# Free Trade Agreement between the United Mexican States and the Republic of Bolivia

The Government of the United Mexican States and the Government of the Republic of Bolivia, DECIDED TO

RENEW the special bonds of friendship, solidarity and cooperation among their peoples;

ACCELERATE and promote the revitalization of American integration schemes;

STRENGTHEN the Latin American Integration Association as a center for the articulation and convergence of Latin American integration schemes;

ACHIEVE a better balance in trade relations between their countries, taking into account their levels of economic development;

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

CREATE a more extensive and secure market for the goods produced and the services provided in their territories;

REDUCE the distortions in their reciprocal trade;

ESTABLISH clear and mutually beneficial rules for their commercial exchange;

ENSURE a predictable commercial framework for the planning of productive activities and investment;

DEVELOP their respective rights and obligations derived from the General Agreement on Tariffs and Trade (GATT), the Treaty of Montevideo 1980, as well as other bilateral and multilateral integration and cooperation instruments;

STRENGTHEN the competitiveness of their companies in world markets;

ENCOURAGE innovation and creativity through the protection of intellectual property rights;

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

PROTECT the fundamental rights of its workers;

UNDERTAKE all of the above in a manner consistent with the protection and conservation of the environment;

STRENGTHEN the development and application of laws and regulations in environmental matters;

PROMOTE sustainable development;

PRESERVE their capacity to safeguard the public welfare; and

TO PROMOTE the dynamic participation of the different economic agents, in particular of the private sector, in the efforts aimed at deepening the economic relations between the Parties and to develop and maximize the possibilities of their joint presence in international markets;

CELEBRATE THIS TREATY OF FREE TRADE

In accordance with the GATT and with the nature of an Agreement of Partial Scope of Economic Complementation for the effects of the Treaty of Montevideo 1980 and Resolution 2 of the Council of Foreign Ministers of the contracting parties of that treaty.

# Part I. General Aspects

## Chapter I. Initial Provisions

### Article 1-01. Objectives

1. The objectives of this Agreement, specifically developed through its Principles and Rules, including the national treatment and most favoured nation treatment and transparency, are the following:

a) Encourage expansion and diversification of trade between the parties;

b) Eliminate barriers to trade and facilitate the movement of goods between the parties;

c) Promote conditions of fair competition in the trade between the parties;

d) Establish guidelines for further cooperation between the parties, as well as at the regional and multilateral cooperation to expand and enhance the benefits of this Agreement; and

e) Create effective procedures for the implementation and application of this Agreement, for its joint administration and for the resolution of disputes.

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

### Article 1-02. Relationship with other International Treaties and Agreements

1. The Parties confirm their rights and obligations existing between them in accordance with the WTO Agreement, the Montevideo Treaty 1980 and other treaties and agreements to which they are party.

2. In the event of any inconsistency between the provisions of the treaties and agreements referred to in paragraph 1 and the provisions of this Agreement, the latter shall prevail to the extent of the inconsistency.

### Article 1-03. Implementation of the Agreement

Each Party shall ensure, in accordance with its constitutional rules, the implementation of the provisions of this Agreement in its territory at the central or local or federal, state, municipal and, unless this agreement provides otherwise.

### Article 1-04. Succession of Agreements

Any reference to any other international agreement or treaty shall be made on the same terms for a successor treaty or agreement to which the parties are party.

## Chapter II. General Definitions

### Article 2-01. Definitions of General Application

1. For the purposes of this Agreement, unless otherwise specified:

WTO Agreement means the Marrakesh Agreement Establishing the World Trade Organization, dated 15 April 1994;

Customs tariff: a tax, tariff and import duty or charge of any kind imposed in connection with the importation of goods, including any form of surtax or surcharge on imports, except:

a) A charge equivalent to an internal tax established in accordance with article III: 2 of the GATT with respect to similar goods, direct competitors or replacement of the party or in respect of goods from which has been manufactured or produced in whole or in part the imported goods;

b) A compensatory amount to be applied in accordance with the legislation of each party;

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

d) A premium offered or collected on imported goods, arising out of any tendering system in respect of the administration of quantitative import restrictions or preference or aranceles-cuota tariff quotas;

Goods of a Party means domestic products as understood in GATT, those goods that the parties agree, and includes originating goods. A good of a Party may include materials of other countries;

Originating a good means good which complies with the rules of origin set out in chapter V (rules of origin);

Customs valuation code means the Agreement on Implementation of article VII of the GATT, including its interpretative notes, which is part of the WTO agreement;

Commission: administering the Commission established under article 1101 (commission administering);

Quota: compensatory duties quotas or anti-dumping and countervailing duties according to the legislation of each party;

Calendar days means calendar days; or

Enterprise means any legal person constituted or organized under the applicable law, whether or not for profit and whether privately-owned or governmental and other organizations or economic units which are duly constituted or otherwise organized under the legislation, including branches, foundations, companies, trusts, shares, firms, sole proprietorship enterprise co-investments or other associations;

State enterprise means an enterprise that is owned by a party or under its control through participation in the capital;

Enterprise of a party constituted means an enterprise or organized under the law of a party;

Tariff: the percentage breakdown of a code of tariff classification of the harmonized system for more than six digits;

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

Measure means any law, regulation, provision or practice, procedure

Administrative, among others;

National means a natural person who has the nationality of a Party according to its legislation. It is understood that the term also extends to persons who, in accordance with the legislation of that Party, having the character of permanent residents in the territory of the same;

Any State Party: for which this Agreement has entered into force;

Exporting Party: the Party from whose territory the good was exported;

Importing Party means the party into whose territory the good is imported;

Heading: a code of tariff classification of the Harmonized System at the 4-digit level;

Person means a natural person or an enterprise;

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

Secretarial: the secretariat established under article 11-02 (Secretariat);

Harmonized System (HS) means the Harmonized Commodity Description and Coding System of goods, including its general rules of classification and its explanatory notes;

Subheading: a code of tariff classification six-digit HS level; and

Territory: for each Party, as defined in the annex to this article.

Unless otherwise specified, for the purpose of this Agreement:

Territory:

a) With respect to Bolivia:

i) Departments, provinces and cantons;

ii) The territories over which it exercises administrative control;

iii) The space on the national territory to the extent and in accordance with international law;

iv) Any maritime area within which it may exercise rights with respect to the seabed and subsoil and the natural resources therein, in accordance with international law, including the United Nations Convention on the Law of the Sea; and

v) The soil and subsoil with all their natural wealth, sea, river and lake medicinal as well as the elements and natural forces

may use;

b) With respect to Mexico:

i) The States of the Federation and the Federal District;

ii) The islands and cays, including the reefs in adjacent seas;

iii) The islands of Guadalupe revillagigedo and situated in the Pacific Ocean;

iv) The continental shelf and the submarine shelf, islands and cays reefs;

v) The waters of the territorial seas, in the extension and terms set by international law, and inland waters;

vi) The space on the national territory to the extent and modalities that establishes the International Law; and

vii) Any areas beyond the territorial seas of Mexico within which it may exercise rights with respect to the seabed and subsoil and the natural resources therein, in accordance with international law, including the United Nations Convention on the Law of the Sea, as well as with its domestic legislation.

# Part II. TRADE IN GOODS

## Chapter III. National Treatment and Market Access for Goods

## Section A. Scope of Application and National Treatment

### Article 3-01. Scope of Application

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

### Article 3-02. National Treatment

Each Party shall accord national treatment to goods of the other Party in accordance with Article III of the GATT, including its interpretative notes. For this purpose, Article III of the GATT and its interpretative notes are incorporated into and form an integral part of this Agreement.

2. The provisions of paragraph 1 mean, with respect to a state or department, including local governments, treatment no less favorable than the most favorable treatment accorded by that state or department to any like goods, direct competitors or substitutes, as the case may be, of the Party of which they are members.

3. Paragraphs 1 and 2 do not apply to the measures set out in the Annex to Articles 3-02 and 3-08.

## Section B. Customs Duties

### Article 3-03. Tariff Elimination

1. En la fecha de entrada en vigor de este Acuerdo, las Partes eliminarán todos los aranceles aduaneros sobre las mercancías originarias, excepto para los productos incluidos en los anexos del artículo 3-03.

2. Salvo que se disponga otra cosa en este Tratado, ninguna Parte podrá incrementar los aranceles aduaneros existentes, ni adoptar nuevos aranceles aduaneros, sobre los bienes originarios. Este párrafo no prohíbe a una Parte aumentar un arancel aduanero cuando dicho aumento se autorice como resultado de un procedimiento de solución de controversias en el marco del GATT.

3. No obstante el párrafo 1 de este artículo, una Parte podrá adoptar o mantener aranceles aduaneros de conformidad con sus derechos y obligaciones en el marco del GATT sobre los bienes originarios cubiertos por los anexos del artículo 3-03.

4. Este Acuerdo es el único instrumento que rige el comercio de bienes entre las Partes bajo el Tratado de Montevideo 1980.

### Article 3-04. Restrictions on Drawback of Customs Duties on Exported Products and on Programs for Deferral or Suspension of Payment of Customs Duties.

1. For purposes of this Article, the following definitions shall apply:

Customs duties: those that would be applicable to a good that is imported for consumption in the customs territory of a Party if the good were not exported to the territory of the other Party;

Fungible goods: fungible goods as defined in Chapter V (Rules of Origin);

Identical or similar goods: goods that are alike in all respects, including their physical characteristics, quality and commercial prestige, as well as goods that, although not alike in all respects, have similar characteristics and composition, enabling them to perform the same functions and to be commercially interchangeable;

Material: a material as defined in Chapter V (Rules of Origin);

Tariff deferral or suspension programs: measures governing free or duty-free zones, temporary imports under bond, temporary imports for export, bonded warehouses, maquiladora and other export processing programs, among others.

2. No Party may refund the amount of customs duties paid, or waive, suspend or reduce the amount of customs duties owed, on a good imported into its territory that is:

(a) used as a material in the production of another good subsequently exported to the territory of the other Party; or

(b) replaced by an identical or similar good used as a material in the production of another good subsequently exported to the territory of the other Party; in an amount that exceeds the total amount of customs duties paid or owed on that quantity of that imported good that is materially incorporated into the good exported to the territory of the other Party, or replaced by identical or similar goods materially incorporated into the good exported to the territory of the other Party, with an appropriate allowance for waste.

3. No Party may, on condition of exporting, refund, waive, suspend, or reduce:

(a) countervailing duties applied in accordance with the Party's legislation;

(b) premiums offered or collected on imported goods under any tendering system relating to the application of quantitative import restrictions, tariff-rate quotas, or tariff preference quotas; or

c) customs duties paid or owed in respect of a good imported into its territory and replaced by an identical or similar good that is subsequently exported to the territory of the other Party.

4. Except as otherwise provided in this Article, on or after the date and in the circumstances set out in paragraph 7, a Party may not date and in the circumstances set out in paragraph 7, a Party may not refund the amount of customs duties paid, or waive, suspend or reduce the amount of customs duties owed, on a good imported into its territory, provided that the good is:

(a) used as a material in the production of an originating good subsequently exported to the territory of the other Party; or

(b) replaced by an identical or similar good used as a material in the production of an originating good subsequently exported to the territory of the other Party.

5. Effective on the date and in the circumstances set out in paragraph 7, where a good is imported into the territory of a Party pursuant to a tariff deferral or suspension program and any of the conditions set out in subparagraphs (a) and (b) of paragraph 4 are met, the Party from whose territory the good was exported shall

(a) determine the amount of customs duties as if the exported good had been destined for domestic consumption; and

(b) within 60 days of the date of exportation, collect the amount of customs duties as if the exported good had been destined for domestic consumption.

6. Paragraphs 3 through 5 do not apply to:

(a) a good that, under the law of each Party, is imported under bond or guarantee to be transported and exported to the territory of the other Party;

b) a good that is exported to the territory of a Party in the same condition in which it was imported into the territory of the Party from which it is exported. Processes such as testing, cleaning, repackaging, inspection or preservation of the good in the same condition shall not be considered as changes in the condition of the good. Where a good has been commingled with fungible goods and exported in the same condition, its origin, for the purposes of this paragraph, may be determined on the basis of the inventory methods set out in Chapter V (Rules of Origin);

(c) a good imported into the territory of a Party, which is subsequently deemed to be exported from its territory, or is used as a material in the production of another good, which is subsequently deemed to be exported to the territory of the other Party, or is replaced by an identical or similar good used as a material in the production of another good which is subsequently deemed to be exported to the territory of the other Party, by reason of:

(i) its shipment to a store free of customs duties; or (ii) its shipment to stores on board vessels or as supplies for vessels or aircraft;

(d) a refund by a Party of customs duties paid on a specific good imported into its territory and subsequently exported to the territory of the other Party, where such refund is granted on the grounds that the good does not correspond to the samples or specifications of the good that was intended to be imported, or on account of the shipment of that good without the consent of the consignee; or

e) an originating good imported into the territory of a Party that is subsequently exported to the territory of the other Party, or used as a material in the production of another good subsequently exported to the territory of the other Party, or replaced by an identical or similar good used as a material in the production of another good subsequently exported to the territory of the other Party.

7. Paragraphs 4 and 5 shall apply:

(a) from the time that Bolivia applies provisions similar to those contained in those paragraphs to a non-Party; or

(b) for 3 years, with respect to a good imported into the territory of a Party that meets the conditions in subparagraphs (a) and (b) of paragraph 4, where it is demonstrated that the reimbursement, exemption, suspension, or reduction of customs duties simultaneously

(i) creates a significant distortion of the general tariff treatment applied by the Party granting the refund, exemption, suspension or reduction of customs duties in favor of the export of goods from the territory of that Party; and

ii) causes injury or threat of injury to a domestic industry producing identical, like or directly competitive goods of the other Party.

8. For purposes of paragraph 7, significant distortion of the general tariff treatment applied by a Party granting a refund, exemption, suspension or reduction of duties in favor of the export of goods from the territory of that Party shall be presumed to exist where:

(a) the amount of duties refunded, exempted, suspended or reduced on goods imported into the territory of that Party that satisfy the conditions set out in subparagraphs (a) and (b) of paragraph (4) exceeds 5 percent of the total value of imports, during a year, of originating goods provided for in a tariff item of the Party to whose territory those originating goods are exported; or

(b) a Party refunds, exempts, suspends, or reduces customs duties on goods or materials imported from the territory of a non-Party on the importation of which it maintains quantitative restrictions, and those goods or materials are subsequently exported to the other Party, used in the production of goods subsequently exported to the other Party, or replaced by identical or similar materials used in the production of goods subsequently exported to the other Party, or substituted with identical or similar materials used in the production of goods subsequently exported to the other Party.

9. A Party that refunds, exempts, suspends or reduces customs duties shall, on request of the other Party, provide the information required to verify the existence of the conditions set out in paragraph 7, including with respect to each and every import on which it grants refunds, exemptions, suspensions or reductions of customs duties with respect to a good exported to the territory of the other Party.

10. For the purposes of paragraph 7, the following definitions shall apply:

(a) threat of injury: clearly imminent injury, based on the facts and not merely on allegation, conjecture or remote possibility;

(b) injury: a significant impairment of a domestic industry; and

c) domestic industry: the producer or producers of identical or similar goods or direct competitors operating within the territory of a Party.

11. Each Party shall establish clear and strict procedures for the implementation of paragraphs 4 and 5, in accordance with the following:

(a) the Party that decides to initiate an investigation to implement paragraphs 4 and 5 shall publish the initiation of the

investigation in the appropriate official media and shall notify the exporting Party in writing on the day following publication;

(b) for purposes of determining significant distortion and injury or threat of injury under paragraph 7(b)(i) and (ii), the competent authorities shall evaluate all factors of an objective and quantifiable nature;

(c) in determining the application of paragraphs 4 and 5, a direct causal link shall also be demonstrated between the reimbursement, exemption, suspension or reduction of customs duties, and the distortion and injury or threat of injury to the domestic industry;

d) if as a result of this investigation the competent authority determines, on the basis of objective evidence, that the conditions set forth in this Article are met, the importing Party may initiate consultations with the other Party;

e) the consultation procedure shall not oblige the Parties to disclose information that has been provided on a confidential basis, the disclosure of which could impede compliance with the laws of the Party governing the matter or harm commercial interests;

f) the period of prior consultations shall begin on the day following receipt by the exporting Party of the notification of the request to initiate consultations. The period of prior consultations shall be 60 days, unless the Parties agree on a shorter period;

g) the notification referred to in subparagraph f) shall be made through the competent authority and shall contain sufficient background information to support the application of paragraphs 4 and 5, including:

(i) the names and addresses of the domestic producers of identical, similar or directly competitive goods that are representative of the domestic industry, their share in the domestic production of that good and the reasons that lead them to claim that they are representative of that sector;

ii) a clear and complete description of the good subject to the proceeding, the tariff subheading under which it is classified and the tariff treatment in force, as well as the description of the identical, similar or direct competitor good;

iii) the import data corresponding to each of the last 3 years that constitute the basis that such good is imported in increasing quantities, either in absolute terms, or relative to domestic production;

iv) data on the total national production of the identical, similar or direct competitor good for the last 3 years; and

(v) data demonstrating injury or threat of injury caused by imports of the good in question in accordance with subparagraphs (b) and (c);

(h) the application of paragraphs 4 and 5 may only be adopted after the conclusion of the prior consultation period;

i) during the consultation period the exporting Party shall make any comments it considers relevant;

(j) the exporting Party shall apply paragraphs 4 and 5 at the conclusion of the consultation period under subparagraph (f) if any of the circumstances set out in paragraph 7 are found to exist; and

(k) in the event that the exporting Party fails to apply paragraphs 4 and 5 under subparagraph (j), the importing Party shall have the right to withdraw the preferential tariff treatment provided for in this Agreement for that good.

12. The Parties shall consult annually on the implementation of this Article.

## Article 3-05. Customs Valuation

1. The customs value of an imported good shall be determined in accordance with the principles of the Customs Valuation Code.

2. The dutiable base on which customs duties shall be applied to goods imported from the other Party shall not be the value of a good produced in the territory of the importing Party, nor an arbitrary or fictitious value.

## Article 3-06. Temporary Importation of Goods.

For the purposes of this Article, the following definitions shall apply:

goods imported for sporting purposes: sporting equipment for use in competitions, sporting events or training in the territory of the Party into which it is imported;

goods intended for exhibition or demonstration: goods intended for exhibition or demonstration, including components, auxiliary apparatus and accessories;

advertising films: recorded visual media, with or without sound, consisting essentially of images showing the nature or functioning of goods or services offered for sale or rental by a person established or resident in the territory of a Party, provided that the films are suitable for exhibition to potential customers, but not for dissemination to the general public; and are imported in packages containing not more than one copy of each film, and are not part of a larger consignment.

