FREE TRADE AGREEMENT BETWEEN THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA AND THE GOVERNMENT OF THE REPUBLIC OF NICARAGUA

PREAMBLE

The Governments of the People's Republic of China ("China") and the Republic of Nicaragua ("Nicaragua"), hereinafter referred to collectively as "the Parties":

Inspired by their growing friendship and bilateral economic and trade relationship;

Recalling the Early Harvest Arrangement for the Free Trade Agreement

between the Government of the People's Republic of China and the Government of the Republic of Nicaragua signed in July 12, 2022;

Desiring to strengthen their economic partnership and further liberalise bilateral trade and promote investment to bring economic and social benefits;

Building on their rights, obligations and undertakings under the Marrakesh Agreement Establishing the World Trade Organization;

Recognising that the strengthening of their economic partnership through a Free Trade Agreement will produce mutual benefits for the Parties;

Resolved to establish transparent and predictable rules governing the trade and investment between the Parties;

Considering the different levels of social and economic development of the Parties;

Reaffirming their commitment to pursue the objective of sustainable development;

Protect and preserve the environment and enhance the means for doing so,

including through the conservation of natural resources in their respective territories;

Desiring to create favourable conditions for the promotion of commercial and economic cooperation in areas of common interest;

Create new employment opportunities, strengthen labor cooperation, and improve the overall quality of life for their respective citizens;

Upholding the rights of their governments to regulate in order to meet

national policy objectives, and to preserve their flexibility to safeguard the public welfare;

Have agreed as follows:

Chapter 1. INITIAL PROVISIONS AND DEFINITIONS

Article 1.1. Establishment of a Free Trade Area

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

Article 1.2. Objectives

1. The objectives of this Agreement are to:

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

(b) facilitate trade in goods and services by promoting conditions of fair competition in the free trade area;

(c) promote conditions of fair competition in the free trade zone.

(d) establish comprehensible rules in order to ensure a regulated and transparent environment for the trade of goods and services between the Parties;

(e) increase investment opportunities in the territories of the Parties;

(f) ensure an adequate and effective protection of intellectual property rights in the territories of the Parties, taking into consideration the economic situation and the social or cultural need of each Party; as well as to promote technological innovation and the transfer and dissemination of technology between the Parties;

(g) confirm their commitment to the promotion of trade and reaffirm their aspiration to achieve an appropriate balance between the economic, social and environmental components of sustainable development;

(h) create effective procedures for the implementation and application of this Agreement, for its joint administration, and for the resolution of disputes; and

(i) establish a framework for further bilateral cooperation to expand and enhance the benefits of this Agreement.

2. The Parties shall interpret and apply the provisions of this Agreement in the light of its objectives set out in paragraph 1 and in accordance with customary rules of interpretation of Public International Law.

Article 1.3. Relation to other Agreements

1. The Parties confirm their rights and obligations under the WTO Agreement and the other agreements negotiated thereunder to which both Parties are party, and any other international agreement to which both Parties are party.

2. In the event of any inconsistency between this Agreement and any other agreement to which the Parties are party, the Parties shall immediately consult with each other with a view to finding a mutually satisfactory solution in accordance with customary rules of interpretation of public international law.

Article 1.4. Geographical Applicability (1)

1. With regard to China, this Agreement shall apply to the entire customs territory of China, including land territory, territorial airspace, internal waters and territorial sea as well as their bed and subsoil, and any area beyond its territorial sea within which it may exercise sovereign rights and/or jurisdiction in accordance with international law and its domestic law.

2. With regard to Nicaragua, the territory of the Republic of Nicaragua, in accordance with its national legislation and international law.

3. Each Party is fully responsible for the observance of all provisions of this Agreement and shall take such reasonable measures as may be available to it to ensure their observance by local governments and authorities in its territory.

(1) This Article is for the implementation of this Agreement only.

Article 1.5. General Definitions

For the purposes of this Agreement, unless otherwise specified:

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

customs administration means:

(a) for China, the General Administration of Customs of the People's Republic of China (GACC) or its successor; and

(b) for Nicaragua, the General Directorate of Customs Services (la Dirección General de Servicios Aduaneros (DGA)) or its successor;

customs duty includes any duty or charge of any kind imposed in connection with the importation of a good, but does not include:

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

(b) any anti-dumping or countervailing duty applied consistently with the provisions of Article VI of GATT 1994, Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, contained in Annex 1A to the WTO Agreement or the Agreement on Subsidies and Countervailing Measures, contained in Annex 1A to the WTO Agreement any duty applied consistently with Article XIX of GATT 1994 and Agreement on Safeguards; and

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

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

days means calendar days;

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

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

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

FTA Joint Commission means the China-Nicaragua Free Trade Agreement Joint Commission established under Article 20.1 (FTA Joint Commission);

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

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

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

Harmonized System or HS means the Harmonized Commodity Description and

Coding System, as adopted and administered by the World Customs Organization, set out in the Annex to the International Convention on the Harmonized Commodity Description and Coding System, done at Brussels on 14 June 1983, as may be amended, adopted and implemented by the Parties in their respective law;

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

national means:

for China, a natural person who has the nationality of China according to the Laws of China; and

for Nicaragua, a Nicaraguan (nicaragüense) as defined in Article 15 of the Political Constitution of the Republic of Nicaragua (Constitución Política de la República de Nicaragua);

originating means qualifying under the provisions of origin set out in Chapter 3 (Rules of Origin and Implementation Procedures);

Party means any State for which this Agreement is in force;

person means a natural person or an enterprise;

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

WTO means the World Trade Organization; and

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

Chapter 2. TRADE IN GOODS

Article 2.1. Scope

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

Article 2.2. National Treatment

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. To this end, Article III of GATT 1994 and its interpretative notes are incorporated into and made part of this Agreement, mutatis mutandis.

Article 2.3. Elimination of Customs Duties

1. Except as otherwise provided in this Agreement, each Party shall, upon entry into force of this Agreement, progressively eliminate its customs duties on originating goods of the other Party in accordance with its Schedule in Annex 2-A.

2. Except as otherwise provided in this Agreement, neither Party may increase any existing import customs duty, or adopt any new customs duty, on an originating good of the other Party.

3. If a Party reduces its applied most-favoured-nation customs duty rate after the entry into force of this Agreement, that duty rate shall apply as regards trade covered by this Agreement if and for as long as it is lower than the customs duty rate calculated in accordance with its Schedule to Annex 2-A.

Article 2.4. Acceleration of Tariff Commitments

1. At the request of either Party, the Parties shall consult to consider accelerating the elimination of customs duties on originating goods as set out in their Schedules in Annex 2-A.

2. Notwithstanding the provisions of Article 20.1 (FTA Joint Commission), an agreement by the Parties to accelerate the reduction and elimination of customs duties on originating goods shall supersede any duty rate determined pursuant to their Schedules for such good and shall enter into force following approval by each Party in accordance with their respective applicable legal procedures.

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

4. For greater certainty, a Party may:

(a) raise a customs duty to the level set out in its Schedule in Annex 2-A following a unilateral reduction for the respective year. A Party considering doing so shall inform the other Party as early as practicable before the new rate of customs duty takes effect; or

(b) maintain or increase a customs duty as authorized by the Dispute Settlement Body of the WTO.

Article 2.5. Temporary Admission of Goods

1. Each Party shall grant duty-free temporary admission for the following goods, regardless of their origin:

(a) professional equipment, such as equipment used for scientific research, pedagogical or medical activities, the press or television and cinematographic purposes, necessary of a person who qualifies for temporary entry, pursuant to the domestic laws of the importing Party;

(b) goods intended for display or demonstration at exhibitions, fairs, meetings, or similar events;

(c) commercial samples; and

(d) goods admitted for sports purposes.

2. Each Party shall, at the request of the person concerned and for reasons its customs authority considers valid, extend the time limit for temporary admission beyond the period initially fixed in accordance with its domestic law.

3. Neither Party may condition the duty-free temporary admission of a good referred to in paragraph 1, other than to

require that the good:

(a) be used solely by or under the personal supervision of a national or resident of the other Party in the exercise of the business activity, trade, profession, or sport of that person;

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

(c) be accompanied by a security in an amount no greater than the charges that would otherwise be owed on entry or final importation, releasable on exportation of the good;

(d) be capable of identification when exported;

(e) be exported on the departure of the person referenced in subparagraph (a), or within such other period related to the purpose of the temporary admission as the Party may establish, or within 6 months, unless extended;

(f) be admitted in no greater quantity than is reasonable for its intended use; and

(g) be otherwise admissible into the Party's territory under its domestic law.

4. If any condition that a Party imposes under paragraph 3 has not been fulfilled, the Party may apply the customs duty and any other charge that would normally be owed on the good plus any other charges or penalties provided for under its domestic law.

5. Each Party shall permit a good temporarily admitted under this Article to be exported through a customs port other than that through which it was admitted.

6. Each Party shall provide that its customs administration or other competent authority shall relieve the importer or another person responsible for a good admitted under this Article from any liability for failure to re-export the good on presentation of proof to the satisfaction of the customs administration of the importing Party that the good has been destroyed by reason of force majeure.

Article 2.6. Import and Export Restrictions

1. Unless otherwise provided in this Agreement, neither Party shall adopt or maintain any prohibition or restriction or measure having equivalent effect, including quantitative restrictions, on the importation of a good originating in the territory of the other Party, or on the exportation or sale for export of a good destined for the territory of the other Party except in accordance with its rights and obligations under the GATT 1994. To this end, Article XI of GATT 1994, including its interpretive notes, is incorporated into and made 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 antidumping duty orders and undertakings;

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

(c) voluntary export restraints inconsistent with Article VI of GATT 1994, as implemented under Article 18 of the SCM Agreement and Article 8.1 of the AD Anti-dumping Agreement.

3. Neither Party may, as a condition for engaging in importation or for the importation of a good, require a person of the other Party to establish or maintain a contractual or other relationship with a distributor in its territory.

4. For greater certainty, paragraph 3 does not prevent a Party from requiring a person referred to in that paragraph to designate an agent for the purposes of facilitating communications between its regulatory authorities and that person.

5. For the purposes of paragraph 3, distributor means a person of a Party who is responsible for the commercial distribution, agency, concession, or representation in the territory of that Party of goods of the other Party.

6. Paragraph 1 shall not apply to the measures set out in Annex 2-B of this Article.

Article 2.7. Tariff-Rate Quota

1. For products in respect of which China establishes a Tariff-Rate Quota (hereinafter referred to as "TRQ") in its Schedule to Annex 2-A, China shall apply in-quota tariff rates at 15% to imports of such products of Nicaraguan origin up to the quantity

for each year as specified in Annex 2-C after the entry into force of this Agreement.

2. Imports of such products of Nicaraguan origin in excess of the specified quantity in Annex 2-C in any given calendar year shall be subject to tariff rates at 50%.

Article 2.8. Tariff-Rate Quota Administration

1. A Party shall implement and administer TRQ set out in its Schedule to Annex 2-A in accordance with Article XIII of GATT 1994, including its interpretive notes, and the Agreement on Import Licensing Procedures (hereinafter referred to as the "Import Licensing Agreement"), contained in Annex 1 A to the WTO Agreement.

2. A Party shall ensure that:

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

(b) any person of a Party that fulfills the importing Party's legal and administrative requirements shall be eligible to apply and to be considered for a TRQ allocation by the Party.

3. Each Party shall make every effort to administer its TRQ in a manner that allows importers to fully utilise the TRQ quantities.

4. On the written request of a Party, the other Party shall consult with the requesting Party regarding the administration of its TRQ.

Article 2.9. Import Licensing Procedures

A Party shall ensure that import licensing regimes applied to goods originating in the other Party are applied in accordance with the WTO Agreement, and in particular, with the provisions of the Import Licensing Agreement.

Article 2.10. Administrative Fees and Formalities

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

2. Neither Party may require consular transactions, including related fees and charges, in connection with the importation of any good of the other Party.

3. The Parties shall make available through the Internet or a comparable computer-based telecommunications network a current list of the fees and charges they impose in connection with importation or exportation.

Article 2.11. Agricultural Export Subsidies

1. The Parties share the objective of the multilateral elimination of export subsidies for agricultural goods, and shall work together toward an agreement in the WTO to eliminate those subsidies and prevent their reintroduction in any form.

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

Article 2.12. Committee on Trade In Goods

1. The Parties hereby establish a Committee on Trade in Goods (hereinafter referred to as the "Committee"), comprising representatives of each Party.

2. The Committee shall meet at least once a year to consider matters arising under this Chapter, and may meet more frequently as the Parties may agree.

3. The Committee's functions shall include, inter alia:

(a) promoting trade in goods between the Parties, including through consultations on accelerating elimination of customs duties under this Agreement and other issues as appropriate;

(b) addressing barriers to trade in goods between the Parties, especially those related to the application of non-tariff measures and, if appropriate, referring such matters to the FTA Joint Commission for its consideration;

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

(i) subsequent amendments to Harmonized System 2022 and Annex 2-A (Schedule of Tariff Commitments); or

(ii) Annex 2-A and national nomenclatures;

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

(e) establishing working groups, if necessary, and monitoring the work of the working groups established under the auspices of the Committee; and

(f) exchanging information on matters related to subparagraphs (a) through (c) which may, directly or indirectly, affect trade between the Parties with a view to minimizing their negative effects on trade and seeking mutually acceptable alternatives.

Article 2.13. Definition

For the purposes of this Chapter, except as otherwise specified:

base rate of customs duty means the most-favoured-nation (MFN) import customs

duty rate applied on 1 January 2021 provided by each Party, on which the successive reductions set out in Annex 2-A shall be applied;

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;

duty-free means free of customs duty;

goods and products shall be understood to have the same meaning, unless the context otherwise requires;

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;

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.

Chapter 3. RULES OF ORIGIN AND IMPLEMENTATION PROCEDURES

Section A. Rules of Origin

Article 3.1. Originating Goods

Except as otherwise provided in this Chapter, the following goods shall be considered as originating in a Party:

(a) goods wholly obtained or produced in a Party as defined in Article 3.2 (Goods Wholly Obtained);

(b) goods produced in a Party exclusively from originating materials; or

(c) goods produced from non-originating materials in a Party, provided that the goods conform to a regional value content of no less than 40%, except for the goods listed in the Annex 3-A (Product Specific Rules of Origin) which must comply with the requirements specified therein;

and meet other applicable provisions of this Chapter.

Article 3.2. Goods Wholly Obtained

For the purposes of Article 3.1(a), the following goods shall be considered as wholly obtained or produced in a Party:

(a) live animals born and raised in a Party;

(b) goods obtained from live animals referred to in subparagraph (a);

(c) plant and plant products grown, and harvested, picked or gathered in a Party;

(d) goods obtained from hunting, trapping, fishing, aquaculture, gathering or capturing conducted in a Party;

(e) minerals and other naturally occurring substances not included in subparagraphs (a) through (d), extracted or taken from its soil, waters, seabed or subsoil beneath the seabed;

(f) goods extracted from the waters, seabed or subsoil beneath the seabed outside the territorial waters of a Party, provided that the Party has the right to exploit such waters, seabed or subsoil beneath the seabed in accordance with international law and its domestic law;

(g) goods of sea fishing and other marine products taken from the sea outside the territorial waters of a Party by a vessel registered in a Party and flying the flag of that Party;

(h) goods processed or made on board factory ships registered in a Party and flying the flag of that Party, exclusively from goods referred to in subparagraph (g);

(i) scrap and waste derived from processing operations in a Party, which fit only for the recovery of raw materials;

(j) used goods consumed and collected there which fit only for the recovery of raw materials; or

(k) goods produced entirely in a Party exclusively from the goods referred to in subparagraphs (a) to (j).

Article 3.3. Regional Value Content

1. The Regional Value Content (RVC) of a good shall be calculated on the basis of following method

RVC = V-VNM / V x 100%

where:

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

V is the value of the product, as defined in the Customs Valuation Agreement, adjusted on an FOB basis; and

VNM is the value of the non-originating materials, including materials of undetermined origin, as provided in paragraph 2.

2. The value of the non-originating materials shall be:

(a) the value of the materials, as defined in the Customs Valuation Agreement, adjusted on a CIF basis; or

(b) the earliest ascertained price paid or payable for the non-originating materials in a Party where the working or processing takes place. When the producer of a product acquires non-originating materials within that Party, the value of such materials shall not include freight, insurance, packing costs, and any other costs incurred in transporting the material from the supplier's warehouse to the producer's location.

3. The value of the non-originating materials used by the producer in the production of a product shall not include, for the purposes of calculating the regional value content of the product, pursuant to paragraph 1, the value of non-originating materials used to produce originating materials that are subsequently used in the production of the product.

Article 3.4. De Minimis

A product that does not meet tariff classification change requirements, pursuant to Annex 3-A (Product Specific Rules of Origin), shall nonetheless be considered to be an originating product, provided that:

(a) the value of all non-originating materials, determined pursuant to Article 3.3 (Regional Value Content), including materials of undetermined origin, that do not meet the tariff classification change requirement does not exceed 10% of the FOB value of the given product; and

(b) the product meets all the other applicable criteria of this Chapter.

Article 3.5. Accumulation

Originating materials of a Party, used in the production of a good in the other Party, shall be considered to be originating in the latter Party.

Article 3.6. Minimal Operations or Processes

1. Notwithstanding Article 3.1(c), a good shall not be considered as originating, if it has only undergone one or more of the following operations or processes:

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

(b) simple assembly of parts of articles to constitute a complete article, or disassembly of products into parts;

(c) packing, unpacking or repacking operations for the purposes of sale or presentation;

(d) slaughtering of animals;

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

(f) ironing or pressing of textiles;

(g) simple painting and polishing operations;

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

(i) operations to color sugar or form sugar lumps;

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

(k) sharpening, simple grinding or simple cutting;

(l) sifting, screening, sorting, classifying, grading, matching (including the making-up of sets of articles), cutting, slitting, bending, coiling, or uncoiling;

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

(n) affixing or printing marks, labels, logos or other like distinguishing signs on products or their packaging;

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

(p) mere dilution with water or another substance that does not materially alter the characteristics of the goods; or

(q) operations whose sole purpose is to ease port handling.

2. All operations in the production of a given good carried out in a Party shall be taken into account when determining whether the working or process undergone by that good is considered as minimal operations or processes referred to in paragraph 1.

Article 3.7. Fungible Materials

Where originating and non-originating fungible materials are used in the production of a good, the following methods shall be adopted in determining whether the materials used are originating:

(a) physical separation of the materials; or

(b) an inventory management method recognized in the generally accepted accounting principles of the exporting Party, provided that the inventory management method selected is used for at least 12 continuous months.

Article 3.8. Neutral Elements

1. In determining whether a good is an originating good, any neutral elements as defined in paragraph 2 shall be disregarded.

2. Neutral elements means a good used in the production, testing or inspection of another good but not physically incorporated into that good by itself, including:

(a) fuel, energy, catalysts and solvents;

(b) plant, equipment and machine, including devices and supplies used for testing or inspecting the goods;

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

(d) tools, dies and moulds;

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

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

(g) any other goods that are not incorporated into the good but whose use in the production of the good can reasonably be demonstrated to be a part of that production.

Article 3.9. Packing, Packages and Containers

1. Containers and packing materials used for the transport of goods shall not be taken into account in determining the origin of the goods.

2. The origin of the packaging materials and containers in which goods are packaged for retail sale shall be disregarded in determining the origin of the goods, provided that the packaging materials and containers are classified with the goods.

3. Notwithstanding paragraph 2, where goods are subject to a regional value content requirement, the value of the packaging materials and containers used for retail sale shall be taken into account as originating materials or non-originating materials, as the case may be, in calculating the regional value content of the goods.

Article 3.10. Accessories, Spare Parts and Tools

1. Accessories, spare parts or tools presented and classified with the good shall be considered as part of the good, provided

that:

(a) they are invoiced together with the good; and

(b) their quantities and values are commercially customary for the good.

2. Where a good is subject to change in tariff classification criterion set out in Annex 3-A (Product Specific Rules of Origin), accessories, spare parts, or tools described in paragraph 1 shall be disregarded when determining the origin of the good.

3. Where a good is subject to a regional value content requirement, the value of the accessories, spare parts or tools described in paragraph 1 shall be taken into account as originating materials or non-originating materials, as the case may be, in calculating the regional value content of the good.

Article 3.11. Sets

Sets, as defined in General Rule 3 of the Harmonized System, shall be regarded as originating when all component products are originating. Nevertheless, when a set is composed of originating and non-originating products, the set as a whole shall be regarded as originating, provided that the value of the non-originating products does not exceed 15% of total value of the set, determined pursuant to Article 3.3 (Regional Value Content).

Article 3.12. Direct Consignment

1. Preferential tariff treatment under this Agreement shall only be granted to originating products which are transported directly between the Parties.

2. Notwithstanding paragraph 1, goods whose transport involves transit through one or more non-Parties, with or without trans-shipment or temporary storage of up to 180 days in such non-Parties, shall still be considered as directly transported between the Parties, provided that:

(a) the transit entry of the goods is justified for geographical reason or by consideration related exclusively to transport requirements;

(b) the goods do not undergo any other operation there other than unloading and reloading, or any operation required to keep them in good condition;

(c) the goods do not enter into trade or consumption there; and

(d) the goods remain under customs control during transit in those non-Parties.

3. Compliance with paragraph 2 shall be evidenced by presenting the customs authority of the importing Party, during the importation, either with customs documents of the non-Parties, or with any other documents to the satisfaction of the customs authority of the importing Party.

Section B. Implementation Procedures

Article 3.13. Certificate of Origin

1. In order for originating goods to benefit from preferential tariff treatment, the Certificate of Origin, as set out in Annex 3-B (Certificate of Origin), will be issued by the authorized body or bodies of the exporting Party, upon written application of the exporter, producer, or under the exporter's responsibility, by his authorized representative together with the supporting documents.

The Certificate of Origin shall:

(a) contain a unique certificate number;

(b) cover one or more goods under one consignment;

(c) state the basis on which the goods are deemed to qualify as originating for the purposes of this Chapter;

(d) contain security features, such as specimen signatures or stamps as advised to the importing Party by the exporting Party; and

(e) be completed in English.

2. The Certificate of Origin shall be issued before or at the time of shipment. It shall be valid for one year from the date of issuance in the exporting Party.

3. Each Party shall inform the customs authority of the other Party of the name of each authorized body, as well as relevant contact details, and shall provide details of security features for relevant forms, including the official seals to be used by each authorized body and documents used by each authorized body, prior to the issuance of any certificate by that body. Any change in the information provided above shall be promptly notified to the customs authority of the other Party.

4. A Certificate of Origin may be issued retrospectively within one year from the date of shipment, bearing the words "ISSUED RETROSPECTIVELY" and remains valid for one year from the date of shipment, if it is not issued before or at the time of shipment due to force majeure, involuntary errors, omissions or other valid causes.

5. In cases of theft, loss, or accidental destruction of a Certificate of Origin, the exporter or producer may make a written request to the authorized bodies of the exporting Party for issuing a certified copy. The certified copy shall bear the words "CERTIFIED TRUE COPY of the original Certificate of Origin number ___ dated___". The certified copy shall be valid during the term of validity of the original Certificate of Origin.

6. In circumstances where a certificate of origin contains incorrect information submitted by the importer, according to the domestic law, the customs authority of the importing Party gives the importer the opportunity to present a new certificate within a certain period. The new Certificate of Origin shall be valid for the remainder of the period established in the original Certificate of Origin.

7. Orthographic and typing errors in a Certificate of Origin shall not cause this document to be rejected if these errors are not such as to create doubts concerning the correctness of the statements made in this document.

Article 3.14. Retention of Origin Documents

1. Each Party shall require its producers, exporters and importers to retain documents that prove the originating status of the goods as well as the fulfillment of the other requirements of this Chapter for at least three years or any longer time in accordance with that Party's domestic law.

2. Each Party shall require that its authorized bodies retain copies of Certificates of Origin and other related supporting documents for at least three years or any longer time in accordance with that Party's domestic law.

Article 3.15. Obligations Regarding Importations

Except as otherwise provided in this Chapter, the importer claiming for preferential tariff treatment shall:

(a) indicate in the customs declaration that the good qualifies as an originating good;

(b) possess a valid Certificate of Origin at the time the import customs declaration referred to in subparagraph (a) is made; and

(c) submit the valid Certificate of Origin and other documentary evidence established in Article 3.12 related to the importation of the goods, upon request of the customs administration of the importing Party.

Article 3.16. Refund of Import Customs Duties or Deposit

1. Each Party shall provide that, where an originating good was imported, importer may, no later than one year after the date of importation, apply for refund of any excess duties, deposit, or guarantee paid as a result of the good not having been accorded preferential tariff treatment, on presentation to the customs authority of the importing Party of:

(a) a valid Certificate of Origin demonstrating that the good was originating at the time of importation; and

(b) such other documentation relating to the importation of the good as the importing Party may require.

2. Without prejudice to paragraph 1, each Party may require, in accordance with its respective laws and regulations, that the importer shall formally declare to the customs authority at the time of importation that the good in question qualifies as originating as a precondition for claiming preferential tariff treatment, failing which no preferential tariff treatment is to be granted.

Article 3.17. Verification of Origin

1. For the purposes of determining the authenticity or accuracy of the Certificate of Origin, the originating status of the products concerned, or the fulfillment of the other requirements of this Chapter, the customs authority of the importing Party may conduct origin verification based on risk analysis and at random or whenever the customs authority of the importing Party has reasonable doubts, by means of

(a) requests for additional information from the importer;

(b) requests to the customs authority or authorized body of the exporting Party to verify the origin of a product;

(c) such other procedures as the competent authorities of the Parties may jointly decide; or

(d) conducting verification visit to the exporting Party, when necessary, in a manner to be jointly determined by the customs authorities of the Parties.

2. The customs authority of the importing Party requesting verification to the exporting Party shall specify the reasons and provide any documents and information justifying the verification.

3. The competent authority receiving a request for verification, under paragraph1. a) or 1. b), shall respond to the request promptly and reply within 90 days, from the date of raising of the verification request. Upon request of the importer, exporter or producer, the above-mentioned period can be extended to another 90 days.

4. If the customs authority of the importing Party decides to suspend the granting of preferential treatment to the goods concerned while awaiting the results of the verification, the goods shall be released upon submission of guarantee, except as otherwise provided in the domestic law of the importing Party.

5. If no reply is received within 180 days, or if the reply does not contain sufficient information to determine the authenticity of the documents or the originating status of the products in question, the requesting customs authority may deny preferential tariff treatment.

6. The competent authority for the Certificate of Origin related to the concerned goods, shall not deny any request for a verification visit agreed by the Parties. Any failure to consent to a verification visit shall be liable for a denial of preferential benefits claimed in accordance with this Agreement.

Article 3.18. Denial of Preferential Tariff Treatment

Except as otherwise provided in this Chapter, the importing Party may deny claim for preferential tariff treatment, if:

(a) the goods do not meet the requirements of this Chapter

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

(c) the Certificate of Origin does not meet the requirement of this Chapter; or

(d) in the cases stipulated in Article 3.17 (Verification of Origin).

Article 3.19. Third Country Invoicing

The importing Party shall not reject a Certificate of Origin solely for the reason that the invoice was issued in a non Party, provided that the requirements under this Chapter are complied with.

Article 3.20. Electronic Origin Data Exchange System

For the purposes of the effective and efficient implementation of this Chapter, both Parties may establish Electronic Origin Data Exchange System to ensure real-time exchange of origin related information between customs administrations upon mutually agreed time framework.

Article 3.21. Committee on Rules of Origin

1. The Parties hereby establish a Committee on Rules of Origin under the FTA Joint Commission, composed of government representatives of each Party.

2. The Committee shall meet as necessary to consider any matter arising under this Chapter and consult regularly to ensure that this Chapter is administered effectively, uniformly and consistently in order to achieve the objectives of this Agreement.

Article 3.22. Contact Points

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

2. Each Party shall notify the other Party in writing of its designated contact point no later than 60 days after the date of entry into force of this Agreement.

3. A Party shall promptly notify the other Party of any change of its contact point or the details of the relevant officials.

Article 3.23. Definitions

For the purposes of this Chapter:

aquaculture means the farming of aquatic organisms, including fish, mollusks, crustaceans, other aquatic invertebrates and aquatic plants, from seed stock 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;

authorized body means any government authority or other entity authorized under the laws or regulations of a Party or recognized by a Party as competent to issue a Certificate of Origin;

competent authority means:

for China:

i. the General Administration of Customs of the People's Republic of China (GACC) for Nicaragua:

ii. for administration purposes, the Directorate of Application and Negotiation of Trade Agreements of the Ministry of Development, Industry and Trade (Dirección de Aplicación y Negociación de Acuerdos Comerciales del Ministerio de Fomento, Industria y Comercio (MIFIC));

iii. for the application and verification of the origin of imported goods, the Directorate General of Customs Services (Dirección General de Servicios Aduaneros (DGA)); and

for the purpose of issuance of Certificates of Origin and the verification of proofs of origin for exports the Nicaraguan´s Single Window for Foreign Trade (Ventanilla Única de Comercio Exterior de Nicaragua (VUCEN));

or their successors;

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

CIF means the value of the imported good inclusive of the cost of insurance and freight up to the port or place of entry in the country of importation;

FOB means the value of the exported good free on board inclusive of the cost of transport to the port or site of final shipment abroad;

fungible goods or materials means materials which are interchangeable for commercial purposes, whose properties are essentially identical, and between which it is impractical to differentiate by a mere visual examination;

generally accepted accounting principles means the recognized accounting standards of a Party with respect to the recording of revenues, expenses, costs, assets and liabilities, the disclosure of information and the preparation of financial statements. Those standards may encompass broad guidelines of general applications as well as detailed standards, practices and procedures;

good means any merchandise, product, article, or material;

materials means ingredients, parts, components, subassemblies and/or goods that were physically incorporated into another product or were subject to a process in the production of another product;

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

originating materials or originating goods means materials or goods which qualify as originating in accordance with this

Chapter;

product means a product being produced, even if it is intended for later use in another production operation; and

production means any method of obtaining goods including, but not limited to, growing, raising, mining, harvesting, fishing, aquaculture, farming, trapping, hunting, capturing, gathering, collecting, breeding, extracting, manufacturing, processing or assembling a good.

Chapter 4. CUSTOMS PROCEDURES AND TRADE FACILITATION

Article 4.1. Scope and Objectives

1. This Chapter shall apply, in accordance with the international obligations and customs law of the Parties, to customs procedures applied to goods traded between the Parties and to the movement of means of transport between the Parties.

2. For the purposes of this Chapter, the Parties shall:

(a) promote the simplification and harmonization of their customs procedures;

(b) facilitate trade between them; and

(c) promote cooperation between their customs administrations.

Article 4.2. Facilitation

1. Each Party shall ensure that its customs procedures and practices are predictable, consistent, transparent and trade facilitating.

2. Each Party shall, where possible and to the extent permitted by their respective customs law, conform its customs procedures with the standards and recommended practices of the World Customs Organization (WCO) to which that Party is a contracting party, in particular those of the International Convention on the Simplification and Harmonization of Customs Procedures (as amended), known as the Revised Kyoto Convention.

3. Each Party shall provide a focal point, electronic or otherwise, through which its traders may submit, where possible, required regulatory information in order to obtain clearance, including release of goods.

Article 4.3. Customs Valuation

The Parties shall determine the customs value of goods traded between them in accordance with the provisions of Article VII of GATT 1994 and the Customs Valuation Agreement.

Article 4.4. Tariff Classification

The Parties shall apply the Harmonized System to goods traded between them.

Article 4.5. Customs Cooperation

1. To the extent permitted by the laws and regulations of the Parties, the customs administrations of the Parties shall assist each other, in relation to:

(a) the implementation and operation of this Chapter;

(b) simplifying and harmonising customs procedures;

(c) developing and implementing customs best practice and risk management techniques; and

(d) such other issues as the Parties mutually determine.

2. The customs administrations of the Parties shall push forward cooperation based on “Smart Customs, Smart Borders and Smart Connectivity”, in order to enhance mutual trust and promote trade facilitation to achieve a high-level connectivity between the Parties.

Article 4.6. Transparency

1. Each Party shall promptly publish, including on the Internet, its laws, regulations, and where applicable, administrative rules or procedures, of general application relevant to trade in goods between the Parties.

2. Each Party shall designate one or more enquiry points to address enquiries from interested persons on customs matters, and shall make available on the Internet information concerning procedures for making such enquiries.

3. To the extent practicable and in a manner consistent with its domestic law and legal system, each Party shall publish, in advance on the Internet, draft laws and regulations of general application relevant to trade between the Parties, with a view to affording the public, especially interested persons, an opportunity to provide comments.

4. To the extent practicable and in a manner consistent with its domestic law and legal system, each Party shall ensure that a reasonable interval is provided between the publication and the entry into force of new or amended laws and regulations of general application relevant to trade between the Parties.

Article 4.7. Advance Rulings

1. The customs administration of each Party shall issue an advance ruling, prior to the importation of a good into its customs territory, at the written request containing all necessary information, on an application of the exporter, importer or any person with a justifiable cause or a representative thereof (2), with respect to:

(a) origin of a good;

(b) tariff classification of a good; and

(c) such other matters as the Parties may decide.

2. The customs administration of the importing Party shall issue an advance ruling within 90 days from the receipt of all necessary information, provided that the applicant has submitted all the information required, including a sample of the goods.

3. In issuing an advance ruling, the customs administration of the importing Party shall take into account facts and circumstances the applicant provided. For greater certainty, a Party may decline to issue an advance ruling if the facts or circumstances forming the basis of this advance ruling are the subject of administrative or judicial review. A Party that pursuant to this paragraph, declines to issue an advance ruling shall promptly notify the applicant in writing, setting forth the relevant facts, circumstances, and the basis for its decision to decline to issue the advance ruling.

4. Each customs administration of the Party shall provide that an advance ruling shall take effect on the date it is issued, or another date specified in the ruling, provided that the laws, regulations, administrative rules, or facts and circumstances on which the ruling is based remain unchanged.

5. The customs administration of the importing Party may modify or revoke the said advance ruling, with the notification of the decision to the applicant:

(a) if the advance ruling was based on an error of fact;

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

(c) if information was provided false or relevant information was withheld; or

(d) to conform with a change in its domestic laws, a judicial decision or a modification of this Chapter.

6. Each customs administration may publish any information on advance rulings, including on the Internet, subject to confidential requirements in its domestic laws and regulations.

7. If an applicant provides false information, omits relevant facts or circumstances relating to the advance ruling, or does not act in accordance with the terms and conditions of the advance ruling, the issuing customs administration may apply appropriate measures to the applicant, including criminal and administrative actions, penalties, or other sanctions in accordance with its laws and regulations.

(2) An applicant for an advance ruling from China shall be registered with China Customs.

Article 4.8. Review and Appeal

1. Each Party shall, in accordance with its domestic laws and regulations, provide that the importer, exporter or any other person affected by that administrative determinations or decisions, have access to:

(a) a level of administrative review of determinations by its customs administration, independent of the official or office responsible for the decision under review; and

(b) judicial review of the administrative determinations subject to its laws and regulations.

Article 4.9. Penalties

In accordance with its domestic laws and regulations, each Party shall adopt or maintain measures that allow for the imposition of administrative penalties and where appropriate, criminal sanctions for violations of its customs law, including but not limited to those governing tariff classification, customs valuation, rules of origin, quarantine and inspection, and claims for preferential tariff treatment under this Agreement.

Article 4.10. Application of Information Technology

1. The customs administrations of the Parties shall use information technology to support customs operations, including sharing best practices with each other for the purpose of improving their customs procedures, where it is cost-effective and efficient, particularly in the paperless trading context, taking into account developments of WCO in this area.

2. The customs administrations of the Parties are encouraged to focus on the application of new technologies, including the development of hardware facilities and software systems, as to accelerate customs operations and increase the accuracy and impartiality of customs control.

Article 4.11. Risk Management

1. The customs administration of each Party shall focus measures of control on high-risk goods and facilitate the clearance of low-risk goods in administering customs procedures.

2. The customs administration of each Party shall design and apply risk management in a manner as to avoid arbitrary or unjustifiable discrimination or disguised restrictions on international trade.

Article 4.12. Release of Goods

1. Each Party shall adopt or maintain simplified customs procedures for the efficient release of goods in order to facilitate trade between the Parties. This paragraph shall not require a Party to release a good where its requirements for release have not been met.

2. In accordance with paragraph 1, each Party shall adopt or maintain procedures that:

(a) provide for the release of goods as rapidly as possible after arrival, provided all other regulatory requirements have been met; and

(b) as appropriate, provide for advance electronic submission and processing of information before the physical arrival of goods with a view to expediting the release of goods.

Article 4.13. Authorized Economic Operator

1. The customs administrations of the Parties shall establish the program of Authorized Economic Operators (hereinafter referred to as the “AEO”) to promote informed compliance and efficiency of customs control, and to share best practices between the Parties.

2. The customs administrations of the Parties shall endeavour to work towards mutual recognition of AEO.

Article 4.14. Consultation

1. The customs administration of each Party may at any time request consultations with the customs administration of the other Party on any matter arising from the operation or implementation of this Chapter, in cases where there are reasonable grounds provided by the requesting Party. Such consultations shall be conducted through the relevant Contact

Points, and shall commence within 30 days of the request, except as the customs administrations of both Parties mutually determine otherwise.

2. In the event that such consultations fail to resolve any such matter, the requesting Party may refer the matter to the Committee on CPTF set forth on Article 4.15 for consideration.

3. Each customs administration shall designate one or more Contact Points for the purposes of this Chapter and provide details of such Contact Points to the other Party. Customs administrations of the Parties shall notify each other promptly of any amendments to the details of their Contact Points.

Article 4.15. Committee on Customs Procedures and Trade Facilitation

1. The Parties, with the view to an effective implementation and operation of this Chapter, hereby establish a Committee on Customs Procedures and Trade Facilitation (hereinafter referred to as the "Committee on CPTF").

2. The Committee on CPTF shall be composed by representatives of customs administrations, and upon mutual agreement relevant government authorities of the Parties.

3. The functions of the Committee on CPTF shall be as follows:

(a) ensure the proper functioning of this Chapter and resolve all issues arising from its application;

(b) review the operation and implementation of this Chapter, as well revise this Chapter as appropriate;

(c) identify areas related to this Chapter to be improved for facilitating trade between the Parties; and

(d) make recommendations and report to the FTA Joint Commission.

3. The Committee on CPTF shall meet at such venues and times as agreed by the Parties.

Article 4.16. Definitions

For the purposes of this Chapter:

customs law means the statutory and regulatory provisions relating to the importation, exportation, movement or storage of goods, the administration and enforcement of which are specifically charged to the customs administration, and any regulations made by the customs administration under its statutory powers;

customs procedures means the treatment applied by each customs administration to goods and the means of transport that are subject to customs control; and

means of transport means various types of vessels, vehicles and aircrafts which enter or leave the customs territory carrying persons and/or goods.

Chapter 5. SANITARY AND PHYTOSANITARY MEASURES

Article 5.1. Objectives

The objectives of this Chapter are to:

(a) promote and facilitate the trade of animals, products of animal origin, plants and products of vegetal origin between the Parties, protecting at the same time public health, animal and vegetable health;

(b) improve between the Parties the implementation of the Agreement of Sanitary and Phytosanitary Measures (hereinafter referred to as the "SPS Agreement"), contained in Annex 1A to the WTO Agreement;

(c) provide a forum to approach bilateral sanitary and phytosanitary measures, to solve the problems of trade that from them derives, and to expand trade opportunities; and

(d) provide mechanisms of communication and cooperation to resolve sanitary and phytosanitary issues in a prompt and efficient manner.

Article 5.2. Scope and Definitions

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

2. For the purposes of this Chapter, the definitions in Annex A to the SPS Agreement shall apply.

Article 5.3. Affirmation

Except as otherwise provided for in this Chapter, the SPS Agreement shall apply between the Parties and is hereby incorporated into and form an integral part of this Agreement, mutatis mutandis.

Article 5.4. Risk Analysis

The Parties recognise that risk analysis is an important tool for ensuring that SPS measures have scientific basis. The Parties shall ensure that their SPS measures are based on an assessment of the risks to human, animal or plant life or health as provided in Article 5 of the SPS Agreement, taking into account the risk assessment techniques developed by the relevant international organisations.

Article 5.5. Regionalisation

1. The Parties shall accept the principle of regionalisation provided for in the SPS Agreement.

2. The Parties take note of the Guidelines to further the Practical Implementation of Article 6 of the Agreement on the Application of Sanitary and Phytosanitary Measures (G/SPS/48), adopted by the WTO Committee on Sanitary and Phytosanitary Measures (hereinafter referred to as the "WTO/SPS Committee") and of relevant standards developed by World Organization for Animal Health (WOAH) and International Plant Protection Convention (IPPC).

Article 5.6. Equivalence

1. Each Party shall accept the sanitary or phytosanitary measures of the other Party as equivalent, if the other Party objectively demonstrates to the Party that its measures achieve the Party's appropriate level of sanitary and phytosanitary protection.

2. The Parties shall, if necessary, give positive consideration to establishing a procedure to expedite recognition on equivalence of their sanitary and phytosanitary measures, on the basis of the relevant procedures established by the relevant international organizations and the WTO/SPS Committee.

Article 5.7. Transparency

1. The Parties agree the full implementation of Article 7 of the SPS Agreement in accordance with the provisions of Annex B of the SPS Agreement.

2. The Parties shall make endeavor to exchange information on, include but not limited to, SPS measures, pest status and noncompliance cases.

3. The sanitary and phytosanitary enquiry points of the Parties established under the SPS Agreement, shall set up a bilateral mechanism for further communication. The Parties shall provide upon request a copy of the full text of the proposed regulation notified and allow at least 60 days for comments.

Article 5.8. Emergency Measures

Emergency measures imposed by an importing Party shall be notified to the other Party as rapidly as possible, and upon request, the communication between the competent authorities shall be held in a timely manner. The Parties shall consider any information provided through such communication.

Article 5.9. Technical Cooperation

1. The Parties agree to strengthen bilateral technical cooperation on sanitary and phytosanitary issues, with a view to improving mutual understanding of the regulatory systems of the Parties and facilitating access to the respective markets.

2. The Parties agree to explore cooperation programs for a better application of this Chapter in terms of strengthening technical capacities, technological exchange, and related activities, such as laboratory diagnosis, sampling methods, control

of pests and diseases, risk analysis, and control, inspection and approval activities.

Article 5.10. Committee on Sanitary and Phytosanitary Measures

1. The Parties hereby establish a Committee on Sanitary and Phytosanitary Measures (the "SPS Committee"), composed of government representatives of each Party.

2. The functions of the SPS Committee shall be:

(a) monitoring the implementation of this Chapter;

(b) coordinating technical cooperation activities mentioned in Article 5.9;

(c) facilitating technical consultations;

(d) identifying areas for enhanced cooperation, including giving favorable consideration to any specific proposal made by either Party;

(e) establishing a dialogue between competent authorities in accordance with the objectives of this Chapter;

(f) consulting on related issues prior to meetings of relevant international organisations, as appropriate; and

(g) carrying out other functions mutually agreed by the Parties.

3. The SPS Committee shall be co-chaired and meet once a year, except as otherwise agreed by the Parties. The SPS Committee meetings may be conducted by any agreed method on a case by case basis.

4. The SPS Committee may establish ad-hoc working groups to accomplish specific tasks.

Article 5.11. Contact Points and Competent Authorities

1. Each Party shall designate a Contact Point which shall have responsibility for coordinating the implementation of this Chapter. The contact points will be:

(a) for China, the Department of International Cooperation of the General Administration of Customs of the People's Republic of China or its successor; and

(b) for Nicaragua, the Ministry of Development, Industry and Trade (Ministerio de Fomento, Industria y Comercio (MIFIC)) and the Institute for Agricultural Protection and Health (Instituto de Protección y Sanidad Agropecuaria (IPSA)) or their successors.

2. For the purposes of this Chapter, the competent authorities on Sanitary and Phytosanitary Measures are:

(a) for China, the General Administration of Customs or its successor; and

(b) for Nicaragua, the Institute for Agricultural Protection and Health (Instituto de Protección y Sanidad Agropecuaria (IPSA) or its successor.

Chapter 6. TECHNICAL BARRIERS TO TRADE

Article 6.1. Objectives

The objectives of this Chapter are to:

(a) facilitate and promote trade in goods between the Parties by ensuring that standards, technical regulations, and conformity assessment procedures do not create unnecessary technical barriers to trade;

(b) strengthen cooperation, including information exchange in relation to the preparation, adoption and application of standards, technical regulations, and conformity assessment procedures;

(c) promote mutual understanding of the Parties' standards, technical regulations, and conformity assessment procedures; and

(d) facilitate implementation of the principles of the Agreement on Technical Barriers to Trade (hereinafter referred to as the "TBT Agreement"), contained in Annex 1A to the WTO Agreement.

Article 6.2. Scope

This Chapter shall apply to all national standards, technical regulations, and conformity assessment procedures of the Parties that may, directly or indirectly, affect trade in goods between the Parties. It shall exclude:

(a) the SPS measures which are covered in Chapter 5 (Sanitary and Phytosanitary Measures); and

(b) purchasing specifications prepared by governmental bodies for production or consumption requirements are not subject to the provisions of this Agreement but are addressed in the Agreement on Government Procurement, according to its coverage.

Article 6.3. General Provision

Except as otherwise provided for in this Chapter, the TBT Agreement shall apply between the Parties and is hereby incorporated into and form an integral part of this Agreement, mutatis mutandis.

Article 6.4. International Standards

1. Where standards, technical regulations or conformity assessment procedures are required, and relevant international standards exist or are about to be developed, the Parties shall use relevant international standards or the relevant parts of them as a basis for their standards, technical regulations or relevant conformity assessment procedures, except where such international standards or relevant parts are invalid or inappropriate for achieving the legitimate objectives of the Parties.

2. For the purpose of this Chapter, standards issued by the International Organization for Standardization (ISO), the International Electrotechnical Commission (IEC), the International Telecommunication Union (ITU) and Codex Alimentarius Commission (CAC) shall be considered as relevant international standards in the sense of the TBT Agreement.

Article 6.5. Technical Regulations

Each Party shall give positive consideration to accepting as equivalent technical regulations of the other Party, even if these regulations differ from their own, provided that they are satisfied that these regulations adequately fulfil the objectives of their own regulations.

Article 6.6. Conformity Assessment Procedures

1. The Parties, with a view to increasing efficiency and ensuring cost effectiveness of conformity assessment, shall enhance cooperation in information exchange of each other's conformity assessment system through bilateral visits, technical training and seminars, etc.

2. When cooperating in the area of conformity assessment, the Parties shall take into consideration their participation in relevant international organizations.

3. In case that a compulsory conformity assessment procedure is required, upon request of one Party, the other Party undertakes to provide in English the list of products which are subject to these procedures.

Article 6.7. Measures at the Border

Where a Party detains, at a port of entry, goods exported from the other Party due to a perceived failure to comply with a technical regulation or a conformity assessment procedure, the reasons for the detention shall be promptly notified to the importer or his or her representative. Official measures taken in relation to such goods shall be proportionate to the risk associated with such goods.

Article 6.8. Transparency and Information Exchange

1. The Parties affirm their commitment to ensuring that information regarding proposed new or amended technical regulations, conformity assessment procedures or standards is made available in accordance with the Article 2.9, Article 5.6, and Annex 3 of the TBT Agreement.

2. A Party shall make available the full text of its notified technical regulations and conformity assessment procedures to the requesting Party within 15 working days of receiving the written request. English version shall prevail if available.

3. Each Party shall allow at least 60 days following the notification of its proposed technical regulations and conformity assessment procedures to WTO for the other Party to present comments except where risks to health, safety, and the environment arising or threatening to arise warrant urgent actions.

4. A Party may request information from the other Party on a matter arising under this Chapter. The requested Party shall endeavour to provide available information to the requesting Party within 30 days of the request.

5. The Parties agree to shall give favorable consideration to conduct meetings between the competent authorities of each Party to improve understanding regarding the requirements that apply to specific products. These meetings may be performed virtually or by any method agreed on a case-by-case basis.

Article 6.9. Technical Consultations

1. Where a Party considers that a standard, relevant technical regulation or conformity assessment procedure of the other Party has constituted unnecessary obstacles to its exports, it may request technical consultations. The requested Party shall respond as early as possible to such a request.

2. The requested Party shall enter into technical consultations within a period mutually agreed, with a view to reaching a solution. Technical consultations may be conducted via any means mutually agreed by the Parties.

Article 6.10. Cooperation

1. With a view to increasing mutual understanding of their respective systems and facilitating bilateral trade, the Parties shall strengthen their technical cooperation in the following areas:

(a) communication between competent authorities of the Parties;

(b) exchange of information in respect of standards, technical regulations, conformity assessment procedures, and good regulatory practices;

(c) encouraging, where possible, cooperation between standardization, metrology and conformity assessment bodies of the Parties including training programmes, workshops, technical assistance programs and related activities;

(d) cooperation in areas of mutual interest in the work of relevant regional and international bodies relating to the development and application of standards and conformity assessment procedures;

(e) related activities in General Vocabulary defined in ISO/IEC Guide 2; and

(f) other areas mutually agreed by the Parties.

Article 6.11. Contact Point

1. Each Party shall designate a Contact Point which shall, for that Party, has the responsibility for coordinating the implementation of this Chapter. The Contact Points will be:

(a) for China, the State Administration for Market Regulation or its successor; and

(b) for Nicaragua, the Ministry of Development, Industry and Trade (Ministerio de Fomento, Industria y Comercio (MIFIC)) or its successor.

2. A Party shall provide the other Party with the contact details of the relevant officials in their respective Contact Points, including telephone, facsimile, email, and any other relevant details.

3. A Party shall notify the other Party promptly of any change in its Contact Points or any amendment to the details of the relevant officials acting as or on behalf of its Contact Point.

Article 6.12. Definitions

For the purposes of this Chapter, the terms and definitions, set out in Annex 1 to the TBT Agreement shall apply.

Chapter 7. TRADE REMEDIES

Section A. Bilateral Safeguard Measures

Article 7.1. Application of a Bilateral Safeguard Measure

1. During the transition period only, if as a result of the reduction or elimination of a customs duty provided under this Agreement, any product originating in a Party is being imported into the territory of the other Party in such increased quantities, in absolute terms or relative to domestic production, and under such conditions as to cause or threaten to cause serious injury to domestic industry producing a like or directly competitive product, the importing Party may apply a bilateral safeguard measure described in paragraph 2.

2. If the conditions in paragraph 1 are met, a Party may:

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

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

(i) the most-favored-nation (hereinafter referred to as "MFN") applied rate of customs duty in effect on the product on the day immediately preceding the date of entry into force of this Agreement (3); or

(ii) the MFN applied rate of customs duty in effect on the product on the date on which the measure is applied.

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

Article 7.2. Scope and Duration of Bilateral Safeguard Measures

1. Neither Party may apply or maintain a bilateral safeguard measure:

(a) except to the extent and for such time as may be necessary to prevent or remedy serious injury, and to facilitate adjustment; or

(b) for a period exceeding two years, except that the period may be extended by up to one year, if the competent authorities determine, in conformity with the procedures set out in Section A, that the bilateral safeguard measure continues to be necessary to prevent or remedy serious injury and to facilitate adjustment and that there is evidence that the domestic industry is adjusting.

(c) without prejudice of subparagraph (a) and (b), regardless of its duration, such measure shall terminate at the end of the transition period.

2. In order to facilitate adjustment in a situation where the bilateral safeguard measure is extended, the Party extending the measure shall liberalise at regular intervals.

3. Neither Party may apply a safeguard measure more than once on the same product.

4. On the termination of a bilateral safeguard measure, the Party that applied the bilateral safeguard measure shall apply the rate of customs duty set out in its schedule to Annex 2-A (Schedule of Tariff Commitments) of this Agreement on the date of termination as if the bilateral safeguard measure has never been applied.

