 June 2017

Description: Cross-Border Trade in Services and Investment

Foreign investment to provide entertainment services covered by CPC 9619 (including theatre, live bands and circus services) may not be supplied except through a joint venture or the purchase of shares in a Vietnamese enterprise with foreign equity not exceeding 49 per cent.

25. Sector Recreational, Cultural and Sporting Services

Sub - sector: Electronic games business

Obligations Concerned:

Market Access

National Treatment

Level of Government: Central

Source of Measure: - Administrative measures

- Law on Enterprise No. 59/2020/QH14 dated 17 June 2020

- Law on Investment No. 61/2020/QH14 dated 17 June 2020

- Decree No. 72/2013/ND-CP dated 15 July 2013

- Decree No. 27/2018/ND-CP dated 01 March 2018 amending Decree No. 72/2013/ND-CP dated 15 July 2013

- Decree No. 604/VBHN-BVHTTDL dated 21 February 2019

Description: Investment

Foreign investment to supply electronic games services may not be supplied except through a business cooperation contract or a joint venture with Vietnamese partner authorised to supply such services or the purchase of shares in a Vietnamese enterprise authorised to supply such services. In case of a joint venture or the purchase of shares in an enterprise, foreign equity shall not exceed 49 per cent.

26. Sector: Maritime Transport Services

Sub - sector: Passenger transportation less cabotage (CPC 7211)

Freight transportation less cabotage (CPC 7212)

Obligations Concerned:

Market Access

National Treatment

Senior Management and Boards of Directors

Level of Government: Central

Source of Measure: - Administrative measures

- Law on Enterprise No. 59/2020/QH14 dated 17 June 2020

- Law on Investment No. 61/2020/QH14 dated 17 June 2020

- Maritime Code No. 95/2015/QH13 dated 25 November 2015

- Decree No. 163/2017/ND-CP dated 30 December 2017

- Decree No. 171/2016/ND-CP dated 27 December 2016

- Decree No. 147/2018/ND-CP dated 24 October 2018

- Decree No. 58/2017/ND-CP dated 10 May 2017

- Decree No. 171/2016/ND-CP dated 27 December 2016

- Decree No. 86/2020/ND-CP dated 23 July 2020 amending Decree No. 171/2016/NDCP dated 27 December 2016

- Decree No. 160/2016/ND-CP dated 29 November 2016

- Decision No. 149/2003/QD-TTg dated 21 July 2003.

Description: Investment

Establishment of registered companies for the purpose of operating a fleet under the national flag of Viet Nam: Foreign investment to supply maritime passenger and freight transportation services under the national flag of Viet Nam may not be supplied except through a joint venture or the purchase of shares in a Vietnamese enterprise, with foreign equity not exceeding 49 per cent. In addition, foreign seafarers may not exceed one-third of total employees of the ships. The Master or first chief executive must be a Vietnamese citizen.

Other forms of commercial presence for investment in international maritime transport services (15):

(15) "Other forms of commercial presence for the supply of international maritime transport services" means the ability for foreign shipping companies to undertake locally activities which are related to the cargoes carried by them and necessary for the supply of the integrated transport service to their customers, within which the international maritime transport constitutes a substantial elements and is supplied by the concerned foreign shipping company.

Foreign-invested enterprises are only permitted to carry out activities from (1) to (7) as indicated below:

1. Marketing and sales maritime transport services through direct contact with customers, from quotation to invoicing;

2. Acting on behalf of the cargo owners;

3. Provision of required business information;

4. Preparation of documentation concerning transport documents including customs documents, or other documents related to the origin and character of the goods transported;

5. Provision of maritime transport services including cabotage services by Vietnamese flagged vessels for the supply of integrated transport services;

6. Acting on behalf of the company, organizing the call of the ship or taking over cargoes when required; and

7. Negotiating and signing contracts for road, rail, inland waterways transportation related to cargoes transported by the company.

27. Sector: Maritime Auxiliary Services

Sub - sector: Container handling services, except services provided at airports (CPC 7411)

Obligations Concerned:

Market Access

National Treatment

Level of Government: Central

Source of Measure: - Administrative measures

- Law on Enterprise No. 59/2020/QH14 dated 17 June 2020

- Law on Investment No. 61/2020/QH14 dated 17 June 2020

- Law on Maritime Code No. 95/2015/QH13 dated 25 November 2015

- Decree No. 147/2018/ND-CP dated 24 October 2018

- Decree No. 58/2017/ND-CP dated 10 May 2017

- Decree No. 171/2016/ND-CP dated 27 December 2016

- Decree No. 86/2020/ND-CP dated 23 July 2020 amending Decree No. 171/2016/ND-CP dated 27 December 2016

- Decree No. 160/2016/ND-CP dated 29 November 2016

- Decision No 149/2003/QD-TTg dated 21 July 2003.

Description: Investment

Foreign investment to supply container handling services may not be supplied except through a joint venture or the purchase of shares in a Vietnamese enterprise, with foreign equity not exceeding 50 per cent. Public utility concession or licensing procedures may apply in case of occupation of the public domain.

28. Sector: Maritime Auxiliary Services

Sub - sector: Customs Clearance Services (16)

(16) "Customs clearance services" (alternatively "customs house brokers' services") means activities consisting in carrying out on behalf of another party customs formalities concerning import, export or through transport of cargoes, whether this service is the main activity of the service provider or a usual complement of its main activity.

Obligations Concerned:

Market Access

National Treatment

Level of Government: Central

Source of Measure: - Administrative measures

- Law on Enterprise No. 59/2020/QH14 dated 17 June 2020

- Law on Investment No. 61/2020/QH14 dated 17 June 2020

- Viet Nam Maritime Code No. 95/2015/QH13 dated 25 November 2015

- Decree No. 147/2018/ND-CP dated 24 October 2018

- Decree No. 58/2017/ND-CP dated 10 May 2017

- Decree No. 171/2016/ND-CP dated 27 December 2016

- Decree No. 86/2020/ND-CP dated 23 July 2020 amending Decree No. 171/2016/ND-CP dated 27 December 2016

- Decree No. 160/2016/ND-CP dated 29 November 2016

- Decision No. 149/2003/QD-TTg dated 21 July 2003.

Description: Investment

Foreign investors are only permitted to establish joint venture or the purchase of shares in a Vietnamese enterprise with less than 100% foreign ownership, to do customs clearance services.