2. Each Party shall authorize the temporary importation without payment of customs duty of at least the following goods that are imported from the territory of the other Party, regardless of their origin and regardless of whether like, directly competitive or substitute goods are available in the territory of the Party:

(a) professional equipment necessary for the exercise of the activity, trade or profession of a business person;

b) press equipment or equipment for the broadcasting of radio or television signals and cinematographic equipment;

c) goods imported for sporting purposes, or for exhibition or demonstration; and

d) commercial samples and advertising films.

3. Except as otherwise provided in this Agreement, a Party may subject the temporary importation without payment of customs duty of a good of the type referred to in paragraph 2(a), (b) or (c) to any of the following conditions, provided that no additional conditions may be adopted:

(a) the good is imported by a person of the other Party or its representative;

(b) the good is used exclusively by the person or by his representative, or under his personal supervision, in the course of his trade, craft or profession;

c) that the property is not sold, leased or otherwise disposed of while it remains in its territory;

d) that the good is accompanied by a bond not exceeding 110% of the charges that would be due, if any, for entry or final importation, or other form of security, refundable at the time of exportation of the good, except that no bond may be required for customs duties on an originating good;

e) that the good is capable of identification when exported;

f) that the good is exported upon departure of the person or his representative, or within a period of time that reasonably corresponds to the purpose of the temporary importation;

g) that the good is imported in quantities not greater than is reasonable in accordance with its intended use, and

h) that the good is re-exported in the same condition in which it was imported.

4. Except as otherwise provided in this Agreement, the Parties may subject the temporary importation without payment of customs duty of a good of the type referred to in paragraph 2(d) to any of the following conditions, provided that no additional conditions may be adopted:

(a) the good is imported only for the purpose of lifting orders for goods or services to be supplied from the territory of the other Party or from another non-Party;

(b) the good is not for sale or lease and is used only for demonstration or exhibition while remaining in its territory;

c) the good is capable of identification when exported;

(d) the good is exported within a period of time reasonably corresponding to the purpose of the temporary importation;

e) that the good is imported in quantities not greater than is reasonable in accordance with its intended use, and

(f) the good is accompanied by a bond not exceeding 110% of the charges, if any, that would be due on entry or final importation, or such other form of security, refundable upon exportation of the good, except that no bond may be required for customs duties on an originating good.

5. Where a good that is temporarily imported fails to comply with any of the conditions that a Party imposes under paragraphs 3 and 4, that Party may apply the customs duties and any other charges that would be due on the entry or final importation of the good.

### Article 3-07. Duty-free Import for Samples with No Commercial Value

1. For the purposes of this article, samples of no commercial value shall be understood to mean goods representative of a class of goods already produced or a model the production of which is planned. It does not include identical goods imported by the same person or sent to a single consignee, in such quantity that, taken as a whole, they constitute an ordinary import subject to the payment of customs duties.

2. Each Party shall authorize the importation free of customs duties of samples of no commercial value from the territory of the other Party.

## Section C. Non-tariff Measures

### Article 3-08. Import and Export Restrictions

1. Except as otherwise provided in this Agreement, neither Party may adopt or maintain any prohibition or restriction on the importation of any good of the other Party or on the exportation or sale for export of any good destined for the territory of the other Party, except as provided in Article XI of the GATT, including its interpretative notes. For this purpose, Article XI of the GATT and its interpretative notes are incorporated into and made an integral part of this Agreement.

2. The Parties understand that the GATT rights and obligations embodied in paragraph 1 prohibit, in all circumstances in which any other type of restriction is prohibited, the establishment of minimum export and import prices, except as permitted for the application of sanctions and countervailing duty commitments.

3. Where a Party adopts or maintains a prohibition or restriction on the importation of goods from a non-Party or the exportation of goods destined for a non-Party, nothing in this Agreement shall be construed to prevent it from:

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

b) requiring as a condition for the exportation of such goods from the Party to the territory of the other Party that the goods not be re-exported to the non-Party, directly or indirectly, without being processed or manufactured in the territory of the other Party in a manner that results in a substantial change in the value, form or use of the goods, or in the production of another good.

4. In the event that a Party adopts or maintains a prohibition or restriction on the importation of a good from a non-Party, at the request of either Party, the Parties shall consult with a view to preventing the measure from interfering with or causing undue distortions in the pricing, marketing and distribution mechanisms in the other Party.

5. Paragraphs 1 through 4 do not apply to the measures set out in the Annex to Articles 3-02 and 3-08.

### Article 3-09 . Customs Duties

Upon entry into force of this Agreement, the Parties shall eliminate all their customs duties on originating goods for the service rendered by customs.

### Article 3-10. Export Taxes

1. Salvo lo dispuesto en este artículo, ninguna Parte adoptará ni mantendrá impuesto, gravamen o cargo alguno a la exportación de un bien a territorio de la otra Parte, a menos que éstos también se adopten o mantengan sobre ese bien cuando esté destinado al consumo interno.

2. Cada Parte podrá mantener o adoptar un impuesto, gravamen u otro cargo sobre la exportación de los bienes alimenticios básicos listados en el párrafo 3, sobre sus ingredientes, o sobre los bienes de los cuales esos productos alimenticios se derivan, si ese impuesto, gravamen o cargo es utilizado:

a) para que los beneficios de un programa interno de asistencia alimentaria que incluya esos alimentos sean recibidos sólo por los consumidores en la Parte que aplica ese programa; o

b) para asegurar la disponibilidad de cantidades suficientes de los bienes alimenticios destinados a los consumidores nacionales, o de cantidades suficientes de sus ingredientes o de los bienes de que esos bienes alimenticios se derivan, destinados a una industria procesadora nacional, cuando el precio interno de esos bienes alimenticios sea mantenido por debajo del precio mundial, como parte de un programa gubernamental de estabilización, siempre que esos impuestos,

gravámenes o cargos no tengan el efecto de aumentar la protección otorgada a la industria nacional y se mantengan sólo por el periodo necesario para conservar la integridad de ese programa.

3. Para efectos del párrafo 2, "bienes alimenticios básicos" significa: Aceite vegetal Arroz Atún en lata Azúcar blanca Azúcar morena Bistec o pulpa de res Café soluble Café tostado Carne molida de res

15 Cerveza Chile envasado Chocolate en polvo Concentrado de pollo Frijol Galletas dulces populares Galletas saladas Gelatinas Harina de maíz Harina de trigo Hígado de res Hojuelas de avena Huevo Jamón cocido Leche condensada Leche en polvo Leche en polvo para niños Leche evaporada Leche pasteurizada Manteca vegetal Margarina Masa de maíz Pan blanco Pan de caja Pasta para sopa Puré de tomate Refrescos embotellados Retazo con hueso Sal Sardina en lata Tortilla de maíz

4. No obstante lo dispuesto en el párrafo 1, cada Parte podrá adoptar o mantener un impuesto, gravamen o cargo a la exportación de cualquier bien alimenticio a territorio de la otra Parte si ese impuesto, gravamen o cargo se aplica temporalmente para aliviar un desabasto crítico de ese bien alimenticio. Para propósitos de este párrafo, "temporalmente" significa hasta un año, o un periodo mayor acordado por las Partes.

### Article 3-11. Country of Origin

The annex to this article applies to measures related to country of origin.

### Article 3-12. Distinctive Products

The annex to this article applies to the products listed in this article.

## Section D. Publication and Notification

### Article 3-13. Publication and Notification

1. Each Party shall promptly publish and notify the laws, regulations, procedures and administrative provisions of general application which it has put into force and which relate to the classification, valuation or customs valuation of goods, rates of customs duties, taxes or other charges or to import or export measures, restrictions or prohibitions, or the transfer of payments relating thereto, or to the sale, distribution, transportation, insurance, storage, inspection, exhibition, processing, mixing or other use of such goods, so that governments and interested traders or persons of the other Party may be aware of them. Each Party shall also publish agreements relating to international trade policy and in force between the government or a government agency of that Party and the government or a government agency of the other Party.

No Party shall apply prior to their official publication any measure of a general nature adopted by that Party that has the effect of increasing a customs duty or other charge on the importation of goods of the other Party under established and uniform usage, or that imposes a new or more burdensome measure, restriction or prohibition on imports of goods of the other Party or on transfers of funds relating thereto.

3. Each Party shall identify in terms of the tariff items and nomenclature corresponding to them according to their respective tariffs, the measures, restrictions or prohibitions on the importation or exportation of goods for reasons of national security, public health, preservation of flora or fauna, preservation of the environment, plant and animal health, standards, labels, international commitments, public order requirements or any other regulations.

# Chapter IV. Agricultural Sector and Animal and Plant Health and Phytosanitary Measures

## Section A. Agricultural Sector

### Article 4-01. Definitions

For the purposes of this section, the following definitions shall apply:

agricultural good: a good classified in any of the following chapters, headings or subheadings of the Harmonized System: (Descriptions are provided for reference purposes only.)

Chapters 01 to 24, (excluding fish and fish products)

subheading 2905.43, mannitol

subheading 2905.44, sorbitol

subheading 2918.14, citric acid

subheading 2918.15, salts and esters of citric acid

subheading 2936.27, vitamin C and its derivatives

heading 33.01, essential oils

Subheadings 35.01 to 35.05, albuminoidal substances, modified starches and modified starch products

subheading 3809.10, dressings and finishing products

subheading 3823.60, sorbitol n.e.s.

headings 41.01 to 41.03, hides, skins and leather

heading 43.01, raw furskins

headings 50.01 to 50.03, raw silk and silk waste

headings 51.01 to 51.03, wool and fur

heading 52.01 to 52.03, raw cotton, cotton waste and cotton waste, carded or combed

heading 53.01, raw flax

heading 53.02, raw hemp

fish and fish products: fish, crustaceans, molluscs or any other aquatic invertebrates, marine mammals and their derivatives, classified in any of the following chapters, headings or subheadings of the Harmonized System:

(Descriptions are provided for reference purposes).

chapter 03, fish and crustaceans, molluscs and other aquatic invertebrates

heading 05.07, ivory, tortoiseshell, marine mammals, horns, antlers, hooves, hoofs, claws, claws and beaks, and their products

heading 05.08, coral and similar products

heading 05.09, natural sponges of animal origin

heading 05.11, products of fish, crustaceans, molluscs or any other marine invertebrate; dead animals of Chapter 03

heading 15.04, fats and oils and their fractions, of fish or marine mammals

heading 16.03, extracts and juices other than those of meat

heading 16.04, Prepared or preserved fish or fish preserves

heading 16.05, Prepared or preserved crustaceans or molluscs and other marine invertebrates

subheading 2301.20, flours, meals, pellets and pellets of fish

export subsidies:

(a) the granting of direct export subsidies, including payments in kind, by governments or public agencies, to an enterprise, to an industry, to producers of an agricultural good, to a cooperative or other association of such producers or to a marketing board;

(b) the sale or placement for export of non-commercial stocks of agricultural goods by governments or public bodies at a price lower than the comparable price charged to purchasers in the domestic market for a similar agricultural good;

(c) payments for the export of agricultural goods financed by virtue of governmental action, whether or not involving a charge on government accounts, including payments financed out of the proceeds of a levy imposed on the agricultural

good in question or on an agricultural good from which the exported agricultural good is derived;

(d) the provision of subsidies to reduce the costs of marketing exports of agricultural goods (other than readily available export promotion and advisory services), including handling, processing and other processing costs, and international transportation and freight costs;

(e) internal transportation and freight costs for export shipments established or imposed by governments on terms more favorable than for domestic shipments; and

(f) subsidies on agricultural goods contingent upon their incorporation into exported goods.

## Article 4-02. Scope of Application

Article 4-02: Scope of application.

1. This Section applies to measures adopted or maintained by any Party relating to agricultural trade.

2. In the event of any inconsistency between the provisions of this Section and any other provision of this Agreement, the provisions of this Section shall prevail to the extent of the inconsistency.

Article 4-03: International Obligations.

A Party, before adopting a measure under an intergovernmental agreement on goods under Article XX(h) of the GATT that may affect trade in an agricultural good between the Parties, shall consult with the other Party to avoid nullifying or impairing a concession granted by that Party in its Schedule to the Tariff Break Schedule.

Article 4-04: Market Access.

1. The Parties shall facilitate access to their respective markets by reducing or eliminating barriers to trade in agricultural goods and shall not establish new barriers to trade between them.

2. The Parties waive their rights under Article XI:2(c) of the GATT and those rights embodied in Article 3-08 (Import and Export Restrictions) with respect to any measures adopted or maintained on the importation of agricultural goods.

3. From the date of entry into force of this Agreement, no Party may refund the amount of customs duties paid, or waive, suspend or reduce the amount of customs duties owed, on any agricultural good imported into its territory that is:

(a) substituted by an identical or similar agricultural good subsequently exported to the territory of the other Party; or

(b) replaced by an identical or similar agricultural good used as a material in the production of another good subsequently exported to the territory of the other Party.

4. Notwithstanding any other provision of this Agreement, with respect to agricultural goods contained in the Annexes to this Article, any Party may maintain or adopt a prohibition or restriction, or a customs tariff on the importation of such goods, in accordance with its rights and obligations under the GATT. Once a year from the entry into force of this Agreement, the Parties shall examine, through the Working Group on Agricultural Trade established in Article 4-08, the possibility of incorporating into a trade liberalization program the agricultural goods contained in those annexes.

5. Once the Parties have adopted the resolutions of the Working Group formulated under the terms of paragraph 4 for an originating agricultural good listed in the annexes to this Article, in accordance with their applicable legal procedures, that resolution shall prevail over the provisions of this Agreement for that good.

Article 4-05: Domestic Support.

1. The Parties recognize that domestic support measures may be of vital importance to their agricultural sectors, but that they may also distort trade and affect production. In this regard, the Parties shall apply domestic support as provided for in the multilateral agricultural negotiations under the WTO Agreement and, where a Party decides to support its agricultural producers, it shall endeavor to move towards domestic support policies that:

(a) have minimal or no trade or production-distorting effects; or

(b) are exempt from any domestic support reduction commitments that may be negotiated under the WTO Agreement.

2. The Parties also recognize that either Party may modify at its discretion its domestic support measures, including those that may be subject to reduction commitments, in accordance with its rights and obligations under the WTO Agreement.

Article 4-06: Export Subsidies.

1. The Parties share the objective of achieving the multilateral elimination of export subsidies on agricultural goods. In this regard, they shall cooperate in the effort to reach an agreement within the framework of the WTO Agreement.

No Party may maintain or introduce export subsidies on agricultural goods in its reciprocal trade after the entry into force of this Agreement. Likewise, the Parties waive their rights under the WTO Agreement to use export subsidies and the rights with respect to the use of such subsidies that may result from multilateral negotiations on agricultural trade within the framework of the WTO Agreement, in their reciprocal trade.

Notwithstanding the provisions of paragraph 2, if at the request of the importing Party, the Parties agree on an export subsidy on an agricultural good to the territory of the importing Party, the exporting Party may adopt or maintain such subsidy.

Article 4-07: Agricultural Technical and Marketing Standards.

Without prejudice to the provisions of Chapter IX (Standardization Measures), the Parties establish the Agricultural Technical and Marketing Standards Working Group, composed of representatives of each Party, which shall meet annually or as otherwise agreed. This Group will review the operation of agricultural grading and quality standards affecting trade between the Parties and resolve issues that may arise in connection with the operation of such standards. The Working Group shall report its activities to the Agricultural Trade Working Group established under Article 4-08.

2. Where a Party applies a technical or marketing standard with respect to the packaging, grade, quality and size of an agricultural good, that Party shall accord to an identical agricultural good originating in the other Party treatment no less favorable than that accorded to its identical agricultural goods with respect to the application of those standards.

Article 4-08: Agricultural Trade Working Group.

1. The Parties establish the Agricultural Trade Working Group, composed of representatives of each Party, which shall meet at least once a year and as agreed.

2. The functions of the Working Group include:

(a) monitoring and promoting cooperation to implement and administer this Section;

(b) establishing a forum for the Parties to consult on matters related to this Section; and

c) submitting an annual report to the Commission on the implementation of this section.

# Section B. Animal and Plant Health and Phytosanitary Measures

## Article 4-09. Definitions

For the purposes of this section, the following definitions shall mean:

animal: any animal, including fish and wildlife;

commodity: an animal, plant or its products and by-products;

contaminant: any contaminant, including residues of pesticides, fertilizers and chemicals used in agriculture, as well as veterinary drugs and other foreign substances;

risk assessment: evaluation of:

(a) the probability of entry, establishment and spread of a pest or disease and the potential biological, agronomic and economic consequences; or

(b) the probability of adverse effects on human, animal or plant life or health arising from the presence of an additive, contaminant, toxin, or disease-causing organism in a commodity; scientific information: data or information derived from the use of scientific principles or methods; animal or plant health measure: a measure, including an end-product criterion; a process or production method directly related to the product; a test, inspection, certification, or approval procedure; a relevant statistical method; a sampling procedure; a risk assessment method; a packaging and labeling requirement directly related to food safety; and a quarantine regime, such as a relevant requirement associated with the transport of animals or plants, or with material necessary for their survival during transport; that a Party adopts, maintains, or applies in its territory to:

(i) protect animal or plant life or health from risks arising from the introduction, establishment, or spread of a pest or disease;

(ii) protect human, animal, or plant life or health from risks arising from the presence of an additive, contaminant, toxin, or pathogenic organism in a good;

(iii) to protect human life or health from risks arising from a disease-causing organism, or from a pest carried by a good; or

(iv) to prevent or limit other damage from the introduction, establishment, and spread of a pest or disease;

appropriate level of animal or plant health protection: the level of protection to human, animal or plant life or health that a Party considers appropriate;

international standard, guideline or recommendation: any of these established:

(a) in relation to food safety, by the Codex Alimentarius Commission, including that established by the Codex Alimentarius Committee on Fish and Fishery Products, relating to product decomposition, additives, contaminants, hygienic practices, and methods of analysis and sampling;

(b) in relation to animal health and zoonoses, under the auspices of the Office International des Epizooties;

(c) in relation to plant health, under the auspices of the Secretariat of the International Plant Protection Convention; or

(d) by other international organizations to which the Parties are Parties; or

pest: any pest including weeds or any infectious substance that may directly or indirectly injure or cause disease to terminal plants or parts thereof and other processed or manufactured goods;

approval procedure: any registration, notification or other mandatory administrative procedure for:

(a) approving the use of an additive for a defined purpose or under defined conditions; or

(b) establishing a tolerance for a contaminant for a defined purpose or under defined conditions; in a food, beverage or feedstuff, prior to permitting its use or marketing when any of these contain the additive or contaminant;

control or inspection procedure: any procedure used, directly or indirectly, to determine compliance with an animal or plant health measure, including sampling, testing, inspection, verification, monitoring, auditing, conformity assessment, accreditation, registration, certification, or other procedures involving physical examination of a good, the packaging thereof, or equipment or facilities directly related to the production, marketing, or use of a good, but does not mean an approval procedure;

plant: any plant, including wild flora;

area: a country, part of a country, parts of several countries, or all parts of several countries;

area of low pest or disease prevalence: an area in which a specific pest or disease occurs at low levels;

pest- or disease-free area: an area in which a specific pest or disease is not present.