Article 7.3. Investigation Procedures

Bilateral safeguard measure shall only be taken upon clear evidence that increased imports have caused or are threatening to cause serious injury pursuant to an investigation by a competent authority of the Parties and in accordance with the related procedures laid down in the Agreement on Safeguards.

Article 7.4. Provisional Measure

1. In critical circumstances where delay would cause damage which it would be difficult to repair, a Party may take a provisional safeguard measure pursuant to a preliminary determination that there is clear evidence that increased imports have caused or are threatening to cause serious injury to a domestic industry.

2. Before taking a provisional measure, the applying Party shall notify the other Party and shall, on request of the other Party, initiate consultations after applying such a measure.

3. The duration of a provisional safeguard measure shall not exceed 200 days, during which period the pertinent requirement of Article 7.1, 7.2 and 7.3 shall be met. Such a provisional safeguard measure should take the form of a suspension of the further reduction of any rate of customs duty provided for under this Agreement on the product or an increase in the duties not exceeding the lesser of the rates in Article 7.1.2 (b). Any additional duties or guarantees collected shall be promptly refunded if the subsequent investigation referred to in Article 7.3 determines that increased imports have not caused or threatened to cause serious injury to a domestic industry.

4. The duration of any such provisional safeguard measure shall be counted as a part of the initial period and any extension of bilateral safeguard measure.

Article 7.5. Notification and Consultation

1. A Party shall immediately notify the other Party, in writing on:

(a) initiating a bilateral safeguard investigation;

(b) making a finding of serious injury or threat thereof caused by increased imports;

(c) taking a decision to apply or extend a bilateral safeguard measure; and

(d) taking a decision to liberalise a bilateral safeguard measure previously applied, in accordance with Article 7.2.2.

2. In making the notification referred to in subparagraphs 1 (b) and 1 (c), the Party applying a bilateral safeguard measure shall provide the other Party with all pertinent information, which shall include evidence of serious injury or threat thereof caused by increased imports, a precise description of the product involved, the proposed bilateral safeguard measure, the proposed date of introduction and its expected duration. In the case of an extension of a bilateral safeguard measure, the written results of the determination required by Article 7.3, including evidence that the continued application of the measure is necessary to prevent or remedy serious injury and that the domestic industry is adjusting shall also be provided.

3. A Party proposing to apply or extend a bilateral safeguard measure shall provide adequate opportunity for prior consultations with the other Party, with a view to, inter alia, reviewing the information provided under paragraph 2 of this Article, exchanging views on the bilateral safeguard measure and, in the case of extending a transitional safeguard measure reaching an agreement on compensation as set forth in Article 7.6.1.

4. A Party shall provide to the other Party a copy of the publicly available version of the report of its competent authorities in accordance with the Agreement on Safeguards as soon as it is available.

Article 7.6. Compensation

1. A Party extending a bilateral safeguard measure shall, in consultation with the other Party, provide to the other Party mutually agreed 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. Such consultations shall begin within 30 days of the extension of the bilateral safeguard measure.

2. If the Parties are unable to reach an agreement on compensation within 30 days after the consultation commences, the exporting Party shall be free to suspend the application of substantially equivalent concessions to the trade of the Party extending the bilateral safeguard measure.

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

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

Article 7.7. Procedural Rules

For the application of bilateral safeguard measures, the competent authority shall comply with the provisions of this Section and in cases not covered by this Section, the competent authority may apply national procedural rules that are consistent with the Agreement on Safeguards.

Section B. Global Safeguards Measures

Article 7.8. General Provisions

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

2. Neither Party may apply, with respect to the same good, during the same period:

(a) a bilateral safeguard measure pursuant to Article 7.1; and

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

Section C. Antidumping and Countervailing Duties

Article 7.9. General Provisions

1. Except as otherwise provided by paragraph 3, each Party retains its rights and obligations under the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, contained in Annex 1A to the WTO Agreement.

2. Each Party retains its rights and obligations under the Agreement on Subsidies and Countervailing Measures, contained in Annex 1A to the WTO Agreement.

3. Neither Party shall use a methodology based on surrogate value of a third country for the purpose of determining normal value when calculating dumping nmargin in an anti-dumping investigation.

Article 7.10. Non-Application of Dispute Settlement

No Party shall have recourse to dispute settlement for any issue arising from or relating to Section B and C of this Chapter.

Section D. Definitions

Article 7.11. Definitions

For the purposes of this Chapter:

bilateral safeguard measure means a measure described in Article 7.1;

competent authority means:

for China, the Ministry of Commerce (MOFCOM) or its successor; and

for Nicaragua, the Directorate for the Implementation and Negotiation of Trade Agreements of the Ministry of Development, Industry and Commerce (Dirección de Aplicación y Negociación de Acuerdos Comerciales del Ministerio de Fomento, Industria y Comercio (MIFIC)) or its successor;

domestic industry means, with respect to an imported good, the aggregate of

producers of a like or directly competitive good operating in the territory of a Party, or those whose collective output of the like or directly competitive good constitutes a major proportion of the total domestic production of that good;

global safeguard measure means a measure applied under Article XIX of GATT 1994 and the Agreement on Safeguards;

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

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

transition period means the ten-year period following the date this Agreement

enters into force, except that for any good for which the Schedule to Annex 2-A (Schedule of Tariff Commitments) of the Party applying the safeguard measure provides for the Party to eliminate its tariffs on the good over a period of more than ten years, transition period means the tariff elimination period for the good set out in that Schedule.

Chapter 8. CROSS-BORDER TRADE IN SERVICES

Article 8.1. Scope

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

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

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

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

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

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

2. Notwithstanding paragraph 1, Articles 8.4, 8.7, and 8.8 shall also apply to measures adopted or maintained by a Party affecting the supply of a service in its territory by a covered investment (4).

3. This Chapter shall not apply to:

(a) services supplied in the exercise of governmental authority;

(b) government procurement;

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

(d) cabotage in maritime transport services;

(e) measures affecting air traffic rights, however granted, or measures affecting services directly related to the exercise of air traffic rights, other than measures affecting:

(i) aircraft repair and maintenance services;

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

(iii) computer reservation system services;

(f) financial services as defined in Article 9.21 (Definitions), except that paragraph 2 shall apply where the financial service is supplied by a covered investment that is not a covered investment in a financial institution (as defined in Article 9.21) in the Party's territory; or

(g) measures affecting natural persons of a Party seeking access to the employment market of the other Party, or measures regarding citizenship, residence or employment on a permanent basis.

(4) For greater certainty, the scope of Articles 8.4, 8.7, and 8.8 applying to measures adopted or maintained by a Party affecting the supply of a service in its territory by a covered investment is limited to the scope specified in Article 8.1, subject to any applicable non-conforming measures and exceptions. Nothing in this Chapter, including this paragraph, is subject to investor-state dispute settlement pursuant to Section B (Investor-State Dispute Settlement) of Chapter 11 (Investment).

Article 8.2. National Treatment (5)

Each Party shall accord to service suppliers of the other Party treatment no less favorable than that it accords, in like circumstances (6), to its own service suppliers (7).

(5) For greater certainty, nothing in Articles 8.2 or 8.3 shall be interpreted as extending the scope of this Chapter.

(6) For greater certainty, whether treatment is accorded in "like circumstances" under Articles 8.2 or 8.3 depends on the totality of the circumstances, including whether the relevant treatment distinguishes between services and service suppliers on the basis of legitimate public welfare objectives.

(7) Nothing in this Article shall be construed to require any Party to compensate for any inherent competitive disadvantages which result from the foreign character of the relevant services or service suppliers.

Article 8.3. Most-Favored-Nation Treatment

Each Party shall accord to service suppliers of the other Party treatment no less favorable than that it accords, in like circumstances, to service suppliers of a non-Party (8).

(8) For the purposes of this Article, the term “non-Party” shall not include the following WTO members within the meaning of the WTO Agreement: (1) Hong Kong, China; (2) Macao, China; and (3) Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei).

Article 8.4. Market Access

Neither Party may adopt or maintain, either on the basis of a regional subdivision or on the basis of its entire territory, measures that:

(a) impose limitations on:

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

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

(iii) the total number of service operations or the total quantity of services output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test (9); or

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

(b) restrict or require specific types of legal entity or joint venture through which a service supplier may supply a service.

(9) This subparagraph does not cover measures of a Party which limit inputs for the supply of services.

Article 8.5. Local Presence

Neither Party shall require a service supplier of the other Party to establish or maintain a representative office, a branch, or any form of enterprise, or to be resident, in its territory as a condition for the cross-border supply of a service.

Article 8.6. Article 8.6: Non-Conforming Measures

1. Articles 8.2, 8.3, 8.4 and 8.5 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 regional level of government, as set out by that Party in its Schedule to Annex I; or

(iii) a local level of government;

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

(c) an amendment to any non-conforming measure referred to in subparagraphs (a), to the extent that the amendment or modification does not decrease the conformity of the measure, as it existed immediately before the amendment, with Articles 8.2, 8.3, 8.4 and 8.5.

2. Articles 8.2, 8.3, 8.4 and 8.5 shall not apply to any measure that a Party adopts or maintains with respect to sectors, sub-sectors or activities as set out by that Partyin its Schedule to Annex II.

Article 8.7. Transparency

Further to Chapter 17 (Transparency):

(a) each Party shall maintain or establish appropriate mechanisms through the Contact Points stipulated in Article 20..4 (Contact Point), for responding to inquiries from interested persons of a Party regarding its laws and regulations relating to the subject matter of this Chapter; and

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

Article 8.8. Domestic Regulation

1. Each Party shall ensure that all measures of general application affecting trade in services are administered in a reasonable, objective and impartial manner.

2. Each Party shall maintain or institute as soon as practicable judicial, arbitral or administrative tribunals or procedures which provide, at the request of an affected service supplier of the other Party, for the prompt review of, and where justified, appropriate remedies for, administrative decisions affecting trade in services. Where such procedures are not independent of the agency entrusted with the administrative decision concerned, the Party shall ensure that the procedures in fact provide for an objective and impartial review.

3. Where authorization is required for the supply of a service, the competent authorities of a Party shall, within a reasonable period of time after the submission of an application considered complete under domestic laws and regulations, inform the applicant of the decision concerning the application. At the request of the applicant, the competent authorities of the Party shall provide, without undue delay, information concerning the status of the application.

4. While recognizing the right to regulate and to introduce new regulations on the supply of services in order to meet national policy objectives, and with a view to ensuring that measures relating to qualification requirements and procedures, technical standards and licensing requirements do not constitute unnecessary barriers to trade in services, each Party shall aim to ensure 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.

5. For the purpose of this Chapter, Reference Paper on Services Domestic Regulation is incorporated into and form an integral part of this Chapter, mutatis mutandis.

Article 8.9. Recognition

1. For the purposes of the fulfillment, in whole or in part, of its standards or criteria for the authorisation, licensing, or certification of service suppliers, and subject to the requirements of paragraph 4, a Party may recognise, or encourage its relevant competent bodies to recognise, the education or experience obtained, requirements met or licences 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 between the Party and the particular country concerned or their relevant competent bodies, or may be accorded autonomously.

2. Where a Party recognises, autonomously or by agreement or arrangement, the education or experience obtained, requirements met, or licences or certifications granted in the territory of a non-Party, nothing in Article 8.3 shall be construed to require the Party to accord such recognition to the education or experience obtained, requirements met, or licences or certifications granted in the territory of the other Party.

3. 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 to negotiate its accession to such an agreement or arrangement or to negotiate comparable ones with it. Where a Party accords recognition autonomously, it shall afford adequate opportunity for the other Party to demonstrate that education, experience, licences or certifications obtained or requirements met in that other Party's territory should be recognized.

4. A Party shall not accord recognition in a manner which would constitute a means of discrimination between countries in the application of its standards or criteria for the authorisation, licensing, or certification of service suppliers, or a disguised restriction on trade in services.

Article 8.10. 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.

4. Nothing in this Chapter shall affect the rights and obligations of a Party as a member of the International Monetary Fund under the Articles of Agreement of the International Monetary Fund (hereinafter referred to as the "Articles of Agreement"), including the use of exchange actions which are in conformity with the Articles of Agreement, provided that a Party shall not impose restrictions on any capital transactions inconsistently with its commitments under this Chapter regarding such transactions, except at the request of the International Monetary Fund.

Article 8.11. Denial of Benefits

1. A Party may deny the benefits of this Chapter to a service supplier of the other Party if the service supplier is an enterprise owned or controlled by persons of a non-Party, and the denying Party adopts or maintains measures with respect to the non-Party that prohibit transactions with the enterprise or that would be violated or circumvented if the benefits of this Chapter were accorded to the enterprise.

2. A Party may deny the benefits of this Chapter to a service supplier of the other Party if the service supplier is an enterprise owned or controlled by persons of a non-Party or of the denying Party that has no substantial business activities in the territory of the other Party.

Article 8.12. Public Telecommunications Services (10)

1. For the purpose of this Chapter, the Annex on Telecommunications of the GATS Agreement and Telecommunications Reference Paper are incorporated into and form an integral part of this Chapter, mutatis mutandis.

2. Neither Party shall prevent suppliers of public telecommunications services from choosing the technologies or telecommunication facilities they wish to use to supply their services.

3. Relating to non-discriminatory treatment of telecommunication facilities:

(a) neither Party shall accord less favourable treatment to telecommunication facilities created, produced, supplied, leased or sold by any enterprise of the other Party than it accords to other like telecommunication facilities; and

(b) neither Party shall take any unreasonable or discriminatory measures to prevent an enterprise of the other Party from supplying, leasing or selling their telecommunication facilities in the territory of the former Party.

(10) For greater certainty, this Article does not prohibit either Party from requiring a service supplier to establish a commercial presence and obtain a licence to supply a public telecommunications network or service in its territory.

Article Article 8.13: Definitions

For the purposes of this Chapter:

aircraft repair and maintenance services means such activities when undertaken on an aircraft or a part thereof while it is withdrawn from service and does not include so-called line maintenance;

computer reservation system 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 to the service consumer of the other Party; or

(c) by a service supplier of a Party, through presence of natural persons of that 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;

measure means a measure as defined in Article 1.5 (General Definitions) and

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

measures adopted or maintained by a Party means measures taken by:

(a) central, regional or local governments and authorities; and

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

natural person of a Party means a national or a permanent resident of a Party under its laws. Until such time as China enacts its law on treatment of permanent residents of foreign countries, the obligations of each Party with respect to the permanent residents of the other Party shall be limited to the extent of its obligations under the GATS;

person means a natural person or an enterprise;

qualification procedures means administrative procedures relating to the administration of qualification requirements;

qualification requirements means substantive requirements which a service supplier is required to fulfil in order to obtain certification or a license;

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

service supplied in the exercise of governmental authority means any service which is supplied neither on a commercial basis nor in competition with one or more service suppliers; and

service supplier of a Party means a person of that Party that seeks to supply a service.

Chapter 9. FINANCIAL SERVICES

Article 9.1. Scope and Coverage

1. This Chapter applies to measures adopted or maintained by a Party affecting trade in financial services relating to:

(a) financial institutions of the other Party;

(b) investors of the other Party, and investments of such investors, in financial institutions in the Party's territory; and

(c) cross-border trade in financial services.

(a) Articles 11.4 (Minimum Standard of Treatment), 11.6 (Expropriation and Compensation), 11.7 (Transfers), 11.11 (Special Formalities and InformationRequirements), 11.13 (Denial of Benefits), 11.15 (Financial Services) and Articles 8.11 (Denial of Benefits) are hereby incorporated into and made a part of this Chapter.

(b) Section B (Investor-State Dispute Settlement) of Chapter 11 (Investment) is hereby incorporated into and made a part of this Chapter solely for claims that a Party has breached Article 11.6 (Expropriation and Compensation), 11.7(Transfers), 11.11 (Special Formalities and Information Requirements) or 11.13 (Denial of Benefits), as incorporated into this Chapter.

(11)

3. This Chapter does not apply to measures:

(a) adopted or maintained by a Party relating to activities or services forming part of a statutory system of social security or public retirement plan;

(b) adopted or maintained by a Party relating to activities or services conducted for the account or with the guarantee or using the financial resources of the Party, including its public entities; or

(c) conducted by a central bank, monetary authority or any other public entity of a Party in pursuit of monetary or exchange rate policies.

Notwithstanding the above, this Chapter shall apply to the extent a Party allows any of the activities or services referred to in subparagraph (a) and (b) to be conducted by its financial institutions in competition with a public entity or a financial service supplier.

4. This Chapter does not apply to government procurement of financial services.

5. This Chapter shall not apply to subsidies or grants with respect to the supply of financial services, including government-supported loans, guarantees and insurance.

(11) For greater certainty, Section B (Investor-State Dispute Settlement) of Chapter 11 (Investment) shall not apply to cross-border trade in financial services.

Article 9.2. National Treatment (12)

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

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

3. Each Party shall accord to cross-border financial service suppliers of the other Party seeking to supply or supplying the financial services as specified by the Party in Annex 9 treatment no less favorable than that it accords to its own financial service suppliers, in like circumstances.

(12) For greater certainty, whether treatment is accorded in “like circumstances” under Articles 9.2 or 9.3 depends on the totality of the circumstances, including whether the relevant treatment distinguishes between investors, investments, financial institutions or financial service suppliers on the basis of legitimate public welfare objectives.

Article 9.3. Most-Favored-Nation Treatment

1. Each Party shall accord to:

(a) investors of the other Party, treatment no less favourable than that it accords to investors of a non-Party, in like circumstances;

(b) financial institutions of the other Party, treatment no less favourable than that it accords to financial institutions of a non-Party, in like circumstances;

(c) investments of investors of the other Party in financial institutions, treatment no less favourable than that it accords to investments of investors of a non-Party in financial institutions, in like circumstances; and

(d) cross-border financial services suppliers of the other Party, treatment no less favourable than that it accords to cross-border financial services suppliers of a non-Party in financial institutions, in like circumstances.

2. For greater certainty, the treatment referred to in paragraph 1 does not encompass international dispute resolution

procedures or mechanisms such as those included in Article 9.1.2 (b).

Article 9.4. Market Access for Financial Institutions

A Party shall not adopt or maintain, with respect to financial institutions of the other Party, either on the basis of a regional subdivision or on the basis of its entire territory, measures that:

(a) impose limitations on:

(i) the number of financial institutions whether in the form of numerical quotas, monopolies, exclusive service suppliers, or the requirements of an economic needs test;

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

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

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

(b) restrict or require specific types of legal entity or joint venture through which a financial institution may supply a service.

Article 9.5. Cross-Border Trade

1. Each Party shall permit, under terms and conditions that accord national treatment, cross-border financial service suppliers of the other Party to supply the financial services specified in Annex 9.

2. Each Party shall permit its nationals in the territory of the other Party or non-Party, to purchase financial services from cross-border financial service suppliers of the other Party located in the territory of the other Party. This obligation does not require a Party to permit those suppliers to do business or solicit in its territory. A party may define “doing business” and “solicitiation” for the purposes of this obligation provided that those definitions are not inconsistent with paragraph 1.

3. Without prejudice to other means of prudential regulation of cross-border trade in financial services, a Party may require the registration or authorisation of cross-border financial service suppliers of the other Party and of financial instruments.

Article 9.6. New Financial Services

1. Each Party shall permit financial institutions of the other Party established in the territory of the Party to supply a new financial service in the territory of the Party that the Party would permit its own financial institutions, in like circumstances, to supply without adopting or modifying a law (13).

2. Where an application is approved, the supply of the new financial service is subject to relevant licensing, institutional or juridical form, or other requirements of the Party.

(13) For greater certainty, a Party may issue a new regulation or other subordinate measure in permitting the supply of the new financial service.

Article 9.7. Treatment of Certain Information

Nothing in this Chapter requires a Party to furnish or allow access to:

(a) information related to the financial affairs and accounts of individual customers of financial institutions, financial service suppliers or cross-border financial service suppliers;

(b) any confidential information the disclosure of which would impede law enforcement or otherwise be contrary to the public interest or prejudice legitimate commercial interests of particular enterprises ; or

(c) any confidential or proprietary information in the possession of public entities.

Article 9.8. Senior Management and Boards of Directors

1. Neither Party may require that a financial institution of the other Party appoint to senior management positions natural persons of any particular nationality.

2. Neither Party may require that more than a minority of the board of directors of a financial institution of the other Party be composed of nationals of the Party, persons residing in the territory of the Party, or a combination thereof.

Article 9.9. Non-Conforming Measures

1. Articles 9.2, 9.3, 9.4, 9.5, and 9.8 do not apply to:

(a) any existing non-conforming measure that is maintained by a Party as set out by that Party in Section A of its Schedule to Annex III;

(b) the continuation or prompt renewal of any non-conforming measure referredto 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 themeasure, as it existed immediately before the amendment, with Articles 9.2, 9.3, 9.4, 9.5 and 9.8.

2. Articles 9.2, 9.3, 9.4, 9.5, and 9.8 do not apply to any measure that a Partyadopts or maintains with respect to sectors, subsectors, or activities, as set out by that Party in Section B of its Schedule to Annex III.

3. A non-conforming measure set out in a Party's Schedule to Annex I or Annex II as a measure to which Article 11.2 (National Treatment) or 11.3(Most-Favored-Nation Treatment - Investment) or Article 11.9 (Senior Management and Boards of Directors), Article 8.2 (National Treatment), 8.3(Most-Favored-Nation Treatment) or 8.4 (Market Access - Services) does not apply, shall be treated as a non-conforming measure to which Article 9.2, 9.3, 9.4, 9.5 or, 9.8, as the case may be, does not apply, to the extent that the measure, sector, subsector, or activity set out in the Schedule is covered by this Chapter.

Article 9.10. Exceptions

1. Notwithstanding any other provision of this Chapter, a Party shall not be prevented from adopting or maintaining measures relating to financial services for prudential reasons, including for the protection of investors, depositors, policy holders, or persons to whom a fiduciary duty is owed by a financial services supplier, or to ensure the integrity and stability of the financial system. (14) Where such measures do not conform with the provisions of this Agreement referred to in this paragraph, they shall not be used as a means of avoiding the Party's commitments or obligations under such provisions.

2. Nothing in this Chapter applies to non-discriminatory measures of general application in pursuit of monetary and related credit policies or exchange rate policies. (15) This paragraph shall not affect a Party's obligations under Article 11.7 (Transfers).

3. For greater certainty, nothing in this Chapter shall be construed to prevent the adoption or enforcement by any Party of measures necessary to secure compliance with laws or regulations that are not inconsistent with this Chapter, including those relating to the prevention of deceptive and fraudulent practices or to deal with the effects of a default on financial services contracts, subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on investment in financial institutions or cross-border trade in financial services.

(14) It is understood that the term "prudential reasons" includes the maintenance of the safety, soundness, integrity, or financial responsibility of individual financial institutions or the financial system, as well as the maintenance of the safety and financial and operational integrity of payment and clearing systems.

(15) For greater certainty, measures of general application taken in pursuit of monetary and related credit policies or exchange rate policies do not include measures that expressly nullify or amend contractual provisions that specify the currency of denomination or the rate of exchange of currencies.

Article 9.11. Transparency and Administration of Certain Measures

1. The Parties recognize that transparent regulations and policies governing the activities of financial institutions, financial

service suppliers or cross-border financial service suppliers are important in facilitating access to, and their operations in, each other's markets. Each Party commits to promote regulatory transparency in financial services.

2. Each Party shall ensure that all measures of general application to which this Chapter shall apply are administered in a reasonable, objective, and impartial manner.

3. In lieu of paragraph 1 of Article 17.1 (Publication), each Party shall, to the extent practicable:

(a) publish in advance any regulations of general application relating to the subject matter of this Chapter that it proposes to adopt and the purpose of the regulations; and

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

4. To the extent practicable, each Party should allow reasonable period of time between publication of final regulations of general application and their effective date.

5. Each Party shall ensure that the rules of general application adopted or maintained by self-regulatory organisations of the Party are promptly published or otherwise made available in such a manner as to enable interested persons to become acquainted with them. (16)

6. Each Party shall establish or maintain appropriate mechanisms for responding to inquiries from interested persons regarding measures of general application covered by this Chapter.

7. Each Party's regulatory authorities shall make available to interested persons the requirements, including any documentation required, for completing applications relating to the supply of financial services.

8. On request of an applicant, a Party's regulatory authority shall inform the applicant of the status of its application. If the authority requires additional information from the applicant, it shall notify the applicant without undue delay.

9. A Party's regulatory authority shall make an administrative decision on a complete application of an investor in a financial institution, a financial institution, a financial service supplier or a cross-border financial service supplier of the other Party relating to the supply of a financial service within 180 days and shall promptly notify the applicant of the decision. An application shall not be considered complete until all relevant hearings are held, and all necessary information is received. Where it is not practicable for a decision to be made within 180 days, the regulatory authority shall notify the applicant without undue delay and shall endeavour to make the decision within a reasonable time thereafter.

10. On the request of an unsuccessful applicant in writing, a regulatory authority that has denied an application shall, to the extent possible, inform the applicant of the reasons for denial of the application.

(16) For greater certainty, the Parties agreed that such information may be published in each Parties' chosen languages.

Article 9.12. Self-Regulatory Organisations

Where a Party requires a financial institution or a cross-border financial service supplier of the other Party to be a member of, participate in, or have access to, a self-regulatory organisation to provide a financial service in or into the territory of that Party, the Party shall ensure that the self-regulatory organisation observes the obligations of Articles 9.2 and Article 9.3.

Article 9.13. Payment and Clearing Systems

Under terms and conditions that accord national treatment, each Party shall grant financial institutions of the other Party established in its territory access to payment and clearing systems (17) operated by public entities, and to official funding and refinancing facilities available in the normal course of ordinary business. This Article is not intended to confer access to the Party's lender of last resort facilities.

(17) For greater certainty, for China, the High Value Payment System and the Bulk Electronic Payment System are provided by the People's Bank of China.

Article 9.14. Transfers of Information and Processing of Information

1. The Parties recognise that each Party may have its own regulatory requirements concerning the transfer of information

and the processing of information (18).

2. A Party shall not take measures that prevent:

(a) transfers of information, including transfers of data by electronic or other means, necessary for the conduct of the ordinary business of a financial service supplier in its territory; or

(b) processing of information necessary for the conduct of the ordinary business of a financial service supplier in its territory.

3. Nothing in paragraph 2 prevents a regulatory authority of a Party, for regulatory or prudential reasons, from requiring a financial service supplier in its territory to comply with its laws and regulations in relation to data management and storage and system maintenance, as well as to retain within its territory copies of records, provided that such requirements shall not be used as a means of avoiding the Party's commitments or obligations under this Agreement.

4. Nothing in paragraph 2 restricts the right of a Party to protect personal data, personal privacy, and the confidentiality of individual records and accounts including in accordance with its laws and regulations, provided that such a right shall not be used as a means of avoiding the Party's commitments or obligations under this Agreement.

5. Nothing in paragraph 2 shall be construed to require a Party to allow the cross-border supply or consumption abroad of services in relation to which it has not made commitments, including to allow non-resident suppliers of financial services to supply, as a principal, through an intermediary or as an intermediary, the provision and transfer of financial information and financial data processing as referred to in Article 9.21 and Article 9.5.

(18) For greater certainty, a Party may adopt a different regulatory approach, and this paragraph does not affect and is without prejudice to a Party's rights and obligations under this Article.

Article 9.15. Recognition

1. A Party may recognise prudential measures of any international standard setting body, or a non-Party in determining how the Party's measures relating to financial services shall be applied (19). That recognition may be:

(a) accorded autonomously;

(b) achieved through harmonisation or other means; or

(c) based upon an agreement or arrangement with the other Party or a non-Party.

2. A Party according recognition of prudential measures under paragraph 1 shall provide adequate opportunity to the other Party to demonstrate that circumstances exist in which there are or would be equivalent regulation, oversight, implementation of regulation, and, if appropriate, procedures concerning the sharing of information between the Parties.

3. Where a Party accords recognition of prudential measures under paragraph 1(c) and the circumstances described in paragraph 2 exist, the Party shall provide adequate opportunity to the other Party to negotiate accession to the agreement or arrangement, or to negotiate a comparable agreement or arrangement.

(19) For greater certainty, nothing in Article 9.3 shall be construed to require a Party to accord such recognition to prudential measures of the other Party.

Article 9.16. Financial Services Committee

1. The Parties hereby establish a Financial Services Committee. The Financial Services Committee shall comprise officials of each Party responsible for financial services as set out in paragraph 4.

2. The Committee shall:

(a) supervise the implementation of this Chapter and its further elaboration;

(b) consider issues regarding financial services that are referred to it by a Party, including ways for the Parties to cooperate more effectively in the financial services sector and

(c) participate in the dispute settlement procedures in accordance with Article 11.15 (Financial Services).

3. The Committee shall meet annually, or as otherwise agreed, to assess the functioning of this Agreement as it applies to financial services.

4. The authorities responsible for financial services are:

(a) for China, the People's Bank of China, State Administration for Finance regulation, China Securities Regulatory Commission, and State Administration of Foreign Exchange or their successors; and

(b) for Nicaragua, the Ministry of Development, Industry and Trade (Ministerio de Fomento, Industria y Comercio (MIFIC)); the Superintendency of Banks and other Financial Institutions (Superintendencia de Bancos y de otras Instituciones Financieras (SIBOIB)) and the Central Bank of Nicaragua (Banco Central de Nicaragua (BCN)) or their successors.

Article 9.17. Supervisory Cooperation

The Parties support the efforts of their respective financial regulations to provide assistance to the regulators of the other Party to enhance consumer protection and those regulators' ability to prevent, detect, and prosecute unfair and deceptive practices. Each Party confirms that its financial regulators have the legal authority to exchange information in support of those efforts. The Parties shall encourage financial regulators to continue their ongoing efforts to strengthen this cooperation through bilateral consultations or bilateral or multilateral international cooperative mechanisms, such as memoranda of understanding of ad hoc undertakings.

Article 9.18. Consultations

1. A Party may request consultations with the other Party regarding any matter arising under this Agreement that affects financial services. The other Party shall give sympathetic consideration to the request.

2. Consultations under this Article shall include officials of the authorities specified in Article 9.20 .

3. Nothing in this Article shall be construed to require a Party to derogate from its relevant law regarding sharing of information among financial regulators or the requirements of an agreement or arrangement between financial authorities of the Parties.

Article 9.19. Article 9.19: Dispute Settlement

1. Chapter 21 (Dispute Settlement) shall apply to the settlement of disputes arisingunder this Chapter.

2. Arbitral tribunals for disputes on prudential issues and other financial matters shall have the necessary expertise relevant to the specific financial service under dispute.

Article 9.20. Contact Points

1. For the purposes of this Chapter, the authorities responsible for financial services are:

(a) for China, the People's Bank of China, State Administration for Finance Regulation, China Securities Regulatory Commission, and State Administration of Foreign Exchange; and

(b) for Nicaragua, the Ministry of Development, Industry and Trade (Ministerio de Fomento, Industria y Comercio (MIFIC)); the Central Bank of Nicaragua (Banco Central de Nicaragua (BCN)) and the Superintendency of Banks and other Financial Institutions (Superintendencia de Bancos y de Otras Instituciones Financieras (SIBOIB)) or their successors.

2. A Party shall promptly notify the other Party of any change of its contact point.

Article 9.21. Definitions

For the purposes of this Chapter:

cross-border financial service supplier of a Party means a person of a Party that is engaged in the business of supplying a financial service within the territory of the Party and that seeks to supply or supplies a financial service through the cross-border supply of such services;

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

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

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

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

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

financial institution means any financial intermediary or other enterprise that is authorised to do business and regulated or supervised as a financial institution under the law of the Party in whose territory it is located;

financial institution of the other Party means a financial institution, including a branch, located in the territory of a Party that is controlled by persons of the other Party;

financial service means any service of a financial nature. Financial services include all insurance and insurance-related services, and all banking and other financial services (excluding insurance), as well as services incidental or auxiliary to a service of a financial nature. Financial services include the following activities:

Insurance and insurance-related services

(a) Direct insurance (including co-insurance):

(i) life,

(ii) non-life;

(b) Reinsurance and retrocession;

(c) Insurance intermediation, such as brokerage and agency; and

(d) Services auxiliary to insurance, such as consultancy, actuarial, risk assessment, and claim settlement services.

Banking and other financial services (excluding insurance)

(e) Acceptance of deposits and other repayable funds from the public;

(f) Lending of all types, including consumer credit, mortgage credit, factoring, and financing of commercial transactions;

(g) Financial leasing;

(h) All payment and money transmission services, including credit, charge and debit cards, traveller's cheques, and bankers drafts;

(i) Guarantees and commitments;

(j) Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market, or otherwise, the following:

(i) money market instruments (including cheques, bills, certificates of deposits);

(ii) foreign exchange;

(iii) derivative products including, but not limited to, futures and options;

(iv) exchange rate and interest rate instruments, including products such as swaps, forward rate agreements;

(v) transferable securities; and

(vi) negotiable instruments and financial assets, including bullion;

(k) Participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues;

(l) Money broking;

(m) Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository, and trust services;

(n) Settlement and clearing services for financial assets, including securities, derivative products, and other negotiable

instruments;

(o) Provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services; and

(p) Advisory, intermediation, and other auxiliary financial services on all the activities listed in subparagraphs (e) through (o), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy;

financial service supplier means any person of a Party seeking to supply or supplying financial services but the term "financial service supplier" does not include a public entity;

investment means "investment" as defined in Article 11.28 (Definitions), except that, with respect to "loans" and "debt instruments" referred to in that Article:

(a) a loan to or debt instrument issued by a financial institution is an investment only where it is treated as regulatory capital by the Party in whose territory the financial institution is located; and

(b) a loan granted by or debt instrument owned by a financial institution, other than a loan to or debt instrument issued by a financial institution referred to in subparagraph (a), is not an investment;

for greater certainty, a loan granted by or debt instrument owned by a cross-border financial service supplier, other than a loan to or debt instrument issued by a financial institution, is an investment for the purposes of Chapter 11(Investment), if such loan or debt instrument meets the criteria for investments set out in Article 11.28 (Definitions);

investor of a Party means a Party, or a national or an enterprise of a Party, that attempts to make, is making, or has made an investment in the territory of the other Party, provided, however, that a national who is a dual national shall be deemed to be exclusively a national of the Party of his or her dominant and effective nationality;

new financial service means a service of a financial nature, including services related to existing and new products or the manner in which a product is delivered, that is not supplied by any financial service supplier in the territory of a Party but which is supplied in the territory of the other Party.

person means a person as defined in Article 1.5 (General Definitions). For greater certainty, a person does not include a branch of an enterprise of a non-Party;

public entity means a government, a central bank or monetary authority of a Party, or an entity owned or controlled by a Party, that is principally engaged in carrying out governmental functions or activities for governmental purposes, not including an entity principally engaged in supplying financial services on commercial terms; or a private entity, performing functions normally performed by a central bank or monetary authority, when exercising those functions.;and

self-regulatory organisation means any non-governmental body, including any securities or futures exchange or market, clearing agency, or other organisation or association, that exercises regulatory or supervisory authority over financial service suppliers or financial institutions, by statute or delegation from central, regional, or local governments or authorities.

Annex 9. CROSS-BORDER TRADE

Section A. CHINA (20)

1. Article 9.5.1 (Cross-border Trade) applies to the cross-border supply of or trade infinancial services as defined in subparagraph (a) of the definition of cross-border supply of financial services in Article 9.21 (Definition) with respect to:

(a) Insurance of risks relating to:

(i) International marine, aviation, and transport insurance;

(ii) Brokerage for large scale commercial risks, international marine, aviation, and transport insurance, and reinsurance. (b) Reinsurance;

Banking and other financial services (excluding insurance)

2. Article 9.5.1 (Cross-border Trade) applies to the cross-border supply of or trade infinancial services as referred to in subparagraph (a) of the definition of cross-border supply of financial services in Article 9.21 (Definition) with respect to:

(a) The provision and transfer of financial information, and financial data processing and related software as referred to in

subparagraph (o) of the definition of financial service in Article 9.21 (Definition), which shall be authorized by relevant regulatory institution (21) as required.

(b) Advisory and other auxiliary services relating to banking and other financial services, excluding intermediation, credit services and other auxiliary services such as advisory services related to securities investment, funds investment and futures transaction, as referred to in subparagraph (p) of the definition of financial services in Article 9.21.

3. A foreign institution that provides bank card clearing services of foreign currencies solely for the purpose of cross-border transactions are not required to establish a bank card clearing institution in the territory of People's Republic of China in principle. The institution shall report its business operation to the People's Bank of China and the National Administration of Financial Regulation of China, and shall comply with relevant regulatory requirements.

(20) For further explanation, China require the cross-border financial services supplier establish local agency and keep record.

(21) Each party understand that if the financial information and financial data processing referred to in (a) and (b) involves personal data, the processing of such personal information shall comply with Chinese laws and regulations on protecting such data.

Section B. NICARAGUA

Insurance and Insurance-Related Services

1. Article 9.5.1 (Cross-border Trade) applies to the cross-border supply of or tradein financial services as defined in subparagraph (a) of the definition of cross-border supply of financial services with respect to:

(a) insurance of risk relating to:

(i) International marine, aviation, and transport insurance, with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods, and any liability arising therefrom; and

(ii) goods in international transit;

(b) reinsurance and retrocession;

(c) brokerage of insurance risks relating to paragraphs (a)(i) and (a)(ii); and(d) auxiliary services to insurance as referred to in subparagraph (d) of the definition of financial services. These auxiliary services will onlybeprovided to an insurance supplier.

2. Article 9.5.1 (Cross-border Trade) applies to the cross-border supply of or trade in financial services as defined in subparagraph (c) of the definition of cross-border supply of financial services with respect to insurance services. The commitment for cross-border movement of persons is limited to those insurance andinsurance-related services listed in paragraph 1.

Banking and Other Financial Services (Excluding Insurance)

3. Article 9.5.1 (Cross-border Trade) applies with respect to:

(a) the provision and transfer of financial information as described in subparagraph (o) of the definition of financial service;

(b) financial data processing and related software as described in subparagraph (o) of the definition of financial service, subject to prior authorization from the relevant regulator, as required; and

(c) advisory and other auxiliary financial service (22) excluding intermediation and credit reference and analysis, relating to banking and other financial services as described in subparagraph (p) of the definition of financial service.

Nicaragua's law regulating protection of personal information applies where the financial information or financial data processing referred to in subparagraphs (a) and (b) involves such protected information.

(22) It is understood that advisory services includes portfolio management. Additionally, auxiliary services does not include those services referred to in subparagraphs (e) through (o) of the definition of financial service in Article 9.21.

Chapter 10. TEMPORARY ENTRY FOR BUSINESS PERSONS

Article 10.1. Objectives

The objective of this Chapter, which reflects the preferential trading relationship between the Parties and their mutual desire to facilitate temporary entry of natural persons, is to establish transparent criteria and streamlined procedures for temporary entry, while recognizing the need to ensure border security and to protect the domestic labour force in the territories of the Parties.

Article 10.2. Scope

1. This Chapter applies to measures under this Agreement affecting the temporary entry of business persons of a Party into the territory of the other Party.

2. Nothing in this Chapter, Chapter 8 (Cross-Border Trade in Services) or Chapter 11 (Investment) shall apply to measures pertaining to citizenship, nationality, residence or employment on a permanent basis.

3. Nothing contained in this Chapter, Chapter 8 (Cross-Border Trade in Services) or Chapter 11 (Investment) shall prevent a Party from applying measures to regulate the entry or temporary stay of natural persons of the other Party in its territory, including measures necessary to protect the integrity of its territory and to ensure the orderly movement of natural persons across its borders, provided such measures are not applied in a manner so as to nullify or impair the benefits accruing to the other Party under this Agreement. (23)

(23) The sole fact of requiring a visa for natural persons of a Party and not for those of non-Parties shall not be regarded as nullifying or impairing trade in goods or services or conduct of investment activities under this Agreement.

Article 10.3. Article 10.3: Expeditious Application Procedures

1. Each Party shall process expeditiously applications for immigration formalities from natural persons of the other Party, including further immigration formality requests or extensions thereof, so as to avoid unduly impairing or delaying trade in goods or services or conduct of investment activities under this Agreement. Each Party shall notify applicants for temporary entry, either directly or through their authorized representative or their prospective employer, of the outcome of their applications, including the period of stay and other conditions.

2. Each Party shall, within 10 working days after an application requesting temporary entry is considered complete under its domestic laws and regulations, inform the applicant of the decision concerning the application, or advise the applicant when a decision will be made. At the request of the applicant, the Party shall provide, without undue delay, information concerning the status of the application. The contact point for each Party for such queries is set out in Article 10.6.

3. Any fees imposed in respect of the processing of an immigration formality shall be limited to the approximate cost of services rendered.

Article 10.4. Grant of Temporary Entry

1. The Parties make commitments in respect of temporary entry of natural persons. Such commitments and the conditions governing are inscribed in Annex 10.

2. Where a Party makes a commitment under paragraph 1, that Party shall grant temporary entry to the extent provided for in that commitment, provided that such natural persons are otherwise qualified under all applicable immigration rules and measures.

3. In respect of the commitments on temporary entry in Annex 10, unless otherwise specified therein, neither Party may:

(a) require labour certification tests, or other procedures of similar effect;

(b) impose or maintain any numerical restriction relating to temporary entry; or

(c) require labour market testing, economic needs testing or other procedures of similar effect as a condition for temporary entry.

4. Any fees imposed by a Party in respect of the processing of an immigration formality shall be reasonable in that they do not, in themselves, represent an unjustifiable impediment to the movement of natural persons of another Party under this

Chapter.

5. The temporary entry granted by virtue of this Chapter does not replace the requirements needed to carry out a profession or activity according to the specific laws and regulations in force in the territory of the Party authorizing the temporary entry.

Article 10.5. Transparency

Each Party shall:

(a) publish or otherwise make publicly available explanatory material on relevant immigration formalities which pertain to or affect the operation of this Chapter;

(b) publish or otherwise make publicly available in its territory and to the other Parties, the requirements for temporary entry under this Chapter, including explanatory material and relevant forms and documents that will enable natural persons of the other Parties to become acquainted with those requirements;

(c) upon modifying or amending immigration measure that affects temporary entry of natural persons of another Party, ensure that the information published or otherwise made publicly available pursuant to subparagraph (b) is updated as soon as possible; and

(d) maintain mechanisms to respond to enquiries from interested persons regarding its laws and regulations affecting the temporary entry and temporary stay of natural persons.

Article 10.6. Contact Points

Each Party shall designate a contact point to facilitate communication and the effective implementation of this Chapter, and respond to inquiries from the other Party regarding regulations affecting the temporary entry of business persons between the Parties or on any matter covered by this Chapter, and shall provide details of this contact point to the other Party. The Parties shall notify each other promptly of any amendments to the details of their contact point. The contact point should identify and recommend areas for and ways of furthering cooperation between the Parties.

Article 10.7. Committee on Temporary Entry of Business Persons

1. The Parties hereby establish a Committee on Temporary Entry of Business Persons that shall meet on the request of either Party or the FTA Joint Commission to consider any matter arising under this Chapter.

2. The Committee's functions shall include:

(a) reviewing the implementation and operation of this Chapter;

(b) identification and recommendation of measures to facilitate the temporary entry of business persons between the Parties; and

(c) considering other issues with respect to temporary entry of business persons of interest to a Party and improving the commitments undertaken by the Parties under this Chapter on a mutually advantageous basis.

Article 10.8. Cooperation

Taking into account the principles set out in Article 10.1, the Parties shall:

(a) exchange information and experiences on regulations and implementation of programs and technology in the framework of migratory issues, including those related to the use of biometric technology, advanced passenger information systems, frequent passenger programs and security of travel documents;

(b) endeavour to coordinate actively in multilateral fora, in order to promote the facilitation of temporary entry of business persons;

(c) encourage capacity building and promote technical assistance among migratory authorities; and

(d) endeavour to take measures to facilitate the temporary entry of business persons of the other Party in accordance with its domestic laws and regulations.

Article 10.9. Definitions

For the purposes of this Chapter:

accompanying spouse, parent or dependent child means a spouse, parent or dependent child of a natural person of either Party who has been granted the right of entry and temporary stay under this Chapter for a period of longer than 12 months;

business visitor means a natural person of either Party who is:

(a) a service seller being a natural person who is a sales representative of a service supplier of that Party and is seeking temporary entry into the other Party for the purpose of negotiating the sale of services for that service supplier, where such representative will not be engaged in making direct sales to the general public or in supplying services directly;

(b) an investor of a Party, as defined in Chapter 11 (Investment), or a duly authorized representative of an investor of a Party, seeking temporary entry into the territory of the other Party to establish, expand, monitor, or dispose of an investment of that investor; or

(c) a goods seller, being a natural person who is seeking temporary entry into the territory of the other Party to negotiate for the sale of goods where such negotiations do not involve direct sales to the general public;

contractual service supplier means a natural person of a Party who:

(a) is an employee of a service supplier or an enterprise of a Party, whether a company, partnership or firm, who enters the territory of the other Party temporarily in order to perform a service pursuant to a contract(s) between his or her employer and a service consumer(s) in the territory of the other Party;

(b) is employed by a company, partnership or firm of the Party, which has no commercial presence in the territory of the other Party where the service is to be provided;

(c) receives his or her remuneration from that employer;

(d) has appropriate educational and professional qualifications relevant to the service to be provided;

intra-corporate transferee means a manager, an executive, or a specialist, who is an employee of a service supplier or investor of a Party with a commercial presence, as defined in Chapter 8 (Cross-Border Trade in Services), in the territory of the other Party;

executive means a natural person within an organization who primarily directs the management of the organization, exercises wide latitude in decision making, and receives only general supervision or direction from higher level executives, the board of directors or stockholders of the business. An executive would not directly perform tasks related to the actual provision of the service nor the operation of an investment;

manager means a natural person within an organization who primarily directs the organization or a department or subdivision of the organization, supervises and controls the work of other supervisory, professional or managerial employees, has the authority to hire and fire or take other personnel actions (such as promotion or leave authorization), and exercises discretionary authority over day-to-day operations;

immigration measure means related law, regulation, policy or procedure affecting the entry and sojourn of foreign nationals;

immigration formality means a visa, permit, pass, or other document or electronic authority granting a natural person of one Party the right to enter, reside or work in the territory of the other Party;

installer or servicer means a natural person who is an installer or servicer of machinery and/or equipment, where such installation and/or servicing by the supplying company is a condition of purchase of the said machinery or equipment. An installer or servicer cannot perform services which are not related to the service activity which is the subject of the contract;

natural person or natural person of a Party means a natural person of a Party as defined in Chapter 8 (Cross-Border Trade in Services);

specialist means a natural person within an organization who possesses knowledge at an advanced level of technical expertise, and who possesses proprietary knowledge of the organization’s service, research equipment, techniques or management;

temporary entry means entry by a business visitor, an intra-corporate transferee, an independent professional, a

contractual service supplier, or an installer or servicer, as the case may be, without the intent to establish permanent residence and for the purpose of engaging in activities which are clearly related to their respective business purposes. Additionally, in the case of a business visitor, the salaries of and any related payments to such a visitor should be paid entirely by the service supplier or enterprise which employs that visitor in the visitor's home country.

Annex 10. SCHEDULE OF SPECIFIC COMMITMENTS ON TEMPORARY ENTRY OF BUSINESS PERSONS

Section A. China's Commitments

The following Schedule sets out China's specific commitments in accordance with Chapter 10 in respect of the temporary entry of natural persons.

Temporary entry in the following categories	**Conditions (including duration of stay)**
Business Visitors	Periods of stay up to a maximumof six months.
Intra-corporate Transferees	Managers, executives and specialists defined as senior employees of a corporation of Nicaragua, being engaged in the foreign invested enterprises in the territory of China for conducting business, temporarily moving as intra-corporate transferees, shall be granted a long-term stay permit as stipulated in the terms of contracts concerned or an initial stay of up to three years, whichever is shorter
Contractual Service Suppliers	Temporary entry and temporary stay for a Contractual Service Suppliers is subject to the duration of contract, but shall not exceed one year. The services provided by Contractual ServiceSuppliers are only limited to the specific sectors as follows: (1) Accounting Services (2) Medical and dental services (3) Architectural services (4) Engineering services (5) Urban planning services (except general urban planning) (6) Computer and related services (7) Construction and Related Engineering Services (8) Education Services: Contractual Service Suppliers shall acquire a bachelor's degree or above, receive appropriate professional titles or certificates, and have at least two-year professional work experience. The Chinese party involved in the contract shall be a juridical person which has the function of providing education service (9) Tourism Services
Installers/Servicers	Temporary entry and temporary stay for such natural persons is subject to the duration of contract, but shall not exceed six months.
Accompanying Spouse, Parent or Dependent Child	Accompanying Spouse, Parent or Dependent Child of Nicaragua entrants defined in Intra-corporateTransferees or Contractual Service Suppliers are accorded the same period of stay as for the entrants, provided that the stay in China of those entrants is greater than 12 months. The working rights of the qualified accompanying spouses in China are subject to relevant laws, regulations, and rules of China.

Section B. Nicaragua's Commitments

The following Schedule sets out Nicaragua´s specific commitments in accordance with Chapter 10 in respect of the temporary entry of natural persons.

Temporary entry in the following categories	**Conditions (including duration of stay)**

Business Visitors	Periods of stay up to a maximum of six months.
Intra-corporate Transferees	Managers, executives and specialists defined as senior employees of a corporation of China, being engaged in the foreign invested enterprises in the territory of Nicaragua for conducting business, temporarily moving as intra-corporate transferees, shall be granted a long-term stay permit as stipulated in the terms of contracts concerned or an initial stay of up to three years, whichever is shorter.
Contractual Service Suppliers	Temporary entry and temporary stay for a Contractual Service Suppliers is subject to the duration of contract, but shall not exceed one year.
Installers/Servicers	Temporary entry and temporary stay for such natural persons is subject to the duration of contract, but shall not exceed six months.
Accompanying Spouse, Parent or Dependent Child	Accompanying Spouse, Parent or Dependent Child of China entrants defined in Intra-corporateTransferees or Contractual Service Suppliers are accorded the same period of stay as for the entrants, provided that the stay in Nicaragua of those entrants is greater than 12 months. The working rights of the qualified accompanying spouses in Nicaragua are subject to relevant laws, regulations, and rules of Nicaragua.

Chapter 11. INVESTMENT

Section A. Investment

Article 11.1. Scope and Coverage

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

(a) investors of the other Party; and

(b) covered investments.

2. A Party's obligations under this Section shall apply to:

(a) all levels of government of that Party; and

(b) any non-governmental body when it exercises any regulatory, administrative, or other governmental authority delegated to it by that Party (24).

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

4. This Chapter shall not apply to measures adopted or maintained by a Party to the extent that they are covered by Chapter 8 (Cross Border Trade in Services) or Chapter 10 (Temporary Entry for Business Persons).

5. Notwithstanding paragraph 4, for the purposes of protection of investment with respect to the commercial presence mode of service supply, Articles 11.4, 11.5, 11.6, 11.7, 11.12, 11.13 shall apply to any measure affecting the supply of a service by a service supplier of a Party through commercial presence, only to the extent that they relate to a covered investment. Section B shall apply to Articles 11.4, 11.5, 11.6,11.7, 11.12, 11.13 with respect to the supply of a service through commercial presence, only to the extent that they relate to a covered investment.

(24) For greater certainty, governmental authority is delegated under the law of a Party, including through a legislative grant, and a government order, directive or other action transferring to the person, or authorizing the exercise by the person of, governmental authority. For greater certainty, "governmental authority" refers to the power that is vested in the government of a Party, such as the power to expropriate, grant licenses, approve commercial transactions, or impose quotas, fees, or other charges.