29. Sector: Internal Waterways Transport

Sub - sector: Passenger transport (CPC 7221)

Freight transport (CPC 7222)

Obligations Concerned:

Market Access

National Treatment

Level of Government: Central

Source of Measure: - Administrative measures.

- Law on Enterprise No. 59/2020/QH14 dated 17 June 2020

- Law on Investment No. 61/2020/QH14 dated 17 June 2020

- Law on Internal Waterways Transport No. 48/2014/QH13 dated 17 June 2014 amending Internal Waterways Transport Law No. 23/2004/QH11 dated 15 June, 2004

- Decree No. 163/2017/ND-CP dated 30 December 2017

Description: Investment

Foreign investment to supply internal waterway transport services may not be supplied except through a joint venture with a Vietnamese partner or the purchase of shares in a Vietnamese enterprise, with foreign equity notexceeding 49 per cent.

30. Sector: Air Transport Services

Sub - sector: Sales and marketing air products services

Obligations Concerned:

Market Access

National Treatment

Level of Government: Central

Source of Measure: - Administrative measures.

- Law on Civic Air Service No. 61/2014/QH13 dated 21 November 2014 amending Law on Civic Air Service No. 66/2006/QH11 dated 29 June 2006.

Description: Investment

Airlines are permitted to provide services in Viet Nam through their ticketing offices or agents in Viet Nam.

31. Sector: Air Transport Services

Sub - sector: Computer reservation services

Obligations Concerned:

Market Access

National Treatment

Level of Government: Central

Source of Measure: - Administrative measures.

- Law on Civic Air Service No.61/2014/QH13 dated 21 November 2014 amending Law on Civic Air Service No. 66/2006/QH11 dated 29 June 2006.

Description: Cross-Border Trade in Services and Investment

The foreign service suppliers and investors must use public telecommunication network under the management of Viet Nam telecommunication authority.

32. Sector: Rail Transport Services

Sub - sector: Passenger transportation (CPC 7111)

Freight transportation (CPC 7112)

Obligations Concerned:

Market Access

National Treatment

Level of Government: Central

Source of Measure: - Administrative measures

- Decree No. 163/2017/ND-CP dated 30 December 2017

Description: Investment

Foreign investment to supply rail freight transport services may not be supplied except through a joint venture or the purchase of shares in a Vietnamese enterprise, with foreign equity not exceeding 49 per cent.

Foreign investment to supply passenger rail transport services is not permitted.

33. Sector: Road Transport Services

Sub - sector: Passenger transportation (CPC 7121+7122)

Freight transportation (CPC 7123)

Obligations Concerned:

Market Access

National Treatment

Level of Government: Central

Source of Measure: - Administrative measures

- Decree No. 163/2017/ND-CP dated 30 December 2017

Description: Investment

Foreign investment to supply road passenger and freight transport services may not be supplied except through a business cooperation contract, a jointventure or the purchase of shares in a Vietnamese enterprise, with foreignequity not exceeding 49 per cent.

In the case of road freight transport services, subject to the needs of the market (17), the foreign equity limitation may be raised to but shall not exceed 51 per cent.

100 per cent of joint venture drivers shall be Vietnamese citizens.

(17) The criteria taken into account are, among others: creation of new jobs; positive foreign currency balance; introduction of advanced technology, including management skill; reduced industrial pollution; professional training for Vietnamese workers; etc.

34. Sector: Services Auxiliary to all Modes of Transport

Sub - sector: Container handling services, except services provided at airports (part of CPC 7411)

Obligations Concerned:

Market Access

National Treatment

Level of Government: Central

Source of Measure: - Administrative measures

- Decree No. 163/2017/ND-CP dated 30 December 2017

Description: Investment

Foreign investors are only permitted to provide services through the establishment of joint ventures with Vietnamese partners with the capital contribution of foreign side not exceeding 50%.

35. Sector: Services Auxiliary to all Modes of Transport

Sub - sector: Other (part of CPC749)(18)

(18) Include the following activities: bill auditing; freight brokerage services; freight inspection, weighing and sampling services; freight receiving and acceptance services; transportation document preparation services. These services are provided on behalf of cargo owners.

Obligations Concerned:

Market Access

National Treatment

Level of Government: Central

Source of Measure: - Administrative measures

- Decree No. 163/2017/ND-CP dated 30 December 2017

Description: Investment

Foreign investors are only permitted to establish joint venture or the purchase of shares in a Vietnamese enterprise with less than 100% foreign ownership.

36. Sector: Manufacturing

Sub - sector: Aircraft Manufacture Industry (ISIC 353)

Obligations Concerned:

Market Access

National Treatment

Level of Government: Central

Source of Measure: - Law on Investment No. 61/2020/QH14 dated 17 June 2020

- Decision No. 38/2007/QD-TTg dated 20 March 2007

Description: Investment

The foreign capital contribution in joint ventures operating in air-plane manufacture shall not exceed 49%.

37. Sector: Manufacturing

Sub - sector: Manufacture of railway rolling stock, spare parts, wagon and coach (ISIC 352)

Obligations Concerned:

Market Access

National Treatment

Level of Government: Central

Source of Measure: - Law on Investment No. 61/2020/QH14 dated 17 June 2020

- Decision No. 214/QD-TTg dated 10 February 2015

- Decision No. 1686/QD-TTg dated 20 November 2008

Description: Investment

Foreign investors are only allowed to establish joint venture with the

foreign capital contribution not exceeding 49%.

ANNEX II. RESERVATIONS FOR FUTURE MEASURES. SCHEDULE OF VIET NAM

EXPLANARY NOTES

1. The Schedule of Viet Nam to this Annex sets out, pursuant to Article 8.7 (Non-Conforming Measures) and Article 9.8 (Non-Conforming Measures), the specific sectors, subsectors or activities for which that Viet Nam 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 Article 9.4 (National Treatment);

(b) Article 8.4 (Most-Favoured-Nation Treatment) or Article 9.5 (Most- Favoured-Nation Treatment);

(c) Article 8.5 (Market Access);

(d) Article 8.6 (Local Presence);

(e) Article 9.6 (Performance Requirements); or

(f) Article 9.7 (Senior Management and Boards of Directors).