## Article 4-10. Scope of Application

In order to establish a framework of rules and disciplines to guide the development, adoption and enforcement of animal and plant health measures, the provisions of this Section apply to any such measures that may directly or indirectly affect trade between the Parties.

## Article 4-11. Principal Rights and Obligations

**Right to adopt zoosanitary and phytosanitary measures**

1. Each Party may, in accordance with this Section, adopt, maintain or apply any animal or plant health or sanitary measure necessary for the protection of human, animal or plant life or health in its territory, even if it is stricter than an international standard, guideline or recommendation.

**Right to set the level of protection**

2. Notwithstanding any other provision of this Section, each Party may set its appropriate levels of protection, in accordance

with Article 4-14, to protect human, animal or plant life or health.

**Scientific principles**

3. Each Party shall ensure that any animal or plant health measure that it adopts, maintains or applies:

(a) is based on scientific principles, taking into account, where appropriate, relevant factors such as different geographical conditions;

(b) is maintained only when there is a scientific basis for it; and

(c) is based on a risk assessment appropriate to the circumstances.

**Non-discriminatory treatment**

4. Each Party shall ensure that where identical or similar conditions exist, an animal or plant health measure it adopts, maintains or applies does not arbitrarily or unjustifiably discriminate between its goods and like goods of the other Party, or between goods of the other Party and like goods of any other country.

**Unnecessary Obstacles**

5. No Party shall adopt, maintain or apply animal health or phytosanitary measures that have the purpose or effect of creating unnecessary obstacles to trade between the Parties. In this regard, animal and phytosanitary measures shall not be more trade-restrictive than necessary to achieve the appropriate level of protection, taking into account technical and economic feasibility.

**Covert Restrictions**

6. No Party may adopt, maintain or apply any animal health or phytosanitary measure that has the purpose or the effect of creating a disguised restriction on trade between the Parties.

**Support in Non-Governmental Bodies**

7. Each Party shall ensure that any non-governmental body on which it relies for the application of an animal or plant health measure acts in a manner consistent with this Section.

## Article 4-12. International Standards and Standardizing Bodies.

1. Without reducing the appropriate level of animal and plant health protection, each Party shall use, as a basis for its animal or plant health measures, relevant international standards, guidelines or recommendations in order, inter alia, to make its animal or plant health measures equivalent or, where appropriate, identical to those of the other Party.

2. An animal or plant health measure of a Party that conforms to an international standard, guideline or recommendation shall be presumed to be consistent with paragraphs 4 and 5 of Article 4-11. An animal or plant health measure that provides a different level of protection from that which would be achieved by a measure based on an international standard, guideline or recommendation shall not, on that basis alone, be considered inconsistent with the provisions of this Section.

3. Nothing in paragraph 1 shall be construed to prevent a Party from adopting, maintaining or applying, in accordance with the other provisions of this Section, an animal or plant health measure that is more stringent than the relevant international standard, guideline or recommendation.

4. Where a Party has reason to believe that an animal or plant health measure of the other Party adversely affects or may adversely affect its exports and the measure is not based on relevant international standards, guidelines or recommendations, it may request to be informed of the reasons for the measure and the other Party shall do so in writing.

5. Each Party shall participate, to the fullest extent possible, in relevant international standardizing organizations, including the Codex Alimentarius Commission, the Office International des Epizooties and the International Plant Protection Convention, with a view to promoting the development and periodic review of international standards, guidelines and recommendations.

## Article 4-13. Equivalence

1. Without reducing the appropriate level of animal or plant health protection, the Parties shall, to the greatest extent possible and in accordance with this Section, seek equivalence of their respective measures.

2. The importing Party shall:

(a) shall treat an animal or plant health measure adopted or maintained by the exporting Party as equivalent to one of its own, where the exporting Party, in cooperation with the importing Party, provides it with scientific or other information, in accordance with risk assessment methods agreed by them, to demonstrate objectively, subject to subparagraph (b), that the exporting Party's measure achieves the importing Party's appropriate level of protection;

(b) may, where it has a scientific basis for doing so, make a finding that the exporting Party's measure does not meet the importing Party's appropriate level of protection; and

(c) shall provide in writing to the exporting Party, upon request, its reasons for a finding under subparagraph (b). For the purpose of establishing equivalence between animal health and phytosanitary measures, the exporting Party shall, at the request of the importing Party, adopt such reasonable procedures as may be available to it to facilitate access to its territory for inspection, testing and other relevant resources. In developing an animal or phytosanitary measure, each Party shall consider the relevant existing or proposed animal or phytosanitary measures of the other Party.

## Article 4-14. Risk Assessment and Appropriate Level of Animal and Plant Health Protection.

1. In conducting a risk assessment, each Party shall take into account:

(a) relevant risk assessment methods and techniques developed by international standardizing organizations;

(b) available scientific and technical information;

(c) relevant process and production methods;

(d) relevant inspection, sampling and testing methods;

(e) the existence of pests or diseases to be taken into account, including the existence of pest or disease free areas and areas of low pest or disease prevalence;

(f) ecological and other environmental conditions to be considered; or

(g) relevant applicable treatments to the satisfaction of the importing Party, such as quarantines.

2. In addition to paragraph 1, in establishing its appropriate level of animal and plant health protection in relation to the risk associated with the introduction, establishment or spread of a pest or disease, and in assessing the risk, each Party shall also take into account, where relevant, the following economic factors:

(a) the loss of production or sales that could result from the pest or disease;

(b) the costs of controlling or eradicating the pest or disease in its territory; and

(c) the cost-effectiveness of other options for limiting the risks.

3. Each Party, in establishing its appropriate levels of animal and plant health protection, shall:

a) take into account the objective of minimizing negative effects on trade; and

b) avoid making distinctions, under different circumstances, that may result in arbitrary or unjustifiable discrimination against a good of the other Party or constitute a disguised restriction on trade between the Parties, with the objective of achieving consistency in those levels of protection.

4. Notwithstanding paragraphs 1 through 3 and paragraph 3(c) of Article 4-11, where a Party conducts a risk assessment and concludes that the available information, including scientific information, is insufficient to complete the assessment, it may adopt a provisional animal or plant health measure, based on available relevant information, including information from international standardizing organizations and the other Party's animal or plant health measures. Once it has sufficient information to complete the risk assessment, the Party shall, within a reasonable period of time, review and, where appropriate, modify the provisional animal or phytosanitary measure in the light of that assessment.

5. Where a Party is able to achieve its appropriate level of protection through the gradual application of an animal or plant health measure, it may, on request of the other Party and in accordance with this Section, allow such gradual application or grant specific exemptions for the measure for limited periods, taking into account the export interests of the requesting Party.

## Article 4-15. Adaptation to Regional Conditions.

1. Each Party shall adapt any of its animal or plant health measures related to the introduction, establishment or spread of a pest or disease to the animal or plant health characteristics of the area where a good subject to that measure is produced and the area in its territory to which the good is destined, taking into account any relevant conditions, including those relating to transport and loading between those areas. In assessing the animal and plant health characteristics of an area, taking into account whether it is a pest-free or disease-free area, or an area of low pest or disease prevalence, and may be retained as such, as the case may be, each Party shall take into account, among other factors:
(a) the prevalence of pests or diseases in that area;
(b) the existence of eradication or control programs in that area; and
(c) any relevant standards, guidelines or recommendations.

2. In addition to the provisions of paragraph 1, each Party, when establishing whether an area is a pest-free or disease-free area, or is an area of low pest or disease prevalence, shall base its judgement on factors such as geographical conditions, ecosystems, epidemiological surveillance and the effectiveness of animal or plant health controls in that area.

3. The importing Party shall recognize that an area in the territory of the exporting Party is a pest-free or disease-free area, or an area of low pest or disease prevalence, and may be retained as such, as the case may be, when the exporting Party provides the importing Party with sufficient scientific or other information to demonstrate this to the satisfaction of the importing Party. For this purpose, the exporting Party shall, upon request, provide the importing Party with reasonable access in its territory for inspection, testing and other relevant procedures.

4. Each Party may, in accordance with this Section:
a) adopt, maintain or apply a different risk assessment procedure for a pest-free or disease-free area than for an area of low pest or disease prevalence; or
b) determine a different final destination for the disposal of a good produced in a pest-free or disease-free area than for a good produced in an area of low pest or disease prevalence; taking into account any relevant conditions, including those related to transport and cargo.

5. In adopting, maintaining or applying an animal or plant health measure in relation to the introduction, establishment or spread of a pest or disease, each Party shall accord to a good produced in a pest-free or disease-free area in the territory of the other Party treatment no less favorable than that accorded to a good produced in a pest-free or disease-free area in another country presenting the same level of risk. The Party shall use equivalent risk assessment techniques to evaluate the relevant conditions and controls in the pest-free or disease-free area and in the area adjacent to that area, and shall take into account any relevant conditions, including those related to transportation and loading.

6. The importing Party shall seek agreement with the exporting Party, upon request, on specific requirements, compliance with which would allow a good produced in an area of low pest or disease prevalence in the territory of the exporting Party to be imported into the territory of the importing Party if it achieves the level of protection required by the importing Party.

## Article 4-16. Control, Inspection and Approval Procedures.

1. Each Party shall, in connection with any control or inspection procedure it carries out:
a) initiate and conclude the procedure as expeditiously as possible and in a manner no less favorable to a good of the other Party than to a like good of the Party or of any other country;
b) publish the normal duration of the procedure or communicate the expected duration of the procedure to any person requesting it;
c) ensure that the competent body:
(i) upon receipt of an application, promptly examine the completeness of the documentation and inform the applicant accurately and fully of any deficiencies;
(ii) as soon as possible, transmit to the applicant the results of the procedure accurately and fully, so that any necessary corrective action may be taken;
(iii) where the application is deficient, continue, as far as possible, with the procedure if the applicant so requests;
(iv) report, at the request of the applicant, on the status of the application and the reasons for any delay;
(d) limit the information to be submitted by the applicant to that necessary to carry out the procedure;
(e) accord to confidential or proprietary information arising out of, or submitted in connection with, the conduct of the procedure for an asset of the other Party:
(i) treatment no less favorable than that accorded for a good of the Party; and

(ii) treatment that protects the legitimate commercial interests of the applicant in accordance with the law of that Party;
(f) limit to what is reasonable or necessary any requirement with respect to individual specimens or samples of a good;
g) shall not charge a higher fee for conducting the procedure on a good of the other Party than on its goods or the goods of another country, taking into account communication, transportation and other related costs;
h) shall use criteria for selecting the location of the facilities where the procedure is conducted so as not to cause unnecessary inconvenience to an applicant or its representative;
(i) provide a mechanism for reviewing complaints regarding the operation of the procedure and for taking corrective action when a complaint is justified;
(j) use criteria for selecting samples of goods that do not cause unnecessary inconvenience to an applicant or its representative; and
(k) in the case of a good that has been modified subsequent to a determination that it complies with the requirements of the applicable animal or plant health measure, limit the procedure to that necessary to establish that it continues to comply with the requirements of that measure.

2. Each Party shall apply to its approval procedures the relevant provisions of paragraph 1(a) through (i), with necessary modifications.

3. When, at the stage of production of a good, the importing Party requires to carry out a control or inspection procedure, the exporting Party shall, at the request of the importing Party, take such reasonable measures as may be available to it to provide the importing Party with access to its territory in order to carry out its control or inspection procedure. The exporting Party shall also provide the importing Party with the assistance necessary for this purpose.

4. A Party maintaining an approval procedure may establish an authorization requirement for the use of an additive, or set a tolerance level for a contaminant in a food, beverage or feedstuff, in accordance with that procedure, prior to granting access to its domestic market for that food, beverage or feedstuff containing that additive or contaminant. Where that Party so requires, it may adopt a relevant international standard, guideline or recommendation as a basis for granting access to such goods, pending completion of the procedure.

## Article 4-17. Notification, Publication and Provision of Information

1. In addition to the provisions of Articles 10-02 (Publication) and 10-03 (Notification and Provision of Information), when proposing the adoption or modification of an animal or plant health measure of general application, each Party shall:
(a) at least 60 days in advance, publish a notice and notify the other Party in writing of its intention to adopt or modify such measure, other than by law, and publish and provide to the other Party the full text of the proposed measure, in a manner that will enable interested persons to become familiar with the proposal;
(b) identify in the notice and notification the good to which the measure would apply, and include a brief description of the objective and the reasons for the measure;
(c) provide a copy of the proposed measure to the other Party or interested person that so requests and, where possible, identify any provisions that deviate substantially from relevant international standards, guidelines or recommendations; and
(d) without discrimination, allow the other Party and interested persons to comment in writing and, upon request, discuss them and take into account the results of those discussions.

2. Each Party shall, through appropriate measures, seek to ensure, with respect to an animal or plant health measure that a competent authority other than a central or federal government authority, as the case may be, intends to adopt or modify:
(a) that notice and notification of the type required under paragraph 1(a) and (b) is given at an appropriate initial stage prior to its adoption; and
(b) compliance with paragraph 1(c) and (d).

3. Where a Party considers it necessary to address an urgent problem related to animal or plant health protection, it may omit any of the steps set out in paragraphs 1 or 2 provided that, once an animal or plant health measure has been adopted:
(a) immediately notifies the other Party, in accordance with the requirements set out in paragraph 1(b), including a brief description of the urgent problem;
(b) provides a copy of the measure to the other Party or interested persons who so request; and
(c) without discrimination, allows the other Party and interested persons to make comments in writing and, upon request, discusses them and takes into account the results of those discussions.

4. Each Party shall, except where necessary to address an urgent problem referred to in paragraph 3, allow a reasonable period to elapse between the publication of an animal or plant health measure of general application and the date of entry into force of the measure, in order to allow time for interested persons to adapt to the measure.

5. Each Party shall designate a government authority to be responsible for the implementation in its territory of the notification provisions of this Article and shall notify the other Party accordingly. Where a Party designates two or more governmental authorities for this purpose, it shall provide the other Party with complete and unambiguous information on the scope of responsibilities of those authorities.

6. Where the importing Party denies entry into its territory of a good of the other Party because it does not comply with an animal health or phytosanitary measure, the importing Party shall, upon request, provide a written explanation to the exporting Party, identifying the relevant measure as well as the reasons why the good does not comply with that measure.

## Article 4-18. Information Centers

1. Each Party shall ensure that there is an information center capable of responding to all reasonable inquiries from the other Party and interested persons, as well as providing relevant documentation regarding:
(a) any animal or plant health measures of general application, including control or inspection or approval procedures, proposed, adopted or maintained in its territory by any government, whether central or federal;
(b) the Party's risk assessment processes and the factors it takes into consideration in conducting the assessment and in establishing its appropriate level of protection;
(c) the Party's membership and participation in international and regional animal and plant health and phytosanitary bodies and systems, and bilateral and multilateral agreements within the scope of this Section, as well as in relation to the provisions of those bodies, systems or agreements; and
(d) the location of notices published pursuant to this Section or the place where the information contained therein may be obtained.

2. Each Party shall ensure that, where copies of documents are requested by the other Party or interested persons, in accordance with the provisions of this Section, they shall be provided at the same price as for domestic sale, plus the cost of postage.

## Article 4-19. Limitations on the Provision of Information

Nothing in this Section shall be construed to require a Party to furnish any information the dissemination of which it considers likely to impede the enforcement of its laws, to be contrary to the public interest, or to prejudice the legitimate commercial interests of particular enterprises.

## Article 4-20. Working Group on Animal and Plant Health Measures

1. The Parties establish the Working Group on Animal and Plant Health Measures, composed of representatives of each Party with responsibilities in animal and plant health matters.

2. The Working Group shall:
a) shall, to the greatest extent possible, seek the assistance of relevant international standard-setting organizations in order to obtain available scientific and technical advice and to minimize duplication of effort in the exercise of its functions;
b) may be assisted by experts and expert organizations as it deems appropriate;
c) shall report annually to the Commission on the implementation of this section;
d) shall meet, at the request of any Party, at least once a year, unless otherwise agreed by the Parties; and
e) may establish working groups as it deems appropriate and determine the scope and terms of reference of such working groups.

3. The Working Group shall facilitate:
a) the improvement of food safety and animal and plant health conditions in the territory of the Parties;
b) the activities of the Parties in accordance with Articles 4-12 and 4-15;
c) technical cooperation between the Parties, including cooperation in the development, application and enforcement of animal or plant health measures; and
d) consultations on specific animal or plant health matters.

## Article 4-21. Technical Consultations

1. Each Party may request consultations with the other Party on any problem related to this Section.

2. Each Party may have recourse to relevant international standardizing organizations, including those referred to in paragraph 5 of Article 4-12, for advice and assistance on animal and plant health matters within their respective mandates.

3. Where a Party requests consultations concerning the application of this Section with respect to an animal or plant health measure of the other Party and so notifies the Working Group, the Working Group may facilitate consultations, if it does not consider the matter itself, by referring the matter to an ad hoc working group or other forum for non-binding technical advice or recommendation.

4. The Working Group shall consider any matter referred to it pursuant to paragraph 3 as expeditiously as possible, particularly in relation to perishable goods, and shall forward to the Parties, in turn, any technical advice or recommendations it develops or receives in relation to that matter. The Parties shall provide the Working Group with a written response regarding such technical advice or recommendation within such time as the Working Group may direct.

5. Where, in accordance with paragraph 3, the Parties have had recourse to consultations facilitated by the Working Group, the consultations shall, if the Parties so agree, constitute those provided for in the First Additional Protocol to this Agreement.

6. A Party asserting that an animal or plant health measure of the other Party is inconsistent with this Section shall have the burden of proving inconsistency.

### Article 4-22. Technical Cooperation

Each Party, at the request of the other Party:
a) facilitate the provision of technical advice, information and assistance, on mutually agreed terms and conditions, to strengthen its animal and plant health measures and related activities, including research, process technology, infrastructure and the establishment of domestic regulatory bodies. Such assistance may include credits, grants and funds for the acquisition of technical skills, training and equipment to facilitate adjustment and compliance with an animal or plant health measure of the other Party;
b) provide information on its technical cooperation programs relating to animal or plant health measures in areas of particular interest; and
c) consult with the other Party during the development of any animal or plant health measure, or prior to a change in its application.