Article 11.2. National Treatment (25)

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

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

(25) For greater certainty, whether treatment is accorded in "like circumstances" under Articles 11.2 or 11.3 depends on the totality of the circumstances, including whether the relevant treatment distinguishes between investors or investments on the basis of legitimate public welfare objectives.

Article 11.3. Most-Favored-Nation Treatment

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

2. Each Party shall accord to covered investments treatment no less favorable 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, conduct, operation, and sale or other disposition of investments.

3. Paragraphs 1 and 2 of this Article shall not be construed to oblige any Party to extend to the investors of the other Party or covered investment any treatment, preference or privilege by virtue of any bilateral or multilateral agreement relating to investment in force or signed prior to the date of entry into force of this Agreement.

4. For greater certainty, the treatment referred to in this Article does not encompass dispute resolution mechanisms or procedures, such as those included in Section B, that are provided for in international investment or trade agreements.

Article 11.4. Minimum Standard of Treatment (26)

1. Each Party shall accord to covered investments fair and equitable treatment and full protection and security in accordance with customary international law.

2. For great certainty, paragraph 1 prescribes the customary international law minimum standard of treatment of aliens as the minimum standard of treatment to be afforded to covered investments. The concepts of "fair and equitable treatment" and "full protection and security" do not require treatment in addition to or beyond that which is required by that standard, and do not create additional substantive rights. The obligation in paragraph 1 to provide:

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

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

3. A determination that there has been a breach of another provision of this Chapter, or of a separate international agreement, does not establish that there has been a breach of this Article.

4. For greater certainty, the mere fact that a Party takes or fails to take an action that may be inconsistent with an investor's expectations does not constitute a breach of this Article, even if there is loss or damage to the covered investment as a result.

5. For greater certainty, the mere fact that a subsidy 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 Article, even if there is loss or damage to the covered investment as a result.

(26) Minimum standard of Treatment shall be interpreted in accordance with Annex 11-A.

Article 11.5. Compensation for Losses

1. Notwithstanding Article 11.10.5 (b), each Party shall accord to investors of the other Party, and to covered investments, non-discriminatory treatment with respect to measures it adopts or maintains relating to losses suffered by investments in its territory owing to armed conflict, a state of national emergency, or civil strife.

2. Notwithstanding paragraph 1, if an investor of a Party, in the situations referred to in paragraph 1, suffers a loss in the territory of the other Party resulting from:

(a) requisitioning of its covered investment or part thereof by the latter's forces or authorities; or

(b) destruction of its covered investment or part thereof by the latter's forces or authorities, which was not required by the necessity of the situation,

the latter Party shall provide the investor restitution, compensation, or both, as appropriate, for such loss. Any compensation shall be made in accordance with Articles 11.6.2, 11.6.3 and 11.6.4, mutatis mutandis.

3. Paragraph 1 does not apply to existing measures relating to subsidies or grants that would be inconsistent with Article 11.2 but for Article 11.10.5 (b).

Article 11.6. Expropriation and Compensation (27)

1. Neither Party may expropriate or nationalize a covered investment either directly or indirectly through measures equivalent to expropriation or nationalization ("expropriation"), except:

(a) for a public purpose;

(b) in a non-discriminatory manner;

(c) on payment of compensation in accordance with this Article; and

(d) in accordance with due process of law.

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

(a) be paid without delay;

(b) be equivalent to the fair market value of the expropriated investment at the time when the expropriation was publicly announced or when the expropriation took place ("the date of expropriation"), whichever is earlier; and

(c) be fully realizable and freely transferable.

3. If the fair market value is denominated in a freely usable currency, the compensation referred to in paragraph 1(c) shall be no less than the fair market value on the date of public announcement of expropriation or on the date of expropriation, whichever is earlier, plus interest at a commercially reasonable rate for that currency accrued from the date of expropriation until the date of payment, as appropriate.

4. If the fair market value is denominated in a currency that is not freely usable, the compensation referred to in paragraph 1(c) – converted into the currency of payment at the market rate of exchange prevailing on the date of payment – shall be no less than:

(a) the fair market value on the date of public announcement of expropriation or on the date of expropriation, whichever is earlier, converted into a freely usable currency at the market rate of exchange prevailing on that date, plus

(b) interest at a commercially reasonable rate for that freely usable currency accrued from the date of expropriation until the date of payment.

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.

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

(27) Article 11.6 shall be interpreted in accordance with Annexes 11-A and 11-B.

Article 11.7. Transfers (28)

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;

(b) profits, dividends, capital gains, and proceeds from the sale of all or any part of the covered investment or from the partial or complete liquidation of the covered investment;

(c) interest, royalty payments, management fees, and technical assistance and other fees;

(d) payments made under a contract, including a loan agreement;

(e) payments made pursuant to Articles 11.5 and 11.6;

(f) payments arising out of a dispute; and

(g) earnings and remuneration of a national of a Party who works in a covered investment in the territory of the other Party.

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

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

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

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

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

(c) criminal or penal offenses;

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

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

5. For greater certainty, provided that such measures are not applied in an arbitrary or unjustifiable manner, and provided that such measures do not constitute a disguised restriction on international trade or investment, paragraphs 1 through 3 shall not be construed to prevent a Party from adopting or maintaining measures that are necessary to secure compliance with laws and regulations, including those relating to the prevention of deceptive and fraudulent practices, that are not inconsistent with this Chapter.

(28) Article 11.7 does not affect each Party's ability to administer its capital account for the maintenance of the stability and soundness of its financial system, such as the foreign exchange market, stock market, bond market and financial derivatives market. For greater certainty, Annex 11-C applies to this Article.

Article 11.8. Performance Requirements

1. Neither Party may, in connection with the establishment, acquisition, expansion, management, conduct, operation, or sale or other disposition of an investment of an investor of the other Party or of a non-Party in its territory, impose or enforce any requirement or enforce any commitment or undertaking: (29)

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

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

(c) to purchase, use, or accord a preference to goods produced in its territory, or to purchase goods from persons 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 a particular technology, a production process, or other proprietary knowledge to a person in its territory;

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

(h) to locate the headquarters for a specific region or the world market in its territory; or

(i) to achieve a given percentage or value of research and development in its territory.

2. Neither Party may condition the receipt or continued receipt of an advantage, in connection with the establishment, acquisition, expansion, management, conduct, operation, or sale or other disposition of an investment in its territory of an investor of the other Party or of a non-Party, on compliance with any requirement:

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

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

(c) to relate 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; or

(d) 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.

3. (a) Nothing in paragraph 1 shall be construed to prevent a Party, in connection with an investment in its territory of an investor of the other Party or of a non-Party, from imposing or enforcing a requirement or enforcing a commitment or undertaking to locate production, supply a service, train or employ workers, construct or expand particular facilities, or carry out research and development, in its territory, provided that such measure is consistent with paragraphs 1(f) and 1(i).

(b) Nothing in paragraph 2 shall be construed to prevent a Party, in connection with an investment in its territory of an investor of the other Party or of a non-Party, from conditioning the receipt or continued receipt of an advantage on compliance with a requirement to locate production, supply a service, train or employ workers, construct or expand particular facilities, or carry out research and development, in its territory.

(c) Paragraph 1(f) does not apply:

(i) when a Party authorizes use of an intellectual property right in accordance with Article 31 of the TRIPS Agreement, or to measures requiring the disclosure of proprietary information that fall within the scope of, and are consistent with, Article 39 of the TRIPS Agreement; or

(ii) when the requirement is imposed or the commitment or undertaking is enforced by a court, administrative tribunal, or competition authority to remedy a practice determined after judicial or administrative process to be anticompetitive under the Party's competition laws. (30)

(d) Provided that such measures are not applied in an arbitrary or unjustifiable manner, and provided that such measures do not constitute a disguised restriction on international trade or investment, paragraphs 1(b), 1(c), 1(f), 2(a) and 2(b), shall not be construed to prevent a Party from adopting or maintaining measures, including environmental measures:

(i) necessary to secure compliance with laws and regulations that are not inconsistent with this Chapter;

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

(iii) related to the conservation of living and non-living exhaustible natural resources.

(e) Paragraphs 1(a), 1(b), 1(c), 2(a) and 2(b), do not apply to qualification requirements for goods or services with respect to export promotion and foreign aid programs.

(f) Paragraphs 1(b), 1(c), 1(f), 1(g), 2(a) and 2(b), do not apply to government procurement.

(g) Paragraphs 2(a) and 2(b) do not apply to requirements imposed by an importing Party relating to the content of goods necessary to qualify for preferential tariffs or preferential quotas.

4. For greater certainty, paragraphs 1 and 2 do not apply to any commitment, undertaking, or requirement other than those set out in those paragraphs.

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.

(29) For greater certainty, a condition for the receipt or continued receipt of an advantage referred to in paragraph 2 does not constitute a "commitment or undertaking" for the purposes of paragraph 1.

(30) The Parties recognize that a patent does not necessarily confer market power.

Article 11.9. Senior Management and Boards of Directors

1. Neither Party may require that an enterprise of that Party that is a covered investment appoint to senior management position natural persons of any particular nationality.

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

Article 11.10. Non-Conforming Measures

1. Articles 11.2, 11.3, 11.8 and 11.9 do not apply to:

(a) any existing non-conforming measures that is maintained by a Party as set out by that Party in its Schedule to Annex I or Annex III;

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

(c) an amendment to any non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Articles 11.2, 11.3, 11.8 and 11.9.

2. Articles 11.2, 11.3, 11.8 and 11.9 do not apply to any measure that a Party adopts or maintains with respect to sectors, subsectors, or activities, as set out in its Schedule to Annex II.

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

4. Articles 11.2 and 11.3 do not apply to any measure covered by an exception to, or derogation from, the obligations under Article 3 or 4 of the TRIPS Agreement, as specifically provided in those Articles and in Article 5 of the TRIPS Agreement.

5. Articles 11.2, 11.3, 11.8 and 11.9 do not apply to:

(a) government procurement; or

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

Article 11.11. Special Formalities and Information Requirements

1. Nothing in Article 11.2 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 on the filing for establishment of and changes to the covered investments of the other Party, provided that such formalities do not materially impair the protections afforded by a Party to investors of the other Party and covered investments pursuant to this Chapter.

2. Notwithstanding Articles 11.2 and 11.3, 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 or administrative purposes. The Party shall protect any confidential business information from any disclosure that would prejudice the competitive position of the investor or the covered investment. Nothing in this paragraph shall be construed to prevent a Party from otherwise

obtaining or disclosing information in connection with the equitable and good faith application of its law.

Article 11.12. Subrogation

If a Party (or any statutory body, governmental agency or institution, or corporation designated by the Party) makes a payment to an investor of the Party under a guarantee, a contract of insurance or other form of indemnity that it has entered into with respect to a covered investment, the other Party, in whose territory the covered investment was made, shall recognize the subrogation or transfer of any rights the investor would have possessed under this Chapter with respect to the covered investment but for the subrogation, including any rights under Section B, and the investor shall be precluded from pursuing such rights to the extent of the subrogation.

Article 11.13. Denial of Benefits

1. A Party may, at any time, including after the institution of arbitration proceedings in accordance with Section B, deny the benefits (31) of this Chapter to an investor of the other Party that is an enterprise of such other Party and to investments of that investor if a non-Party, or persons of a non-Party own or control the enterprise 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 or to its investments.

2. A Party may, at any time, including after the institution of arbitration proceedings in accordance with Section B, deny the benefits of this Chapter to an investor of the other Party that is an enterprise of such other Party and to investments of that investor if the enterprise has no substantial business activities in the territory of the other Party and a non-Party, persons of a non-Party, or of the denying Party, own or control the enterprise.

(31) For greater certainty, benefits referred to in this Article include the rights of an investor of a Party to resort to the dispute settlement mechanism set out in Section B.

Article 11.4. Disclosure of Information

Nothing in this Chapter shall be construed to require a Party to furnish or allow access to protected information, or other confidential information the disclosure of which would impede law enforcement or otherwise be contrary to the public interest, or which would prejudice the legitimate commercial interests of particular enterprises, public or private.

Article 11.5. Financial Services

1. Where an investor submits a claim to arbitration under Section B, and the disputing Party invokes paragraphs (1) and (2) of this Article, the investor-State tribunal established pursuant to Section B may not decide whether and to what extent it is a valid defence to the claim of the investor. It shall seek a report in writing from the Parties on this issue. The investor-State tribunal may not proceed pending receipt of such a report or of a decision of a State-State arbitral tribunal, should such a State-State arbitral tribunal be established.

2. Pursuant to a request for a report received in accordance with the above paragraph, the financial services authorities of the Parties shall engage in consultations. If the financial services authorities (32) of the Parties reach a joint decision on the issue of whether and to what extent the relevant paragraphs of this Article is a valid defence to the claim of the investor, they shall prepare a written report describing their joint decision. The report shall be transmitted to the investor-State tribunal, and shall be binding on the investor-State tribunal.

3. If, after 120 days, the financial services authorities of the Parties are unable to reach a joint decision on the issue of whether and to what extent the relevant paragraphs of this Article is a valid defence to the claim of the investor, the issue shall, within 30 days, be referred by either Party to a State-State arbitral tribunal established pursuant to Chapter 21 (Dispute Settlement). In such a case, the provisions requiring consultations between the Parties in Chapter 21 (Dispute Settlement) shall not apply. The decision of the State-State arbitral tribunal shall be transmitted to the investor-State tribunal, and shall be binding on the investor-State tribunal. All of the members of any such State-State arbitral tribunal shall have expertise or experience in financial services law or practice, which may include the regulation of financial institutions.

4. If the respondent or the non-disputing Party has not submitted such issue to arbitration in accordance with Chapter 21 (Dispute Settlement) pursuant to paragraph 3 within 10 days of the expiration of the 120 day period referred to in paragraph 3, the arbitration under Section B may proceed with respect to the claim.

(32) For the purposes of this Article, the "financial services authorities" means: (a) for China, the one that the Party designates and notifies the other Party through the Contact Point established in Article 9.20 (Contact Point); and (b) for Nicaragua, the one that the Party designates and notifies the other Party through the Contact Point established in Article 20.4 (Contact Point) .

Article 11.16. Taxation

1. Except as provided in this Article, nothing in this Section shall impose obligations with respect to taxation measures.

2. Article 11.6 shall apply to all taxation measures (33), except that a claimant that asserts that a taxation measure involves an expropriation may submit a claim to arbitration under Section B only if:

(a) the claimant has first referred to the competent tax authorities (34) of both Parties in writing the issue of whether that taxation measure involves an expropriation; and

(b) within 180 days after the date of such referral, the competent tax authorities of both Parties fail to agree that the taxation measure is not an expropriation.

3. Nothing in this Chapter shall affect the rights and obligations of a Party under any tax convention. In the event of any inconsistency between this Chapter and any such convention, that convention shall prevail to the extent of the inconsistency. In the case of a tax convention between the Parties, the competent authorities under that convention shall have sole responsibility for determining whether any inconsistency exists between this Chapter and that convention.

(33) For greater certainty, measures regarding tax preservation or punishment against illegal activities that are non-discriminatory and adopted or implemented for the purpose of levying or collecting taxes in a fair and effective manner, do not constitute expropriations as provided in Article 11.6.

(34) For the purposes of this Article, "competent tax authorities" means: (a) for China, the Ministry of Finance and State Administration of Taxation or an authorized representative of the Ministry of Finance and State Administration of Taxation; and (b) for Nicaragua, the Ministry of Finance and Public Credit (Ministerio de Hacienda y Crédito Público (MHCP) or its successor.

Section B. Investor-State Dispute Settlement

Article 11.17. Consultations

1. In the event of an investment dispute, if the claimant intends to submit the dispute to arbitration, it shall deliver a request for consultations to the respondent (35) at least 180 days prior to submission of the dispute to arbitration. The request shall:

(a) specify the name and address of the claimant and, where a claim is submitted on behalf of an enterprise of the respondent that is a juridical person that the claimant owns or controls directly or indirectly, the name, address, and place of incorporation of the enterprise;

(b) list evidences that the claimant is an investor under this Chapter;

(c) for each claim, identify the provision of this Chapter or the investment agreement alleged to have been breached and any other relevant provisions;

(d) for each claim, identify the measures or events giving rise to the claim;

(e) for each claim, provide a brief summary of the legal and factual basis; and

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

2. After a request for consultations is made pursuant to this Section, the claimant and the respondent shall enter into consultations (36) with a view to reaching a mutually satisfactory solution.

(35) For greater certainty, the request for consultations shall be sent to the central government body as listed out in Annex 11-D.

(36) Unless otherwise agreed by the parties to the dispute, the place for consultation should be the capital of the respondent.

Article 11.18. Submission of a Claim to Arbitration

1. In the event that a disputing party considers that an investment dispute cannot be settled by consultations pursuant to Article 11.17 and 180 days have elapsed since the date of the request for consultations:

(a) the claimant, on its own behalf, may submit to arbitration under this Section a claim:

(i) that the respondent has breached

(A) an obligation under Articles 11.2 and 11.3, provided that the claim does not in any way relate to treatment with respect to establishment, acquisition or expansion of investments in the territory of the respondent;

(B) Articles 11.4, 11.5, 11.6, 11.7, 11.8 or 11.9; or

(C) an investment agreement; and

(ii) that the claimant has incurred loss or damage by reason of, or arising out of, that breach; and

(b) the claimant, on behalf of an enterprise of the respondent that is a juridical person that the claimant owns or controls directly or indirectly, may submit to arbitration under this Section a claim:

(i) that the respondent has breached

(A) an obligation under Articles 11.2 and 11.3, provided that the claim does not in any way relate to treatment with respect to establishment, acquisition or expansion of investments in the territory of the respondent;

(B) Articles 11.4, 11.5, 11.6, 11.7, 11.8 or 11.9; or

(C) an investment agreement; and

(ii) that the enterprise has incurred loss or damage by reason of, or arising out of, that breach (37),

provided that a claimant may submit pursuant to subparagraph (a)(i)(C) or (b)(i)(C) a claim for breach of an investment agreement only if the subject matter of the claim and the claimed damages directly relate to the covered investment that was established or acquired, or sought to be established or acquired, in reliance on the relevant investment agreement.

2. An investor of a Party may not initiate or continue a claim under this Section if a claim involving the same measure or measures alleged to constitute a breach under this Article and arising from the same events or circumstances is initiated or continued pursuant to an agreement between the respondent and a non-Party by:

(a) an enterprise of a non-Party that owns or controls, directly or indirectly, the investor of a Party, or

(b) an enterprise of a non-Party that is owned or controlled, directly or indirectly, by the investor of a Party.

Notwithstanding the previous paragraph, the claim may proceed if the respondent agrees that the claim may proceed, or if the investor of a Party and the enterprise of a non-Party agree to consolidate the claims under the respective agreements before a tribunal constituted under this Section.

3. Provided that six months have elapsed since the events giving rise to the claim, a claimant may submit a claim referred to in paragraph 1:

(a) under the ICSID Convention and the ICSID Rules of Procedure for Arbitration Proceedings, provided that both the respondent and the non-disputing Party are parties to the ICSID Convention;

(b) under the ICSID Additional Facility Rules, provided that either the respondent or the non-disputing Party is a party to the ICSID Convention;

(c) under the UNCITRAL Arbitration Rules38; or

(d) if the claimant and respondent agree, to any other arbitration institution or under any other arbitration rules.

4. A claim shall be deemed submitted to arbitration under this Section when the claimant's notice of or request for arbitration ("notice of arbitration"):

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

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

(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) referred to under any arbitral institution or arbitral rules selected under paragraph 3(d) is received by the respondent;

When the claimant submits a claim pursuant to subparagraphs 1(a)(i)(C) or 1(b)(i)(C), the respondent may make a counterclaim in connection with the factual and legal basis of the claim or rely on a claim for the purpose of a set off against the claimant.

5. In addition to any other information required by the applicable arbitral rules, the notice of arbitration shall also include information addressing each of the categories in Article 11.17.1.

6. The arbitration rules applicable under paragraph 3, and in effect on the date the claim or claims were submitted to arbitration under this Section, shall govern the arbitration except to the extent modified by this Chapter.

(37) For greater certainty, a minority non-controlling shareholder of an enterprise may not submit a claim on behalf of that enterprise.

(38) In the case of arbitration under Section B pursuant to the UNCITRAL Arbitration Rules, the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration shall not be applicable unless the disputing parties otherwise agree.

Article 11.19. Consent of Each Party to Arbitration

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

2. The consent under paragraph 1 and the submission of a claim to arbitration under this Section shall satisfy the requirements of:

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

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

Article 11.20. Conditions and Limitations on Consent of Each Party

1. No claim may be submitted to arbitration under this Section 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 Article 11.18.1 and knowledge that the claimant (for claims brought under Article 11.18.1(a)) or the enterprise (for claims brought under Article 11.18.1(b)) has incurred loss or damage.

2. No claim may be submitted to arbitration under this Section by national who had the nationality of the Party to the dispute on the date on which the parties consented to submit such dispute to arbitration pursuant to Article 11.18.

3. 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 Chapter;

(b) the claim arises from measures included in the request for consultations submitted by the claimant in accordance with Article 11.17; and

(c) the notice of arbitration is accompanied,

(i) for claims submitted to arbitration under Article 11.18.1(a) , by the claimant's written waiver, and

(ii) for claims submitted to arbitration under Article 11.18.1(b) , by the claimant's and the enterprise's written waivers,

of any right to initiate or continue before any administrative tribunal or court under the law of a Party, or other dispute

settlement procedures, any proceeding with respect to any measure alleged to constitute a breach referred to in Article 11.18.

4. Notwithstanding paragraph 3(c)(ii), a waiver from the enterprise shall not be required if the respondent has deprived the claimant of its ownership or control of the enterprise.

Article 11.21. Constitution of the Tribunal

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.

3. If a tribunal has not been constituted within 90 days from the date that a claim is submitted to arbitration under this Section, the appointing authority, on the request of a disputing party, shall appoint, in his or her discretion and after consulting with the disputing parties, the arbitrator or arbitrators not yet appointed.

4. The appointing authority may not appoint a presiding arbitrator who is a national of a Party, unless the disputing parties to the dispute otherwise agree.

5. In the event that the appointing authority appoints a presiding arbitrator in accordance with relevant arbitration rules, the presiding arbitrator being appointed should be a recognized expert in public international law, and should be experienced in investor-state dispute settlement.

Article 11.22. Conduct of the Arbitration

1. The disputing parties may agree on the legal place of any arbitration under the arbitral rules applicable under Article 11.18.3. If the disputing parties fail to reach agreement, the tribunal shall determine the place in accordance with the applicable arbitral rules, provided that the place shall be in the territory of a State that is a party to the New York Convention.

2. The non-disputing Party may make oral and written submissions to the tribunal regarding the interpretation of this Agreement.

3. After consulting the disputing parties, the tribunal may allow a person or entity that is not a disputing party to file a written amicus curiae submission with the tribunal regarding a matter within the scope of the dispute. Such a submission shall provide the identity of such person or entity (including any controlling entity and any source of substantial financial assistance in either of the two years preceding the submission, e.g. funding around 20% of an entity's overall operations annually), disclose any connection with any disputing party, and identify any person, government or other entity that has provided or will provide any financial or other assistance in preparing the submission. In determining whether to allow such a filing, the tribunal shall consider, among other things, the extent to which:

(a) the amicus curiae submission would assist the tribunal in the determination of a factual or legal issue related to the proceeding by bringing a perspective, particular knowledge, or insight that is different from that of the disputing parties;

(b) the amicus curiae submission would address a matter within the scope of the dispute; and

(c) the amicus curiae has a significant interest in the proceeding.

The tribunal shall ensure that the amicus curiae submission does not disrupt the proceeding or unduly burden or unfairly prejudice either disputing party, and that the disputing parties are given an opportunity to present their observations on the amicus curiae submission.

4. Without prejudice to a tribunal's authority to address other objections as a preliminary question, a tribunal shall address and decide as a preliminary question any objection by the respondent that, as a matter of law, a claim submitted is not a claim for which an award in favor of the claimant may be made under this Section.

5. In deciding an objection under paragraph 4, the tribunal shall assume to be true claimant's factual allegations. The tribunal may also consider any relevant facts not in dispute. The tribunal shall decide on the objection on an expedited basis, and issue a decision or award on the objection(s) no later than 150 days after the date on which such objection(s) is submitted.

6. In any arbitration conducted under this Section, at the request of a disputing party, a tribunal shall, before issuing a decision or award on liability, transmit its proposed decision or award to the disputing parties and to the non-disputing Party. Within 60 days after the tribunal transmits its proposed decision or award, the disputing parties may submit written comments to the tribunal concerning any aspect of its proposed decision or award. The tribunal shall consider any such comments and issue its decision or award not later than 45 days after the expiration of the 60 days comment period.

7. In the event that an appellate mechanism for reviewing awards rendered by investor-State dispute settlement tribunals is developed in the future under other institutional arrangements, the Parties shall consider whether awards rendered under Article 11.25 should be subject to that appellate mechanism.

Article 11.23. Governing Law

1. Subject to paragraph 3, when a claim is submitted under Article 11.18.1 (a)(i)(A), 11.18.1(a)(i)(B), 11.18.1(b)(i)(A) or 11.18.1(b)(i)(B), the tribunal shall decide the issues in dispute in accordance with this Agreement and applicable rules of international law (39).

2. Subject to paragraph 3 and the other terms of this Section, when a claim is submitted under Article 11.18.1(a)(i)(C) or 11.18.1(b)(i)(C), the tribunal shall apply:

(a) the rules of law specified in the pertinent investment agreement, or as the disputing parties may otherwise agree; or

(b) if the rules of law have not been specified or otherwise agreed:

(i) the law of the respondent, including its rules on the conflict of laws; (40) and

(ii) such rules of customary international law as may be applicable.

3. A joint decision of the Parties declaring their interpretation of a provision of this Agreement shall be binding on a tribunal of any ongoing or subsequent dispute, and any decision or award issued by such a tribunal must be consistent with that joint decision.

(39) For greater certainty, this provision is without prejudice to any consideration of the domestic law of the respondent where it is relevant to the claim as a matter of fact.

(40) The "law of the respondent" means the law that a domestic court or tribunal of proper jurisdiction would apply in the same case.

Article 11.24. Discontinuance

If, following the submission of a claim under this Section, the claimant fails to take any steps in the proceeding during 180 consecutive days or such periods as the disputing parties may agree, the claimant shall be deemed to have withdrawn its claim and to have discontinued the proceedings. In case that a Tribunal has been established according to this Section, it shall, at the request of the respondent, and after notice to the disputing parties, take note of the discontinuance in an order and issue an award on costs. After such an order has been rendered, the authority of the Tribunal shall lapse. The claimant may not subsequently submit a claim on the same matter. This Article is without prejudice to the Tribunal's authority to discontinue the proceedings in according with the applicable arbitrations rules.

Article 11.25. Awards

1. Where a tribunal makes an award against a respondent, the tribunal may award, separately or in combination, only:

(a) monetary damages and any applicable interest; and

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

A tribunal may also award costs and attorney's fees in accordance with this Section and the applicable arbitration rules.

2. Subject to paragraph 1, where a claim is submitted to arbitration under Article 11.18.1(b):

(a) an award of restitution of property shall provide that restitution be made to the enterprise;

(b) an award of monetary damages and any applicable interest shall provide that the sum be paid to the enterprise; and

(c) the award shall provide that it is made without prejudice to any right that any person may have in the relief under applicable domestic laws.

3. A tribunal may not award punitive damages.

4. The award shall be made available to the public promptly. (41)

5. A disputing party shall not seek enforcement of a final award until:

(a) in the case of a final award made under the ICSID Convention:

(i) 120 days have elapsed from the date the award was rendered and no disputing party has requested revision or annulment of the award; or

(ii) revision or annulment proceedings have been completed; and

(b) in the case of a final award under the ICSID Additional Facility Rules, the UNCITRAL Arbitration Rules, or the rules selected pursuant to Article 11.18.4(d) :

(i) 90 days have elapsed from the date the award was rendered and no disputing party has commenced a proceeding to revise, set aside or annul the award; or

(ii) a court has dismissed or allowed an application to revise, set aside or annul the award and there is no further appeal.

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

(41) For greater certainty, nothing in this Section requires a respondent to disclose protected information or to furnish or allow access to information that it may withhold in accordance Article 11.14.

Article 11.26. Expert Reports

Without prejudice to the appointment of other kinds of experts where authorized by the applicable arbitration rules, a tribunal, at the request of a disputing party or, unless the disputing parties disapprove, on its own initiative, may appoint one or more experts to report to it in writing on any factual issue concerning environmental, health, safety, or other scientific matters raised by a disputing party in a proceeding, subject to such terms and conditions as the disputing parties may agree.

Article 11.27. Service of Documents

Delivery of notice and other documents on a Party shall be made to the place named for that Party in Annex 11-D.

Article 11.28. Definitions

For purposes of this Chapter:

central level of government means:

(a) for China, the central level of government; and

(b) for Nicaragua, the central level of government;

Centre means the International Centre for Settlement of Investment Disputes (“ICSID”) established by the ICSID Convention;

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 in its territory of an

investor of the other Party in existence as of the date of entry into force of this Agreement or established, acquired, or expanded thereafter;

disputing parties means the claimant and the respondent;

disputing party means either the claimant or the respondent;

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

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

freely usable currency means “freely usable currency” as determined by the International Monetary Fund under its Articles of Agreement;

government procurement means the process by which a government obtains the use of or acquires goods or services, or any combination thereof, for governmental purposes and not with a view to commercial sale or resale, or use in the production or supply of goods or services for commercial sale or resale;

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 on 18 March, 1965;

investment means every asset that an investor owns or controls, directly or indirectly, that has the characteristics of an investment, including such characteristics as the commitment of capital or other resources, the expectation of gain or profit, or the assumption of risk. Forms that an investment may take include:

(a) an enterprise;

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

(c) bonds, debentures, loans, and other debt instruments, including debt instruments issued by a Party or an enterprise; (42)

(d) futures, options and other derivatives;

(e) turnkey, construction, management, production, concession, revenue-sharing and other similar contracts;

(f) intellectual property rights;

(g) licenses, authorizations, permits, and similar rights conferred pursuant to domestic law; (43), (44) and

(h) other tangible or intangible, movable or immovable property, and related property rights, such as leases, mortgages, liens, and pledges;

investment agreement means a written agreement (45) between a national authority (46) of a Party and a covered investment or an investor of the other Party, on which the covered investment or the investor relies in establishing or acquiring a covered investment other than the written agreement itself, that grants rights to the covered investment or investor:

(a) with respect to natural resources that a national authority controls, such as for their exploration, extraction, refining, transportation, distribution, or sale;

(b) to supply services to the public on behalf of the Party, such as power generation or distribution, water treatment or distribution, or telecommunications; or

(c) to undertake infrastructure projects, such as the construction of roads, bridges, canals, dams, or pipelines, that are not for the exclusive or predominant use and benefit of the government;

investor of a non-Party means, with respect to a Party, an investor that attempts to make, is making, or has made an investment in the territory of that Party, that is not an investor of either Party;

investor of a Party means a Party, a national or an enterprise of a Party, that attempts to make, is making, or has made an investment in the territory of the other Party;

national means:

(a) for China, a natural person who is a national of the People's Republic of China as defined in the Nationality Law of the

People's Republic of China; and

(b) for Nicaragua, a Nicaraguan (nicaragüense) as defined in Article 15 of the Political Constitution of the Republic of Nicaragua.

For the purposes of this Chapter, a natural person who is a dual national shall be deemed to be exclusively a national of the State of his or her dominant and effective nationality.

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

non-disputing Party means the Party that is not a party to an investment dispute;

person means a natural person or an enterprise;

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

protected information means confidential business information or information that is privileged or otherwise protected from disclosure under a Party's law;

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

Secretary-General means the Secretary-General of ICSID;

UNCITRAL Arbitration Rules means the arbitration rules of the United Nations Commission on International Trade Law.

(42) Some forms of debt, such as bonds, debentures, and long-term notes, are more likely to have the characteristics of an investment, while other forms of debt, such as claims to payment that are immediately due and result from the sale of goods or services, are less likely to have such characteristics.

(43) Whether a particular type of license, authorization, permit, or similar instrument (including a concession, to the extent that it has the nature of such an instrument) has the characteristics of an investment also depends on such factors as the nature and extent of the rights that the holder has under the law of the Party. Among the licenses, authorizations, permits, and similar instruments that do not have the characteristics of an investment are those that do not create any rights protected under domestic law. For greater certainty, the foregoing is without prejudice to whether any asset associated with the license, authorization, permit, or similar instrument has the characteristics of an investment.

(44) The term "investment" does not include an order or judgment entered in a judicial or administrative action.

(45) "Written agreement" refers to an agreement in writing, executed by both parties, whether in a single instrument or in multiple instruments, that creates an exchange of rights and obligations, binding on both parties under the law applicable under Article 11.23.2. For greater certainty, (a) a unilateral act of an administrative or judicial authority, such as a permit, license, or authorization issued by a Party solely in its regulatory capacity, or a decree, order, or judgment, standing alone; and (b) an administrative or judicial consent decree or order, shall not be considered a written agreement.

(46) For purposes of this definition, "national authority" means (a) for China, an agency of the central government; and (b) for Nicaragua, the Ministry of Development, Industry and Trade (Ministerio de Fomento, Industria y Comercio (MIFIC)).

Annex 11-A. CUSTOMARY INTERNATIONAL LAW

The Parties confirm their shared understanding that "customary international law" generally and as specifically referenced in Article 11.4 and Annex 11-B results from a general and consistent practice of States that they follow from a sense of legal obligation. With regard to Article 11.4, the customary international law minimum standard of treatment of aliens refers to all customary international law principles that protect the economic rights and interests of aliens.

Annex 11-B. EXPROPRIATION

The Parties confirm their shared understanding that:

1. Article 11.6.1 is intended to reflect customary international law concerning the obligation of States with respect to expropriation.

2. 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.

3. Article 11.6.1 addresses two situations. The first is direct expropriation, where an investment is nationalized or otherwise directly expropriated through formal transfer of title or outright seizure.

The second situation addressed by Article 11.6.1 is indirect expropriation, where an action or series of actions by a Party has an effect equivalent to direct expropriation without formal transfer of title or outright seizure.

(a) The determination of whether an action or series of actions by a Party, in a specific fact situation, constitutes an indirect expropriation, requires a case-by-case, fact-based inquiry that considers, among other factors:

(i) the economic impact of the government action, although the fact that an action or series of actions by a Party has an adverse effect on the economic value of an investment, standing alone, does not establish that an indirect expropriation has occurred;

(ii) the extent to which the government action interferes with distinct, reasonable investment-backed expectations; and

(iii) the character and objective of the government action.

(b) Except in rare circumstances, non-discriminatory regulatory actions by a Party that are designed and applied to protect legitimate public welfare objectives, such as public moral, public health, safety, and the environment, do not constitute indirect expropriations.

Annex 11-C. TEMPORARY SAFEGUARD MEASURES

1. In the event of serious balance-of-payments difficulties, external financial difficulties, or threat thereof, nothing in this Chapter shall be construed to prevent a Party from adopting or maintaining restrictive measures with regard to payments or transfers relating to the movements of capital.

2. Any measures adopted or maintained under paragraph 1 shall:

(a) be consistent with the Articles of Agreement of the International Monetary Fund, as applicable;

(b) be temporary and be phased out progressively as the situation specified in paragraph 1 improves, and shall not exceed 18 months in duration; however, if extremely exceptional circumstances arise, a Party may extend such measures for one 12-month period after advance notice and consultations with the other Party;

(c) not be inconsistent with Articles 11.2 and 11.3;

(d) not be inconsistent with Article 11.6;

(e) not result in multiple exchange rates; and

(f) be promptly notified to the other Party and published as soon as practicable.

Annex 11-D. SERVICE OF DOCUMENTS ON A PARTY

China

Notices and other documents in disputes under Section B shall be served on China by delivery to:

Department of Treaty and Law

Ministry of Commerce of the People's Republic of China 2 Dong Chang'an Avenue

Beijing, 100731

People's Republic of China

Nicaragua

Notices and other documents in disputes under Section B shall be served on Nicaragua by delivery to:

General Directorate of Foreign Trade (Dirección General de Comercio Exterior) Ministry of Development, Industry and Trade (Ministerio de Fomento, Industria y Comercio (MIFIC))

Km. 6, Carretera a Masaya, Managua, Nicaragua.

Chapter 12. DIGITAL ECONOMY

Article 12.1. General Provisions

1. The Parties recognize the pivotal role of the digital economy for the modernization and transformation of the industry, promotion of inclusive economic growth, facilitation of decision-making process and stimulation of the national economies to meet the UN 2030 Agenda for Sustainable Development Goals.

2. The objective of this Chapter is to build a forward-looking, inclusive and open digital economy partnership framework, to explore ways to leverage digital opportunities, accelerate digital transformation and create new drivers for sustainable development.

3. The Parties shall, in principle, endeavour to ensure that bilateral trade in electronic commerce shall be no more restricted than comparable non-electronic bilateral trade.

Article 12.2. Domestic Electronic Transactions Framework

1. The Parties shall adopt or maintain measures regulating electronic transactions based on the following principles:

(a) a transaction including a contract shall not be denied legal effect, validity or enforceability solely on the grounds that it is in the form of an electronic communication; and

(b) Parties should not arbitrarily discriminate between different forms of electronic transactions.

2. Nothing in paragraph 1 prevents a Party from making exceptions in its domestic law to the general principles outlined in paragraph 1.

3. The Parties shall:

(a) minimise the regulatory burden on electronic commerce; and

(b) ensure that regulatory frameworks support development of electronic commerce.

Article 12.3. Electronic Signatures

1. No Party may adopt or maintain legislation for electronic signature that would deny the legal validity of a signature solely on the basis that the signature is in electronic form.

2. The Parties shall maintain domestic legislation for electronic signature that permits parties to electronic transaction to mutually determine the appropriate electronic signature unless there is a domestic or international legal requirement to the contrary.

3. The Parties shall work towards the mutual recognition of digital certificates and electronic signatures.

4. The Parties shall encourage the use of digital certificates in the business sector.

Article 12.4. Online Consumer Protection

The Parties shall, to the extent possible and in a manner considered appropriate, adopt or maintain measures which provide protection for consumers using electronic commerce that is at least equivalent to measures which provide protection for consumers of other forms of commerce.

Article 12.5. Online Personal Data Protection

Recognizing the importance of protecting personal information in electronic commerce, the Parties shall adopt or maintain domestic laws and other measures which ensure the protection of the personal information of the users of electronic

commerce.

Article 12.6. Paperless Trading

1. A Party shall endeavour to accept electronic versions of trade administration documents used by the other Party as the legal equivalent of paper documents, except where:

(a) there is a domestic or international legal requirement to the contrary; or

(b) doing so would reduce the effectiveness of the trade administration process.

2. The Parties shall work towards developing a single window to government incorporating relevant international standards for the conduct of trade administration, recognizing that the Parties will have their own unique requirements and conditions.

3. Subject to domestic laws and regulations and taking into account capacity constraints, the Parties encourage the use of electronic means to promote trade facilitation, such as paperless customs clearance, use of electronic documents, mutual recognition of electronic signature, and use of electronic payment.

4. The Parties encourage cooperation in the field of Information and Communications Technology (ICT), including exchange of experiences and good practices on managing E-ports, national single windows and port community system, to improve port management, logistics, supply chain and trade facilitation work.

Article 12.7. Medium, Small and Micro Enterprises

1. The Parties encourage cooperation to support the increased participation of Medium, Small and Micro Enterprises (hereinafter referred to as “MSMEs”) in the digital economy by building a conducive policy environment and enhancing MSMEs’ digital capacities.

2. The Parties shall consider exchanging good practices in leveraging digital tools including digital platform for supporting entrepreneurs and technologies to improve MSME’s’ access to capital and credit, and non-financial support measures.

3. The Parties shall consider fostering close cooperation on the digital economy between MSMEs of the Parties by holding relevant events and activities among the government officials, business communities, academia and other stakeholders.

Article 12.8. Cooperation on Digital Economy

1. The Parties shall encourage cooperation in research and training activities that would enhance the development of electronic commerce, including by sharing best practices on electronic commerce development.

2. The Parties shall encourage cooperative activities to promote electronic commerce, including those that would improve the effectiveness and efficiency of electronic commerce.

3. The cooperative activities referred to in paragraphs 1 and 2 may include, but are not limited to:

(a) sharing best practices about regulatory frameworks;

(b) sharing best practices about on-line consumer protection, including unsolicited commercial electronic messages;

(c) working together to assist small and medium enterprises to overcome obstacles to participation in digital economy;

(d) cooperating on matters relating to digital inclusion, expanding and promoting digital economy opportunities by removing barriers;

(e) cooperating in the implementation or technological improvement related to electronic identity management and electronic signature services, and

(f) further areas as agreed between the Parties.

4. The Parties shall endeavour to undertake forms of cooperation that build on and do not duplicate existing cooperation initiatives pursued in international forums.

Article 12.9. Non-Application of Dispute Settlement

No Party shall have recourse to dispute settlement for any issue arising from or relating to this Chapter.

Article 12.10. Definitions

For the purposes of this Chapter:

certificate means a data message or other record confirming the link between a signatory and signature creation data;

data message means information generated, sent, received or stored by electronic, optical, magnetic or similar means;

electronic signature has for each Party the meaning set out in its laws and regulations;

electronic version of a trade administration document means a trade administration document prescribed by a Party made by means of data messages;

personal data means all kinds of information related to identified or identifiable natural persons that are electronically or otherwise recorded, excluding information that has been anonymized; and

trade administration documents means forms issued or controlled by a Party which must be completed by or for an importer or exporter in relation to the import or export of goods.

Chapter 13. COMPETITION POLICIES

Article 13.1. Objectives and Principles

1. The Parties understand that proscribing anti-competitive business practices, implementing competition policies, and cooperating on competition issues contribute to enhancing trade liberalization and promoting economic efficiency and consumer welfare.

2. The Parties therefore agree anti-competitive business practices means business conduct or transactions that adversely affect competition in the territory of a Party, such as:

(a) agreements between undertakings, decisions by associations of undertakings and concerted practices which have as their object or effect the prevention, restriction or distortion of competition;

(b) any abuse of a dominant position by one or more undertakings in the territory of any of the Parties as a whole or in a substantial part thereof;

(c) concentrations between undertakings that significantly impede effective competition; or

(d) acts of unfair competition;

as specified in their respective competition laws.

Article 13.2. Competition Laws and Authorities

1. The Parties shall maintain or enforce competition laws (47) that promote and protect the competitive process in their markets by proscribing conduct or transactions referred to in Article 13.1.

2. The Parties shall maintain an authority or authorities responsible for the enforcement of their national competition laws.

(47) Parties understand that the term includes all domestic regulations.

Article 13.3. Implementation of Competition Laws

1. The Parties shall be consistent with the principles of transparency, non-discrimination, and procedural fairness in their competition law enforcement.

2. The Parties shall treat persons who are not persons of that Party no less favourably than persons of that Party in like circumstances in the competition law enforcement.

3. The Parties shall ensure that before they impose administrative punishment or restrictive conditions against a person for

violation of their national competition laws, they afford that person the reasonable opportunity to present opinion or evidence in its defence in accordance with the legislation of each party.

4. The Parties shall ensure that all final administrative decisions finding a violation of their national competition laws are in written form and set out any relevant findings of fact and legal basis on which the decision is based.

Article 13.4. Transparency

1. The Parties shall make public their competition laws and regulations.

2. The Parties shall make public the decisions and any orders implementing them in accordance with their national competition laws and regulations. The Parties shall ensure that the version of the decisions or orders that the Parties make available to the public do not include business confidential information that is protected from public disclosure or other information that is not suitable for disclosure by their national laws.

Article 13.5. Cooperation In Law Enforcement

1. The Parties recognise the importance of cooperation and coordination between their respective competition authorities, to promote effective competition law enforcement in the free trade area. Accordingly, each Party shall cooperate through exchange of non-confidential information and experience, consultations and technical assistance, in accordance with the legislation of each Party.

2. The Parties agree to cooperate in a manner compatible with their respective laws, regulations and important interests, and within their reasonably available resources.

Article 13.6. Information Exchange and Confidentiality (48)

The competition authority of a Party shall, upon request of the competition authority of the other Party, endeavor to provide non-confidential information to facilitate the effective enforcement of its respective competition laws, provided that such information does not affect an ongoing investigation and is consistent with the laws of each Party.

(48) For each Party, the term confidential information, includes any information defined as ‘confidential’ according to its law.

Article 13.7. Technical Cooperation

The Parties may promote technical cooperation including exchange of experiences, capacity building through training programs, workshops and research collaborations for the purposes of enhancing each Party’s capacity related to competition policy and law enforcement.

Article 13.8. Consultations

1. To foster understanding between the Parties, or to address specific matters that arise under this Chapter, each Party shall, on request of the other Party, enter into consultations without prejudice to the autonomy of each developing Party, to maintain and implement its competition legislation.

2. The Party to which a request for consultations has been addressed shall give full and sympathetic consideration to the concerns of the other Party.

Article 13.9. Non-Application of Dispute Settlement

No Party shall have recourse to dispute settlement for any issue arising from or relating to this Chapter.

Article 13.10. Definitions

For purposes of this Chapter:

competition authority means:

(a) for China, the State Administration for Market Regulation or its successor; and

(b) for Nicaragua, the National Institute of Promotion to the Competition (Instituto Nacional de Promoción de la Competencia (ProCompetencia)) or its successor; and,

competition laws means:

(a) for China, the Anti-monopoly Law of the People's Republic of China, the Anti-Unfair Competition Law of the People's Republic of China; and

(b) for Nicaragua, the Law on the Promotion of Competition (Ley de Promoción de la Competencia), approved by Law No. 601 of September 28, 2006, and

its implementing regulations and amendments.

Chapter 14. INTELLECTUAL PROPERTY

Article 14.1. Purposes and Principles

1. The purpose of this Chapter is to increase the benefits from trade and investment through the protection and enforcement of intellectual property rights.

2. The Parties recognize that:

(a) establishing and maintaining transparent intellectual property systems and promoting and maintaining adequate and effective protection and enforcement of intellectual property rights provide certainty to right holders and users;

(b) protecting and enforcing intellectual property rights should contribute to the promotion of technological innovation and to the transfer and dissemination of technology;

(c) intellectual property protection promotes economic and social development, and can reduce distortion and obstruction to international trade;

(d) intellectual property systems should support open, innovative and efficient markets, including through the effective creation, utilization, protection, and enforcement of intellectual property rights, appropriate limitations and exceptions, and an appropriate balance between the legitimate interests of rights holders, users and the public interest;

(e) intellectual property systems should not themselves become barriers to legitimate trade;

(f) appropriate measures, provided they are consistent with the provisions of the TRIPS Agreement (49) and this Chapter, may be needed to prevent the abuse of intellectual property rights by right holders, or the resort to practices which unreasonably restrain trade, are anti competitive or adversely affect the international transfer of technology; and

(g) appropriate measures to protect public health and nutrition may be adopted provided they are consistent with the TRIPS Agreement and this Chapter.

(49) For greater certainty, "TRIPS Agreement" includes any amending protocol in force and any waiver made betwen the Parties of any provision of the TRIPS Agreement granted by WTO Members in accordance with the WTO Agreement.

Article 14.2. Scope of Intellectual Property

For the purposes of this Chapter, except as otherwise provided, intellectual property rights refers to copyright and related rights, rights in trademarks, geographical indications, industrial designs, patents and layout-designs (topographies), rights in plant varieties, and rights in undisclosed information, as defined or described in the TRIPS Agreement.

Article 14.3. Obligations Are Minimum Obligations

Each Party shall, at a minimum, give effect to the provisions of this Chapter. A Party may, but shall not be obliged to, provide more extensive protection for, and enforcement of, intellectual property rights than this Chapter requires, provided that this additional protection and enforcement is not inconsistent with the provisions of this Agreement. Each Party shall be free to determine the appropriate method of implementing the provisions of this Chapter within its own legal system and practice.

Article 14.4. International Agreements

Each Party affirms its commitment to the TRIPS Agreement and any other multilateral agreement relating to intellectual property to which both Parties are party.

Article 14.5. Intellectual Property and Public Health

The Parties recognize the principles established in the Doha Declaration on the TRIPS Agreement and Public Health adopted on 14 November 2001 by the Ministerial Conference of the WTO and confirm that the provisions of this Chapter are without prejudice to this Declaration.

Article 14.6. Exhaustion

Nothing in this Chapter shall affect the freedom of the Parties to determine whether, and under what conditions, the exhaustion of intellectual property rights applies. The Parties agree to further discuss relevant issues relating to the exhaustion of patent.

Article 14.7. Procedures on Acquisition and Maintenance

Each Party shall:

(a) continue to work to enhance its examination and registration systems, including through improving examination procedures and quality systems;

(b) provide applicants with a communication in writing of the reasons for any refusal to grant or register an intellectual property right;

(c) provide an opportunity for interested parties to oppose the grant or registration of an intellectual property right, or to seek either revocation, cancellation or invalidation of an intellectual property right;

(d) require that opposition, revocation, cancellation, or invalidation decisions be reasoned and in writing; and

(e) for the purposes of this Article, “writing” and “communication in writing” may include writing and communications in an electronic form.

Article 14.8. Patentable Subject Matter

1. Subject to the provisions of paragraphs 2 and 3, patents shall be available for any inventions, whether products or processes, in all fields of technology, provided that they are new, involve an inventive step and are capable of industrial application.

2. The Parties may exclude from patentability inventions, the prevention within their territory of the commercial exploitation of which is necessary to protect order public or morality, including to protect human, animal or plant life or health or to avoid serious prejudice to the environment, provided that such exclusion is not made merely because the exploitation is prohibited by their domestic laws.

3. The Parties may also exclude from patentability:

(a) diagnostic, therapeutic, and surgical methods for the treatment of humans or animals; and

(b) plants and animals other than micro-organisms, and essentially biological processes for the production of plants or animals other than non-biological and microbiological processes.

Article 14.9. Amendments, Corrections and Observations on Patent Applications

Each Party shall provide patent applicants with opportunities to make amendments, corrections and observations in connection with their applications in accordance with each Party’s domestic laws, regulations and rules.

Article 14.10. Transparency

1. In order to ensure transparency of the system of protection and enforcement of intellectual property rights, each Party shall ensure that all domestic laws, regulations and procedures relating to the protection or enforcement of intellectual property rights are published in writing or, where publication is not feasible, made available to the public in their national

language, in order to make them known to governments and rights holders.

2. To assist with the transparency of the operation of its intellectual property system, each Party shall make its related information on granted or registered patent for invention, utility model, industrial design, plant variety, trademark and geographical indication easily available.

Article 14.11. Types of Signs as Trademarks

The Parties agree to cooperate on the means to protect types of signs as trademarks, including visual and sound signs.

Article 14.12. Well-Known Trademarks

The Parties shall provide protection for well-known trademarks at least in accordance with Articles 16.2 and 16.3 of the TRIPS Agreement and Article 6 bis of the Paris Convention for the Protection of Industrial Property, done at Paris on 20 March 1883.

Article 14.13. Geographical Indications

1. Each Party recognizes that geographical indications may be protected through a trade mark or sui generis system or other legal means. (50)

2. For the purposes of this Agreement, “geographical indications” are indications which identify a product as originating in the territory of a Party, or a region or a locality in that territory, where a given quality, reputation or other characteristic of the product is essentially attributable to its geographical origin.

3. Without prejudice to Articles 22 and 23 of the TRIPS Agreement, the Parties shall take all necessary measures, in accordance with this Agreement, to ensure mutual protection of the geographical indications referred to in paragraph 2 that are used to refer to goods originating in the territory of the Parties. Each Party shall provide interested parties with the legal means to prevent the use of such geographical indications for identical or similar goods not originating in the place indicated by the geographical indication in question.