2. Each Schedule entry sets out the following elements:

(a) Sector refers to the sector for which the entry is made;

(b) Sub-Sector, where referenced, refers to the specific sub-sector for which the entry is made;

(c) Industry Classification, where referenced, refers to the activity covered by the non-conforming measure, according to the provisional CPC codes as used in the Provisional Central Product Classification (Statistical Papers Series M No. 77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991);

(d) Obligations Concerned specifies the obligations referred to in paragraph 1 that, pursuant to Article 8.7.2 (Non-Conforming Measures) and Article 9.8.2 (Non-Conforming Measures), do not apply to the sectors, subsectors or activities listed in the entry;

(e) Description sets out the scope or nature of the sectors, subsectors or activities covered by the entry to which the reservation applies; and

(f) Existing Measures, where specified, identifies, for transparency purposes, a non-exhaustive list of existing measures that apply to the sectors, subsectors or activities covered by the entry.

3. In accordance with Article 8.7.2 (Non-Conforming Measures) and Article 9.8.2 (Non-Conforming Measures), the articles of this Agreement specified in the Obligations Concerned element of an entry do not apply to the sectors, subsectors and activities identified in the Description element of that entry.

4. With respect to Annex II entries on Most-Favoured-Nation Treatment relating to bilateral or multilateral international agreements, the absence of language regarding the scope of the reservation for differential treatment resulting from an amendment of those bilateral or multilateral international agreements in force or signed prior to the date of entry into force of this Agreement is without prejudice to each Party's respective interpretation of the scope of that reservation.

1 Sector: All sectors

Sub-Sector:

Obligations Concerned: Market Access

National Treatment

Most-Favoured-Nation Treatment

Performance Requirements

Senior Management and Boards of Directors

Description: Investment

Viet Nam reserves the right to adopt or maintain any measure conferring rights or privileges to socially, economically and geographically disadvantaged minorities and ethnic groups.

Existing Measures:

2 Sector: All sectors (1)

(1) For greater certainty, this reservation shall not be invoked for the violation of commitments set out in Annex I.

Sub sector:

Obligations Concerned:

Market Access

National Treatment

Most-Favoured-Nation Treatment

Senior Management and Boards of Directors

Description: Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to investment procedures (including but not limited to procedures for registration of investment, evaluation of investment projects, procedures for investments involving establishment of economic organizations and operational duration of projects, foreign exchange management procedures). (2)

(2) For greater certainty, the fact that Viet Nam reserves the right to adopt or maintain any measure with respect to investment procedures shall not be construed as Viet Nam reserve the right to adopt or maintain any foreign equity restriction other than as provided in its Schedules in Annex I or Annex II.

Existing measures: - Administrative measures

- Law on Investment No. 61/2020/QH14 dated 17 June 2020

3 Sector: All sectors

Sub sector:

Obligations Concerned:

Market Access

National Treatment

Most-Favoured-Nation Treatment

Performance Requirements

Senior Management and Board of Directors

Description: Investment

Viet Nam reserves the right to adopt or maintain any measure relating to state-owned enterprises (3), State properties, Government entities and themonitoring and management of investment by State funds, including but not limited to privatization, equitization or divestment of assets through transfer or disposal of equity interests or assets of state-owned enterprises.

(3) The term “state-owned enterprise” is defined under Article 4 of the Law on Enterprises, 2014.

Existing measures:

- Administrative measures

- Law on Investment No. 61/2020/QH14 dated 17 June 2020

- Law on Enterprise No. 59/2020/QH14 dated 17 June 2020

- Decree No. 31/2021/ND-CP dated 26 March 2021

- Decree No. 47/2021/ND-CP dated 01 April 2021

4 Sector: All sectors

Sub sector:

Obligations Concerned:

Market Access

National Treatment

Most-Favoured-Nation Treatment

Local Presence

Performance Requirements

Senior Management and Boards of Directors

Description: Investment

Viet Nam reserves the right to adopt or maintain any measure affecting land, property and natural resources (4) associated with land, including but not limited to acquisition, ownership (5), lease, policy on the usage of land, land planning, term of land use, rights and obligations of land users.

(4) Natural resources found in land belong to the Government of Viet Nam.

(5) For illustrative purposes, foreign organizations and individuals cannot own land. They can only lease land in line with the duration of their investment project subject to approval of a competent State body, which shall not exceed 50 years.

Existing measures: - Administrative measures

- Law on Land No.45/2013/QH13 dated 29 November 2013

- Law on Real Estate Business No.66/2014/QH13 dated 25 November 2014

- Law on Housing No.65/2014/QH13 dated 25 November 2014

5 Sector: All sectors

Sub sector:

Obligations Concerned:

Market Access

National Treatment

Description: Cross-Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure in regard of the establishment of commercial presence of foreign enterprises and investors in Viet Nam in the form of branch, except for the follow sectors and sub-sectors:

- Legal services (CPC 861);

- Computer and Related Services (CPC 841-845, CPC 849);

- Management consultant services (CPC 865);

- Services related to management consulting (CPC 866);

- Construction and related engineering services (CPC 51);

- Franchising services (CPC 8929).

Existing measures:

6 Sector: All sectors

Sub sector:

Obligations Concerned:

Market Access

National Treatment

Most-Favoured-Nation Treatment

Performance Requirements

Senior Management and Boards of Directors

Description: Investment

Viet Nam reserves the right to adopt or maintain any measure regarding subsidies, including but not limited to subsidies for research and development, subsidies in health, education and audio-visual sectors, and subsidies aimed at promoting the welfare and employment of ethnic minorities.

Existing measures:

7 Sector: All

Sub-Sector:

Obligations Concerned:

National Treatment (Article 8.3 and 9.4)

Most-Favored-Nation Treatment (Article 8.4 and 9.5)

Market Access (Article 8.5)

Performance Requirements (Article 9.6)

Senior Management and Board of Directors (Article 9.7)

Description: Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to an investment to supply a service in the exercise of governmental authority.

8 Sector: All sectors

Sub sector:

Obligations Concerned: Most-Favoured-Nation Treatment

Description: Cross-Border Trade in Services and Investment

1. Viet Nam reserves the right to adopt or maintain any measure that accords differential treatment to services suppliers or investors of other countries or their investments under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.

2. Viet Nam reserves the right to adopt or maintain any measure that accords differential treatment to services suppliers or investors of other countries or their investments under any bilateral or multilateral international agreement in force or signed after the date of entry into force of this Agreement.

3. The treatment referred in paragraph 2, with regards to the Most-Favoured-Nation Treatment provision in Chapter 9 (Investment), does not include the treatment with respect to the management, maintenance, use, enjoyment or disposal of investments in its territory.

Existing measures:

9 Sector: All sectors

Sub sector:

Obligations Concerned: Most-Favoured-Nation Treatment

Description: Cross-Border Trade in Services and Investment (6)

(6) For greater certainty, this entry is not inconsistent with Viet Nam's obligations set out in the GATS.