## Chapter V. Rules of Origin

### Article 5-01. Definitions

For the purposes of this Chapter, the following definitions shall apply:
**good:** any good, product, article or material;
**fungible goods:** goods that are interchangeable for commercial purposes, whose properties are essentially identical and which it is impractical to differentiate by simple visual examination;
**identical or similar goods:** "identical goods" and "like goods" respectively, as defined in the Customs Valuation Code;
**originating good or originating material:** a good or material that qualifies as originating in accordance with the provisions of this Chapter;
**goods wholly obtained or produced entirely in the territory of one or both of the Parties**:
a) minerals extracted in the territory of one or both Parties;
b) vegetables harvested in the territory of one or both Parties;
c) live animals, born and raised in the territory of one or both Parties;
d) goods obtained from hunting or fishing in the territory of one or both Parties;
e) fish, crustaceans and other marine species obtained by vessels registered or registered by a Party and flying the flag of that Party;
f) goods produced on board factory ships from the goods identified in subparagraph e), provided that such factory ships are registered or recorded by a Party and fly the flag of that Party;
g) goods obtained by a Party or a person of a Party from the seabed or subsoil outside the territorial waters, provided that the Party has rights to exploit that seabed or subsoil;
h) waste and scrap derived from:
(i) production in the territory of one or both Parties;
(ii) goods used or collected in the territory of one or both Parties, provided that such goods serve only for the recovery of raw materials; or

(iii) goods produced in the territory of one or both Parties exclusively from the goods referred to in subparagraphs (a) through (h) or their derivatives, at any stage of production;
**containers and packing materials for shipment:** goods that are used to protect a good during transportation, other than retail containers and materials;
**shipping and repacking costs**: the costs incurred in repacking and transporting a good outside the territory where the producer or exporter of the good is located;
**cost of sales promotion, marketing and after-sales services:** the following costs related to sales promotion, marketing and after-sales services:
(a) sales promotion and marketing; media advertising; advertising and market research; promotional and demonstration materials; exhibited goods; sales promotion conferences, trade fairs and conventions; banners; marketing exhibitions; free samples; sales, marketing and after-sales service publications such as goods brochures, catalogs, technical publications, price lists, service manuals and sales support information; establishment and protection of logos and trademarks; sponsorships; restocking fees for wholesale and retail sales; entertainment expenses;
b) sales and marketing incentives; wholesale, retail and consumer and goods rebates;
c) for sales promotion, marketing and after-sales service personnel: salaries and wages, sales commissions, bonuses; medical, insurance and pension benefits; travel, lodging and living expenses; and membership and professional fees;
d) recruitment and training of sales promotion, marketing and after-sales service personnel, and training of the client's employees after the sale;
e) property liability insurance;
f) office equipment for sales promotion, marketing and after-sales services;
g) telephone, mail and other means of communication for sales promotion, marketing and after-sales services;
h) rent and depreciation of sales promotion, marketing and after-sales service offices and distribution centers;
i) property insurance premiums, taxes, utility costs, and repair and maintenance costs of offices and distribution centers; and
j) payments by the producer to others for warranty repairs; net cost: total cost less sales promotion, marketing and after-sales service costs, royalties, shipping and repackaging, and ineligible interest costs, as set forth in the Annex to this Article;
**ineligible interest costs:** interest paid by a producer on its financial obligations that exceeds 10 percentage points above the highest interest rate on debt obligations issued by the central or federal government, as the case may be, the Party in which the producer is located, as set forth in the Annex to this Article;
**total cost**: the sum of the following elements as set forth in the Annex to this Article:
a) the cost or value of direct manufacturing materials used in the production of the good;
b) the cost of direct labor used in the production of the good; and
c) an amount for direct and indirect costs and expenses of manufacturing the good, reasonably allocated to the good, except for the following items:
i) costs and expenses of a service provided by the producer of a good to another person, when the service is not related to the good;
ii) costs and losses resulting from the sale of a part of the producer's business, which constitutes a discontinued operation;
iii) costs related to the cumulative effect of changes in the application of accounting principles;
iv) costs or losses resulting from the sale of a capital asset of the producer;
v) costs and expenses related to acts of God or force majeure; or
vi) profits earned by the producer of the asset, whether retained by the producer or paid to others as dividends or taxes paid on those profits, including capital gains taxes;
**direct manufacturing costs and expenses:** those incurred in a period, directly related to the good, other than the cost or value of direct materials and direct labor costs;
**indirect manufacturing costs and expenses:** those incurred in a period, other than direct manufacturing costs and expenses, direct labor costs and cost or value of direct materials;
**F. O.B.:** free on board (F.O.B.). );
**place where the producer is located:** in relation to a good, the production plant of that good;
**materia**l: a good used in the production of another good;
**self-produced material:** a material produced by the producer of a good and used in the production of that good;
**expendable materials:** materials that are interchangeable for commercial purposes and whose properties are essentially identical;
**indirect material:** a good used in the production, verification or inspection of a good, but not physically incorporated in the good; or a good that is used in the maintenance of buildings or operation of equipment related to the production of a good, including:
a) fuel and power;
b) tools, dies and molds;
c) spare or replacement parts and materials used in the maintenance of equipment and buildings;
d) lubricants, greases, composites and other materials used in the production or to operate equipment or buildings; e)

gloves, goggles, footwear, clothing, safety equipment and attachments;
f) equipment, apparatus and attachments used for checking or inspecting the goods;
g) catalysts and solvents; or
h) any other goods which are not incorporated in the goods, but whose use in the production of the goods can be reasonably demonstrated to be part of that production;
**intermediate materials:** self-manufactured materials used in the production of a good, and designated in accordance with Article 5-07;
**related person:** a person who is related to another person, as follows:
a) one of them holds positions of responsibility or management in an enterprise of the other;
b) they are legally recognized as associated in business;
c) they are in the relationship of employer and employee;
d) one person has, directly or indirectly, ownership, control or possession of 25% or more of the outstanding and voting shares or securities of both;
e) one of them directly or indirectly controls the other;
f) both persons are directly or indirectly controlled by a third person;
g) together they directly or indirectly control a third person; or
h) they are of the same family (children, siblings, grandparents or spouses);
**generally accepted accounting principles:** the consensus recognized to substantial support authorized in the territory of a Party, with respect to the recording of revenues, expenses, costs, assets and liabilities, disclosure of information and preparation of financial statements. These standards may be broad guides of general application, as well as detailed practical standards and procedures;
**production:** the growing, extracting, harvesting, fishing, hunting, manufacturing, processing or assembling of a good;
**producer:** a person who grows, extracts, harvests, fishes, hunts, manufactures, processes or assembles a good; **royalties:** payments that relate to intellectual property rights; used: employed or consumed in the production of goods;
**transaction value of a good:** the price actually paid or payable for a good related to the transaction of the producer of the good in accordance with the principles of Article 1 of the Customs Valuation Code, adjusted in accordance with the principles of Article 8.1, 8.3 and 8.4 thereof, without regard to whether the good is sold for export. For the purposes of this definition, the seller referred to in the Customs Valuation Code shall be the producer of the good; transaction value of a material: the price actually paid or payable for a material in connection with the transaction by the producer of the good in accordance with the principles of article 1 of the Customs Valuation Code, adjusted in accordance with the principles of article 8.1, 8.3 and 8.4 thereof, without considering that the material is sold for export. For the purposes of this definition, the seller referred to in the Customs Valuation Code shall be the supplier of the material, and the buyer referred to in the Customs Valuation Code shall be the producer of the good.

## Article 5-02. Instruments of Application

a) the basis of tariff classification is the Harmonized System;
b) the determination of the transaction value of a good or material shall be made in accordance with the principles of the Customs Valuation Code; and
c) all costs referred to in this Chapter shall be recorded and maintained in accordance with generally accepted accounting principles applicable in the territory of the Party where the good is produced.

## Article 5-03. Originating Goods

1. A good shall be originating in the territory of a Party when:
a) it is wholly obtained or produced entirely in the territory of one or both Parties, as defined in Article 5-01;
b) it is produced in the territory of one or both Parties exclusively from materials that qualify as originating under this Chapter;
c) it is produced in the territory of one or both Parties from non-originating materials that meet a change in tariff classification and other requirements as specified in the Annex to this Article and the good complies with the other applicable provisions of this Chapter;
d) is produced in the territory of one or both of the Parties from non-originating materials that comply with a change in tariff classification and other requirements, and the good complies with a regional value content requirement, as specified in the Annex to this Article, and with the other applicable provisions of this Chapter;
e) is produced in the territory of one or both of the Parties and complies with a regional value content requirement, as specified in the Annex to this Article, and complies with the other applicable provisions of this Chapter; or
f) except for goods falling within Chapters 61 through 63 of the Harmonized System, the good is produced in the territory of one or both of the Parties, but one or more of the non-originating materials used in the production of the good does not comply with a change in tariff classification because:

(i) the good has been imported into the territory of a Party unassembled or disassembled, but has been classified as an assembled good in accordance with General Rule 2(a) of the Harmonized System; or
(ii) the heading for the good is the same for both the good and its parts and that heading is not divided into subheadings or the subheading is the same for both the good and its parts; provided that the regional value content of the good, determined in accordance with item 5-04, is not less than 50%, except as otherwise provided in item 5-15, when the transaction value method is used or 41. 66% when the net cost method is used, and the property complies with the other applicable provisions of this chapter.

2. For purposes of this Chapter, the production of a good from non-originating materials that meet a change in tariff classification and other requirements, as specified in the Annex to this Article, shall be made entirely in the territory of one or both Parties, and any regional value content requirement of a good shall be satisfied entirely in the territory of one or both Parties.

## Article 5-04. Regional Value Content

1. Except as provided in paragraph 5, each Party shall provide that the regional value content of a good shall be calculated, at the option of the exporter or producer of the good, in accordance with the transaction value method provided in paragraph 2, or the net cost method provided in paragraph 4.

2. The following formula shall be used to calculate the regional value content of a good based on the transaction value method: VT - VMN VCR= ---------- x 100 VT where VCR: regional content value expressed as a percentage. VT: transaction value of a good adjusted on an F.O.B. basis, except as provided for in paragraph 3.

3. For purposes of paragraph 2, where the good is not exported directly by the producer of the good, the transaction value shall be adjusted to the point at which the good is received by the purchaser within the territory where the producer is located.

4. To calculate the regional value content of a good based on the net cost method, the following formula shall be applied:
CN - VMN

VCR= ---------- x 100
CN where

VCR: regional content value expressed as a percentage.
NC: net cost of the good.
NVNV: value of the non-originating materials used by the producer in the production of the good determined in accordance with the provisions of Article 5-05.
5. Each Party shall provide that an exporter or producer shall calculate the regional value content of a good solely on the basis of the net cost method set out in paragraph 4 where:
a) there is no transaction value because the good is not the subject of a sale;
b) the transaction value of the good cannot be determined because there are restrictions on the transfer or use of the good by the buyer other than those that:
(i) imposed or required by the law or authorities of the Party in which the purchaser of the property is located;
(ii) limit the geographic territory in which the property may be resold; or
(iii) do not appreciably affect the value of the property;
c) the sale or price is dependent on any condition or consideration the value of which cannot be determined in relation to the property;
d) directly or indirectly reverts to the seller any part of the proceeds of resale or of any subsequent transfer or use of the property by the buyer, unless due adjustment can be made in accordance with the provisions of Article 8 of the Customs Valuation Code;
e) the buyer and seller are related persons and the relationship between them affects the price, except as provided in Article 1. 2 of the Customs Valuation Code;
f) the good is sold by the producer to a related person and the volume of sales, in units of quantity of identical or similar goods, sold to related persons, during a six-month period immediately preceding the month in which the producer sold that good, exceeds 85% of the producer's total sales of those goods during that period;
g) the exporter or producer elects to accrue the regional value content of the good in accordance with article 5-08;
h) the good:
(i) is a motor vehicle falling within heading 8701 or 8702, subheading 8703. 21 to 8703.90, or heading 8704, 8705 or 8706; or
(ii) is identified in Annex 1 to Article 5-15 or Annex 2 to Article 5-15 and is for use in a motor vehicle of heading 8701 or 8702,

subheading 8703.21 to 8703.90, or heading 8704, 8705 or 8706;
i) the good is designated as an intermediate material under Article 5-07 and is subject to a regional value content requirement.

## Article 5-05. Value of Materials

1. The value of a material:
a) shall be the transaction value of the material; or
b) where there is no transaction value or where the transaction value of the material cannot be determined in accordance with the principles of Article 1 of the Customs Valuation Code, shall be calculated in accordance with the principles of Articles 2 through 7 of that Code.
2. Where not covered by paragraph 1(a) or (b), the value of a material shall include:
a) freight, insurance, packing costs and all other costs incurred in transporting the material to the port of importation in the Party where the producer of the good is located, except as provided in paragraph 3; and
b) the cost of waste and scrap resulting from the use of the material in the production of the good, less any recovery of these costs, provided that the recovery does not exceed 30% of the value of the material, as determined in accordance with paragraph 1. Where the producer of the good acquires the non-originating material within the territory of the Party where it is located, the value of the material shall not include freight, insurance, packing costs and all other costs incurred in transporting the material from the supplier's warehouse to the producer's location.
4. For purposes of calculating regional value content pursuant to Article 5-04, except as provided in paragraph 2 of Article 5-15, for a motor vehicle identified in paragraph 3 of Article 5-15, or a component identified in Annex 2 to Article 5-15, the value of non-originating materials used by the producer in the production of a good shall not include the value of non-originating materials used by:
a) another producer in the production of an originating material that is acquired and used by the producer of the good in the production of that good; or
b) the producer of the good in the production of an originating material that is self-manufactured and that is designated by the producer as an intermediate material in accordance with Article 5-07.

## Article 5-06. De Minimis

1. A good shall be considered originating if the value of all the non-originating materials used in the production of the good that do not comply with the corresponding change in tariff classification established in the Annex to Article 5-03 does not exceed 7% of the transaction value of the good adjusted on the basis indicated in paragraph 2 or 3, as the case may be, of Article 5-04 or, in the cases referred to in subparagraphs a) to e) of paragraph 5 of Article 5-04 if the value of all the non-originating materials referred to above does not exceed 7% of the total cost of the good.
2. Where the same good is subject to a regional value content requirement, the value of those non-originating materials shall be taken into account in the calculation of the regional value content of the good and the good shall satisfy the other applicable requirements of this Chapter.
3. A good that is subject to a regional value content requirement set out in the Annex to Article 5-03 need not satisfy it if the value of all non-originating materials does not exceed 7% of the transaction value of the good adjusted on the basis indicated in paragraph 2 or 3, as the case may be, of Article 5-04 or in the cases referred to in subparagraphs a) to e) of paragraph 5 of Article 5-04, if the value of all the non-originating materials referred to above does not exceed 7% of the total cost of the good.
4. Paragraph 1 does not apply to
a) goods falling within Chapters 50 through 63 of the Harmonized System; or
b) a non-originating material that is used in the production of goods falling within Chapters 01 through 27 of the Harmonized System, unless the non-originating material falls within a subheading other than that of the good for which origin is being determined in accordance with this Article.
5. A good covered by Chapters 50 through 63 of the Harmonized System that is non-originating because the fibers and yarns used in the production of the material that determines the tariff classification of that good do not comply with the change in tariff classification provided in the Annex to Article 5-03, shall nevertheless be considered as originating if the total weight of those fibers and yarns of that material does not exceed 7 percent of the total weight of that material.

## Article 5-07. Intermediate Materials

1. For purposes of calculating the regional value content in accordance with Article 5-04, the producer of a good may designate as intermediate material, except for the components listed in Annex 2 to Article 5-15 and goods of heading 87.06 for use in motor vehicles covered in paragraph 3 of Article 5-15, any self-produced material used in the production of the good provided that such material complies with the provisions of Article 5-03.

2. Where the intermediate material is subject to a regional value content requirement in accordance with the Annex to Article 5-03, the regional value content shall be calculated on the basis of the net cost method set out in Article 5-04.
3. For purposes of calculating the regional value content of the good, the value of the intermediate material shall be the total cost that can reasonably be assigned to that intermediate material in accordance with the Annex to Article 5-01.
4. If a material designated as an intermediate material is subject to a regional value content requirement, no other self-produced material subject to a regional value content requirement used in the production of that intermediate material may, in turn, be designated by the producer as an intermediate material.
5. Where a good referred to in paragraph 2 of Article 5-15 is designated as an intermediate material, that designation shall apply only to the calculation of the net cost of that good, and the value of non-originating materials shall be determined in accordance with the provisions of paragraph 2 of Article 5-15.

## Article 5-08. Accumulation

For purposes of establishing whether a good is originating, an exporter or producer may cumulate its production with that of one or more producers in the territory of one or both Parties of materials that are incorporated in the good, so that the production of the materials shall be considered as having been carried out by that exporter or producer, provided that the provisions of Article 5-03 are complied with.

## Article 5-09. Expendable Goods and Materials

1. For the purpose of establishing whether a good is originating, when originating and non-originating fungible materials that are physically mixed or combined in inventory are used in its production, the origin of the materials may be determined by one of the inventory management methods established in paragraph 3.
2. When originating and non-originating fungible goods are physically mixed or combined in inventory, and prior to their exportation they do not undergo any production process or any other operation in the territory of the Party in which they were physically mixed or combined, other than unloading, reloading or any other movement necessary to maintain the goods in good condition or to transport them to the territory of the other Party, the origin of the good may be determined from one of the inventory management methods set out in paragraph 3.
3. The applicable inventory management methods for expendable materials or goods shall be as follows:
a) "PEPS" (first-in-first-out) is the inventory management method whereby the origin of the number of units of the materials or consumables first received into inventory is considered to be the origin in equal number of units of the materials or consumables first removed from inventory;
b) "UEPS" (last-in-first-out) is the inventory management method whereby the origin of the number of units of the materials or consumables last received into inventory is considered as the origin in equal number of units of the materials or consumables first removed from inventory; or
c) "averaging" is the inventory management method whereby, except as provided in paragraph 4, the determination of whether materials or consumables are originating shall be made through the application of the following formula:

$$PMO = \frac{TMO}{TMOYN} \times 100$$

where PMO: average of originating materials or consumables.
TMO: total units of originating materials or consumables that are part of the inventory prior to departure.
TMOYN: total sum of units of originating and non-originating materials or consumables forming part of the pre-departure inventory.
4. If the good is subject to a regional value content requirement, the determination of the non-originating fungible materials shall be made through the application of the following formula:

$$PMN = \frac{TMN}{TMOYN} \times 100$$

where PMN: average of non-originating materials.
TMN: total value of non-originating fungible materials that are part of the inventory prior to departure.
TMOYN: total value of originating and non-originating consumables in the pre-departure inventory.
5. Once one of the inventory management methods set forth in paragraph 3 has been selected, it shall be used throughout the fiscal year or period.

## Article 5-10. Sets

1. Sets of goods that are classified according to the provisions of General Rule 3 of the Harmonized System, as well as goods whose description according to the nomenclature of the Harmonized System is specifically that of a set, shall qualify as originating, provided that each of the goods contained in the set complies with the rule of origin that has been established for each of the goods in this chapter.

2. Notwithstanding the provisions of paragraph 1, a set of goods shall be considered as originating if the value of all the non-originating goods used in the formation of the set does not exceed 7% of the transaction value of the set adjusted on the basis indicated in paragraph 2 or 3, as the case may be, of article 5-04 or, in the cases referred to in subparagraphs a) to e) of paragraph 5 of article 5-04, if the value of all the non-originating goods referred to above does not exceed 7% of the total cost of the set.
3. The provisions of this article shall prevail over the specific rules set forth in the Annex to article 5-03.