(50) The Parties exchanged English translation of their existing legislations on geographical indications for reference. After entry into force of any new legislation and/or amendments to the existing legislations, the Parties agree to provide reliable English translation thereof for reference.

Article 14.14. Plant Breeders’ Rights

The Parties, through their competent agencies, shall cooperate to encourage and facilitate the protection and development of plant breeders’ rights with a view to:

(a) better harmonising the plant breeders’ rights administrative systems of both Parties, including enhancing the protection of species of mutual interest and exchanging information; and

(b) reducing unnecessary duplicative procedures between their respective plant breeders’ rights examination systems.

Article 14.15. Copyrights

1. Each Party shall provide that authors, performers, producers of phonograms broadcasting organizations shall have the right to authorize or prohibit any reproduction of their works, performances, phonograms and broadcasts in any manner or form.

2. Each Party shall grant authors, performers, producers of phonograms and broadcasting organizations the right to authorize the making available to the public of the original or copies of their works, performances, phonograms and broadcasting by sale or other means of transfer of ownership.

Article 14.16. Collective Management of Copyright

1. The Parties recognize the importance of the collective management of copyright and the establishment of agreements between them.

2. Each Party shall foster the establishment of appropriate bodies for the collective management of copyright and shall encourage such bodies to operate in a manner that is efficient, publicly transparent and accountable to their members.

Article 14.17. Genetic Resources, Traditional Knowledge and Folklore

1. The Parties recognize the contribution made by genetic resources, traditional knowledge and folklore to scientific, cultural and economic development.

2. The Parties acknowledge and reaffirm the principles and provisions established in the Convention on Biological Diversity adopted on 5th June 1992 and encourage the effort to establish a mutually supportive relationship between the TRIPS Agreement and the Convention on Biological Diversity, regarding genetic resources and the protection of traditional knowledge and folklore.

3. Subject to the international obligations of each Party and its domestic laws, the Parties may adopt or maintain measures to promote the conservation of biological diversity, equitably share the benefits derived from the use of traditional knowledge, innovations and practices relevant to the conservation of biodiversity and the sustainable use of its components in accordance with the Convention on Biological Diversity and its Protocols.

4. The Parties agree to explore the possibility to further discuss relevant issues concerning genetic resources, traditional knowledge and folklore, taking into account future developments in their respective domestic laws and in multilateral agreements to which both Parties are party.

Article 14.18. Enforcement

1. Each Party commits to implementing effective intellectual property enforcement systems with a view to eliminating trade in goods and services infringing intellectual property rights.

2. Each Party reaffirm its rights and commitments under the TRIPS Agreement, and in particular Part III thereof, and shall adopt or maintain the measures, procedures and additional resources necessary to ensure the enforcement of property rights intellectual. Such measures, procedures and remedies shall be fair, proportionate and equitable and shall not be unnecessarily complex or costly, nor will they cause unreasonable deadlines or delays unnecessary.

3. Each Party shall provide for criminal procedures and penalties in accordance with the TRIPS Agreement to be applied at least in cases of wilful trademark counterfeiting or copyright piracy on a commercial scale. Remedies available shall include imprisonment and/or monetary fines sufficient to provide a deterrent, and consistent with the level of penalties applied for crimes of a corresponding gravity.

Article 14.19. Ex Officio Compliance at the Border

Each Party shall provide that the competent authorities are authorized to initiate border measures ex officio. Such measures shall be applied where there is reason to believe or suspect that the goods being imported or destined for export are counterfeit or pirated, subject to domestic law that is in compliance with each Party's international obligations.

Article 14.20. Cooperation-General

1. Each Party shall, on request of the other Party, exchange information:

(a) relating to intellectual property policies in their respective administrations;

(b) on changes to, and developments in the implementation of, their national intellectual property systems; and

(c) on the administration and enforcement of intellectual property rights.

2. Each Party shall, on request of the other Party, consider intellectual property rights issues and questions of interest to private stakeholders.

3. The Parties will consider opportunities for cooperation in areas of mutual interest that aim to improve the operation of the intellectual property rights system, including administrative processes, in each other's jurisdictions. This cooperation could include:

(a) enforcement of intellectual property rights;

(b) raising public awareness on intellectual property issues;

(c) specialized training and courses for public officials on intellectual property and other mechanisms; and

(d) other activities and initiatives mutually agreed by the Parties.

Chapter 15. ENVIRONMENT AND TRADE

Article 15.1. Context

The Parties reaffirm their commitments to promoting the development of international trade in such a way as to contribute to the objective of sustainable development and will strive to ensure that this objective is integrated and reflected at every level of their trade relationship.

Article 15.2. Objectives

The Parties recognize that economic development, social development and environmental protection are interdependent and mutually supportive components of sustainable development. The Parties underline the benefits of cooperation on environmental issues as part of a global approach to sustainable development.

Article 15.3. Scope

This Chapter shall apply to measures adopted or maintained by the Parties affecting trade-related aspects of environmental issues.

Article 15.4. Levels of Protection

1. The Parties reaffirm each Party's sovereign right to establish its own levels of environmental protection and its own environmental development priorities and to adopt or modify its environmental laws and policies.

2. The Parties shall seek to ensure that their environmental laws and policies provide for, and encourage high levels of environmental protection, and shall strive to continue to improve their respective levels of environmental protection.

3. In this regard, the Parties:

(a) recognize their commitments to promote compliance and effective implementation of each Party's environmental law;

(b) will strive to promote the conservation and sustainable use of biodiversity, and the preservation of traditional knowledge relevant to the conservation of biological diversity and the sustainable use of its components; and

(c) reaffirm their intention to strengthen cooperation on environmental matters.

Article 15.5. Enforcement of Environmental Laws and Regulations

1. A Party shall not fail to effectively enforce its environmental laws and regulations, through a sustained or recurring course of action or inaction, in a manner affecting trade or investment between the Parties.

2. The Parties recognize that it is inappropriate to encourage trade or investment by weakening or reducing the protections afforded in their environmental laws and regulations. Accordingly, neither Party shall waive or otherwise derogate from such laws and regulations in a manner that weakens or reduces the protections afforded in those laws and regulations.

3. The Parties agree that environmental laws and regulations shall not be used for trade protectionist purposes.

4. Nothing in this Chapter shall be construed to empower a Party's authorities to undertake environmental law enforcement activities in the territory of the other Party.

Article 15.6. Multilateral Environmental Agreements

1. The Parties recognize that multilateral environmental agreements (hereinafter referred to as the "MEAs") play an important role globally and domestically in protecting the environment. Accordingly, the Parties reaffirm their commitments to the effective implementation in their laws and practices of the MEAs to which both Parties are party.

2. The Parties agree to dialogue and cooperate, as appropriate, with respect to environmental issues of mutual interest related to MEAs to which they are parties, in particular on trade-related issues with a view to strengthening the cooperation between them.

Article 15.7. Review of Environmental Impact

The Parties shall endeavor to review the impact of the implementation of this Agreement on environment, at appropriate time after the entry into force of this Protocol, through their respective participative processes and institutions.

Article 15.8. Cooperation

1. Recognizing the importance of cooperation in the field of environment in achieving the goals of sustainable development, the Parties commit to building on the existing bilateral agreements and to further strengthening cooperative activities in areas of common interest, as appropriate, in particular trade related environmental issues in manners that the Parties deem appropriate.

2. The Parties hereby agree to promote cooperation activities on mutual interest.

3. The Parties shall endeavor to assure that cooperation activities:

(a) are consistent with the programs, strategies of development, and national priorities of each Party;

(b) would create opportunities for the public to take part in the development and implementation of such activities; and

(c) would take into consideration the economy, and the legal system of each Party.

Article 15.9. Institutional Arrangements

1. With a view to facilitating the implementation of this Chapter and the related communications, the following Contact Points are designated:

(a) for China, the Ministry of Commerce (MOFCOM) or its successor; and

(b) for Nicaragua, the Ministry of Development, Industry, and Trade (Ministerio de Fomento, Industria y Comercio (MIFIC)) or its successor.

2. A Party may, through the Contact Points referred to in paragraph 1, request consultations within the FTA Joint Commission regarding any matter arising under this Chapter. The Parties shall make every attempt to arrive at a mutually satisfactory resolution of the matter.

Article 15.10. Non-Application of Dispute Settlement

No Party shall have recourse to dispute settlement for any issue arising from or relating to this Chapter.

Chapter 16. SMALL AND MEDIUM ENTERPRISES

Article 16.1. Objectives

1. The Parties recognize that small and medium enterprises, including micro enterprises, contribute significantly to economic growth, employment, and innovation, and therefore seek to promote information sharing and cooperation in increasing the ability of small and medium enterprises to utilize and benefit from the opportunities created by this Agreement.

2. The Parties acknowledge the provisions of various Chapters in this Agreement that contribute to encouraging and facilitating the participation of small and medium enterprises in this Agreement.

Article 16.2. Information Sharing

1. Each Party shall promote the sharing of information related to this Agreement that is relevant to small and medium enterprises, including through the establishment and maintenance of its publicly accessible information platform, and information exchange to share knowledge, experiences, and best practices among the Parties.

2. Each Party shall take reasonable steps to ensure the information is accurate and up-to-date.

Article 16.3. Cooperation

The Parties shall strengthen their cooperation under this Chapter, which may include:

(a) encouraging small and medium enterprises (hereinafter referred to as the “SMEs”) service agencies of both countries to deepen cooperation in such areas as information exchange and business surveys, and build bridges of cooperation between SMEs of the two countries;

(b) encouraging SMEs to participate in trade fairs of the two countries;

(c) supporting the development of entrepreneurs and innovators;

(d) supporting the organization of investment forums to promote bilateral investment activities; and

(e) encouraging service providers to establish a one-stop service system to support the development of SMEs in both countries.

Article 16.4. Contact Points

Each Party shall designate a Contact Point to facilitate cooperation and information sharing under this Chapter. Each Party shall notify the other Party of any change to the details of those Contact Points.

Article 16.5. Non-Application of Dispute Settlement

No Party shall have recourse to dispute settlement for any issue arising from or relating to this Chapter.

Chapter 17. TRANSPARENCY

Article 17.1. Publication

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

2. The Parties shall promptly respond through the Contact Point set out in Article 20.4 (Contact Point) to specific questions and provide, upon request, full information to each other on matters referred to in paragraph 1.

Article 17.2. ^Notification and Provision of Information

1. Each Party shall endeavour to notify the other Party the information on any measure that the Party considers might materially affect the operation of this Agreement.

2. The information referred to under this Article shall be considered to have been provided when it has been made available by appropriate notification to the WTO or when it has been made publicly available in accordance with the legislation of the Party concerned or has been published on the official, public and fee-free accessible website of the Party concerned.

3. Any notification, request, or information under this Article shall be conveyed to the other Party through Contact Point designated in Article 20.4 (Contact Point).

Article 17.3. Incorporation

For the purpose of this Agreement, Article X of GATT 1994 and Article III of GATS are incorporated into and form an integral part of this Agreement, mutatis mutandis.

Article 17.4. Definitions

For purposes of this Chapter:

administrative ruling of general application means an administrative ruling or interpretation that applies to all persons and fact situations that fall generally within its ambit and that establishes a norm of conduct but does not include:

(a) a determination or ruling made in an administrative proceeding that applies to a particular person, good or service of the other Party in a specific case; or

(b) a ruling that adjudicates with respect to a particular act or practice.

Chapter 18. ECONOMIC COOPERATION

Section A. General Provisions

Article 18.1. Objectives

1. The Parties agree to strengthen economic cooperation with the aim of enhancing the mutual benefits of this Agreement in accordance with their national strategies and policy objectives.

2. The cooperation under this Chapter shall pursue the following objectives:

(a) (a) promoting economic and social development of the Parties;

(b) (b) strengthening the capacities of the Parties to maximise opportunities and benefits derived from this Agreement;

(c) (c) stimulating productive synergies creating new opportunities for trade and investment and promoting competitiveness and innovation;

(d) (d) reinforcing collaboration and exchanges in areas of mutual interest;

(e) (e) supporting and promoting the development of micro, small and medium-sized enterprises (hereinafter referred to as the “MSMEs”) in order to achieve their insertion in international trade or global value chains; and

(f) (f) on the basis of fully respecting sovereignty and territorial integrity of all states, examining the opportunities of international cooperation through the Belt and Road Initiative and the implementation of the 2030 Agenda for Sustainable Development.

Article 18.2. Methods and Means

1. Cooperation between the Parties will be implemented through the tools, resources and mechanisms available to them, following the rules and procedures and through the appropriate agencies.

2. Cooperation between the Parties may be effected through separate exchange of diplomatic notes, memoranda of understanding, agreements or protocols or agreed frameworks to be concluded between authorised institutions or bodies in accordance with the laws and regulations in force in each Party.

Article 18.3. Scope

1. Cooperation between the Parties under this Chapter will supplement the cooperation and cooperative activities between the Parties set out in other Chapters of this Agreement.

2. The Parties affirm the importance of all forms of cooperation, including economic, technical and commercial cooperation, in contributing towards implementation of the objectives and principles of this Agreement taking into account their different levels of development and the size of their economies.

3. The areas of cooperation include, but are not limited to, those listed in Section B, and shall be subject to revision and update as may be decided after mutual consultation between the Parties with the objective of including other sectors or areas of interest.

Article 18.4. Non-Application of Dispute Settlement

No Party shall have recourse to dispute settlement for any issue arising from or relating to this Chapter.

Section B. Areas of Cooperation

Article 18.5. Agricultural Cooperation

1. Promote exchange of experience, establish partnerships and conduct project cooperation in areas of mutual interests, such as agricultural innovation and technology transfer for smallholder development, conservation and management of water resources for agriculture, promotion of advanced agricultural and agro-to-industrial technologies and digital agriculture.

2. Strengthen institutional capabilities of government agencies, research institutions, universities and businesses, in the areas of scientific investigation and transfer and validation of technologies including, among others, soil management and nutrition, irrigation and drainage, animal nutrition, horticulture under protected environments, traceability and safety.

3. Promote effective risk management in the agribusiness chains aiming to incorporate measures for adaptation and mitigation of climate change.

4. Encourage capacity building, technology transfer, and research and development of agricultural and livestock biotechnology and bio-safety.

5. Explore opportunities for cooperation in global food security through relevant regional and international forums.

Article 18.6. Other Areas of Cooperation

1. The Parties will promote the use of instruments and mechanisms of cooperation through mutually advantageous conditions, including but not limited to the following areas:

(a) micro, small and medium-sized enterprises;

(b) culture (including tourism and audiovisual services);

(c) promotion of a more favorable business environment;

(d) healthcare industry;

(e) textile and apparel;

(f) science and technology (including information technology and communication);

(g) transport, logistics and distribution;

(h) trade and sustainable development (including forestry and renewable energy);

(i) fisheries and aquaculture; and

(j) other areas agreed by the Parties.

2. The Parties shall endeavor to develop, promote and strengthen cooperation in the areas described in paragraph 1 as well as the activities or areas of cooperation established in other Chapters of this Agreement.

Article 18.7. Cooperation In the Law-Based Internet Governance

The Parties recognize the importance of and are committed to enhancing exchanges and cooperation in the law-based Internet governance.

Chapter 19. GENERAL PROVISIONS AND EXCEPTIONS

Article 19.1. Disclosure and Confidentiality of Information

1. Nothing in this Agreement shall require a Party to furnish or to allow access to confidential information, which is designated as confidential under its domestic law or the disclosure of which would impede law enforcement, or otherwise be contrary to the public interest, or which would prejudice the legitimate commercial interests of particular enterprises, public or private.

2. Except as otherwise provided in this Agreement, where a Party provides written information to the other Party in accordance with this Agreement and designates the information as confidential, the other Party shall maintain the

confidentiality of the information. Such information shall be used only for the purposes specified, and shall not be otherwise disclosed without the specific permission of the Party providing the information, except where such use or disclosure is necessary to comply with legal or constitutional requirements or for the purpose of judicial proceedings.

Article 19.2. General Exceptions

1. For the purposes of Chapter 2 (Trade in Goods), Chapter 3 (Rules of Origin and Implementation Procedures), Chapter 4 (Customs Procedures and Trade Facilitation), Chapter 5 (Sanitary and Phytosanitary Measures), Chapter 6 (Technical Barriers to Trade), and the Annexes to the Chapters abovementioned, Article XX of GATT 1994, including its interpretative notes, is, incorporated into and form an integral part of this Agreement, mutatis mutandis. The Parties understand that the measures referred to in Article XX (b) of GATT 1994 include environmental measures necessary to protect human, animal, or plant life or health, and that Article XX (g) of GATT 1994 applies to measures relating to the conservation of living and nonliving exhaustible natural resources, subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade in goods.

2. For the purposes of Chapter 8 (Cross-border Trade in Services), Chapter 9 (Financial Services), Chapter 10 (Temporary Entry for Business Persons), Chapter 11 (Investment) and Chapter 12 (Digital Economy) and its Annexes, Article XIV of GATS, including its footnotes, is incorporated into and form an integral part of this Agreement, mutatis mutandis. The Parties understand that the measures referred to in Article XIV (b) of GATS include environmental measures necessary to protect human, animal, or plant life or health, subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade in services and investment.

Article 19.3. Security Exceptions

Nothing in this Agreement shall be construed:

(a) to 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) to prevent a Party from taking any action which it considers necessary for the protection of its essential security interests:

(i) relating to fissionable and fusionable materials or the materials from which they are derived;

(ii) relating to the supply of services as carried out directly for the purpose of provisioning a military establishment;

(iii) relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment;

(iv) taken in time of war or other emergency in international relations; or

(c) to prevent a Party from taking any action in pursuance of its obligations under the United Nations Charter for maintenance of international peace and security.

Article 19.4. Taxation

1. For the purposes of this Article, the item “taxation measures” shall not include any customs or import duties.

2. Except as otherwise provided in this Article, nothing in this Agreement shall apply to taxation measures.

3. This Agreement shall only grant rights or impose obligations with respect to taxation measures where corresponding rights or obligations are also granted or imposed under the Article III of GATT 1994.

4. Notwithstanding paragraph 3, nothing in this Agreement shall:

(a) oblige a Party to apply any most-favoured-nation obligation in this Agreement with respect to an advantage accorded by a Party pursuant to any tax convention; (51)

(b) apply to:

(i) a non-conforming provision of any taxation measure that is maintained by a Party on the date of entry into force of this Agreement;

(ii) the continuation or prompt renewal of a non-conforming provision of any such taxation measure; or

(iii) an amendment to a non-conforming provision of any such taxation measure to the extent that the amendment does not decrease the conformity of the tax measure with the Agreement, as it existed before the amendment;

(c) prevent the adoption or enforcement by a Party of any taxation measure aimed at ensuring the equitable or effective imposition or collection of taxes; or

(d) prevent the adoption or enforcement by a Party of a provision that conditions the receipt, or continued receipt of an advantage relating to the contributions to, or income of, a pension trust, superannuation fund, or other arrangement to provide pension, superannuation, or similar benefits on a requirement that the Party maintain continuous jurisdiction, regulation, or supervision over such trust, fund, or other arrangement.

5. Nothing in this Agreement shall affect the rights and obligations of either Party under any tax convention. In the event of any inconsistency relating to a taxation measure between this Agreement and any such tax convention, the latter shall prevail to the extent of the inconsistency. With respect to tax convention between the Parties, any consultation about whether any inconsistency exists shall include the competent authorities of each Party under that tax convention.

(51) For the purposes of this Agreement, "tax convention" means a convention for the avoidance of double taxation or other international taxation agreement or arrangement to which both Parties are party.

Article 19.5. Review of Agreement

The Parties shall undertake a general review of the Agreement, with a view to furthering its objectives, within three years from the date of entry into force of this Agreement and at least every five years thereafter except as otherwise agreed by the Parties. The review shall include, but not be limited to, consideration of further liberalisation and expansion of market access.

Article 19.6. Measures to Safeguard the Balance-of-Payments

1. Where a Party is in serious balance of payments and external financial difficulties or under threat thereof, it may:

(a) in case of trade in goods, in accordance with GATT 1994 and the Understanding on the Balance-of-Payments Provisions of the General Agreement on Tariffs and Trade 1994, contained in Annex 1A to the WTO Agreement, adopt restrictive import measures;

(b) in case of trade in services, adopt or maintain restrictions on trade in services on which it has undertaken specific commitments, including on payments or transfers for transactions related to such commitments.

2. Restrictions adopted or maintained under paragraph 1(b) shall:

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

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

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

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

(e) be applied on a non-discriminatory basis such that the other Party is treated no less favourably than any non-Party.

3. In determining the incidence of restrictions adopted or maintained under paragraph 1, a Party may give priority to economic sectors which are more essential to its economic development. However, such restrictions shall not be adopted or maintained for the purpose of protecting a particular sector.

4. Any restrictions adopted or maintained by a Party under paragraph 1, or any changes therein, shall be notified promptly to the other Party.

5. If a Party considers that the restrictive measure adopted or maintained affects the bilateral trade relationship, it may request consultations with the other Party in order to review the restrictions applied by it, and the other Party shall commence such consultations.

Chapter 20. INSTITUTIONAL PROVISIONS

Article 20.1. FTA Joint Commission

1. The Parties hereby establish the China-Nicaragua Free Trade Agreement Joint Commission (hereinafter referred to as the "FTA Joint Commission") comprising representatives of each Party. The Parties shall be represented by senior officials designated by them for this purpose.

2. The FTA Joint Commission shall:

1. (a) consider matters relating to the implementation of this Agreement;

2. (b) consider issues referred to it by either Party, or by the committees or working groups established under this Agreement;

3. (c) in accordance with the objectives of this Agreement, explore possibilities for the further expansion of trade and promotion of investment between the Parties;

4. (d) consider any proposal to amend this Agreement and make recommendations to the Parties; and

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

3. The FTA Joint Commission may:

(a) establish additional committees or ad hoc working groups as necessary, and refer matters to any committee or working group for advice;

(b) further the implementation of this Agreement through implementing arrangements;

(c) further the implementation of the Agreement's objectives by approving any modifications of:

(i) Annex 2-A (Schedule of Tariff Commitments) with the purposes of adding one or more goods excluded in the Schedule of a Party or by accelerating the tariff reduction;

(ii) Annex 3-A (Product Specific Rules of Origin);

(iii) Annex 3-B (Certificate of Origin);

(iv) the Common Guidelines referred to in Chapter 3 (Rules of Origin and Implementation Procedures);

(v) issue interpretations of the provisions of this Agreement;

(d) seek to resolve any differences or disputes that may arise regarding the interpretation or application of this Agreement;

(e) seek the advice of non-governmental persons or groups on any matter falling within its responsibilities where this would assist it in discharging its responsibilities; and

(f) take such other action in the exercise of its functions as the Parties may agree.

Article 20.2. Rules of Procedure of the FTA Joint Commission

1. The FTA Joint Commission shall take decisions and make recommendations on any matter within its functions, as set out in Article 20.1, by mutual agreement. The decisions will be adopt in duplicate in the Chinese, Spanish and English languages and their enforcement of the decisions shall be subject to the fulfilment of domestic legal requirements in either of the Parties.

2. The FTA Joint Commission shall convene in regular session every year and at other times at the request of either Party. Regular sessions of the FTA Joint Commission shall be chaired successively by each Party. Other sessions of the FTA Joint Commission shall be chaired by the Party hosting the meeting.

3. The FTA Joint Commission shall ordinarily meet at the level of senior officials, unless there is a request by either Party to convene the meeting at Ministerial level.

4. Subject to paragraph 3, each Party shall be responsible for the composition of its delegation to the FTA Joint Commission.

5. The Party chairing a session of the FTA Joint Commission shall provide any necessary administrative support for such session, and shall record any decisions taken by the FTA Joint Commission, copies of which shall be provided to the other

Party.

Article 20.3. Free Trade Agreement Coordinators

1. Each Party shall appoint a Free Trade Agreement Coordinator (hereinafter referred to as the “Coordinators”).

2. The Coordinators shall work jointly to develop agendas and make other preparations for Commission meetings, and shall follow-up on Commission decisions, as appropriate.

Article 20.4. Contact Point

1. For the purpose of facilitating communication between the Parties on any matter covered by this Agreement, the following Contact Points are designated:

(a) for China, the Ministry of Commerce (MOFCOM) or its successor; and

(b) for Nicaragua, the Ministry of Development, Industry and Trade (Ministerio de Fomento, Industria y Comercio (MIFIC)) or its successor.

2. Each Party shall notify the other Party in writing, through this Contact Point, of all contact points designated in this Agreement and the details of relevant officials, no later than 60 days after the date of its entry into force.

3. A Party shall promptly notify the other Party in writing, through this Contact Point, of any change in designated Contact Points.

Chapter 21. DISPUTE SETTLEMENT

Article 21.1. Cooperation

The Parties shall at all times endeavor to agree on the interpretation and application of this Agreement, and shall make every attempt through cooperation and consultations to arrive at a mutually satisfactory resolution of any matter that might affect its operation when a dispute occurs.

Article 21.2. Scope of Application (52)

Except as otherwise provided in this Agreement, wherever a Party considers that a measure of the other Party is inconsistent with its obligations under this Agreement or the other Party has otherwise failed to carry out its obligations under this Agreement, the dispute settlement provisions of this Chapter shall apply.

(52) For greater certainty, this Chapter does not apply to proposed measures and/or claims in cases where there is no violation (nullification or impairment of a benefit in cases where there is no violation of the provisions of the Treaty).

Article 21.3. Choice of Forum

1. Where a dispute regarding the same measure arises under this Agreement and under any other agreement to which both Parties are party, including the WTO agreements, the complaining Party may select the forum in which to settle the dispute.

2. Once the complaining Party has requested establishment of, or otherwise referred a matter to, a panel or tribunal under an agreement referred to in paragraph 1, the forum selected with respect to the same measure shall be used to the exclusion of other fora.

Article 21.4. Consultations

1. The Parties shall make every attempt to arrive at a mutually satisfactory resolution of any dispute through consultations under this Article or other consultative provisions of this Agreement.

2. The request for consultations shall be made in writing and shall set out the reasons for the request, including identification of the measure at issue and an indication of the legal basis for the complaint. The complaining Party shall deliver the request to the responding Party.

3. If a request for consultations is made, the responding Party shall reply to the request within 10 days after the date of its receipt and shall enter into consultations in good faith, with a view to reaching a mutually satisfactory solution, within a period of no more than:

(a) 15 days after the date of receipt of the request for urgent matters concerning perishable goods; or

(b) 30 days after the date of receipt of the request for all other matters.

4. If the responding Party does not reply or enter into consultations within the timeframe specified in paragraph 3, then the complaining Party may proceed directly to request the establishment of an arbitral tribunal.

5. The consultations shall be confidential and are without prejudice to the rights of either Party in any further proceedings.

Article 21.5. Good Offices, Conciliation and Mediation

1. The Parties may at any time voluntarily agree to good offices, conciliation and mediation. These procedures may begin at any time and be terminated at any time.

2. Proceedings involving good offices, conciliation and mediation, and in particular positions taken by the Parties during those proceedings, shall be confidential and without prejudice to the rights of either Party in any further or other proceedings.

Article 21.6. Establishment of an Arbitral Tribunal

1. If the consultation referred to in the Article 21.4 fails to resolve a matter within 60 days or 30 days in relation to urgent matters concerning perishable goods, after receipt of the request for consultations, the complaining Party may request in writing the establishment of an arbitral tribunal to consider the matter.

2. The complaining Party shall indicate in the request whether consultations were held, identify the specific measures at issue and provide a brief summary of the legal basis of the complaint sufficient to present the problem clearly, and shall deliver the request to the responding Party. An arbitral tribunal is established upon receipt of a request.

Article 21.7. Composition of an Arbitral Tribunal

1. An arbitral tribunal shall comprise three members.

2. Within 15 days after the establishment of an arbitral tribunal, each Party shall appoint one arbitrator of the arbitral tribunal respectively.

3. The Parties shall appoint by common agreement the third arbitrator within 30 days after the establishment of an arbitral tribunal. The arbitrator thus appointed shall chair the arbitral tribunal.

4. If any arbitrator of the arbitral tribunal has not been appointed within 30 days after the establishment of an arbitral tribunal, either Party may request that the Director-General of the WTO designate an arbitrator within 30 days of that request. If one or more arbitrators are designated according to this paragraph, the Director-General of the WTO shall be authorized to designate the chair of the arbitral tribunal. In the event that the Director General of the WTO is a national of either Party or unable to perform this task, the Deputy Director-General of the WTO who is not a national of either Party shall be requested to perform such task.

5. The chair of the arbitral tribunal shall:

(a) not be a national of either Party;

(b) not have his or her usual place of residence in the territory of either Party;

(c) not be employed by either Party; and

(d) not have dealt with the matter in any capacity.

6. All arbitrators shall:

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

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

(c) be independent of, and not be affiliated with or take instructions from, either Party; and

(d) comply with a code of conduct in conformity with the rules established in the document WT/DSB/RC/1 of the WTO or the document that is in force, unless otherwise agreed by the Parties; and

(e) not have participated in the dispute in any other capacity in accordance with Article 21.5.

7. If an arbitrator appointed under this Article resigns or becomes unable to act, a successor shall be appointed in the same manner and timeframe as prescribed for the appointment of the original arbitrator and the successor shall have all the powers and duties of the original arbitrator. The work of the arbitral tribunal shall be suspended during the replacement of the successor.

8. The procedures set out in this Article shall apply in those cases where the original arbitral tribunal, or some of its members, are unable to reconvene pursuant to Articles 21.13, 21.14, 21.15 and 21.16. In these cases, the period for notifying the report shall be counted from the date on which the last arbitrator is appointed.

Article 21.8. Functions of Arbitral Tribunal

1. The function of an arbitral tribunal is to make an objective assessment of the matter before it, including an examination of the facts of the case and the applicability of and conformity with this Agreement.

2. Except as the Parties otherwise agree within 20 days from the date of the establishment of the arbitral tribunal, the terms of reference shall be:

"To examine, in the light of the relevant provisions of this Agreement, the matter referred to in the request for the establishment of an arbitral tribunal pursuant to Article 21.6 and to make findings of law and fact together with the reasons as well as recommendations, if any, for the resolution of the dispute."

3. Where an arbitral tribunal concludes that a measure is inconsistent with this Agreement, it shall recommend that the responding Party bring the measure into conformity with this Agreement.

4. The arbitral tribunal shall consider this Agreement in accordance with customary rules of interpretation of public international law. The arbitral tribunal, in their findings and recommendations, cannot add to or diminish the rights and obligations provided in this Agreement.

Article 21.9. Rules of Procedure of an Arbitral Tribunal

1. Except as the Parties agree otherwise, the arbitral tribunal shall follow the rules of procedure set out in Annex and may, after consulting with the Parties, adopt additional rules of procedure not inconsistent with Annex.

2. Except as the Parties otherwise agree, the remuneration of the arbitrators and other expenses of the arbitral tribunal shall be borne by the Parties in equal shares.

Article 21.10. Suspension or Termination of Proceedings

1. The Parties may agree that the arbitral tribunal suspends 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 for establishment of the arbitral tribunal shall lapse except as the Parties agree otherwise.

2. The Parties may agree to terminate the proceedings of an arbitral tribunal.

Article 21.11. Report of the Arbitral Tribunal

1. The arbitral tribunal shall base its report on the relevant provisions of this Agreement, the submissions and arguments of the Parties and other information, if any, it has obtained pursuant to paragraph 14 of Annex.

2. Except as the Parties to the dispute otherwise agree, the arbitral tribunal shall issue the initial report to the Parties within 120 days after the date of its composition or in case of urgent matters concerning perishable goods, within 90 days after the date of its composition.

3. In exceptional cases, if the arbitral tribunal considers it cannot issue its initial report within 120 days or within 90 days in

case of urgent matters concerning perishable goods, it shall inform the Parties in writing of the reasons for the delay together with an estimate of the period within which it will issue its report. Any delay shall not exceed a further period of 30 days except as the Parties otherwise agree.

4. Each Party may submit written comments to the arbitral tribunal within 15 days of the issuance of the initial report. After considering these written comments by the Parties and making any further examination it considers appropriate, the arbitral tribunal shall present the Parties its final report within 30 days of issuance of the initial report, except as the Parties otherwise agree.

5. The arbitral tribunal shall make every effort to make its decisions by consensus. If the arbitral tribunal is unable to reach consensus, it may make its decision by majority vote. Arbitrators may furnish separate opinions on matters not unanimously agreed. All opinions expressed in the arbitral tribunal's report by individual arbitrators shall be anonymous.

6. The final report of the arbitral tribunal is final and has no binding force except between the Parties and in respect of the matter to which the report refers.

7. Except as the Parties otherwise agree, the final report shall be made available to the public no later than 15 days after its issuance to the Parties, subject to the protection of confidential information.

Article 21.12. Implementation of Arbitral Tribunal's Final Report

1. Where the arbitral tribunal concludes that a Party has not conformed to its obligations under this Agreement, the resolution, whenever possible, shall be to eliminate the non-conformity.

2. Unless the Parties reach agreement on compensation or other mutually satisfactory solution, the responding Party shall implement the recommendations and rulings in the final report of the arbitral tribunal. If it is not practicable to comply immediately, the responding Party shall implement the recommendations and rulings within a reasonable period of time.

Article 21.13. Reasonable Period of Time

1. The reasonable period of time referred to in Article 21.12 shall be mutually determined by the Parties. Where the Parties fail to agree on the reasonable period of time within 45 days after the issuance of the arbitral tribunal's final report, either Party may, to the extent possible, refer the matter to the original arbitral tribunal, which shall determine the reasonable period of time.

2. The arbitral tribunal shall provide its determination to the Parties within 60 days after the date of the referral of the matter to it. When the arbitral tribunal considers that it cannot provide its report within this timeframe, it shall inform the Parties in writing of the reasons for the delay together with an estimate of the period within which it will provide its determination. Any delay shall not exceed a further period of 30 days except as the Parties otherwise agree.

3. The reasonable period of time normally should not exceed 15 months from the date of issuance of the arbitral tribunal's final report.

Article 21.14. Compliance Review

1. Where there is disagreement as to the existence or consistency with this Agreement of measures taken to comply with the recommendations and rulings of the arbitral tribunal, such dispute shall be decided through recourse to the dispute settlement procedures under this Chapter, including wherever possible by resort to the original arbitral tribunal.

2. The arbitral tribunal shall provide its report to the Parties within 60 days after the date of the referral of the matter to it. When the arbitral tribunal considers that it cannot provide its report within this timeframe, it shall inform the Parties in writing of the reasons for the delay together with an estimate of the period within which it will provide its report. Any delay shall not exceed a further period of 30 days except as the Parties otherwise agree.

Article 21.15. Suspension of Concessions or other Obligations

1. If the arbitral tribunal under Article 21.14 finds that the responding Party fails to bring the measure found to be inconsistent with this Agreement into compliance with the recommendations and rulings of the arbitral tribunal within the reasonable period of time established, or the responding Party express in writing that it will not implement the recommendations and rulings, such Party shall, if so requested by the complaining Party, enter into negotiations with the complaining Party, with a view to agreeing on a mutually acceptable compensation. If the Parties fail to reach an agreement

on compensation within 20 days after entering into negotiation for compensation, or if no such request has been made, the complaining Party may suspend the application of concessions or other obligations to the Party complained against. The complaining Party shall notify the responding Party 30 days before suspending concessions or other obligations. The notification shall indicate the level and scope of the suspension of concessions or other obligations.

2. The level of the suspension of concessions or other obligations shall be equivalent to the level of the nullification or impairment.

3. In considering what concessions or other obligations to suspend:

(a) the complaining Party should first seek to suspend concessions or other obligations in the same sector(s) as that affected by the measure that the arbitral tribunal has found to be inconsistent with the obligations under this Agreement ; and

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

4. Upon written request of the responding Party, the original arbitral tribunal shall determine whether the level of concessions or other obligations to be suspended by the complaining Party is excessive pursuant to paragraph 2 and/or whether paragraph 3 has not been followed. If the arbitral tribunal cannot be established with its original members, it shall be composed in accordance with the procedures set out in Article 21.7.

5. The arbitral tribunal shall present its determination within 60 days from the request made pursuant to paragraph 4, or if an arbitral tribunal cannot be established with its original members, from the date on which the last arbitrator is appointed.

6. The complaining Party may not suspend the application of concessions or other obligations before the issuance of the arbitral tribunal's determination pursuant to this Article.

Article 21.16. Post Suspension

1. Without prejudice to the procedures in Article 21.15, if the responding Party considers that it has eliminated the non-conformity that the arbitral tribunal has found, it may provide written notice to the complaining Party with a description of how non-conformity has been removed. If the complaining Party disagrees, it may refer the matter to the original arbitral tribunal within 60 days after receipt of such written notice. Otherwise, the complaining Party shall promptly stop the suspension of concessions or other obligations.

2. The arbitral tribunal shall issue its report within 60 days after the referral of the matter by the complaining Party pursuant to paragraph 1. If the arbitral tribunal concludes that the responding Party has eliminated the non-conformity, the complaining Party shall promptly stop the suspension of concessions or other obligations.

Article 21.117. Private Rights

Neither Party may provide for a right of action under its domestic law against the other Party on the ground that a measure of the other Party is inconsistent with this Agreement.

Annex 21. RULES OF PROCEDURE OF ARBITRAL TRIBUNAL

First Written Submissions

1. The complaining Party is proposed to deliver its first written submission no later than 20 days after the appointment of the last arbitrator. The Responding Party is proposed to deliver its first written submission no later than 30 days after the date of delivery of the complaining Party's first written submission, except as the arbitral tribunal otherwise decides.

2. A Party shall provide a copy of its first written submission to each of the arbitrators and to the other Party. A copy of the documents shall also be provided in electronic format.

Hearings

3. The chair of the arbitral tribunal shall fix the date and time of the hearing after consultation with the Parties and other members of the arbitral tribunal. The venue of the hearings shall be agreed by the Parties. If there is no agreement, the venue shall alternate between the territories of the Parties with the first hearing to be held in the territory of the Party complained against. The chair of the arbitral tribunal shall notify in writing to the Parties of the date, time and venue of the hearing. Unless either Party disagrees, the arbitral tribunal may decide not to convene a hearing.

4. The arbitral tribunal may convene additional hearings.

5. All arbitrators shall be present at hearings.

6. The hearings of the arbitral tribunal shall be held in closed session.

Supplementary Written Submissions

7. Within 20 days after the date of the hearing, each Party may deliver a supplementary written submission responding to any matter that arose during the hearing. The supplementary written submissions shall be delivered in accordance with paragraph 2 of these Rules.

Questions in Writing

8. The arbitral tribunal may at any time during the proceedings put questions in writing to the Parties.

9. A Party shall deliver the written reply to the arbitral tribunal and the other Party in accordance with the timetable established by the arbitral tribunal. Each Party shall be given the opportunity to provide written comments on the reply of the other Party.

Confidentiality

10. The arbitral tribunal's hearings and the documents submitted to it shall be kept confidential. Nothing in this Chapter shall preclude a Party from disclosing statements of its own positions to the public. The information submitted by a Party to the arbitral tribunal which that Party has designated as confidential shall be treated as confidential.

Ex parte Contacts

11. The arbitral tribunal shall not meet or contact a Party in the absence of the other Party.

12. No Party may contact any arbitrator in relation to the dispute in the absence of the other Party or other arbitrators.

13. No arbitrator may discuss any aspect of the subject matter of the proceeding with a Party or both Parties in the absence of other arbitrators.

Role of Experts

14. Upon request of a Party or on its own initiative, the arbitral tribunal may seek information and technical advice from any individual or body that it deems appropriate, provided that the Parties so agree and subject to such terms and conditions as such Parties may agree. Any information so obtained shall be provided to the Parties for comments.

Working Language

15. Except as otherwise agreed by the Parties, the working language of the dispute settlement proceedings shall be English.

Chapter 22. FINAL PROVISIONS

Article 22.1. Annexes

The Annexes and footnotes to this Agreement constitute an integral part of this Agreement.

Article 22.2. Entry Into Force

This Agreement shall enter into force 30 days after the receipt of the last written notification by which the Parties shall notify each other on the completion of internal procedures necessary for the entry into force of the Agreement.

Article 22.3. Amendments

1. The Parties may agree in writing to amend this Agreement. Any amendment shall enter into force in accordance with the procedure required for the entry into force of this Agreement. Such amendment shall constitute an integral part of this Agreement.

2. If any amendment is made to the provision of the WTO Agreement or any other international agreement to which both Parties are party that has been incorporated into this Agreement, the Parties shall consult on whether to amend this

Agreement accordingly, except as this Agreement provides otherwise.

Article 22.4. Termination

1. This Agreement shall remain in force unless either Party notifies the other Party in writing to terminate this Agreement. Such termination shall take effect 180 days after the date of receipt of the notification.

2. Within 30 days of notification under paragraph 1, either Party may request consultations regarding whether the termination of any provision of this Agreement should take effect on a later date than provided under paragraph 1. Such consultations shall commence within 30 days from the delivery of such request to the other Party.

Article 22.5. Relation to the Early Harvest Arrangement

As of the entry into force of this Agreement, in the event of any inconsistency between the provisions of this Agreement and the provisions of the Early Harvest Arrangement, the provisions of this Agreement shall prevail.

Article 22.6. Authentic Texts

This Agreement is done in duplicate in Chinese, Spanish and English languages. All texts shall be equally authentic. In case of any divergence, the English text shall prevail.

IN WITNESS WHEREOF, the undersigned, being duly authorised by their respective Governments, have signed this Agreement.

DONE in Beijing and Managua, on the thirty first day of August in the year of two thousand and twenty three, each Party shall keep one copy in Chinese, Spanish and English languages.

Annex I. Cross-Border Trade in Services and Investment Non-Conforming Measures

Annex I. SCHEDULE OF CHINA

Explanatory Notes

1. The Schedule of China to this Annex sets out, pursuant to Articles 11.10 (Non- Conforming Measures) and Articles 8.6 (Non-Conforming Measures), China's existing measures that are not subject to some or all of the obligations imposed by:

(a) Article 11.2 (National Treatment) or Article 8.2 (National Treatment);

(b) Article 11.3 (Most-Favored-Nation Treatment) or Article 8.3 (Most-Favored-Nation Treatment);

(c) Article 11.8 (Performance Requirements);

(d) Article 11.9 (Senior Management and Boards of Directors);

(e) Article 8.4 (Market Access); or

(f) Article 8.5 (Local Presence).

2. Each Schedule entry sets out the following elements:

(a) Sector refers to the sector for which the entry is made;

(b) Obligations Concerned specifies the article(s) referred to in paragraph 1 that, pursuant to Articles 11.10.1(a) (Non-Conforming Measures) and Articles 8.6.1(a) (Non-Conforming Measures), do not apply to the non-conforming aspects of the Measures or the Description, as set out in paragraph 3;

(c) Level of Government indicates the level of government maintaining the scheduled measure(s);

(d) Measures (1) identifies the laws, regulations, or other measures for which the entry is made. A measure cited in the

Measures element:

(i) means the measure as amended, continued or renewed as of the date of entry into force of this Agreement ; and

(ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure;

(e) Description sets out the non-conforming aspects of the measure for which the entry is made.

3. In accordance with Article 11.10.1(a) (Non-Conforming Measures) and Article 8.6.1(a) (Non-Conforming Measures), and subject to Article 11.10.1(c) (Non-Conforming Measures) and Article 8.6.1(c) (Non-Conforming Measures), the articles of this Agreement specified in the Obligations Concerned element of an entry do not apply to the non-conforming aspects of the Description element, or the law, regulation, or other measure, as applicable, identified in the Measures element of that entry.

4. In the interpretation of a Schedule entry, all elements of the entry, as well as the articles against which the entry is made, shall be considered. Unless otherwise explicitly indicated in the entry, the Measures element shall prevail over all other elements, including where a difference exists between the Description element and the Measures element in the aspect of liberalization commitments.

5. Where there is overlap between the contents of Annex I and Annex II, notwithstanding the obligations a Party assumes under Article 11.10.1, and Article 8.6.1 and Annex I, the Party remains entitled to adopt or maintain relevant measures in accordance with Article 11.10.2, Article 8.6.2 and Annex II.

6. For greater certainty, unless otherwise specified, “all sectors” referred to in this Annex shall mean all sectors including financial services.

7. For the purposes of the Schedules of China to this Annex:

(a) “foreign investor” means any investor of the other Party or a non-Party.

(b) “foreign investor may not invest” means a foreign investor may not directly or indirectly invest, including by holding any shares, stock or other forms of rights or interest directly or indirectly, in the territory of China.

(c) “Chinese control” means the circumstances where the total investment proportion held by foreign investors, whether directly and indirectly, is not greater than 49%.

(d) “EJV” means investments may be made only in the form of equity joint venture.

8. For greater certainty, with respect to a reservation concerning the supply of a service, if the means of delivery is not specified or otherwise described or limited, the reservation shall apply to all means of delivery of the service.

(1) For greater certainty, in the case of China, a change in the level of government at which a measure is administered or enforced does not, by itself, decrease the conformity of the measure with the obligations referred to in Article 11.10.1 and Article 8.6.1.

Annex I Entry 1 – Seed Industry

Sector: Seed Industry

Obligations Concerned:

National Treatment (Article 11.2)

Level of Government

Central

Measures: Special Administrative Measures (Negative List) for the Access of Foreign Investment (2021)Article 1, 2, 3.

Description: Investment

1. Foreign investor may not invest in the research and development, cultivation or planting of the precious and quality varieties which are rare and special in China, and the production of the relevant reproductive materials thereof (including high quality genes in the industries of crop production, livestock industry and aquaculture).

2. Chinese control is required for investments by foreign investors in the selection and breeding of new varieties of wheat

and corn and seed production of wheat and corn.

3. Foreign investors may not invest in the selection and breeding of transgenic varieties of crops, livestock and poultry raised for breeding purpose, seeds and sprouts of aquatic products, and the production oftheir transgenic seeds (sprouts).

Annex I Entry 2–Fishery

Sector: Fishery/Services Incidental to Fishing

Obligations Concerned: National Treatment (Article 11.2 and Article 8.2) Most Favored Nation Treatment (Article 8.3)

Level of Government: Central

Measures: Fisheries Law of People' s Republic of China (2013), full text;

Law on the Exclusive Economic Zone and the Continental Shelf (1998);

Law on the Territorial Sea and the Contiguous Zone (1992), Article 11;

Special Administrative Measures (Negative List) for the Access of Foreign Investment (2021), Article 4;

Interim Provisions on the Administration of Fishery Activities of

Foreigners and Foreign Ships in the Territorial Sea of the People's Republic of China2004.

Description: Investment and Cross-border Trade in Services

1. Foreign investors may not invest in the fishing of aquatic products within the sea and inland waters under the jurisdiction of China.

2. Foreigners and foreign fishing vessels must obtain approval from Chinese government before entering the territorial waters of the People's Republic of China for carrying out fishery activities. If those persons and vessels belong to countries that have signed relevant accords or agreements with China, their activities shall be conducted in accordance with those accords or agreements.

Annex I Entry 3 –Exploration and Exploitation of Exclusive Economic Zone and Continental Shelf

Sector: Exploration and Exploitation of Exclusive Economic Zone and Continental Shelf

Obligations Concerned: National Treatment (Article 11.2)

Level of Government: Central

Measures: Law on the Exclusive Economic Zone and the Continental Shelf (1998), Article 7.

Description: Investment

Any international organization, foreign entity or individual must obtain approval from Chinese government for carrying out activities of exploring and exploiting natural resources in the exclusive economic zone of China or on the Chinese continental shelf, or drilling on the Chinese continental shelf for any purpose.

Annex I Entry 4 –Exploration, Exploitation and Smelting of Minerals

Sector: Exploration, Exploitation and Smelting of Minerals

Obligations Concerned: National Treatment (Article 11.2)

Level of Government: Central

Measures: The State Council Notice on Tungsten, Tin, Antimony, Ion Type Rare Earth Minerals Being Listed as Nation-wide Protective Specific Minerals for Mining (1991), Article 2 (Indicative Translation);

Special Administrative Measures (Negative List) for the Access of Foreign Investment (2021), Article 5.

Description: Investment

Foreign investors may not invest in the exploration, exploitation or ore dressing of rare earth and tungsten.

Annex I Entry 5–Printing of Publications

Sector: Printing of Publications

Obligations Concerned: National Treatment (Article 11.2)

Level of Government: Central

Measures: Regulations on the Administration of Printing Industry (2017), Article 14;

Special Administrative Measures (Negative List) for the Access of Foreign Investment (2021)Article 6.

Description: Investment

Chinese control is required for investment (excluding those in free trade pilot zones) by foreign investors in the printing of publications.

Annex I Entry 6–Government-granted Monopoly

Sector: Government-granted Monopoly/Services related to Government-granted Monopoly

Obligations Concerned: National Treatment (Article 11.2 and Article 8.2) Market Access (Article 8.4)

Level of Government: Central

Measures: Law of the People's Republic of China on Tobacco Monopoly (2015) , Article 1,2 and 3

Special Administrative Measures (Negative List) for the Access of Foreign Investment (2021)Article 9;

Regulation on the Implementation of the Law of the People's Republic of China on Tobacco Monopoly (2016).

Description: Investment and Cross-border Trade in Services

Foreign investors or foreign service suppliers may not invest or engage in the production, whole sale, retail or import and export of leaf tobacco, cigarettes, re-dried leaf tobacco, cigars, cut tobacco and other tobacco products (1).

(1) For the purpose of this entry, “tobacco products” refer to products entirely or partly made of the leaf tobacco as raw material, which are manufactured to be used for smoking, sucking, chewing or snuffing, including electronic cigarettes and other new-type tobacco products.

Annex I Entry 7–Postal and Delivery Services

Sector: Postal and Delivery Services

Obligations Concerned: National Treatment (Article 11.2 and Article 8.2) Market Access (Article 8.4) Local Presence (Article 8.5)

Level of Government: Central

Measures: Postal Law of the People's Republic of China (2015), Article 5, 14, 15, 42, 51, 52, 55, 84;

Measures for the Supervision and Administration of Universal Postal Services2015Article 21;

Special Administrative Measures (Negative List) for the Access of Foreign Investment (2021)Article 13.

Description: Investment and Cross-border Trade in Services

1. Foreign investors or foreign service suppliers may not invest in postal enterprises (1) or operate postal services (2).

2. Foreign investors or foreign service suppliers may not invest or engage in the operation of domestic express delivery service (3) for correspondence (4).

3. Only the corporate legal person established in China is allow to operate delivery service within the territory of the People's Republic of China.

(1) For the purpose of this entry, “postal enterprise(s)” refer to the China Post Group and its wholly owned and/or controlled enterprises that provide postal services.

(2) For the purpose of this entry, “postal services” refer to postal services supplied by a postal enterprise, including mail delivery, postal remittance, stamp issuance, issuance of newspapers and magazines required by the government, post office counter services, P.O. box leasing services, and poste restante services.

(3) For the purpose of this entry, “domestic express delivery service” refers to express delivery service in which the entire process from the acceptance of mail to delivery occurs within the territory of China.

(4) For the purpose of this entry, “correspondence” refers to letters or postcards. The term “letter” refers to a sealed information carrier delivered in an envelope to a specific individual or entity according to the name and address indicated thereon, excluding books, newspapers, periodicals, etc.

Annex I Entry 8 –Telecommunication Services

Sector: Telecommunication Services

Obligations Concerned: Investment and CBTS National Treatment (Article 11.2 and Article 8.2) Market Access (Article 8.4) Local Presence (Article 8.5)

Level of Government: Central

Measures: Telecommunication Regulation of the People's Republic of China (2016), Article 10

Administrative Provisions on Foreign-Invested Telecommunications Enterprise (Revised in 2022);

Special Administrative Measures (Negative List) for the Access of Foreign Investment (2021)Article 14;

Management Measures on Telecommunication Business License (2017

Measures on the Administration of International Communication Accesses2002

Radio Regulation of the People's Republic of China2016

Measures for the Administration of Internet Domain Names (2017);

Notice of the Telecommunications Administration Bureau of Ministry

of Information and Industry on Further Standardizing the Market of Satellite Communication Business2001.