Viet Nam 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) maritime matters, including salvage;

(b) fisheries; and

(c) aviation.

Existing measures:

10 Sector: All sectors

Sub-sector:

Obligations Concerned:

Market Access

National Treatment

Most-Favoured-Nation Treatment

Senior Management and Board of Directors

Level of Government: Central

Description: Investment

Viet Nam reserves the right to adopt or maintain any measure in relation to the employment of expatriates. Restrictions (7) may be imposed on the number or ratio, minimum wages, duration and type of expatriates employed.

(7) For illustrative purpose, the restriction may include but not limited to: - In the case of managers, executives and specialists, at least 20% of the total number of them shall be Vietnamese nationals. However, a minimum of three non-Vietnamese managers, executives and specialists shall be permitted per enterprise; - The legal representative of an enterprise shall reside permanently in Viet Nam as stipulated in the Law on Enterprise, 2014.

Existing Measures: - Law on Investment No. 61/2020/QH14 dated 17 June 2020

- Law on Labour No.45/2019/QH14 dated 20 November 2019

- Decree No. 145/2020/ND-CP dated 14 December 2020

- Administrative measures.

For greater certainty, this reservation shall not be invoked to nullify the commitments set out in Viet Nam's Annex I.

11 Sector: Professional Services

- Medical and dental services (CPC 9312)

- Services provided by midwives, nurses, physiotherapists and para-medical personnel (CPC 93191)

- Veterinary services (keeping micro-organism strain for veterinary) (CPC 932)

- Other

Research and Development Services

- Research and development services on social sciences and humanities (CPC 852)

- InterdisciplinaryResearch and development services (CPC 853)

Real Estate Services

- Involving own or leased property (CPC 821)

- On a fee or contract basis (CPC 822)

Rental/Leasing Services without Operators

- Relating to ships (CPC 83103)

- Relating to other machinery and equipment (mining and oil field equipment; commercial radio, television and communication equipment) (CPC 83109)

- Relating to other transport equipment (CPC 83101+83102+)

- Other (CPC 832)

Other Business Services

- Arbitration and conciliation services (CPC 86602), excluding arbitration and conciliation services for commercial disputes between businesses – CPC 86602**

- Related scientific and technical consulting services: map making services (CPC 86754)

- Advertising services (CPC 871): advertising for cigarettes

- Market research and public opinion polling services (CPC 86402)

- Urban planning and urban landscape architectural services (CPC 8674) (excluding services incidental to development of project planning, construction, project supervision, maintenance, renovation and restoration of relics)

- Technical testing and analysis services (CPC 8676): conformity testing of transport vehicles and certification of transport vehicles

- Services incidental to agriculture, hunting and forestry (CPC 881): services relating to investigation, evaluation and exploitation for natural forest including exploitation of woods and wild, rare and precious animals hunting and trapping, aerial photographing, aerial seed planting and aerial chemicals spraying and dusting, micro-bial plant, animal genetic resource in agriculture

- Services incidental to fishing (CPC 882) excluding specialised consultancy services related to marine or freshwater fisheries, fish hatchery services

- Services incidental to mining (CPC 883): services of supply of equipment, materials and chemicals, supply base services, offshore/marine support vessels, accommodation and catering, helicopter services

- Services incidental to energy distribution (CPC 887)

- Placement and supply services of Personnel (CPC 872)

- Investigation and security (CPC 873)

- Building-cleaning services (CPC 874)

- Photographic services (CPC 875)

- Packaging services (CPC 876)

- Printing, publishing (CPC 88442)

- Convention services (CPC 87909*)

- Other (8790)

Postal services (CPC 7511)

Audiovisual services

- Video tape production and distribution services (9611)

- Radio and television services (CPC 9613)

- Radio and television transmission services (CPC 7524)

- Other

Communication services

- Postal services

- Other communication services

Other distribution services

Educational Services

- Primary education services (CPC 921)

Environmental services

- Sanitation and similar services (CPC 9403)

- Other

Health related and social services

- Social Services (CPC 933)

- Other health related and social services

Tourism and travel related services

- Tourist guides services (CPC 7472)

- Other

Recreational, cultural and sporting services

- News agency services (CPC 962)

- Libraries, archives, museums and other cultural services (CPC 963)

- Sporting and other recreational services, excluding electronic games business (CPC 964**)

- Other

Transport services

- Maritime Transport Services: Rental of vessels with crew (CPC 7213); Passenger transportation (cabotage) (CPC 7211); Freight transportation (cabotage) (CPC 7212); Freight transportation less cabotage Maintenance and repair of vessels (CPC 8868**); Pushing and towing services (CPC 7214); Supporting services for maritime transport (CPC 745**)

*The (*) indicates that the service specified is a component of a more aggregated CPC item specified elsewhere in this classification list.

- Internal Waterways Transport: Rental of vessels with crew (CPC 7223); Maintenance and repair of vessels (CPC 8868**); Pushing and towing services (CPC 7224); Supporting services for internal waterway transport (CPC 745**)

- Air Transport Services: Passenger transportation (CPC 731); Freight transportation (CPC 732); Rental of aircraft with crew (CPC 734); Supporting services for air transport (CPC 746)

- Specialty air services

- Space Transport (CPC 733)

- Rail Transport Services: Pushing and towing services (CPC 7113); Maintenance and repair of rail transport equipment (CPC 8868**); Supporting services for rail transport services (CPC 743)

- Road Transport Services: Rental of commercial vehicles with operator (CPC 7124); Maintenance and repair of road transport equipment (CPC 6112+8867);

Supporting services for road transport services (CPC 744)

- Pipeline Transport: Transportation of fuels (CPC 7131); Transportation of other goods (CPC 7139)

- Services auxiliary to all modes of transport: Cargo-handling services provided at airports

- Other Transport Services

Other services not elsewhere classified CPC 95+97+98+99)

Sub-sector:

Obligations Concerned:

Market Access

National Treatment

Most-Favoured-Nation Treatment

Local Presence

Performance Requirements

Senior Management and Boards of Directors

Description: Cross-Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure that is not consistent with the obligations of National Treatment, Most-Favoured-Nation Treatment, Local Presence, Performance Requirements, Senior Management and Boards of Directors in cross-border trade in services and investment in the above- mentioned sectors and sub-sectors.