## Article 5-11. Indirect Materials

Indirect materials shall be considered as originating without regard to the place of their production, and the value of such materials shall be the cost thereof as reported in the accounting records of the producer of the good.

## Article 5-12. Accessories, Spare Parts and Tools

1. Accessories, spare or replacement parts and tools delivered with the good as part of the usual accessories, spare or replacement parts and tools of the good shall be disregarded in determining whether all non-originating materials used in the production of the good comply with the applicable change in tariff classification set out in the Annex to Article 5-03, provided that:
a) the accessories, spare or replacement parts and tools are not invoiced separately from the good, regardless of whether they are separately itemized or detailed on the invoice itself; and
b) the quantity and value of such accessories, spare or replacement parts and tools are those customary for the good.
2. Where the good is subject to a regional value content requirement, the value of the accessories, spare or replacement parts and tools shall be taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good.

## Article 5-13. Containers and Packaging Materials for Retail Sale

1. Containers and packaging materials in which a good is presented for retail sale, when classified with the good they contain, shall not be taken into account in deciding whether all non-originating materials used in the production of the good comply with the corresponding change in tariff classification set out in the Annex to Article 5-03.
2. Where the good is subject to the regional value content requirement, the value of retail containers and packaging materials shall be considered as originating or non-originating, as the case may be, in calculating the regional value content of the good.

## Article 5-14. Containers and Packing Materials for Shipment

1.Containers and packing materials for transporting the good shall be disregarded for purposes of determining whether all non-originating materials used in the production of the good comply with the applicable change in tariff classification set out in the Annex to Article 5-03.
2. Where the good is subject to the regional value content requirement, the value of the packaging materials for transporting the good shall be considered as originating or non-originating, as the case may be, in calculating the regional value content of the good, and the value of such material shall be the cost thereof as reported in the accounting records of the producer of the good.

## Article 5-15. Automotive Goods

1. For the purposes of this article, the following definitions shall apply:
chassis: the bottom plate of a motor vehicle;
class of motor vehicles: any of the following categories of motor vehicles:
a) motor vehicles covered by subheading 8701.20, Mexican tariff item 8702.10.03 or 8702.90.04 or Bolivian subheading 8702. 10 or 8702.90 when they are motor vehicles designed for the transport of 16 persons or more, subheading 8704.10, 8704.22, 8704.23, 8704.32 or 8704.90, or in heading 87.05 or 87.06;
b) motor vehicles of subheading 8701.10 or 8701.30 to 8701.90; 78
c) motor vehicles of Mexican tariff item 8702. 10.01, 8702.10.02, 8702.90.01, 8702.90.02 or 8702.90.03, or Bolivian subheading 8702.10 or 8702.90 when they are motor vehicles designed for the transport of fifteen persons or less, or Bolivian subheading 8704.21 or 8704.31; or
d) motor vehicles falling within subheading 8703.21 to 8703.90;
assembler of motor vehicles falling within subheading 8703.21 to 8703.90. 90;

motor vehicle assembler: a producer of motor vehicles and any related persons or joint ventures in which the producer participates;
original equipment: material that is incorporated into a motor vehicle before the first transfer of title or consignment of the motor vehicle to a person who is not an assembler of the motor vehicle.
That material is:
a) a good covered by Annex 1 to this article; or
b) an assembly of automotive components, an automotive component, or a material listed in Annex 2 to this article;
model line: a group of motor vehicles having the same platform or model name;
model name: the word or group of words, letter or letters, number or numbers, or similar designation assigned to a motor vehicle by a marketing division of a motor vehicle assembler to:
a) differentiate the motor vehicle from other motor vehicles using the same platform design; b) associate the motor vehicle with other motor vehicles using a different platform design; or
c) indicate a platform design;
platform: the primary assembly of a load-carrying structural assembly of a motor vehicle that determines the basic size of that vehicle and forms the structural base that supports the powertrain, and serves as the attachment of the motor vehicle to various types of frames, such as body mount, dimensional frame, and unit body;
motor vehicle: a motor vehicle that falls within heading 87. 01, 87.02, 87.03, 87.04, 87.05 or 87.06.

2. For purposes of calculating the regional value content in accordance with the net cost method set out in paragraph 4 of Article 5-04 for:

a) goods that are motor vehicles included in Mexican tariff item 8702.10.01, 8702.10.02, 8702.90.01, 8702.90.02 or 8702.90.03, or in Bolivian subheading 8702.10 or 8702.90 when they are motor vehicles designed for the transportation of fifteen persons or less, or in subheading 8703.21 through 8703.90, 8704. 21 or 8704.31; or 79
b) goods covered by Annex 1 to this article when they are subject to a regional value content requirement and are intended for use as original equipment in the production of goods that are motor vehicles covered by Mexican tariff item 8702.10.01, 8702.10.02, 8702. 90.01, 8702.90.02 or 8702.90.03, or in the Bolivian subheading 8702.10 or 8702.90 when they are motor vehicles designed for the transportation of fifteen persons or less, or in subheading 8703.21 to 8703.90, 8704.21 or 8704. 31; the value of the non-originating materials used by the producer in the production of the good shall be the sum of the values of the non-originating materials, determined in accordance with paragraphs 1 and 2 of Article 5- 05, imported from countries that are not Parties, included in Annex 1 to this Article and which are used in the production of the good or in the production of any material used in the production of the good.

3.For purposes of calculating the regional value content in accordance with the net cost method set out in paragraph 4 of Article 5-04 for goods that are motor vehicles under heading 87.01, in Mexican tariff item 8702. 10.03 or 8702.90.04, or in Bolivian subheading 8702.10 or 8702.90 when they are motor vehicles designed for the transport of 16 or more persons, in subheading 8704.10, 8704.22, 8704.23, 8704.32 or 8704.90, or heading 87.05 or 87. 06, or for a component identified in Annex 2 to this article for use as original equipment in the production of the motor vehicles described in this paragraph, the value of the non-originating materials used by the producer in the production of the good shall be the sum of:
a) for each material used by the producer and listed in Annex 2 to this article, whether or not produced by the producer, at the producer's option, and determined in accordance with Article 5-05 or paragraph 3 of Article 5-07, either of the following two values:

i) the value of the non-originating material; or
ii) the value of the non-originating materials used in the production of that material; and
b) the value of any other non-originating material used by the producer, which is not included in Annex 2 to this Article, determined in accordance with Article 5-05 or paragraph 3 of Article 5-07.

4. For purposes of calculating the regional value content of a motor vehicle identified in paragraph 2 or 3, the producer may average the calculation over its fiscal year or period using any of the following categories, either by taking as a basis all motor vehicles in that category, or only motor vehicles in that category that are exported to the territory of the other Party:
a) the same model line in motor vehicles of the same class of vehicles produced in the same plant in the territory of a Party;

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

5.For purposes of calculating the regional value content of one or all of the goods covered by a tariff classification listed in Annex 1 to this Article, or of a component or material listed in Annex 2 to this Article, that are produced in the same plant, the producer of the good may:
a) average its calculation:

i) in the fiscal year or period of the producer of the motor vehicle to whom the good is sold; ii) in any quarterly or monthly period; or
iii) in its own fiscal year or period, if the good is sold as a spare or replacement part;
b) calculate the average referred to in subparagraph (a) separately for any or all goods sold to one or more producers of motor vehicles; or
c) in respect of any calculation made under this paragraph, calculate separately the regional value content of the goods that are exported to the territory of the other Party.

6.Notwithstanding the Annex to Article 5-03, the regional value content shall be:
a) for goods that are motor vehicles under heading 87.01, under Mexican tariff item 8702.10. 03 or 8702.90.04, or in the Bolivian subheading 8702.10 or 8702.90 when they are motor vehicles designed for the transportation of 16 persons or more, in subheading 8704.10, 8704.22, 8704.23, 8704.32 or 8704.90, or heading 87.05 or 87. 06, 35% under the net cost method for a producer's fiscal year or period beginning on the earlier of January 1, 1995 through the fiscal year or period ending on the earlier of January 1, 1997; and

b) for the goods set out in Annex 1 to this article, subject to the regional value content requirement and intended for use in the motor vehicles covered by paragraphs 2 and 3, except for goods of heading 84. 07, 84.08 or subheading 8708.40, when they are intended for use in the motor vehicles covered by paragraphs 2 and 3, in which case the regional content as defined in footnotes 4 and 32 of Section B of the Annex to Article 5-03 shall apply, and except for heading 87. 06, in which case the provisions of subparagraph a) shall apply:
i) 40% under the net cost method, for the fiscal year or period of a producer beginning on the earliest date on January 1, 1995 through the fiscal year or period ending on the earliest date on January 1, 2000; and
ii) 50% under the net cost method, for the fiscal year or period of a producer beginning on the earliest date on January 1, 2000 through the fiscal year or period of a producer ending on the earliest date on January 1, 2005. 81

## Article 5-16. Non-origin Conferring Transactions and Practices

1. A good shall not be considered as originating solely because of:
a) dilution in water or other substance that does not materially alter the characteristics of the good;
b) simple operations intended to ensure the preservation of the goods during transportation or storage, such as aeration, refrigeration, removal of damaged parts, drying or addition of substances;
c) dusting, sifting, sorting, grading, selecting, washing, cutting;
d) packing, repacking or packaging for retail sale;
e) assembling of goods to form sets or assortments;
f) application of marks, labels or similar distinctive signs;
g) cleaning, including removal of rust, grease, paint or other coatings; and
h) simple assembly of parts and components that are classified as one good under general rule 2 (a) of the Harmonized System. The foregoing shall not apply to goods that had already been assembled, and subsequently disassembled for convenience of packaging, handling or transportation.
2. The origin of a good shall not be conferred by any pricing activity or practice, in respect of which it can be demonstrated, on the basis of sufficient evidence, that its purpose is to evade compliance with the provisions of this Chapter.
3. The provisions of this article shall prevail over the specific rules set forth in the Annex to article 5-03.

## Article 5-17. Transshipment and Direct Shipment

1. A good shall not be considered as originating even if it has been produced in accordance with the requirements of Article 5-03, if after such production, the good undergoes further processing or any other operation outside the territories of the Parties, except unloading, reloading or any other movement necessary to maintain it in good condition or to transport it to the territory of the other Party.
2. A good shall not lose its originating status when, while in transit through the territory of one or more non-Party countries, with or without transshipment or temporary storage, under the supervision of the competent customs authority in those countries:
a) the transit is justified by geographical reasons or by considerations relating to transportation requirements;
b) it is not intended for trade, use or employment in the country or countries of transit; and c) during its transportation and storage it is not subjected to operations other than packing, packaging, loading, unloading, unloading or handling to ensure its preservation.

## Article 5-18. Consultations and Modifications

1.The Parties establish the Working Group on Rules of Origin, composed of representatives of each Party, which shall meet at least twice a year and at the request of any Party.
2. The Working Group shall:
a) ensure the effective implementation and administration of this Chapter;
b) reach agreement on the interpretation, application and administration of this Chapter;
c) review annually, with respect to ineligible interest costs, the percentage points above the highest rate of interest on debt obligations issued by the federal or central government, as the case may be; and
d) address any other matter agreed by the Parties. The Parties shall consult regularly and cooperate to ensure that this Chapter is implemented effectively, uniformly and in accordance with the spirit and objectives of this Agreement.
4. Any Party that considers that this chapter requires modification due to changes in the development of production processes or other matters, may submit to the Working Group a proposal for modification for its consideration and the reasons and studies that support it. The Working Group shall submit a report to the Commission to make the pertinent recommendations to the Parties.

### Article 5-19. Interpretation

For purposes of this Chapter, in applying the Customs Valuation Code to determine the origin of a good:
a) the principles of that Code shall apply to domestic transactions, with such modifications as circumstances require, as they would apply to international transactions; and
b) the provisions of this Chapter shall prevail over those of that Code insofar as they are inconsistent.

## Chapter VI. Customs Procedures

### Article 6-01. Definitions

1. For the purposes of this Chapter, the following definitions shall apply:
**competent authority:** the authority which, under the legislation of each Party, is responsible for the administration of its customs and tax laws and regulations;
**identical goods:** goods that are alike in all respects, including their physical characteristics, quality and commercial prestige. Minor differences in appearance do not prevent them from being considered identical;
**determination of origin ruling:** a ruling issued as a result of a verification that establishes whether a good qualifies as originating;
**preferential tariff treatment:** the application of the tariff rate corresponding to an originating good under the Tariff Relief Program;

2. Except as defined in this Article, the definitions set out in Chapter V (Rules of Origin) are incorporated into this Chapter.

### Article 6-02. Declaration and Certification of Origin

1.For the purposes of this Chapter, prior to the entry into force of this Agreement, the Parties shall develop a single format for the certificate and declaration of origin.
2.The certificate of origin referred to in paragraph 1 shall serve to certify that a good exported from the territory of one Party to the territory of the other Party qualifies as originating.
3. Each Party shall provide that its exporters shall complete and sign a certificate of origin in respect of the export of a good for which an importer may claim preferential tariff treatment.
4. Each Party shall provide that:
a) where an exporter is not the producer of the good, it shall complete and sign the certificate of origin on the basis of the declaration of origin referred to in paragraph 1; and b) the declaration of origin covering the good being exported shall be completed and signed by the producer of the good and provided voluntarily to the exporter.
5. Each Party shall provide that the certificate of origin completed and signed by the exporter shall cover:
a) a single importation of one or more goods; or
b) several importations of identical goods to be made within a period established by the exporter in the certificate of origin, which shall not exceed the period established in paragraph
6. Each Party shall provide that the certificate of origin shall be accepted by the competent authority of the importing Party for one year from the date of its signature.

### Article 6-03. Obligations with Respect to Imports

1. Each Party shall require an importer claiming preferential tariff treatment for a good imported into its territory from the

territory of the other Party to:
a) declare in writing, on the import document provided for in its legislation, on the basis of a valid certificate of origin, that the good qualifies as originating;
b) have the certificate of origin in its possession at the time of making that declaration;
c) provide a copy of the certificate of origin when requested by its competent authority; and
d) submit a corrected declaration and pay the corresponding duties, when it has reason to believe that the certificate of origin on which its import declaration is based, contains incorrect information.
Where the importer submits the aforementioned declaration spontaneously, he shall not be penalized.

2. Each Party shall provide that, where its importer fails to comply with any of the requirements set out in paragraph 1, preferential tariff treatment shall be denied to the good imported from the territory of the other Party for which the preference was claimed.

## Article 6-04. Export Obligations

1. Each Party shall provide that its exporter or producer that has completed and signed a certificate or declaration of origin shall provide a copy of the certificate or declaration of origin to its competent authority upon request.
2. Each Party shall provide that its exporter or producer who has completed and signed a certificate or declaration of origin and has reason to believe that such certificate or declaration contains incorrect information shall promptly notify in writing any change that may affect the accuracy or validity of the certificate or declaration of origin to all persons to whom he has delivered the certificate or declaration and, in accordance with its legislation, to its competent authority, in which case he shall not be penalized for having submitted an incorrect certification or declaration.
3. Each Party shall provide that a false certification or declaration of origin made by its exporter or producer to the effect that a good to be exported to the territory of the other Party qualifies as originating shall have the same legal consequences, with such modifications as the circumstances may require, as those that would apply to its importer who makes false declarations or statements in contravention of its customs laws and regulations.
4. The competent authority of the exporting Party shall bring to the attention of the competent authority of the importing Party the notification of the exporter or producer referred to in paragraph 2.

## Article 6-05. Exceptions

Provided that it is not part of two or more imports that are made or planned for the purpose of evading compliance with the certification requirements of Articles 6-02 and 6-03, the certificate of origin shall not be required for the importation of goods in the following cases:
a) the importation for commercial purposes of goods whose customs value does not exceed one thousand United States dollars or its equivalent in national currency, but the invoice may be required to contain a declaration by the importer or exporter that the good qualifies as originating;
b) the importation for non-commercial purposes of goods whose customs value does not exceed one thousand United States dollars or its equivalent in national currency; and
c) the importation of a good for which the importing Party has waived the requirement for the presentation of the certificate of origin.

## Article 6-06. Accounting Records

1. Each Party shall provide that:
a) its exporter or producer that completes and signs a certificate or declaration of origin shall retain for a minimum of 5 years after the date of signature of that certificate or declaration, all records and documents relating to the origin of the good, including those relating to:
i) the acquisition, costs, value and payment of the good that is exported from its territory;
ii) the acquisition, costs, value and payment of all materials, used in the production of the good that is exported from its territory; and
iii) the production of the good in the form in which it is exported from its territory;
b) for purposes of the verification procedure set out in Article 6-07, the exporter or producer provides to the competent authority of the importing Party, the records and documents referred to in subparagraph (a). When the records and documents are not in the possession of the exporter or producer, the exporter or producer may request the records and documents from the producer or supplier of the materials to be provided through him to the competent authority conducting the verification;
c) an importer claiming preferential tariff treatment for a good imported into its territory from the territory of the other

Party shall keep for at least 5 years from the date of importation, the certificate of origin and all other documentation relating to the importation required by the importing Party.

## Article 6-07. Procedures to Verify Origin

1. To determine whether a good being imported into its territory from the territory of the other Party qualifies as originating, each Party may, through its competent authority, verify the origin of the good by means of:
a) written questionnaires addressed to exporters or producers in the territory of the other Party; or
b) verification visits to an exporter or producer in the territory of the other Party, for the purpose of examining the records and documents evidencing compliance with the rules of origin in accordance with Article 6-06, and inspecting the facilities used in the production of the good and, where appropriate, those used in the production of materials.
2. The provisions of paragraph 1 shall be without prejudice to the powers of review of the importing Party over its own importers, exporters or producers.
3. An exporter or producer receiving a questionnaire pursuant to paragraph 1(a) shall respond and return the questionnaire within a period of no more than 30 days from the date of its receipt. During this period the exporter or producer may request in writing to the importing Party an extension, which in its case shall not exceed 30 days. Such request shall not result in the denial of preferential tariff treatment.
4. In the event that the exporter or producer fails to respond or return the questionnaire within the appropriate time period, the importing Party may deny preferential tariff treatment upon resolution under the terms of paragraph 10.
5. Before conducting a verification visit pursuant to paragraph 1(b), the importing Party shall be required, through its competent authority, to notify in writing its intention to conduct the visit. The notification shall be sent to the exporter or producer to be visited, to the competent authority of the Party in whose territory the visit is to take place and, if so requested by the latter, to the Embassy of that Party in the territory of the importing Party. The competent authority of the importing Party shall request the written consent of the exporter or producer to be visited.
6.The notification referred to in paragraph 5 shall contain:
a) the identification of the competent authority making the notification;
b) the name of the exporter or producer to be visited;
c) the date and place of the proposed verification visit;
d) the purpose and scope of the proposed verification visit, making specific mention of the good or goods to be verified covered by the certificate or certificates of origin;
e) the names, personal data and positions of the officials who will carry out the verification visit; and
f) the legal basis for the verification visit.
7. Any modification to the information referred to in paragraph 6(e) shall be notified in writing to the exporter or producer and to the competent authority of the exporting Party prior to the verification visit. Any modification of the information referred to in paragraph 6(a), (b), (c), (d) and (f) shall be notified under the terms of paragraph 5.