Description: Investment and Cross-border Trade in Services

1. Foreign investors may not invest in the international communication facility service, satellite communication service, cluster communication service, network access facilities service,

network trusteeship service, domestic communication facilities

service (excluding domestic private-line circuit lease services), internet data center service, content delivery network service, internet access service and domestic internet virtual private network services.

2. For fixed communication service, cellular mobile communication service, data communication service, IP telephone service or domestic private line leasing service, the shareholding percentage of that foreign investor may not exceed 49% (the foregoing services may be provided on the basis of facilities). For online data processing and transaction processing services (E-commerce not included), code and protocol conversion services, radio paging services and information services the shareholding percentage of that foreign investor may not exceed 50%.

3. China adopts a licensing system for telecommunications business. Only companies established in the territory of China in accordance with the law, after obtaining a telecommunication business license, may be engaged in telecommunications business.

4. The provision of international communications service within the territory of China shall only be conducted through international communications accesses (ICAs). The establishment of an ICA shall be applied by a wholly state-owned telecommunication business operator, who shall undertake the operation and maintenance of the ICA, and be approved by the Ministry of Industry and Information Technology.

5. Foreign investors or foreign service suppliers shall not conduct radio wave parameter testing or radio wave monitoring within the territory of China.

6. To establish a domain name root server or a domain name root server operating institution, domain name registry or domain name registrar within the territory of China, the corresponding license issued by the telecommunications administrations shall be obtained.

7. Foreign satellite companies providing lease services for satellite transponders within the territory of China shall, in advance, complete the work of coordination with China's satellite network and so on, lease satellite transponders to domestic satellite companies qualified to operate lease services for satellite transponders in China or to user entities authorized by the Chinese government, and then domestic satellite companies sublease the satellite transponders to domestic user entities. Domestic satellite companies are responsible for technical support, marketing, user service and user supervision. No foreign satellite companies may lease satellite transponders directly to domestic users without the approval of the Chinese government.

Annex I Entry 9 –Legal Services

Sector: Legal Services

Obligations Concerned: National Treatment (Article 11.2) Senior Management and Board of Directors (Article 11.9) National Treatment (Article 8.2) Market Access (Article 8.4) Local Presence (Article 8.5)

Level of Government: Central

Measures: Regulations on the Administration of Foreign Law Firms' Representative Offices in China (2001);

Provisions of the Ministry of Justice on the Execution of the Regulations on the Administration of Foreign Law Firms' Representative Offices in China (2004);

Implementation Measures for the National Uniform Legal Profession Qualification Examination (2018), Article 9;

Administrative Measures for the Practice of Law by Lawyers (2016);

Special Administrative Measures (Negative List) for the Access of Foreign Investment (2021), Article 16

Lawyers Law of the People’s Republic of China (2017

Administrative Measures for the Practice by Notarization Institutions (2006

Administrative Measures for the Practices of Notaries Public (2006);

Notary Law of the People's Republic of China2017

Decision of the Standing Committee of the National People's Congress on the Administration of Forensic Identification and Evaluation2015;

Administrative Measures for the Registration of Judicial

Authentication Institutions (2005);

Administrative Measures for the Registration of Judicial Authenticators (2005);

Regulations on Patent Agency (2018);

Administrative Measures for the Establishment of Resident Representative Offices in China by Foreign Patent Agencies (2022), Article 14 and Article 16 .

Description: Investment and Cross-border Trade in Services

1. Foreign investors or foreign service suppliers may not invest or engage in the affairs on Chinese law (1).

(1) For the purpose of this entry, the following acts can be regarded as “affairs on Chinese law”: (1) participating in litigation activities within China as lawyers; (2) providing opinions or certifications on the specific issues governed by Chinese laws in contracts, agreements, articles of association or other written documents; (3) providing opinions and certifications on the acts or events governed by Chinese laws; (4) presenting agent's opinions on the application of Chinese laws as an agent in arbitration activities; (5) handling, on the trustor's behalf, the procedures for registration, alteration, application or putting on record, and other procedures at the government organs of China or other organizations

authorized by laws and regulations with administrative authorities.

2. Foreign nationals may not take the National Uniform Legal Profession Qualification Examination, obtain the Chinese legal practitioner qualification, or become partners of Chinese law firms.

3. A foreign law firm may enter into China only in the form of a representative office; no foreign law firm, other foreign organization or individual may render legal services within the territory of China in other name except for in the name of its representative office in China; the establishment of representative office and dispatch of representatives by a foreign law firm are subject to the approval of the administrative department of justice of China. A representative in a representative office of foreign law firm shall reside within the territory of China for a period not less than 6 months every year.

4. Foreign lawyers are not allowed to prepare and attend commercial arbitration, conciliation and mediation proceedings as representatives within the territory of China. Foreign lawyers are not allowed to provide legal services on a temporary fly-in, fly-out basis.

5. Representative offices of foreign law firms may not employ lawyers licensed to practice Chinese law, and the supporting personnel employed by such representative offices may not provide legal services to any concerned party. None of representative and the supporting personnel of a representative office may provide services in relation to Chinese law as a “Chinese legal consultant”.

6. Only notarization institutions that established in the territory of China may engage in notarization (1) services. A control of total number shall be adopted for the establishment of notarization institutions.

(1) Notarization means an act performed by a notarial institution, upon the application of a party concerned, such as certifying the authenticity and legality of a legal act, a document or a fact of legal significance according to the statutory procedures.

Only natural person with nationality of the People’s Republic of China may be a notary.

7. Only a juridical person or any other organization that established in the territory of China may apply for engaging in judicial authentication (2). Only Chinese citizens may apply for engaging in judicial authentication.

(2) Judicial authentication refers to the activities that authenticators identify, make judgments and offer expertise on the special issues involved in litigation by using scientific technologies or special knowledge.

8. For the purpose of this entry, no representative office or any law firm that establishes representative offices may:

(a) invest in any Chinese law firm, whether directly or indirectly;

(b) operate on an associated basis with any Chinese law firm or Chinese lawyer with which they share profits or risks;

(c) establish joint office with any Chinese law firm or dispatch personnel to be engaged in legal services in any Chinese law firm; or

(d) manage, operate control or enjoy equity interests in any Chinese law firm;

9. The establishment of a resident representative office in China by a foreign patent agency must be subject to the approval of the Patent administration department. The resident representative office in China by a foreign patent agency may not engage in or in other name engage in Chinese patent affairs. The resident representative office in China by a foreign patent agency may not employ Chinese patent agents who have been permitted practice for filing.

Annex I Entry 10 –Market Investigation and Social Investigation

Sector: Market Investigation and Social Investigation

Obligations Concerned: National Treatment (Article 11.2 and Article 8.2) Market Access (Article 8.4)

Level of Government: Central

Measures: Special Administrative Measures (Negative List) for the Access of Foreign Investment (2021), Article 17, Article 18;

Regulation on the Implementation of the Statistics Law of the People's Republic of China (2017

Statistics Law of the People’s Republic of China (2009

Measures for the Administration of Foreign-related Investigation (2004.

Description: Investment and Cross-border Trade in Services

1. Foreign investors may not invest in social investigation (1).

(1) For the purpose of this entry, “social investigation” refers to the activity, other than a market investigation, of collecting, compiling and analyzing the relevant information of the society by way of questionnaire (including paper media, magnetic media and online form), interview, observation or any other ways, which corresponds to CPC 86402 (public opinion polling service) and the content of “economic and social intelligence service not related to commodities, such as industry analysis, econometrics model, demographic analysis ,etc.” as set out in CPC 86401 in Central Product Classification (CPC) of the United Nations Statistical Commission.

2. Investments by foreign investors in market investigation (2) may be made only in the form of EJV.

(2) For the purpose of this entry, “market investigation” refers to the investigation service designed to secure information on the prospects and performance of an organization’s products in the market, including market analysis (of size and other characteristics of a market) and analysis of consumer attitudes and preferences, which corresponds to CPC 86401 (market investigation service) in Central Product Classification (CPC) of the United Nations Statistical Commission, but excluding the content of “economic and social intelligence service not related to commodities, such as industry analysis, econometrics model, demographic analysis, etc.”

3. Foreign service suppliers providing market or social investigation in China shall conduct it through an institution which is licensed for foreign-related investigation (1).

(1) For the purpose of this entry, “foreign-related investigation” refers to social and market investigation conducted under the entrustment or financial aid of any overseas organizations, individuals, or the agency in China of any overseas organizations; social and market investigation conducted in cooperation with any overseas organization, individuals, or the agency in China of any overseas organizations; market investigation lawfully conducted by the agency in China of any overseas organization; and market and social investigation of which the materials and results are to be provided to any overseas organization, individual or the agency in China of any overseas organization.

Annex I Entry 11–Professional Technical Services

Sector: Professional Technical Services

Obligations Concerned: National Treatment (Article 11.2)

Level of Government: Central

Measures: Surveying and Mapping Law of the People's Republic of China (2017), Article 8;

Interim Measures for the Administration of the Surveying and Mapping Conducted by Foreign Organizations or Individuals in China (2019 Amended), Article 7;

Special Administrative Measures (Negative List) for the Access of Foreign Investment (2021), Article 21.

Description: Investment

Foreign investors may not invest in the following business: geodetic survey, hydro graphic survey, aerial photography for mapping, ground moving survey, administrative boundary survey; compilation of topographic maps, world administrative district maps, national administrative district maps, provincial and lower administrative district maps, national teaching maps, local teaching maps, true three- dimensional maps and digital navigation maps; regional geological mapping, survey of mineral geology, geophysics, geochemistry, hydrogeology, environmental geology, geological disasters or remote sensing geology, etc (a mining right holder that conducts work to the extent of its mining right shall be exempt from the special administrative measure).

Annex I Entry 12 – Education

Sector: Education

Obligations Concerned: National Treatment (Article 11.2) Senior Management and Boards of Directors (Article 11.9)

Level of Government: Central

Measures: Education Law of the People's Republic of China2016, Article 21, 22, 23, 25, 70, 85

Regulation of the People's Republic of China on Chinese-foreign Cooperative School Running (2013), Article 6, 7, 21, 23, 25, 35, 38, 42, 43, 44, 48, 62;

Special Administrative Measures (Negative List) for the Access of Foreign Investment (2021), Article 22, Article 23;

Catalog of Encouraged Industries for Foreign Investment (2022), Article 502.

Description: Investment

1. Foreign education institutions, other organizations or individuals may establish schools or other educational institutions only in the form of Sino-foreign cooperative educational institutions mainly targeted at Chinese citizens.

2. Sino-foreign cooperative educational institutions may not engage in compulsory education and special education services such as military, police, political education.

3. Foreign religious organizations, foreign religious institutions, foreign religious colleges or schools, or religious teaching personnel may not engage in cooperative school running activities within the territory of China. Sino-foreign cooperative educational institutions may not provide religious education or carry out religious activities.

4. Establishing preschools, general senior high schools and higher education institutions shall be made only in the form of Sino-foreign cooperative educational institutions, which requires the Chinese party to be in the leading position (the president or the principal administrator of a Sino-foreign cooperatively-run educational institution must be a person with Chinese nationality; the board of trustees, board of directors or the joint management committee shall consist of no less than half of the members from the Chinese party.

5. Foreign investors may not invest in educational accreditation services.

Annex I Entry 13 – Examination Services

Sector: Education services

Obligations Concerned: Market Access (Article 8.4) National Treatment (Article 11.2 and Article 8.2)

Level of Government: Central

Measures: Interim Measures for the Administration of Examinations for Educational Purposes Held Jointly by Chinese and Foreign Institutions (1996), Article 2, 3, 5, 11

Notice of the Ministry of Labor and Social Security on Strengthening the Administration of Introducing Foreign Professional Qualification Certificates (1998).

Description: Investment and Cross-border trade in services

1. Upon approval of Chinese government, foreign institutions may engage in educational testing services for purposes other than academic credentials in the form of cooperation with Chinese institutions designated by Chinese government.

2. Foreign investors or foreign service suppliers shall cooperate with Chinese professional qualification certificate institutions, relevant industry organizations, social organizations or other corresponding institutions to carry out professional qualification examinations and certificate granting activities.

Annex I Entry 14 – Medicine

Sector: Medicine

Obligations Concerned: National Treatment (Article 11.2)

Level of Government: Central

Measures: Interim Measures for the Administration of Sino-foreign Equity Joint and Cooperative Joint Medical Institutions (2000), Article 2;

Special Administrative Measures (Negative List) for the Access of Foreign Investment (2021), Article 19, Article 24.

Description: Investment

1. Investments by foreign investors in medical institutions may be made only in the form of EJV.

2. Foreign investors may not invest in the development and application of human stem cells, or the development and application of genetic diagnosis or treatment technology (1).

(1) For greater certainty, this entry does not prevent foreign-invested medical institutions from using cell products that have been approved by the medical products administration under the State Council.

Annex I Entry 15 – Facilities of Satellite Television Broadcasting

Sector: Radio and Television

Obligations Concerned: National Treatment (Article 11.2 and Article 8.2) Market Access (Article 8.4)

Level of Government: Central

Measures: Rules for the Administration of Ground-Based Receiving Equipment for Satellite Television Broadcasts Issued in 1993, Amended in 2018), Article 3, Article 4

Interim Measures for the Installation of Ground Receiving Facilities of Satellite Television BroadcastingIssued in 2009, Amended in 2015), Article 4, Article 5

Special Administrative Measures (Negative List) for the Access of Foreign Investment (2020), Article 9.

Description: Investment and Cross-Border Trade in Services

Foreign investors and foreign service suppliers may not invest or engage in the manufacture of ground receiving facilities for satellite television and broadcast and key components thereof, and the installation services for ground receiving facilities of satellite television broadcasts.

Annex I Entry 16– All Sectors

Sector: All Sectors (1)

Obligations Concerned: National Treatment (Article 11.2)

Level of Government: Central

Measures: Regulation for Implementing the Foreign Investment Law of the People's Republic of China (2019), Article 34.

Description: Investment

The license, enterprise registration, or any other relevant matters shall not be granted if a foreign investor proposes to invest in sectors covered by the Special Administrative Measures (Negative List) for the Access of Foreign Investment (2021) (2) but not in compliance with the requirements listed in it; nor the project approval for an investment in fixed assets should be issued.

(1) For the purpose of this entry, “all sectors” referred to in this entry shall not include financial services.

(2) For the purpose of this entry, “Negative List” refer to the Special Administrative Measures for the Access of Foreign Investment (Negative List) published by China Government which is effective when this Agreement enters into force.

Annex I Entry 17 – All Sectors

Sector: All Sectors

Obligations Concerned: National Treatment (Article 11.2)

Level of Government: Central

Measures: Regulation of the People’s Republic of China on the Administration of Foreign Exchange (2008), Article 16, Article 23;

Notice of the State Administration of Foreign Exchange on Reforming and Regulating Policies on the Administration over Foreign Exchange Settlement of Capital Accounts (2016);

Guiding Opinions on Regulating the Asset Management Business of Financial Institution (2018).

Description: Investment

After completing the foreign exchange registration for foreign direct investment, foreign-invested enterprises shall, according to the nature of the transaction, open designated foreign exchange accounts under direct investment at the banks directly, including capital accounts and asset liquidation accounts. Capitals of foreign- invested enterprises and Renminbi funds gained through the settlement of foreign exchange shall not be invested directly or indirectly in securities or wealth management products, or used for issuance of loans to unrelated enterprises (except as otherwise explicitly specified in the business scope of the enterprise), or the construction or purchase of real estate that is not for self-use (real estate enterprises not included).

Annex I Entry 18 – All Sectors

Sector: All Sectors

Obligations Concerned: National Treatment (Article 11.2)

Level of Government: Central

Measures: Law of the People's Republic of China on Sole Proprietorship Enterprises (2000) , Article 47;

Law of the People's Republic of China on Specialized Cooperatives of Farmers (2017), Article 2, 3, 4, 19;

Regulation on Promoting Individual Industrial and Commercial Households , Article 2;

Special Administrative Measures (Negative List) for the Access of Foreign Investment (2021), Note 2.

Description: Investment

Foreign investors may not carry out business operations in China in the forms of individual business entities or individual sole proprietorship enterprises, or as members of specialized cooperatives of farmers.

Annex I Entry 19 – Atomic Energy

Sector: Atomic Energy

Obligations Concerned: National Treatment (Article 11.2)

Level of Government: Central

Measures: Regulation of the People's Republic of China on the Control over Nuclear Exports (2006 Amended), Article 2, Article 6;

Special Administrative Measures for Market Access of Foreign Investment (Negative List) (2021), Article 5, Article 8.

Description: Investment

1. Chinese control is required for investment by foreign investors in construction or operation of nuclear power stations.

2. Foreign investors may not invest in the exploration, mining, beneficiation, metallurgy, purification, transformation, isotope separation of radioactive mineral resources, or invest in nuclear fuel production and processing, or engage in nuclear export businesses for materials and items listed in the Nuclear Export Control List.

Annex I Entry 20– AccountingAuditing and Bookkeeping Services

Sector: AccountingAuditing and Bookkeeping Services

Obligations Concerned: Local Presence (Article 8.5)

Level of Government: Central

Measures: Accounting Law of the People's Republic of China2017

Law of the People's Republic of China on Certified Public Accountants (2014

Measures for the Practice Licensing and Supervision and Administration of Accounting Firms2019

Administrative Measures for Agency Bookkeeping2019.

Description: Cross-border Trade in Services

1. Foreign service suppliers providing statutory auditing services shall establish commercial presence in the territory of China.

2. Foreign service suppliers providing agency bookkeeping services shall establish commercial presence in the territory of China.

Annex I Entry 21 – Urban Planning, Architectural, Engineering and Integrated Engineering Services

Sector: Urban Planning, Architectural, Engineering and Integrated Engineering Services

Obligations Concerned: National Treatment (Article 8.2) Market Access (Article 8.4) Local Presence (Article 8.5)

Level of Government: Central

Measures: Urban and Rural Planning Law of the People's Republic of China (2019 Amended;

Administrative Provisions on the Qualifications of Project Supervising Enterprises2007

Regulation on the Management of Survey and Design of Construction Projects2007

Interim Provisions on the Administration of Foreign Enterprises Engaging in Construction Project Designing Activities within the People's Republic of China2004.

Description: Cross-border Trade in Services

1. Foreign service suppliers shall cooperate with Chinese professional institutions to provide preliminary (fundamental) designs for construction projects, construction drawings (detailed designs) and engineering and integrated engineering.

2. Except for the scenarios where cross border supply are permitted (such as scheme design), foreign service suppliers shall establish commercial presence to supply prospecting, design services and supervision of construction independently.

3. Foreign service suppliers may not engage in general urban planning and shall cooperate with Chinese professional institutions to provide other urban planning services when in the form of cross-border supply. Urban design except for statutory planning and pre-planning studies for urban design are not subject to this restriction.

Annex I Entry 22 – Customs Clearance Services

Sector: Professional Services

Obligations Concerned: Local Presence (Article 8.5)

Level of Government: Central

Measures: Customs Law of the People's Republic of China2017

Provisions of the Customs of the People's Republic of China on the Administration of Registration of Customs Declaration Entities2014.

Description: Cross-border Trade in Services

Only corporate legal person established in the territory of China may engage in customs declaration.

Annex I Entry 23 – Placement and Supply Services of Personnel

Sector: Placement and Supply Services of Personnel

Obligations Concerned: National Treatment (Article 8.2) Market Access (Article 8.4) Local Presence (Article 8.5)

Level of Government: Central

Measures: Employment Promotion Law of the People's Republic of China (2008), Article 40

Interim Provisions on the Administration of Foreign-funded Talent Intermediaries (2019)

Provisions on the Administration of Talents Markets2019

Interim Provisions on the Administration of the Establishment of Foreign-funded Job Intermediaries2019

Regulation on the Administration of Foreign Labor Cooperation (2012

Administrative Provisions of the People's Republic of China on Seaman Service2013

Provisions of the People's Republic of China on the Administration of Overseas Assignment of Seamen2016

Opinions on Relevant Issues of Strengthening the Administration of Overseas Civil Aviation Companies Employ Chinese Civil Aviation Professional and Technical Personnel2004

Interim Regulation on Human Resources Market (2018), Article 18.

Description: Cross-border Trade in Services

Foreign service suppliers providing human resource services (including but not limited to talent intermediary services and job intermediary services) shall obtain approval or registration in accordance with the law. Foreign service suppliers may not directly recruit contract workers from within the territory of China to work abroad.

Annex I Entry 24 – Security and Guarding Services

Sector: Security and Guarding Services

Obligations Concerned: National Treatment (Article 8.2) Local Presence (Article 8.5)

Level of Government: Central

Measures: Regulation on the Administration of Security and Guarding Services2010

Measures for the Public Security Organs to Implement the Regulation on the Administration of Security and Guarding Services2010.

Description: Cross-border Trade in Services

Foreign nationals may not serve as security guard to provide security and guarding services (1) in China; foreign service supplier may only provide security and guarding services through commercial presence.

(1) Security and guarding services means (1) the doorman, patrol, guard, escorting, body guard, security inspection, and security technology protection, security risk assessment and other services which a security company offers to its client entities by assigning security guards; (2) the internal watchman, patrol, guard and other security protection work undertaken by those persons employed by enterprises; (3) the guard, patrol, maintenance of order and other services conducted by persons employed by realty service enterprises within the realty management area.

Annex I Entry 25 – Exhibition Services

Sector: Exhibition Services

Obligations Concerned: National Treatment (Article 8.2) Market Access (Article 8.4)

Level of Government: Central

Measures: Notice of the Ministry of Foreign Trade and Economic Cooperation on Reiterating and Defining the Regulations Concerning the Administration of Hosting Foreign Economic and Technological Exhibitions in China2001

Regulations on Broadcasting and Television (2020 Amended, 1997 published), Article 45;

Provisions on Administration of Radio, Film and Television Festival Exhibition and Programme Exchange Activities2016 Amended, Article 2, Article 4, Article 6, Article 12.

Description: Cross-border Trade in Services

1. Foreign economic and technological exhibitions held in China by foreign institutions shall be conducted jointly with or entrusted to entities in the territory of China. (1)

2. Approval from administrative authority is required to hold film festivals, film exhibitions, other film exhibiting activities, and radio and television exchanges (including festival exhibition) and trade activities in China. Overseas films and radio and television programs that enter China for competition or exhibition shall be examined and approved by administrative authority.

3. To hold overseas publications exhibitions within the territory of China, foreign service suppliers shall obtain approval from the publishing administrative department under the State Council.

(1) Notwithstanding this entry, China shall not adopt or maintain any measure that is inconsistent with its obligation under the GATS, including those under Article XVI and Article XVII.

Annex I Entry 26 – Asset Appraisal Services

Sector: Asset Appraisal Services

Obligations Concerned: National Treatment (Article 11.2) Senior Management and Boards of Directors (Article 11.9) Local Presence (Article 8.5)

Level of Government: Central

Measures: Asset Appraisal Law of the People's Republic of China2016

Measures for the Fiscal Supervision and Administration of the Asset Appraisal Industry2019.

Description: Investment and Cross-border Trade in Services

1. Only after filing a registration application with the related appraisal administrative department, an appraisal institution may engage in asset appraisal services.

2. For an asset appraisal institution engaging in the appraisal of state-owned assets, more than two thirds of its partners or shareholders shall be Chinese Public Appraisers.

Annex I Entry 27 – Civil and Commercial Investigation Services

Sector: Civil and Commercial Investigation Services

Obligations Concerned:

Market Access (Article 8.4)

Level of Government: Central

Measures: Notice of the Ministry of Public Security on Prohibiting the Establishment of Non-government Institutions with “Private Detective Agency” Nature (1993)

Description: Cross-border Trade in Services

Foreign service suppliers may not engage in private detective services.

Annex I Entry 28 – Construction and Related Engineering Services

Sector: Construction and Related Engineering Services

Obligations Concerned: Local Presence (Article 8.5) Market Access (Article 8.4)

Level of Government: Central

Measures: Administration Provisions on Qualifications of Enterprises in Construction Industry (2015).

Description: Cross-border Trade in Services

Foreign service suppliers shall establish commercial presence to supply construction work and related engineering services.

Annex I Entry 29 – Distribution Services

Sector: Distribution Services

Obligations Concerned: Market Access (Article 8.4) Local Presence (Article 8.5)

Level of Government: Central

Measures: Regulation on Veterinary Drug Administration2020

Regulation on the Administration of Feeds and Feed Additives2017

Regulation on Pesticide Administration2017 Measures for Monopoly of Table Salt2017

Interim Measures for the Administration of Port Entry Duty-free Shops2016

Notice on Issuing the Supplementary Provisions to the Interim Measures for the Administration of Port Entry Duty-free Stores (2018);

Interim Measures for the Administration of Port Exit Duty-free Shops (2019);

Relevant Provisions on Further Strengthening the Centralized and Unified Management of the Duty-free Business2000

Customs Law of the People's Republic of China2017

Measures of General Administration of Customs of the People’s Republic of China for Supervising and Controlling Duty-Free Shops and Goods2006 Published, 2018 Amended.

Description: Cross-border Trade in Services

1. Foreign service suppliers are not permitted to sell veterinary drugs, feeds, feed additives and pesticide directly in China, and the foreign service suppliers shall form a sales organization in the territory of China or authorize a qualified Chinese agencies in order to do it.

2. Foreign services suppliers may not engage in table salt wholesale business.

3. China applies a system of special approval for duty-free shops.

Annex I Entry 30 –Road Transport Services

Sector: Road Transport Services

Obligations Concerned: National Treatment (Article 8.2) Market Access (Article 8.4)

Level of Government: Central

Measures: Regulation of the People's Republic of China on Road Transport2022

Provisions for the Administration of International Road Transport2022.

Description: Cross-border Trade in Services

Foreign services suppliers may not engage in Chinese domestic road passenger or freight transport business where the starting points and ending points are all in the territory of China, and may not illegally undertake freight of goods or canvassing passengers inside the territory of China by themselves.

Annex I Entry 31–Water Transportation

Sector: Water Transportation

Obligations Concerned: National Treatment (Article 11.2 and Article 8.2) Market Access (Article 8.4) Local Presence (Article 8.5)

Level of Government: Central

Measures: Maritime Law of the People's Republic of China (1993), Article 4;

Regulation on the Administration of Domestic Water Transport2017

Provisions on the Administration of Domestic Water Transport (2020 Amended);

Special Administrative Measures (Negative List) for the Access of Foreign Investment (2021)Article 10;

Circular of the Ministry of Communications on Strengthening the Supervision and Inspection over the Maritime Transport Between the Ports of China Undertaken by Foreign Vessels2001

Maritime Traffic Safety Law of the People's Republic of China2021

Regulations of the People's Republic of China on Administration of Traffic Safety in Inland Rivers 2019

Law of the People's Republic of China on Ports2018

Regulations on Management of Ship Pilot2021

Measures of Foreign Investors' Participation in the Salvage of Sunken Vessels and Objects in Coastal Waters of China2020

Notice of the China Maritime Safety Administration on Issuing the Measures for the Administration of the Establishment of Ship Inspection Companies in China by Foreign Ship Inspection Institutions2008;

Provision on the Administration of Port Operations (2020);

Regulation on the Administration of Foreign Labor Cooperation (2012);

Regulation of the People's Republic of China on Seamen (2020 Amended);

Provisions of the People's Republic of China on the Administration of Overseas Assignment of Seamen (2021);

Labor Contract Law of People's Republic of China (2012 Amended).

Description: Investment and Cross-border Trade in Services

1. Following conditions shall be satisfied when a foreign-invested enterprise apply for engaging in domestic water transportation: (1) the enterprise is under Chinese control in terms of investment; (2) no existing water transportation operators in China can satisfy the requirements for the applied domestic water transportation; (3) the enterprise has good performance and operation records in water transportation.

2. No foreign service supplier may engage in domestic water transport business or engage in water transport business in a disguised form such as leasing a Chinese vessel or shipping space. No water transport operator may use a foreign vessel to engage in domestic water transport business. However, under the circumstance where there is no Chinese vessel that can satisfy the requirements for the applied transportation, and the berthing port or water areas for the vessel is an open port or water areas, the water transport operator may, upon the approval of the competent transport authority of the State Council and within the prescribed time limit and voyage number as prescribed by the competent transport authority of the State Council, temporarily use a foreign vessel for transport.

3. Only juridical person established in the territory of China may engage in maritime vessel crew services.

4. Only with the permission of the Chinese government, foreign vessels may engage in the towage services between the ports of China.

5. Foreign vessels sailing, berthing and pulling in the pilotage districts designated by competent agency of transport under the State Council (the competent agency of transport under the State Council may exempt such restriction after approval by the State Council) or sailing in the inland river should apply to the local pilot organizations for piloting.

6. Foreign service supplier may conclude with the Chinese party a joint salvage contract to engage in the salvage of sunken ships and sunken articles in China's coastal waters. With conditions being equal, foreign service supplier should give preference to Chinese salvage operators from whom to rent ships and equipment and hire labor services needed in the implementation of the joint salvage contract.

7. Only with establishment of ship inspection company in China, foreign ship inspection institution may dispatch or hire personnel to carry out ship inspection activities in China.

Annex I Entry 32 – Press

Sector: Press

Obligations Concerned: National Treatment (Article 11.2 and Article 8.2) Market Access (Article 8.4)

Level of Government: Central

Measures: Regulation of the People's Republic of China on News Coverage by Resident Offices of Foreign News Agencies

and Foreign Correspondents2008, Article 6

Decision of the State Council on Amending the Decision of the State Council on Establishing Administrative Licenses for the Administrative Examination and Approval Items Really Necessary to Be Retained (2009), Article 3;

Special Administrative Measures (Negative List) for the Access of Foreign Investment (2021)Article25;

Measures for the Administration of Release of News and Information in China by Foreign News Agencies2006

Provisions for the Administration of Internet News Information Services (2017)Article 7.

Description: Investment and Cross-Border Trade in Services

1. Foreign investor or foreign service supplier may not invest in or engage in news service, including but not limited to, news service provided through news agencies, newspapers, periodicals, radio stations and television stations, except that subject to the approval of the Chinese government:

(a) foreign news institutions may establish resident news offices in China which could only conduct news interview, and may dispatch resident journalists to China (1);

(1) For greater certainty, the establishment of representative offices in China by newspapers or periodicals, which only engage in news services, is subject to this subparagraph.

(b) under the condition that the leading position of the Chinese parties is secured, Chinese and foreign news institutions may cooperate in particular businesses.

(c) foreign news agencies may provide news service that is specifically approved into the territory of China.

2. Foreign services suppliers may not engage in Internet news information service (1) or internet public information posting service (2).

(1) For greater certainty, "Internet news information" includes reports and commentaries on social and public affairs such as political, economic, military and foreign affairs, as well as reports and commentaries on social emergency events. "Internet news information service" includes services in respect of internet news information collection, editing, posting, reposting, and services in respect of transmission platform, which are provided to the public through internet websites, application programs, BBS, blogs, microblogs, public accounts, instant communication tools, live internet broadcast, etc.

(2) For greater certainty, "Internet public information posting service" refers to services that mainly provide facilities through establishing BBS, blogs, microblogs and other information exchange platforms to users for the posting of information to the general public.

Annex I – Entry 33– Network Information Services

Sector: Network Information Services

Obligations Concerned: National Treatment (Article 11.2 and Article 8.2) Market Access (Article 8.4)

Level of Government: Central

Measures: Administrative Measures for Internet Information Services (2011 Revised);

Measures for Archival Administration of non-operational Internet information Services (2005);

Special Administrative Measures (Negative List) for the Access of Foreign Investment (2021)Article 17.

Description: Investment and Cross-border Trade in Services

1. For investments by foreign investors in the internet information searching services (information searching within a single website not included), the shareholding percentage of the foreign investors shall be no more than 50%. Foreign service supplier may not provide cross-border internet information searching services.

2. To provide profitable internet information service, foreign service supplier shall obtain a license by relevant authority. To provide non-profitable Internet information service, foreign service suppliers shall file for record its service.

Annex I Entry 34 –Professional Qualifications of Natural Person

Sector: All Sectors

Obligations Concerned: National Treatment(Article 8.2)

Level of Government: Central

Measures: Asset Appraisal Law of the People's Republic of China2016

Interim Provisions on the Professional Qualification System of Asset Appraisers2017

Regulations on the Professional Qualification System of Registered Urban and Rural Planners2017

Provisions on the Professional Qualification System of Real Estate Appraisers2021

Interim Provisions on the Qualification System of Auctioneer1996

Provisions on the Certified Metrology Engineer System2019

Implementation Measures on Certified Metrology Engineer Qualification Examination2019

Regulations of the People's Republic of China on Registered Architects1995

Detailed Rules for the Implementation of the Regulation of the People’s Republic of China on Registered Architects2008

Lawyers Law of the People’s Republic of China 2017

Administrative Measures for Practicing Lawyers (2016)

Implementation Measures for the National Uniform Legal Profession Qualification Examination (2018)

Interim Provisions on the Registered Marine Surveyor System2006

Implementation Measures on Registered Marine Surveyor Qualification Examination2007

Regulations on Management of Ship Piloting2002

Regulation of the People's Republic of China on Seamen 2020

Regulations of the People's Republic of China Governing the Registration of Ships (2014);

Administrative Measures for Practicing Veterinarians and Village Veterinarians2022

Regulation on the Administration of Commercial Performances2016

Administrative Measures for Performance Agent (2021);

Interim Provisions on the Administration of Qualifications for Radio and TV Editing Journalists and Announcers2004

Administrative Measures for Press Cards2009

Interim Provisions on the Professional Qualification Examination for Publishing Professional and Technical Personnel2001

Regulations on Patent Commissioning2018

Regulations on Administration of Tour Guides 1999

Interim Provisions on the Registered Surveyor System2007

Implementation Measures on Registered Surveyor Qualification Examination2007

Measures for the Qualification Assessment of Registered Surveyor2007

Provisions on the Administration of Certified Survey and Design Engineers2016

Civil Aviation Law of the People's Republic of China2018

Rules for the Administration of Licenses for Civil Aviation Intelligence Officers2010

Rules for the Administration of Licenses for Civil Aviation Air Traffic Controllers2016.

Description: Cross-border Trade in Services

1. Foreign citizens may not apply for sitting for the examination of asset appraisal and mining rights appraisal qualification.

2. Foreign citizens may not apply for sitting for the examination of registered urban and rural planner professional qualification.

3. Foreign citizens may not apply for sitting for the professional qualification examination of registered real estate appraiser.

4. Foreign citizens may not apply for sitting for the examination of registered auctioneer qualification.

5. The application for sitting for the unified nationwide qualification examination of registered architects by foreign citizens shall be conducted by the principle of reciprocity. For registration, the country where the foreign citizen located shall have signed reciprocal registration agreement with China.

6. Foreign citizens may not apply for sitting for the National Uniform Legal Profession Qualification Examination, or obtain legal professional qualification, or apply for becoming Chinese practice lawyer or notary.

7. Foreign citizens may not apply for sitting for the examination of certified survey and design engineer (1) qualification.

(1) The survey and design registration engineer includes various professional qualifications under the survey and design registration engineer in the National Vocational Qualifications Catalogue.

8. Foreign citizens may not register as pilot.

9. The captain of a Chinese vessel shall be a Chinese crew member. Foreign crew members working on Chinese vessels shall hold corresponding certificates issued by the relevant departments of the Chinese government and relevant identity documents issued by the governments of their respective countries.

10. Foreign citizens may not apply for sitting for the examination of practicing veterinarians qualification, and may not apply for registration or recordation.

11. Foreign citizens may not apply for sitting for the examination of performance broker qualification or obtain the certificate of performance broker qualification or engage in performance brokerage activities within the territory of the People's Republic of China.

12. Foreign citizens may not apply for sitting for the examination of registered supervisor engineer qualification.

13. Foreign citizens may not apply for sitting for the examination of broadcasting and TV editorial reporter and announcer qualification or obtain related professional certificates, may not obtain the professional qualification of journalist, and may not apply for sitting for the publishing professional qualification examination or obtain the publishing professional qualification.

14. Foreign citizens may not apply for patent agent qualification.

15. Foreign citizens may not apply for sitting for the examination of tour guide qualification and may not obtain tour guide certificate or engage in tour guide activities in China.

16. Foreign citizens may not apply for sitting for the examination of registered surveyor qualification.

17. Foreign citizens may not apply for the licenses of civil aviation telecommunication personnel and civil aviation air traffic controllers.

Annex I Entry 35 – Chinese Traditional Medicine

Sector: Pharmaceutical Manufacture

Obligations Concerned: National Treatment (Article 11.2)

Level of Government: Central

Measures: Circular of the State Food and Drug Administration on the Relevant Issues concerning the Business Scope of the Foreign-funded Enterprises that Engage in the Production of Herbal Medicines for Decoction (2006);

Special Administrative Measures (Negative List) for the Access of Foreign Investment (2021), Article 7.

Description: Investment

Foreign investors may not invest in the application of processing techniques of Chinese medicinal decocting pieces including steaming, plain stir-baking, stir-baking with adjuvant, calcining or the manufacture of confidential prescription products of Chinese patent medicine.

Annex I. SCHEDULE OF NICARAGUA

EXPLANATORY NOTES

1. The Schedule of Nicaragua to this Annex sets out, pursuant to Articles 11.10 (Non- Conforming Measures) and 8.6 (Non-Conforming Measures), Nicaragua's existing measures that are not subject to some or all of the obligations imposed by:

(a) Articles 11.2 (National Treatment) or 8.2 (National Treatment);

(b) Articles 11.3 (Most-Favored-Nation Treatment) or 8.3 (Most-Favored-Nation Treatment);

(c) Article 8.5 (Local Presence);

(d) Article 11.8 (Performance Requirements);

(e) Article 11.9 (Senior Management and Boards of Directors); or

(f) Article 8.4 (Market Access).

2. Each Schedule entry sets out the following elements:

(a) Sector refers to the sector for which the entry is made;

(b) Obligations Concerned specifies the obligation(s) referred to in paragraph 1 that, pursuant to Articles 11.10 (Non-Conforming Measures) and 8.6 (Non-Conforming Measures), do not apply to the listed measure(s);

(c) Level of Government indicates the level of government maintaining the listed measure(s);

(d) Measures identify 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

(e) Description sets out commitments, if any, for liberalization on the date of entry into force of the Agreement, and the remaining non-conforming aspects of the existing measures for which the entry is made.

3. In the interpretation of a Schedule entry, all elements of the entry shall be considered. An entry shall be interpreted in light of the relevant provisions ofthe Chapters against which the entry is made. To the extent that:

(a) the Measures element is qualified by a liberalization commitment from the Description element, the Measures element as so qualified shall prevail over all other elements; and

(b) the Measures element is not so qualified, the Measures element shall prevail overall other elements, unless any discrepancy between the Measures element and the other elements considered in their totality is so substantial and material that it would be unreasonable to conclude that the Measures element should prevail, in which case the other elements shall prevail to the extent of that discrepancy.

4. In accordance with Article 11.10 (Non-Conforming Measures) and 8.6 (Non-Conforming Measures), the articles of this Agreement specified in the Obligations Concerned element of an entry shall not apply to the law, regulation, or other measure identified in the Measures element of that entry.

5. Where a Party maintains a measure that requires that a service provider be a citizen as a condition to the provision of a service in its territory, a Schedule entry for that measure taken with respect to Article 8.2 (National Treatment), 8.3 (Most-Favored-Nation Treatment), or 8.5 (Local Presence) shall operate as a Schedule entry with respect to Article 11.2 (National Treatment), 11.3 (Most-Favored-Nation Treatment), or 11.8 (Performance Requirements) to the extent of that measure.

6. For greater certainty, Article 8.4 (Market Access) refers to non-discriminatory measures.

Annex I Entry 1 – All sectors

Sector: All Sectors

Obligations Concerned: Local Presence (Article 8.5)

Level of Government: Central

Measures: The Commerce Code of the Republic of Nicaragua, published in La Gaceta, Diario Oficial, N°248, of October 30, 1916 and its amendments.

Description: Cross-Border Trade in Services

Companies formally constituted abroad, which are established in Nicaragua or have an agency or branch, shall maintain in the country a legal representative with a general power of attorney, registered in the corresponding Registry and domiciled in the country.

Annex I Entry 2 – Musicians and Artists

Sector: Musicians and Artists

Obligations Concerned: National Treatment (Article 8.2) Most Favored Nation Treatment (Article 8.3) Market Access (Article 8.4) Performance Requirements (Article 11.8)

Level of Government: Central

Measures: Law No. 215, Law for the Promotion of National Artistic Expressions and Protection of Nicaraguan Artists, published in La Gaceta, Diario Oficial, No.134 of July 17, 1996 and its Consolidated Text, published in La Gaceta, Diario Oficial,No. 232 of December 16, 2020.

Law No. 723, Law of Cinematography and Audiovisual Arts (Ley 723, published in La Gaceta, Diario Oficial, No. 198 of October 18, 2010 and its Consolidated Text, published in La Gaceta, Diario Oficial, No. 232 of December 16, 2020.

Decree A.N 7445, on the approval of the Latin-American Agreement on Cinematographic Co-production (Decreto AN 7445, published in La Gaceta, Diario Oficial, No. 60 of March 28, 2014.

Description: Investment and Cross-Border Trade in Services

Co-productions with Nicaraguan filmmakers must have at least 30 percent of artistic, technical and creative national staff; additionally, the production must have a Nicaraguan economic participation of not less than 10 percent.

The foreign film productions made in Nicaragua must contract, for their production, at least 20 percent of technical, creative and artistic Nicaraguan personnel.

If producers do not want to include the participation of national personnel, they will pay in cash 5 percent of the cost of the budget to be implemented in the country, to be destined to the National Film Promotion Fund.

The foreign productions that enter temporarily to the country with purpose of making films must pay a filming duty to be destined to the National Film Promotion Fund.

Any foreign natural or legal person that performs any type of audiovisual or film production in any format must be registered at the National Cinematheque of Nicaragua.

Once the production is finished, a copy of it must be deposited in the Film Archive of the National Cinematheque of Nicaragua.

Audiovisual advertising works carried out totally or partially outside of Nicaragua must apply to the National Cinematheque of Nicaragua the respective authorization for its exhibition in the national territory. 20 percent of the advertising audiovisual works exhibited or transmitted in cinemas, television or cable television must be of national production.

Every foreign artists or musical bands may only present performances in Nicaragua through a previous contract or through government agreements.

Foreign artists performing commercial programs, shows or magazines in Nicaragua must include in their program a Nicaraguan artist or group of similar performance, which must be remunerated.

If the foreign artists or artistic groups do not wish to include the participation of a national artist in their program, they must pay in cash one percent of the net income they obtain from the show to the Nicaraguan Institute of Culture unless the country of origin of foreign artists or groups does not impose a similar tax to Nicaraguan artists or artistic groups.

The design and construction of public, pictorial and sculptural monuments erected in Nicaragua will be awarded through competition to national artists and when necessary, associated with foreign nationals.

Foreigners selected for the design and construction of public, pictorial, or sculptural monuments erected in Nicaragua, shall do it in association with Nicaraguan artists.

Cinematographic works co-produced with Nicaraguan professionals or residents in the Member States of the Latin American Agreement Co-production, the Directors of these co-productions shall be nationals or residents of Member States or co-producers of Latin America, Caribbean or other Spanish or Portuguese speaking countries.

Annex I Entry 3 – Tourism - Hotels, Restaurants, Tour Guides, Rent- a-Car and other Activities Related to Tourism

Sector: Tourism - Hotels, Restaurants, Tour Guides, Rent- a-Car and other Activities Related to Tourism.

Obligations Concerned: National Treatment (Article 8.2) Local Presence (Article 8.5)

Level of Government: Central

Measures: Law No. 306, Law of Incentives for the Tourism Industry of the Republic of Nicaragua, published in La Gaceta, Diario Oficial No. 117 of June 21, 1999 and its Consolidated Text, published in La Gaceta, Diario Oficial, No. 156 of August 21 of 2020.

Regulation of the Tourist Service Provider Companies of Nicaragua, published in La Gaceta, Diario Oficial, No. 159 of August 21, 2019.

Regulations for Travel Operators in Nicaragua, published in La Gaceta, Diario Oficial, No. 159 of August 21, 2019.

Regulation that Regulates the Activity of Automotive and Water Vehicle Leasing Companies (Rent a Car), published in La Gaceta, Diario Oficial, No. 108 of June 8, 2001.

Regulation that Regulates the Activity of Tourist Guides, approved on November 23, 2022, published in La Gaceta, Diario Oficial, No. 225 of November 30, 2022.

Regulation of Nicaraguan Travel Agencies, published in La Gaceta, Diario Oficial, No. 159 of August 21, 2019.

Hostel Regulations, published in La Gaceta, Diario Oficial, No. 159 of August 21, 2019.

Regulation of the Companies Providers of Food and Beverage Services, published in La Gaceta, Diario Oficial, No. 159, of August 21, 2019.

Description: Cross-Border Trade in Services

To provide tourism services in Nicaragua, an enterprise must be organized under the laws of Nicaragua; and a foreign national must reside in Nicaragua or appoint a legal representative in Nicaragua.

This paragraph does not apply to the provision of tourism services during a cruise.

Any person who avails oneself of the Law of Incentives of the Tourism Industry will be required to hire Nicaraguan personnel, with the exception of experts and specialized technicians, previous authorization from the Ministry of Labor. They will also be required to provide specialized and ongoing training to Nicaraguan citizen, according to the demands of tourism.

Only Nicaraguans can be tour guides.

Annex I Entry 4 – Gambling and Betting Services

Sector: Gambling and Betting Services

Obligations Concerned: National Treatment (Article 8.2) Local Presence (Article 8.5)

Level of Government: Central

Measures: Law No. 766, Text of the Special Law for the Control and Regulation of Casinos and Gambling Rooms, with its

Incorporated amendments, published in La Gaceta, Diario Oficial, No. 238 of December 16, 2014 and its Consolidated Text, published in La Gaceta, Diario Oficial, No. 156 of August 21, 2020.

Decree No. 06-2015, Regulation of Law No. 766 Special Law for the Control and Regulation of Casinos and Gambling Rooms, published in La Gaceta, Diario Oficial, No. 47 of March 10, 2015 and its Consolidated Text, published in La Gaceta, Diario Oficial, No. 156 of August 21, 2020.

Description: Cross-Border Trade in Services

The casinos and gambling rooms will be authorized if they are within the categories established by Law.

Every betting games operating in Nicaragua should be carried out in a Casino and/or Gambling Rooms, except those which by Law are expressly governed under another specific legal regime. In case of doubt as to the legal regime to be applied to a gambling game, the Authority of Application indicated in the present Law shall determine if it qualifies as a game under the scope of application of the present Law.

The operation of casinos and gambling rooms is a permitted activity but not encouraged by the State, therefore, it is considered justified that the State may establish measures to avoid or contain unjustified proliferation of casinos and games or inadequate oversight of themselves, may establish objective and reasonable measures governing the exercise of free enterprise in this sector in order to guarantee public order, public security and the protection of vulnerable groups.

In order to obtain the Operating Permit, the interested party must previously obtain the Casino or Gambling Room Operation Title- License, before the Enforcement Authority. If it is a legal person,

copy duly authenticated by a Notary Public, of the testimony of the public deed of incorporation and the statute duly registered in the Public Mercantile Registry, including its modifications if applicable.

Once all the requirements related to the application process for the Casino or Gambling Room Operation Title-License have been fulfilled, prior to the issuance of the Title-License, the applicant must submit a surety bond granted by a financial institution regulated by the Superintendency of Banks and Other Financial Institutions.

Persons who have been shareholders, partners, directors or managers of a company sanctioned with partial or total closure or cancellation of the Title- License operating or Operating Permit of the Casino and / or Gambling Rooms cannot participate as a shareholder, partner, director, manager, representative or employee of a natural or legal person who holds a Title-License of operating as a Casino and / or Gambling Rooms.

Is expressly prohibited to participate directly or indirectly, as a player or punter in gambling of any kind taking place in casinos and gambling rooms, for people who are shareholders, partners, directors, managers, agents or employees of the same company or society to which it belongs the Casino or gambling room corresponding.

Annex I Entry 5 - Business Services (related to the sale of alcoholic beverages)

Sector: Business Services (related to the sale of alcoholic beverages)

Obligations Concerned: Local Presence (Article 8.5)

Level of Government: Central

Measures: The Commerce Code of the Republic of Nicaragua, published in La Gaceta, Diario Oficial, N°. 248,of October 30, 1916 and its amendments.

Law No. 306, Law of Incentives for the Tourism Industry of the Republic of Nicaragua, published in La Gaceta, Diario Oficial No. 117 of June 21, 1999 and its Consolidated Text, published in La Gaceta, Diario Oficial, No. 156 of August 21, 2020.

Decree No. 26-96, Regulation of the Law of the National Police (Decreto 26- 96, published in La Gaceta, Diario Oficial, No. 32 of February 14, 1997 and its amendments.

Law No. 872, Law on Organization, Functions, Career and Special Social Security Regime of the National Police, approved on June 26, 2014, Published in La Gaceta, Diario Oficial, No. 125 of July 7, 2014; and its Consolidated Text, published in La Gaceta, Diario Oficial, No. 34 of February 22, 2022.

Description: Cross-Border Trade in Services

A license is required for the operation of casinos, night clubs, discotheques, cockfighting and all types of permitted games of chance.

Foreign citizens who sell alcoholic beverages through hotel and similar lodging services; food supply; beverages and entertainment centers, such as discotheques, cockfighting and all types of permitted games of chance, bars, canteens, billiards, among others; must have a duly updated residency card.

Legal entities must be duly registered in the corresponding registry and appoint a legal representative domiciled in the country.

Annex I Entry 6 – Services Related to the Construction

Sector: Services Related to the Construction

Obligations Concerned: National Treatment (Article 8.2) Local Presence (Article 8.5)

Level of Government: Central

Measures: Decree No. 237, Law Regulating the Design and Construction Activity, (Decree No. 237, published in La Gaceta, Diario Oficial, No. 263 of December 1, 1986 and its Consolidated T ext, published in the La Gaceta, Diario Oficial, No. 10 of January 18, 2022.

Description: Cross-Border Trade in Services

In order to supply construction services in Nicaragua an enterprise must be organized under Nicaraguan law; and a foreign national must reside in Nicaragua or appoint a legal representative in Nicaragua.

Annex I Entry 7 – Manufacture and Distribution of Firework. Distribution of Firearms and Ammunition

Sector: Manufacture and Distribution of Fireworks Distribution of firearms and Ammunition

Obligations Concerned: National Treatment (Article 8.2) Local Presence (Article 8.5)

Level of Government: Central

Measures: Law No. 510, Special Law for the Control and Regulation of Firearms, Ammunition, Explosives, and other Related Materials published in La Gaceta, Diario Oficial, No. 40 of February 25, 2005 and its Consolidated Text published in La Gaceta, Diario Oficial, No. 34 of February 22, 2022.

Decree No. 26-96, Regulation of the Law of the National Police, published in La Gaceta, Diario Oficial, No. 32 of February 14, 1997.

Law No. 872, Law of Organization, Functions, Career and Special Regime of Social Security of the National Police, published in La Gaceta, Diario Oficial No. 125 of July 7, 2014; and its Consolidated Text, published in La Gaceta, Diario Oficial, No. 34 of February 22, 2022.