Existing measures:

12 Sector: All sectors

Sub sector:

Obligations Concerned:

Market Access

National Treatment

Most-Favoured-Nation Treatment

Local Presence

Senior Management and Boards of Directors

Description: Cross-Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure regarding the development policies of small and medium-sized Enterprises. (8)

(8) The term “small and medium-sized enterprise” is defined under Article 5 of Decree No. 80/2021/ND-CP dated 26 August 2021 on assistance to the development of small and medium sized enterprises.

Existing measures: - Decree No. 80/2021/ND-CP dated 26 August 2021 on assistance todevelopment of small and medium sized enterprise

13 Sector: River Ports, Sea Ports and Airports Construction, operation and management

Sub-Sector:

Obligations Concerned: Market Access

National Treatment

Most-Favoured-Nation Treatment

Performance Requirements

Senior Management and Boards of Directors

Local Presence

Description: Investment and Cross-Border Trade in Services

Viet Nam reserves the right to adopt or maintain any measure with respect to the construction, operation and management of river ports, sea ports and airports.

This entry shall not be invoked to nullify the commitments set out in Viet Nam’s Annex I.

Existing Measures:

14 Sector: All sectors

Sub sector:

Obligations Concerned:

Market Access

National Treatment

Most-Favoured-Nation Treatment

Performance Requirements

Senior Management and Board of Directors

Description: Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to maintaining food security.

Existing measures: - Administrative measures

15 Sector: All sectors

Sub sector:

Obligations Concerned:

Market Access

National Treatment

Description: Cross-Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to securities to be listed or listed on a stock exchange and any matter relating to the acquisition of interests in, take-overs of, and mergers of a public-listed company.

Existing measures: - Law on Investment No. 61/2020/QH14 dated 17 June 2020

- Law on Securities No. 54/2019/QH14 dated 26 November 2019

- Administrative measures

16 Sector: All sectors

Sub sector:

Obligations Concerned:

Market Access

National Treatment

Most-Favoured-Nation Treatment

Performance Requirements

Local Presence

Senior Management and Board of Directors

Description: Cross-Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure relating to activities:

- In the event those activities restricted to designated enterprises are liberalised to those other than the designated entities; or

- In the event such designated enterprise no longer operates on anoncommercial basis.

Existing measures:

17 Sector: All sectors

Sub sector:

Obligations Concerned:

Market Access

National Treatment

Description: Investment

Viet Nam reserves the right to adopt or maintain any measure withrespect to establishment and operation of co-operatives, union of co-operatives, household business and sole-proprietorship.

Existing measures:

18 Sector: Manufacturing and Agriculture

Sub sector: Manufacturing

- Production of firecrackers, including fireworks (ISIC 2927);

- Production of sky-lanterns (ISIC 3150);

- Production of fishing-net (ISIC 1723);

- Production and supply of explosive materials (ISIC 2429);

- Production of cigarettes and cigars (ISIC 1600);

- Production of alcoholic beverages and soft drink (ISIC 1551);

- Production of tobacco production (ISIC 1600);

- Production of lubrication oil, grease (ISIC 2320);

- Production of NPK fertilizer (ISIC 2412);

- Production of construction glasses (ISIC 2610);

- Production of clay bricks (ISIC 2693);

- Production of vertical shaft cement production equipment and burnt earth bricks and tiles (ISIC 2694);

- Production of D6-D32 mm construction steel rods and D15-D114mm seam steel pipe; zinc galvanized and color sheets (ISIC 2710);

- Production of fluorescent tubes and bulbs (ISIC 3150);

- Production of under 10000DWT cargo ships; under 800 TEU container ships; lighters and under 500 seats passenger ships (ISIC 3511);

- Production of oil-well cement, barite and betonies for drilling fluids (ISIC 2694);

- Production and supply of industrial explosive materials using in oil and gas activities (ISIC 2429);

- Cane sugar production (ISIC 1542).

Agriculture

Cultivating, producing or processing rare or precious plants, breeding or husbandry of precious or rare wild animal and processing of those plants or animals (including both living animals and processed matter taken from animals) (9).

(9) A list of rare or precious plants and animals can be found at: www.kiemlam.org.vn

Obligations Concerned:

Market Access

National Treatment

Most-Favoured-Nation Treatment

Performance Requirements

Senior Management and Boards of Directors

Description: Investment

Viet Nam reserves the right to adopt or maintain any measure relating to investment in these above-mentioned sectors and sub-sectors.

Existing measures:

- Administrative measures

- Law on Investment No. 61/2020/QH14 dated 17 June 2020

- Law on Environment protection No. 72/2020/QH14 dated 17 November 2020

- Law on Oil and Gas No. 51/VBHN-VPQH dated 10 December 2018

- Law on Oil and Gas No.10/2008/QH12 dated 03 June 2008 amending Law on Oil and Gas No. 19/2000/QH10 dated 9 June 2000

- Decree No. 59/2006/ND-CP dated 12 June 2006

- Decree No. 19/VBHN-BCT dated 09 May 2014

- Decision No. 95/2009/QD-TTg dated 17 July 2009

- Decree No. 67/2013/ND-CP dated 27 June 2013

- Decision No. 58/2003/QD-TTg dated 17 April 2003

- Decree No. 59/2005/ND-CP dated 4 May 2005

- Decree No. 14/2009/ND-CP dated 13 February 2009 amending Decree No. 59/2005/ND-CP dated 4 May 2005

- Circular No. 62/2008/TT-BNN dated 20 May 2008

- Decree No. 06/2019/ND-CP dated 22 January 2019

19 Sector: Professional services

Sub-sector: Accounting and bookkeeping services (CPC 862)

Taxation services (CPC 863)

Obligations Concerned:

Local Presence

Performance Requirement

Description: Cross-Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure which may be inconsistent with the obligations of Local presence and Performance requirement in the above sub-sectors.

Existing measures: - Law on Accounting No. 88/2015/QH13 dated 20 November 2015

- Decree No. 174/2016/ND-CP dated 30 December 2016

- Circular No. 292/2016/TT-BTC dated 15 November 2016

- Circular No. 296/2016/TT-BTC dated 15 November 2016

- Circular No. 297/2016/TT-BTC dated 15 November 2016

20 Sector: Rental/Leasing Services without Operators

Sub-sector: Relating to other machinery and equipment (CPC 83109)

Obligations Concerned:

Market Access

National Treatment

Description: Cross-Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to cross-border supply in rental/leasing services without operators relating to machinery and equipment, except for industrial machinery and equipment.

Viet Nam reserves the right to adopt or maintain any measure with respect to investment in rental/leasing services without operators relating to machinery and equipment.