8. If within 30 days of receipt of the notification of the proposed verification visit under paragraph 5, the exporter or producer does not consent in writing to the verification visit, the importing Party may deny preferential tariff treatment to the good or goods that would have been the subject of the verification visit.
9. Each Party shall allow the exporter or the producer whose good or goods are the subject of a verification visit to designate two witnesses to be present during the visit, provided that the witnesses shall speak only in that capacity. Failure by the exporter or producer to designate witnesses shall not result in postponement of the visit.
10. Within 120 days following the conclusion of the verification, the competent authority shall provide a written resolution to the exporter or producer whose good or goods have been the subject of the verification, determining whether or not the good qualifies as originating, which shall include the findings of fact and the legal basis for the determination. 11. Where a Party's verification establishes that the exporter or producer has falsely or unjustifiably certified or declared more than once that a good qualifies as originating, the importing Party may suspend preferential tariff treatment for identical goods exported or produced by that person until that person proves that it complies with the provisions of Chapter V (Rules of Origin).
12. Each Party shall provide that, where its competent authority determines that a good imported into its territory does not qualify as originating according to the tariff classification or value applied by that Party to one or more materials used in the production of the good, and this differs from the tariff classification or value applied to the materials by the Party from whose territory the good was exported, the determination of that Party shall not take effect until it notifies in writing both the importer of the good and the person who has completed and signed the certificate of origin covering the good.
13. The importing Party shall not apply a ruling under paragraph 12 to an importation made before the date on which the ruling takes effect, provided that the competent authority of the exporting Party has issued an advance ruling under Article 5-02 (Implementing Instruments) on the tariff classification or value of materials on which a person may rely under its laws and regulations.
14. Where a Party denies preferential tariff treatment to a good pursuant to a ruling under paragraph 12, that Party shall

postpone the effective date of the denial for a period not to exceed 90 days, provided that the importer of the good or the exporter or producer who has completed and signed the certificate or declaration of origin covering the good certifies that it has relied in good faith, to its detriment, on the tariff classification or value applied to the materials by the competent authority of the exporting Party.
15. Each Party shall maintain the confidentiality of the information gathered in the process of verification of origin in accordance with the provisions of its legislation.

## Article 6-08. Review and Challenge

1. Each Party shall grant the same rights of review and challenge of rulings of determination of origin and advance rulings provided for its importers to exporters or producers of the other Party that:
a) complete and sign a certificate or declaration of origin covering a good that has been the subject of a ruling of determination of origin under paragraph 10 of Article 6-07; or
b) have received an advance ruling under Article 6-10.
2. The rights referred to in paragraph 1 include access to at least one instance of administrative review, independent of the official or agency responsible for the determination or ruling subject to review, and access to one instance of judicial or quasi-judicial review of the determination or decision made in the final instance of administrative review, in accordance with the law of each Party.

## Article 6-09. Sanctions

Each Party shall establish or maintain criminal, civil, or administrative penalties for violations of its laws and regulations relating to the provisions of this Chapter.

## Article 6-10 . Advance Rulings

1. Each Party shall provide, through its competent authority, for the expeditious issuance of written advance rulings prior to the importation of a good into its territory. Advance rulings shall be issued to the importer or to the exporter or producer in the territory of the other Party, based on the facts and circumstances stated by them, as to whether or not the goods qualify as originating.
2. Advance rulings shall address:
a) whether the non-originating materials used in the production of a good comply with the corresponding change in tariff classification set out in the Annex to Article 5-03 (Specific Rules of Origin);
b) whether the good complies with the regional value content requirement set out in Chapter V (Rules of Origin);
c) whether the method applied by the exporter or producer in the territory of the other Party, in accordance with the principles of the Customs Valuation Code, for the calculation of the transaction value of the good or materials used in the production of a good for which an advance ruling is requested is adequate to determine whether the good meets the regional value content requirement under Chapter V (Rules of Origin);
d) whether the method applied by the exporter or producer in the territory of the other Party for the reasonable allocation of costs pursuant to the Annex to Article 5-01 (Calculation of Net Cost) is adequate to determine whether the good meets the regional value content requirement under Chapter V (Rules of Origin);
e) whether the country of origin marking made or proposed for a good satisfies the requirements of Article 3-11 (Country of Origin Marking); and
f) such other matters as the Parties may agree.
3. Each Party shall adopt or maintain procedures for the issuance of advance rulings upon publication of advance rulings that include:
a) such information as is reasonably required to process the application;
b) the authority of its competent authority to request additional information from the person requesting the advance ruling at any time during the process of evaluating the application;
c) a period of 120 days, for the competent authority to issue the advance ruling, once it has obtained all necessary information from the person requesting it; and
d) the obligation to explain in a complete, reasoned and substantiated manner to the applicant, the reasons for the advance ruling when the advance ruling is unfavorable to the applicant.
4. Each Party shall apply advance rulings to imports into its territory from the date of issuance of the ruling, or such later date as may be specified therein, unless the advance ruling is modified or revoked in accordance with paragraph 6.
5. Each Party shall accord to any person requesting an advance ruling the same treatment, interpretation and application of the provisions of Chapter V (Rules of Origin) relating to the determination of origin as it has accorded to any other person to whom it has issued an advance ruling, where the facts and circumstances are identical in all material respects.
6. The advance ruling may be modified or revoked by the competent authority in the following cases:

a) when it has been based on an error:
i) factual;
ii) in the tariff classification of the good or materials;
iii) relating to the good's compliance with the regional value content requirement;
b) where it is inconsistent with an interpretation agreed between the Parties or a modification with respect to Article 3-11 (Country of Origin Marking) or Chapter V (Rules of Origin);
c) where the circumstances or facts on which it is based change; or
d) in order to comply with an administrative or judicial decision.
7. Each Party shall provide that any modification or revocation of an advance ruling shall take effect on the date on which it is issued or on a later date specified therein, and may not be applied to imports of a good made before those dates, unless the person to whom it was issued has not acted in accordance with its terms and conditions.
8. Notwithstanding paragraph 7, the Party issuing the advance ruling shall postpone the effective date of the modification or revocation for a period not exceeding 90 days, where the person to whom the advance ruling was issued has relied on that ruling in good faith and to its detriment.
9. Each Party shall provide that, when examining the regional value content of a good for which an advance ruling has been issued, its competent authority shall assess whether:
a) the exporter or producer complies with the terms and conditions of the advance ruling;
b) the operations of the exporter or producer are consistent with the circumstances and substantial facts underlying the advance ruling; and
c) the data and supporting calculations used in applying the method for calculating the value or allocating the cost are correct in all material respects.
10. Each Party shall provide that, where its competent authority determines that any of the requirements set out in paragraph 9 have not been met, the competent authority may modify or revoke the advance ruling, as the circumstances warrant.
11. Each Party shall provide that, where its competent authority decides that the advance ruling was based on incorrect information, the person to whom the advance ruling was issued shall not be penalized if that person demonstrates that he or she acted with reasonable care and in good faith in stating the facts and circumstances on which the advance ruling was based.
12. Each Party shall provide that, where an advance ruling is issued to a person who has misrepresented or omitted material facts or circumstances on which the advance ruling is based, or has not acted in accordance with the terms and conditions of the advance ruling, the competent authority issuing the advance ruling may apply such measures as the circumstances warrant.
13. The validity of an advance ruling shall be subject to the continuing obligation of the holder of the advance ruling to inform the competent authority of any substantial change in the facts or circumstances on which the competent authority relied in making the advance ruling.

### Article 6-11. Customs Procedures Working Group

1. The Parties establish the Working Group on Customs Procedures, composed of representatives of each Party, which shall meet at least twice a year, as well as at the request of either Party.
2. It shall be the responsibility of the Working Group:
a) to seek to reach agreement on:
i) the interpretation, application and administration of this Chapter;
ii) tariff classification and valuation matters related to rulings on determinations of origin;
iii) procedures for the application, approval, issuance, modification, revocation and application of advance rulings;
iv) modifications to the certificate or declaration of origin referred to in Article 6-02; and
v) any other matter referred by a Party; and
b) to examine proposals for administrative or operational modifications in customs matters that may affect the flow of trade between the Parties.

## Chapter VII. Global Safeguard Measures

### Article 7-01 . Definitions

For the purposes of this Chapter, the following definitions shall mean:
**threat of serious injury:** the provisions of Article 4.1(b) of the Agreement on Safeguards, which is part of the WTO Agreement;
**competent authority:** those indicated for each Party in the Annex to this Article;
**identical good:** that which coincides in all its characteristics with the good being compared; **like good:** that which, although

it does not coincide in all its characteristics with the good being compared, has some identical characteristics, particularly in its nature, use, function and quality;
**serious injury:** a general and significant impairment of a domestic industry;
**domestic industry:** the producer or producers of identical, similar or directly competitive goods operating within the territory of a Party and constituting a major proportion of the total domestic production of such goods.
Such major proportion may not be less than 40%.

## Article 7-02. General Provisions

The Parties may apply to imports of goods made under this Agreement, a safeguard regime, the application of which shall be based on clear, strict and time-bound criteria. For this purpose, the Parties may only adopt safeguard measures of a global nature, in accordance with Article XIX of the GATT and the Agreement on Safeguards, which is part of the WTO Agreement.

## Article 7-03. Global Measures

1. The Parties retain their rights and obligations to apply safeguard measures in accordance with Article XIX of the GATT and the Agreement on Safeguards, which is part of the WTO Agreement.
2. When a Party decides to adopt a safeguard measure in accordance with Article XIX of the GATT and the Agreement on Safeguards, which is part of the WTO Agreement, it may only apply it to the other Party when it determines that imports of goods originating in that Party, considered individually, represent a substantial part of total imports and contribute significantly to the serious injury or threat of serious injury to the importing Party.
3. Such determination shall take into account, inter alia, the following criteria:
a) imports of goods originating in the other Party shall be considered to be substantial if they are included within the imports of the principal countries supplying the good subject to the proceeding, whose exports account for 80 per cent of the total imports of that good into the importing Party;
b) imports of goods originating in a Party shall not normally be considered to contribute substantially to serious injury or threat of serious injury if their rate of growth during the period in which the injurious increase in such imports occurred is substantially less than the rate of growth of total imports from all sources during the same period;
c) changes in the Party's share of total imports and the volume of such imports shall also be taken into account in determining substantial participation in serious injury or threat of serious injury.
4. In no case may the importing Party apply the measures provided for in paragraph 2 without prior written notice to the other Party and without consultations. For this purpose, all the notification and procedural requirements provided for in this Chapter shall be complied with.
5. The Party intending to apply a comprehensive safeguard measure shall grant the Party affected by that measure mutually agreed compensation in the form of concessions having trade effects equivalent to the impact of the safeguard measure.
6. The compensation referred to in paragraph 5 shall be determined at the stage of prior consultations referred to in paragraph 4.
7. If the Parties are unable to agree on the compensation, the Party proposing to take the measure shall have the authority to do so and the affected Party may impose measures having equivalent trade effects to those of the measure taken.

## Article 7-04. Procedure

1. Each Party shall establish clear and strict procedures for the adoption and application of safeguard measures in accordance with the provisions of this Chapter.
2. In order to determine whether a safeguard measure should be applied, the competent authority of the importing Party shall conduct the relevant investigation.
3. The Party that decides to initiate a procedure to adopt safeguard measures shall publish the initiation thereof through the appropriate official channels and shall notify the exporting Party in writing on the day following publication.
4. For the purposes of determining serious injury or threat thereof, the competent authorities shall evaluate all factors of an objective and quantifiable nature having a bearing on the affected domestic industry, in particular the rate and amount of the increase in imports of the good in question, in absolute and relative terms, the share of the domestic market absorbed by the increase in imports, changes in the level of sales, domestic prices, production, productivity, utilization of installed capacity, market share, profits, losses and employment.
5. In order to determine the appropriateness of safeguard measures, a direct causal link shall also be demonstrated between the increase in imports of the product in question and the serious injury or threat of serious injury to the domestic industry.
6. If factors other than increased imports from another Party are injuring or threatening to injure a domestic industry at the same time, the injury or threat of injury caused by such other factors shall not be attributed to the said imports.

7. If as a result of this investigation the competent authority determines, on the basis of objective evidence, that the conditions provided for in this Chapter are met, the importing Party may enter into consultations with the other Party.
8. The consultation procedure shall not oblige the Parties to disclose information that has been provided on a confidential basis, the disclosure of which might impede compliance with the laws of the Party governing the matter or might prejudice commercial interests. Notwithstanding the foregoing, the importing Party intending to apply the safeguard measure shall provide the other Party with a non-confidential summary of the information provided on a confidential basis.
9. The period of prior consultations shall begin on the day following receipt by the exporting Party of the notification of the request for the initiation of consultations. This period shall be 60 days, unless the Parties agree on a shorter period.
10. The notification referred to in paragraph 9 shall be made through the competent authority and shall contain sufficient background information to support the application of the measures, including:
a) the names and available addresses of the domestic producers of identical, like or directly competitive goods representative of the domestic production, their share in the domestic production of that good and the reasons that lead them to claim that they are representative of that sector;
b) a clear and complete description of the good subject to the proceeding, the tariff subheading under which it is classified and the tariff treatment in force, as well as the description of the identical, like or directly competitive good; c) the import data for each of the 3 most recent years that constitute the basis that such good is imported in increasing quantities, either in absolute terms or relative to the national production;
d) the data on the total national production of the identical, similar or direct competitor good for the last 3 years;
e) data demonstrating serious injury caused or threat of serious injury that may be caused by imports to the sector in question in accordance with the data referred to in subparagraphs c) and d);
f) an enumeration and description of the alleged causes of the serious injury or threat of serious injury, based on the information required under subparagraphs a) to d) and a summary of the basis for alleging that the increase in imports of that good in relative or absolute terms of the national production is the cause thereof;
g) the criteria and objective information demonstrating that the conditions set out in this Chapter for the application of a global measure to the other Party are met, where appropriate; and
h) information on the tariff measures to be adopted and their duration. 11. The measures provided for in this Chapter may be adopted only after the prior consultation period has been concluded.
12. During the period of prior consultations, the exporting Party shall make any comments it deems appropriate, in particular on the appropriateness of the proposed measures.
13. If the importing Party determines that the reasons that gave rise to the application of the safeguard measures still exist, it shall notify the competent authorities of the other Party of its intention to extend them, at least 60 days prior to the expiration of the validity of such measures, and shall provide the information supporting this decision, including evidence that the reasons that led to the adoption of the safeguard measure still exist. The notification, the prior consultations on the extension and the respective compensation shall be carried out under the terms provided in this Chapter. Annex to Article 7-01 Competent Authorities The competent authorities are:

a) for the case of Bolivia, the National Secretariat of Industry and Commerce or its successor; and
b) for the case of Mexico, the Secretariat of Economy, or its successor.

# Chapter VIII. Unfair International Trade Practices

## Article 8-01. Definitions

For the purposes of this Chapter, the following definitions shall mean:
investigation: an investigation procedure on unfair international trade practices;
interested party: the complaining producers, importers, exporters of the goods subject to investigation, as well as any national or foreign person having a direct interest in the investigation in question, and includes the government of the Party whose goods are subject to an investigation on subsidies;
final determination: the resolution of the competent authority that determines whether or not to impose definitive countervailing duties;
initial resolution: the resolution of the competent authority that formally declares the initiation of an investigation;
preliminary resolution: the resolution of the competent authority that determines the continuation of an investigation and, if applicable, whether or not to impose provisional countervailing duties;
direct export subsidies: those typified as prohibited subsidies by the Agreement on Subsidies and Countervailing Measures, which is part of the WTO Agreement.

## Article 8-02. General Principle

The Parties reject all unfair international trade practices and recognize the need to eliminate export subsidies and other

trade-distorting domestic policies.

## Article 8-03. Direct Export Subsidies

1. No Party shall grant new direct subsidies on the export of goods to the territory of the other Party.
2. Upon entry into force of this Agreement, each Party shall eliminate all direct subsidies on the export of goods to the territory of the other Party.

## Article 8-04. Principles for the Application of National Legislation

1. The Parties shall apply their legislation on unfair international trade practices in a manner consistent with the provisions of this Chapter and with the provisions and procedures established in the Agreement on Implementation of Article VI of the GATT, and in the Agreement on Subsidies and Countervailing Measures, which are part of the WTO Agreement.
2. The Parties shall conduct investigations through the competent national public agencies, agencies or entities, and shall not apply in their bilateral relations any international instrument on this matter negotiated with third countries that involves asymmetrical, non-reciprocal treatment and that departs from the provisions of this Chapter.

## Article 8-05. Publication of Resolutions

The Parties shall publish in their official organs of diffusion the resolutions of initiation, preliminary and final, those that declare the investigation concluded for reasons of commitments of the foreign exporter or, as the case may be, of the government of the exporting Party, or for the holding of conciliatory hearings, as well as the resolutions by which the complaints are rejected or the withdrawals of the complainants are accepted.

## Article 8-06. Notifications and Time Limits

1. The Parties shall ensure that during the investigation and, prior to the application of provisional and definitive countervailing duties, the respective authorities shall notify in writing directly, in a timely manner and within reasonable time limits, the interested parties known to be concerned and the competent authority of the other Party of the determinations on the matter, so that those affected by the application of such duties may present arguments and evidence in their defense.
2. Notifications to the denounced exporters shall be made on the working day following the date of publication of the initial resolution and shall contain the following information:
a) the deadlines for the submission of reports, declarations and other documents;
b) the place where the complaint and other documents submitted during the investigation may be inspected; and
c) the name, address and telephone number of the office where additional information may be obtained.
3. The notification referred to in paragraph 1 shall be accompanied by a copy of the respective publication of the official publication of the Party conducting the investigation, as well as a copy of the written complaint and the public version of its annexes.
4. The competent authorities of each Party shall grant the interested parties a minimum period of 30 working days to respond, counted from the publication of the initial resolution, in order for them to appear and state what they deem appropriate. The same period shall be granted for the same purposes to the interested parties, counted from the publication of the preliminary determination.
5. The initiating, preliminary or final resolutions shall contain, when applicable, at least the following:
a) the name of the complainant;
b) the indication of the imported good subject to the investigation and its tariff classification; c) the elements and evidence used for the determination of the existence of dumping or subsidy, injury or threat of injury and their causal relationship;
d) the considerations of fact and law that led the competent authority to initiate an investigation or to impose a countervailing duty; and
e) any legal argumentation, data, fact or circumstance contained in the administrative record on which the resolution in question is based and motivated.