Decree No. 28-2005, Regulation to the Special Law for the Control and Regulation of Firearms, Ammunition, Explosives, and other Related Materials, published in La Gaceta, Diario Oficial, No. 78 of April 22, 2005 and its amendments.

Description: Cross-Border Trade in Services

To manufacture and commercialize fireworks and distribute firearms and ammunitions in Nicaragua, a foreign company must be organized under the Nicaraguan law and a foreign national must reside in Nicaragua.

Annex I Entry 8 – Private Security Services

Sector: Private Security Services

Obligations Concerned: National Treatment (Article 8.2) Local Presence (Article 8.5)

Level of Government: Central

Measures: Law No. 903, Private Security Services Law, published in La Gaceta, Diario Oficial, No. 141 on July 29, 2015 and its Consolidated Text published in La Gaceta, Diario Oficial, No. 34 of February 22, 2022.

Resolution DGTA No. 026 - 2013, Enabling and Accreditation of Surveillance Companies and Personnel Port Security Guards, published in La Gaceta, Diario Oficial, No. 89 of May 16, 2014.

Description: Cross-Border Trade in Services

A company must be established in Nicaragua, in accordance with the laws of the country, to operate as company of private security guards.

The personnel working for private security companies must be Nicaraguan or being foreigner have their updated residence or work permit issued by the appropriate authorities. Natural persons serving as armed guards must be of Nicaraguan nationality.

Only the personnel registered with the Water Transport General Directorate of the Transport and Infrastructure may carryout protection works within ports.

Annex I Entry 9 – Radio Broadcasting, Free Television Reception

Sector: Radio Broadcasting, Free Television Reception

Obligations Concerned: National Treatment (Articles 11.2 and 8.2)

Level of Government: Central

Measures: Law No. 200, General Law on Telecommunications and Postal Services and its Consolidated Text, published in La Gaceta, Diario Oficial, No. 242 of December 18, 2019.

Administrative Agreement No. 07-97, Regulation of the Television Broadcasting Service, its consolidated text, published in La Gaceta, Diario Oficial, No. 242 of December 18, 2019 and its amendments.

Description: Investment and Cross-Border Trade in Services

A licenses for social communication media (open television and AM and FM sound radio broadcasting) will only be granted to Nicaraguan natural or legal persons; in the case of legal persons, Nicaraguan nationals must own 51 percent of the capital whose shares will be nominative.

Annex I Entry 10 – Communications - Professional Radio and Television Broadcast Services

Sector: Communications - Professional Radio and Television Broadcast Services

Obligations Concerned: National Treatment (Article 8.2)

Most-Favored-Nation Treatment (Article 8.3)

Level of Government: Central

Measures: Decree No. 66-72, In broadcasters and televisions of the country, only Nicaraguan announcers can be used for narratives of sports programs, published in La Gaceta, Diario Oficial, No. 256, November 10, 1972.

Description: Cross-Border Trade in Services

Enterprises that provide radio and television broadcast services in Nicaragua may only use the professional services of Nicaraguan broadcasters for narration, commentary and live transmission or retransmission of sports or commercial programs of the same nature.

Notwithstanding the foregoing, foreign nationals will be allowed to serve as broadcasters if the laws of their own countries allow Nicaraguan nationals to supply such services.

The provisions of this measure shall not apply to the broadcast of programs by foreign announcers when the transmission of such programs is aimed exclusively to other countries.

Annex I Entry 11 – Communications - Services and Public Telecommunications Networks

Sector: Communications - Services and Public Telecommunications Networks

Obligations Concerned: Local Presence (Article 8.5)

Level of Government: Central

Measures: Executive Decree No. 19-96, Regulation of Law No. 200 General Law on Telecommunications and Postal Services published in La Gaceta, Diario Oficial No. 177of September 19, 1996 and its Consolidated Text, published in La Gaceta, Diario Oficial, No. 242 of December 18, 2019.

Description: Cross-Border Trade in Services

The granting of an enabling title, issued by the Nicaraguan Institute of Telecommunications and Post (Instituto Nicaraguense de Telecomunicaciones y Servicios Postales - TELCOR), telecommunications regulatory entity, is required for the provision and commercialization of Telecommunications services.

This authorization may be granted to Nicaraguan or foreign natural or legal persons. Foreign natural persons must have a valid residency card and legal domicile in the country.

Annex I Entry 12 – Communications - Public Telecommunications Networks

Sector: Communications - Public Telecommunications Networks

Obligations Concerned: Local Presence (Article 8.5)

Level of Government: Central

Measures: Law No. 200, General Law on Telecommunications and Postal Services, published in La Gaceta, Diario Oficial, No. 154 of August 18, 1995 and its amendments and its Consolidated Text, published in La Gaceta, Diario Oficial,No. 242 of December 18, 2019.

Administrative Agreement No. 06-97: Regulation of Subscription Television Services, published in La Gaceta, Diario Oficial, No. 205 of October 28, 1997, its Consolidated Text, published in La Gaceta, Diario Oficial, No. 242 of December 18, 2019 and its amendments.

Administrative Agreement No. 02-97: Regulation of Satellite Communications Services, published in La Gaceta, Diario Oficial, No. 74 of April 22, 1997.

Decree No. 32-2012, Amendments and Additions to Executive Decree No. 128-2004, "General Regulation of the Organic Law of TELCOR, published in La Gaceta, Diario Oficial, No. 188 of October 3, 2012.

Description: Cross-Border Trade in Services

A license granted by the Nicaraguan Institute of Telecommunications and Postal Services (Instituto Nicaraguense de Telecomunicaciones y Servicios Postales - TELCOR), Regulator Entity, is required to install, operate or use a Public Telecommunications Network for the provision of services regarding the television by subscription.

Companies that commercialize directly satellite radio and television signals and the companies that offer satellite carrier services must perform signal landing agreements with TELCOR.

To commercialize satellite communications services and exploit the rights of emission and reception of signals and associated frequency bands associated to satellite systems covering and can provide services in the Nicaraguan territory requires a license granted by TELCOR.

A permit granted by TELCOR is required for the establishment of facilities that require assignment of radio electric frequencies and that have not been specifically authorized in the concessions and licenses, as well as those of the operators of private networks.

The right to use and exploit the satellite orbits and the radio frequency spectrum assigned and/or awarded to satellite radio services is granted through the Concession Contract.

Arrange and coordination of satellite orbits and its radio electric frequency spectrum, both agencies of the International Telecommunication Union (ITU) and with agencies and public and / or private institutions concerned, is the exclusive power of TELCOR.

Annex I Entry 13 – Communications - Services and Public Telecommunications Networks (including Telephony)

Sector: Communications - Services and Public Telecommunications Networks (including Telephony)

Obligations Concerned: Most Favored Nation Treatment (Article 8.3) Local Presence (Article 8.5)

Level of Government: Central

Measures: Political Constitution of the Republic of Nicaragua and its Consolidated Text, published in La Gaceta, Diario Oficial, No. 181 of September 28, 2022.

Law No. 200, General Law on Telecommunications and Postal Services, and its C onsolidated Text, published in La Gaceta, Diario Oficial, No. 242 of December 18, 2019.

Executive Decree No. 19-96, Regulation of Law No. 200, General Law on Telecommunications and Postal Services, and its Consolidated Text, published in La Gaceta, Diario Oficial, No. 242 of December 18, 2019.

Consolidated Text, Regulation for the Preparation and/or Modification of the National Plans for Routing, Availability and Traffic Security of Telecommunications Services and Networks, Administrative Agreement No. 001-2004, published in La Gaceta, Diario Oficial, No. 242 of December 18, 2019.

Administrative Agreement 20-99, General Interconnection and Access Regulation, published in La Gaceta, Diario Oficial, No. 146 of August 2, 1999.

Administrative Agreement No. 02-97, Regulation of Satellite Communications Services, published in La Gaceta, Diario Oficial, No. 74 of April 22, 1997.

Description: Cross-Border Trade in Services

The telecommunications services included in this reservation include those that are provided to the public or to satisfy particular needs.

An enabling title granted by TELCOR is required for:

a. To install radio infrastructure and using, taking advantage of or exploiting a band frequency in the national territory, except for the operation of industrial, scientific and medical equipment, in involuntary radiators or voluntary radiators with a power of less than fifty milliwatts or in accordance with other TELCOR standards;

b. providing services operating or exploiting public telecommunications networks or marketing services of authorized network operators;

c. operating satellites that cover and can provide services in the national territory and commercializing satellite communications services; and

d. exploiting the rights of emission and reception of signals of frequency bands associated with foreign satellite systems that cover and can provide services in the national territory.

The operators of private networks that intend to commercially exploit the services must obtain a license granted by TELCOR, in which case their networks will adopt the character of a public telecommunications network. The private network operators of will require an enabling title when, in the opinion of TELCOR, it is necessary to monitor the compliance with restrictions on interconnection of certain services that use of private networks.

To obtain a qualification certificate, natural and legal persons must comply with the requirements set forth in Law No. 200. Foreign natural persons must possess identification of residence and legal address in the country and foreign legal persons must comply with the provisions in the Commercial Code of the Republic of Nicaragua.

The Public telecommunications networks include the public telecommunications infrastructure that enables telecommunications between defined endpoints of the network. Public telecommunications networks do not include end-user telecommunications terminal equipment, or telecommunications networks located beyond the completion point of the network termination.

The enabling titles for frequency bands for the cellular telephone service will be granted by TELCOR through public tender process. Likewise, TELCOR will carry out public tenders for permits for the assignment of radioelectric spectrum when the number of requests for a certain segment of spectrum exceeds the availability ofradioelectric frequencies required to meet all requests.

When in foreign countries there are no conditions of competition for the provision of international services, TELCOR may establish requirements of proportionality, interconnection points and non- discrimination for the reception of incoming traffic by different operators. Authorized Operators shall submit and maintain updated before TELCOR, the records of each node or switching center belonging to the operators with whom they establish contract(s) to provide service transport international long-distance calls (LDI). In order to maintain registered and updated international routing paths, operators providing call services of international long distance (ILD) that establish interconnection agreements with foreign operators shall notify and submit to TELCOR copy of the interconnection contract signed between the parties.

Annex I Entry 14 – Communications

Sector: Communications

Obligations Concerned: Local Presence (Article 8.5)

Level of Government: Central

Measures: Law No. 200, General Law on Telecommunications and Postal Services, published in La Gaceta, Diario Oficial, No. 154 of August 18, 1995 and its amendments and its Consolidated Text, published in La Gaceta, Diario Oficial, No. 242 of December 18, 2019.

Administrative Agreement No. 19-96: Regulation of Law No. 200, General Law on Telecommunications and Postal Services, published in La Gaceta, Diario Oficial, 177 of September 19th, 1996 and its Consolidated Text, published in La Gaceta, Diario Oficial, No. 242 of December 18, 2019.

The Commerce Code of the Republic of Nicaragua, published in La Gaceta, Diario Oficial, No. 248 of October 30, 1916 and its amendments.

Description: Cross-Border Trade in Services

For the provision of telecommunications and postal services, or for the use of the radio electric spectrum or other means of transmission, it requires qualifying documents (concessions, licenses, registrations or permits) granted by the Nicaraguan Institute of Telecommunications and Postal Services - TELCOR), which will be issued only to natural or legal Nicaraguans or foreign persons who have legal representation in the country and who are registered in the corresponding register, to submit to the jurisdiction of the courts of the Republic of Nicaragua and be subject to all the provisions of the law, regulations, rules, resolutions and administrative arrangements applicable to the telecommunications sector and postal services.

Interconnection contracts or any other in telecommunications area, which companies are seeking to subscribe with foreign governments, must be processed through TELCOR.

Annex I Entry 15 – Electricity Distribution

Sector: Electricity Distribution

Obligations Concerned: Market Access (Article 8.4) Local Presence (Article 8.5)

Level of Government: Central

Measures: Law No.272, Electric Industry Law, published in La Gaceta, Diario Oficial, No.74 of April 23, 1998 and its Consolidated Text in Law No. 1045, Law of the Nicaraguan Legal Digest of the Energy and Mining Sector, published in La Gaceta, Diario Oficial, No. 130 of July 14, 2021 and its amendments.

Decree No. 42-98, Regulation of the Electric Industry Law, published in La Gaceta, Diario Oficial, No. 176 of September 17, 2012 and its consolidated text in Law No. 1045, Law of the Nicaraguan Legal Digest of the Energy and Mining Sector, published in La Gaceta, Diario Oficial, No. 130 of July 14, 2021 and its amendments.

Law No. 1056, Law on Sovereign Assurance and Guarantee of Electricity Supply to the Nicaraguan Population, published in La Gaceta, Diario Oficial, No. 237 of December 22, 2020.

Law 554, Energy Stability Law, published in La Gaceta, Diario Oficial, No. 224,of November 18, 2005 and its Consolidated Text, in Law 1045, Law of the Nicaraguan Legal Digest of the Energy and Mining Sector, published in La Gaceta, Diario Oficial, No. 130 of July 14, 2021 and its amendments.

Description: Cross-Border Trade in Services

To participate in the distribution of electrical energy, a company must be organized under the laws of Nicaragua.

Power distributors may not generate and/or transmit power, except in the following exceptions:

1. in case of providing distribution services in isolated systems, or

2. If the combined own generation capacity is up to 10,000 kW, when it is connected to the National Interconnected System (SIN).

3. Energy distributors may install and operate in the national electricity market up to twenty percent of their own renewable energy generation capacity that does not come from hydrocarbons. This authorization is non-transferable. The sale prices of

the energy generated by the distributors shall be subject to the provisions of the Reference Price Band for new energy generation contracts with renewable sources, issued for such purpose by the Ministry of Energy and Mines (MEM).

Annex I Entry 16 – Electrical Power - Power Generation of Hydroelectric Project

Sector: Electrical Power - Power Generation of Hydroelectric Projects

Obligations Concerned: Senior Management and Boards of Directors (Article 11.9) Market Access (Article 8.4)

Level of Government: Central

Measures: Law No. 620, General Law on National Waters, published in La Gaceta, Diario Oficial, No. 169 of 04 September 2007, and its amendments.

Decree No. 44-2010, Regulations to Law No. 620, General Las on National Waters, published in La Gaceta, Diario Oficial, No. 150 and No. 151 of 9 and 10 August 2010.

Law No. 467, Law for the Promotion of the Hydroelectric Sub-sector, published in La Gaceta, Diario Oficial, No. 169 of 5 September 2003 and its Consolidated Text in Law No. 1045, Law of the Nicaraguan Legal Digest for the Energy and Mining Sector, published in La Gaceta, Diario Oficial, No. 130 of 14 July 2021.

Law No. 532, Law for the Promotion of Electricity Generation with Renewable Sources, published in La Gaceta, Diario Oficial, No. 102 of 27 May 2005 and its Consolidated Text in Law No. 1045, Law of the Nicaraguan Legal Digest of the Energy and Mining Sector, published in La Gaceta, Diario Oficial, No. 130 of 14 July 2021; and its amendments.

Description: Investment and Cross-Border Trade in Services

Hydroelectric power plants whose installed capacity exceeds 30 MW or their reservoir at its maximum operating level has an area greater than 25 square kilometers in extension require a special and specific law for each project.

A Water Use Permit is required for the generation of hydraulic power of more than one megawatt up to a maximum of thirty megawatts, in a specific Basin and after consultation with the affected municipalities or corresponding Autonomous Regional Council.

The concession for the use of water for hydroelectric generation in the Asturias, Apanás and Río Viejo basins is for the exclusive use and exploitation of the State for hydroelectric generation.

Annex I Entry 17 – Energy – Geothermal Energy Generation

Sector: Energy - Geothermal Energy Generation

Obligations Concerned: National Treatment (Articles 8.2 and 11.2) Performance Requirements(Article 11.8) Local Presence (Article 8.5)

Level of Government: Central

Measures: Political Constitution of the Republic of Nicaragua with its incorporated amendments, published in La Gaceta, Diario Oficial, No. 32 of February 18, 2014 and its Consolidated Text, published in La Gaceta, Diario Oficial, No. 181 of September 28, 2022.

Law No. 443, Law on Exploration and Exploitation of Geothermal Resources, published in La Gaceta, Diario Oficial, No. 222 on November 21, 2002, Consolidated Text in Law No. 1045, Law of the Nicaraguan Legal Digest of the Energy and Mining Sector, published in La Gaceta, Diario Oficial, No. 130 of July 14, 2021 and its amendments.

Executive Decree No. 45-2010, Regulation of the Law of Exploration and Exploitation of Geothermal Resources, published in La Gaceta, Diario Oficial, No. 152 of August 11, 2010 and its amendments consolidated in Law No. 1045, Law of the Nicaraguan Legal Digest of the Energy and Mining Sector, published in La Gaceta, Diario Oficial, No. 130 of July 14, 2021.

Law No.272, Law of the Electric Industry (Ley de la Industria Electrica), published in La Gaceta, Diario Oficial, and No.74 of April 23, 1998, Consolidated T e x t in Law No. 1045, Law of the Nicaraguan Legal Digest of the Energy and Mining Sector, published in La Gaceta, Diario Oficial, No. 130 of July 14, 2021; and its amendments.

Decree 42-98, Regulation of the Electricity Industry Law (Reglamento a la Ley de Industria Eléctrica), published in La Gaceta, Diario Oficial, No. 176 of September 17, 2012, Consolidated Text in Law No. 1045, Law ofthe Nicaraguan Legal Digest of the Energy and Mining Sector, published in La Gaceta, Diario Oficial, No. 130 of July 14, 2021; and its amendments

Description: Investment - Cross Border Trade in Services

Natural or legal persons may carry out, with the participation of the Nicaraguan Electricity Company (Empresa Nicaraguense de Energía Eléctrica - ENEL), preliminary investigations for the exploration and exploitation of geothermal resources, previous authorization from the Ministry of Energy and Mines (Ministerio de EnergíayMinas- MEM).

ENEL's participation in the exploration and exploitation activities of existing geothermal resources, designated as national patrimony in accordance with the Political Constitution of the Republic of Nicaragua, entails obtaining at no cost, at least ten percent of the shareholding of the applicant Company or any other form of participation in the capital stock, which entitles them to a position on its Board of Directors, with the right to speak and vote. Once the shares are transferred in favor of ENEL, its percentage participation may not be reduced for any reason. The State, represented by ENEL, will not assume for any reason risk, debt, guarantee, or responsibility of any kind, since they will be assumed at the expense and risk of the investors, national or foreign.

To explore or exploit geothermal resources, an Environmental Impact Study (Estudio de Impacto Ambiental - EIA) is required to obtain the Environmental Permit from the Ministry ofthe Environment and Natural Resources (Ministerio del Ambiente y Recursos Naturales - MARENA).

It is required to obtain an Electric Power Generation License, granted by the State through the MEM.

Annex I Entry 18 – Services Incidental to Mining - Metallic and Non-Metallic Minerals

Sector: Services Incidental to Mining - Metallic and Non-Metallic Minerals

Obligations Concerned: Local Presence (Article 8.5)

Level of Government: Central

Measures: Law No. 387, Special Law on Mining Exploration and Exploitation, published in La Gaceta, Diario Oficial, No. 151 of August 13, 2001 and its Regulations, Decree N°119-2001and its Consolidated Text, in Law 1045 Law of the Nicaraguan Legal Digest of the Energy and Mining Sector, published in La Gaceta, Diario Oficial, No. 130 of July 14, 2021.

Law No. 1128, Law on Amendments and Additions to Law No. 387 Special Law on Exploration and Exploitation of Mines, published in La Gaceta, Diario Oficial, No. 163 of August 31, 2022.

Description: Cross-Border Trade in Services

Foreign companies and natural and legal persons of the same condition, non-residents in the country, must appoint a legal representative with sufficient power to acquire rights and contract obligations on behalf of their principal, and register their company in the relevant registry and establish themselves so that they can be granted a mining concession for the exploration and exploitation phases of the resource.

To grant concessions in the mining reserve areas, the interested parties must sign alliances, associations, partnerships with private, public or mixed companies or any form of participation proposed by the Ministry of Energy and Mines (Ministerio de Energíay Minas - MEM).

Annex I Entry 19 – Services Incidental to Mining - Hydrocarbons

Sector: Services Incidental to Mining - Hydrocarbons

Obligations Concerned: National Treatment (Article 8.2) Local Presence (Article 8.5)

Level of Government: Central

Measures: Political Constitution of the Republic of Nicaragua with its Incorporated amendments, published in La Gaceta, Diario Oficial, No. 32 of February 18, 2014 and its Consolidated Text, published in La Gaceta, Diario Oficial, No. 181 of September 28, 2022.

Law No. 286, Special Law on Exploration and Exploitation of Hydrocarbons, published in La Gaceta, Diario Oficial, No. 109 of June 12, 1998 and its Consolidated Text published in La Gaceta, Diario Oficial, No. 130 of July 14, 2021.

Law No. 1016, Law Creating the National Hydrocarbon Exploration and Exploitation Company (ENIH), published in La Gaceta, Diario Oficial, No. 30 of February 14, 2020.

Executive Decree No. 43-98, Regulations to the Special Law on Exploration and Exploitation of Hydrocarbons, published in La Gaceta, Diario Oficial, No. 117 of June 24, 1998 and its Consolidated Text published in La Gaceta, Diario Oficial, No. 130 of

July 14, 2021.

Description: Cross-Border Trade in Services

Foreign companies to enter into contracts under Law No. 286, they must establish a branch or constitute a company in accordance with the laws of Nicaragua; in addition, they must appoint and maintain during the term of the contract, a legal representative with sufficient powers to bind the company and domiciled in the country.

The Contractor will give preference to national subcontractors to carry out specialized services. Provided that they are available at the time the work is required, at a competitive cost and that they have the technical capacity, equipment and competence to carry out the work in accordance with the requirements demanded by the Contractor.

Whenever they are not available in the country or when the existing ones do not meet the technical specifications of quality, cost and opportunity, the Contractor and the sub-contractor may acquire goods, materials and equipment and hire services abroad.

Hydrocarbon deposits in their natural state are national patrimony. Its dominion corresponds to the State, regardless of its location in the territory of the Republic. The State, represented by the National Hydrocarbons Exploration and Exploitation Company (Empresa Nacional de Exploración y Explotación de Hidrocarburos - ENIH), will participate in the activities provided for in Law No. 879, at no cost or risk.

In the activities of surface reconnaissance, exploration and exploitation of hydrocarbons produced in the country, as well as their transportation, storage and commercialization, ENIH must participate as executing body in all requests related to the development, exploration and exploitation of the hydrocarbon resources regulated under this law, to such effects the natural or legal persons that submit their requests must previously enter into the corresponding agreements of participation of ENIH, in their corresponding requests before the Ministry of Energy and Mines (the Ministry of Energy and Mines - MEM), subscribing the models of cooperation and/or alliance with the companies interested in obtaining permits or entering into contracts under the protection of Law No. 286.

The State represented by ENIH does not assume for any reason, any kind of risk, debt, or responsibility, since they will be assumed at the expense and risk of the Contractor, adhering to the provisions of article 25 of Law No. 286.

Those interested in obtaining a permit must submit to the General Directorate of Hydrocarbons of the MEM, the instrument in which the participation of ENIH is recorded.

Upon termination of the contract, the contractor will hand over ownership to the State represented by ENIH, at no cost, the lands and permanent works and facilities.

Annex I Entry 20 – Fisheries and Aquaculture

Sector: Fisheries and Aquaculture

Obligations Concerned: National Treatment (Article 8.2) Performance Requirements (Article 11.8) Senior Management and Boards of Directors (Article 11.9)

Level of Government: Central

Measures: Law No. 489, Fisheries and Aquaculture Law, published in La Gaceta, Diario Oficial, No. 251 of December 27, 2004, and its C onsolidated Text published in La Gaceta, Diario Oficial, No. 43 of March 4, 2015.

Executive Decree No. 30-2008, Amendments to Decree No. 09-2005, Regulations to Law No. 489, Fisheries and Aquaculture Law, published in La Gaceta, Diario Oficial, No. 130 of July 9, 2008 and its Consolidated Text, published in La Gaceta, Diario Oficial, No. 148 of August 10, 2021.

Decree No. 009-2005, Regulation of Law No. 489, Fisheries and Aquaculture Law, published in La Gaceta, Diario Oficial, No. 40 of February 25, 2005 and its Consolidated Text, published in La Gaceta, Diario Oficial, No. 148 of August 10, 2021.

NTON 03-045-03 Nicaraguan Mandatory Technical Standard for Fishing Gear and Methods and its annexes, published in La Gaceta, Diario Oficial, No. 231 and 236 of December 02 and 10, 2010.

Presidential Decree No. 09-2019 "Provisions for the Fishing of Tunas, Related and Associated Species", published in La Gaceta, Diario Oficial, No. 67 of April 4, 2019.

Executive Resolution-PA-No.003-2020, Declaration of the Management Regime of the Nicaraguan Caribbean Spiny Lobster (panulirus argus) Fishery from Open to Limited Access, published in La Gaceta, Diario Oficial, No. 91 of May 21, 2020.

Executive Resolution PA-No.006-2014, Fisheries management measures and mechanisms for the collection and mobile commercialization of hydrobiological resources, published in La Gaceta, Diario Oficial, No. 123 of July 3, 2014 IPSA-INPESCA Inter-institutional Resolution for Collection Centers for Fishery and Aquaculture Products, Inter-institutional Resolution, approved on December 17, 2020, published in La Gaceta, Diario Oficial,. 03 of January 6, 2021.

Description: Investment

In order to obtain a commercial fishing license, it is required to be constituted as a Nicaraguan legal entity and be duly registered in the Public Mercantile Registry (Registro Público Mercantil) and must appoint a legal representative with residence in Nicaragua and known address.

The use of fishing resources by foreign-flagged vessels will be supplementary to that carried out by the national fleet and will be subject to the regulations established in the corresponding Law and the conditions and limitations established in the international agreements and treaties ratified by Nicaragua.

Artisanal Small Scale Fishing is reserved exclusively for nationals of Nicaragua.

All fishing and aquaculture production for export purposes must be processed in plants duly authorized and installed in the national territory, in compliance with the specific regulations and provisions for each resource hydro biological.

The 90 percent of on board personnel and 100 percent of ship captains must be Nicaraguan.

No licenses or Fishing permits will be granted to foreign-flag vessels for fisheries subject to limited access regime, except those which have been granted to the date of entry into force of Law 489. Resources declared in fully exploitation under the regime of limited access are: the resource spiny lobster in the Caribbean Sea and the coastal shrimp resource of the Peneidos family in the Caribbean Sea and the Pacific Ocean and subsequently declared the Nicaraguan Institute of Fishery (Instituto Nicaraguense de la Pesca - INPESCA).

The Special license for fishing of tunas and highly migratory species may be granted to vessels flying the national flag or foreign flag vessels that have been chartered or leased with or without an option to purchase in which participate Nicaraguan natural or legal persons or national companies with foreign participation.

Foreign flag vessels may only be authorized by the competent authority to perform scientific fishing and sport fishing or may be for commercial fishing of freely accessible resources. In no case shall be authorized for commercial fishing of resources limited access, without prejudice to the licenses already granted.

The labor legislation will be applied for gradual recruitment of Nicaraguan personnel, when most of the crew is foreign, due to the preparation of the same. In such a case the license holder shall promote programs of training or training for the Nicaraguan personnel.

Annex I Entry 21 – All Sectors

Sector: All Sectors

Subsector: Consumer, savings and credit, agricultural, production and labor cooperatives, housing, fishing, public services, cooperatives; cultural, educational, youth and others of interest of the population.

Obligations Concerned: National Treatment (Articles 8.2, 11.2) Local Presence (Article 8.5)

Level of Government: Central

Measures: Law No. 499, General Law of Cooperatives, published in Published in La Gaceta, Diario Oficial, No. 17 of January 25, 2005, and its Consolidated Text, published in La Gaceta, Diario Oficial,. No. 137 of July 26, 2022.

Law No. 84, Law on Agricultural and Agroindustrial Cooperatives, published in La Gaceta, Diario Official, No. 62 of March 28, 1990.

Decree No. 16-2005, General Regulations to Law No. 499. General Cooperatives Law, published in La Gaceta, Diario Official, No. 55 of March 18, 2005.

Description: Investment and Cross-border trade in services

The proportion of foreign national partners may not exceed 10 percent of the total, at the moment of the establishment of a Cooperative in Nicaragua.

Foreign nationals shall be authorized by the migration authorities as residents in the country in order to become members

of a cooperative of Nicaragua.

The proportion of foreign national partners may not exceed 25% of the total, at the moment of establishment of a Nicaraguan Farming Cooperative and those foreign nationals shall be duly authorized.

Annex I Entry 22 – Land Transportation

Sector: Land Transportation

Obligations Concerned: National Treatment (Articles 8.2 and 11.2) Most-Favored-Nation Treatment (Articles 8.3 and 11.3) Local Presence (Article 8.5)

Level of Government: Central

Measures: Law No. 524, General Land Transportation Law, published in La Gaceta, Diario Oficial, No. 72 of April 14, 2005, and its Consolidated Text, published in La Gaceta, Diario Oficial, No. 17 of January 26, 2021.

Executive Decree No. 42-2005, Regulation of the General Land Transportation Law,published in La Gaceta, Diario Oficial, No. 113 of June 13, 2005 and its Consolidated Text, published in La Gaceta, Diario Oficial, No. 17 of January 26, 2021.

Description: Investment and Cross-Border Trade in Services

The transfer of any type of cargo within the national territory shall be carried out only by Nicaraguan carriers. The Ministry of Transport and Infrastructure (Ministerio de Transporte e Infraestructura - MTI) may authorize, exceptionally and temporarily the provision of this service for specialized cargo to vehicles with a foreign li plate, provided that the company owners of the load is based in Nicaragua and preserving the principle of reciprocity.

Foreign companies of international cargo to be installed in the country must comply with the following special requirements:

1. The 51 percent of its capital, at least, belongs to Nicaraguan people.

2. The effective control and management of the company are equally in the hands of Nicaraguans.

The transfer of local cargo can only be carried out by national carriers, reserving the State of Nicaragua and its authorities the right to authorize the owners of motor vehicles from the subscribing countries of SIECA (Central American Economic Integration Subsystem), as long as in their countries of origin apply the principle of reciprocity to Nicaraguan nationals.

Export cargo to countries outside the Central American area and its transfer to transitory ports, local cargo and its national transit will be carried out by national carriers, preserving the principle of reciprocity and what is established by the Central American Economic Integration Subsystem.

The cargo entered into the national fiscal warehouses can only be transferred to any point of the national territory by national carriers.

Only Nicaraguan persons can provide collective transportation services in the interior of Nicaragua.

Annex I Entry 23 – Maritime Transportation

Sector: Maritime Transportation

Obligations Concerned: National Treatment (Article 8.2) Most-Favored-Nation Treatment (Article 8.3) Local Presence (Article 8.5)

Level of Government: Central

Measures: Law No. 399, Water Transport Law, published in La Gaceta, Diario Oficial, No. 166 of September 3, 2001.

JGRN Decree No.1549, Regulatory Law for the Pilotage Service, published in La Gaceta, Diario Oficial, No. 4 of January 5, 1985.

Ministerial Agreement No. 66-2007. Rules for the authorization of companies and cooperatives that provide cargo loading and unloading services in national ports, published in La Gaceta, Diario Oficial, No. 2 of January 3, 2008.

DGTA Resolution No. 021 - 2014, published in La Gaceta, Diario Oficial, No. 121 of July 1, 2014.

DGTA Resolution No. 004-2014, published in La Gaceta, Diario Oficial, No. 35 of February 21, 2014. (Certification of Machines

and Equipment, Port Administration must maintain current Certification of Port Machines and Equipment issued by DGTA authorities).

DGTA Resolution No. 030-2009, published in La Gaceta, Diario Oficial, No. 63 of April 2, 2014.

Description: Cross-border trade in services

To operate as a Nicaraguan ship-owner or shipping company, a natural person must be a national ofNicaragua and a company has to be organized under the laws of Nicaragua.

To operate as a shipping agent, general shipping agent or consignee shipping agent is required, in the case of natural persons, to be Nicaraguan national, and a company needs to be organized under the laws of Nicaragua.

Public transportation of passengers and cargo by aquatic waterways can only be provided by nationals.

The operation and use of vessels in internal traffic and cabotage for commercial purposes is reserved for national flag vessels and exploited by national ship- owners. However, in conditions of reciprocity, national ship-owners may use vessels with flag of any other Central American country.

Only the Nicaraguan national maybe appointed as official drivers of any port in Nicaragua.

The enterprises, companies or cooperatives intending to provide cargo stowage and cargo unloading services in national ports, to be enabled and registered as such shall comply with the national legislation.

The authorization of new stevedoring companies is subject to the overcoming of cargo volumes that have historically handled each of the National Ports, the operational capacity of the port facilities and the operational capacity of the existing stevedoring companies. The approval or disapproval of the operation of new companies in the ports of the country it is a faculty of the Approval Committee.

Any natural or legal person dedicated to maritime activities that intends to provide a professional service or an activity defined in article 3 of Law 399 of the Water Transport Law, must also comply with the requirements established in the formalities of procedures (Leaves of requirements) implemented for each activity, the parameters established in DGTA Resolution No. 030-2009.

Annex I Entry 24 – All Sectors

Sector: All Sectors

Obligations Concerned: Market Access (Article 8.4)

Level of Government: Central

Measures: Law No. 800, Law on the Legal Regime of the Nicaraguan Grand Interoceanic Canal and the Creation of the Nicaraguan Grand Interoceanic Canal Authority, published in La Gaceta, Diario Oficial, No. 128 of July 9, 2012.

Law No. 840, Special Law for the Development of Infrastructure and Nicaraguan Transportation Related to the Canal, Free Zones Commerce and Associated Infrastructures, published in La Gaceta, Diario Oficial, No. 110 of June 14, 2013.

Description: Investment and Cross-Border Trade in Services

The Authority of the Grand Interoceanic Canal of Nicaragua will determine the economic activities that can be carried out in the special economic zone, as well as the applicable regulations for each of these activities, in coordination with the competent authorities of the state.

Nicaragua grants exclusive concession to Empresa Desarrolladora de Grandes Infraestructuras, S.A. and its assignees for the Development and operation of each Sub- Project contemplated in the Nicaraguan Interoceanic Grand Canal Project in accordance with the provisions of the Framework Concession Agreement for a term of 50 years from the start of commercial operations, subject to the extensions contemplated in the Concession Framework Agreement and extendable in each case for a period of 50 additional years, which will begin immediately after the expiration of the initial term.

Annex I Entry 25 – Transport – Air Transport

Sector: Transport - Air Transport

Obligations Concerned: National Treatment (Articles 8.2 and 11.2) Most Favored Nation Treatment (Articles 8.3 and 11.3) Local Presence (Article 8.5) Senior Management and Boards of Directors (Article 11.9)

Level of Government: Central

Measures: Law No. 595, and its amendment Law No. 988, General Civil Aeronautics Law, published in La Gaceta, Diario Oficial, No. 193 of October 5, 2006 and its Consolidated Text, published in La Gaceta, Diario Oficial, No. 17 of January 26, 2021.

Description: Investment and Cross-border trade in services

To own a Nicaraguan-registered aircraft, it requires:

1. be a Nicaraguan natural or legal person; in the case of several co- owners, the majority whose rights exceed half the value of the aircraft, must maintain their real domicile in Nicaragua; or if it is a legal person, company or association, be constituted in accordance with the laws of the Republic or have legal domicile in Nicaragua;

2. To be foreign natural person with a permanent address in Nicaragua;

3. To be foreign person not domiciled in Nicaragua, as long as there is a credit purchases-and-sales contract or leasing with or without an option to buy. The registration and the enrollment are provisional.

Annex I Entry 26 – Transport – Air Transport

Sector: Transport - Air Transport

Obligations Concerned: National Treatment (Article 8.2) Most-Favored-Nation Treatment (Article 8.3) Local Presence (Article 8.5) Senior Management and Boards of Directors (Article 11.9)

Level of Government: Central

Measures: Law No. 595 and its amendment Law No. 988, General Civil Aeronautics Law, published in La Gaceta, Diario Oficial, No.193 of October 5, 2006 and its Consolidated Text, published in La Gaceta, Diario Oficial, No. 17 of January 26, 2021and its amendments.

Description: Cross-border trade in services

To be the owner of a Nicaraguan-registered aircraft that provides complementary services for air transport, it is required to be a Nicaraguan natural or legal person.

To carry out aerial work in any of its specialties, individuals or companies must obtain prior authorization from the Aeronautical Authority and comply with the applicable provisions, technical regulations and be subject, among others, to the following requirements:

1. possess technical and economic capacity according to the specialty in question; and

2. operate with Nicaraguan registered aircraft.

The Aeronautical Authority may dispense with the Nicaraguan nationality of the owner and the aircraft when, in the country, there are no companies or aircraft capable of carrying out a certain specialty of aerial work.

The operation of the air transport service within the national or internal territory may only be carried out by Nicaraguan natural or legal persons.

In the case of the person who commercially exploits the internal air transport service, is a legal person, the president of the Board of Directors or Administration Council must be Nicaraguan, and at least 51% of the directors must be of Nicaraguan origin.

Exceptionally, when there are reasons of general interest, the Aeronautical Authority may authorize foreign companies to carry out internal flights, as well as the provisions of Law 595.

The aeronautical personnel who work in the national air transport services must be of Nicaraguan nationality. In the absence of this, duly verified, non-Nicaraguan personnel maybe hired in accordance with the provisions of national legislation.

Annex I Entry 27 – Professional Services

Sector: Professional Services

Obligations Concerned: National Treatment (Article 8.2) Most Favored Nation Treatment (Article 8.3) Local Presence (Article

8.5)

Level of Government: Central

Measures: Decree - Law No. 132, Law for the Incorporation of Professionals in Nicaragua, published in La Gaceta, Diario Oficial, No. 47 of November 2, 1979.

Decree A.N. No. 7539, Decree of Approval of the "Agreement on the Exercise of University Professions and Recognition of University Studies, published in La Gaceta, Diario Oficial, No. 131 of July 15, 2014.

Description: Cross-Border Trade in Services

Foreign professionals may practice in Nicaragua in the manner and subject to the same conditions as in their home country are permitted for Nicaraguans people.

Nicaragua agrees that, if the jurisdiction in a foreign country allows the Nicaraguan nationals to request and receive the licenses or certificates required to practice a profession in such jurisdiction, it will be also allowed to a foreigner who has a license or a certificate to practice a profession in suchjurisdiction, to apply for and receive a license o certificate requested to practice in Nicaragua.

Additionally, the relevant professional association in Nicaragua will acknowledge a license granted by a foreign jurisdiction and will allow the license holder to register in the association and to practice the profession in Nicaragua based on the foreign license, in the following cases:

a. no academic institution in Nicaragua offers a study program that would allow the practice of the profession in Nicaragua;

b. the license holder is a recognized expert in his profession;

c. allowing the professional to practice in Nicaragua will deepen, through training, demonstration or other similar opportunity, the development of the profession in Nicaragua.

The Central American nationals by birth who has obtained a Professional Degree or an equivalent Academic Diploma, in one of the Central American countries that legally enable him to practice a university profession will be admitted to the practice such activities in Nicaragua, provided it complies the same requirements and formalities that, for such exercise, it is required to Nicaraguans university graduates. The above provision shall apply while the person concerned retains the nationality of one of the countries of Central America.

Annex I Entry 28 – Public Accounting and Auditing Services Provided to Companies

Sector: Public Accounting and Auditing Services Provided to Companies

Obligations Concerned: National Treatment (Article 8.2) Local Presence (Article 8.5)

Level of Government: Central

Measures: Law No. 6, Law for the Practice of Public Accountant, published in La Gaceta, Diario Oficial, No. 94 of April 30, 1959 and its Consolidated Text, published in La Gaceta, Diario Oficial, No. 72 of April 21, 2022.

Description: Cross-border Trade in Services

Foreign firms and associations of Public Accountants, Auditors or Accountants, in their individual or corporate capacity, may not practice the profession in Nicaraguan territory, nor any activity related to it, if they do not do so through a Nicaraguan firm or association of Authorized Public Accountants, or through a firm foreigner with residence or domicile in the country.

Annex I Entry 29 – Professional Services - Notary

Sector: Professional Services - Notary

Obligations Concerned: National Treatment (Article 8.2) Most-Favored-Nation Treatment (Article 8.3)

Level of Government: Central

Measures: Law No. 260, Organic Law of the Judiciary of the Republic of Nicaragua, published in La Gaceta, Diario Oficial, No. 137 of July 23, 1998.

Decree No. 63-99: Regulation of Law 260, "Organic Law of the Judiciary of the Republic of Nicaragua" and its amendments, published in La Gaceta, Diario Oficial, No. 104 of June 2, 1999.

Decree No.132, Law for the Incorporation of Professionals in Nicaragua, published in La Gaceta, Diario Oficial, No. 47 of November 2, 1979.

Law on Notaries, Annex to the Code of Civil Procedure of Nicaragua and its Consolidated Text, Law that gives greater utility to the institution ofnotaries, Published in La Gaceta, Diario Oficial, No. 197 of October 20, 2022.

Description: Cross-Border Trade in Services

Public Notaries must be Nicaraguans of origin authorized by the Supreme Court of Justice to practice that profession.

Central American nationals by birth can also be authorized to exercise as public notaries in the Republic after residing at least for five years in Nicaragua, provided that they are allowed to exercise as public notaries in their own countries, and that Nicaraguans are authorized to exercise as public notaries in their respective countries

Annex I Entry 30 – Custom Brokers

Sector: Customs Brokers

Obligations Concerned: National Treatment (Article 8.2) Most-Favored-Nation Treatment (Article 8.3) Local Presence (Article 8.5)

Level of Government: Central

Measures: (Modification of the Central American Uniform Customs Code (CAUCA)), RESOLUTION No. 223-2008 (COMIECO-XLIX), approved on April 25, 2008, published in La Gaceta, Diario Oficial, No. 135 of July 16, 2008, RESOLUTION No. 223-2008 (COMIECO-XLIX), Ministerial Agreement No. 033-2008.

Resolution No. 224-2008 (COMIECO-XLIX), Regulation of the Central American Uniform Customs Code (RECAUCA), published in La Gaceta, Diario Oficial, No. 136, 137, 138, 139, 140, 141 and 142 of July 17, 18, 21, 22, 23, 24 and 25, 2008 respectively.

Law No. 265, Law that Establishes Self-clearance for Import, Export and other Regimes, published in La Gaceta, Diario Oficial, No. 219 of November 17, 1997 and its Consolidated Text, published in La Gaceta, Diario Oficial, No. 72 of April 21, 2022.

Description: Cross-border trade in services

They can only be customs agents and obtain a license granted by the Ministry of Finance and Public Credit:

a) Nicaraguan citizens who are in full exercise of their rights;

b) Central Americans with a bachelor's degree in customs matters or other study disciplines as long as they prove at least 2 years of experience in customs matters; either

c) Foreigners from a country that allows Nicaraguans to act as customs agents.

A company operating as a customs broker in Nicaragua must be organized under Nicaraguan law and at least one officer of the customs company must have a valid license.

Annex I Entry 31 – Scientific Research Services

Sector: Scientific Research Services

Obligations Concerned: National Treatment (Article 8.2) Local Presence (Article 8.5)

Level of Government: Central

Measures: Law No. 316, General Law on the Exploitation of Our Natural Resources, published in La Gaceta, Diario Oficial, No. 83 of April 17, 1958.

Description: Cross-Border Trade in Services

Non-resident foreign nationals or their agents, although they are residents in Nicaragua, wishing to carry out an investigation, will need a recognition permit.

The recognition permit only authorizes to carry out preliminary investigations for the knowledge of the existence of natural wealth, they may not carry out works or acts for which only the holder of an exploitation license or an exploration or exploitation concession is authorized.

All concessioner or foreign license holder has the obligation to maintain a representative in Nicaragua with sufficient authority at all times.

Annex I Entry 32 – Real Estate Services

Sector: Real Estate Services

Obligations Concerned: Local Presence (Article 8.5)

Level of Government: Central

Measures: Law No. 1129, Nicaraguan Real Estate Brokerage Law, published in La Gaceta, Diario Oficial, No. 169 of September 8, 2022.

Decree No. 21-2022, Regulation of Law No. 1129, Nicaraguan Real Estate Brokerage Law, published in La Gaceta, Diario Oficial, N° 212 of November 11, 2022.

Description: Cross-Border Trade in Services

The natural persons who apply for a real estate broker's license must be Nicaraguan citizens or foreigners with a legal permanent resident card in Nicaragua and with permission to work.

The Real Estate Brokerage Companies will exercise through their legal representative the activities of Real Estate Brokerage and will accredit their real estate agents, in accordance with the laws of the country.

Annex I Entry 33 – Potable Water, Sanitary Sewer Systems, and Sewage Collection and Disposal

Sector: Potable Water, Sanitary Sewer Systems, and Sewage Collection and Disposal.

Obligations Concerned: Market Access (Article 8.4)

Level of Government: Central

Measures: Law No. 620, General National Water Law, published in La Gaceta, Diario Oficial, No. 169 of September 4, 2007.

Law No. 276, Law for the Creation of the Nicaraguan Enterprise of Aqueduct and Sewage (ENACAL), published in La Gaceta, Diario Oficial, No. 12 of January 20, 1998 and its C onsolidated Text, published in La Gaceta, Diario Oficial, No. 197 of October 20, 2022.

Description: Cross-border Trade in Services

The establishment, construction, and development of public works for the supply and distribution of drinking water, and collecting and disposing of wastewater, may only be performed by the Nicaraguan Enterprise of Aqueducts and Sewage (Empresa Nicaragüense de Acueductosy Alcantarillados Sanitarios - ENACAL).

ENACAL is the State entity responsible for providing potable water and collecting and disposing of wastewater, and has the following functions:

a) to catch, treat, conduct, store, distribute, and sell potable water; and to gather, treat and finally dispose of liquid waste;

b) to purchase natural water, purchase and sell potable water, as well as to commercialize the services of collection, treatment and final disposal of wastewater;

c) to take all necessary measures so that the release of treated wastewater minimizes the environmental impact;

d) to develop the Company’s Expansion Plan for the short, medium and long terms;

e) to research, explore, develop, and exploit the water resources; and

f) to carry out any other activity required for its development.

Annex I Entry 34 – Airports

Sector: Airports

Obligations Concerned: Market Access (Article 8.4)

Level of Government: Central

Measures: Decree Law No. 1292, Law of the International Airports Administration Company, published in La Gaceta, Diario Oficial, No. 186 of August 16, 1983 and its Consolidated Text, published in La Gaceta, Diario Oficial, No. 17 of January 26, 2021.

Description: Cross-Border Trade in Services

The establishment, operation, administration, execution of works and provision of services in international airports correspond to the International Airport Administration Company (Empresa Administradora de Aeropuertos Internacionales - EAAI).

The administration of state and private airports or aerodromes for international operations will be managed solely by the EAAI Airport Administration Company.

Annex I Entry 35 – Energy - Transmission

Sector: Energy - Transmission

Obligations Concerned: Market Access (Article 8.4)

Level of Government: Central

Measures: Law No.272, Law of the Electricity Industry, published in La Gaceta, Diario Oficial, No.74 of April 23, 1998, Consolidated Text in Law No. 1045, Law of the Nicaraguan Legal Digest of the Energy and Mining Sector, published in La Gaceta, Diario Oficial, No. 130 of July 14, 2021; and amendments thereto.

Decree No. 42-98, Regulation of the Electricity Industry Law, published in La Gaceta, Diario Oficial, No. 176 of September 17, 2012, text consolidated in Law No. 1045, Law of the Nicaraguan Legal Digest ofthe Energy and Mining Sector, published in La Gaceta, Diario Oficial, No. 130 of July 14, 2021; and amendments derived therefrom.

Law No. 583, Law Creating the National Electric Transmission Company, ENATREL, published in La Gaceta, Diario Oficial, No. 4 of January 5, 2007 and its Consolidated Text in Law No. 1045, Law of the Nicaraguan Legal Digest of the Energy and Mining Sector, published in La Gaceta, Diario Oficial, No. 130 of July 14, 2021; and derived therefrom.

Law No. 1056, Law of Sovereign Assurance and Guarantee of Electricity Supply to the Nicaraguan Population, published in La Gaceta, Diario Oficial, No. 237 of December 22, 2020.

Description: Cross-Border Trade in Services

Only the National Electricity Transmission Company (Empresa Nacional de Transmisión Eléctrica, ENATREL), a decentralized public company of the State, can supply the Public Electric Power Transmission Service. Private companies can develop secondary transmission lines in accordance with the agreements or contracts signed with ENATREL.

Annex I Entry 36 – Postal Services

Sector: Postal Services

Obligations Concerned: Market Access (Article 8.4)

Level of Government: Central

Measures: Law No. 758, General Law of Posts and Postal Services of Nicaragua, published in La Gaceta, Diario Oficial, No. 96 and 97 of May 26, 2011 and its C onsolidated Text, published in La Gaceta, Diario Oficial, No. 242 of December 18, 2019.

Executive Decree N◦. 56-2011, General Regulations to Law N° 758 General Law of Posts and Postal Services of Nicaragua, published in La Gaceta, Diario Oficial, N◦. 210 of November 7, 2011 and its Consolidated Text, published in La Gaceta, Diario Oficial, No. 242 of December 18, 2019.

Description: Cross-Border Trade in Services

Basic postal services, mandatory supplementary postal service, express mail or express delivery courier service, postal telecommunications service, and other public services specific to the business and institutional line ofbusiness, require a concession issued by the Nicaraguan Institute of Telecommunications and Postal Services (Instituto Nicaraguense de Telecomunicaciones y Correos - TELCOR) to provide the service and may be obtained by natural or legal persons, once the established requirements are met, for a duration often (10) years.

Annex I Entry 37 – Telecommunications

Sector: Telecommunications

Obligations Concerned: Market Access (Article 8.4)

Level of Government: Central

Measures: Political Constitution of the Republic of Nicaragua with its Incorporated amendments, published in La Gaceta, Diario Oficial, No. 32 of February 18, 2014 and its Consolidated Text, published in La Gaceta, Diario Oficial, No. 181 of September 28, 2022.

Law No. 200, General Law on Telecommunications and Postal Services, published in La Gaceta, Diario Oficial No. 154 of August 18, 1995 and its

Consolidated Text, published in La Gaceta, Diario Oficial, No. 242 of December 18, 2019.

Description: Cross-Border Trade in Services

The granting of concessions, licenses, permits or registrations for the provision of telecommunications services that require the use of the radioelectric spectrum, will be subject to the availability of the spectrum and the policies regarding its use.

Maritime and aeronautical telecommunications services will be authorized, installed, operated and controlled by the National Army and the Nicaraguan Institute of Civil Aeronautics.

The representation of the State before international telecommunications organizations corresponds to the Nicaraguan Institute of Telecommunications and Posts (Instituto Nicaraguense de Telecomunicaciones y Correo - TELCOR).

For national security purposes: a) In no case is the establishment of systems that alter or affect national communication systems allowed. b) The communication points for national defense fines in the national territory must be owned by the State. c) The radioelectric and satellite spectrum is property of the Nicaraguan

State and must be regulated by the regulatory body, the law will regulate the matter.

Annex I Entry 38 – Electricity Generation

Sector: Electricity Generation

Obligations Concerned: Market Access (Article 8.4) Local Presence (Article 8.5)

Level of Government: Central

Measures: Law No. 272, Electric Industry Law, published in La Gaceta, Diario Oficial, No. 74 of April 23, 1998 and its Consolidated Text in Law No. 1045, Law of the Nicaraguan Legal Digest of the Energy and Mining Sector, published in La Gaceta, Diario Oficial, No. 130 of July 14, 2021; and its amendments.

Decree No. 42-98, Regulation of the Electric Industry Law, published in La Gaceta, Diario Oficial, No. 176 of September 17, 2012 and its Consolidated Text in Law No. 1045, Law of the Nicaraguan Legal Digest of the Energy and Mining Sector, published in La Gaceta, Diario Oficial, No. 130 of July 14, 2021; and derived therefrom.