Existing measures:

21 Sector: Distribution Services

Sub-sector:

Obligations Concerned:

Market Access

National Treatment

Most-Favoured-Nation Treatment

Local Presence

Performance Requirements

Senior Management and Boards of Directors

Description: Cross-Border Trade in Services and Investment

- Viet Nam reserves the right to adopt or maintain any measure in regard of cross-border trade in:

(i) Commission agents' services (CPC 621, 61111, 6113, 6121)

(ii) Wholesale trade services (CPC 622, 61111, 6113, 6121)

(iii) Retailing services (CPC 631 + 632, 61112, 6113, 6121) (10)

(10) For transparency purposes, these services include multi-level sales by properly trained and certified Vietnamese individual commission agents away from a fixed location for which remuneration is received both for the sales effort and for sales support services that result in additional sales by other contracted distributors.

regarding the distribution of products other than products for personal use and legitimate computer software for personal and commercial use.

- Viet Nam reserves the right to adopt or maintain any measure in regard of cross-border trade in services and investment regarding cigarettes and cigars, publications (11), video records on whatever medium, precious metals and stones, pharmaceutical products and drugs (12), explosives, processed oil and crude oil, rice, cane and beet sugar.

(11) For greater clarity, publications include but are not limited to: - Printed books, books printed in Braille, e-books (work read or heard through electronic devices, digital devices or the internet); - Calendars, tear-off calendars, pocket calendars, book calendars, desk calendars; - Pictures, photos, maps, posters, leaflets, and brochures with content specified in Article 4 of the Publication Law; - Audio tapes and discs, video tapes, and discs substituting or illustrating books.

(12) For the purposes of this schedule, "pharmaceuticals and drugs" do not include non-pharmaceutical nutritional supplements in tablet, capsule or powdered form.

Existing measures: - Law on Trade No. 36/2005/QH11 dated 14 June 2005

- Decree No. 09/2018/ND-CP dated 15 January 2018

22 Sector: Other Business Services

Sub sector: Services incidental to manufacturing (CPC 884 and 885)

Obligations Concerned:

Market Access

National Treatment

Description: Investment

Without prejudice to measures mentioned in Annex I, Viet Nam reserves the right to adopt or maintain any measure with respect to investment in services incidental to manufacturing.

Existing measures - Law on Technical Standard and Criteria No. 68/2006/QH11 dated 29 June 2006.

23 Sector: Telecommunication services

Sub sector:

Obligations Concerned:

Market Access

National Treatment

Most-Favoured-Nation Treatment

Performance Requirements

Local Presence

Senior Management and Board of Directors

Description: Cross-Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to the supply and use of telecommunication services other than those specified in Annex I.

Viet Nam reserves the right to adopt or maintain any measure withrespect to the investment in, building of, operating and exploiting telecommunication networks and services in rural areas, remote areas and ethnic minority areas of Viet Nam.

Viet Nam reserves the right to adopt or maintain any measure with respect to the supply and use of telecommunication services through telecommunication network.

Existing measures

24 Sector: Audiovisual Services

Sub sector: Motion picture production (CPC 96112, excl. video tape)

Motion picture distribution (CPC 96113, excl. video tape)

Motion picture projection service (CPC 96121)

Obligations Concerned:

National Treatment

Description: Cross-Border Trade in Services

Viet Nam reserves the right to adopt or maintain any measure withrespect to cross-border trade in services regarding motion picture production, motion picture distribution and motion picture projection service.

Existing measures

25 Sector: Audiovisual Services

Sub sector: Sound recording

Obligations Concerned:

Market Access

National Treatment

Description: Cross-Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to sound recording.

Existing measures

26 Sector: Educational services (13)

(13) Only in the technical, natural sciences and technology, business administration and business studies, economics, accounting, international law and language training fields.

Sub sector: Secondary education services (CPC 922)

Obligations Concerned:

Market Access

National Treatment

Description: Cross-Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to secondary education services.

Existing measures

27 Sector: Educational services

Sub sector: Higher education services (CPC 923)

Adult education (CPC 924)

Other education services (CPC 929 including foreign language training)

Obligations Concerned:

Market Access

National Treatment

Description: Cross-Border Trade in Services

Vietnam reserves the right to adopt or maintain any measure with respect to the supply of above-mentioned services online into the territory of Viet Nam.

Existing measures

28 Sector: Environmental services

Sub sector: Sewage Services (CPC 9401)

Refuse disposal services (CPC 9402) (14)

(14) Import of refuse is forbidden by law. Treatment and disposal of hazardous waste is regulated by Law.

Other services - Cleaning services of exhaust gases (CPC 94040) and noise abatement services (CPC 94050)

Obligations Concerned: National Treatment

Description: Cross-Border Trade in Services

Viet Nam reserves the right to adopt or maintain any measure with respect to cross-border supply of sewage services; cleaning services of exhaust gases and noise abatement services, except related consulting services.

Existing measures

29 Sector: Recreational, cultural and sporting services

Sub sector: Entertainment services (including theatre, live bands and circus services) (CPC 9619)

Other - electronic games services

Obligations Concerned:

Market Access

National Treatment

Description: Cross-Border Trade in Services and Investment

Foreign service suppliers are not permitted to provide entertainment services and electronic games services into the territory of Viet Nam.

Existing measures

30 Sector: Maritime Transport Services

Sub sector: Passenger transportation (CPC 7211)

Freight transportation (CPC 7212)

Obligations Concerned:

National Treatment

Description: Cross-Border Trade in Services

Vietnam reserves the right to adopt or maintain any measure with respect to cross-border supply of services regarding passenger transportation and freight transportation, except international freight transportation.

Existing measures

31 Sector: Transportation services

Sub sector: Maritime Auxiliary Services, including:

- Container handling services (15) (CPC 7411);

(15) Public utility concession or licensing procedures may apply in case of the occupation of the public domain.

- Customs Clearance Services (16);

(16) "Customs clearance services" (alternatively "customs house brokers' services") means activities consisting in carrying out on behalf of another party customs formalities concerning import, export or through transport of cargoes, whether this service is the main activity of the service provider or a usual complement of its main activity.

- Container Station and Depot Services (17)

(17) "Container station and depot services" means activities consisting in storing containers, whether in port areas or inland, with a view to their stuffing/stripping, repairing and making them available for shipments.