## Article 8-07. Rights and Obligations of the Interested Parties

The Parties shall ensure that the interested parties have the same rights and obligations in an investigation.

## Article 8-08. Conciliation Hearing

At the formal initiation of any investigation, the interested parties may request the competent authorities to hold a conciliation hearing. In this hearing, formulas for solution and conclusion of the investigation may be proposed, which, if appropriate, shall be sanctioned by the competent authority itself and incorporated in the respective resolution, which shall have the character of a final resolution. This resolution shall be notified to the interested parties and published in the official organ of diffusion of the investigating Party.

## Article 8-09. Preliminary Determination

Within a period of 130 working days, but in no case earlier than 45 working days, counted from the date of publication of the initial determination, the competent authority shall issue a preliminary determination in which it determines:
a) that the investigation is terminated, in which case, it shall have the character of a final determination;
b) that it is appropriate to continue with the investigation and the amount of the provisional countervailing duties; or
c) that it is appropriate to continue with the investigation without the imposition of provisional countervailing duties.

2. When the preliminary determination determines the imposition of a provisional countervailing duty, it shall include, in addition to the provisions of paragraph 5 of Article 8-06, the margin of dumping or subsidy and its components, a description of the injury or threat of injury and the methodology followed to determine them.

## Article 8-10 . Clarifications

Once a provisional or definitive anti-dumping duty has been imposed, the interested parties may request the competent authority to determine whether a certain good is subject to the anti-dumping duty imposed or to clarify any aspect of the corresponding determination.

## Article 8-11. Review of Duties

1. In the event of a change of circumstances, the final anti-dumping duties may be reviewed by the competent authority, annually at the request of a party, and at any time if they are ex officio. Likewise, any producer, importer or exporter who, without having participated in the investigation, proves his direct interest, may request the review of an anti-dumping duty.
2. The review may have as an effect the ratification, modification or elimination of the corresponding duties. For this purpose, the corresponding substantive and procedural provisions of this Chapter shall be observed.

## Article 8-12. Automatic Elimination of Definitive Countervailing Duties

Final anti-dumping duties shall be automatically eliminated when, after 5 years from their effective date or from the date of their last review, they have not been reviewed pursuant to Article 8-11 (Review of Duties).

## Article 8-13. Sending Copies

Each interested Party shall send copies of each of the reports, documents and evidence submitted to the investigating authority in the course of the investigation, excluding confidential information, to the other interested parties in a timely manner.

## Article 8-14. Informatioin Gathering

1. The investigating authority of the importing Party, upon request of the interested parties, shall conduct information meetings, in order to provide all relevant information on the content of the preliminary and final determinations.
2. With respect to preliminary determinations, the request referred to in paragraph 1 may be submitted at any time during the investigation. In the case of final determinations, the request for information gathering shall be submitted within 5 days of their publication in the official publication organ of the importing Party. In both cases, the competent authority shall conduct the information meeting within 15 days from the filing of the request.
3. At the information meetings referred to in paragraphs 1 and 2, the interested parties shall have the right to review the technical reports, methodology, calculation sheets and any other element on which the corresponding determination has been based, with the exception of confidential information.

## Article 8-15. Public Hearings

1. The competent authority shall hold, ex officio or at the request of a Party, a public hearing in which the interested parties may appear and question their counterparts regarding the information or evidence that the investigating authority deems

appropriate.
2. The competent authority shall give 15 working days' notice of the public hearing.
3. The competent authority shall give the interested parties the opportunity to present arguments after the public hearing, even if the period for the presentation of evidence has ended. The pleadings shall consist of the presentation in writing of conclusions regarding the information and arguments provided in the investigation.

### Article 8-16. Access to Confidential Information

The competent authorities of each Party shall, in accordance with its legislation, allow access to confidential information, where reciprocal conditions exist in the other Party with respect to access to such information.

### Article 8-17. Access to Non-confidential Information

The competent authority of each Party shall provide interested parties with timely access to non-confidential information contained in the administrative records of any other investigation, within a period not to exceed 60 days from the publication of the final determination of such investigations, in accordance with the provisions of its legal system. If other administrative or judicial remedies have been filed against the final determination, the Parties shall provide such access to non-confidential information in accordance with their legal system.

### Article 8-18. Exchange of Information Through the Commission

In order to expedite the investigations of unfair international trade practices, there shall be an exchange of information through the Commission.

### Article 8-19. Refund of Amounts Paid In Excess

If a final determination determines an antidumping duty lower than the provisional antidumping duty, the competent authority of the importing Party shall refund the amounts paid in excess.

### Article 8-20. Dispute Settlement

Where the final decision of an arbitral tribunal, issued in accordance with the First Additional Protocol to this Agreement, declares that the application of an antidumping duty by a Party is inconsistent with any provision of this Chapter, the importing Party shall cease to apply or shall adjust the antidumping duty in question to the respective goods of the complaining Party.

# Part THREE. TECHNICAL BARRIERS TO TRADE

## Chapter IX. Standardization Measures

### Article 9-01. Definitions

1. For the purposes of this chapter, the terms presented in the sixth edition of ISO/IEC Guide 2: 1991, "General Terms and their Definitions in Relation to Standardization and Related Activities", shall have the same meaning when used in this chapter, unless they are defined differently here.
2. For the purposes of this chapter, the following shall be understood as:
**hazardous waste:** any material generated in the processes of extraction, benefit, transformation, production, consumption, use, control or treatment, whose quality does not allow it to be used again in the process that generated it and which, due to its corrosive, toxic, poisonous, reactive, explosive, inflammable, infectious biological or irritant characteristics, represents a danger to health or the environment;
**risk assessment:** the evaluation of the potential harm to human, animal or plant health or safety, or the environment that could be caused by any good traded between the Parties; **making compatible:** bringing towards the same level different standardization measures, but with the same scope, adopted by different standardizing bodies, so that they are identical, equivalent or have the effect of allowing goods to be used interchangeably or for the same purpose, so as to allow the goods to be traded between the Parties; standardization measures: standards, technical regulations or conformity assessment procedures;
**standard:** a document approved by a recognized institution that provides, for common and repeated use, rules, guidelines or characteristics for related goods or processes and production methods, or for related methods of operation, and

compliance with which is not mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labeling requirements applicable to a related good, process or method of production or operation;
**international standard:** a standardization measure, or other guide or recommendation, adopted by an international standardization body and made available to the public; legitimate objectives: inter alia, the assurance of safety or the protection of human, animal, plant or environmental life or health, or the prevention of practices that may mislead consumers, including matters relating to the identification of goods, considering inter alia, where appropriate, fundamental climatic, geographical, technological, infrastructural or scientific justification factors;

**standardizing body:** a body whose standardization activities are recognized;
**international standardizing body:** a standardizing body open to participation by the relevant bodies of at least all Parties to the Agreement on Technical Barriers to Trade, which is part of the WTO Agreement, including the International Organization for Standardization (ISO), the International Electrotechnical Commission (IEC), the Codex Alimentarius Commission, the World Health Organization (WHO) and its dependent bodies, or such other body as the Parties may designate;
**approval procedure:** the registration, notification or any other mandatory administrative process for obtaining a permit, in order for a good to be placed on the market or used for defined purposes or in accordance with established conditions;
**conformity assessment procedure:** any procedure used, directly or indirectly, to determine whether relevant requirements established by technical regulations or standards are met, including sampling, testing, inspection, evaluation, verification, conformity assurance, accreditation, certification, registration or approval, employed for those purposes, but does not mean an approval procedure;
**administrative rejection:** the actions taken by an organ of the public administration of the importing Party, in the exercise of its powers, to prevent the entry into its territory of a shipment, for technical reasons;
**technical regulation:** a document setting out the characteristics of goods or their related processes and production methods, or their related methods of operation, including the applicable administrative provisions, and compliance with which is mandatory. It may also include requirements on terminology, symbols, packaging or labeling applicable to a good, process or related production or operation method, or deal exclusively with them; **hazardous substances:** those that threaten the health or integrity of humans, animals, plants or the environment, and are identified as such by national and international organizations.

## Article 9-02. Scope of Applicatioin

1. This Chapter applies to the standardization and metrology measures of the Parties, as well as measures related thereto, that may affect, directly or indirectly, trade in goods between them.
2. This Chapter does not apply to the animal and plant health measures referred to in Section B of Chapter IV (Agricultural Sector and Animal and Plant Health Measures).

## Article 9-03. Extension of Obligations

Each Party shall comply with the provisions of this Chapter and shall take the necessary measures to ensure compliance by state, departmental and local governments, and shall take such measures in that regard as may be available to it, with respect to non-governmental standardizing bodies in its territory.

## Article 9-04. Confirmation of International Rights and Obligations

The Parties confirm their existing rights and obligations regarding standardization measures under the WTO Agreement and other international treaties to which the Parties are parties, including treaties on health, environment and conservation.

## Article 9-05. Basic Obligations and Rights

1. Notwithstanding any other provision of this Chapter, and in accordance with paragraph 3 of Article 9-07, each Party may establish the level of protection that it considers appropriate to achieve its legitimate objectives.
2. Each Party may develop, adopt, implement and maintain standardization measures to ensure its level of protection of human, animal or plant life or health, the environment or for the prevention of practices that may mislead the consumer, as well as measures to ensure the implementation and enforcement of such standardization measures, including relevant approval procedures.
3. No Party shall develop, adopt, maintain or apply any standardizing measure that has the purpose or effect of creating unnecessary obstacles to trade between them. To this end, each Party shall ensure that standardizing measures are no more trade-restrictive than necessary for the achievement of its legitimate objectives, taking into account technical and economic possibilities, and the risks that non-compliance would create.

4. In connection with its standards-related measures, each Party shall accord to goods of the other Party national treatment and treatment no less favorable than that it accords to like goods of any other country.

## Article 9-06. Use of International Standards

1. Each Party shall use, as a basis for the development, elaboration or application of its standards, existing or imminently adopted international standards, except where such international standards are not an effective or appropriate means of achieving its legitimate objectives, due to fundamental factors of a climatic, geographical, technological or infrastructural nature, among others.
2. A Party's standardization measure that conforms to an international standard shall be presumed to be consistent with paragraphs 3 and 4 of article 9-05.
3. In pursuing its legitimate objectives, each Party may adopt, maintain or apply any standards-related measure that results in a higher level of protection than would have been achieved if the measure were based on an international standard due to, inter alia, fundamental climatic, geographical, technological or infrastructural factors.

## Article 9-07. Risk Assessment

1. Each Party may conduct risk assessments in its territory provided that this does not have the purpose or effect of creating unnecessary obstacles to trade between them. In doing so, it shall take into consideration risk assessment methods developed by international organizations and shall ensure that its standardization measures are based on assessments of risk to human, animal, plant and environmental health and safety. In conducting a risk assessment, the Party conducting the risk assessment shall take into consideration any relevant scientific evidence, available technical information, intended end use, processes or methods of production, operation, inspection, quality, sampling or testing, or environmental conditions.
2. Having established the level of protection it considers appropriate in accordance with paragraph 1 of Article 9-05, each Party shall, in carrying out a risk assessment, avoid arbitrary or unjustifiable distinctions between similar goods, if such distinctions would:

a) have the effect of arbitrarily or unjustifiably discriminating against goods of the other Party;
b) constitute a disguised restriction on trade between the Parties; or
c) discriminate between like goods for the same use under the same conditions that pose the same level of risk and confer similar benefits.
4. Where the Party conducting a risk assessment concludes that the scientific evidence or other available information is insufficient to complete the assessment, it may adopt a technical regulation on a provisional basis based on the relevant available information. Once it has been presented with sufficient information to complete the risk evaluation, the Party shall complete its evaluation as soon as possible, and shall review and, where appropriate, reconsider the provisional technical regulation in the light of that evaluation.

## Article 9-08. Compatibility and Equivalence

1. The Parties recognize the central role that standardization measures play in the promotion and protection of legitimate objectives and shall work together to strengthen the level of safety and protection of human, animal and plant life and health, the environment and the prevention of practices that may mislead consumers.
2. Without prejudice to their rights under this Chapter and taking into account international standardization activities, the Parties shall make compatible, to the greatest extent possible, their respective standardization measures, without reducing the level of safety or protection of human, animal or plant life or health, the environment or consumers.
3. At the request of a Party, the other Party shall take such reasonable measures as may be available to it to promote the compatibility of its specific standardization measures with the standardization measures of the other Party, taking into account relevant international procedures and activities.
4. Each Party shall accept a technical regulation adopted by the other Party as equivalent to its own when, in cooperation with the other Party, the exporting Party demonstrates to the satisfaction of the importing Party that its technical regulation adequately fulfills the legitimate objectives of the importing Party.
5. On request of the exporting Party, the importing Party shall communicate in writing its reasons for not having accepted a technical regulation under paragraph 4.
6. To the extent possible, each Party shall accept the results of conformity assessment procedures carried out in the territory of the other Party, even if those procedures differ from its own, provided that they offer satisfactory assurance, equivalent to that offered by procedures carried out or to be carried out in its territory, the result of which it accepts, that the relevant good complies with the applicable technical regulations or standards that are developed or maintained in the territory of that Party.
7.Prior to acceptance of the results of a conformity assessment procedure in accordance with paragraph 6, in order to

strengthen confidence in the continued integrity of each Party's conformity assessment results, the Parties may consult on matters such as the technical capability of conformity assessment bodies, taking into consideration verified compliance with relevant international standards through that means of accreditation.

## Article 9-09. Conformity Assessment

1. Recognizing the existence of differences in conformity assessment procedures in their respective territories, the Parties shall, to the greatest extent possible, make compatible their respective conformity assessment procedures in accordance with the provisions of this Chapter.
2. If mutually beneficial, each Party shall, on a reciprocal basis, accredit, approve, license or recognize conformity assessment bodies in the territory of the other Party on terms no less favorable than those granted to such bodies in its territory.
3. With respect to its conformity assessment procedures, each Party shall be obliged to: 166 a) not to adopt or maintain more stringent conformity assessment procedures, or to apply them more strictly than necessary, to satisfy itself that the good conforms to the applicable technical regulations or standards, taking into consideration the risks that nonconformity might create;
b) to initiate and complete such procedure as expeditiously as possible;
c) establish a non-discriminatory order for the processing of applications;
d) accord to goods originating in the other Party national treatment and treatment no less favorable than that accorded to its like goods or to goods of any other country;
e) publish the normal duration of each of these procedures or communicate, at the request of the applicant, the approximate duration of the procedure;
f) ensure that the competent national body:
i) upon receipt of an application, promptly examines the completeness of the documentation and informs the applicant, accurately and completely, of any deficiencies;
ii) as soon as possible, transmits to the applicant the results of the conformity assessment procedure accurately and completely, so that the applicant can carry out any corrective action;
iii) where the application is deficient, continues the procedure as far as possible, if the applicant so requests; and
iv) report on request of the applicant the status of its application and the reasons for any delay;
g) limit the information to be submitted by the applicant to that necessary to assess conformity and determine the appropriate cost of the assessment;
h) accord to confidential information arising from or submitted in connection with the procedure with respect to a good of the other Party:
i) the same treatment as that accorded to information relating to a good of the Party; and
ii) treatment that protects the commercial interests of the applicant;
i) ensure that any fee charged for assessing the conformity of a good being exported from the other Party is equitable in relation to that charged for assessing the conformity of an identical or similar good of the Party, taking into consideration communication, transportation and related costs;
j) ensure that the location of the facilities where conformity assessment procedures are carried out does not cause unnecessary inconvenience to the applicant or its representative; l) limit the procedure, in the case of a good that has been modified subsequent to a conformity assessment determination, to that necessary to determine that the good continues to comply with those regulations or standards; and
m) limit to reasonableness any requirement for samples of a good and ensure that the selection and collection of samples does not cause unnecessary inconvenience to the applicant or its representative.
4. The Parties shall apply the provisions of paragraph 3, with appropriate modifications, to their approval procedures.
5. Each Party shall give favorable consideration to the request of the other Party to negotiate agreements on the mutual recognition of the results of that Party's conformity assessment procedures.

## Article 9-10. Metrological Standards

The Parties shall make compatible, to the greatest extent possible, their metrological standards, taking as a basis the international standards in force, as stipulated in this Chapter.

## Article 9-11. Health Protection

Each Party shall ensure that:
a) medicines, medical equipment and instruments, pharmochemical goods and other inputs for human, animal or plant health;
b) foodstuffs;

c) cosmetics and perfumes;
d) dangerous goods and substances; and
e) radioactive goods, materials, sources and equipment, and sources and equipment emitting ionizing radiation. (e) goods, materials, radioactive sources and equipment, and sources and equipment emitting ionizing radiation, which are subject to sanitary registration within the territory of a Party, shall, where appropriate, be registered, recognized or evaluated by the competent authority of that country, based on a single national system of a federal or central nature, as the case may be, of mandatory observance.
2. Certificates attesting that the enterprises producing or conditioning the goods referred to in paragraph 1 comply with the standards and technical regulations shall be accepted only if they have been issued by the competent regulatory agencies of the federal or central government, as the case may be.
3. The Parties shall establish a system of mutual technical cooperation that shall work on the basis of the following program:
a) identification of specific needs regarding:
i) the application of good manufacturing practices in the manufacture and approval of medicines, particularly those for human use;
ii) the application of good laboratory practices in the systems of analysis and evaluation established in the relevant international guides in force; and
iii) the development of common identification and nomenclature systems for health auxiliary goods and medical instruments;
b) homologation of requirements relating to labeling, development and strengthening, among others, of standardization and surveillance systems in relation to warning labeling;
c) development of training and education programs, and organization of, inter alia, a common system for the training, continuing education, training and evaluation of health officials and inspectors;
d) development of a mutual accreditation system for verification units and testing laboratories;
e) development and strengthening of formal communication systems to monitor and regulate the exchange of goods related to human, animal or plant health; and
f) development, strengthening and promotion of cooperation in the aspects related to paragraphs 1 and 2.
4. The Sub-Working Group on Health Standardization Measures, established pursuant to paragraph 5 of Article 9-17, shall organize and follow up on the activities outlined in paragraph 3 and make appropriate recommendations to the Parties upon request.

## Article 9-12. Protection of the Environment and Management of Hazardous Substances and Wastes

1. For the care and protection of its environment, each Party shall apply the provisions, guidelines or recommendations of the United Nations Organization and of the relevant international agreements to which both Parties are parties, in addition to its own legislation. 2. The Parties shall regulate and control the production, introduction and marketing of pharmaceutical products, pesticides and other hazardous substances, in accordance with the provisions of this Agreement and those of their legislation.
3. Each Party shall regulate, in accordance with its legislation, the introduction, acceptance, deposit, transport and transit through its territory of hazardous, radioactive or other wastes of internal or external origin which, by their characteristics, constitute a danger to the health of the population or to the environment.