Law No. 554 Energy Stability Law, published in La Gaceta, Diario Oficial No. 175 of September 13, 2012 and its Consolidated Text in Law No. 1045, Law of the Nicaraguan Legal Digest of the Energy and Mining Sector, published in La Gaceta, Diario Oficial, No. 130 of July 14, 2021; and its amendments.

Law No. 532, Law for the Promotion of Electricity Generation with Renewable Sources, published in La Gaceta, Diario Oficial, No. 102 of May 27, 2005 and its Consolidated Text in Law No. 1045, Law of the Nicaraguan Legal Digest of the Energy and Mining Sector, published in La Gaceta, Diario Oficial, No. 130 of July 14, 2021; and its amendments.

Description: Cross-Border Trade in Services

To participate in the generation of electrical energy, a company must be organized under the laws of Nicaragua.

Economic agents, subsidiaries or shareholders engaged in activities of generation of electrical power cannot be owners or partners of the facilities that serve for the transmission and/or distribution of electrical power, except the Nicaraguan Electricity Company (Empresa Nicaraguense de Electricidad - ENEL), which may exercise these activities only in non-concessioned areas.

Generators may be owners of power lines or transmission equipment, needed to connect their plants to the National

Interconnected System (Sistema Interconectado Nacional, SIN), which will be considered its secondary transmission system.

New contracts of power generation from renewable sources should be in accordance with the prices specified for each type of generation.

Annex I Entry 39 – Natural Resources

Sector: Natural Resources

Obligations Concerned: Market Access (Article 8.4)

Level of Government: Central

Measures: Political Constitution of the Republic of Nicaragua with its Incorporated amendments, published in Gaceta, Diario Oficial No. 32 of February 18, 2014 and its Consolidated Text, published in La Gaceta, Diario Oficial, No. 181 of September 28, 2022.

Law No. 217, General Law on the Environment and Natural Resources, published in La Gaceta, Diario Oficial, No. 105 of June 6, 1996 and its Consolidated Text. General Law of the Environment and Natural Resources, published in La Gaceta, Diario Oficial, No. 197 of October 20, 2022.

Law No. 316, General Law on the Exploitation of Our Natural Resources, published in La Gaceta, Diario Oficial, No. 83 of April 17, 1958.

Law No. 620, General Law of National Waters, published in La Gaceta, Diario Oficial, No. 169 of September 4, 2007.

Law No. 749, Law on the Legal Regime of Borders, published in La Gaceta, Diario Oficial, No. 244 of December 22, 2010 and its Consolidated Text, Law on the Legal Regime of Borders, Published in La Gaceta, Diario Oficial, No. 98 of June 1, 2020.

Law No. 462, Law for the Conservation, Promotion and Sustainable Development ofthe Forestry Sector, published in La Gaceta, Diario Oficial, No. 168 of September 4, 2003.

Law No. 286, Special Law on Exploration and Exploitation of Hydrocarbons, published in La Gaceta, Diario Oficial, No. 109,of June 12, 1998 and its Consolidated Text, Special Law on Exploration and Exploitation of Hydrocarbons, published in La Gaceta, Diario Oficial, No. 130 of July 14, 2021.

Law No. 387, Special Law on Exploration and Exploitation of Mines, published in La Gaceta, Diario Oficial, No. 151 of August 13, 2001, and its Regulations, Decree N°119-2001 and its Consolidated Text, in Law 1045 Law of the Nicaraguan Legal Digest of the Energy and Mining Sector published in La Gaceta, Diario Oficial, N°130 of July 14, 2021.

Law No. 443, Law of Exploration and Exploitation of Geothermal

Resources, published in La Gaceta, Diario Oficial, No. 218 on November 17, 2014 and its Consolidated Text, in Law 1045 Law of the Nicaraguan Legal

Digest of the Energy and Mining Sector published in La Gaceta, Diario Oficial, N°130 of July 14, 2021.

Law No. 532, Law for the Promotion of Electricity Generation with Renewable Sources, published in La Gaceta, Diario Oficial, No. 102 of May 27, 2005 and its consolidated text, in Law 1045 Law of the Nicaraguan Legal Digest of the Energy and Mining Sector published in La Gaceta, Diario Oficial, N°130 of July 14, 2021.

Law No. 953, Law Creating the Nicaraguan Mining Company (ENIMINAS), published in La Gaceta, Diario Oficial, No. 127 of July 6, 2017.

Law No. 1016, Law Creating the National Hydrocarbon Exploration and Exploitation Company (ENIH), published in La Gaceta, Diario Oficial, No. 30 of February 14, 2020.

Description: Cross-Border Trade in Services

Natural resources are national heritage. The preservation of the environment and the conservation, development and rational exploitation of natural resources correspond to the State; it may enter into contracts for the rational exploitation of these resources, when the national interest so requires.

The domain, use and exploitation of the natural resources described in the law will be regulated by express law.

The exploration, exploitation and benefit of liquid or gaseous hydrocarbons, deposits of any type existing in maritime

waters subject to nationaljurisdiction and those located totally or partially in determined areas of importance for national security with mining effects, whose qualification will be made by law, they may be subject to administrative concessions or special operating contracts, with the requirements and under the conditions established by the laws of the matter, for each case.

The mineral resources existing in the soil and in the subsoil of the national territory belong to the State, which exercises absolute, inalienable and imprescriptible control over them. The State guarantees equal rights and obligations for national and foreign investors.

Geothermal resources are national heritage.

Annex I Entry 40 – Elaboration of Maps and Technical Scientific Studies

Sector: Elaboration of Maps and Technical Scientific Studies

Obligations Concerned: Market Access (Article 8.4)

Level of Government: Central

Measures: Political Constitution of the Republic of Nicaragua with its Incorporated amendments, published in Gazette No. 32 of February 18, 2014 and its C onsolidated Text, Political Constitution of the Republic of Nicaragua, approved on October 27, 2021, published in La Gaceta, Diario Oficial, No. 181 of September 28, 2022.

Law No. 311 Organic Law of the Nicaraguan Institute of Territorial Studies (INETER), published in La Gaceta, Diario Oficial, No. 143, of July 28, 1999 and its Regulations to Law No. 311, Organic Law of the Nicaraguan Institute of Territorial Studies (INETER) Executive Decree No. 120-99, published in La Gaceta, Diario Oficial, No. 229, of November 30, 1999, and its amendments.

Description: Cross-Border Trade in Services

The Nicaraguan Institute of Territorial Studies (Instituto Nicaraguense de Estudios Territoriales - INETER) is responsible for developing, updating, editing and publishing official, cadastral, urban and rural maps, as well as thematic maps and hydrographic, nautical and aeronautical charts of the country at different scales.

Annex I Entry 41 – Lottery

Sector: Lottery

Obligations Concerned: Market Access (Article 8.4)

Level of Government: Central

Measures: Decree No. 2-95 Creation of the National Lottery, published in La Gaceta, Diario Oficial, No. 34 of February 17, 1995, as amended.

Decree No.06-2001, Provisions on the National Lottery, published in La Gaceta, Diario Oficial, No.28 of February 8, 2001, with its amendments and its Operating Regulations, published on March 23, 2004 in La Gaceta, Diario Oficial, No. 58.

Description: Cross-Border Trade in Services

Only the State can operate lotteries and games ofchance directly and for charitable purposes.

Only the National Lottery, a State-owned company, can carry out lottery administration and distribution activities.

Annex I Entry 42 - Ports

Sector: Ports

Obligations Concerned: Market Access (Article 8.4)

Level of Government: Central

Measures: Law No. 838, General Law of Ports of Nicaragua, published in La Gaceta, Diario Oficial, No. 92 of May 21, 2013 and its Consolidated Text, General Law of Ports of Nicaragua, Law No. 838, approved on September 2, 2020, published in La Gaceta, Diario, Oficial, No. 17 of January 26, 2021.

Description: Cross-Border Trade in Services

The administration and operation of the ports of national interest is reserved to the National Port Company (Empresa Portuaria Nacional - EPN).

The EPN is the Administering Authority of the state national port system, which includes all public ports. It is the administrative entity of the state-owned ports and the contracts of the ports granted by the State of Nicaragua according to the procedure of Law 838, in which are carryout activities of international transport of goods or passengers, as well as in those of local interest under its administration and control; and in those that can develop or promote in the future.

The President of the Republic, through the EPN and for reasons of strategic interest, may grant concessions or association, construction and operation of new ports for public use prior technical approval of the DGTA to public or private legal entities, nationals or foreign, after consultation and approval, where appropriate, with municipalities and regional councils on the Caribbean Coast, where the port is positioned.

The concessions and contracts for the exploitation and port development that grants the State in the Autonomous Regions of the Caribbean Coast shall be processed in accordance with the provisions of the Political Constitution of the Republic of Nicaragua and the relevant laws of the matter.

When the investment is to develop in the territory of the Autonomous Regions, the legal instrument to be signed between the National Port Company and the investor must count with the approval of the Regional Council as established in the Political Constitution of the Republic of Nicaragua.

The concession contracts or lease shall be governed exclusively by the laws of the Republic of Nicaragua. The disputes that may arise by reason of the interpretation or application of the contract shall be subject to:

1) Amicable settlement between the parties;

2) Mediation before the address of alternate resolution of conflict in the Supreme Court of Justice; or

3) Arbitration, in accordance with the laws of the Republic of Nicaragua.

Annex I Entry 43 – Postal Services

Sector: Postal Services

Obligations Concerned: Market Access (Article 8.4)

Level of Government: Central

Measures: Law No. 758, General Law of Posts and Postal Services of Nicaragua, published in La Gaceta, Diario Oficial, No. 96 and 97 of May 26, 2011 and its C onsolidated Text, published in La Gaceta, Diario Oficial, No. 242 of December 18, 2019.

Description: Cross-Border Trade in Services

The issuance, financing and commercialization of postage stamps, as well as the use of franking machines and other analogous systems, is reserved to the

Nicaragua Post Company (Empresade Correos de Nicaragua).

Annex II. SCHEDULE OF CHINA

Explanatory Notes

1. The Schedule of China to this Annex sets out, pursuant to Article 8.6 (Non- Conforming Measures) and Article 11.10 (Non-Conforming Measures), the specific sectors, subsectors, or activities for which China may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

(a) Article 11.2 (National Treatment) or Article 8.2 (National Treatment);

(b) Article 11.3 (Most-Favored-Nation Treatment) or Article 8.3 (Most- Favored -Nation Treatment);

(c) Article 11.8 (Performance Requirements);

(d) Article 11.9 (Senior Management and Boards of Directors);

(e) Article 8.4 (Market Access); or

(f) Article 8.5 (Local Presence).

2. Each Schedule entry sets out the following elements:

(a) Sector refers to the sector for which the entry is made;

(b) Subsector refers to the specific sub-sector with which the entry is concerned if mentioned.

(c) Obligations Concerned specifies the article(s) referred to in paragraph 1 that, pursuant to Article 8.6.1(a) (Non-Conforming Measures) and Article 11.10.1(a) (Non-Conforming Measures), do not apply to the sectors, subsectors, or activities scheduled in the entry;

(d) Description sets out the scope of the sectors, subsectors, or activities covered by the entry; and

(e) Existing Measures identifies, for transparency purposes, existing measures that apply to the sectors, subsectors, or activities covered by the entry.

3. In accordance with Article 8.6.2 (Non-Conforming Measures) and Article 11.10.2 (Non-Conforming Measures), the articles of this Agreement specified in the Obligations Concerned element of an entry do not apply to the sectors, subsectors, or activities identified in the Description element of that entry.

4. For the purposes of the Schedules of China to this Annex, “foreign investor” means any investor of the other Party or a non-Party.

Annex II Entry 1 – Social Services

Sector: Social Services

Obligations Concerned: National Treatment (Article 11.2 and Article 8.2) Most-Favored-Nation Treatment (Article 11.3 and Article 8.3) Performance Requirements (Article 11.8) Senior Management and Boards of Directors (Article 11.9) Market Access (Article 8.4) Local Presence (Article 8.5)

Description: Investment and Cross-border Trade in Services

China reserves the right to adopt or maintain any measure in the following areas: provision of law enforcement and correctional services, provision of social services established or maintained for public purposes, including: social security or social insurance, social welfare (1), public education, public training, health and child care (2).

(1) For greater certainty, social welfare includes protection of interests of the group of preferential treatment, households enjoying the minimum living guarantee, aged people, the disabled and children.

(2) This entry does not apply to Services for the aged (part of CPC 93311 and 93323) which is listed in Annex II Appendix A.

Annex II Entry 2 – Atomic Energy

Sector: Atomic Energy

Obligations Concerned: National Treatment (Article 11.2) Most-Favored-Nation Treatment (Article 11.3) Performance Requirements (Article 11.8) Senior Management and Boards of Directors (Article 11.9)

Description: Investment

China reserves the right to adopt or maintain any measure with respect to the storage, transportation and reprocessing of spent fuels, decommissioning of nuclear facilities and disposal of radioactive wastes, as well as nuclear import business.

Annex II Entry 3 – Ethnic Minorities

Sector: Ethnic Minorities (1)

Obligations Concerned: National Treatment (Article 11.2 and Article 8.2) Most-Favored-National Treatment (Article 11.3 and Article 8.3) Performance Requirements (Article 11.8) Senior Management and Boards of Directors (Article 11.9) Market Access (Article 8.4) Local Presence (Article 8.5)

Description: Investment and Cross-border Trade in Services

China reserves the right to adopt or maintain any measure that grants rights or preferences to places which are ethnic minorities areas (2) with the view to balance economic development and maintain social justice.

(1) For the purpose of this entry, "ethnic minorities" refer to 55 non-Han minorities that have less population than Han nationality in 56 ethnic nationalities identified and recognized by the Chinese central government.

(2) For the purpose of this entry, "ethnic minority areas" refers to:

(a) autonomous regions, prefectures and counties as set forth in the Constitution Law of the People's Republic of China and the Law on Regional Ethnic Autonomy;

(b) ethnic townships and towns inhabited by ethnic minorities according to Regulations on the Administrative Work of Ethnic Townships approved by the State Council; and

(c) the three provinces of Yunnan, Guizhou, and Qinghai.

Annex II Entry 4–Traditional Crafts

Sector: Traditional Crafts and Chinese Traditional Medicine

Obligations Concerned: National Treatment (Article 11.2) Most-Favored-Nation Treatment (Article 11.3) Performance Requirements (Article 11.8) Senior Management and Boards of Directors (Article 11.9)

Description: Investment

China reserves the right to adopt or maintain any measure with respect to the traditional crafts (1) including production of rice paper and ink stick.

(1) For the purpose of this entry, "traditional crafts" refers to the crafts and related products which have historical inheritance and ethnic or regional characteristics, closely related to daily life, mainly using manual labor for production. As a customized production using creative manual labor and distinctive skills based on materials, it has the characteristics that industrial production can not replace.

Annex II Entry 5–Protection of Biological Resources

Sector: Protection of Biological Resources (1)

Obligations Concerned: National Treatment (Article 11.2 and Article 8.2) Performance Requirements (Article 11.8) Market Access (Article 8.4) Most-Favored-Nation Treatment (Article 8.3) Local Presence (Article 8.5)

Description: Investment and Cross-border Trade in Services

China reserves the right to adopt or maintain any measure with respect to the collection, acquisition and development of biological resources (2) (including human, animal, plant and microbe resources) under national protection.

(1) For greater certainty, this entry does not affect the commitments of China in the biological resources sector as set out in Annex 1 Entry 1-Seed Industry of China's schedule.

(2) For the purpose of this entry, biological resources includes genetic resources, organisms or parts thereof, populations, or any other biotic component of ecosystems with actual or potential use or value for humanity。

Annex II Entry 6 –All Sectors

Sector: All Sectors

Obligations Concerned: National Treatment (Article 11.2) Most-Favoured-Nation Treatment (Article 11.3) Prohibition of Performance Requirements (Article 11.8) Senior Management and Board of Directors (Article 11.9)

Measures: - Law of the People's Republic of China on the Administration on Activities of Overseas Non-Governmental Organisations within the Territory of China (2016);

- Regulations on the Administration of Foundations (2004), Article 6, Article 13, Article 23 and Article 24.

Description: Investment

China reserves the right to adopt or maintain the following measures with respect to non-government organizations (including but not limited to private non-enterprise units, social groups, foundations, foreign non-government organizations and other civil social organizations and their representative institutions).

Annex II Entry 7–Land

Sector: Land

Obligations Concerned: National Treatment (Article 11.2)

Most-Favored-Nation Treatment (Article 11.3) Performance Requirements (Article 11.8)

Senior Management and Boards of Directors (Article 11.9)

Measures: Land Administration Law (2019 Amended), Article 2, Article 4 of Chapter1, Chapters 2, 4, and 5;

Forestry Law (2019 Amended), Chapters 2 and 6;

Grassland Law (2013), Article 10, Article 11, Article 13;

Fisheries Law (2013 Amended), Article 8;

Law on the Contracting of Rural Land (2018 Amended).

Description: Investment

China reserves the right to adopt or maintain any measure with

respect to restricting foreign investors and their investments in the use or contracted management of agricultural land (1).

(1) For the purpose of this entry, agricultural land refers to the land directly used for agricultural production, including arable land, forest land, grass land, land for farm and water conservancy, waters for aquaculture, etc.

Annex II Entry 8 –All Sectors

Sector: All Sectors (state-owned assets) (1)

Obligations Concerned: National Treatment (Article 11.2 and Article 8.2) Performance Requirements (Article 11.8) Senior Management and Board of Directors (Article 11.9) Market Access (Article 8.4) Local Presence (Article 8.5)

Description: Investment and Cross-Border Trade in Services

China reserves the right to adopt or maintain any measure with respect to the evaluation, transfer and disposition of state-owned assets. (2)

(1) For greater certainty, this entry does not apply to the evaluation, transfer or disposition of assets which are no longer state-owned assets after being transacted.

(2) For the purpose of this entry, state-owned assets refer to the rights and interests by virtue of all forms of investments directly or indirectly made by the State in an enterprise.

Annex II Entry 9–All Sectors

Sector: All Sectors

Obligations Concerned: Most-Favored-Nation Treatment (Article 11.3 and Article 8.3)

Description: Investment and Cross-Border Trade in Services

With respect to Cross-Border Trade in Services and the establishment, acquisition, and expansion of investments:

(a) China reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.

(b) China reserves the right to adopt or maintain any measures that accords differential treatment to the parties under any existing or future bilateral or multilateral international agreement which liberalises service in accordance with Article V of General Agreement of Trade in Services (GATS) or liberalises investment provided the agreement has substantial sector coverage in terms of number of sectors, and provides for the absence or elimination of substantially all discrimination in the covered sectors either at the entry into force of that agreement or on the basis of a reasonable time-frame.

(c) China reserves the right to adopt or maintain any measure that accords differential treatment to countries under any international agreement in force or signed after the date of entry into force of this Agreement involving:

(i) Aviation;

(ii) Fisheries;

(iii) Maritime matters, including rescue

(iv) Telecommunication;

(v) Education Services; and

(vi) Cultural Services.

Annex II Entry 10–All Sectors

Sector: All Sectors

Obligations Concerned: National Treatment (Article 11.2 and Article 8.2) Most-Favored-Nation Treatment (Article 11.3 and Article 8.3) Performance Requirements (Article 11.8) Senior Management and Board of Directors (Article 11.9) Market Access (Article 8.4) Local Presence (Article 8.5)

Description: Investment and Cross-border Trade in Services

China reserves the right to adopt or maintain any measure with respect to any special arrangement or favorable treatment for any investor, as well as any investment thereof, and service supplier from (1) Hong Kong, China; (2) Macao, China; and (3) Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei) .

Annex II Entry 11 – Lottery

Sector: Lottery and Gambling Services

Obligations Concerned: National Treatment (Article 11.2 and Article 8.2) Market Access (Article 8.4) Performance Requirements (Article 11.8) Senior Management and Board of Directors (Article 11.9) Local Presence (Article 8.5)

Measures: Regulations on Lottery management (2009).

Description: Investment and Cross-border Trade in Services

China reserves the right to adopt or maintain any measure with respect to the lottery sector.

Annex II Entry 12 – Gambling Services

Sector: Lottery and Gambling Services

Obligations Concerned: National Treatment (Article 8.2) Market Access (Article 8.4) Local Presence (Article 8.5)

Description: Cross-border Trade in Services

China reserves the right to adopt or maintain any measure with respect to the gambling sector.

Annex II Entry 13– Services related to Religion

Sector: Services related to religion

Obligations Concerned: National Treatment (Article 8.2) Market Access (Article 8.4) Most Favored Nation Treatment (Article 8.3) Local Presence (Article 8.5)

Description: Cross-border Trade in Services

China reserves the rights to adopt or maintain any measure with respect to services and activities related to religion.

Annex II Entry 14– Culture

Sector: Culture

Obligations Concerned: National Treatment (Article 11.2 and Article 8.2) Market Access (Article 8.4) Most Favored Nation Treatment (Article 11.3 and Article 8.3) Local Presence (Article 8.5) Performance Requirements (Article 11.8) Senior Management and Boards of Directors (Article 11.9)

Description: Cross-border Trade in Services and Investment

1. China reserves the right to adopt or maintain any measure in the following areas:

(a) The editing, publication, and production of books, newspapers, periodicals, audio and video products and electronic publication;

(b) Radio and television broadcasting and transmitting services, production and operation business of radio and television programs (1) , video on demand services, radio station, television station, radio and television channel (rate), radio and television transmission coverage network;

(1) including production, introduction and purchase radio and television programs.

(c) The production, distribution, cinema line and introduction of films;

(d) The protection of cultural relics and intangible cultural heritage;

(e) Literary and artistic creation and performance, grade test of social art skills;

(f) Network publication, network audio and visual and Internet culture operation (2);

(2) In accordance with Administrative Provisions on Online Publishing Services, Administrative Provisions on Network Audio and Visual Program Services, Interim Administrative Provisions on Internet Culture.

(g) Public culture (1).

(1) For greater certainty, public culture includes the establishment and operation of culture pavilion, library, fine art museum, culture center, museums, and foreign culture exchanges.

2. Chinese control is required for investments by foreign investors in investigations of television or broadcast audience ratings.

3. The reservation under this entry does not affect China's commitments under General Agreement of Trade in Services (GATS).

Annex II Entry 15– Research and Experimental Development Services on Social Sciences and Humanities

Sector: Research and Experimental Development Services on Social Sciences and Humanities (1)

Obligations Concerned: National Treatment (Article 11.2 and Article 8.2) Market Access (Article 8.4) Most Favored Nation Treatment (Article 11.3 and Article 8.3) Local Presence (Article 8.5) Performance Requirements (Article 11.8) Senior Management and Boards of Directors (Article 11.9)

Description: Cross-border Trade in Services and Investment

China reserves the right to adopt or maintain any measure with respect to Research & Development Services on Social Sciences and Humanities.

(1) Research and experimental development services on social sciences and humanities means the services under CPC 852 in accordance with the 1991 Provisional Central Product Classification of the United Nations Statistical Office CPC, including R&D services on cultural sciences,

sociology and psychology (CPC 85201), R&D services on economicsCPC 85202, R&D services on lawCP C85203, R&D services on linguistics and languagesCPC85204and R&D services on other social sciences and humanitiesCPC 85209.

Annex II Entry 16– Internet Security

Sector: Internet Services

Obligations Concerned: National Treatment (Article 8.2) Market Access (Article 8.4) Most Favored Nation Treatment (Article 8.3) Local Presence (Article 8.5)

Description: Cross-border Trade in Services

China reserves the right to adopt or maintain any measure according to the Cybersecurity Law of the People's Republic of China and related laws and regulations.

Annex II Entry 17– All Sectors

Sector: All Sectors

Obligations Concerned: National Treatment (Article 11.2 and Article 8.2) Most Favored Nation Treatment (Article 11.3 and Article 8.3) Performance Requirements (Article 11.8) Senior Management and Boards of Directors (Article 11.9) Market Access (Article 8.4) Local Presence (Article 8.5)

Description: Investment and Cross-border Trade in Services

1. China reserves the right to adopt or maintain any measure with respect to new industries and new services.

2. China shall notify prior to adopting a measure with respect to new service or a new industry inconsistent with the above-mentioned obligations. At the request of either Party, the Parties shall enter into negotiations with regard to the liberalisation commitments for the new service or new industry.

3. For the purposes of this entry:

(a) The term "new industry" means an economic activity that at the date of entry into force of the Agreement is:

(i) not currently in existence in the territory of either Party; and

(ii) an existing economic activity not covered or defined in the International Standard Industrial Classification of All Economic Activities (ISIC), Rev.4 ("ISIC Rev.4").

(b) The term "new services" means a service that at the date of entry into force of the Agreement is:

(i) not currently in existence in the territory of a Party; and

(ii) an existing service not covered or defined in the 1991

Provisional Central Product Classification of the United Nations Statistical Office (CPC).

4. For greater certainty, this entry does not apply to a service or economic activity that could be classified in the ISIC Rev.4 or the CPC, but that could not previously be supplied on a cross-border basis due to lack of technical feasibility.

Annex II Entry 18– Technical Consulting Servicesexploration and exploitation of natural resource

Sector: Technical Consulting Services, exploration and exploitation of natural resource

Obligations Concerned: National Treatment (Article 8.2) Market Access (Article 8.4) Local Presence (Article 8.5)

Measures: Provisions on Administration of Foreign-related Marine Scientific Research (1996);

Provisions Governing the Laying of Submarine Cables and Pipelines (1989);

Law on Exclusive Economic Zone and the Continental Shelf (1998); Mineral Resources Law (2009 Amended), Article 3, 16;

Regulation of the People’s Republic of China on the Hydrology (2017).

Description: Cross-border Trade in Services

1. China reserves the right to adopt or maintain any measure with respect to surveying and mapping, meteorology,

hydrology, seismic monitoring, marine scientific research, laying of submarine cables and pipelines, etc. within the territory, territory airspace, and the sea areas under the jurisdiction of China. China reserves the right to adopt or maintain any measure with respect to natural resource exploration and development within the sea areas under the jurisdiction of China.

2. This reservation does not apply to obligation under Article 8.4 (Market Access) or Article 8.2 and Article 11.2 (National Treatment) in respect of a service provided by mode (1) and mode (2) in the following sectors:

(a) Related scientific technical consulting services (CPC 8675):

(i) Offshore oil-field services, geological, geophysical and other scientific prospecting services (CPC 86751), and

(ii) Sub-surface surveying services (CPC 86752); and

(b) Onshore oil-filed services.

3. For the purposes of this Entry: mode (1) refers to the supply of a

service from the territory of one Party into the territory of the other Party;mode (2) refers to the supply of a service in the territory of one Party by a person of that Party to a person of the other Party.

Annex II Entry 19– Education

Sector: Education

Obligations Concerned: National Treatment (Article 8.2) Market Access (Article 8.4)

Local Presence (Article 8.5)

Description: Cross-border Trade in Services

China reserves the right to adopt or maintain any measure with respect to any cross-border educational services (1).

(1) Notwithstanding this entry, China shall not adopt or maintain any measure that is inconsistent with its obligation under the GATS, including those under Article XVI and Article XVII.

Annex II Entry 20 – Tourism

Sector: Tourism and Travel Related Services

Obligations Concerned: National Treatment (Article 11.2 and Article 8.2) Performance Requirements (Article 11.8) Most-Favored-Nation Treatment (Article 11.3 and Article 8.3) Market Access (Article 8.4)

Description: Investment and Cross-border Trade in Services

China reserves the right to adopt or maintain any measure with respect to foreign-invested enterprises' travel agencies and tour operators engaging in the activities of Chinese travelling abroad and to Hong Kong China, Macao China and Chinese Taipei (1).

(1) This entry does not apply to Hotels (including apartment buildings) and Restaurants (CPC 641-643) and Travel Agency and Tour Operator (CPC 7471) which are listed in Annex II Appendix A.

Annex II Entry 21– Air Transportation

Sector: All Sectors

Obligations Concerned: National Treatment (Article 11.2 and Article 8.2) Most Favored Nation Treatment (Article 11.3 and Article 8.3) Performance Requirements (Article 11.8) Senior Management and Boards of Directors (Article 11.9) Market Access (Article 8.4) Local Presence (Article 8.5)

Measures: Civil Aviation Law of the People's Republic of China (2021); Relevant Bilateral Air Agreements;

Interim Provisions on the Licensing of the Direct Access to and Use of Foreign Computer Reservation Systems by the Sales Agents within the Chinese Territory Designated by Foreign Air Transportation Enterprises 2016

Provisions on Permission for Using Transport Airports2022

Rules on Air Traffic Control of China's Civil Aviation 2017

Rules for Managing the Air Traffic Control Training in Civil Aviation2016

Rules for the Administration of Civil Aviation Intelligence Training2016.

Description: Investment and Cross-border Trade in Services

1. China reserves the right to adopt or maintain any measure affecting cross-border supply of:

(a) aircraft repair and maintenance services (CPC 8868);

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

(c) computer reservation system (CRS) services.

2. This reservation does not apply to obligations under Article 8.4 (Market Access) or Article 8.2 and Article 11.2 (National Treatment) in respect of the supply of a service:

(a) by mode (1) and mode (2) in respect of rental / leasing services relating to aircraft without operators;

(b) by mode (2) in respect of the following services:

(i) computer reservation system (CRS) services;

(ii) aircraft repair and maintenance services (CPC 8868); or

(c) by mode (1) in respect of computer reservation system (CRS) services, based on the following limitations:

- Foreign Computer Reservation System, may provide services to Chinese aviation enterprises and Chinese aviation agents by connecting with Chinese Computer Reservation System,

- Foreign Computer Reservation System may provide services to representative offices and sales offices established in the destination cities in China by foreign aviation enterprises which have the right to engage in business according to the bilateral aviation agreements, and

- Direct access to and use of foreign Computer Reservation System by Chinese aviation enterprises and agents of foreign aviation enterprises are subject to approval of the General Administration of Civil Aviation of China (CAAC).

3. For the purposes of this Entry: mode (1) refers to the supply of a service from the territory of one Party into the territory of the other Party; mode (2) refers to the supply of a service in the territory of one Party by a person of that Party to a person of the other Party.

4. China reserves the right to adopt or maintain any measure affecting investments in air transport and air transport-related services.

5. This reservation does not apply to obligations under Article 8.4 (Market Access) or Article 8.2 and Article 11.2 (National Treatment) in respect of investments:

(a) in Computer Reservation System (CRS) services, based on the following limitations:

(i) foreign service suppliers are permitted to establish partly foreign-invested enterprises with Chinese Computer Reservation System in China.

(ii) The Chinese side shall hold controlling shares or be in a dominant position in the enterprises.

(iii) Licenses for the establishment of enterprises are subject to economic needs test;

(b) in Aircraft Repair and Maintenance services (CPC 8868), based on the following limitations:

(i) foreign service suppliers are permitted to establish partly foreign-invested aircraft repair and maintenance enterprises in China. The Chinese side shall hold controlling shares or be in a dominant position in the partly foreign-invested enterprises;

(ii) the partly foreign-invested enterprises have the obligation to undertake business in the International market.

(c) in rental / leasing services relating to aircraft without operators, based on the following limitations:

(i) wholly foreign-owned subsidiaries are permitted;

(ii) service suppliers shall have global assets of US$ 5 million.

Annex II Entry 22– Air Transportation

Sector: All Sectors

Sub-Sector: Air Transport Services-Passengers Transportation by Air Freight Transportation by Air

Obligations Concerned: National Treatment (Article 11.2 and Article 8.2) Most Favored Nation Treatment (Article 11.3 and Article 8.3) Performance Requirements (Article 11.8) Senior Management and Boards of Directors (Article 11.9) Market Access (Article 8.4) Local Presence (Article 8.5)

Description: Investment and Cross-Border Trade in Services

China reserves the right to adopt or maintain any measure relating to requirements of China's bilateral and multilateral air services agreements.

Annex II Entry 23 – Foreign Debts

Sector: Financial Services

Obligations Concerned: National Treatment (Article 11.2 and Article 8.2) Market Access (Article 8.4) Financial Services Cross-border Trade (Article 9.5)

Level of Government: Central

Description: Investment and Cross-border Trade in Services

China reserves the right to adopt or maintain any measures with regard to the borrowing of foreign debts by domestic enterprises and individuals pursuant to the foreign debt administration regime.

Annex II Entry 24–Import and Export

Sector: Wholesale - Import and Export

Obligations Concerned: National Treatment (Article 11.2)

Level of Government: Central

Measures: Foreign Trade Law of the People's Republic of China (2016), Article 11;

Regulation of the People's Republic of China on the Administration of the Import and Export of Goods (2001), Article 45.

Description: Investment

The import or export of the following goods into or outside China are subject to state trading administration, and Chinese government reserves the right to determine and announce to public the list of the enterprises that may engage in the import state trading or export state trading:

(a) Goods of which the import is subject to state trading administration refer to the goods listed in Annex 2A1 to the Protocol on the Accession of the People's Republic of China (WT/L/432), excluding vegetable oil;

(b) Goods of which the export is subject to the state trading administration refer to the goods as listed in Annex 2A2 to the Protocol on the Accession of the People's Republic of China (WT/L/432) and tobacco monopoly products, excluding yarn and non-bleached yarn.

Annex II Entry 25 – All sectors

Sector: All sectors

Obligations Concerned: Most-Favored-Nation Treatment (Article 8.3) National Treatment (Article 8.2) Market Access (Article 8.4)

Description: Cross-border Trade in Services

China reserves the right to adopt or maintain any measure with respect to the supply of service by the presence of natural persons, or other movement of natural persons, including immigration, entry or temporary stay, subject to the provisions of Chapter 10 (Temporary Entry for Business Person).

Annex II Entry 26– All Sectors

Sector: All Sectors (not including Financial Services)

Obligations Concerned:

Market Access (Article 8.4)

Description: Cross-border Trade in Services

China reserves the right to adopt or maintain any measure affecting trade in services through commercial presence of a Nicaraguan service supplier in its territory that is not consistent with Article 8.4Market Access), except for China's commitments under Article XVI of General Agreement on Trade in Services (GATS) as set out in China's Schedule of Specific Commitments under GATS and China's modifications in the Appendix A.

Appendix A.

For the following Sectors, China's Obligations under Article XVI of the General Agreement on Trade in Services as set out in China's Schedule of Specific Commitments under the General Agreement on Trade in Services (GATS) (GATS/SC/135, GATS/SC/135/Corr.1, GATS/SC/135/Corr.2) are improved as described.

Sector/Subsector	**Market Access Improvements**
1. BUSINESS SERVICES	
A. Professional Services	
a. Legal Services (CPC 861, excluding Chinese law practice)	For mode 3 limitations: The geographic and quantitative limitations for representative offices are eliminated for mode 3.
c. Taxation services (CPC 8630)	Modify mode 3 limitations as "None"
d. Architectural services (CPC 8671) e. Engineering services (CPC 8672) f. Integrated engineering services (CPC 8673)	Modify mode 3 limitations as "None"
g. Urban planning services (except general urban planning) (CPC 8674)	Modify mode 3 limitations as "None".
B. Computer and Related Services (Computer and related services do not cover the economic activity consisting of the provision of content services which require computer and related services as a means of	

supply)	
b. Software implementation services (CPC 842) c. Data processing services (CPC 843) - Input preparation services (CPC 8431)	Modify mode 3 from “Only in the form of joint ventures, with foreign majority ownership permitted” to “Wholly Foreign-owned enterprises are allowed”.
- Maintenance and repair services of office machinery and equipment including computers (CPC 845 and 886)	Modify mode 3 limitations as follows: “Wholly foreign-owned subsidiaries are permitted”.
D. Real Estate Services	
a. Real estate services involving own or leased property (CPC 821)	Modify mode 3 from “None except for the following: Wholly foreign-owned enterprises are not permitted for high standard real estate projects, such as apartments and office buildings, but excluding luxury hotels” to “None”.
b. Real estate services on a fee or contract basis (CPC 822)	Modify mode 3 from “Only in the form of joint ventures, with foreign majority ownership permitted” to “None”.
E. Rental and leasing services (CPC 831, 832, excluding CPC 83202)	Insert new commitments with “Wholly foreign-owned enterprises are allowed. Foreign service suppliers are required to have global assets of US$ 5 million.”for mode 3.
F. Other Business Services	
a. Advertising Services (CPC 871)	Modify mode 3 limitations as “None”.
b. Market research services (CPC 86401, only limited to investigation services designed to secure information on the prospects and performance of an organization’s products in the market)	Insert new commitments with “Only in the form of partly foreign-invested enterprises, partly foreign-invested enterprises with foreign majority ownership are permitted. Economic needs tests are required” for mode 3.
c. Management Consulting services (CPC 865)	Modify mode 3 limitations as follows: “Wholly foreign-owned subsidiaries are permitted”.
d. Services related to management consulting (only limited	

to the following sub-sector)- Project management services other than for construction (CPC 86601)	Insert new commitments with “Only partly foreign-invested enterprises with foreign majority ownership are permitted. Economic needs tests are required” for mode 3.
e. Technical testing and analysis services (CPC 8676) and freight inspection covered by CPC 749, excluding statutory inspection services for freight inspection services	Modify mode 3 limitations as “None”.
g. Services incidental to manufacturing (CPC 884, 885, except for 88442, and excluding prohibited or restricted industries for foreign service suppliers by Chinese laws and regulations, and excluding services China considers relating to its national security interests.).	Insert new commitments with “Wholly foreign- owned subsidiaries are allowed” for mode 3.
h. Placement and supply services of Personnel (CPC 872)	Insert new commitments with “None” for mode 3.
m. Related scientific and technical consulting services (CPC 8675) - Geological, geophysical (excluding regional gravity and magnetism prospecting services) and other scientific prospecting services (CPC 86751) - Sub-surface surveying services (CPC 86752)	Modify mode 3 limitations as “None”.
- Onshore oil-field	mode 3 limitations as follows: “For domestic and foreign invested enterprises established in China with net assets of less than 300 million yuan: Only in the form of petroleum exploitation in cooperation with China National Petroleum Corp. (CNPC) or China Petroleum & Chemical Corporation (SINOPEC) in the designated areas approved by the Chinese government. In order to carry out the petroleum contract, the foreign service supplier shall establish a branch, subsidiary or representative office within the territory of the People's Republic of China and go through registration formalities in accordance with the laws. The domiciles of the said offices shall be determined through consultation with

services Modify	CNPC or SINOPEC. The foreign service supplier shall open its bank account with a bank approved by the Chinese authorities to engage in foreign exchange business within the Chinese territory. For domestic and foreign invested enterprises established in China with net assets of no less than 300 million yuan: engage in oil and gas exploration and exploitation shall in compliance with safety, environmental protection and other qualification requirements and regulations, and with corresponding technical capabilities for oil and gas exploration and exploitation, could gain oil and gas exploration and exploitation rights independently."
- Maintenance and repair services (CPC 633, 6112 and 6122).	Modify mode 3 limitations as follows: "Wholly foreign-owned subsidiaries are permitted".
o. Building-cleaning services (CPC 874)	Insert new commitments with "Wholly foreign- owned enterprises are permitted" for mode 3.
q. Packaging services (CPC 876)	Modify mode 3 limitations as follows: "None".
r. Printing of packaging materials, on a fee or contract basis (Only limited to the printing of packaging materials)	Insert new commitments with "Wholly foreign-owned enterprises are permitted. Economic needs tests are required" for mode 3.
t. Translation and interpretation services (CPC 87905)	Modify mode 3 limitations as follows: "Wholly foreign-owned enterprises are permitted".
2. COMMUNICATION SERVICES	
B. Courier Services (CPC 75121, except for those specifically reserved to Chinese postal authorities by the related law at the time of China's accession to WTO on December 11th 2001)	Modify mode 3 limitations as follows: "Wholly foreign-owned subsidiaries are permitted" .
C. Telecommunication Services. Value-added Services Including the following: (h) Electronic mail (i) Voice mail (j) On-line information and database retrieval (k) Electronic data interchange (l) Enhanced/Value-added facsimile services (including store and	Modify mode 3 limitations as follows: "Foreign service suppliers are permitted to establish partly foreign-invested value-added telecommunication enterprises, and foreign investment in the enterprises shall be no more than 50 per cent."

forward, store and retrieve) (m) Code and protocol conversion (n) On-line information and/or data processing (including transaction processing)	
Basic Telecommunication Services - Paging Services	Modify mode 3 limitations as follows: “Foreign service suppliers are permitted to establish partly foreign-invested enterprises with foreign equity participation of no more than 50 per cent”.
Mobile Voice and Data Services: - Analogue / Digital / Cellular Services - Personal Communication Services	Modify mode 3 limitations as follows: “Foreign service suppliers are permitted to establish partly foreign-invested enterprises only, and foreign investment in the enterprises shall be no more than 49 per cent”.
- Domestic Services a. Voice services b. Packet-switched data transmission services c. Circuit-switched data transmission services f. Facsimile services g. Domestic private leased circuit services - International Services a. Voice services b. Packet-switched data transmission services c. Circuit-switched data transmission services f. Facsimile services g. International closed user group voice and data services (use of private leased circuit service is permitted)	Modify mode 3 limitations as follows: “Foreign service suppliers are permitted to establish partly foreign-invested enterprises only, and foreign investment in the enterprises shall be no more than 49 per cent”.
3. CONSTRUCTION AND RELATED ENGINEERING SERVICES	
(CPC 511, 512, 513 (1), 514, 515, 516, 517, 518 (2))	Modify mode 3 limitations as “None” .

(1) Including dredging services relating to infrastructure construction.

(2) Coverage of CPC 518 is limited only to the rental and leasing services of construction and/or demolition machines with operator which are owned and used by foreign construction enterprises in their supply of services.

Sector/Subsector	Market Access Improvements
4. DISTRIBUTION SERVICES	
A. Commission Agents' Services (excluding salt, tobacco) B. Wholesale Trade Services (excluding salt, tobacco)	Modify mode 3 limitations as follows: "None".
C. Retailing Services (excluding tobacco)	Modify mode 3 limitations as follows: "Wholly foreign-owned enterprises are permitted, except for: - chain stores which sell products of different types and brands from multiple suppliers with more than 30 outlets. For such chain stores with more than 30 outlets, foreign majority ownership will not be permitted if those chain stores distribute any of the following products: books, newspapers, magazines, pharmaceutical products, pesticides,mulching films, processed oil, chemical fertilizers and products listed in Annex 2A (Products Subject to State Trading) of the Protocol of China's WTO Accession. The foreign chain store operators will have the freedom of choice of any partner, legally established in China according to China's laws and regulations" .
D. Franchising	Modify mode 3 limitations as: "None".
E. Wholesale or retail trade services away from a fixed location.	Modify mode 3 limitations as: "None (1)".

(1) See paragraph 310 of the Working Party Report on the Accession of China to the WTO.

Sector/Subsector	Market Access Improvements
6. ENVIRONMENTAL SERVICES (excluding environmental quality monitoring and pollution source inspection)	
A. Sewage Services (CPC 9401) B. Solid Waste Disposal Services (CPC 9402) C. Cleaning Services of Exhaust Gases (CPC 9404) D. Noise Abatement Services (CPC 9405) E. Nature and Landscape Protection Services (CPC 9406 excluding the construction and operation of natural reserves and Ramsar sites) G. Sanitation Services (CPC 9403)	Modify mode 3 from "Foreign services suppliers engaged in environmental services are permitted to provide services only in the form of joint ventures, with foreign majority ownership permitted" to "None".

8. HEALTH RELATED AND SOCIAL SERVICES	
C. Social Services - Services for the aged (part of CPC 93311 and 93323)	Insert new mode 3 commitments as follows: “Service suppliers of a Party are permitted to establish wholly foreign-owned profit-making institutions for the aged in China”.
9. TOURISM AND TRAVEL RELATED SERVICES	
A. Hotels (including apartment buildings) and Restaurants (CPC 641- 643)	Modify mode 3 limitations as follows: “Foreign services suppliers may construct, renovate and operate hotel and restaurant establishments in China. Wholly foreign-owned subsidiaries are permitted.”
BTravel Agency and Tour Operator (CPC 7471)	Modify mode 3 limitations as follows: “None”.
10. RECREATIONAL, CULTURAL AND SPORTING SERVICES (other than audiovisual services)	
D. Sporting and other recreational services (Only limited to CPC 96411, 96412, 96413, including yoga, excluding golf & E-Sports)	Insert new commitments with “None” for mode 3.
11. TRANSPORT SERVICES	
A. Maritime Transport Services - International transport (freight and passengers) (CPC 7211 and 7212 less cabotage transport services)	Modify mode 3 limitations as: “None”.
H. Auxiliary Services a. Maritime cargo-handling services (CPC 741) c. Customs clearance services for maritime transport d. Container station and depot services e. Maritime agency services	Modify mode 3 limitations as: “None”.
C. Air Transport Services d. Aircraft repair and maintenance services (CPC 8868)	Delete the limitation of “Licenses for the establishments of joint ventures are subject to economic needs test” for mode 3.
- Computer Reservation System (CRS) services	Modify mode 3 from “unbound” to “Foreign service suppliers are permitted to establish partly foreign-invested enterprises with Chinese Computer Reservation System in China. The Chinese side shall hold controlling shares or be in a dominant position in the enterprises. Licences for the establishment of enterprises are subject to economic needs test”.
Rail Transport Services - Freight	

transportation by rail (CPC 7112) - Supporting services for rail transport services (CPC 743)	Modify mode 3 limitations as: “None”.
E. Road Transport Services - Freight transportation by road in trucks or cars (CPC 7123)	Modify mode 3 limitations as: “None”.
Passenger Transportation - Urban and suburban regular transportation (CPC 71211) - Urban and suburban special transportation (CPC 71212) - Interurban regular transportation (CPC 71213) - Interurban special transportation (CPC 71214)	Insert new commitments with “None” for mode 3.
H. Services Auxiliary to all modes of Transport - Storage and warehousing services (CPC 742)	For mode 3 limitations: The ownership for foreign investment are eliminated for mode 3. Wholly foreign-owned subsidiaries are permitted.
- Freight forwarding agency services (CPC 748)	Modify mode 3 limitations as follows: “Foreign freight forwarding agencies which have at least three consecutive years’ experience are permitted to set up partly foreign-invested freight forwarding agency in China. Wholly foreign-owned subsidiaries permitted. Operation term of the partly foreign-invested enterprises shall not exceed 20 years. After one year operating in China, a partly foreign- invested enterprise can set up branches. A foreign freight forwarding agency may set up a second partly foreign-invested enterprise after its first enterprise has been in operation for two years”.
- Freight inspection covered by CPC 749, excluding statutory inspection services for freight inspection services	Modify mode 3 limitations as follows: “Foreign services suppliers which have been engaged in inspection services in their home countries for more than three years are permitted to establish partly foreign-invested enterprises conducting technical testing, analysis and freight inspection with no less than US$ 350,000 in registered capital. Wholly foreign-owned subsidiaries are permitted.”
12. OTHER SERVICES NOT INCLUDED ELSEWHERE	
- Specialty design services (CPC87907)	Insert new commitments with “None” for mode 3.
- Hairdressing and other beauty services (CPC 9702)	Insert new commitments with “None” for mode 3.

Annex II. SCHEDULE OF NICARAGUA

Explanatory Notes

1. The Schedule of Nicaragua of this Annex sets out, pursuant to Articles 11.10 (Non-Conforming Measures) and 8.6 (Non-Conforming Measures), the specific sectors, sub sectors, or activities for which Nicaragua may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

(a) Articles 11.2 (National Treatment) or 8.2 (National Treatment);

(b) Articles 11.3 (Most-Favored-Nation Treatment) or 8.3 (Most-Favored-Nation Treatment);

(c) Article 8.5 (Local Presence)

(d) Article 11.8 (Performance Requirements);

(e) Article 11.9 (Senior Management and Boards of Directors); or

(f) Article 8.4 (Market Access).

2. Each Schedule entry sets out the following elements:

(a) Sector refers to the sector for which the entry is made;

(b) Obligations Concerned specifies the obligation(s) referred to in paragraph 1 that, pursuant to Articles 11.10 (Non-Conforming Measures) and 8.6 (Non-Conforming Measures), do not apply to the sectors, subsectors, or activities listed in the entry;

(c) Description sets out the scope of the sectors, subsectors, or activities covered by the entry; and

(d) Existing Measures identifies, for transparency purposes, existing measures that apply to the sectors, subsectors, or activities covered by the entry.

3. In accordance with Article 11.10 (Non-Conforming Measures) and 8.6 (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.

Annex II Entry 1 – All Sectors

Sector: All Sectors

Obligations Affected: National Treatment (Articles 8.2 and 11.2) Senior Management and Boards of Directors (Article 11.9)

Government Level: Central

Measures:

Description: Investment and Cross Border Trade in Services

Nicaragua reserves the right to limit the transfer or disposition of any participation in the capital of an existing State company, in order that only Nicaraguan nationals may receive said participation. However, the preceding sentence pertains only to the initial transfer or disposition of such interest. Nicaragua does not reserve this right with respect to subsequent transfers or dispositions of such interest.

Nicaragua reserves the right to limit the control of any new company created by the transfer or alienation of any participation in the capital described in the previous paragraph through means other than limitations on the domain of interest. Nicaragua also reserves the right to adopt or maintain any measure related to the nationality of senior managers and members of the board of directors of said new enterprise.

Annex II Entry 2 – Minority Affairs and Indigenous Peoples

Sector: Minority Affairs and Indigenous Peoples

Obligations Affected: National Treatment (Articles 8.2 and 11.2) Most Favored Nation Treatment (Articles 8.3 and 11.3) Local Presence (Article 8.5) Performance Requirements (Article 11.8) Senior Management and Boards of Directors (Article 11.9)

Government Level: Central

Measures: Political Constitution of the Republic of Nicaragua with its Incorporated reforms, published in La Gaceta, Diario Oficial, No. 32 of February 18, 2014, Consolidated Text, published in La Gaceta, Diario Oficial, No. 181 of September 28, 2022.

Description: Investment and Cross-Border Trade in Services

Nicaragua reserves the right to adopt or maintain any measure granting rights or preferences to socially or economically

disadvantaged minorities and indigenous populations.

Annex II Entry 3 – Communications

Sector: Communications

Obligations Affected:

Most Favored Nation Treatment (Artícles 8.3 and 11.3)

Government Level: Central

Measures: Law No. 200, General Law on Telecommunications and Postal Services and its Consolidated Text, published in La Gaceta, Diario Oficial, No. 242 of December 18, 2019.

Political Constitution of the Republic of Nicaragua, published in La Gaceta, Diario Oficial, No. 32 of February 18, 2014, Consolidated Text, published in La Gaceta, Diario Oficial, No.181 of September 28, 2022.

Executive Decree No. 19-96, Regulation of Law No. 200, General Law on Telecommunications and Postal Services, published in La Gaceta, Diario Oficial, No. 177 of September 19, 1996, and its consolidated Text, published in La Gaceta, Diario Oficial, No. 242 of December 18, 2019.

Investment and Cross-Border Trade in Services

Description:

Nicaragua reserves the right to adopt or maintain any measure that grants differential treatment to people from other countries due to the application of reciprocal measures or through international agreements that involve sharing the radioelectric spectrum, guaranteeing access to the market or national treatment with respect to the one-way satellite transmission of “direct-to-home” (DTH) and “direct broadcasting” (DBS) television services and digital audio services.

Annex II Entry 4 – All Sectors

Sector: All Sectors

Obligations Affected: Most Favored Nation Treatment (Articles 8.3 and 11.3)

Government Level: Central

Measures:

Description: Investment and Cross-Border Trade in Services

Nicaragua reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.

Nicaragua reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force or signed after the date of entry into force of this Agreement involving:

(a) aviation;

(b) fishing; or

(c) maritime matter, including salvage.

Annex II Entry 5 – Coastal Lands, Islands and River Banks

Sector: Coastal Lands, Islands and River Banks

Obligations Affected: National Treatment (Article 11.2)

Government Level: Central

Measures: Political Constitution of the Republic of Nicaragua with its Incorporated reforms, published in La Gaceta, Diario Oficial, No. 32 of February 18, 2014, Consolidated Text, published in La Gaceta, Diario Oficial, No. 181 of September 28, 2022.

Law No. 913, Law amending Law No. 690, Law for the Development of Coastal Zones, published in La Gaceta, Diario Oficial, No. 193 of October 13, 2015.

Law No. 690, Law for the Development of Coastal Zones, published in La Gaceta, Diario Oficial, No. 141 of July 29, 2009.

Decree No. 78-2009, Regulation of Law No. Law for the Development of Coastal Zones, published in La Gaceta, Diario Oficial, No. 180 of September 24, 2009.

Description: Investment

Nicaragua reserves the right to adopt or maintain any measure with respect to coastal lands, islands and river banks under possession of Nicaragua.

Annex II Entry 6 – Social Services

Sector: Social Services

Obligations Affected: National Treatment (Articles 8.2 and 11.2) Most Favored Nation Treatment (Articles 8.3 and 11.3) Local Presence (Article 8.5) Performance Requirements (Article 11.8) Senior Management and Boards of Directors (Article 11.9)

Government Level: Central

Measures: Political Constitution of the Republic of Nicaragua with its Incorporated Reforms, published in La Gaceta, Diario Oficial, No. 32 of February 18, 2014 and its Consolidated Text, published in La Gaceta, Diario Oficial, No. 181 of September 28, 2022.

Description: Investment and Cross-Border Trade in Services

Nicaragua reserves the right to adopt or maintain any measure with respect to the enforcement of laws and correctional services, and the following services to the extent that they are social services established or maintained for a public purpose: unemployment insurance, social security and social insurance and security social welfare, public education, public training, health and child care.

Annex II Entry 7 – All Sectors

Sector: All Sectors

Obligations Affected: Most Favored Nation Treatment (Articles 8.3 and 11.3) Local Presence (Article 8.5) Performance Requirements (Article 11.8) Senior Management and Boards of Directors (Article 11.9)

Government Level: Central

Measures: Political Constitution of the Republic of Nicaragua with its Incorporated Reforms, published in La Gaceta, Diario Oficial, No. 32 of February 18, 2014, and its Consolidated Text, published in La Gaceta, Diario Oficial, No. 181 of September 28, 2022.

Description: Investment and Cross-Border Trade in Services

Nicaragua reserves the right to adopt or maintain any measure regarding the establishment, acquisition, expansion, management, conduct, or operation of Small and Medium Enterprise (SMEs).

Nicaragua reserves the right to adopt or maintain any measure that grants rights or preferences to small and medium enterprises.

Annex II Entry 8 – Energy

Sector: Energy

Obligations Affected: National Treatment (Articles 8.2 and 11.2) Most Favored Nation Treatment (Articles 8.3 and 11.3) Performance Requirements (Article 11.8) Senior Management and Boards of Directors (Article 11.9)

Government Level: Central

Measures: Political Constitution of the Republic of Nicaragua with its Incorporated Reforms, published in La Gaceta, Diario Oficial, No. 32 of February 18, 2014 and its Consolidated Text, published in La Gaceta, Diario Oficial, No. 181 of September 28, 2022.

Description: Investment and Cross-Border Trade in Services

Nicaragua reserves the right to adopt or maintain any measure related to the establishment, acquisition, expansion, management, conduction or operations of any company in the field of generation, distribution, and commercialization of electricity.

Annex II Entry 9 – Fossil Fuels

Sector: Fossil Fuels

Obligations Affected: National Treatment (Article 8.2) Most Favored Nation Treatment (Article 8.3) Local presence (Article 8.5)

Government Level: Central

Measures: Political Constitution of the Republic of Nicaragua with its Incorporated Reforms, published in La Gaceta, Diario Oficial, No. 32 of February 18, 2014 and its Consolidated Text, Political Constitution of the Republic of Nicaragua, published in La Gaceta, Diario Oficial, No. 181 of September 28, 2022.

Description: Cross-Border Trade in Services

Nicaragua reserves the right to adopt or maintain any measure related to the establishment, acquisition, expansion, management, conduction or operations of any company in the field of exploration and exploitation of fossil fuels and its supply.

Annex III. SCHEDULE OF CHINA

EXPLANATORY NOTE

1. The commitments under Chapter 9 (Financial Services) shall be subject to this Explanatory Note and the Schedule of China to this Annex sets out:

(a) headnotes that limit or clarify the commitments of China with respect to the obligations described in subparagraph (b)(i) through (v) and in subparagraph (c),

(b) in Section A, pursuant to Article 9.9 (Non-Conforming Measures), the existing measures of China that do not conform with some or all of the obligations imposed by:

(i) Article 9.2 (National Treatment);

(ii) Article 9.3 (Most-Favored-Nation Treatment);

(iii) Article 9.4 (Market Access for Financial Institutions);

(iv) Article 9.5 (Cross-Border Trade); or

(v) Article 9.8 (Senior Management and Boards of Directors), and

(c) in Section B, pursuant to Article 9.9 (Non-Conforming Measures), the specific sectors, subsectors, or activities for which China may maintain existing, or adopt new or more restrictive, measures that do not conform with the obligations imposed by Article 9.2 (National Treatment), 9.3 (Most-Favored-Nation Treatment), 9.4(Market Access for Financial Institutions), 9.5 (Cross-Border Trade), or 9.8 (Senior Management and Boards of Directors).

2. Each entry in Section A sets out the following elements:

(a) Sector refers to the general sector for which the entry is made;

(b) Subsector refers to the specific sector for which the entry is made;

(c) Obligations Concerned specifies the article(s) referred to in paragraph 1(b) that, pursuant to Article 9.9.1(a)(Non-Conforming Measures), do not apply to the non-conforming aspects of the Measures or the Description, as set out in paragraph 4;

(d) Measures identify 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

(e) Description sets out the non-conforming aspects of the measures for which the entry is made.

3. Each entry in Section B sets out the following elements:

(a) Sector refers to the general sector for which the entry is made;

(b) Subsector refers to the specific sector for which the entry is made;

(c) Obligations Concerned specifies the article(s) referred to in paragraph1(c) that, pursuant to Article 9.9, do not apply to the sectors, subsectors, or activities scheduled in the entry;

(d) Description sets out the scope of the sectors, subsectors, or activities covered by the entry.

4. For entries in Section A, in accordance with Article 9.9.1(a) (Non-Conforming Measures), and subject to Article 9.9.1(c), the articles of this Agreement specified in the Obligations Concerned element of an entry do not apply to the non-conforming aspects of the Description element, or the law, regulation, or other measure identified in the Measures element of that entry.

5. For entries in Section B, in accordance with Article 9.9.2 (Non-Conforming Measures), the articles of this Agreement specified in the Obligations Concerned element of an entry shall not apply to the sectors, subsectors, and activities identified in the Description element of that entry.

6. In the interpretation of a reservation in Section A, all elements of the reservation shall be considered. A reservation shall be interpreted in the light of the relevant provisions of the Chapter against which the reservation is taken, and the Measures element shall prevail over all the other elements.

7. In the interpretation of a reservation in Section B, all elements of the reservation shall be considered. The Description element shall prevail over all the other elements.

8. Where China maintains a measure that requires that a service supplier be a citizen, as a condition to the supply of a service in its territory, a Schedule entry for that measure taken with respect to Article 9.2 (National Treatment), Article 9.3 (Most-Favored-Nation Treatment), Article 9.4 (Market Access for Financial Institutions), or Article 9.5 (Cross-Border Trade) shall operate as a Schedule entry with respect to Article 11.2 (National Treatment), or 11.3 (Most-Favored-Nation Treatment) to the extent of that measure.

HEADNOTES

1. Commitments in these subsectors under the Agreement are undertaken subject to the limitations and conditions set forth in these headnotes and in the Schedules below.

2. In order to clarify China's commitment under Article 9.4 (Market Access for Financial Institutions), a legal person established under Chinese law that provides financial services shall comply with the non-discriminatory restrictive regulations regarding the form of legal person (1).

3. For greater certainty, to invest in Chinese financial institutions, investors shall comply with the non-discriminatory number requirement on the holding or controlling shares of the same type of financial institutions.

4. The commitments of China under Articles 9.2 (National Treatment) and 9.4 (Market Access for Financial Institutions) are subject to the limitation that in order to establish or acquire a controlling interest in a financial institution in China, a foreign investor must own or control a financial institution that engages in supplying financial services within the same financial services subsector in its home country.

5. China limits its commitments under Article 9.9.1(c) (Non-Conforming Measures) with respect to Article 9.4 (Market Access for Financial Institutions) in the following manner: Article 9.9.1(c) shall apply only to non-conforming measures relating to 9.4.1(a) and not to those non-conforming measures relating to Article 9.4.1(b). (2)

(1) For example, partnership enterprises or sole proprietorship enterprises are not allowed for financial institutions in China. This explanatory note does not aim to influence or limit the other Party in choosing the form as branches or subsidiaries.

(2) For greater certainty, the Article 9.3 (Most-Favoured-Nation Treatment) shall not apply with regard to the limitation in the application of Article 9.9.1(c) described above in paragraph 4.

Section A.

Entry 1-Banking

Sector: Financial Services

Sub-Sector: Banking

Obligations Concerned: National Treatment (Article 9.2) Market Access for Financial Institutions (Article 9.4)

Level of Government: Central

Measures: Law of the People's Public of China on Commercial Banks (2015), Article 11;

Regulation of the People's Republic of China on the Administration of Foreign-Funded Banks (2019), Article 10, Article 11, Article 31, Article 44;

Detailed Rules for the Implementation of the Regulation of the People's Republic of China on the Administration of Foreign-Funded Banks (2019), Article 58;

Implementation Measures of the China Banking and Insurance Regulatory Commission for the Administrative Licensing Items concerning Chinese-Funded Commercial Banks (2018), Article 8; Implementation Measures of the China Banking and Insurance Regulatory Commission for the Administrative Licensing Items concerning Small and Medium-sized Banking Institutions in Rural Area (2019), Article 8, Article 23, Article 27.

Description:

1. Foreign investors investing in a bank shall be foreign financial institutions. In cases where foreign investors obtain controlling interests in a solely foreign-funded bank and a Sino-foreign joint-stock bank or where foreign investors investing in a rural commercial bank, rural cooperative bank, rural credit cooperative, or village bank, such foreign investors shall be foreign commercial banks (3). Foreign investors may not invest in private banks.

For greater certainty, a foreign investor who cumulatively acquires no more than 5% of the shares of a bank solely through securities transactions in domestic and overseas secondary markets shall not be subject to the restrictions set forth in paragraph 1 of this Entry.

2. A foreign bank's branch may not engage in bank card business; a foreign bank's branch may not conduct RMB business for Chinese citizens in the territory of China, except for the term deposits with each in an amount of no less than RMB 500,000.

(3) For the purpose of this entry, a "foreign commercial bank" means a financial institution that is registered outside China and may accept public deposit, participate in deposit insurance and subject to capital supervision upon the approval or permission of the financial regulatory authority of the country or region where it is located.

Entry 2-Insurance

Sector: Financial Services

Sub-Sector: Insurance

Obligations Concerned: National Treatment (Article 9.2) Market Access for Financial Institutions (Article 9.4)

Level of Government: Central

Measures: Insurance Law of the People's Republic of China (2015), Article 6, Article 7;

Regulation of the People's Republic of China on the Administration of Foreign-Funded Insurance Companies (2019), Article 8, Article 40, Article 41;

Detailed Rules for the Implementation of the Regulation of the People's Republic of China on the Administration of Foreign-Funded Insurance Companies (2021), Article 3, Article 37;

Measures for the Administration of Equities of Insurance Companies (2018), Article 6, Article 15;

Notice by the China Banking and Insurance Regulatory Commission on allowing foreign investors to Operate Insurance Agency Business in China (2018);

Notice by the China Banking and Insurance Regulatory Commission on allowing foreign investors to Operate Insurance Adjusting Business in China (2018).

Description:

1. If the proportion of investment of one or more foreign investors in an insurance company is less than 25%, such one or more foreign investors shall be foreign financial institutions (except for those who purchase the stocks of an insurance company at the securities exchange), and the total assets of each foreign investor at the end of the preceding year shall be no less than USD 2 billion.

If the proportion of investment of one or more foreign investors in an insurance company is 25% or more, such insurance company is a foreign-funded insurance company (4) . The only or major foreign shareholder of foreign-funded insurance companies shall be foreign insurance companies or foreign insurance group companies, and the total assets of each shall be no less than USD 5 billion at the end of the year prior to its application for the investment. Other foreign shareholders of foreign-funded insurance companies shall be overseas financial institutions, and the total assets of each at the end of the preceding year shall be no less than USD 2 billion.

2. The shareholders of insurance agency institution must be foreign insurance agency institution that have operated the insurance agency business for more than 3 years, or China-based foreign-funded insurance companies that have started their business for more than 3 years.

The shareholders of insurance adjustment institution shall be foreign public insurance adjustment institution that have operated the public insurance adjusting business for more than 3 years, or China-based foreign-funded insurance companies that have started their business for more than 3 years.

(4) For the purpose of this entry, a "foreign-funded insurance company" means an insurance company formed within China by foreign insurance companies and Chinese companies or enterprises in the form of equity joint ventures, and its subsidiary corporations or branches within China.

Entry 3-Financial Assets Management Company

Sector: Financial Services

Sub-Sector: Financial Assets Management Company

Obligations Concerned: National Treatment (Article 9.2) Market Access for Financial Institutions (Article 9.4)

Level of Government: Central

Measures: Regulation on Financial Asset Management Companies (2000), Article 2;

Implementation Measures of the China Banking and Insurance Regulatory Commission for the Administrative Licensing Items Concerning Non-Banking Financial Institutions (2020), Article 115, Article 117.

Description:

1. Foreign investors may not make investment to establish financial asset management company (5).

2. Foreign investors investing in an existing financial asset management company shall be foreign financial institutions, and the total assets of such foreign investor shall be no less than USD 10 billion by the end of the year prior to its application.

For greater certainty, a foreign investor and their related parties, person acting in concert who solely or collectively hold for the first time no more than 5% of the shares of a financial asset management company without making significant influence, or who cumulatively hold no more than 5% of the shares of a financial asset management company without causing change in the actual controller, shall not be subject to the restrictions set forth in paragraph 2 of this Entry.

(5) For the purpose of this entry, a "financial assets management company" means a financial institution mainly engaging in the purchase, management and disposal of non-performing assets. As at the entry into force of this Agreement, the financial assets management companies that are already established refer to China Huarong Asset Management Co., Ltd., China Great Wall Asset Management Co., Ltd., China Orient Asset Management Co., Ltd, China Cinda Asset Management Co., Ltd, China Galaxy Asset Management Co., Ltd.

Entry 4-Other Banking Institutions

Sector: Financial Services

Sub-Sector: Other Banking Institutions

Obligations Concerned: National Treatment (Article 9.2) Market Access for Financial Institutions (Article 9.4)

Level of Government: Central

Measures: Implementation Measures of the China Banking and Insurance Regulatory Commission for the Administrative Licensing Items concerning Trust Companies (2020), Article 6, Article 21; Implementation Measures of the China Banking and Insurance Regulatory Commission for the Administrative Licensing Items Concerning Non-Banking Financial Institutions (2020), Article 10, Article 22, Article 25, Article 29, Article 49, Article 59, Article 112;

Measures for the Administration for Financial Leasing Companies (2014), Article 8, Article 11, Article 14;

Pilot Measures for the Administration of Consumer Finance Companies (2013), Article 7;

Pilot Measures for the Administration of Currency Brokerage Companies (2005), Article 7.

Description:

1. A foreign investor investing in a trust company shall be a foreign financial institution.

2. A foreign investor investing in a financial leasing company shall be a foreign financial institution or foreign leasing company, and its total assets shall be no less than USD 1 billion by the end of the year prior to its application, if it is a foreign financial institution (excluding commercial banks); and its total assets shall be no less than RMB 10 billion by the end of the year prior to its application, if it is a foreign leasing company.

3. A foreign investor investing in a currency brokerage company shall be a currency brokerage company, and shall have been engaged in currency brokerage business for over 20 years and have a global organization network and an information communications network as required for engaging in currency brokerage business.

4. A foreign investor investing in a consumer finance company as main investor shall be a foreign financial institution.

5. A foreign investor investing in other banking financial institutions other than a trust company, financial leasing company, currency brokerage company, consumer finance company, finance company and auto finance company shall also be a foreign financial institution, and its total assets shall also be no less than USD 1 billion by the end of the year prior to its application.

6. For greater certainty, a foreign investor and their related parties, person acting in concert who solely or collectively hold no more than 5% of the shares of listed trust companies shall not be subject to the restrictions set forth in this Entry; a foreign investor and their related parties, person acting in concert who solely or collectively hold no more than 5% of the shares of any other banking institutions (excluding trust companies) for the first time without making significant influence, or who cumulatively hold no more than 5% of the shares of any other banking institutions (excluding trust companies) without causing change in the actual controller, shall not be subject to the restrictions set forth in this Entry.

Entry 5-Asset Management

Sector: Financial Services

Sub-Sector: Asset Management

Obligations Concerned: Market Access for Financial Institutions (Article 9.4)

Level of Government: Central

Measures: Measures for the Administration of Financial Asset Investment Companies (for Trial Implementation) (2018), Article 8; Administrative Measures for the Bulk Transfer of Financial Enterprises' Non-performing Assets (2012), Article 3;

Letter on Appropriately Adjusting Policies on Local Asset Management Companies (2016).

Description:

1. A financial asset investment company shall be formed by a commercial bank registered and formed within the territory of

the People's Republic of China as its major shareholder.

2. The number of local asset management companies established in each province, autonomous region, municipality directly under the Central Government or city under separate state planning is no more than two. A local asset management company shall not carry out the batch purchase and disposal of non-performing assets of financial enterprises from outside the provincial-level administrative region where it is located.

Entry 6-Securities Companies (6)

Sector: Financial Services

Sub-Sector: Banking and other Financial Services (excluding insurance)

Obligations Concerned: National Treatment (Article 9.2) Market Access for Financial Institutions (Article 9.4)

Level of Government: Central

Measures: Measures for the Administration of Foreign-Funded Securities Companies (2020);

Provisions on the Administration of Equities of Securities Companies (2021);

Regulation on the Supervision and Administration of Securities Companies (2014);

Securities Law of the People's Republic of China (2019).

Description:

1. A foreign investor investing in a securities company (7) shall be a foreign financial institution (8).

2. Branches established in China by foreign enterprises shall not operate securities related business.

(6) Requirements for asset scale, operation term, credit records, etc. by Chinese government on foreign investors investing in securities and futures business institutions, including securities investment fund management companies are based on prudential supervision, and do not violate the obligations under this Agreement.

(7) For the purpose of this entry, securities companies means financial institutions established within the territory of the People's Republic of China according to "Securities Law of the People's Republic of China"with the approval of the China Securities Regulatory Commission (CSRC) to operate some or all of the following businesses: (1) securities brokerage (2) securities investment consulting (3) financial advisory services relating to securities trading and securities investment activities (4) securities underwriting and sponsorship (5) securities margin trading and short selling (6) securities market making transactions (7)proprietary securities trading (8) other securities businesses.

(8) For greater certainty, a foreign investor who cumulatively acquires no more than 5% of the shares of a securities company solely through securities transactions in domestic and overseas secondary markets shall not be subject to the restrictions set forth in this paragraph.

Entry 7-Securities Investment Fund

Sector: Financial Services

Sub-Sector: Banking and other Financial Services (excluding insurance)

Obligations Concerned: National Treatment (Article 9.2) Market Access for Financial Institutions (Article 9.4)

Level of Government: Central

Measures: Official Reply of the State Council on Issues concerning Fund Management Companies Managing Publicly Offered Funds (2013);

Measures for the Supervision and Administration of Managers of Publicly Offered Securities Investment Funds (2022);

Securities Investment Fund Law of the People's Republic of China (2015);

Measures for the Supervision and Administration of Distributors of Publicly Offered Securities Investment Funds (2020);

Answers to questions on the registration and filing of private funds by the Asset Management Association of China (10) (2016).

Description:

1. A foreign investor investing in an investment fund management company (9) shall be a foreign financial institution or a foreign institution that manages financial institutions; an independent distributor of publicly offered securities investment funds shall be a foreign financial institution.

2. A foreign investor investing in a private fund manager shall be a foreign financial institution.

3. Branches of foreign enterprises established in China shall not operate securities investment fund management or distribution of publicly offered securities investment funds related business.

(9) For the purpose of this entry, securities investment fund management companies means financial institutions established within the territory of the People's Republic of China according to "Securities Investment Fund Law of the People's Republic of China" and "Company Law of the People's Republic of China" with the approval of the China Securities Regulatory Commission (CSRC) to operate securities investment fund management and other businesses permitted by CSRC.

Entry 8-Futures

Sector: Financial Services

Sub-Sector: Banking and other Financial Services (excluding insurance)

Obligations Concerned: National Treatment (Article 9.2) Market Access for Financial Institutions (Article 9.4)

Level of Government: Central

Measures: Futures and Derivative Law of the People's Republic of China (2022)

Regulation on the Administration of Futures Trading (2017);

Measures for the Supervision and Administration of Futures Companies (2019);

Measures for the Administration of Foreign-Funded Futures Companies (2018);

Provisions on Regulating Issues Concerning Holding Controlling Shares or Holding Shares in Futures Companies (2008);

Measures for the Administration of Depository Banks Designated by Zhengzhou Commodity Exchange (2022);

Measures for the Administration of Depository Banks Designated by Dalian Commodity Exchange (2021);

Measures for the Administration of Depository Banks Designated by Shanghai Futures Exchange (2021);

Measures for the Administration of Depository Banks Designated by the Guangzhou Futures Exchange (2022);

Measures for the Administration of Depository Banks Designated by the China Financial Futures Exchange (2020).

Description:

1. A foreign investor investing in a futures company (10) with its holding shares reaches 5 shall be a foreign financial institution.

2. Branches of foreign enterprises established in China shall not operate futures related business.

3. Branches of foreign enterprises established in China shall not apply for qualifications of the designated futures security depository banks.

(10) For the purpose of this entry, futures companies means financial institutions established within the territory of the People's Republic of China according to "Company Law of the People's Republic of China""Futures and Derivative Law of the People's Republic of China "and"Measures for the Supervision and Administration of Futures Companies"with the approval of the China Securities Regulatory Commission to operate futures business.

Entry 9- Securities Fund Investment Consulting

Sector: Financial Services

Sub-Sector: Banking and other Financial Services (excluding insurance)

Obligations Concerned: National Treatment (Article 9.2) Market Access for Financial Institutions (Article 9.4)

Level of Government: Central

Measures: Measures for the Administration of Securities Fund Investment

Consulting Business (Consultation Paper and the final Measures in force)

Description:

1. A foreign investor investing in a securities fund investment consulting agency (11) shall be a financial institution.

2. Branches of foreign enterprises established in China shall not operate securities fund investment consulting related business.

(11) For the purpose of this entry, securities fund investment consulting agencies means institutions established according to laws and regulations with the approval of the China Securities Regulatory Commission to operate securities fund investment consulting business.

Section B.

Entry 1- Cross-Border Trade

Sector: Financial Services

Sub-Sector: Banking and other Financial Services (excluding insurance)

Obligations Concerned: National Treatment (Article 9.2) Market Access for Financial Institutions (Article 9.4) Senior Management and Boards of Directors (Article 9.8) Cross-Border Trade (Article 9.5)

Level of Government: Central

Measures: Securities Law of the People's Republic of China (2019);

Futures and Derivative Law of the People's Republic of China (2022)

Regulation on the Supervision and Administration of Securities Companies (2014);

Regulation on the Administration of Futures Trading (2017).

Description: China reserves the right to adopt or maintain any measure with respect to domestic entities or individuals purchasing financial services from foreign financial service supplier.

Unless otherwise stipulated by China Securities Regulatory Commission or other relevant authorities, domestic entities and individuals shall not engage in overseas future business and other derivatives business, and overseas entities and individuals shall not engage in domestic future business and other derivatives business.

Entry 2- Insurance Brokerage

Sector: Financial Services

Sub-Sector: Insurance Brokerage

Obligations Concerned: Cross-Border Trade (Article 9.5)

Level of Government: Central

Description: China reserves the right to adopt or maintain any measure with regard to overseas consumption of insurance brokerage.

Entry 3- New Financial Services

Sector: Financial Services

Sub-Sector: New Financial Services

Obligations Concerned: National Treatment (Article 9.2) Market Access for Financial Institutions (Article 9.4) Senior Management and Boards of Directors (Article 9.8) Most Favored Nation Treatment (Aticle 9.3) Cross-Border Trade (Article 9.5)

Level of Government: Central

Description: China reserves the right to adopt or maintain the following measures:

For foreign investors to provide new financial services in China, they may be subject to numerical limitations in pilot projects, or requirements on the form of service provider, or to be a member of relevant association or self-regulatory organization, in line with the laws and regulations in China.

Entry 4-Development-oriented Financial Services

Sector: Financial Services

Sub-Sector: All sub-sectors

Obligations Concerned: National Treatment (Article 9.2) Market Access for Financial Institutions (Article 9.4)

Level ofGovernment: Central

Measures: Notice of the State Council for the Establishment of the Export-Import Bank of China;

Notice of the State Council for the Establishment of the China Development Bank;

Notice of the State Council for the Establishment of Agricultural Development Bank of China;

Notice of the State Council for the Establishment of China Export & Credit Insurance Corporation.

Description: China reserves the right to adopt or maintain any measure to provide capital support, bond credit support and other preferential measures to policy financial institutions and development finance institutions (12); China reserves the right to adopt or maintain any measures with respect to restricting foreign investors and their investment from acquiring policy financial services.

(12) For the purpose of this entry, as of the effective date of this Agreement, policy financial institutions refer to Export-Import Bank of China, Agricultural Development Bank of China and China Export & Credit Insurance Corporation; development finance institution refers to China Development Bank.

Entry 5-Social Services and Small & Medium Sized Enterprises

Sector: Financial Services

Sub-Sector: All sub-sectors

Obligations Concerned: National Treatment (Article 9.2) Market Access for Financial Institutions (Article 9.4) Senior Management and Boards of Directors (Article 9.8) Cross-border Trade (Article 9.5)

Level of Government: Central

Description: China reserves the right to adopt or maintain any measure in the following areas: provision of social services established or maintained for public interests, including: income security or income insurance, social security, social welfare, social development, poverty reduction, public education, public training, health and child care; services to promote the development of China’s small and medium sized enterprises.

Entry 6- Financial Services

Sector: Financial Services

Sub-Sector: All sub-sectors

Obligations Concerned: Most-Favored-Nation Treatment (Article 9.3)

Level of Government: Central

Description:

1. China reserves the right to adopt or maintain any measure that accords differential treatment to the parties under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.

2. China reserves the right to adopt or maintain any measure that accords differential treatment to the parties under any bilateral or multinational agreement effected or signed after the date of entry into force of this Agreement.

3. China reserves the right to adopt or maintain any special arrangement or favorable treatment for any investor or financial institutions, as well as any investment thereof, and financial service supplier from (1) Hong Kong, China; (2) Macao, China; and (3) Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei).

Entry7-Financial Infrastructure & Stock Exchanges

Sector: Financial Services

Sub-Sector:

Obligations Concerned: National Treatment (Article 9.2) Market Access for Financial Institutions (Article 9.4) Senior Management and Boards of Directors (Article 9.8) Cross-border Trade (Article 9.5)

Level of Government: Central

Measures: Securities Law of the People's Republic of China (2019) Futures and Derivative Law of the People's Republic of China (2022)

Regulation on the Administration of Futures Trading. (2017); Measures for the Administration of Stock Exchanges (2021)

Measures for the Administration of Futures Exchanges (2021)

Measures for the Administration of Securities Registration and Clearing (2022)

Notice of the General Office of the State Council on Regulating and Developing Regional Equity Markets (2017)

Interim Measures for the Supervision and Administration of Regional Equity Markets (2017)

Regulation on the Administration of Futures Trading(2017)

Notice on Further Strengthening the Supervision of Physical Delivery of Commodity Futures (2008)

Decision of the State Council on Straightening out and Rectifying Various Types of Trading Venues to Effectively Prevent Financial Risks (2011);

Implementation Opinions of the General Office of the State Council on Straightening out and Rectifying Various Types of Trading Venues (2012);

Announcement No. 31 [2015] of the People's Bank of China (2015)

Announcement No. 40 [2015] of the People's Bank of China and the State Administration of Foreign Exchange (2015)

Notice of the People's Bank of China, the Ministry of Public

Security, the State Administration for Industry and Commerce,

etc. on Strengthening the Management of Gold Exchange or Engaging in the Gold Trading Platform (2011)

Interim Regulations on the Management of Inter-bank Foreign Exchange Market (1996)

Measures for the Administration of Securities Investor Protection Fund (2016)

Measures for the Administration of Bond Transactions in the National Inter-Bank Bond Market (2000);

Measures for the Supervision and Administration of China Trust Registration Co., Ltd. (2016)

Administrative Measures for Securities and Futures Investment Made in China by Qualified Foreign Institutional Investors and RMB Qualified Foreign Institutional Investor (CSRC Order No. 176)

Description:

1. The establishment, modification and dissolution of a stock exchange, or any other national stock exchange place approved by the State Council shall be subject to the decision of the State Council.

2. The establishment of a futures exchange shall be subject to the examination and approval of the futures regulatory institution of the State Council. Without the approval of the State Council or the futures regulatory authority of the State Council, no entity or individual may establish any futures trading place or organize futures trading and relevant activities in any form.

3. Foreign companies or individuals may not become ordinary members of the stock exchange. Foreign companies or individuals may not become members of the Futures Exchange. Except as otherwise stipulated by the state, foreign companies or individuals may not apply to open a securities account or a futures account.

4. The number of regional equity market operator established in each province, autonomous region, municipality directly under the Central Government or city under separate state planning is no more than one. A regional equity market shall not provide the services of funding by or negotiation of private placement bonds or equities for enterprises from outside the provincial-level administrative region where it is located.

5. The establishment of securities registration and clearing institutions shall be subject to the approval of the China securities regulatory authority. The registration and clearing of securities traded on stock exchanges and other national stock trading places approved by the State Council shall adopt a centralized and unified operation mode nationwide.

6. Overseas futures exchanges and other overseas institutions are not allowed to designate or set up commodity futures delivery warehouses in China and engage in other activities related to commodity futures delivery business.

7. China reserves the right to adopt or maintain any measure with respect to the establishment, ownership and operation of the transactions, settlement, clearing service facilities for securities, futures, options and other derivative. These facilities include but not limited to central securities depository (including registration, depository, settlement and clearing), central counter party, securities exchange and derivatives exchange (including transaction system and infrastructure), electronic communication network and designated settlement banks.

8. No trading venues may be established to engage in the trading of insurance, credit, gold and other financial products without the approval of the competent financial regulatory department under the State Council, and nor any other trading venues may engage in the trading of insurance, credit, gold and other financial products.

9. No transactions between domestic financial institutions between RMB and foreign exchange shall be conducted outside the inter-bank foreign exchange market (China Foreign Exchange Trading Center). Foreign investors are not allowed to make inter-banks foreign exchange transactions, while the following institutions are exceptions:

(1) Overseas central banks, monetary authorities, and other official reserve management institutions, international financial organizations, sovereign wealth funds; (2) RMB business clearing banks and other qualified overseas participating banks of RMB purchase and sale business; (3) Foreign institutional investors investing in the inter-bank bond market can enter the inter-bank venue through the prime brokerage model, in which overseas banking institutional investors can also directly enter the inter-bank foreign exchange market; (4) Qualified Foreign Institutional Investors and RMB Qualified Foreign Institutional Investors can trade foreign exchange derivatives based on hedging purposes in the inter-bank foreign exchange market.

10. Foreign investors may not trade or invest in the inter-bank bond market, but the following foreign investors can invest in the inter-bank bond market according to related regulations, provided that the investors meet the requirement of Chinese government:

(1) Overseas central banks, monetary authorities, other official reserve management institutions, sovereign wealth funds, international financial organizations; (2) Qualified overseas financial institutions such as commercial banks, insurance companies and other asset management institutions and mid- to long-term institutional investors such as pension funds, charity funds, endowment funds; (3) Qualified Foreign Institutional Investors and RMB Qualified Foreign Institutional Investors .

11. Trust registration institutions shall be established under the approval of the China banking regulatory authority, which is responsible for providing trust-based services such as trust registration and other related functions to maintain the security of the trust industry infrastructure.

Entry 8-Financial Information Services

Sector: Financial Services

Sub-Sector: All sub-sectors

Obligations Concerned: National Treatment (Article 9.2) Market Access for Financial Institutions (Article 9.4) Senior Management and Boards of Directors (Article 9.8) Cross-border Trade (Article 9.5)

Level of Government: Central

Measures:

Description: China reserves the right to adopt and maintain any measure with respect to financial information services.

Entry 9-Pension Management Institution

Sector: Financial Services

Sub-Sector: All sub-sectors

Obligations Concerned: National Treatment (Article 9.2) Market Access for Financial Institutions (Article 9.4) Senior Management and Boards of Directors (Article 9.8) Cross-border Trade (Article 9.5)

Level of Government: Central

Measures:

Description: China reserves the right to adopt and maintain any measure with respect to pension management institutions.

Annex III. SCHEDULE OF NICARAGUA

EXPLANATORY NOTE

1. The Schedule of Nicaragua to Annex III sets Out:

(a) headnotes that limit or clarify the commitments of Nicaragua with respect to the obligations described in clauses (i)-(v) of subparagraph (b);

(b) in Section A, pursuant to Article 9.9 (Non-Conforming Measures), the existing measures of Nicaragua that do not conform to some or all of the obligations imposed by:

(i) Article 9.2 (National Treatment);

(ii) Artícle 9.3 (Most-Favored-Nation Treatment);

(iii) Artícle 9.4 (Market Access for Financial Institutions);

(iv) Artícle 9.5 (Cross-Border Trade); or

(v) Artícle 9.8 (Senior Management and Boards of Directors);

(c) in Section B, pursuant to Article 9.9 (Non-Conforming Measures), the specific sectors, subsectors, or activities for which Nicaragua may maintain existing, or adopt new or more restrictive, measures that do not conform with the obligations imposed by Article 9.2 (National Treatment), 9.3 (Most-Favored-Nation Treatment), 9.4 (Market Access for Financial Institutions), 9.5 (Cross-Border Trade), or 9.8 (Senior Management and Boards of Directors).

2. Each entry in Section A sets out the following elements:

(a) Sector refers to the general sector for which the entry is made;

(b) Subsector refers to the specific sector for which the entry is made;

(c) Obligations Concerned specifies the obligation(s) referred to in subparagraph 1(b) that, pursuant to Article 9.9 (Non-Conforming Measures), do not apply to the listed measure(s);

(d) Level of Government indicates the level of government maintaining the listed measure(s);

(e) Measures identify 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;

(f) Description provides a general, nonbinding description of the Measures.

3. Each entry in Section B sets out the following elements:

(a) Sector refers to the general sector for which the entry is made;

(b) Subsector refers to the specific sector for which the entry is made;

(c) Obligations Concerned specifies the article(s) referred to in paragraph1(c) that, pursuant to Article 9.9, do not apply to the sectors, subsectors, or activities scheduled in the entry;

(d) Description sets out the scope of the sectors, subsectors, or activities covered by the entry.

4. In the interpretation of a non-conforming measure in Section A, all elements of the non- conforming measures listing shall be considered. A non-conforming measure shall be interpreted in the light of the relevant provisions of the Financial Services Chapter with respect to which the non-conforming measure is taken. To the extent that:

(a) the Measures element is qualified by a liberalization commitment from the Description element, if any, or a Specific Commitment from an Annex to the Financial Services Chapter, the Measures element as so qualified shall prevail over all other elements; and

(b) the Measures element is not so qualified, the Measures element shall prevail over all other elements, unless any discrepancy between the Measures element and the other elements considered in their totality is so substantial and material that it would be unreasonable to conclude that the Measures element should prevail, in which case the other elements shall prevail to the extent of the discrepancy..

5. For entries in Section B, in accordance with Article 9.9.2 (Non-Conforming Measures), the articles of this Agreement specified in the Obligations Concerned element of an entry shall not apply to the sectors, subsectors, and activities identified in the Description element of that entry.

6. Where Nicaragua maintains a measure that requires that a service supplier be a citizen, as a condition to the provision of a service in its territory, a listing for that measure taken in Annex III with respect to Articles 9.2 (National Treatment), 9.3 (Most-Favored-Nation Treatment),

9.4 (Market Access for Financial Institutions), or 9.5 (Cross-Border Trade) shall operate as a non-conforming measure with respect to Articles 11.2 (National Treatment), 11.3 (Most- Favored-Nation Treatment) and 11.8 (Performance Requirements), to the extent of that measure.

Headnotes

1. Commitments in these subsectors under the Agreement are undertaken subject to the limitations and conditions set forth in these headnotes and in Section A and B below.

2. In order to clarify the Nicaraguan commitment with respect to Article 9.4, juridical persons supplying financial services and organized under the laws of Nicaragua are subject to non- discriminatory limitations on juridical form. (1)

3. The commitments of Nicaragua under Articles 9.2 (National Treatment) and 9.4 (Market Access for Financial Institutions) are subject to the limitation that in order to establish or acquire a controlling interest in a financial institution in Nicaragua, a foreign investor must own or control a financial institution that engages in supplying financial services within the same financial services subsector in its home country.

4. Nicaragua limits its commitments under Article 9.9.1(c) (Non-Conforming Measures) with respect to Article 9.4 (Market Access for Financial Institutions) in the following manner: Article 9.9.1(c) shall apply only to non-conforming measures relating to 9.4.1(a) and not to those non- conforming measures relating to Article 11.4.1(b) (2).

(1) For example, partnerships and sole proprietorships are not considered acceptable legal forms for incorporating financial institutions in Nicaragua. This note is not intended to affect, or otherwise limit, the ability of a financial institution of the other Party to choose its form of incorporation through either branch or subsidiary.

(2) Article 9.3 (Most-Favored-Nation Treatment) shall not apply with regard to the limitation in the application of Article 9.9.1(c) described above in paragraph 4.

Section A.

Entry 1 - Financial Services

Sector: Financial Services

Subsector: Banking

Obligations Concerned: National Treatment (Article 9.2)

Level of Government: Central

Measures:

Law No. 561, General Law of Banks, Non-Banking Financial Institutions and Financial Groups, hereinafter “LGB”, published in La Gaceta, Diario Oficial, No. 232 of November 30, 2005, Consolidated Text with its amendments, contained in Law No. 974, Law of the Nicaraguan Legal Digest of Banking and Finance Matters, published in La Gaceta, Diario Oficial, No. 164 of August 27, 2018 and its Update Law No. 980, published in La Gaceta, Diario Oficial, No. 200 of October 17, 2018 and its amendments.

Resolution No.CD-SIBOIF-473-1-ABR11-2007, Standard on the requirements for the Establishment of banks, financial companies, branches of foreign banks and representative offices, hereinafter “Rule of Constitution”, published in La Gaceta, Diario Oficial, No. 106 of June 6, 2007 and its amendments.

Law No. 551, Deposit Guarantee System Law hereinafter “FOGADE”, published in La Gaceta, Diario Oficial, No. 168 of August 30, 2005, Consolidated Text with its amendments, contained in Law 974, Law of the Nicaraguan Legal Digest of Banking and Finance Matters, published in La Gaceta, Diario Oficial, No. 164 of August 27, 2018 and its Update Law No.980, published in La Gaceta, Diario Oficial, No. 200 of October 17, 2018 and its amendments.

Law No. 587, Capital Markets Law, published in La Gaceta, Diario Oficial, No. 222 of November 15, 2006, Consolidated Text with its amendments, contained in Law No. 974, Law of the Nicaraguan Legal Digest of Banking and Finance Matters, published in La Gaceta, Diario Oficial, No. 164 of August 27, 2018 and its Update Law No.980, published in La Gaceta, Diario Oficial, No. 200 of October 17, 2018 and its amendments.

Law No. 899, Investment Companies Law, published in La Gaceta, Diario Oficial, No. 76 of April 27, 2015, contained in Law No. 974, Nicaraguan Legal Digest Law on Banking and Finance Matters, published in La Gaceta, Diario Oficial, No. 164 of August 27, 2018 and its Update Law No.980, published in La Gaceta, Diario Oficial, No. 200 of October 17, 2018.

Law 977, Law against Money Laundering, Financing of Terrorism and Financing of the Proliferation of Weapons of Mass Destruction, published in La Gaceta, Diario Oficial, No. 138 of July 20, 2018 and its amendments, contained in Law 974, Law of Nicaraguan Legal Digest of Banking and Finance Matters, published in La Gaceta, Diario Oficial, No. 164 of August 27, 2018 and its Update Law No. 980, published in La Gaceta, Diario Oficial, No. 200 of October 17, 2018, and its amendments.

Description: Banking activity can only be practiced by legal entities constituted and domiciled in the country as corporations or by legally constituted bank branches abroad authorized for this purpose by the regulatory entity. Articles 2, 3, 4 and 9 of Law No. 561, (LGB).

The capital that foreign banks assign to their branches in Nicaragua shall meet the minimum required for Nicaraguan institutions and be effectively paid and entered into the country. Article 17 of Law No. 561, (LGB) and Article 11 section a) of the Rule of Constitution (Norma de Constitución).

Branches of foreign banks may not announce or advertise the amount of capital and reserves of its parent company, without announcing or advertising both the assigned capital and reserves of the branch in Nicaragua, Article 18 of Law No. 561, (LGB).

The administration and legal representation of foreign bank branches established in Nicaragua will be the responsibility of duly authorized administrators and managers with residence in the country, Article 32 of Law No. 561, (LGB).

The legal address of foreign banking companies’ branches, regarding its business performed in Nicaragua, shall be

Nicaragua, Article 13 of Law No. 561, (LGB).

Banks incorporated abroad that establish branches in Nicaragua, cannot use diplomatic channels in any case regarding its operations in Nicaragua, Article 13 of Law No. 561, (LGB).

The capital of branches of foreign banks established in the country, if any, may be transferred abroad only with prior approval of the Superintendent of Banks, once completed the liquidation of its business, Article 26 of Law No. 561, (LGB).

If a foreign bank that has branches in Nicaragua is liquidated under national law, those branches will also be liquidated. Article 77 FOGADE Act.

Applications will only be made for the establishment of branches of foreign banks, when institutional information can be exchanged between the supervisors of both countries and the parent bank has more than five years of operation and financial banking intermediation in the country which granted it the license. If it is a foreign bank originated from a merger, those of the oldest entity will be counted as years of operation. Article 8 of the Rule of Constitution.

Foreign Banks Representative Offices can place funds in the country in the form of loans and investments, and act as information centers for their customers, but they are prohibited from accepting deposits from the public in Nicaragua. Article 14 of Law No. 561, (LGB).

Foreign natural or legal persons who are regulated entities under the Act and who intend to develop or are developing activities in the national territory, must maintain a physical presence in the national territory. (Art. 11, Act No. 977).

Entry 2 - Financial Services

Sector: Financial Services

Subsector: Non-banking Financial Institutions and Other Financial Services: financial corporations, companies issuing credit cards, bonded warehouses, stock exchanges, brokerage firms, management companies of investment funds, fund management companies of securitization, central securities depositary, clearing and settlement companies, entities operating with electronic money and special regime financial enterprises. (Excluding insurance).

Obligations Concerned: National Treatment (Article 9.2)

Level of Government: Central

Measures:

Law No. 561, General Law of Banks, Non-Banking Financial Institutions and Financial Groups (LGB), published in La Gaceta, Diario Oficial, No. 232 of November 30, 2005, Consolidated Text with its amendments, contained in Law No. 974, Law of the Nicaraguan Legal Digest on Banking and Finance, published in La Gaceta, Diario Oficial, No. 164 of August 27, 2018 and its Update Law No.980, published in La Gaceta, Diario Oficial, No. 200 of October 17, 2018; and its amendments.

Law No. 515, Law for the Promotion and Regulation of the Use of Credit Cards, published in La Gaceta, Diario Oficial, No. 11 of January 17, 2005 Consolidated Text contained in Law No. 974, Law of the Nicaraguan Legal Digest on Banking and Finance, published in La Gaceta, Diario Oficial, No. 164 of August 27, 2018 and its Update Law No. 980, published in La Gaceta, Diario Oficial, No. 200 of October 17, 2018.

Resolution No. CD-SIBOIF-629-4-MAY26-2010, Regulations for Credit Card Operations, published in La Gaceta, Diario Oficial, No. 150 and 151 of August 9 and 10, 2010 and its amendments.

Law No. 587, Capital Markets Law, published in La Gaceta, Diario Oficial, No. 222 of November 15, 2006. (MDC Law), Consolidated Text with its amendments, contained in Law No. 974, Nicaraguan Legal Digest Law on Banking and Finance Matters, published in La Gaceta, Diario Oficial, No. 164 of August 27, 2018 and its Update Law No.980, published in La Gaceta, Diario Oficial, No. 200 of October 17, 2018 and its amendments.

Law 734, Law of General Warehouses of Deposits, published in La Gaceta, Diario Oficial, No. 201 and 202 of October 21 and 22, 2010. Law of Warehouses, contained in Law No. 974, Law of the Nicaraguan Legal Digest of Banking and Finance Matters, published in La Gaceta, Diario Oficial, No. 164 of August 27, 2018 and its Update Law No.980, published in La Gaceta, Diario Oficial,,No. 200 of October 17, 2018.

Law 977, Law against Money Laundering, Financing of Terrorism and Financing of the Proliferation of Weapons of Mass Destruction, published in La Gaceta, Diario Oficial, No. 138 of July 20, 2018 and its amendments, contained in Law No. 974, Law of the Nicaraguan Legal Digest of Banking and Finance Matters, published in La Gaceta, Diario Oficial, No. 164 of August 27, 2018 and its Update Law No. 980, published in La Gaceta, Diario Oficial, No. 200 of October 17, 2018 and its

amendments.

Description:

Those interested in operating as financial companies (Title IV LGB), general bonded warehouses (Articles 7 and 13 Law No. 734, Ley de Almacenes), stock exchanges (Article 36 MDC Law), stock exchange posts (Article 63 MDC Law), investment fund management companies (Article 74 MDC Law), securitization fund management companies (Article 122 MDC Law), central securities depositories (Article 139 MDC Law), settlement and clearing companies (Article 154 MDC Law), and financial companies of the regime of the MDC Law 977) and special regime financial enterprises (Chapter IV, Title V, Law No.561 LGB), private credit bureaus (Article 115, Law No.561 LGB), appraisal experts (Article 10, Law No.316 SIBOIF Law), risk rating agencies (Article 170, Law No.587 MDC Law), must obtain authorization from the respective regulatory body and be incorporated in the country as corporations or through branches of entities legally incorporated abroad.

The capital that Non-Banking Financial Institutions established in foreign countries assign to their branches in Nicaragua, must be effectively paid and internalized in Nicaragua.

In the case of Non-Banking Financial Institutions the same provisions indicated for the Banks subsector apply to them.

Entry 3 – Financial Services

Sector: Financial Services

Subsector: Insurances

Obligations Concerned: Cross-Border Trade (Article 9.5) Senior Management and Boards of Directors (Article 9.8)

Level of Government: Central

Measures:

Law No. 733, General Law of Insurance, Reinsurance and Bonds, published in La Gaceta, Diario Oficial, No. 162, 163 and 164 of August 25, 26 and 27, 2010 (Insurance Law), contained in Law No. 974, Law of the Nicaraguan Legal Digest of Banking and Finance Matters, published in La Gaceta, Diario Oficial, No. 164 of August 27, 2018 and its Update Law No. 980, published in La Gaceta, Diario Oficial, No. 200 of October 17, 2018.

Resolution CD-SIBOIF-665-1-FEB7-2011, Rule on the requirements for the incorporation of insurance, reinsurance and surety companies and branches of foreign insurance companies, published in La Gaceta, Diario Oficial, No. 99 and 100 of May 31 and June 1, 2011, respectively.

Resolution CD-SIBOIF-719-2-MAR14-2012, Regulation for the authorization and operation of insurance intermediaries, published in La Gaceta, Diario Oficial, No. 79 of May 1, 2012.

Law 977, Law against Money Laundering, Financing of Terrorism and Financing of the Proliferation of Weapons of Mass Destruction, published in La Gaceta, Diario Oficial, No. 138 of July 20, 2018 and its amendments, contained in Law 974, Law of Nicaraguan Legal Digest of Banking and Finance Matters, published in La Gaceta, Diario Oficial, No. 164 of August 27, 2018 and its Update Law No. 980, published in La Gaceta, Diario Oficial, No. 200 of October 17, 2018 and its amendments.

Description: The activity of insurance and reinsurance can be only practiced by legal entities constituted and domiciled in the country as corporation and authorized by the respective regulator. Article 9 of Insurance Act.

Insurance companies (insurance, reinsurance, guarantees and reconciliation) legally incorporated abroad can also operate in the country by establishing a branch. Article 20 of Insurance Act.

Insurance companies incorporated abroad establishing branches in Nicaragua, are considered domiciled in Nicaragua for any legal effect. Article 24 of Insurance Act.

The domicile of the branches of foreign insurance companies, with respect to their performed business in Nicaragua, will be Nicaraguan; and shall be deemed as their legal representatives, the attorneys or agents incorporated in the Republic of Nicaragua. Article 24 of Insurance Act.

Insurance companies incorporated abroad that establish branches in Nicaragua, cannot use diplomatic channels in any case related to its operations in Nicaragua. Article 24 of Insurance Act.

Natural or legal persons domiciled in Nicaragua are prohibited from buying insurance from companies without the proper authorization to operate in Nicaragua, except those for export and import transportation, or accidental damage that may occur outside of Nicaragua and if it can be demonstrated to the Superintendent that the specific insurance in question is not

available in the country from authorized institutions or that these institutions do not have approved insurance policies covering those risks. Article 174 of Insurance Act.

Foreigners wishing to engage in insurance brokerage or to be insurance agents in Nicaragua must be residents in the country, have a work permit and be authorized to exercise the activity under the law.

Foreign natural or legal persons that are Regulated Entities under the Law and that intend to develop or are developing activities in the national territory, must maintain a physical presence in the national territory (Art. 11, Act No. 977).

Section B.

Entry 1 - Financial Services

Sector: Financial Services

Subsector: All sub-sectors except Banking and Insurances

Obligations Concerned: Market Access (Article 9.4) Cross-Border Trade (Article 9.5)

Level of Government: Central

Measures:

Description: Nicaragua reserves the right to adopt or maintain measures necessary for the incorporation in Nicaragua of financial institutions organized under the laws of foreign countries, excluding those seeking to operate as banks or insurances companies within Nicaragua.

Entry 2 - Financial Services

Sector: Financial Services

Sub sector: All sub-sectors except Banking and Insurances

Obligations Concerned: National Treatment (Article 9.2) Cross-Border Trade (Article 9.5)

Level of Government: Central

Measures:

Description: Nicaragua reserves the right to accord benefits to financial institutions or public entities wholly or majority owned by the State that supply financial services and are established with a public interest purpose, including but not limited to agriculture production finance, housing credits for low income families, and credits for small and midsize enterprises.

Such benefits shall not disadvantage the core operations of commercial competitors and include, but are not limited to: extension of State guarantees, tax exemptions, exceptions to the usual juridical form requirements, and exceptions to the legal requirements to begin operations.