- Shipping agency services

Internal Waterways Transport, including:

- Passenger transport (CPC 7221);

- Freight transport (CPC 7222)

Rail Transport Services, including:

- Passenger transportation (CPC 7111);

- Freight transportation (CPC 7112)

Road Transport Services, including:

- Passenger transportation (CPC 7121+7122);

- Freight transportation (CPC 7123)

Services Auxiliary to all Modes of Transport, including:

- Container handling services, except services provided at airports (part of CPC 7411);

- Storage and warehouse services (CPC 742);

- Freight transport agency services (CPC 748) (18)

(18) Including freight forwarding services. These services mean the activities consisting of organizing and monitoring shipment operations on behalf of shippers, through the acquisition of transport and related services, preparation of documentation and provision of business information.

- Other (part of CPC 749) (19), except freight brokerage services

(19) Include the following activities: bill auditing; freight brokerage services; freight inspection, weighing and sampling services; freight receiving and acceptance services; transportation document preparation services. These services are provided on behalf of cargo owners.

Obligations Concerned:

National Treatment

Description: Cross-Border Trade in Services

Viet Nam reserves the right to adopt or maintain any measure with respect to cross-border supply of the above-mentioned services.

Existing measures

32 Sector: Defense Industry

Sub - sector:

Obligations Concerned:

Market Access

National Treatment

Local Presence

Most-Favored- Nation Treatment

Performance Requirements

Senior Management and Board of Directors

Level of Government: Central

Source of Measure:

Description: Cross Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure with regard to the defense industry sector.

33 Sector: Power Development

Sub-sector:

Obligations Concerned:

Market Access

National Treatment

Most-Favoured-Nation Treatment

Performance Requirements

Senior Management and Boards of Directors

Description: Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to power development

Existing measures:

34 Sector: Mining and quarrying, including oil and gas (ISIC 111, ISIC 112)

Sub-sector:

Obligations Concerned:

Market Access

National Treatment

Most-Favoured-Nation Treatment

Performance Requirements

Senior Management and Boards of Directors

Description: Investment

Viet Nam reserves the right to adopt or maintain any measure to regulate mining and quarrying (including oil and gas) related activities carried out within the territory or jurisdiction of Viet Nam.

Existing measures: - Law on Investment No. 61/2020/QH14 dated 17 June 2020

- Law on Minerals No. 60/2010/QH12 dated 17 November 2010

- Law on Oil and Gas No. 51/VBHN-VPQH dated 10 December 2018

- Law on Oil and Gas No.10/2008/QH12 dated 03 June 2008 amending Law on Oil and Gas No. 19/2000/QH10 dated 9 June 2000

- Decree No. 31/2021/ND-CP dated 26 March 2021

- Decree No. 158/2016/ND-CP dated 29 November 2016

- Decree No. 95/2015/ND-CP dated 19 October 2015

- Decree No. 17/2020/ND-CP dated 05 February 2020

- Administrative measures

35 Sector: Manufacturing

Sub-sector: Production of industrial explosive devices (ISIC 2429)

Cement production (ISIC 2694)

Automobile assembly and manufacture (ISIC 3410)

Motorcycle assembly and manufacture (ISIC 3591)

Obligations Concerned:

Market Access

National Treatment

Most-Favoured-Nation Treatment

Performance Requirements

Senior Management and Boards of Directors

Description: Investment

Viet Nam reserves the right to adopt or maintain measures which may give preferences to local investors.

Existing measures: - Law on Investment No. 61/2020/QH14 dated 17 June 2020

- Law on Minerals No. 60/2010/QH12 dated 17 November 2010

- Decree No. 31/2021/ND-CP dated 26 March 2021

- Decree No. 158/2016/ND-CP dated 29 November 2016

- Decision No. 1834/QD-TTg dated 28 October 2015

- Decree No. 71/2018/ND-CP dated 15 May 2018

- Decision No. 1469/QD-TTg dated 22 August 2014

- Decision No. 02/2007/QD-BCT dated 29 August 2007

36 Sector: Manufacturing

Sub-sector: - Processing of aqua-product and canned seafood (ISIC 1512)

- Vegetable oil production and processing (ISIC 1514)

- Dairy processing (ISIC 1520)

- Leather tanning (ISIC 1911)

- Paper production (ISIC 2101)

- Production of automobile tires and tubes up to 450mm (ISIC 2511)

- Production of rubber gloves, labour sanitary boots (ISIC 2520)

- Assembly of marine engines (ISIC 2911)

- Production of electro-mechanical and refrigeration equipment (ISIC 2919)

- Manufacturing of cultivation, processing, reaping machines, insecticide pumps, spare parts of agricultural machines and engines (ISIC 2921)

- Manufacturing and assembling of transport vehicles (ISIC 3410)

Obligations Concerned:

Market Access

National Treatment

Most-Favoured-Nation Treatment

Performance Requirements

Senior Management and Boards of Directors

Description: Investment

Viet Nam reserves the right to adopt or maintain technology and/or environment and/or quality requirements in these above subsectors.

Existing measures:

- Decision No. 1211/QD-TTg dated 24 July 2014

- Decision No. 38/2016/QD-TTg dated 14 September 2016

- Decision No. 6209/QD-BCT dated 25 November 2010

- Decision No. 16/2019/QD-TTg dated 28 March 2019

- Decree No. 08/2022/ND-CP dated 10 January 2022

- Decree No. 09/2018/ND-CP dated 15 January 2018

- Decree No. 15/2018/ND-CP dated 02 February 2018

37 Sector: Mineral and natural resources investigation, exploitation, prospecting and using

Sub-sector:

Obligations Concerned:

Market Access

National Treatment

Most-Favoured-Nation Treatment

Local Presence

Performance Requirements

Senior Management and Boards of Directors

Description: Cross Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure withrespect to mineral and natural resources investigation, exploitation, prospecting and using.

Existing measures:

- Law on Investment No. 61/2020/QH14 dated 17 June 2020

- Law on Minerals No. 60/2010/QH12 dated 17 November 2010

- Law on Environment Protection No. 72/2020/QH14 dated 17 November 2020

- Decree No. 31/2021/ND-CP dated 26 March 2021

- Decree No. 158/2016/ND-CP dated 29 November 2016

38 Sector: Fishery

Sub-sector:

Obligations Concerned:

Market Access

National Treatment

Most-Favoured-Nation Treatment

Performance Requirements

Senior Management and Boards of Directors

Description: Investment

Viet Nam reserves the right to adopt or maintain any measure in relation to fishery activities within Viet Nam sovereignty and jurisdiction waters as defined in accordance with the 1982 United Nations Convention on theLaw of the Sea (UNCLOS).

No investment license shall be issued to foreign investors (20) in:

(20) For the purpose of this reservation, the term "Foreign investor" can be found in the Law on Investment, 2020.

- Fresh-water fishing, marine fishing (ISIC 0500)

- Coral and natural pearl exploitation (ISIC 0500)

Existing measures:

- Law on Investment No. 61/2020/QH14 dated 17 June 2020

- Law on Fishery No.18/2017/QH14 dated 21 November 2017

- Decree No. 31/2021/ND-CP dated 26 March 2021

- Decree No. 14/2009/ND-CP dated 13 February 2009

- Decree No. 26/2019/ND-CP dated 08 March 2019

- Circular 02. 2018/TT-BNNPTNT dated 31 January 2018 amending Circular No. 62/2008/TT-BNN dated 20 May 2008

39 Sector: Forestry and Hunting

Sub-sector:

Obligations Concerned:

Market Access

National Treatment

Most-Favoured-Nation Treatment

Performance Requirements

Senior Management and Boards of Directors

Description: Investment

Viet Nam reserves the right to adopt or maintain any measure relating to investment in forestry and hunting activities.

Existing measures: - Administrative measures

- Law on Forestry No. 16/2017/QH14 dated 15 November 2017

40 Sector: Traditional Markets

Sub-sector:

Obligations Concerned:

Market Access

National Treatment

Most-Favoured-Nation Treatment

Local Presence

Performance Requirements

Senior Management and Boards of Directors

Description: Cross Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to traditional markets.

Existing measures:

41 Sector: All Sectors

Sub-sector:

Obligations Concerned:

Market Access

National Treatment

Most-Favoured-Nation Treatment

Local Presence

Performance Requirements

Senior Management and Boards of Directors

Description: Cross Border Trade in Services and Investment

Viet Nam reserves the right to adopt and maintain any measures relating to any new services other than those classified positively and explicitly in CPC Prov ST/ESA/STAT/SER.M/77, 1991 or services that were not technically feasible on the date of entry into force of this Agreement.

Existing measures:

42 Sector: Geodesic and cartography

Sub-sector:

Obligations Concerned:

Market Access

National Treatment

Most-Favoured-Nation Treatment

Local Presence

Performance Requirements

Senior Management and Boards of Directors

Description: Cross Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to geodesic and cartographic activities.

Existing measures: Decree No. 27/2019/ND-CP dated 13 March 2019

43 Sector: National heritage related activities and services

Sub-sector:

Obligations Concerned:

Market Access

National Treatment

Most-Favoured-Nation Treatment

Local Presence

Performance Requirements

Senior Management and Boards of Directors

Description: Cross Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to cultural heritage related activities and services.

Existing measures: - Law on Heritage No. 10/VBHN-VPQH dated 23 July 2013

- Law on Heritage No. 32/2009/QH12 dated 18 June 2009 amending

Law on Heritage No. 28/2001/QH10 dated 29 June 2001

44 Sector: Commodity exchange

Sub-sector:

Obligations Concerned:

Market Access

National Treatment

Most-Favoured-Nation Treatment

Local Presence

Performance Requirements

Senior Management and Boards of Directors

Description: Cross-Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure with respect to Commodity exchange.

Existing measures:

45 Sector: Services relating to secured transaction registration;

Legal consultant services;

Services relating to legal documentation and certification of Viet Nam ‘s law;

Judicial administration services, including but not limited to services relating to nationality, criminal, record and civil record;

Civil enforcement;

Adoption, including child adoption

Sub-sector:

Obligations Concerned:

Market Access

National Treatment

Most-Favoured-Nation Treatment

Local Presence

Performance Requirements

Senior Management and Boards of Directors

Description: Cross-Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure withrespect to the above sub-sectors.

Existing measures:

- Law on Lawyers No. 03/VBHN-VPQH dated 31 December 2015

- Law on Lawyers No. 20/2012/QH13 dated 20 November 2012 amending Law on Lawyers No. 65/2006/QH11 and related Decrees

- Law on Public Notary No. 53/2014/QH13 dated 20 June 2014

- Decree No. 29/2015/ND-CP dated 15 March 2015

- Law on Nationality No. 56/2014/QH13 dated 24 June 2014 amending Law on Nationality No. 24/2008/QH12 dated 13 November 2008

- Law on Criminal Record No. 28/2009/QH12 dated 17 June 2009

- Decree No. 102/2017/ND-CP dated 01 September 2017 on the registration of secured transaction

46 Sector: Money (note) printing

Lottery, betting and gambling services

Sub-sector:

Obligations Concerned:

Market Access

National Treatment

Most-Favoured-Nation Treatment

Local Presence

Performance Requirements

Senior Management and Boards of Directors

Description: Cross-Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure withrespect to money (note) printing, lottery, betting and gambling services.

Existing measures:

47 Sector: All

Obligations Concerned:

National Treatment (Article 8.3 and 9.4)

Market Access (Article 8.5)

Most-Favored- Nation Treatment (Article 8.4 and 9.5)

Description: Cross-Border Trade in Services and Investment

Viet Nam reserves the right to adopt or maintain any measure with regard to the supply of a service by a national of a Party in the territory of the other Party, except for measures relating to entry and temporary stay of natural persons included in Viet Nam's schedule of specific commitments to the GATS, titled WT/ACC/VNM/48/Add.2.

48 Sector: All sectors

Sub-Sector:

Obligations Concerned: Market Access

National Treatment

Description: Investment and Cross-Border Trade in Services

Viet Nam reserves the right to adopt or maintain any measure that is not inconsistent with Viet Nam's obligations under Article XVI and Article XVII of GATS.

For the purposes of this entry, Viet Nam's Schedule of Specific Commitments is modified as set out in Appendix II-A.

Existing Measures:

Appendix II-A. Viet Nam

For the purposes of entry at Annex II – Reservations for Future Measures – Schedule of Viet Nam, Viet Nam's obligations under Article XVI and Article XVII of GATS as set out in Viet Nam's Schedule of Specific Commitments in Services under the GATS (WT/ACC/VNM/48/Add.2) are improved in the following sectors as described below.

Sector/Sub-Sector	**Market Access Improvement**	**National Treatment Improvement**
Rental/Leasing Services without Operators		
Relating to other machinery and equipment (CPC 83109) (limited to industrial machinery and equipment)	Replace existing restriction under mode 1 with "None".	Replace existing restriction under mode 1 with "None