## Article 9-13. Labeling

1. In accordance with the provisions of this Chapter, each Party shall apply, within its territory, its relevant labeling requirements.
2. The Parties shall develop common labeling requirements through the Sub-Working Group on Standardization Measures on Labeling, Packaging, Packing and Consumer Information, established pursuant to paragraph 5 of Article 9-17.
3. The Sub-Working Group shall formulate recommendations, among others, on the following areas:
a) development of a common system of symbols and pictograms;
b) definitions and terminology;
c) presentation of information, including language, measurement systems, ingredients and sizes; and
d) any other related matters.

## Article 9-14. Notification, Publication and Provision of Information

1. Each Party shall notify the other Party of the standardization and metrology measures it intends to establish before they enter into force and no later than to its nationals.
2. In addition to the provisions of Articles 10-02 (Publication) and 10-03 (Notification and Provision of Information), to

propose the adoption or modification of any standardization or metrology measure, each Party shall:
a) shall publish a notice and notify the other Party in writing of its intention to adopt or modify such measure, so as to enable interested persons to familiarize themselves with the proposal, at least 60 days in advance of its adoption or modification, except in the case of any standardization measure relating to perishable goods, in which case, the Party shall, to the maximum extent practicable, publish the notice and notify at least 30 days in advance of the adoption or modification of such measures and, in any case, simultaneously that its producers;
b) identify in such notice and notification the good to which the measure is to be applied, and include a brief description of the objective and motivation of the measure;
c) provide a copy of the proposed measure to the other Party or any interested person on request and, where possible, identify the provisions that deviate in substance from the relevant international standards;
d) without discrimination, allow the other Party and interested persons to make comments in writing and, upon request, discuss and take them and the results of the discussions into account; and
e) ensure that, upon adoption of the measure, the measure is published expeditiously or otherwise made available to interested persons in the other Party to familiarize them with the measure.
3. Each Party shall endeavor to avoid maintaining in force or applying any technical regulations and conformity assessment procedures if the circumstances or objectives that gave rise to their adoption no longer exist, or can be met in a manner less restrictive to bilateral trade.
4. With respect to technical regulations other than those issued by the federal or central government, as the case may be, each Party shall:
a) shall ensure that a notice is published and shall notify the other Party in writing of its intention to adopt or modify such a regulation at an appropriate initial stage;
b) shall ensure that such notice and notification identifies the good to which the technical regulation will apply, and shall include a brief description of the objective and rationale for the technical regulation;
c) ensure that a copy of the proposed technical regulation is provided to the other Party or to any interested person on request; and
d) take such reasonable measures as may be available to it to ensure that, upon adoption of the technical regulation, it is published expeditiously or otherwise made available to interested persons in the other Party so that they may become familiar with it.
5. Where a Party considers it necessary to address an urgent problem relating to safety or to the protection of human, animal or plant life or health, the environment or to practices that mislead consumers, it may omit any of the steps set out in paragraph 2 or 4, provided that, when adopting the standardization measure:
a) immediately notifies the other Party in accordance with the requirements set out in paragraph 2(b), including a brief description of the urgent problem;
b) provides a copy of the measure to the other Party and to any interested person who so requests;
c) without discrimination, allow the other Party and interested persons to make comments in writing and, upon request, discuss and take them and the results of the discussions into account; and
d) ensure that the measure is published expeditiously, or otherwise allow interested persons to become familiar with it.
6. The Parties shall allow a reasonable period between the publication of their standardization measures and the date on which they enter into force for interested persons to adapt to these measures, except where it is necessary to address one of the urgent problems referred to in paragraph 5.
7. Each Party shall annually notify the other Party in writing of its plans and programs for standardization.
8. Where a Party permits interested persons from outside the government to be present during the process of developing standardization measures, it shall also permit persons from outside the government of the other Party to be present.
9. Each Party shall designate a government authority to be responsible for the implementation of the notification provisions of this Chapter and shall notify the other Party.
10. Where a Party designates two or more governmental authorities for this purpose, it shall inform the other Party precisely and fully of the scope of responsibilities of those authorities. When a Party administratively rejects a shipment on the grounds of non-compliance with a standardization measure, it shall inform, without delay and in writing, the person holding the shipment, the technical justification for the rejection.
11. Once the information referred to in paragraph 10 has been generated, the Party shall immediately forward it to the information center or centers, in its territory, referred to in Article 9-15 in its territory, which, in turn, shall inform the information centers of the other Party.

## Article 9-15. Information Centers

1. Each Party shall ensure that there is at least one information center in its territory capable of responding to all reasonable inquiries and requests from the other Party and interested persons, as well as providing relevant documentation regarding:
a) any standardization measures or metrological standards adopted or proposed in its territory;
b) the membership and participation of that Party, or its relevant authorities, in international or regional standardizing

bodies and conformity assessment systems, in bilateral or multilateral agreements, within the scope of this Chapter, as well as in relation to the provisions of those systems and agreements;
c) the location of notices published pursuant to this Chapter, or the place where the information contained therein may be obtained;
d) the location of the information centers referred to in paragraph 3; and
e) the Party's risk assessment procedures, the factors it takes into consideration in carrying out the assessment, and with the establishment of the levels of protection it considers appropriate, in accordance with paragraph 1 of Article 9-05.
2. Where a Party designates more than one information center:
a) inform the other Party of the scope of responsibilities of each such center; and
b) ensure that any request sent to the wrong information center is forwarded expeditiously to the correct information center.
3. Each Party shall take such reasonable measures as may be available to it to ensure that there is at least one information center, within its territory, capable of responding to all inquiries and requests from the other Party and interested persons, and of providing relevant documentation, or information where such documentation may be obtained, relating to: a) any standards or conformity assessment processes adopted or proposed by non-governmental standardizing bodies in its territory; and b) the membership and participation in international and regional standardizing bodies and conformity assessment systems of relevant non-governmental bodies in its territory.
4. Each Party shall ensure that, where the other Party or interested persons, in accordance with the provisions of this Chapter, request copies of the documents referred to in paragraph 1, they shall be provided at the same price that applies for domestic sale, except for the actual cost of shipment.

## Article 9-16. Limitations on the Provision of Information

Nothing in this Chapter shall be construed to impose an obligation on a Party to provide any information, the disclosure of which it considers contrary to the essential interests of its national security or of particular enterprises.

## Article 9-17. Working Group on Standardization Measures

1. The Parties establish the Working Group on Standardization Measures, composed of an equal number of representatives of each Party.
2. The functions of the Working Group include, inter alia:

a) monitoring the implementation, enforcement and administration of this Chapter, including the progress of the working subgroups established pursuant to paragraph 5;
b) facilitating the process through which the Parties shall make their standardization and metrology measures compatible;
c) serving as a forum for the Parties to consult on matters related to standardization and metrology measures;
d) promote technical cooperation activities between the Parties;
e) assist in risk assessments carried out by the Parties;
f) assist in developing and strengthening the standardization and evaluation systems of the Parties; and
g) report annually to the Commission on the implementation of this Chapter.
3. The Working Group shall:
a) meet at least once a year, unless the Parties agree otherwise;
b) establish its rules of procedure; and
c) make its decisions by consensus. When the Working Group considers it appropriate, it may establish such sub-working groups as it deems appropriate and shall determine the scope and terms of reference of such sub-working groups.
4. Each such sub-working group shall be composed of representatives of each Party and may:
a) when it deems necessary, include or consult with:
i) representatives of non-governmental bodies, such as standardization and metrology bodies or private sector chambers and associations;
ii) scientists; and
iii) technical experts; and (b) determine its work program, taking into account relevant international activities.
5. In addition to the provisions of paragraph 4, the Working Group shall:
a) establish:
i) the Sub-Working Group on Health Standardization Measures;
ii) the Sub-Working Group on Labeling, Packaging, Packaging and Consumer Information Standardization Measures; and
b) any other sub-working groups it deems appropriate to discuss, inter alia, the following topics:
i) the identification and nomenclature of goods subject to standardization measures;
ii) technical regulations and standards of quality and identity;
iii) programs for the approval of goods and for post-sale surveillance;

iv) principles for the accreditation and recognition of testing facilities, inspection agencies and conformity assessment bodies;
v) the development and implementation of a uniform system for the classification and reporting of hazardous chemicals and the communication of chemical hazards;
vi) programs to ensure compliance with the provisions in force, including training and inspection by personnel responsible for regulation, analysis and verification of compliance; vii) the promotion and application of good laboratory practices;
viii) the promotion and application of good manufacturing practices;
ix) criteria for the evaluation of potential damage to the environment due to the use of goods;
x) analysis of procedures for the simplification of import requirements for specific goods;
xi) guidelines for testing chemical substances, including those of an industrial nature and those for agricultural, pharmaceutical and biological use; and
xii) means to facilitate consumer protection, including compensation for damage caused to the consumer.

### Article 9-18. Technical Cooperation

1. At the request of a Party, the other Party may provide information or technical assistance, to the extent possible and on mutually agreed terms, to assist in the implementation of this Chapter and to strengthen the standardization and metrology activities, processes, systems and measures of that Party.
2. The activities referred to in paragraph 1 include:
a) the identification of specific needs;
b) training and capacity building programs;
c) the development of a system of mutual accreditation for verification units and testing laboratories;
d) the development and strengthening of formal systems of communication to monitor and regulate the exchange of goods; and
e) information on technical cooperation programs related to standardization measures carried out by a Party.
3. In order to carry out the activities proposed in paragraph 2, the Parties shall establish the necessary mechanisms they deem appropriate, including those referred to in paragraph 4 of Article 9-17.

### Article 9-19. Technical Consultations

1. When a Party has doubts on the interpretation or application of this Chapter, on the standardization or metrology measures of the other Party or on the measures related to them, the latter may resort to the Working Group or to the Dispute Settlement Regime provided for in the First Additional Protocol to this Agreement. The Parties may not use both channels simultaneously.
2. When a Party decides to resort to the Working Group, it shall notify the Working Group so that it may consider the matter or refer it to a working subgroup or other competent forum, with a view to obtaining non-binding technical advice or recommendations.
3. The Working Group shall consider any matter referred to it pursuant to paragraphs 1 and 2 as expeditiously as possible and shall bring to the attention of the Parties any technical advice or recommendations it develops or receives in connection with that matter. Upon receipt by the Parties of the requested technical advice or recommendation from the Working Group, the Parties shall provide a written response to the Working Group with respect to such technical advice or recommendation within a period to be determined by the Working Group.
4. In the event that the technical recommendation issued by the Working Group does not resolve the dispute between the Parties, they may resort to the Dispute Settlement Regime established in the First Additional Protocol to this Agreement. If the Parties so agree, the consultations conducted before the Working Group shall constitute those provided for under the First Additional Protocol to this Agreement.
5. The Party asserting that a standardization measure of the other Party is inconsistent with the provisions of this Chapter shall prove the inconsistency.

# Part FOUR. ADMINISTRATIVE PROVISIONS

## Chapter X. Transparency

### Article 10-01. Information Center

1. Each Party shall designate a unit or office as an information center to facilitate communication between the Parties on any matter covered by this Agreement.
2. When requested by a Party, the information center of the other Party shall indicate the unit or official responsible for the

matter and shall provide the support required to facilitate communication with the requesting Party.

### Article 10-02. Publication

1. Each Party shall ensure that its laws, regulations, procedures and administrative rulings of general application that relate to any matter covered by this Agreement are promptly published or made available for the information of the Parties and any interested party.
2. To the extent practicable, each Party shall:
a) publish in advance any measure it proposes to adopt; and
b) provide reasonable opportunity for persons and the other Party to comment on proposed measures.

### Article 10-03.

1. Notification and Provision of Information. Each Party shall, to the extent possible, notify the Party with an interest in the matter of any measure in force or proposed to be taken that the Party considers may substantially affect or affect the interests of that other Party under the terms of this Agreement.
2. Each Party shall, upon request of the Party concerned, provide information and promptly respond to its questions regarding any existing or proposed measure, notwithstanding that the Party concerned has been previously notified of that measure. The notification or provision of information referred to in this Article shall be without prejudice to whether or not the measure is consistent with this Agreement.

### Article 10-04. Guarantees of Hearing, Legality and Due Process of Law

1. The Parties reaffirm the guarantees of hearing, legality and due process of law enshrined in their respective legislation.

2. Each Party shall maintain tribunals and judicial or administrative procedures for the review and, where appropriate, correction of final acts related to this Agreement.

3. Each Party shall ensure that in judicial and administrative proceedings relating to the application of any measure affecting the operation of this Agreement, the essential formalities of the procedure are observed, and the legal cause thereof is substantiated and justified.

## Chapter XI. Administration of the Agreement

### Article 11-01. Administrative Commission

1. The Parties establish the Administrative Commission, composed of the officials referred to in Annex 1 to this article or by the persons designated by them. The Commission shall have the following functions:
a) to ensure compliance with and correct application of the provisions of this Agreement;
b) to evaluate the results achieved in the application of this Agreement and monitor its development;
c) to resolve disputes arising with respect to its interpretation or application;
d) to supervise the work of all the working groups established in this Agreement and included in Annex 2 to this article; and
e) to hear any other matter that may affect the operation of this Agreement, or any other matter that may be entrusted to it by the Parties.
2. The Commission may:
a) establish and delegate responsibilities to ad hoc or permanent working groups and groups of experts;
b) request the advice of individuals or groups without governmental connection; and
c) review the chapters provided for in this Agreement and propose to the Parties the modifications it considers necessary; and
d) if agreed by the Parties, take any other action for the exercise of its functions.
3. The Commission shall establish its rules and procedures and all its decisions shall be taken unanimously.
4. The Commission shall meet at least once a year. The meetings shall be chaired successively by each Party.

### Article 11-02. The Secretariat

1. The Commission shall establish and supervise a Secretariat composed of national sections. Each Party shall:
a) establish the permanent office of its national section;
b) be responsible for:
i) the operation and costs of its section; and

ii) the remuneration and expenses to be paid to the arbitrators and experts appointed in accordance with this Agreement, as provided in the Annex to this Article;
c) designate the Secretary of its national section, who shall be the official responsible for its administration; and
d) notify the Commission of the address of its national section.
2. The Secretariat shall have the following functions:

a) provide assistance to the Commission;
b) provide administrative support to the arbitral tribunals;
c) upon instructions from the Commission, support the work of the working groups established pursuant to this Agreement; and
d) such other functions as may be entrusted to it by the Commission.

# Part FIVE. DISPUTE SETTLEMENT

## Chapter XII. Dispute Settlement

Disputes arising between the Parties concerning the interpretation, application or breach of this Agreement shall be governed by the provisions of the Dispute Settlement Regime provided for in the First Additional Protocol to this Agreement, once the Parties have completed the legal formalities necessary for the entry into force of the said Protocol.

# Part SIX. OTHER PROVISIONS

## Chapter XIII. Exceptions

### Article 13-01. General Exceptions

Article XX of the GATT and its interpretative notes are incorporated into and form an integral part of this Agreement

### Article 13-02. National Security

1. Nothing in this Agreement shall be construed to:
a) require a Party to furnish or give access to information the disclosure of which it considers contrary to its essential security interests;
b) prevent a Party from taking any action it considers necessary to protect its essential security interests:
i) relating to trade in armaments, munitions and war materiel and to trade and transactions in goods, materials, services and technology carried on for the direct or indirect purpose of providing supplies to a military institution or other defense establishment;
ii) taken in time of war or other emergency in international relations;
iii) relating to the implementation of national policies or international agreements relating to the non-proliferation of nuclear weapons or other nuclear explosive devices; or
c) to prevent any Party from taking action in accordance with its obligations under the United Nations Charter for the Maintenance of International Peace and Security.

### Article 13-03. Exceptions to Disclosure of Information

Nothing in this Agreement shall be construed to require a Party to furnish or give access to information the disclosure of which would impede compliance with or be contrary to its Constitution or laws regarding, inter alia, the protection of privacy of individuals, financial affairs, and bank accounts of individual customers of financial institutions.

## Chapter XIV. Final Provisions

### Article 14-01. Annexs

The annexes to this Agreement constitute an integral part of the same.

### Article 14-02. Amendments

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

2. The agreed modifications and additions shall enter into force once they are approved according to the corresponding legal procedures of each Party and shall constitute an integral part of this Agreement.

## Article 14-03. Convergence

The Parties shall promote the convergence of this Agreement with other integration agreements of Latin American countries, in accordance with the mechanisms established in the Treaty of Montevideo 1980.

## Article 14-04. Entry Into Force

This Agreement shall enter into force on June 7, two thousand and ten.

## Article 14-06. Accession

1. Any country or group of countries may accede to this Agreement subject to such terms and conditions as may be agreed between that country or group of countries and the Commission, and once its accession has been approved in accordance with the applicable legal procedures of each country.
2. This Agreement shall not enter into force between a Party and any acceding country or group of countries if at the time of accession any of them does not give its consent.
3. Accession shall enter into force upon the exchange of communications certifying that the legal formalities have been completed.

## Article 14-07. Denunciation

1. Any Party may denounce this Agreement. The denunciation shall take effect 180 days after communicating it to the other Party, without prejudice to the possibility that the Parties may agree on a different period of time.
2. In the case of the accession of a country or group of countries in accordance with the provisions of Article 14-06, notwithstanding that a Party has denounced the Agreement, the Agreement shall remain in force for the other Parties.

## Article 14-08. Evaluation of the Agreement

The Parties shall periodically evaluate the development of this Agreement in order to seek its improvement and consolidate the integration process in the region, promoting an active participation of the productive sectors.

## Article 14-09. Repeals and Transitory Provisions

1. With respect to Chapter VI (Customs Procedures), importers may request the tariff preference provided for in ACE 31, for a period of 30 days, counted as of the entry into force of this Agreement. For these purposes, the certificates of origin issued pursuant to the Free Trade Agreement between the United Mexican States and the Republic of Bolivia must have been completed prior to the entry into force of this Agreement, be valid and be within the validity period pursuant to the terms established by the aforementioned Agreement and be valid for the aforementioned term.

2. The Parties undertake to update the annexes to articles 3-02, 3-03, 3-08 and 4-04 to the version of the Harmonized System relating to the Fourth Amendment within a period of no more than 6 months from the entry into force of this Agreement, and the annexes to articles 5-03 and 5-15 within a period of no more than 2 years from the entry into force of this Agreement.
3. The Parties shall review, no later than 6 months after the entry into force of this Agreement, the possibility of including other distinctive products in the Annex to Article 3-12. The General Secretariat of ALADI shall be the depository of this Protocol, of which it shall send duly authenticated copies to the Governments of the signatory countries.

IN WITNESS WHEREOF, the respective Plenipotentiaries have signed this Protocol in the city of Montevideo, on the seventeenth day of May of the year two thousand and ten, in an original in the Spanish language.

For the United Mexican States:

For the Plurinational State of Bolivia: