Title FREE TRADE AGREEMENT BETWEEN THE REPUBLIC OF SINGAPORE AND THE REPUBLIC OF PANAMA

The Government of the Republic of Panama and the Government of the Republic of Singapore ("the Parties")

Conscious of the friendship and growing economic ties between them;

Considering the Joint Press Statement issued on 17 February, 2004, in Singapore, by Panama's Vice-President and Singapore's Minister for Trade and Industry, recording their intention to conclude a bilateral free trade agreement between Panama and Singapore;

Desiring to provide a platform from which to unlock the benefits of deeper economic ties between two strategically located trading centres, each serving the Americas and the Asia-Pacific region;

Desiring to improve the efficiency and competitiveness of their goods and services sectors and to promote and expand trade and investment flows between them;

Desiring to promote greater synergy between their respective economies with complementary strengths in certain sectors;

Recognising that strengthening of their closer economic partnership will bring economic and social benefits and improve living standards;

Building on their rights, obligations and undertakings under the World Trade Organization, and other multilateral, regional and bilateral agreements;

Considering that the expansion of their domestic market, through economic integration, is vital for accelerating their economic development;

Recognising the need for good corporate governance and a predictable, transparent and consistent business environment to enable business to conduct transactions freely, use resource efficiently and take investment and planning decisions with certainty; and

Conscious that a frameworks of rules for trade in goods, services, and investment will contribute to the promotion of closer links with other economies in the Americas and Asia-Pacific regions;

Have agreed as follows:

Chapter 1. OBJECTIVES, ESTABLISHMENT OF A FREE TRADE AREA AND DEFINITIONS

Article 1.1. Objectives

1. The objectives of the Parties in concluding this Agreement are:
(a) to establish a free trade area that will promote market opportunities for goods, services and investment between them;
(b) to strengthen the relationship between them, through the conclusion of a free trade agreement, which addresses their economic interest and the evolution of the multilateral trading system;
(c) to establish a cooperative framework for further promote and enhance the economic, trade and investment cooperation between them;
(d) to liberalise and promote trade in goods and services between them and to establish a transparent, predictable and facilitative investment regime;
(e) to improve the efficiency and competitiveness of their goods and services sectors and expand trade and investment between them;
(f) to establish a framework of transparent rules to govern and regulate trade and investment between them;
(g) to maximise opportunities for cooperation between them in logistics sectors and in services, such as telecommunication, maritime and banking;
(h) to promote and facilitate cooperation activities between them;
(i) to facilitate and enhance economic cooperation and integration with other economies in the Americas and the Asia-Pacific region; and
(j) to build upon their commitments at the World Trade Organization, and to support its efforts to create a predictable, and

more free and open global trading environment.

Article 1.2. Establishment of a Free Trade Area

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

2. The Parties reaffirm their existing rights and obligations with respect to each other under existing bilateral and multilateral agreements to which both Parties are party, including the WTO Agreement.

3. This Agreement shall not be construed to derogate from any international legal obligations between the Parties that entitles goods or services, or suppliers of goods or services, or investors or investments of investors, to treatment more favourable than that accorded by this Agreement.

Article 1.3 . Definitions of General Application

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Unless otherwise provided for this Agreement, the following definitions shall apply:

1. Customs Valuation Agreement means the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994, which is part of the WTO Agreement;
2. days means calendar days, including weekends and holidays;
3. enterprise any entity constituted or organized, under applicable law, whether or not for profit, and whether privately-owned or governmentally- owned, including any corporation, trust, partnership, sole proprietorship, joint venture, or other association;

4. enterprise of a Party means an enterprise constituted or organized, under the law of a Party;

5. GATS means the General Agreement on Trade in Services, which is part of the WTO Agreement;

6. GATT 1994 means the General Agreement on Tariffs and Trade 1994, which is part of the WTO Agreement;

7. Goods of a Party means domestic products as these are understood in the GATT 1994 or such goods as the Parties may agree, and includes originating goods of that Party (1);

8. measure includes any law, regulation, rule, procedure or administrative action adopted or maintained by a Party;

9. national means a natural person who has the nationality of a Party according to Annex 1A;

10. natural person of a Party means a natural person that resides in the territory of the Party or elsewhere and who under the law of that Party is a national of that Party or has the right of permanent residence in that Party;

11. originating goods means goods qualifying under the rules of origin set out in Chapter 3 (Rules of Origin);
12. Party means any country for which this Agreement is in force;
13. Person means a natural person or an enterprise;
14. Person of a Party means a natural person or an enterprises of a Party;
15. Territory means for a Party the territory of that Party as set out in Annex 1A;
16. TRIPS Agreement means the Agreement on Trade-Related Aspects of Intellectual Property which is part of the WTO Agreement; and
17. WTO Agreement means the Marrakesh Agreement Establishing the World Trade Organization, done on April 15, 1994.

(1) For greater certainty, goods and products shall be understood to have the same meaning unless the context otherwise requires.

Article 1.4 . Extent of Obligations

1. Each Party is fully responsible for the observance of all the provisions of this Agreement. 2. In fulfilling its obligations and commitments under this Agreement, each Party shall ensure their observance by regional and local governments and authorities in its territory as well as their observance by non-governmental bodies in the exercise of powers delegated by central, regional or local governments and authorities within its territory.

Annex 1A. Country-Specific Definitions

For purposes of this Agreement, unless otherwise specified:
(1) National means:
(a) with respect to Panama, any person who is a citizen within the meaning of its Constitution and domestic laws; and
(b) with respect to Singapore, any person who is a citizen within the meaning of its Constitution and domestic laws.

(2) Territory means:
(a) with respect to Panama: the land, maritime and air space under its sovereignty, as well as its exclusive economic zone and its continental shelf within which it exercises its sovereign rights and jurisdiction in accordance with international law and its domestic law;
(b) with respect to Singapore: its land territory, internal waters and territorial sea as well as and any maritime area situated beyond the territorial sea which has been or might in future be designated under its national law, in accordance with international law, as an area within which Singapore may exercise sovereign rights or jurisdiction with regard to the sea, sea-bed, the subsoil and the natural resources.

Chapter 2. Trade In Goods

Article 2.1 . Scope and Coverage

This Chapter applies to trade in goods of a Party, unless otherwise provided.

Article 2.2 . National Treatment

1. Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of GATT 1994, including its interpretative notes.

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

Article 2.3 . Customs Duties Elimination Schedule

1. Except as otherwise provided in this Agreement, each Party shall progressively eliminate its customs duties on originating goods in accordance with Annex 2.3 (Customs Duties Elimination Schedule).

2. During the customs duties elimination process, the Parties agree to apply to originating goods traded between them, the lesser of the customs duties resulting from a comparison between the rate established in accordance with Annex 2.3 (Customs Duties Elimination Schedule) and the existing rate pursuant to Article II of GATT 1994.

3. Each Party shall not increase an existing customs duty or introduce a new customs duty on the importation of originating goods from the territory of the other Party.

4. Upon request by any Party, the Parties shall consult to consider accelerating the elimination of customs duties as set out in Annex 2.3 (Customs Duties Elimination Schedule) or incorporating into one Party's schedule, goods that are not subject to the elimination schedule. Further commitments between the Parties to accelerate the elimination of a customs duty on a good or to include a good in Annex 2.3 (Customs Duties Elimination Schedule) shall supercede any duty rate or staging category determined pursuant to their Schedules. These commitments shall enter into force on such dates as may be agreed between the Parties after they have exchanged notification certifying that they have completed their necessary internal legal procedures.

Article 2.4. Export Duties

A Party shall not adopt or maintain any duty, tax or other charge on the exportation of goods to the territory of the other Party, unless such duty, tax or charge is adopted or maintained on any such good when destined for domestic consumption.

Article 2.5. Customs Valuation

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

Article 2.6 . Customs Processing Fees

After two years of the entry into force of this Agreement, neither Party shall apply an existing customs processing fee, nor shall the Parties adopt new customs processing fees on originating goods from the territory of the other Party.

Article 2.7. Temporary Admission of Goods

1. Each Party shall grant duty-free temporary admission for the following goods, imported by or for the use of a resident of the other Party:
(a) professional equipment, including software and broadcasting and cinematographic equipment, necessary for carrying out the business activity, trade or profession of a business person who qualifies for temporary entry pursuant to the laws of the importing country; and
(b) goods intended for display or demonstration at exhibitions, fairs or similar events, including commercial samples for the solicitation of orders, and advertising firms.
2. A Party shall not condition the duty-free temporary admission of a good referred to in paragraph 1, other than to require that such good:
(a) be used solely by or under the personal supervision of a resident of the other Party in the exercise of the business activity, trade or profession of that person;
(b) not be sold, leased or consumed while in its territory;
(c) be accompanied by a security in an amount no greater than the charges that would otherwise be owed on entry or final importation releasable upon exportation of the good;
(d) be capable of identification when exported;
(e) be exported within 3 months or such other period of time as is reasonably related to the purpose of the temporary admission

(f) be imported in no greater quantity than is reasonable for their intended use; and
(g) be otherwise admissible into the Party's territory under its laws.

3. If any condition that a Party imposes under paragraph 2 has not been fulfilled, the Party may apply the customs duty and any other charge that would normally be owed on entry or final importation of the good, and any other charges or penalties provided for under its domestic law.

4. Each Party shall, at the request of the person concerned and for reasons deemed valid by the Customs authorities, extend the time limit for temporary admission beyond the period initially fixed.

5. Each Party shall permit temporarily admitted goods to be exported through a customs port other than that through which they were imported.

6. Each Party shall relieve the importer of liability for failure to export a temporarily admitted good under presentation of satisfactory proof to Customs authorities that the good has been destroyed within the original time limit for temporary admission or any lawful extension. Prior approval will have to be sought from the Customs authorities of the importing Party before the good can be destroyed.

Article 2.8. Re-Entry of Repaired or Altered Goods

1. A Party shall not apply a customs duty to a good, regardless of its origin, that re-enters its territory after that good has been exported temporarily from its territory to the territory of the other Party for repair or alteration, regardless of whether such repair or alteration could be performed in its territory.

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

3. For the purposes of this Article:

(a) the repair or alterations shall not destroy the essential characteristics of a good or change it into a different commercial item;

(b) operations carried out to transform an unfinished good into a finished good shall not be considered repairs or alterations; and

(c) parts or pieces of the goods may be subject to repairs or alterations.

Article 2.9 . Non-Tariff Measures

1. Neither Party shall adopt or maintain any non-tariff measures on the importation of any good of the other Party or on the exportation of any good destined for the territory of the other Party, except in accordance with its WTO rights and obligations, or in accordance with other provisions of this Agreement.

2. Each Party shall ensure the transparency of its non-tariff measures permitted under paragraph 1 and that they are not prepared, adopted or applied with a view to or with the effect of creating unnecessary obstacles to trade between the Parties.

Article 2.10 . Subsidies and Countervailing Measures

1. The Parties agree to prohibit export subsidies on all goods, including agriculture goods.

2. Notwithstanding paragraph 1, the Parties reaffirm their commitment to abide by the provisions of Article VI and XVI of the GATT 1994, the WTO Agreement on Subsidies and Countervailing Measures, and the WTO Agreement on Agriculture.

Article 2.11 . Anti-dumping

1. With respect to the application of anti-dumping measures, the Parties reaffirm their commitment to the provisions of the Anti-Dumping Agreement.

2. Notification procedures shall be as follows:

(a) immediately following the acceptance of a properly documented application from an industry in one Party for the initiation of an anti-dumping investigation in respect of goods from the other Party, the Party that has accepted the properly documented application shall immediately inform the other Party of such acceptance; and

(b) where a Party considers that in accordance with Article 5 of the Anti-Dumping Agreement there is sufficient evidence to justify the initiation of an anti-dumping investigation, it shall give written notice to the other Party in accordance with Article 12.1 of that Agreement, and observe the requirements of Article 17.2 of that Agreement concerning consultations;

3. At the first session of the Administrative Commission convened pursuant to Article 17.1.3 (Administrative Commission of the Agreement), the Parties shall, in the course of reviewing the general implementation and functioning of this Agreement, consider and review this Article, and shall include a consideration of any recommendation by the WTO Committee on Anti-Dumping Practices.

Article 2.12. Bilateral Safeguard Measures

1. If as a result of the reduction or elimination of a customs duty under this Agreement, an originating good of the one Party is being imported into the territory of the other Party in such increased quantities, in absolute terms or relative to domestic production, and under such conditions that the imports of such originating good from the exporting Party constitute a substantial cause of serious injury to a domestic industry producing a like or directly competitive good of the importing Party, such Party may:
(a) suspend the further reduction of any rate of customs duty on the good provided for under this Agreement; or
(b) increase the rate of customs duty on the good to a level not to exceed the lesser of:
(i) the MFN applied rate of duty on the good in effect at the time the action is taken, or
(ii) the MFN applied rate of duty on the good in effect on the day immediately preceding the date of entry into force of this Agreement.
2. The following conditions and limitations shall apply with regard to an investigation or a measure described in paragraph 1:
(a) a Party shall notify the other Party in writing upon initiation of an investigation described in paragraph 2(c) and shall consult with the other Party as far in advance of taking any such measure as practicable, with a view to reviewing the information arising from the investigation, exchanging views on the measure and reaching an agreement on compensation as set out in paragraph 4;
(b) any safeguard measure shall be taken no later than 1 year after the date of the initiation of the investigation;
(c) a Party shall take a measure only following an investigation by that Party's competent authorities in accordance with Articles 3 and 4.2(c) of the Agreement on Safeguards; and to this end, Articles 3 and 4.2(c) of the Agreement on Safeguards are incorporated into and made a part of this Agreement, *mutatis mutandis*;
(d) in the investigation described in sub-paragraph (c), a Party shall comply with the requirements of Article 4.2(a) of the Agreement on Safeguards; and to this end, Article 4.2(a) is incorporated into and made a part of this Agreement, mutatis mutandis;
(e) no measures may be maintained against a good:

(i) except to the extent and for such time as may be necessary to prevent or remedy serious injury and to facilitate adjustment; and
(ii) for a period exceeding one year, except in the case provided for under paragraph 3; or
(iii) beyond the expiration of the transition period, except with the consent of the Party against whose originating good the measure is taken;
(f) no measure under this Article may be applied more than once against the same good;

(g) where the expected duration of the measure is over one year, the importing Party shall progressively liberalize it at regular intervals during the period of application;

(h) the transition period means two years beginning from the date of entry into force of this Agreement, except where the tariff elimination for the good against which the action is taken occurs over a longer period of time, in which case, the transition period shall be the period of staged tariff elimination for that good; and

(i) on the termination of a safeguard measure, the rate of duty shall immediately be the rate which would have been in effect but for the measure.
3. If the competent authorities of a Party determine, in conformity with the procedures set out in paragraph 2, that a safeguard measure continues to be necessary to prevent or remedy serious injury and to facilitate adjustment and that there is evidence that the industry is adjusting, the Party may extend the application of the safeguard measure for an additional two years.
4. The Party proposing to take or taking a measure described in paragraph 1 shall endeavour to provide to the other Party mutually agreed trade liberalizing compensation in the form of concessions having substantially equivalent trade effects or equivalent to the value of the additional duties expected to result from the measure. If the Parties are unable to agree on compensation within 30 days from the date the Party announces a decision to take the measure, the Party against whose good the measure is taken may take action having trade effects substantially equivalent to the measure described in paragraph 1. The Party taking the action shall apply the action only for the minimum period necessary to achieve the substantially equivalent effects, and in any event, only while the measure under paragraph 1 is being applied.
5. For the purpose of this Article:
(a) domestic industry means the producers as a whole of the like or directly competitive product operating in the territory of a Party, or those whose collective output of the like or directly competitive product constitutes a major proportion of the total domestic production of that product;
(b) serious injury means a significant overall impairment in the position of a domestic industry, except that where an originating good is being imported into the territory of a Party in increased quantities relative to domestic production, “serious injury” shall be found to exist only when the difference between the volume of domestic production and the volume of imports of such originating good decreases over three consecutive years; and
(c) substantial cause means a cause which is important and not less than any other cause.

Article 2.13 . Global Safeguard Measures

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

Article 2.14. Transparency

Article X of GATT 1994 is incorporated into and shall form part of this Agreement.

Article 2.15. Committee on Trade In Goods and Rules of Origin

1. The Administrative Commission may establish an ad hoc Committee on Trade in Goods and Rules of Origin to perform the following functions:
(a) to oversee and review the implementation of this Chapter and Chapter 3 (Rules of Origin), and to ensure that the benefits of trade arising from these Chapters accrue to both Parties equitably; and
(b) to provide advice to the Parties on matters relating to Trade in Goods and Rules of Origin, which may include identification and recommendation of measures to promote and facilitate improved market access and to accelerate the tariff elimination and reduction process.

2. Within the scope of this Chapter, if a Party concludes a preferential agreement with a non-Party under Article XXIV of GATT 1994, it shall, upon request from the other Party, afford adequate opportunity to negotiate any additional benefits

granted within the Trade in Goods chapter of that preferential agreement.

Article 2.16. Definition

For the purposes of this Chapter:

1. **Anti-Dumping Agreement** means the Agreement on Implementation of Article VI of GATT 1994, which is part of the WTO Agreement;

2. **Customs duties** means any customs or import duty and a charge of any kind imposed in connection with the importation of a good, including any form of surtax or surcharge in connection with such importation, but does not include any:
(a) charge equivalent to an internal tax imposed consistently with Article III:2 of GATT 1994 in respect of the like domestic good or in respect of goods from which the imported good has been manufactured or produced in whole or in part;
(b) anti-dumping or countervailing duty that is applied pursuant to a Party's domestic law; and
(c) fee or other charge in connection with importation commensurate with the cost of services rendered.

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

4. MFN means "most-favoured nation" treatment in accordance with Article I of GATT 1994; and

5. Safeguards Agreement means the Agreement on Safeguards, which is part of the WTO Agreement.

Chapter 3. Rule of Origin

Section A. Origin Determination

Article 3.1 . Originating Goods

For the purposes of this Agreement, goods shall be deemed originating and eligible for preferential treatment if they conform to the origin requirement under any of the following conditions:
(a) goods wholly produced or obtained in the territory of the exporting Party; or
(b) goods not wholly produced or obtained in the territory of the exporting Party, provided that the said goods are eligible under Article 3.3; or
(c) as otherwise provided for under this Chapter.

Article 3.2. Wholly Obtained or Produced Goods

Goods wholly obtained or produced entirely in the territory of one or both of the Parties means goods that are:
(a) mineral goods extracted or taken from that Party's soil, waters, seabed or beneath the seabed;
(b) plants and plant products harvested in the territory of that Party;
(c) live animals born and raised in the territory of that Party;
(d) goods obtained from animals referred to in sub-paragraph (c);
(e) goods obtained from hunting, trapping, fishing, or aquaculture conducted in the territory of that Party;
(f) goods (fish, shellfish, and other marine life) taken from outside its Economic Exclusive Zone as defined in the United Nations Convention on the Law of the Sea by vessels registered, licensed or recorded with a Party, and entitled to fly its flag;
(g) goods produced and/or made on board a factory ship exclusively from products referred to in sub-paragraph (f), provided such factory ship is registered, licensed or recorded with a Party, and entitled to fly its flag;

(h) goods taken by a Party, or a person of a Party, from the seabed or beneath the seabed outside its Economic Exclusive Zone, provided that the Party has rights as defined in the United Nations Convention on the Law of the Sea to exploit such seabed;
(i) waste and scrap derived from:
(i) production in the territory of that Party; or
(ii) used goods, collected in the territory of that Party, provided such goods are fit only for the recovery for raw materials;
(j) recovered goods derived in the territory of a Party from used goods;
(k) a good production in the territory of that Party exclusively from goods referred to in sub-paragraphs (a) through (j) above, or from their derivatives, at any stage of production.

Article 3.3. Not Wholly Obtained or Produced Goods

1. For the purposes of this Agreement, a good, which has undergone sufficient production in the territory of a Party, as provided under this Article, shall be treated as an originating good of that Party.

2. A good is considered to have undergone sufficient production in the territory of a Party if:
(a) if satisfies the product-specific rule as set out in Annex 3A (Product-Specific Rules;)
(b) where there is no product-specific rule set out in Annex 3A (Product-Specific Rules), fulfils a qualifying value content of not less than 35% determined in accordance with Article 3.4.

Article 3.4. Qualifying Value Content

1. For the purpose of Article 3.3, the following formula for qualifying value content shall be applied:

F.O.B. – N.Q.M. x 100% ≥ 35% F.O.B.

where:
(a) F.O.B. is the Free-On-Board value, which refers to the value of a good payable by the buyer to the seller, regardless of the mode of shipment, not including any internal excise taxes, reduced, exempted, or repaid when the good is exported; and
(b) N.Q.M. is the non-qualifying value of materials used by the producer in the production of the good, calculated in accordance with paragraph 2.

2. For the purpose of calculating the non-qualifying value of materials pursuant to paragraph 2(b), the following formula shall be applied:

N.Q.M. = T.V.M. – Q.V.M.

where:

(a) T.V.M. is the total value of materials; and
(b) Q.V.M. is the qualifying value of materials, which is the value of the materials that can be attributed to one or both the Parties.

3. For the purpose of paragraph 2:
(a) The qualifying value of materials shall be:
(i) the total value of the material if the material satisfies the requirements of paragraph 3(b); or
(ii) the value of the material that can be attributed to one or both of the Parties if the material does not satisfy the requirements of paragraph 3(b); and
(b) For the purposes of paragraph 3(a), a material shall be considered to have satisfied the requirements of this paragraph if:

(i) the content of the value of the material that can be attributed to the one or both of the Parties is not less than 35% of the total value of the material; and
(ii) the material has undergone its last production or operation in the territory of either Party.
4. The value of a material used in the production of a good in the territory of a Party shall be the C.I.F. value and shall be determined in accordance with the Agreement on Customs Valuation, or if this is not known and cannot be ascertained, the first ascertainable price paid for the material in the Party.

Article 3.5. De Minimis

1. A good shall be considered to be an originating good if the value of all non-originating materials used in the production of that good that do not satisfy the requirement of change in tariff classification set out in Annex 3A (Product-Specific Rules) is not more than ten percent (10%) of the F.O.B. value of the good.

2. For a good provided for in Chapters 50 through 63 of the Harmonised System, the percentage indicated in the paragraph 1 refers to the weight of fibres or yarns with respect to the weight of the good being produced.

3. Paragraph 1 does not apply to a non-originating material used in the production of goods provided for in the Harmonised System headings of 04.01, 04.02, 04.06, 09.01, 16.01, 16.02, 17.02, 20.09, 22.02, 23.01 and in the Harmonised System subheadings of 2101.11, 2101.12, and 2103.20 unless the non-originating material is provided for in a different subheading than the good for which origin is being determined under this Article.

Article 3.6. Accumulation

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

2. Each Party shall provide that a good is originating where the good is produced in the territory of one or both Parties at different stages undertaken by one or more producers, provided that the good satisfies the requirements in Article 3.2 and all other applicable requirements in this Chapter.

Article 3.7. Accessories, Spare Parts, Tools

Each Party shall provide that accessories, spare parts, or tools delivered with a good that form part of the good's standard accessories, spare parts, or tools, shall be treated as originating goods if the good is an originating good, and shall be disregarded in determining whether all the non-originating materials used in the production of the good undergo the applicable change in tariff classification, provided that:
(a) the accessories, spare parts, or tools are not invoiced separately from the good;
(b) the quantities and value of the accessories, spare parts, or tools are customary for the good; and
(c) if the good is subject to a qualifying value content, the value of the accessories, spare parts, or tools shall be taken into account as originating or non-originating materials, as the case may be, in calculating the qualifying value content of the good.

Article 3.8. Packaging Materials and Containers for Retail Sale

Each Party shall provide that packaging materials and containers in which a good is packaged for retail sale, if classified with the good, shall be disregarded in determining whether all the non-originating materials used in the production of the good undergo the applicable change in tariff classification set out in Annex 3A (Product-Specific Rules) and, if the good is subject to a qualifying value content requirement, the value of such packaging materials and containers shall be taken into account as originating or non- originating materials, as the case may be, in calculating the qualifying value content of the good.

Article 3.9. Packing Materials and Containers for Shipment

Each Party shall provide that packing materials and containers in which a good is packed for shipment shall be disregarded in determining whether a good is originating.

Article 3.10. Fungible Goods and Materials

1. Each Party shall provide that the determination of whether fungible goods or materials are originating goods shall be made either by physical segregation of each good or material or through the use of any inventory management method, such as averaging, last-in, first-out, or first-in, first out, recognized in the generally accepted accounting principles of the Party in which the production is performed or otherwise accepted by the Party in which the production is performed.

2. Each Party shall provide that an inventory management method selected under paragraph 1 for particular fungible goods or materials shall continue to be used for those fungible goods or materials throughout the fiscal year of the person that selected the inventory management method.

Article 3.11. Indirect Materials

1. Each Party shall provide that an indirect material shall be treated as an originating material without regard to where it is produced and its value shall be the cost registered in the accounting records of the producer of the good.

2. For the purposes of this article, indirect material means a good used in the production, testing or inspection of a good but not physically incorporated into the good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of a good, including:
(a) fuel and energy;
(b) tools, dies, and molds;

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

(d) lubricants, greases, compounding materials, and other materials used in production or used to operate equipment and buildings;
(e) gloves, glasses, footwear, clothing, safety equipment and supplies;
(f) equipment, devices, and supplies used for testing or inspecting the goods;

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

Section B. Consignment Criteria

Article 3.12. Third Country Transportation

A good shall not be considered to be an originating good if the good undergoes subsequent production or any other operation outside the territories of the Parties, other than unloading, reloading, or any other operation necessary to preserve it in good condition or to transport the good to the territory of a Party.

Section C. Consultation and Modifications

Article 3.13. Committee on Trade In Goods and Rules of Origin

1. The Administrative Commission may establish an ad hoc Committee on Trade in Goods and Rules of Origin to perform the following functions:

(a) to oversee and review the implementation of this Chapter and Chapter 2 (Trade in Goods), and to ensure that the benefits of trade arising from these Chapters accrue to both parties equitably;
(b) to provide advice to the Parties on matters relating to Trade in Goods and Rules of Origin, which may include identification and recommendation of measures to promote and facilitate improved market access and to accelerate the tariff elimination and reduction process; and
(c) review the rules set out in this Chapter as and when necessary upon the request of either Party and make such modifications as may be agreed upon.

Section D. Definitions

Article 3.14. Definitions

For purposes of this Chapter:

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

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

3. **generally accepted accounting principles** means the recognized consensus or substantial authoritative support in the territory of a Party, with respect to the recording of revenues, expenses, costs, assets, and liabilities, the disclosure of information and the preparation of financial statements. These standards may encompass broad guidelines of general application as well as detailed standards, practices, and procedures;

4. **material** means a good that is used in the production of another good;

5. **non-originating material** means a material that has not satisfied the requirements of this Chapter;

6. **producer** means a person who grows, raises, mines, harvests, fishes, traps, hunts, manufactures, processes, assembles or dis-assembles a good;

7. **production** means growing, raising, mining, harvesting, fishing, trapping, hunting, manufacturing, processing, assembling or dis-assembling a good;

8. **recovered goods** means materials in the form of individual parts that result from:
(a) the complete disassembly of used goods into individual parts; and
(b) the cleaning, inspecting, or testing, and as necessary for improvement to sound working condition one or more of the following processes: welding, flame spraying, surface machining, knurling, plating, sleeving, and rewinding in order for such parts to be assembled with other parts, including other recovered parts in the production of a remanufactured good;

9. **remanufactured good** means an industrial good of Harmonised System Chapters 84, 85, 87, 90 and Harmonised System

heading 94.02 that, assembled in the territory of a Party:

(a) is entirely or partially comprised of recovered goods;

(b) has the same life expectancy and meets the same performance standards as a new good; and

(c) enjoys the same factory warranty as such a new good; and

10. **used** means used or consumed in the production of goods.

Section E. Application and Interpretation

Article 3.15. Application and Interpretation

For purposes of this Chapter:
(a) the basis for tariff classification is the Harmonised Commodity Description and Coding System;
(b) any cost and value referred to in this Chapter shall be recorded and maintained in accordance with the generally accepted accounting principles applicable in the territory of the Party in which the good is produced.

Chapter 4. CUSTOMS PROCEDURES

Article 4.1. Scope

This Chapter shall apply, in accordance with the Parties' respective national laws, rules and regulations, to customs procedures required for clearance of goods traded between the Parties.

Article 4.2. General Provisions

1. The Parties recognise that the objectives of this Agreement may be promoted by the simplification of customs procedures for their bilateral trade.

2. Customs procedures of both Parties shall conform, where possible, with the standards and recommended practices of the World Customs Organisation.

3. The Customs administrations of both Parties shall periodically review their customs procedures with a view to their further simplification and the development of further mutually beneficial arrangements to facilitate bilateral trade.

Article 4.3. Publication and Notification

1. Each Party shall ensure that its laws, regulations, procedures, and administrative rulings governing customs matters are promptly published, either on the internet or in print form.

2. Each Party shall designate, establish, and maintain one or more inquiry points to address inquiries from interested persons pertaining to customs matters, and should make available on the internet information concerning procedures for making such inquiries.

3. For greater certainty, nothing in this Article or in any part of this Agreement shall require any Party to publish law enforcement procedures and internal operational guidelines including those related to conducting risk analysis and targeting methodologies.

Article 4.4. Risk Management

1. The Parties should adopt risk management approach in its customs activities based on its identified risk of goods in order to facilitate the clearance of low risk consignments, while focusing its inspection activities on high-risk goods.
2. The Parties shall exchange information on risk management techniques in the performance of their customs procedures.

Article 4.5 . Paperless Trading

1. The Parties shall endeavour to provide an electronic environment that supports business transactions between their respective customs administration and their trading communities.

2. The Parties shall exchange views and information on realising and promoting paperless trading between their respective customs administration and their trading communities.

3. The customs administrations of both Parties, in implementing initiatives which provide for the use of paperless trading, shall take into account the methodologies agreed in the World Customs Organisation.

Article 4.6. Certification of Origin

1. For the purpose of obtaining preferential tariff treatment in the other Party, a proof of origin in the form of a certification of origin shall be completed and signed by an exporter or producer of a Party, certifying that a good qualifies as an originating good for which an importer may claim preferential treatment upon the importation of the good into the territory of the other Party (“certification of origin”).

2. For the purpose of paragraph 1, the Parties shall, by the date of entry into force of this Agreement, agree on a list setting out the data elements required for the certification of origin. Such list may thereafter be revised by mutual consent of the Parties.

3. The Parties agree that the certification of origin need not be in a prescribed format and the data elements for this certification of origin are those stated in the Annex 4.6.

4. Each Party shall:
(a) require an exporter in its territory to complete and sign a certification of origin for any exportation of good for which an importer may claim preferential tariff treatment upon importation of the goods into the territory of the other Party; and
(b) provide that where an exporter in its territory is not the producer of the good, the exporter may complete and sign a certification of origin on the basis of:
(i) his knowledge of whether the good qualifies as an orginating good;
(ii) his reasonable reliance on the producer's written representation that the good qualifies as an orginating good; or
(iii) a completed and signed certification for the good voluntarily provided to the exporter by the producer.
5. Nothing in paragraph 4 shall be construed to require a producer to provide a certification of origin to an exporter.

6. Each Party shall provide that a certification of origin that has been completed and signed by an exporter or producer in the territory of the other Party that is applicable to a single importation of a good into the Party’s territory shall be accepted by its customs administration for 12 months from the date on which the certification of origin was signed.

7. For greater certainty, evaluation of the certification mechanism with the objective of verifying the responsiveness of such mechanism to the interests of both Parties shall be made by the Administrative Commission established in accordance with Article 17.1 (Administrative Commission of the Agreement).

Article 4.7. Waiver of Certification of Origin

1. Provided that the importation does not form part of a series of importations that may reasonably be considered to have been undertaken or arranged for the purpose of avoiding the certification requirements, a Party shall provide that a certification of origin shall not be required in the following instances:
(a) importation of goods where the customs value does not exceed US$1,000 or its equivalent in the currency of the importing Party or a greater value to be established by the Party, except that it may require that the invoice accompanies a declaration certifying that the good qualifies as an originating good; or
(b) importation of goods for which the importing Party has waived the requirement to present a certification of origin.

Article 4.8. Obligations Relating to Importations

1. Except as otherwise provided for in this Chapter, each Party shall require an importer who makes a claim for preferential tariff treatment under this Agreement to:

(a) request preferential tariff treatment at the time of importation of an originating product, whether or not he has a certification of origin;
(b) make a written declaration that the good qualifies as an originating good;
(c) have the certification of origin in its possession at the time that the declaration is made, if it is required by the importing Party's customs administration;
(d) provide an original or a copy of the certification of origin as may be requested by the importing Party's customs administration and, if required by that Customs administration, any other such documentation relating to the importation of the product; and

(e) promptly make a corrected declaration and pay any duties owing where the importer has reason to believe that a certification of origin on which a declaration was based contains information that is not correct, before the competent authority notices the error.

2. A Party may deny preferential tariff treatment under this Agreement to an imported good if the importer fails to comply with any requirement in this Article.

3. Each Party shall in accordance with its laws, provide that where a good would have qualified as an originating good when it was imported into the territory of that Party, the importer of the good may, within a period specified by the importing Party's law, apply for a refund of any excess duties paid as a result of the goods not having been accorded preferential treatment.

Article 4.9. Record Keeping Requirement

1. Each Party shall provide that an exporter and a producer in its territory that completes and signs a certification of origin shall maintain in its territory, for three years after the date on which the certification of origin was signed or for such longer period as the Party may specify, all records relating to the origin of a good for which preferential tariff treatment was claimed in the territory of the other Party, including records associated with the:
(a) purchase of, cost of, value of, shipping of, and payment for, the good that is exported from its territory;
(b) sourcing of, the purchase of, cost of, value of, and payment for, all materials, including indirect materials, used in the production of the good that is exported from its territory; and

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

2. Each Party shall provide that an importer claiming preferential tariff treatment for a good imported into the Party's territory shall maintain in that territory, for three years after the date of importation of the good or for such longer period as the Party may specify, such documentation, including a copy of the certification of origin, as the Party may require relating to the importation of the good.

3. The records to be maintained in accordance to paragraphs 1 and 2 shall include electronic records and shall be maintained in accordance with the domestic laws and practices of each Party.

Article 4.10 . Origin Verification

1. For purposes of determining the authenticity and the veracity of the information given in the certification of origin to verify the eligibility of goods for preferential tariff treatment, the importing Party may, through its competent authority, conduct verification by means of:
(a) requests for information from the importer;

(b) request for assistance from the competent authority of the exporting Party as provided for in paragraph 2 below;
(c) written questionnaires to an exporter or a producer in the territory of the other Party through the competent authority;
(d) visits to the premises of an exporter or a producer in the territory of the other Party, subject to the consent of the exporter or the producer, in accordance with any procedures that the Parties jointly adopt pertaining to the verification; or
(e) such other procedures as the Parties may agree.

2. For the purpose of paragraph 1(b), the competent authority of the importing Party:

(a) may request the competent authority of the exporting Party to assist it in:
(i) verifying the authenticity of a certification of origin; and / or
(ii) verifying the accuracy of any information contained in the certification of origin; and / or
(iii) conducting in its territory some related investigations or inquiries, and to issue the corresponding reports.

(b) shall provide the competent authority of the other Party with:
(i) the reasons why such assistance is sought;
(ii) the certification of origin, or a copy thereof; and
(iii) any information and documents as may be necessary for the purpose of providing such assistance.
3. To the extent allowed by its domestic law and practices, the exporting Party shall co-operate in any action to verify eligibility.

4. A Party may deny preferential tariff treatment to an imported good where:

(a) the exporter, producer or importer fails to respond to written requests for information or questionnaires within a

reasonable period of time; or

(b) after receipt of a written notification for a verification visit agreed upon by the importing and exporting Parties, the exporter or producer does not provide its written consent within a reasonable period of time.

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

Article 4.11. Advance Rulings

1. Each Party shall provide for the issuance of written advance rulings, prior to the importation of a good into its territory, to an importer of the good in its territory or to an exporter or producer of the good in the other Party, as to whether the good qualifies as an originating good. The importing Party shall issue its determination regarding the origin of the good within 120 days of an application for advance ruling.

2. The importing Party shall apply an advance ruling to importation into its territory of the good for which the ruling was issued. The customs administrations of both Parties may establish a validity period for an advance ruling of not less than 2 years from the date of its issuance.

3. The importing Party may modify or revoke an advance ruling:

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

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

(c) to conform with a modification of this Chapter; or

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

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

5. Notwithstanding paragraph 4, the issuing Party shall postpone the effective date of the modification or revocation of an advance ruling by a period not exceeding 90 days where the person to whom the advance ruling was issued demonstrates that he has relied in good faith to his detriment on that ruling.

Article 4.12. Penalties

Each Party shall maintain criminal, civil or administrative penalties, whether solely or in combination, for violations of its laws and regulations relating to this Chapter.

Article 4.13. Review and Appeal

1. With respect to determinations relating to eligibility for preferential treatment or advance rulings under this Agreement, each Party shall provide that exporters or producers from the other Party and importers in its territory have access to:

(a) at least one level of administrative review of determinations by its customs authorities independent (1) of either the official or office responsible for the decision under review; and

(b) judicial review (2) of decisions taken at the final level of administrative review.

(1) For greater certainty, it is understood that the level of administrative review may include the Ministry supervising the customs administration.

(2) The review of the determination or decision taken at the final level of administrative review may take the form of common law judicial review.

Article 4.14. Confidentiality

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

2. Each Party shall maintain, in accordance with its domestic laws, the confidentiality of information collected pursuant to this Chapter and shall protect that information from disclosure that could prejudice the competitive position of the persons providing the information.

Article 4.14. Sharing of Best Practices and Cooperation

1. The Parties shall facilitate initiatives for the exchange of information on best practices in relation to customs procedures.

2. Each Party shall notify the other Party of the following determinations, measures and rulings, including to the greatest extent practicable those that are prospective in application:

(a) a determination of origin issued as the result of verification conducted pursuant to Article 4.10, once the petitions of review and appeal referred to in Article 4.13 are exhausted;

(b) a determination of origin that the Party considers contrary to a ruling issued by the customs authority of the other Party with respect to the tariff classification or value of a good, or of materials used in the production of a good;

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

(d) an advance ruling or its modification, pursuant to Article 4.11.

3. The Parties shall endeavour to cooperate in the following aspects:

(a) for purposes of facilitating the flow of trade between their territories, such customs-related matters as the collection and exchange of statistics regarding the importation and exportation of goods and including the exchange of information on originating goods; and

(b) the collection and exchange of documentation on customs procedures.

Chapter 5. SANITARY AND PHYTOSANITARY MEASURES

Article 5.1. Objectives

The objectives of this Chapter are to protect human, animal, or plant life or health in the territory of the Parties, and to provide a framework to address any bilateral sanitary and phytosanitary matters so as to facilitate and increase trade between the Parties.

Article 5.2. Scope and Coverage

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

2. For this purpose:

(a) Sanitary or Phytosanitary measure means any measure referred to in Annex A, paragraph 1 of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (“SPS Agreement”);

(b) Trade between the Parties refers to trade in goods produced, processed or manufactured in the territory of the Parties.

3. This Chapter does not apply to standards, technical regulations and conformity assessment procedures as defined in the WTO Agreement on Technical Barriers to Trade which are covered by Chapter 6 (Technical Barriers to Trade) of this Agreement.

Article 5.3. General Provisions

1. The Parties affirm their existing rights and obligations with respect to each other under the SPS Agreement.

2. With a view to facilitating and increasing bilateral trade, the Parties shall seek to enhance their cooperation in the area of sanitary and phytosanitary measures and deepen their mutual understanding and awareness of their respective systems.

Article 5.4. Trade Facilitation

1. The Parties shall cooperate and jointly identify work in the field of sanitary and phytosanitary measures with a view to facilitating trade between the Parties. In particular, the Parties shall seek to identify initiatives that are appropriate for the particular issues or sectors. Such initiatives may include cooperation on regulatory issues, such as unilateral recognition of equivalence, harmonisation or other cooperative arrangements.

2. At the request of the other Party, each Party shall give favourable consideration to any sector-specific proposal that the other Party makes for consideration under this Chapter.

Article 5.5. Coordinators

1. To facilitate the implementation of this Chapter and cooperation between the Parties, each Party shall designate a Coordinator, who shall be responsible for coordinating with interested persons in the Party's territory and communicating with the other Party's Coordinator in all matters pertaining to this Chapter. The Coordinators' functions shall include:

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

(b) enhancing communication between the Parties' agencies and ministries with responsibility for sanitary and phytosanitary matters, seeking to facilitate a Party's response to written requests for information from the other Party in print or electronically without undue delay, and in any case within 30 days after the date of receipt of the request, at no cost or at reasonable cost;

(c) facilitating information exchange so as to enhance mutual understanding of each Party's sanitary and phytosanitary measures and the regulatory processes that relate to those measures and their impact on trade in such goods between the Parties;

(d) promptly addressing any bilateral sanitary and phytosanitary issue that a Party raises to enhance cooperation and consultation between the Parties to facilitate trade between the Parties;

(e) promoting the use of international standards by both Parties in their respective adoption and application of sanitary and phytosanitary measures;

(f) reviewing progress on addressing sanitary and phytosanitary matters that may arise between the Parties' agencies and ministries with responsibility for such matters; and

(g) without prejudice to Article 17.1 (Administrative Commission of the Agreement), convening, as necessary and appropriate, an ad hoc technical working group for addressing requests for technical clarification with the objective of identifying practical and workable solution that would facilitate trade. Both Parties shall endeavour to convene the ad hoc technical working group without undue delay.

2. The Coordinators shall normally carry out their functions through agreed communication channels such as telephone, facsimile, emails, whichever is most expedient in the discharge of their functions.

Article 5.6. Final Provisions

1. Nothing in this Chapter shall limit the authority of a Party to determine the level of protection it considers necessary for the protection of, inter alia, human health or safety, animal or plant life or health or the environment. In pursuance of this, each Party retains all authority to interpret its laws, regulations and administrative provisions.

2. For the purposes of Article 5.5, the Coordinator for:

(a) Panama shall be:

Ministry of Trade and Industries

Edison Plaza, Ave, Ricardo J. Alfaro, El Paical, 2nd Floor Panama, Republic of Panama

Tel: (507) 360-0690

Fax : (507) 360-0691

Email: admtratados@mici.gob.pa

(b) Singapore shall be:

Ministry of Trade and Industry,

Trade Division,

100 High Street # 09-01, The Treasury, Singapore 179434, Republic of Singapore Tel: (65) 6225 9911

Fax: (65) 6332 7260

Email: mti_fta@mti.gov.sg

or their successors or designated contact points.

Chapter 6. TECHNICAL BARRIERS TO TRADE

Article 6.1. Objective and Scope

1. The objective of this Chapter is to provide a framework to address the impact of technical barriers to trade between the Parties.

2. For this purpose, technical barriers to trade shall cover all standards, technical regulations and conformity assessment procedures that may directly or indirectly affect trade in goods and / or assessments of manufacturers or manufacturing processes of goods traded between the Parties.

3. Standards, technical regulations and conformity assessment procedures shall have the meanings assigned to those terms in Annex 1 of the WTO Agreement on Technical Barriers to Trade ("TBT Agreement").

Article 6.2. Coverage

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

2. The Parties additionally affirm their commitment to the modalities whichever is most expedient in the framework as set out in this Chapter so as to facilitate and increase trade in goods and / or assessments of manufacturers or manufacturing processes of goods traded between the Parties.

3. This Chapter does not apply to sanitary and phytosanitary measures as defined in the WTO Agreement on Application of Sanitary and Phytosanitary Measures which are covered by Chapter 5 (Sanitary and Phytosanitary Measures) of this Agreement.

4. This Chapter applies to all goods and/or assessments of manufacturers or manufacturing processes of goods traded between the Parties, regardless of the origin of those goods, unless otherwise specified by a Party under the modalities in this framework.

Article 6.3. International Standards

1. Consistent with Article 2.4 of the TBT Agreement, each Party shall use, to the maximum extent possible, relevant international standards as a basis for its technical regulations.

2. In determining whether an international standard, guide, or recommendation within the meaning of Articles 2, 5 and Annex 3 of the TBT Agreement exists, each Party shall apply the principles set out in Decisions and Recommendations adopted by the Committee since 1 January 1995, G/TBT/1/Rev.8, 23 May 2002, Section IX (Decision of the Committee on Principles for the Development of International Standards, Guides and Recommendations with relation to Articles 2, 5 and Annex 3 of the TBT Agreement) issued by the WTO Committee on Technical Barriers to Trade.

Article 6.4. Trade Facilitation

1. The Parties shall cooperate and jointly identify work in the field of standards, technical regulations, and conformity assessment procedures, with a view to facilitating market access. In particular, the Parties shall seek to identify initiatives that are appropriate for the particular issues or sectors. Such initiatives may include cooperation on regulatory issues, such

as unilateral recognition or harmonisation of technical regulations and standards, alignment to international standards, reliance on a supplier's declaration of conformity, and use of accreditations to qualify conformity assessment bodies.

2. At the request of the other Party, each Party shall encourage non- governmental bodies in its territory to cooperate with the non-governmental bodies in the territory of the other Party with respect to particular standards or conformity assessment procedures.

Article 6.5. Conformity Assessment Procedures

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

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

(b) voluntary arrangements between conformity assessment bodies from each Party's territory;

(c) agreements on mutual acceptance of the results or certification of conformity assessment procedures with respect to specified regulations conducted by bodies located in the territory of the other Party;

(d) accreditation procedures for qualifying conformity assessment bodies;

(e) government designation of conformity assessment bodies; and

(f) recognition by one Party of the results of conformity assessment procedures performed in the other Party's territory on a unilateral basis for a sector nominated by that Party.

2. To this end, the Parties shall intensify their exchange of information on the variety of mechanisms to facilitate the acceptance of conformity assessment results or certification.

3. Where a Party does not accept the results of a conformity assessment procedure performed in the territory of the other Party, it shall, on request of the other Party, explain its reasons.

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

5. Where a Party declines a request from the other Party to engage in or conclude negotiations to reach agreement on facilitating recognition in its territory of the results of conformity assessment procedures conducted by bodies in the territory of the other Party, it shall, on request, explain its reasons. The Parties may agree to further engagement, including through the possible establishment of an ad hoc working group, as provided for in Article 17.1 (Administrative Commission of the Agreement)

Article 6.6. Equivalence of Standards and Technical Regulations

1. Each Party shall give favourable consideration to accepting as equivalent the standards and technical regulations of the other Party, even if they differ from its own standards and technical regulations, provided that the said standards and technical regulations produce the outcomes equivalent to those produced by its own standards and technical regulations, with both meeting the legitimate objective or achieve the same level of protection.

2. Where a Party does not accept a standard and technical regulation of the other Party as equivalent to its own standard and technical regulation, it shall, at the request of the other Party, explain the reasons for not accepting the said standard and regulation as equivalent. The Parties may agree to further engagement on accepting equivalence of particular standard and technical regulations, including through the possible establishment of an ad hoc working group, as provided for in Article 17.1 (Administrative Commission of the Agreement).

3. No Party may have recourse to the provisions for Dispute Settlement under Chapter 15 (Dispute Settlement) of this Agreement for any matter related to this Chapter.

Article 6.7. Information Exchange

Each Party shall respond expeditiously to any enquiry from the other Party on standards, technical regulations or conformity assessment procedures relating to any good and / or assessments of manufacturers or manufacturing processes of goods traded between the Parties. Any information or explanation that is provided shall be given in print or electronically.

Article 6.8. Confidentiality

1. Nothing in this Chapter shall be construed to require either Party to furnish or allow access to information the disclosure of which it considers would:

(a) be contrary to its essential security interests;

(b) be contrary to the public interest as determined by its domestic laws, regulations and administrative provisions;

(c) be contrary to any of its domestic laws, regulations and administrative provisions including but not limited to those protecting personal privacy or the financial affairs and accounts of individual customers of financial institutions;

(d) impede law enforcement; or

(e) prejudice legitimate commercial interests of particular public or private enterprises.

2. In pursuance to Articles 6.5, 6.6, 6.7 and 6.9, a Party shall, in accordance with its applicable laws, protect the confidentiality of any proprietary information disclosed to it.

Article 6.9. Coordinators

1. To facilitate the implementation of this Chapter and cooperation between the Parties, each Party shall designate a Coordinator, who shall be responsible for coordinating with interested persons in the Party's territory and communicating with the other Party's Coordinator in all matters pertaining to this Chapter. The Coordinators' functions shall include:

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

(b) promptly addressing any issue that a Party raises related to the development, adoption, application, or enforcement of standards, technical regulations or conformity assessment procedures;

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

(d) exchanging information on standards, technical regulations, and conformity assessment procedures, in response to all reasonable requests for such information from a Party;

(e) considering and facilitating any sector-specific proposal a Party makes for further cooperation among governmental and non- governmental conformity assessment bodies;

(f) facilitating the consideration of a request by a Party for the recognition of the results of conformity assessment procedures, including a request for the negotiation of an agreement, in a sector nominated by that Party;

(g) facilitating cooperation in the areas of specific technical regulations by referring enquiries from a Party to the appropriate regulatory authorities;

(h) promptly consulting on any matter arising under this Chapter upon request by a Party; and

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

3. The Coordinators shall normally carry out their functions through agreed communication channels such as telephone, facsimile, emails, whichever is most expedient in the discharge of their functions.

Article 6.10. Final Provisions

1. Nothing in this Chapter shall limit the authority of a Party to determine the level of protection it considers necessary for the protection of, inter alia, human health or safety, animal or plant life or health or the environment. In pursuance of this, each Party retains all authority to interpret its laws, regulations and administrative provisions.

2. For the purposes of Article 6.9, the Coordinator for:

(a) Panama shall be:

Ministry of Trade and Industries

Edison Plaza, Ave, Ricardo J. Alfaro, El Paical, 2nd Floor Panama, Republic of Panama

Tel: (507) 360-0690

Fax: (507) 360-0691

Email: admtratados@mici.gob.pa

(b) Singapore shall be:

Ministry of Trade and Industry,

Trade Division,

100 High Street # 09-01, The Treasury, Singapore 179434, Republic of Singapore Tel: (65) 6225 9911

Fax: (65) 6332 7260

Email: mti_fta@mti.gov.sg

or their successors or designated contact points.

Chapter 7. COMPETITION POLICY

Article 7.1. Anti-competitive Business Conduct

1. Each Party shall endeavour to adopt or maintain competition laws to proscribe anti-competitive business conduct, with the objective of promoting economic efficiency and consumer welfare, and shall take appropriate action with respect to such conduct. The Parties recognize that undertaking these obligations will enhance the fulfilment of the objectives of this Agreement. Anti-competitive business conduct includes, but is not limited to:

(a) anti-competitive horizontal arrangements between competitors;

(b) misuse of market power, including predatory pricing by businesses;

(c) anti-competitive vertical arrangements between businesses; and

(d) anti-competitive mergers and acquisitions.

2. Each Party shall maintain an authority responsible for the enforcement of its national competition laws. The enforcement policy of each Party's national competition authority is not to discriminate on the basis of the nationality of the subjects of their proceedings. Each Party shall ensure that:

(a) before it imposes a sanction or remedy against any person for violating its competition law, it affords the person the opportunity to be heard and to present evidence, within a reasonable time; and

(b) a domestic court or tribunal, at the person's request, reviews any such sanction or remedy.

3. Nothing in this Chapter shall be construed to infringe each Party's autonomy in developing its competition policies or in deciding how to enforce its competition laws.

4. The Parties shall ensure the application of the principles of non- discrimination, transparency and due process to the competition measures adopted or maintained according to paragraph 1 and to each Party's laws and their enforcement.

Article 7.2. Confidentiality

1. Nothing in this Chapter shall require the provision of information that is:

(a) classified as confidential by a Party or its competition authority; or

(b) contrary to a Party's laws or policies.

2. Each Party shall, subject to its laws or policies, maintain the confidentiality of any information communicated to it in confidence by the other Party and oppose any application for disclosure of such information. Any information communicated shall only be used for the purpose of the enforcement action for which it was communicated.

Article 7.3. Cooperation

The Parties agree to cooperate in the area of competition law and policy development by establishing consultation mechanisms and exchanging information. The Parties recognise the importance of cooperation and coordination in order to further effective competition law and policy development in the free trade area, in a manner consistent with their domestic laws, by establishing consultation mechanisms and exchanging information.

Article 7.4. Transparency and Information Requests

1. The Parties recognize the value of transparency in government competition policies.

2. On request, each Party shall make available to the other Party, public information concerning its competition law enforcement activities.

3. On request, each Party shall make available to the other Party public information concerning exemptions provided under its competition laws. Requests shall specify the particular goods and markets of interest and include an indication whether or not the exemption restricts trade or investment between the Parties.

Article 7.5. Consultations

To foster understanding between the Parties, or to address specific matters that arise under this Chapter, a Party shall, on request of the other Party, enter into consultations. In its request, the requesting Party shall indicate, if relevant, how the matter affects trade or investment between the Parties. The requested Party shall accord full and sympathetic consideration to the concerns of the other Party.

Article 7.6. Disputes

No Party may have recourse to the provisions for Dispute Settlement under Chapter 15 (Dispute Settlement) of this Agreement for any matter related to this Chapter.

Chapter 8. GOVERNMENT PROCUREMENT

Article 8.1. General

1. The Parties agree to establish a single government procurement market, in order to maximize competitive opportunities for their suppliers and reduce costs of doing business for both government and the private sectors;

2. This shall be achieved by the Parties through:

(a) ensuring the opportunity exists for their suppliers to compete on an equal and transparent basis for government procurements;

(b) ensuring the non-application against their suppliers of preferential schemes and other forms of discrimination based on the place of origin of goods and services;

(c) promoting the use of electronic means for government procurement; and

(d) ensuring fair and non-discriminatory processes, and mechanisms to eliminate any potential conflict of interest between persons administering the processes and suppliers participating in the processes.

3. In the event that a Party makes commitments under agreements

relating to government procurement, which both are parties to, which are more favourable to the other Party than the commitments made under Annex 8A, the more favourable offer shall immediately and unconditionally apply.

Article 8.2. Scope and Coverage

1. This Chapter applies to any law, regulation, procedure or practice regarding any procurement by entities covered by this Chapter as specified in Annex 8A.

2. This Chapter applies to procurement by any contractual means, including through methods such as purchase or lease, rental or hire purchase, with or without an option to buy, of goods or services, or any combination of goods and services.

3. No entity shall require institutions not included in Annex 8A to award contracts with the intent of avoiding the obligations of this Chapter.

4. This Chapter applies to any procurement contract of a value of not less than the relevant threshold specified in Annex 8A.

5. This Chapter does not apply to:

(a) non-contractual agreements or any form of governmental assistance, including cooperative agreements, grants, loans, equity infusions, guarantees, fiscal incentives, and governmental provision of products and services to persons or governmental authorities not specifically covered under Annex 8A;

(b) purchases funded by loans and grants made to a Party or to an entity of a Party by a person, international entities, associations, international organizations or other States or foreign governments, to the extent that the conditions of such assistance are inconsistent with the provisions of this Chapter. In the case of such inconsistency, the conditions of the assistance shall prevail;

(c) acquisition of fiscal agency services or depository services, liquidation and management services for regulated financial institutions, and sale and distribution services for government debt;

(d) hiring of government employees and related employment measures; and

(e) purchases made under exceptionally advantageous conditions which only arise in the very short term. This provision is:

(i) intended to cover unusual disposals by companies which are not normally suppliers, or disposal of assets of businesses in liquidation or receivership; and

(ii) not intended to cover routine purchases from regular suppliers.

6. No entity may prepare, design or otherwise structure or divide, at any

stage of the procurement, any procurement with the intent of avoiding the obligations of this Chapter.

7. The provisions of this Chapter do not affect the rights and obligations provided for in Chapters 2 (Trade in Goods), 3 (Rules of Origin), 9 (Investment), 10 (Cross-Border Trade in Services) and 11 (Financial Services).

8. Nothing in this Chapter shall prevent either Party from modifying its procurement policies, procedures or contractual means, provided they are not inconsistent with this Chapter.

Article 8.3. National Treatment and Non-Discrimination

1. With respect to all laws, regulations, procedures and practices regarding government procurement covered by this Chapter, each Party shall provide immediately and unconditionally to the goods, services and suppliers of the other Party offering such goods and services, treatment no less favourable than that accorded to domestic goods, services and suppliers.

2. With respect to all laws, regulations, procedures and practices regarding government procurement covered by this Chapter, each Party shall ensure that its entities shall not:

(a) treat a locally established supplier less favourably than another locally established supplier on the basis of degree of foreign affiliation or ownership; and

(b) discriminate against a locally established supplier on the basis that that the good or services offered by that supplier are goods or services of the other Party.

3. The provisions of paragraphs 1 and 2 shall not apply to customs duties and charges of any kind imposed on or in connection with importation, the method of levying such duties and charges, other import regulations and formalities, and measures affecting trade in services other than laws, regulations, procedures and practices regarding government procurement covered by this Chapter.

Article 8.4. Valuation of Contracts

The following provisions shall apply in determining the value of contracts for purposes of implementing this Chapter:

(a) valuation shall take into account all forms of remuneration, including any premiums, fees, commissions and interest receivable;

(b) the selection of a valuation method by a government body shall not be made, nor shall any procurement requirement be divided, with the intention of avoiding the application of this Chapter; and

(c) in cases where an intended procurement includes option clauses, the basis for valuation shall be the total value of the maximum permissible procurement, inclusive of optional purchases.

Article 8.5. Rules of Origin

A Party shall not apply rules of origin to goods supplied for purposes of government procurement covered by this Chapter from the other Party, which are different from the rules of origin applied in the normal course of trade and at the time of the transaction in question to supplies of the same goods from that other Party.

Article 8.6. Offsets

Entities shall not, in the course of a procurement, impose, seek or consider offsets.

Article 8.7. Publication of Procurement Measures

1. Each Party shall promptly publish any law and regulation and the modifications thereof, and make publicly available any judicial decision and administrative ruling of general application and procedure specifically governing procurement covered by this Chapter in publicly accessible media.

2. Upon the request of a Party, the other Party will provide a copy of a judicial decision or administrative ruling of general application and procedure relating to procurement.

Article 8.8. Publication of Notice of Intended Procurement

1. Except as otherwise provided for in Article 8.13 (Limited Tendering Procedures), procuring entities shall publish a notice inviting interested suppliers to submit tenders for each procurement covered by this Chapter. This notice shall be published in publicly accessible media and made accessible during the entire period established for tendering for the relevant procurement.

2. Each notice of intended procurement shall include a description of the intended procurement, any conditions that suppliers must fulfill to participate in the procurement, the name of the entity issuing the notice, the address where suppliers may obtain all documents relating to the procurement, the time limits and address for submission of tenders and the delivery dates of the goods or services to be procured.

Article 8.9. Time Limits for the Tendering Processes

1. An entity shall prescribe time limits for the tendering process that allows sufficient time for suppliers to prepare and submit responsive tenders, taking into account the nature and complexity of the procurement. An entity shall provide no less than 30 days between the date on which it publishes the notice of intended procurement and the deadline for submitting tenders.

2. Notwithstanding paragraph 1, an entity may establish a time period of less than 30 days, provided that the time period is sufficiently long to enable suppliers to prepare and submit responsive tenders and shall in no case be less than five working days, where the procurement is published by the entity by electronic means.

Article 8.10. Tender Documentation

1. An entity shall provide interested suppliers with tender documentation that includes all the information necessary to permit suppliers to prepare and submit responsive tenders. The documentation shall include all the criteria that the entity will consider in awarding the contract, including all cost factors, and the weights or, where appropriate, the relative values

that the entity will assign to these criteria in evaluating tenders.

2. An entity shall endeavour to make available relevant tender documentation on the internet or a comparable publicly available computer- based telecommunications network openly accessible to all suppliers. Where an entity does not publish all the tender documentation by electronic means, the entity shall, on request of a supplier, promptly make the documentation available in written form to the supplier.

3. Where an entity, during the course of a procurement, modifies the criteria referred to in paragraph 1, it shall transmit all such modifications in writing or by electronic means:

(a) to all suppliers that are participating in the procurement at the time the criteria was modified, if the identities of such suppliers are known, and in all other cases, in the same manner the original information was transmitted; and

(b) in adequate time to allow such suppliers to modify and re-submit their tenders, as appropriate.

Article 8.11. Technical Specifications

1. Technical specifications laying down the characteristics of the goods or services to be procured shall not be prepared, adopted or applied with a view to, or with the effect of creating unnecessary obstacles to trade among the Parties.

2. Technical specifications prescribed by an entity shall, where appropriate, be:

(a) in terms of performance requirements rather than design or descriptive characteristics; and

(b) based on international standards, where applicable; otherwise, on recognised national standards.

3. There shall be no requirement or reference to a particular trademark or trade name, patent, design or type, specific origin or producer or supplier unless there is no sufficiently precise or intelligible way of otherwise describing the procurement requirements and provided that, in such cases, words such as “or equivalent” are included in the tender documentation.

4. Entities shall not seek or accept, in a manner that would have the effect of precluding competition, advice that may be used in the preparation or adoption of any technical specification for a specific procurement from a person that may have a commercial interest in that procurement.

Article 8.12. Registration and Qualification of Suppliers

1. In the process of registering and / or qualifying suppliers, the entities of a Party shall not discriminate between domestic suppliers and suppliers of the other Party.

2. Any conditions for participation in open tendering procedures shall be no less favourable to suppliers of the other Party than to domestic suppliers.

3. The process of, and the time required for, registering and / or qualifying suppliers shall not be used in order to keep suppliers of the other Party off a list of suppliers or from being considered for a particular procurement.

4. Entities maintaining permanent lists of registered and / or qualified suppliers shall ensure that suppliers may apply for registration or qualification at any time, and that all registered and qualified suppliers are included in the lists within a reasonably short time.

5. Nothing in this Article shall preclude an entity from excluding a supplier from a procurement on grounds such as bankruptcy or false declaration, provided that such an action is consistent with the national treatment provisions of this Chapter.

Article 8.13. Limited Tendering Procedures

1. Entities shall award contracts by means of open tendering procedures, in the course of which any interested supplier may submit a tender.

2. Provided that the tendering procedure is not used to avoid competition or to protect domestic suppliers, entities may award contracts by means other than open tendering procedures in the following circumstances, where applicable:

(a) in the absence of tenders that conform to the essential requirements in the tender documentation provided in a prior invitation to tender, including any conditions for participation, on condition that the requirements of the initial procurement are not substantially modified in the contract as awarded;

(b) where, for works of art, or for reasons connected with the protection of exclusive rights, such as patents or copyrights, or proprietary information, or where there is an absence of competition for technical reasons, the goods or services can be supplied only by a particular supplier and no reasonable alternative or substitute exists;

(c) for additional deliveries by the original supplier that are intended either as replacement parts, extensions, or continuing services for existing equipment, software, services or installations, where a change of supplier would compel the entity to procure goods or services not meeting requirements of inter-changeability with existing equipment, software, services, or installations;

(d) for goods purchased on a commodity market;

(e) where an entity procures a prototype or a first good or service that is developed at its request in the course of, and for, a particular contract for research, experiment, study or original development. When such contracts have been fulfilled, subsequent procurements of such goods or services shall be subject to the principles and procedures laid down in this Chapter;

(f) where additional construction services that were not included in the initial contract but that were within the objectives of the original tender documentation have, due to unforeseeable circumstances, become necessary to complete the construction services described therein. However, the total value of contracts awarded for additional construction services may not exceed 50 percent of the amount of the initial contract;

(g) for new construction services consisting of the repetition of similar construction services which conform to a basic project for which an initial contract was awarded in accordance with Articles 8.3 to 8.12;

(h) in so far as is strictly necessary where, for reasons of urgency brought about by events unforeseeable by the entity, the goods or services could not be obtained in time by means of an open tendering procedure and the use of an open tendering procedure would result in serious injury to the entity, or the entity's program responsibilities, or the Party; or

(i) in the case of contracts awarded to the winner of a design contest provided that the contest has been organized in a manner which is consistent with the principles of this Chapter. The contest shall be judged by an independent jury with a view to design contracts being awarded to the winners.

3. An entity shall maintain a record for a period of at least one year from the date of the award of a contract, or prepare a written report on the contract awarded under these provisions, containing the name of the entity, the value and kind of goods or services procured, country of origin and the specific justifications for use of tender procedures other than open tendering procedures, as provided in paragraph 2.

Article 8.14. Information on Awards

1. Subject to Article 8.20 (Non-Disclosure of Information), an entity shall promptly inform suppliers participating in a tendering procedure of its contract award decision. The award notice should include at least the following information:

(a) the name of the entity;

(b) a description of the goods or services procured;

(c) the name of the winning supplier;

(d) the value of the contract award; and

(e) where the entity has not used open tendering procedure, an indication of the circumstances according to Article 8.13 (Limited Tendering Procedures) justifying the procedures used.

2. Entities shall, on request from an unsuccessful supplier of the other Party which participated in the relevant tender, promptly provide pertinent information concerning reasons for the rejection of its tender, unless the release of such information would impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interest of particular enterprises, public or private, or might prejudice fair competition between suppliers.

Article 8.15. Modifications and Rectifications to Coverage

1. When an entity or party thereof listed in Annex 8A is corporatised or privatized as a legal entity separate and distinct from the Government of a Party, regardless of whether or not the Government holds any shares in such a legal entity, this

Chapter shall no longer apply to that entity or the party thereof that is so corporatised or privatized. A Party shall notify the other Party of the name of such an entity before it is corporatised or privatized or as soon as possible thereafter. The Parties agree that no claim for compensatory adjustments shall be made in all such cases.

2. A Party may make technical rectifications of a purely formal nature to its coverage under this Chapter, or minor amendments to its schedules in Annex 8A to this Chapter, provided that it notifies the other Party in writing and that the other Party does not object in writing within 30 days of the notification. For such technical rectifications or minor amendments, no compensatory adjustments need to be provided to the other Party.

Article 8.16. Transparency

The Parties shall apply all procurement laws, regulations, procedures and practices consistently, fairly and equitably so that their corporate governance structures provide transparency to potential suppliers.

Article 8.17. Electronic Procurement

1. The Parties shall, within the context of their commitment to promote electronic commerce, seek to provide opportunities for government procurement to be undertaken through electronic means, hereinafter referred to as “e-procurement”.

2. Each Party shall work toward a single entry point for the purpose of enabling suppliers to access information on procurement opportunities in its territory.

3. Each Party shall endeavour to make procurement opportunities that are available to the public accessible to suppliers via the Internet or any publicly available electronic medium. Each Party shall endeavour to make available relevant documentation by the same means.

4. Each Party shall encourage its entities to publish, as early as possible in the fiscal year, information regarding the entity’s indicative procurement plans in the e-procurement portal.

Article 8.18. Challenge Procedures

1. In the event of a complaint by a supplier of a Party that there has been a breach of this Chapter in the context of procurement by an entity of the other Party, that Party shall encourage the supplier to seek resolution of its complaint in consultation with the entity of the other Party. In such instances the entity of the other Party shall accord timely and impartial consideration to any such complaint, in such a manner that is not prejudicial to obtaining corrective measures under the challenge system.

2. Each Party shall provide suppliers of the other Party with non- discriminatory, timely, transparent and effective procedures, consistent with the principle of due process, to challenge alleged breaches of this Chapter arising in the context of procurements in which they have, or have had, an interest.

3. Each Party shall provide its challenge procedures in writing and make them generally available. An entity’s total liability under these procedures for any breach of this Chapter or compensation for loss or damages suffered shall be limited to the costs for tender preparation reasonably incurred by the supplier for the purpose of the procurement.

Article 8.19. Exceptions

1. Nothing in this Chapter shall be construed to prevent any Party from taking any action or not disclosing any information which it considers necessary for the protection of its essential security interests relating to procurement indispensable for national security or for national defence purpose.

2. Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail or a disguised restriction on international trade, nothing in this Chapter shall be construed to prevent any Party from imposing or enforcing measures:

(a) necessary to protect public morals, order or safety;

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

(c) necessary to protect intellectual property; or

(d) relating to the products or services of handicapped persons, of philanthropic institutions or of prison labour.

Article 8.20. Non-Disclosure of Information

1. The Parties, their entities, and their review authorities shall not disclose confidential information, if such disclosure would prejudice the legitimate commercial interests of a particular person or might prejudice fair competition between suppliers, without the formal authorisation of the person that provided such information to the Party.

2. Nothing in this Chapter shall be construed as requiring a Party or its entities to disclose confidential information, if such disclosure would impede law enforcement or otherwise be contrary to the public interest.

Article 8.21. Cooperation

The Parties agree make available information and share best practices relating to government procurement, including the development and use of electronic means in government procurement systems.

Article 8.22. Definitions

For purposes of this Chapter:

1. **entity** means an entity of a Party listed in Annex 8A;

2. **offsets** means measures used to encourage local development or improve the balance-of-payments accounts by means of domestic content, licensing of technology, investment requirements, counter-trade or similar requirements;

3. **publish** means to disseminate information in an electronic or paper medium that is distributed widely and is readily accessible to the general public; and

4. **supplier** means a person that has provided, provides or could provide goods or services to an entity.

Chapter 9. Investment

Article 9.1. Definitions

For the purposes of this Chapter:

1. enterprise means any entity constituted or organized under applicable law, whether or not for profit, and whether privately or governmentally owned or controlled, including a corporation, trust, partnership, sole proprietorship, joint venture, association, or similar organization; and a branch of an enterprise;

2. enterprise of a Party means an enterprise constituted or organized under the law of a Party, and a branch located in the territory of a Party;

3. freely useable currency means a currency widely used to make payments for international transactions as classified by the International Monetary Fund;

4. investment means every kind of asset, owned or controlled, directly or indirectly, by an investor, that includes characteristics such as the commitment of capital or other resources, the expectation of gain or profit, or the assumption of risk, including but not limited to the following (1):

(a) an enterprise;

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

(c) bonds, debentures, and loans and other debt instruments of an enterprise (2) (3), including rights derived therefrom;

(d) futures, options, and other derivatives;

(e) turnkey, construction, management, production, concession, revenue-sharing, and other similar contracts;

(f) claims to money or to any contractual performance related to a business and having an economic value;

(g) intellectual property rights and goodwill;

(h) licenses, authorizations, permits, and similar rights conferred pursuant to applicable domestic law (4) (5), including any

concession to search for, cultivate, extract or exploit natural resources; and

(i) other tangible or intangible, movable or immovable property, and related property rights, such as leases, mortgages, liens, and pledges.

5. investor means an enterprise of a Party, or a natural person of a Party, as defined in Article 1.3 (Definitions of General Application), that has made, is in the process of making, or is seeking to make an investment;

(1) For the purpose of the definition of "investment", returns that are invested shall be treated as investments and any alteration of the form in which assets are invested or reinvested shall not affect their character as investments. "Return" means an amount yielded by or derived from an investment, including profits, dividends, interest, capital gains, royalty payments, payments in connection with intellectual property rights, and all other lawful income.

(2) For the purpose of this Chapter, "loans and other debt instruments" described in paragraph 4(c) and "claims to money or to any contractual performance" described in paragraph 4(f) refers to assets which relate to a business activity and do not refer to assets which are of a personal nature, unrelated to any business activity. The Parties further agree that claims to payment immediately due resulting from the sale of goods and services are not investments. Some forms of debt, such as bonds, debentures and long-term notes, are more likely to have the characteristics of an investment, while other forms of debt are less likely to have such characteristics.

(3) Subject to Panama's non-conforming measure on Panama Canal Authority in Annex II (Non- Conforming Measures) and based on the constitutional financial autonomy given to the Panama Canal Authority ("PCA"), the following are excluded from the scope of this Chapter: (i) with respect to paragraph (c) to the definition of "investment", loans and other debt instruments that are issued by the PCA; and (ii) with respect to paragraph (e) to the definition of "investment", construction contracts that are awarded by the PCA.

(4) Whether a particular type of license, authorisation, permit, or similar instrument (including a concession, to the extent that it has the nature of such an instrument) is an investment within the scope of this Chapter depends on such factors as the nature and extent of the rights that the holder has under the domestic law of the Party.

(5) The term "investment" does not include an order or judgment entered in a judicial or administrative action.

Article 9.2. Scope and Coverage

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

(a) investors of the other Party;

(b) investments of investors of the other Party, made, in the process of being made, or sought to be made, in the territory of the former Party;

(c) with respect to Article 9.6, all the investments in the territory of the Party.

2. This Chapter shall not apply to:

(a) any taxation measure unless otherwise provided;

(b) government procurement; and

(c) services supplied in the exercise of governmental authority within the territory of each respective Party. For the purposes of this Chapter, a service supplied in the exercise of governmental authority means any service that is supplied neither on a commercial basis nor in competition with one or more service suppliers.

3. In the event of any inconsistency between this Chapter and another Chapter, the other Chapter shall prevail over this Chapter to the extent of the inconsistency.

4. This Chapter shall not apply to measures adopted or maintained by a Party to the extent that they are covered by Chapter 11 (Financial Services).

5. The requirement by a Party that a service provider of the other Party post a bond or other form of financial security as a

condition of providing a service into its territory does not of itself make this Chapter applicable to the provision of that cross-border service. This Chapter applies to that Party's treatment of the posted bond or financial security.

6. This Chapter does not apply to claims arising out of events which occurred, or claims which had been raised, prior to the entry into force of this Agreement.

Article 9.3. National Treatment

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

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

Article 9.4. Most-Favoured Nation Treatment

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

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

Article 9.5. Minimum Standard of Treatment

1. Each Party shall accord to investments of investors of the other Party treatment in accordance with customary international law minimum standard of treatment of aliens (6), including fair and equitable treatment and full protection and security.

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

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

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

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

4. Without prejudice to paragraph 1, each Party shall accord to investors of the other Party, and to investments of investors of the other Party, non- discriminatory treatment with respect to measures it adopts or maintains relating to losses suffered by investments in its territory owing to armed conflict or civil strife.

5. Paragraph 4 does not apply to existing measures relating to subsidies or grants, or to any conditions attached to the receipt or continued receipt of such subsidies or grants, whether or not such subsidies or grants are offered exclusively to investors of the Party or investments of investors of the Party, that would be inconsistent with Articles 9.3 and Article 9.4 but for Article 9.10.4.

(6) Customary international law results from a general and consistent practice of States that they follow from a sense of legal obligation. With regards to this article, the customary international law minimum standard of treatment of aliens refers to all customary international law principles that protect the economic rights and interests of aliens.

Article 9.6. Performance Requirements

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The provisions of paragraph 1(f) do not apply:

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

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

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

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

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

5. Nothing in this Article shall be construed so as to derogate from the rights and obligations of the Parties under the Agreement on Trade Related Investment Measures in Annex 1A of the WTO Agreement.

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

Article 9.7. Expropriation and Compensation (7)

1. Neither Party shall expropriate or take measures having effect equivalent to expropriation ("expropriation") the investments of investors of the other Party unless such a measure is taken on a non-discriminatory basis, for a public purpose, in accordance with due process of law, and upon payment of compensation in accordance with this Article.

2. The expropriation shall be accompanied by the payment of prompt, adequate and effective compensation. Compensation shall be equivalent to the fair market value of the expropriated investment immediately before the expropriation or impending expropriation became public knowledge. Compensation shall carry an appropriate interest, taking into account the length of time from the time of expropriation until the time of payment. Such compensation shall be effectively realizable, freely transferable in accordance with Article 9.8 and made without delay.

3. Notwithstanding paragraphs 1 and 2, any measure of expropriation relating to land, which shall be as defined in the existing domestic legislation of the expropriating Party on the date of entry into force of this Agreement, shall be for a purpose and upon payment of compensation made in accordance with the aforesaid legislation. Such compensation shall be subject to any subsequent amendments to the aforesaid legislation relating to the amount of compensation where such amendments follow the general trends in the market value of the land.

4. This Article does not apply to the issuance of compulsory licenses granted in relation to intellectual property rights, or to the revocation, limitation or creation of intellectual property rights, to the extent that such issuance, revocation, limitation or creation is consistent with the Agreement on Trade- Related Aspects of Intellectual Property Rights in Annex 1C to the TRIPS Agreement.

Article 9.8. Transfers

1. Each Party shall permit all transfers relating to investments in its territory of an investor of the other Party to be made freely and without delay into and out of its territory. Such transfers include:

(a) contributions to capital;

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

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

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

(e) payments made pursuant to Articles 9.7 and 9.5.4; and

(f) payments arising under Article 9.13.

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

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

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

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

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

(d) criminal or penal offences;

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

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

Article 9.9. Senior Management and Board of Directors

1. Neither Party may require that an enterprise of that Party that is an investment of an investor of the other Party appoint

to senior management positions individuals of any particular nationality.

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

Article 9.10. Non-Conforming Measures

1. Articles 9.3, 9.4, 9.6 and 9.9 do not apply to:

(a) any existing non-conforming measure that is maintained by a Party as set out by that Party in its Schedule to Annex I (Non- Conforming Measures);

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

(c) an amendment to any non-conforming measure referred to in sub-paragraph (a) to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Articles 9.3, 9.4, 9.6 and 9.9.

2. Articles 9.3, 9.4, 9.6 and 9.9 do not apply to any measure that a Party adopts or maintains with respect to sectors, sub-sectors, or activities, as set out in its Schedule to Annex II (Non-Conforming Measures).

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

4. Articles 9.3, 9.4, and 9.9 shall not apply to subsidies or grants provided by a Party, or to any conditions attached to the receipt or continued receipt of such subsidies or grants, whether or not such subsidies or grants are offered exclusively to investors of the Party or investments of investors of the Party, including government-supported loans, guarantees and insurance.

5. Articles 9.3 and 9.4 do not apply to any measure that is an exception to, or derogation from, a Party's obligations under the TRIPS Agreement, as specifically provided for in that agreement.

Article 9.11. Denial of Benefits

Subject to prior notification and consultation, according to the procedures set out in Article 15.3 (Consultations), a Party may deny the benefits of this Chapter to an investor of the other Party that is an enterprise of such Party and to investments of such an investor where the Party establishes that the enterprise is owned or controlled by persons of a non-Party, or of the denying Party, and has no substantive business operations in the territory of the other Party.

Article 9.12. Subrogation

1. If a Party or a designated agency of a Party makes a payment to any of its investors under a guarantee, a contract of insurance or other form of indemnity it has granted in respect of an investment of an investor of that Party, the other Party shall recognise the subrogation or transfer of any right or title in respect of such investment. The subrogated or transferred right or claim shall not be greater than the original right or claim of the investor.

2. Where a Party or a designated agency of a Party has made a payment to an investor of that Party and has taken over rights and claims of the investor, that investor shall not, unless authorised to act on behalf of the Party or the designated agency of the Party making the payment, pursue those rights and claims against the other Party.

Article 9.13. Investor-State Dispute Settlement

1. This Article shall apply to disputes between a Party and an investor of the other Party concerning an alleged breach of an obligation of the former under this Chapter, which causes loss or damage to the investor or its investment.

2. The parties to the dispute shall initially seek to resolve the dispute by consultations and negotiations.

3. Where the dispute cannot be resolved as provided for under paragraph 2 within 6 months from the date of a request for consultations and negotiations, then unless the disputing investor and the disputing Party agree otherwise or if the investor

concerned has already submitted the dispute for resolution before the courts or administrative tribunals of the disputing Party (excluding proceedings for interim measures of protection referred to in paragraph 5, below), the investor concerned may submit the dispute for settlement to:

(a) the International Centre for Settlement of Investment Disputes ("ICSID") for conciliation or arbitration pursuant to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, if both Contracting Parties are parties to the ICSID Convention; or

(b) arbitration under the rules of the United Nations Commission on International Trade Law ("UNCITRAL").

4. Each Party hereby consents to the submission of a dispute to conciliation or arbitration under paragraphs 3(a) and (b) in accordance with the provisions of this Article, conditional upon:

(a) the submission of the dispute to such conciliation or arbitration taking place within three years of the time at which the disputing investor became aware, or should reasonably have become aware, of a breach of an obligation under this Chapter causing loss or damage to the disputing investor or its investment;

(b) the disputing investor not being an enterprise of the disputing Party until the disputing investor refers the dispute for conciliation or arbitration pursuant to paragraph 3; and

(c) the disputing investor providing written notice, which shall be submitted at least 30 days before the claim is submitted, to the disputing Party of its intent to submit the dispute to such conciliation or arbitration and which:

(i) nominates either paragraph 3(a) or (b) as the forum for dispute settlement (and, in the case of ICSID, nominates whether conciliation or arbitration is being sought);

(ii) waives its right to initiate or continue any proceedings (excluding proceedings for interim measures of protection referred to in paragraph 5) before any of the other dispute settlement fora referred to in paragraph 3 in relation to the matter under dispute; and

(iii) briefly summarises the alleged breach of the disputing Party under this Chapter (including the articles alleged to have been breached) and the loss or damage allegedly caused to the disputing investor or its investment.

5. Neither Party shall prevent the disputing investor from seeking interim measures of protection, not involving the payment of damages or resolution of the substance of the matter in dispute before the courts or administrative tribunals of the disputing Party, prior to the institution of proceedings before any of the dispute settlement fora referred to in paragraph 3, for the preservation of its rights and interests. No claim may be submitted to arbitration if the disputing investor has previously submitted the same alleged breach to an administrative tribunal or court of the disputing Party, or to any other dispute settlement procedures, for adjudication or resolution. That election shall be definitive and the disputing investor may not thereafter submit the claim to arbitration under this Article.

6. Neither Party shall give diplomatic protection, or bring an international claim, in respect of a dispute in which one of its investors and the other Party shall have consented to submit or have submitted to conciliation or arbitration under this Article, unless such other Party has failed to abide by and comply with the award rendered in such dispute. Diplomatic protection, for the purposes of this paragraph, shall not include informal diplomatic exchanges for the sole purpose of facilitating a settlement of the dispute.

7. A Tribunal established under this article shall decide the issues in dispute in accordance with this Chapter and customary rules of interpretation of public international law.

8. Without prejudice to the appointment of other kinds of experts where authorised by the applicable arbitration rules, a Tribunal, at the request of the disputing Party or the disputing investor or, on its own initiative, may appoint one or more experts to report to it in writing on any factual issue concerning technical or other scientific matters, provided the disputing parties so agree, and subject to such terms and conditions as the disputing parties may agree.

9. Where a disputing Party asserts as a defence that the measure alleged to be a breach is within the scope of a non-conforming measure as set out in its Annexes I (Non-Conforming Measures) and II (Non-Conforming Measures), the Tribunal shall, on the request of the disputing Party, request the interpretation of the Administrative Commission of the Agreement established in Article 17.1 (Administrative Commission of the Agreement) on the issue. The Administrative Commission shall issue in writing, its interpretation on the issue within 60 days after the date of receipt of the request. An interpretation issued by the Administrative Commission under this paragraph shall be binding on the Tribunal and an award by the Tribunal must be consistent with that interpretation. If the Administrative Commission fails to submit an interpretation within 60 days, the Tribunal shall decide the issue.

Annex 9A. EXPROPRIATION

The Parties confirm their shared understanding that:

1. Article 9.7.1 is intended to reflect customary international law concerning the obligation of States with respect to expropriation.

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

3. Article 9.7.1 addresses 2 situations. The first is direct expropriation, where an investment is nationalized or otherwise directly expropriated through the formal transfer of title or outright seizure.

4. The second situation addressed by Article 9.7.1 is indirect expropriation, where an action or series of actions by a Party has an effect equivalent to direct expropriation without formal transfer of title or outright seizure.

(a) The determination of whether an action or series actions by a Party, in a specific fact situation, constitutes a measure equivalent to expropriation requires a case-by-case, fact-based inquiry that considers, among other factors:

(i) the economic impact of the government action, although the fact that an action or series of actions by a Party has an adverse effect on the economic value of an investment, standing alone, does not establish that a measure equivalent to expropriation has occurred;

(ii) the extent to which the government action interferes with distinct, reasonable investment-backed expectations; and

(iii) the character of the government action.

(b) Except in rare circumstances, non-discriminatory regulatory actions by a Party that are designed and applied to protect legitimate public welfare objectives, such as public health, safety and the environment, do not constitute indirect expropriations.

Chapter 10. CROSS BORDER TRADE IN SERVICES

Article 10.1. Definition

For purposes of this Chapter:

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

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

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

(c) by a service supplier of a Party, through presence of natural persons of a Party in the territory of the other Party;

but does not include the supply of a service in the territory of a Party by an investor of the other Party or an investment of an investor of the other Party as defined in Article 9.1 (Definitions);

2. enterprise means an entity constituted or organized under applicable law, whether or not for profit, and whether privately or governmentally owned or controlled, including a corporation, trust, partnership, sole proprietorship, joint venture, association, or similar organization and a branch of an enterprise;

3. enterprise of a Party means an enterprise organized or constituted under the laws of a Party and a branch located in the territory of a Party;

4. maritime transport service supplier of a Party means a person, a shipping company or a vessel of one Party that seeks to supply or supplies a maritime service;

5. port of a Party means the port of that Party that is open to foreign vessels;

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

7. service supplier means a person of a Party that seeks to supply or supplies a service (1);

8. vessel means any merchant ships engaged in any commercial activity, except a ship that is:

(a) involved solely in the carriage and transportation of cargo for or belonging to; or

(b) used in the service of the Government of either Party; and

9. vessel of a Party means any vessel under the national flag of a Party, registered in the territory of that Party, or any vessel under the flag of a third country that is owned or operated by a shipping company of one Party. “Operated” means owned, managed, chartered, time chartered, or space chartered.

(1) The Parties understand that seeks to supply or supplies a service has the same meaning as supplies a service as used in GATS Article XXVIII (g). The Parties understand that for purposes of Articles 10.3 (National Treatment), 10.4 (Most-Favoured Nation Treatment), and 10.5 (Market Access) of this Agreement, service suppliers has the same meaning as services and service suppliers as used in GATS Articles II, XVI, and XVII.

Article 10.2. Scope and Coverage

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

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

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

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

(d) the presence in its territory of a service supplier of the other Party (2); and

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

2. Notwithstanding Article 10.1.1, Articles 10.5, 10.8, 10.9 and 10.15 also applies to measures by a Party affecting the supply of a service in its territory by an investor or an investment as defined in Article 9.1 (Definitions) (3).

3. This Chapter does not apply to:

(a) financial services, as defined in Article 11.16 (Definitions), except as otherwise provided for in Chapter 11 (Financial Services);

(b) government procurement, as referred to in Chapter 8 (Government Procurement);

(c) air services, including domestic and international air transportation services, whether scheduled or non-scheduled, and related services in support of air services, other than:

(i) aircraft repair and maintenance services during which an aircraft is withdrawn from service;

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

(iii) computer reservation system (“CRS”) services; and

(d) subsidies or grants provided by a Party or to any conditions attached to the receipt or continued receipt of such subsidies or grants, whether or not such subsidies or grants are offered exclusively to domestic services, service consumers or service suppliers, including government-supported loans, guarantees and insurance.

4. This Chapter does not impose any obligation on a Party with respect to a natural person of the other Party seeking access to its employment market, or employed on a permanent basis in its territory, and does not confer any right on that natural person with respect to that access or employment.

5. This Chapter does not apply to services supplied in the exercise of governmental authority within the territory of each respective Party.

6. Nothing in this Chapter shall prevent a Party from applying measures to regulate the entry of natural persons of the other Party into, or their temporary stay in, its territory, including those measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across its borders, provided that such measures are not applied in such a manner as to nullify or impair the benefits accruing to the other Party under the terms of this Chapter. (4)

7. Annex 10A (Movement of Business Persons) contains supplementary provisions to this Chapter and provides for additional rights and obligations in relation to the movement of natural persons between the Parties. The commitments made by each Party under Annex 10A (Movement of Business Persons) shall be subject to any reservations it has taken in its Annex I, II and III of Chapters 9 (Investment), 10 (Cross-Border Trade in Services) and Chapter 11 (Financial Services).

8. Annex 10B (Maritime Transport Services) contains supplementary provisions to this Chapter and provides for additional rights and obligations in relation to maritime transport services between the Parties. The commitments made by each Party under Annex 10B (Maritime Transport Services) shall be subject to any reservations it has taken in its Annex I, II and III of Chapters 9 (Investment), 10 (Cross-Border Trade in Services) and Chapter 11 (Financial Services).

(2) It is clarified that this paragraph 1(d) is without prejudice to and is to be read together with Article 10.1.1.

(3) The Parties understand that nothing in this Chapter, including this paragraph, is subject to investor-state dispute settlement pursuant to Article 9.13 (Investor-State Dispute Settlement).

(4) The sole fact of requiring a visa for natural persons of the other Party shall not be regarded as nullifying or impairing benefits under a specific commitment.

Article 10.3. National Treatment

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

Article 10.4. Most-Favoured Nation Treatment

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

Article 10.5. Market Access

A Party shall not adopt or maintain, either on the basis of a regional subdivision or on the basis of its entire territory, measures that (5):

(a) impose limitations on:

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

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

(iii) the total number of service operations or the total quantity of services output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test (6); or

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

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

(5) Subject to the reservations that a Party makes in respect of market access pursuant to Article 10.7, where the cross-border movement of capital is an essential part of a services supplied through the mode of supply referred to in Article 10.1.1(a), that Party is hereby committed to allow such movement of capital.

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

Article 10.6. Local Presence

A Party shall not require a service supplier of the other Party to establish or maintain a representative office or any form of enterprise, or to be resident, in its territory as a condition for the cross-border supply of a service.

Article 10.7. Non-Conforming Measures

1. Articles 10.3, 10.4, 10.5 and 10.6 do not apply to:

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

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

(c) an amendment to any non-conforming measure referred to in sub-paragraph (a) to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Articles 10.3, 10.4, 10.5 and 10.6.

2. Articles 10.3, 10.4, 10.5 and 10.6 do not apply to any measure that a

Party adopts or maintains with respect to sectors, sub-sectors or activities as set out in its Schedule to Annex II.

3. Article 10.9 shall not apply to:

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

(b) any existing or new measure that a Party adopts or maintains with respect to sectors, sub sectors or activities as set out in its Schedule to Annex II.

Article 10.8. New Services

1. The provisions of this Chapter shall apply to measures adopted or maintained by a Party relating to the provision of new services by service suppliers of either Party save as otherwise provided for in this Article.

2. Paragraph 1 is subject to the right of a Party to impose conditions on the supply of any new service by service suppliers of the other Party, provided that:

(a) such conditions are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between the Parties where like conditions prevail, or a disguised restriction on trade in services, and

(b) in seeking such review and imposing such conditions, the Party shall ensure that there is an overall balance of services commitments undertaken by each Party under this Agreement.

3. A Party imposing any conditions pursuant to paragraph 2 shall determine whether such conditions are likely to be of a permanent nature, and if so, such conditions shall be incorporated in its relevant reservations Annex under Article 10.7 by giving written notice to the other Party, except that a Party shall not make a reservation in respect of new services against Article 10.4. Where such conditions are likely to be of a temporary nature, the Party imposing the conditions shall, if it deems fit, phase them out progressively as circumstances giving rise to the need to impose such conditions improve and allow for.

4. For the purpose of this Article, the term new services means a service that at the date of entry into force of this Agreement is:

(a) not currently in existence in the territory of a Party; or

(b) an existing service not covered or defined in the United Nations Central Product Classification (“CPC”) and which is not subject to any regulatory framework in the territory of a Party owing to its infant stage of development as the Party concerned considers it to be as such.

Article 10.9. Domestic Regulation

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

2. Each Party shall ensure that its judicial, arbitral or administrative tribunals or procedures which provide for the prompt review of, and where justified, appropriate remedies for, administrative decisions affecting trade in services are open on a non-discriminatory basis to service suppliers of the other Party. Where such procedures are not independent of the agency entrusted with the administrative decision concerned, the Party shall ensure that the procedures in fact provide for an objective and impartial review.

3. Paragraph 2 shall not be construed to require a Party to institute such tribunals or procedures where this would be inconsistent with its constitutional structure or the nature of its legal system.

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

5. With the objective of ensuring that domestic regulation, including measures relating to qualification requirements and procedures, technical standards and licensing requirements, do not constitute unnecessary barriers to trade in services, the Parties shall jointly review the results of the negotiations on disciplines on these measures, pursuant to Article VI.4 of GATS, with a view to their incorporation into this Agreement. The Parties note that such disciplines aim to ensure that such requirements are inter alia:

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

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

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

6. Pending the incorporation of disciplines pursuant to paragraph 5, a Party shall not apply licensing and qualification requirements and technical standards that nullify or impair its obligations under this Chapter in a manner which:

(a) does not comply with the criteria outlined in paragraphs 5(a), (b) or (c); and

(b) could not reasonably have been expected of that Party at the time the obligations were undertaken.

7. In determining whether a Party is in conformity with its obligations under paragraph 6, account shall be taken of international standards of relevant international organisations (7) applied by that Party.

8. Each Party shall provide for adequate procedures to verify the competence of professionals of the other Party.

(7) The term “relevant international organisations” refers to international bodies whose membership is open to relevant bodies of both Parties.

Article 10.10. Mutual Recognition

1. For the purposes of fulfilling, in whole or in part, of its standards or criteria for the authorization, licensing or certification of services suppliers, and subject to the requirements of paragraph 4, a Party may recognize the education or experience obtained, requirements met, or licenses or certifications granted in a particular country, including the other Party and non-Parties. Such recognition, which may be achieved through harmonization or otherwise, may be based upon an agreement or arrangement with the country concerned or may be accorded autonomously.

2. Where a Party recognizes, autonomously or by agreement or arrangement, the education or experience obtained, requirements met or licenses or certifications granted in the territory of a non-Party, nothing in Article 10.4 shall be construed to require the Party to accord such recognition to the education or experience obtained, requirements met or licenses or certifications granted in the territory of the other Party.

3. A Party that is a party to an agreement or arrangement of the type referred to in paragraph 1, whether existing or future, shall afford adequate opportunity for the other Party, if the other Party is interested, to negotiate its accession to such an agreement or arrangement or to negotiate comparable ones with it. Where a Party accords recognition autonomously, it shall afford adequate opportunity for the other Party to demonstrate that the education, experience, licenses, or certifications obtained or requirements met in that other Party’s territory should be recognised.

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

Article 10.11. Transfers and Payments

1. Each Party shall permit all transfers and payments relating to the cross-border supply of services to be made freely and without delay into and out of its territory.

2. Each Party shall permit such transfers and payments relating to the cross-border supply of services to be made in a freely usable currency at the market rate of exchange prevailing at the time of transfer.

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

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

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

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

(d) criminal or penal offences;

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

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

Article 10.12. Denial of Benefits

Subject to prior notification and consultation, according to the procedures set out in Article 15.3 (Consultations), a Party may deny the benefits of this Chapter to a service supplier of the other Party if the service is being supplied by an enterprise that has no substantial business activities in the territory of the other Party and it is owned or controlled by persons of a non-Party or the denying Party.

Article 10.13. Transparency

1. Each Party shall publish promptly and, except in emergency situations, at the latest by the time of their entry into force, all relevant measures of general application which pertain to or affect the operation of this Chapter. International agreements which pertain to or affect cross-border trade in services to which a Party is a signatory shall also be published.

2. Where publication as referred to in paragraph 1 above is not practicable, such information shall be made otherwise publicly available.

3. Each Party shall respond promptly to all requests by the other Party for specific information on any of its measures of general application or international agreements within the meaning of paragraph 1 above. Each Party shall also establish one or more enquiry points to provide specific information to the other Party, upon request, on all such matters.

Article 10.14. Monopolies and Exclusive Service Suppliers

1. Each Party shall ensure that any monopoly supplier of a service in its territory does not, in the supply of the monopoly service in the relevant market, act in a manner inconsistent with its obligations under Articles 10.3, 10.4, 10.5 and 10.6.

2. Where a Party's monopoly supplier competes, either directly or through an affiliated company, in the supply of a service outside the scope of its monopoly rights and which is subject to that Party's obligations under Articles 10.3, 10.4, 10.5 and 10.6., the Party shall ensure that such a supplier does not abuse its monopoly position to act in its territory in a manner inconsistent with such obligations.

3. If a Party has reason to believe that a monopoly supplier of a service of the other Party is acting in a manner inconsistent with paragraph 1 or 2, it may request the other Party establishing, maintaining or authorising such supplier to provide specific information concerning the relevant operations in its territory.

4. The provisions of this Article shall also apply to cases of exclusive service suppliers, where a Party, formally or in effect:

(a) authorises or establishes a small number of service suppliers; and

(b) substantially prevents competition among those suppliers in its territory.

Article 10.15. Cooperation

Both Parties shall encourage and facilitate, as appropriate:

(a) public and private cooperation through the exchange of knowledge, experience and best practices in key industries so as to position them as leaders in their respective regions; and

(b) promoting the use and development of their respective logistics services to facilitate international trade, including, where applicable, cooperating in the multilateral fora to ensure that countries with interests in logistics facilities are addressed.

Annex 10A. MOVEMENT OF BUSINESS PERSONS

Article 1. Scope

This Annex applies to measures affecting the movement of natural persons of a Party who enter the territory of the other Party for business purposes.

Article 2. Definitions

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

1. immigration formality means a visa, employment pass (in the case of Singapore), working permit (in the case of Panama) or other document or electronic authorisation granting a natural person of one Party the right to reside or work in the territory of the other Party;

2. intra-corporate transferee means an employee of a service supplier, enterprise of a Party or an investor of a Party as defined in Chapter 9 (Investment), who has been so employed for a period of not less than one year immediately preceding the date of the application for temporary entry, and who is:

(a) a manager, meaning a business person within an organisation who primarily directs the organisation or a department or sub- division of the organisation, supervises and controls the work of other supervisory, professional or managerial employees, has the authority to hire and fire or take other personnel actions (such as promotion or leave authorisation), and exercises discretionary authority over day-to-day operations. This does not include a first-line supervisor, unless the employees supervised are professionals, nor does this include an employee who primarily performs tasks necessary for the provision of the service or operation of an investment;

(b) an executive meaning a business person within an organisation who primarily directs the management of the organisation, exercises wide latitude in decision-making, and receives only general supervision or direction from higher level executives, the board of directors, or stockholders of the business. An executive would not directly perform tasks related to the actual provision of the service or the operation of an investment; or

(c) a specialist meaning a business person within an organisation who possesses knowledge at an advanced level of expertise and who possesses proprietary knowledge of the organisation’s service, research equipment, techniques, or management (a specialist may include, but is not limited to, members of a licensed profession);

3. temporary entry means entry by an intra-corporate transferee, as the case may be, without the intent to establish permanent residence and for the purpose of engaging in activities which are clearly related to their respective business purposes.

Article 3. Intra-Corporate Transferees

A Party shall grant temporary entry to an intra-corporate transferee of the other Party who otherwise meets its criteria for the grant of an immigration formality unless there has been a breach of any of the conditions governing temporary entry, or an application for an extension of an immigration formality has been refused on such grounds of national security or public order by the granting Party as it deems fit:

(a) in the case of Singapore, for an initial period of up to two years which may be extended for periods of up to three years at a time for a total term not exceeding 8 years; and

(b) in the case of Panama, for an initial period of up to two years which may be extended for periods of up to three years at a time for a total term not exceeding 8 years.

Article 4. Provision of Information

A Party shall:

(a) publish or otherwise make available to the other Party such information as will enable the other Party to become acquainted with its measures relating to this Annex; and

(b) no later than six months after the date of entry into force of this Agreement, prepare, publish or otherwise make available in its own territory, and in the territory of the other Party, explanatory material regarding the requirements for temporary entry under this Annex in such a manner as will enable business persons of the other Party to become acquainted with them.

Article 5. Dispute Settlement

1. A Party may not initiate proceedings under Chapter 15 (Dispute Settlement) regarding a refusal to grant temporary entry under this Annex unless:

(a) the matter involves a pattern of practice; and

(b) its natural persons affected have exhausted the available domestic administrative remedies regarding the particular matter.

2. The remedies referred to in paragraph 1(b) shall be deemed to be exhausted if a final determination in the matter has not been issued by the competent authority within one year of the institution of proceedings for domestic administrative remedies, including proceedings by way of review, and the failure to issue a determination is not attributable to delays caused by the natural person.

Article 6. Expeditious Application Procedures

A Party shall process expeditiously applications for immigration formalities from natural persons of the other Party, including further immigration formality requests or extensions thereof, particularly applications from members of professions for which mutual recognition arrangements have been concluded.

Article 7. Notification of Outcome of Application

A Party shall notify the applicants for temporary entry, either directly or through their prospective employers, of the outcome of their applications, including the period of stay and other conditions.

Article 8. Online Lodgement and Processing

Where possible, after the date of entry into force of this Agreement, the Parties shall provide facilities for online lodgement and processing:

(a) in the case of Singapore, of employment passes which shall be applied for by the prospective employers; and

(b) in the case of Panama, of working permits which shall be applied for by the prospective employers.

Article 9. Resolution of Problems

The relevant authorities of both Parties shall endeavour to favourably resolve any specific or general problems (within the framework of their domestic laws, regulations and other similar measures governing the temporary entry of natural persons), which may arise from the implementation and administration of this Annex.

Article 10. Labor Marketing Testing

Neither Party shall require labour market testing, labour certification tests or other procedures of similar effect as a condition for temporary entry in respect of natural persons on whom the benefits of this Annex are conferred.

Annex 10B. MARITIME TRANSPORT SERVICES

Article 1. Scope

This Annex applies to measures adopted or maintained by a Party affecting maritime transport services by maritime transport service suppliers of the other Party.

Article 2. Taxes, Tariffs and Port Access Fees

1. On a reciprocal basis, each Party shall afford vessels of the other Party the same treatment that it accords to its own vessels with respect to taxes assessed on tonnage or freight value and other taxes, port access fees and levies (1).

2. Port services shall be made available to international maritime transport services suppliers of the Parties on reasonable and non- discriminatory terms and conditions (2).

3. Vessels of a Party shall have the right to call at ports of the other Party, subject to advance notice requirements of such entry to the appropriate authorities of that Party. Nothing in this Agreement with respect to port access shall be construed to prevent either Party from taking actions necessary for the protection of its national security, safety or environmental interests.

(1) It is understood that such taxes, fees and levies correspond to those imposed on the basis of a jurisdictional exercise of a Party.

(2) Port Services such as: pilotage; towing and tug assistance; provisioning, fuelling and watering; garbage collecting and ballast waste disposal; port captain's services; navigation aids; shored-based operational services essential to ship operations, including communications, water and electrical supplies; emergency repair facilities; and anchorage, berth and berthing services.

Article 3. Coastwise Transportation of Empty Vans, Tanks and Barges

Notwithstanding any other provision of law or treaty, a vessel of a Party may transport the following goods between points embraced within the coastwise laws of either Party:

(a) Empty cargo vans, empty lift vans, and empty shipping tanks; equipment for use with cargo vans, lift vans, or shipping tanks; empty barges specifically designed for carriage aboard a vessel and equipment, excluding propulsion equipment, for use with such barges; and empty instruments of international traffic, including containers, if such articles are owned or leased by the owner or operator of the transporting vessel and are transported for his use in handling his cargo in foreign trade; and
(b) Stevedoring equipment and material, if such equipment and material is owned or leased by the owner or operator of the transporting vessel, or is owned or leased by the stevedoring company contracting for the lading or unlading of that vessel, and is transported without charge for use in the handling of cargo in foreign trade.

Article 4. International Maritime Transport and Feeder Services

Transportation between a port of a Party and a port of the other Party is open. In addition, international maritime transport services suppliers of a Party can operate between ports of the other Party for the purposes of pre and onward carriage of their own international cargo.

Article 5. Bilateral of Multilateral Agreements In Force

A Party that is a party to an agreement or arrangement regarding maritime transport services, whether existing or in future, shall, upon a written request, afford adequate opportunity for the other Party, if that other Party is interested, to negotiate its accession to such an agreement or arrangement or to negotiate comparable ones with it.

Chapter 11. FINANCIAL SERVICES

Article 11.1. Scope and Coverage

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

(a) financial institutions of the other Party;

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

(c) cross-border trade in financial services.

2. Chapters 9 (Investment) and 10 (Cross-Border Trade in Services) apply to measures described in paragraph 1 only to the extent that these Chapters or the Articles therein are incorporated into this Chapter. Accordingly:

(a) Articles 9.7 (Expropriation and Compensation), 9.8 (Transfers), 9.11 (Denial of Benefits) and 10.12 (Denial of Benefits) are hereby incorporated into and made a part of this Chapter;

(b) Article 9.13 (Investor-State Dispute Settlement) is hereby incorporated into and made a part of this Chapter solely for claims that a Party has breached Articles 9.7 (Expropriation and Compensation), 9.8 (Transfers), 9.11 (Denial of Benefits) as incorporated into this Chapter; and

(c) Article 10.11 (Transfers and Payments), is incorporated into and made a part of this Chapter to the extent that cross-border trade in financial services is subject to obligations pursuant to Article 11.5.

3. This Chapter does not apply to measures adopted or maintained by a Party relating to:

(a) activities or services forming part of a public retirement plan or statutory system of social security; or

(b) activities or services conducted for the account or with the guarantee or using the financial resources of the Party, including its public entities,

except that this Chapter shall apply if a Party allows any of the activities or services referred to in sub-paragraphs (a) or (b) to be conducted by its financial institutions in competition with a public entity or a financial institution.

4. This Chapter does not apply to laws, regulation or requirements governing the procurement by government agencies of financial services purchased for government purposes and not with a view to commercial resale or use in the supply of services for commercial sale.

Article 11.2. National Treatment

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

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

3. For purposes of the national treatment obligations in Article 11.6.1, a Party shall accord to cross-border financial service suppliers of the other Party treatment no less favorable than that it accords to its own financial service suppliers, in like circumstances, with respect to the supply of the relevant service.

Article 11.3. Most-Favoured Nation Treatment

Each Party shall accord to investors of the other Party, financial institutions of the other Party, investments of investors in financial institutions, and cross- border financial service suppliers of the other Party treatment no less favorable than that it accords to the investors, financial institutions, investments of investors in financial institutions and cross-border financial service suppliers of the other Party or of a non-Party, in like circumstances.

Article 11.4. Recognition of Prudential Measures

1. A Party may recognise prudential measures of the other Party or of a non-Party in the application of measures covered by this Chapter. Such recognition may be:

(a) accorded unilaterally;

(b) achieved through harmonization or other means; or

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

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

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

Article 11.5. Market Access for Financial Institutions

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

(a) impose limitations on:

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

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

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

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

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

Article 11.6. Cross-Border Trade In Financial Services

1. Each Party shall permit, under terms and conditions that accord national treatment, cross-border financial service suppliers of the other Party to supply the financial services as specified in Annex 11.6.

2. A Party shall permit persons located in its territory, and its nationals wherever located, to purchase financial services from cross-border financial service suppliers of the other Party located in the territory of that other Party.

3. This Article does not require a Party to permit such suppliers to do business or solicit in its territory. Each Party may define “doing business” and “solicitation” for purposes of this obligation, as long as such definitions are not inconsistent with paragraph 1.

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

Article 11.7. New Financial Services (1)

A Party shall permit a financial institution of the other Party to supply any new financial service that the former Party would permit its own financial institutions, in like circumstances, to supply without additional legislative action by the Party. Notwithstanding Article 11.5(b), a Party may determine the institutional and juridical form through which the new financial service may be supplied and may require authorization for the supply of the service. Where a Party requires such authorization of the new financial service, a decision shall be made within a reasonable time and the authorization may only be refused for prudential reasons.

(1) The Parties understand that nothing in this Article 11.7 prevents a financial institution of a Party from applying to the other Party to consider authorizing the supply of a financial service that is not supplied in the territory of any Party. Such application shall be subject to the law of the Party to which the application is made and, for greater certainty, shall not be subject to the obligations of Article 11.7.

Article 11.8. Treatment of Certain Information

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

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

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

Article 11.9. Senior Management and Boards of Directors

1. A Party may not require financial institutions of the other Party to engage individuals of any particular nationality as senior managerial or other essential personnel.

2. A Party may not require that a majority of the board of directors of a financial institution of the other Party be composed of nationals of the Party, persons residing in the territory of the Party, or a combination thereof.

Article 11.10. Non-Conforming Measures

1. Articles 10.2, 10.3, 10.5, 10.6 and 10.9 do not apply to:

(a) any existing non-conforming measure that is maintained by a Party at the central level of government, as set out by that Party in Section A of its Schedule to Annex III (Non-Conforming Measures); or

(b) the continuation or prompt renewal of any non-conforming measure referred to in sub-paragraph (a).

2. Articles 10.2, 10.3, 10.5, 10.6 and 10.9 do not apply to any measure that a Party adopts or maintains with respect to sectors, sub-sectors, or activities, as set out in Section B of its Schedule to Annex III (Future Measures).

3. Section C of the Schedule to Annex III establishes certain specific commitments by each Party.

4. A non-conforming measure set out in a Party's Schedule to Annex I or II as a measure to which Articles 9.3 (National Treatment), 9.4 (Most-Favored Nation Treatment), 10.3 (National Treatment), 10.4 (Most-Favored Nation Treatment) and 10.5 (Market Access) does not apply, shall be treated as a non-conforming measure described in paragraph 1(a) to which Articles 11.2, 11.3, or 11.5, as the case may be, does not apply, to the extent that the measure, sector, sub-sector or activity set out in the schedule of non- conforming measures is covered by this Chapter.

Article 11.11. Exceptions

1. Notwithstanding any other provision of this Chapter, Chapters 9 (Investment), 12 (Telecommunications) or 13 (Electronic Commerce), including specifically Article 12.12 (Relationship with other Chapters), and in addition Article 11.1 with respect to the supply of financial services in the territory of a Party by an investor of the other Party or investments of investors of the other Party, as defined in Chapter 9 (Investment), a Party shall not be prevented from adopting or maintaining measures for prudential reasons (2), including for the protection of investors, depositors, policy holders or persons to whom a fiduciary duty is owed by a financial institution or cross-border financial service supplier, or to ensure the integrity and stability of the financial system. Where such measures do not conform with the provisions of this Agreement referred to in this paragraph, they shall not be used as a means of avoiding the Party's commitments or obligations under such provisions.

2. Nothing in this Chapter, Chapters 9 (Investment), 12 (Telecommunications) or 13 (Electronic Commerce), including specifically Article 12.12 (Relationship with other Chapters), and in addition Article 11.1 with respect to the supply of financial services in the territory of a Party by an investor of the other Party or investments of investors of the other Party, as defined in Chapter 9 (Investment), applies to non-discriminatory measures of general application taken by any public entity in pursuit of monetary and related credit policies or exchange rate policies. This paragraph shall not affect a Party's obligations under Articles 9.6 (Performance Requirements), 9.8 (Transfers) or 10.11 (Transfers and Payments).

3. Notwithstanding Articles 9.8 (Transfers) or 10.11 (Transfers and Payments), as incorporated into this Chapter, a Party may prevent or limit transfers by a financial institution or cross-border financial service supplier to, or for the benefit of, an affiliate of or person related to such institution or supplier, through the equitable, non-discriminatory and good faith application of measures relating to maintenance of the safety, soundness, integrity or financial responsibility of financial institutions or cross-border financial service suppliers. This paragraph does not prejudice any other provision of this Agreement that permits a Party to restrict transfers.

4. For greater certainty, nothing in this Chapter shall be construed to prevent the adoption or enforcement by any Party of

measures necessary to secure compliance with laws or regulations that are not inconsistent with this Chapter, including those relating to the prevention of deceptive and fraudulent practices or to deal with the effects of a default on financial services contracts, subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on investment in financial institutions or cross-border trade in financial services.

(2) It is understood that the term "prudential reasons" includes the maintenance of the safety, soundness, integrity or financial responsibility of individual financial institutions or cross- border financial service suppliers.

Article 11.12. Transparency

1. The Parties recognise that transparent regulations and policies governing the activities of financial institutions and cross-border financial service suppliers are important in facilitating financial institutions located outside the territory of the Party, financial institutions of the other Party and cross-border financial service suppliers to gain access to and operate in the other Party's market. Each Party commits to promote regulatory transparency in financial services.

2. In lieu of Article 14.2 (Publication), a Party shall, to the extent practicable:

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

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

3. At the time it adopts final regulations, a Party should, to the extent practicable, address in writing any substantive comments received from interested persons with respect to the proposed regulations.

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

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

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

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

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

9. A regulatory authority shall make an administrative decision on a completed application of an investor in a financial institution, a financial institution or a cross-border financial service supplier of the other Party relating to the supply of a financial service within 120 days, and shall promptly notify the applicant of the decision. An application shall not be considered complete until all relevant hearings are held and all necessary information is received. Where it is not practicable for a decision to be made within 120 days, the regulatory authority shall notify the applicant without undue delay and shall endeavour to make the decision within a reasonable time thereafter.

Article 11.13. Self-Regulatory Organisations

Where a Party requires a financial institution or a cross-border financial service supplier of the other Party to be a member of, participate in, or have access to, a self-regulatory organisation to provide a financial service in or into the territory of that Party, that Party shall ensure observance of the obligations set out in Articles 11.2 and 11.3 by such self-regulatory organisation.

Article 11.14. Consultations

1. A Party may request consultations with the other Party regarding any matter arising under this Agreement that affects financial services. The other Party shall give sympathetic consideration to the request. The Parties shall report the results of their consultations to the Administrative Commission established pursuant to Article 17.1 (Administrative Commission of the

Agreement).

2. Consultations under this Article shall include officials of the authorities specified in Annex 11A.

3. Nothing in this Article shall be construed to require regulatory authorities participating in consultations under paragraph 1 to disclose information or take any action that would interfere with specific regulatory, supervisory, administrative, or enforcement matters.

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

Article 11.15. Dispute Settlement

1. Except otherwise provided for, Chapter 15 (Dispute Settlement) applies as modified by this Article to the settlement of disputes arising under this Chapter.

2. When a Party claims that a dispute arises under this Chapter, the panel shall compose:

(a) where the disputing Parties so agree, entirely of panelists meeting the criteria set out in paragraph 3; and

(b) in any other case, panelists meeting the criteria set out in either paragraph 3 or in Article 15.7.5 (Composition of Arbitral Panels), However, the chair of the panel shall meet the criteria set out in paragraph 3 if Article 11.11 is invoked by the Party complained against, unless the Parties agree otherwise.

3. Financial services panelists shall:

(a) have expertise or experience in financial services law or practice, which may include the regulation of financial institutions;

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

(c) meet the criteria set out in Article 15.7.5 (Composition of Arbitral Panels).

4. Notwithstanding Article 15.16 of Dispute Settlement (Non-

implementation – Compensation and Suspension of Benefits), where a panel finds a measure to be inconsistent with this Agreement and the measure under dispute affects:

(a) only the financial services sector, the complaining Party may suspend benefits only in the financial services sector;

(b) the financial services sector and any other sector, the complaining Party may suspend benefits in the financial services sector that have an effect equivalent to the effect of the measure in the Party's financial services sector; or

(c) only a sector other than the financial services sector, the complaining Party may not suspend benefits in the financial services sector.

Article 11.16 . Definitions

For purposes of this Chapter:

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

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

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

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

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

but does not include the supply of a financial service in the territory of a Party by an investor of the other Party, or investments of such investors, in financial institutions in the Party's territory;

3. **enterprise of a Party** means an enterprise, as defined in Article 1.3.3 (Definitions of General Application), organised or constituted under the laws of a Party and a branch located in the territory of a Party. For the purposes of this Chapter, an enterprise of a Party includes a branch of an enterprise of a non-Party in the territory of a Party;

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

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

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

Insurance and insurance-related services

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

(i) life;

(ii) non-life;

(b) reinsurance and retrocession;

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

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

Banking and other financial services (excluding insurance)

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

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

(g) financial leasing;

(h) all payment and money transmission services, including credit, charge and debit cards, travelers checks and bankers drafts;

(i) guarantees and commitments;

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

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

(ii) foreign exchange;

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

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

(v) transferable securities;

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

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

(l) money broking;

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

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

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

financial services;

(p) advisory, intermediation and other auxiliary financial services on all the activities listed in sub-paragraphs (e) through (o), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy.

7. **financial service supplier of a Party** means a person of a Party that is engaged in the business of supplying a financial service within the territory of that Party;

8. **investment** means "investment" as defined in Article 9.1 (Definitions), except that, with respect to "loans" and "debt instruments" referred to in that Article:

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

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

For greater certainty, a loan granted by or debt instrument owned by a cross-border financial service supplier, other than a loan to or debt instrument issued by a financial institution, is an investment if such loan or debt instrument meets the criteria for investments set out in Article 9.1 (Definitions).

9. **investor of a Party** means a Party or state enterprise thereof, or a person of that Party, that attempts to make, is making, or has made an investment in the territory of the other Party;

10. **new financial service** means, for purposes of Article 11.7, a financial service not supplied in the Party's territory that is supplied within the territory of the other Party, and includes any new form of delivery of a financial service or the sale of a financial product that is not sold in the Party's territory;

11. **public entity** means:

(a) a government, central bank or a monetary authority of a Party, or an entity owned or controlled by a Party, that is principally engaged in carrying out governmental functions or activities for governmental purposes, not including an entity principally engaged in supplying financial services on commercial terms; or

(b) a private entity performing functions normally performed by a central bank, or monetary authority, when exercising those functions; and

12. **self-regulatory organisation** means any non-governmental body, including any securities or futures exchange or market, clearing agency, other organization or association, that exercises regulatory or supervisory authority over financial service suppliers or financial institutions by statue or delegation from the government or relevant authorities.

Chapter 12. TELECOMMUNICATIONS

Article 12.1. Scope and Coverage

1. This Chapter applies to measures (1) affecting trade in public telecommunications transport network and services.

2. This Chapter does not apply to any measure adopted or maintained by a Party relating to cable or broadcast distribution of radio or television programming (2).

3. Nothing in this Chapter shall be construed to:

(a) require a Party (or require a Party to compel any service supplier) to establish, construct, acquire, lease, operate, or provide telecommunications transport networks or telecommunications services where such networks or services are not offered to the public generally; or

(b) require a Party to compel any service supplier engaged in the cable or broadcast distribution of radio or television programming to make available its cable or broadcast facilities as a public telecommunications transport network, unless a Party specifically designates such facilities as such.

(1) This includes the effective enforcement of such measures.

(2) For greater certainty, the Parties obligations under this Chapter shall not apply to measures adopted or maintained relating to broadcasting services as defined in the Parties Schedule to Annex II.

Article 12.2. Access to and Use of Public Telecommunications Transport Network and Services (3)

1. A Party shall ensure that service suppliers of the other Party have access to and use of any public telecommunications transport network and service, including leased circuits, offered in its territory or across its borders on reasonable, non-discriminatory, timely and transparent terms and conditions, including as set out in paragraphs 2 through 6.

2. Each Party shall ensure that such service suppliers are permitted to:

(a) purchase or lease, and attach terminal or other equipment that interfaces with the public telecommunications transport network;

(b) provide services to individual or multiple end-users over any leased or owned circuit(s);

(c) interconnect private leased or owned circuits with public telecommunications transport networks and services or with circuits leased or owned by another service supplier subject to paragraph 6 (c);

(d) perform switching, signalling, processing, and conversion functions; and

(e) use operating protocols of their choice.

3. A Party shall ensure that service suppliers of the other Party may use public telecommunications transport networks and services for the movement of information in its territory or across its borders and for access to information contained in data bases or otherwise stored in machine-readable form in the territory of either Party.

4. Notwithstanding paragraph 3, a Party may take such measures as are necessary to:

(a) ensure the security and confidentiality of messages; or

(b) protect the privacy of customer proprietary network information,

subject to the requirement that such measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade in services.

5. Each Party shall ensure that no condition is imposed on access to and use of public telecommunications transport networks or services, other than that necessary to:

(a) safeguard the public service responsibilities of suppliers of public telecommunications transport networks or services, in particular, their ability to make their networks or services available to the public generally; or

(b) protect the technical integrity of public telecommunications transport networks or services.

6. Provided that conditions for access to and use of public telecommunications transport networks or services satisfy the criteria set out in paragraph 5, such conditions may include:

(a) a requirement to use specified technical interfaces, including interface protocols, for interconnection with such networks or services;

(b) a licensing, permit, registration, or notification procedure; or

(c) restrictions on interconnection of private leased or owned circuits with such networks or services or with circuits leased or owned by another services supplier.

(3) This Article does not apply to access to unbundled network elements, including access to leased circuits as an unbundled network element.

Article

Article 12.3. Interconnection with Suppliers of Public Telecommunications Transport Networks and Services

1. A Party shall ensure that suppliers of public telecommunications transport networks or services in its territory provides interconnection with the facilities and equipment of suppliers of public telecommunications transport networks or services of the other Party.

2. In carrying out paragraph 1, each Party shall ensure that suppliers of public telecommunications transport networks or services in its territory take reasonable steps to protect the confidentiality of proprietary information of, or relating to, suppliers and end-users of public telecommunications transport networks or services and only use such information for the purpose of providing public telecommunications transport networks or services.

Article 12.4. Conduct of Major Suppliers (4)

Treatment by Major Suppliers

1. A Party shall ensure that any major supplier in its territory accords suppliers of public telecommunications transport networks or services of the other Party treatment no less favourable than such major supplier accords to itself, its subsidiaries, its affiliates, or any non-affiliated service supplier regarding:

(a) the availability, provisioning, rates, or quality of like public telecommunications transport networks or services; and

(b) the availability of technical interfaces necessary for interconnection.

A Party shall assess such treatment on the basis of whether such suppliers of public telecommunications transport networks or services, subsidiaries, affiliates, and non-affiliated service suppliers are in like circumstances.

Competitive Safeguards

2. Each Party shall maintain appropriate measures for the purpose of preventing suppliers of public telecommunications transport networks or services who, alone or together, are a major supplier in its territory from engaging in or continuing anti-competitive practices. For purposes of this paragraph, anti-competitive practices include:

(a) engaging in anti-competitive cross-subsidisation;

(b) using information obtained from competitors with anti- competitive results; and

(c) not making available, on a timely basis, to suppliers of public telecommunications transport networks or services, technical information about essential facilities and commercially relevant information that is necessary for them to provide public telecommunications transport networks or services.

Co-Location

3. (a) A Party shall ensure that major suppliers in its territory provide to suppliers of public telecommunications transport networks or services of the other Party physical co-location, at premises owned or controlled by the major supplier, of equipment necessary for interconnection on terms and conditions, and at cost-oriented rates, that are reasonable, non-discriminatory, timely and transparent.

(b) Where physical co-location is not practical for technical reasons or because of space limitations, each Party shall ensure that major suppliers in its territory provide or facilitate virtual co- location on terms and conditions, and at cost oriented rates, that are reasonable, non-discriminatory, timely and transparent.

(c) Each Party may determine, in accordance with its national laws and regulations, which premises in its territory shall be subject to sub-paragraphs (a) and (b).

Poles, Ducts, and Conduits

4. (a) A Party shall ensure that major suppliers in its territory provide access to poles, ducts, and conduits, owned or controlled by such major suppliers to suppliers of public telecommunications transport networks or services of the other Party, under terms, conditions, and cost-oriented rates, that are reasonable, non- discriminatory (including with respect to timeliness), and transparent.

(b) Nothing shall prevent a Party from determining, under its domestic law and regulation, which particular structures owned or controlled by the major suppliers in its territory, are required to be made available in accordance with sub-paragraph (a) provided that this is based on a determination that such structures cannot feasibly be economically or technically substituted in order to provide a competing service.

Number Portability

5. Each Party shall ensure that major suppliers in its territory provide number portability to the extent technically feasible, on a timely basis and on reasonable terms and conditions.

Interconnection

6. (a) General Terms and Conditions

A Party shall ensure that any major supplier in its territory provides interconnection for the facilities and equipment of suppliers of public telecommunications transport networks or services of the other Party:

(i) at any technically feasible point in the major supplier's network;

(ii) under non-discriminatory terms, conditions (including technical standards and specifications), and rates;

(iii) of a quality no less favourable than that provided by such major supplier for its own like services or for like services of non-affiliated suppliers of public telecommunications transport networks or services or for its subsidiaries or other affiliates;

(iv) in a timely fashion, on terms, conditions, (including technical standards and specifications), and cost-oriented rates, that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the supplier of public telecommunications transport networks or services need not pay for network components or facilities that it does not require for the service to be provided; and

(v) upon request, at points in addition to the network termination points offered to the majority of suppliers of public telecommunications transport networks or services, subject to charges that reflect the cost of construction of necessary additional facilities (5).

(b) Public Availability of the Procedures for Interconnection Negotiations

Each Party shall make publicly available the applicable procedures for interconnection negotiations with major suppliers in its territory.

(c) Public Availability of Interconnection Agreements concluded with Major Suppliers

(i) each Party shall require major suppliers in its territory to file all interconnection agreements to which they are party with its telecommunications regulatory body.

(ii) each Party shall make available for inspection to suppliers of public telecommunications transport networks or services which are seeking interconnection, interconnection agreements in force between a major supplier in its territory and any other supplier of public telecommunications transport networks or services in such territory.

(d) Resolution of Interconnection Disputes

A Party shall ensure that suppliers of public telecommunications transport networks or services of the other Party, that have requested interconnection with a major supplier in the Party's territory, has recourse to a telecommunications regulatory body to resolve disputes regarding the terms, conditions, and rates for interconnection within a reasonable and publicly available period of time.

(4) Articles 12.4.3, 12.4.4, 12.4.5, 12.4.6 (a) and (d), do not apply to suppliers of commercial mobile services. However, nothing in this Article shall be construed to preclude a Party from imposing the requirements set out in this Article on suppliers of commercial mobile services if those suppliers are designated by that Party as a major supplier.

(5) These costs may include the cost of physical or virtual co-location referenced in Article 12.4.3.

Article 12.5. Submarine Cable Landing Stations

A Party shall ensure reasonable and non-discriminatory access to submarine cable capacity, and cross-connect links in and backhaul links from, a submarine cable landing station for suppliers of public telecommunications transport networks or services of the other Party.

Article 12.6. Independent Regulation

1. Each Party shall ensure that its telecommunications regulatory body is separate from, and not accountable to, any

supplier of public telecommunications transport networks or services.

2. Each Party shall ensure that the decisions of, and procedures used by its telecommunications regulatory body is impartial with respect to all suppliers of public telecommunications transport networks or services.

Article 12.7. Universal Service

Each Party shall administer any universal service obligation that it maintains in a transparent, non-discriminatory, and competitively neutral manner and shall ensure that its universal service obligation is not more burdensome than necessary for the kind of universal service that it has defined.

Article 12.8. Licensing Process

1. When a Party requires a supplier of public telecommunications transport networks or services to have a license or concession, the Party shall make publicly available:

(a) all the licensing criteria and procedures it applies;

(b) the period of time normally required to reach a decision concerning an application for a license or concession; and

(c) the terms and conditions of all licenses or concessions it has issued.

2. Each Party shall ensure that an applicant receives, upon request, the reasons for the denial of a license or concession.

Article 12.9. Allocation and Use of Scarce Resources

1. Each Party shall administer its procedures for the allocation and use of scarce resources, including frequencies, numbers and rights of way, in an objective, timely, transparent and non-discriminatory fashion.

2. Each Party shall make publicly available the current state of allocated frequency bands but shall not be required to provide detailed identification of frequencies assigned or allocated for specific government uses.

Article 12.10. Resolution of Domestic Telecommunications Disputes

Recourse to Telecommunications Regulatory Bodies

1. Each Party shall ensure that suppliers of public telecommunications transport networks or services of the other Party have recourse (within a reasonable period of time) to a telecommunications regulatory body to resolve disputes arising under domestic measures addressing a matter set out in Articles 12.2 through 12.9.

Reconsideration

2. Each Party shall ensure that any supplier of public telecommunications transport networks or services aggrieved or whose interests are adversely affected by a determination or decision of the telecommunications regulatory body may petition that body for reconsideration of the determination or decision.

Judicial Review and Appeal

3. Each Party shall ensure that any supplier of public telecommunications transport networks or services aggrieved by a determination or decision of the telecommunications regulatory body has the opportunity to appeal, or obtain judicial review of, such determination or decision to an independent judicial or administrative authority (6).

(6) For greater certainty, in the case of Panama, only the judicial review process at the Supreme Court shall be applicable.

Article 12.11. Transparency

Further to Chapter 14 (Transparency), each Party shall ensure that:

(a) rulemakings, including the basis for such rulemakings, of its telecommunications regulatory body and end-user tariffs filed with its telecommunications regulatory body are promptly published or otherwise made available to all interested suppliers of public telecommunications transport networks or services;

(b) interested suppliers of public telecommunications transport networks or services are provided with adequate advance public notice of, and the opportunity comment on, any rulemaking proposed by the telecommunications regulatory body;

(c) Its measures relating to public telecommunications transport networks or services are made publicly available, including:

(i) tariffs and other terms and conditions of service;

(ii) specifications of technical interfaces;

(iii) conditions applying to attachment of terminal or other equipment to the public telecommunications transport network; and

(iv) notification, permit, requirements, if any; and registration, or licensing

(d) Information on bodies responsible for preparing, amending, and adopting standards related measures is made publicly available.

Article 12.12. Relationship to other Chapters

In the event of any inconsistency between this Chapter and any other Chapter, this Chapter shall prevail to the extent of any such inconsistency.

Article 12.13. Definitions

For the purposes of this Chapter:

1. backhaul links means end-to-end transmission links from a submarine cable landing station to another primary point of access to the Party's public telecommunications transport network;

2. cost-oriented means based on cost, and may include a reasonable profit, and may involve different cost methodologies for different facilities or services;

3. commercial mobile services means public telecommunications services supplied through mobile wireless means;

4. cross-connect links means the links in a submarine cable landing station used to connect submarine cable capacity to the transmission, switching and routing equipment of different suppliers of public telecommunications services co-located in that submarine cable landing station;

5. customer proprietary network information means information made available to the supplier of public telecommunications transport networks or services by the end-user solely by virtue of the end-user telecommunications service supplier relationship;

6. end-user means a final consumer of or subscriber to a public telecommunications transport networks or service, including a service supplier but excluding a supplier of public telecommunications transport networks or services;

7. essential facilities means facilities of a public telecommunications transport network or service that:

(a) are exclusively or predominantly provided by a single or limited number of suppliers; and

(b) cannot feasibly be economically or technically substituted in order to provide a service;

8. interconnection means linking with suppliers providing public telecommunications transport networks or services in order to allow the users of one supplier to communicate with users of another supplier and to access services provided by another supplier;

9. leased circuits means telecommunications facilities between two or more designated points which are set aside for the dedicated use of or availability to a particular customer or other users of the customer's choosing;

10. major supplier means a supplier of public telecommunications transport networks or services that has the ability to materially affect the terms of participation (having regard to price and supply) in the relevant market for public telecommunications transport networks or services as a result of:

(a) control over essential facilities; or

(b) use of its position in the market;

11. network element means a facility or equipment used in the provision of a public telecommunications service, including features, functions, and capabilities that are provided by means of such facility or equipment;

12. non-discriminatory means treatment no less favourable than that accorded to any other user of like public telecommunications transport networks or services in like circumstances;

13. number portability means the ability of end-users of public telecommunications transport networks or services to retain, at the same location, existing telephone numbers without impairment of quality, reliability, or convenience by the original suppliers when switching between like suppliers of public telecommunications transport networks or services;

14. physical co-location means physical access to and control over space in order to install, maintain, or repair equipment used to provide public telecommunications transport networks or services;

15. public telecommunications transport network means the public telecommunications infrastructure which permits telecommunications between and among defined network termination points;

16. public telecommunications transport service means any telecommunications transport service required, explicitly or in effect, by a Party to be offered to the public generally. Such services may include inter alia, telegraph, telephone, telex and data transmission typically involving the real time transmission of customer-supplied information between two or more points without any end-to-end change in the form or content of the customer's information;

17. service supplier means any person that supplies a service;

18. submarine cable landing station means the premises and buildings where international submarine cables arrive and terminate and are connected to backhaul links;

19. supplier of public telecommunications transport networks and services means any provider of public telecommunications transport networks or public telecommunications transport services, including those who provide such networks or services to other suppliers of public telecommunications transport networks or services;

20. telecommunications means the transmission and reception of signals by any electromagnetic means (7);

21. telecommunications regulatory body means a national body responsible for the regulation of telecommunications; and

22. user means an end-user or a supplier of public telecommunications transport networks or services.

(7) Including by photonic means.

Chapter 13. ELECTRONIC COMMERCE

Article 13.1. General

The Parties recognize the economic growth and opportunity provided by electronic commerce and the importance of avoiding barriers to its use and development and the applicability of WTO rules to electronic commerce.

Article 13.2. Electronic Supply of Services

For greater certainty, the Parties affirm that measures related to the supply of a service using electronic means falls within the scope of the obligations contained in the relevant provisions of Chapters 9 (Investment), 10 (Cross- Border Trade in Services) and 11 (Financial Services), subject to any exceptions applicable to such obligations and except where an obligation does not apply to any such measure pursuant to Articles 9.10 (Non- Conforming Measures), 10.7 (Non-Conforming Measures), or 11.10 (Non- Conforming Measures).

Article 13.3. Digital Products

1. A Party shall not apply customs duties or other duties, fees, or charges on or in connection with the importation or exportation of digital products by electronic transmission (1).

2. A Party shall not accord less favorable treatment to some digital products than it accords to other like digital products:

(a) on the basis that:

(i) the digital products receiving less favorable treatment are created, produced, published, stored, transmitted, contracted for, commissioned, or first made available on commercial terms, outside its territory; or

(ii) the author, performer, producer, developer, or distributor of such digital products is a person of the other Party or a non-Party; or

(b) so as otherwise to afford protection to the other like digital products that is created, produced, published, stored, transmitted, contracted for, commissioned, or first made available on commercial terms, in its territory.

3. A Party shall not accord less favorable treatment to digital products:

(a) created, produced, published, stored, transmitted, contracted for, commissioned, or first made available on commercial terms in the territory of the other Party than it accords to like digital products created, produced, published, stored, transmitted, contracted for, commissioned, or first made available on commercial terms, in the territory of a non-Party;

(b) whose author, performer, producer, developer, or distributor is a person of the other Party than it accords to like digital products whose author, performer, producer, developer, or distributor is a person of a non-Party.

4. Paragraphs 2 & 3 do not apply to any non-conforming measure

described in Articles 9.10 (Non-Conforming Measures), 10.7 (Non-Conforming Measures), or 11.10 (Non-Conforming Measures).

5. This Article does not apply to measures affecting the electronic transmission of a series of text, video, images, sound recordings, and other products scheduled by a content provider for aural and / or visual reception, and for which the content consumer has no choice over the scheduling of the series.

(1) Paragraph 1 does not preclude a Party from imposing internal taxes or other internal charges provided that these are imposed in a manner consistent with this Agreement.

Article 13.4. Cooperation

Recognizing the global nature of electronic commerce, the Parties affirm the importance of:

(a) working together to overcome obstacles encountered by the private sector, including small and medium enterprises in using electronic commerce;

(b) sharing information and experiences on issues in the sphere of electronic commerce, including those related to data privacy, consumer confidence in electronic commerce, cyber-security, electronic signatures, intellectual property rights, and electronic government;

(c) working to maintain cross-border flows of information as an essential element in fostering a vibrant environment for electronic commerce;

(d) encouraging the private sector to adopt self-regulation, including through codes of conduct, model contracts, guidelines, and enforcement mechanisms that foster electronic commerce; and
(e) actively participating in regional and multilateral fora to promote the development of electronic commerce.

Article 13.5. Definitions

For purposes of this Chapter:

1. **carrier medium** means any physical object capable of storing a digital product by any method now known or later developed, and from which a digital product can be perceived, reproduced, or communicated, directly or indirectly, and includes, but is not limited to, an optical medium, a floppy disk, or a magnetic tape;

2. **digital products** means computer programs, text, video, images, sound recordings and other products that are digitally encoded, regardless of whether they are fixed on a carrier medium or transmitted electronically (2);

3. **electronic transmission or transmitted electronically** means the transfer of digital products using any electromagnetic or photonic means; and

4. **using electronic** means means employing computer processing.

(2) For greater clarity, digital products do not include digitized representatives of financial instruments.

Chapter 14. Transparency

Article 14.1. Contact Points

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

2. On the request of the other Party, the contact points shall identify the office or official responsible for the matter and assist, as necessary, in facilitating communications with the requesting Party.

Article 14.2. Publication

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

Article 14.3. Notification and Provision of Information

1. Each Party shall do its best efforts to notify, within the existing domestic regulations, to the other Party of any actual measure that the Party considers might materially affect the operation of this Agreement or otherwise substantially affect the other Party's interests under this Agreement.

2. On request of the other Party, a Party shall provide information and respond to questions pertaining to actual measures related to matters covered under this Agreement, whether or not the other Party has been previously notified of that measure.

3 Any notification, request, or information under this Article shall be provided to the other Party through the relevant contact points.

4. Any notification or information provided under this Article shall be without prejudice as to whether the measure is consistent with this Agreement.

Subsection 14.4. Administrative Proceedings

1. With a view to administering in a consistent, impartial, and reasonable manner all measures referred to in Article 1.3.8 (Definitions of General Application), each Party shall ensure that in its administrative proceedings applying such measures to particular persons, goods, or services of the other Party in specific cases that:

(a) wherever possible, persons of the other Party that are directly affected by a proceeding are provided reasonable notice, in accordance with domestic procedures, when a proceeding is initiated, including a description of the nature of the proceeding, a statement of the legal authority under which the proceeding is initiated, and a general description of any issues in controversy;

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

(c) its procedures are in accordance with their domestic law.

Article 14.5. Review and Appeal

1. Each Party shall establish or maintain judicial or administrative tribunals or procedures for the purpose of the prompt review (1) and, where warranted, correction of final administrative actions regarding matters covered by this Agreement. Such tribunals shall be impartial and independent of the office or authority entrusted with administrative enforcement and shall not have any substantial interest in the outcome of the matter.

2. Each Party shall ensure that, in any such tribunals or procedures, the parties to the proceedings are provided with the right to:

(a) a reasonable opportunity to support or defend their respective positions (2); and

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

3. Each Party shall ensure, subject to appeal or further review as provided in its domestic law, that such decision shall be implemented by, and shall govern the practice of, the offices or authorities with respect to the administrative action at issue.

(1) For greater certainty, the review of final administrative actions can take the form of common law judicial review.

(2) For greater certainty, the correction of final administrative actions includes a referral back to the body that took such action for corrective action.

Article 14.6. Definitions

For purposes of this Chapter:

Administrative ruling of general application means an administrative ruling or interpretation that applies to all persons and fact situations that fall generally within its ambit and that establishes a norm of conduct but does not include:

(a) a determination or ruling made in an administrative proceeding that applies to a particular person, good, or service of the other Party in a specific case; or

(b) a ruling that adjudicates with respect to a particular act or practice.

Chapter 15. DISPUTE SETTLEMENT

Article 15.1. Cooperation

The Parties shall at all times endeavour to agree on the interpretation and application of this Agreement, and shall make every attempt through cooperation and consultations to arrive at a mutually satisfactory resolution of any matter that might affect its operation.

Article 15.2. Scope of Application

1. Except as otherwise provided in this Agreement, the provisions of this Chapter shall apply with respect to the avoidance or settlement of disputes between the Parties concerning their rights and obligations under this Agreement.

2. The rules, procedures and time frames set out in this Chapter may be waived, varied or modified by mutual agreement.

Article 15.3. Consultations

1. Except as otherwise provided in this Agreement, either Party may request consultations with the other Party with respect to any matter affecting the implementation, interpretation or application of this Agreement. If a Party requests consultations with regard to a matter, the other Party shall afford adequate opportunity for consultations and shall reply promptly to the request for consultations and enter into consultations in good faith.

2. The requesting Party shall deliver the request to the other Party and shall set out the reasons for the request, including identification of the measure or other matter at issue and an indication of the legal basis for the complaint.

3. Consultations shall be held within 30 days after the date of receipt of the request for consultations. Consultations on matters regarding perishable goods (1) shall commence within 10 days after the date of receipt of the request.

4. The Parties shall at all times endeavour to agree on the interpretation and application of the Agreement and shall make every attempt to arrive at a mutually satisfactory resolution of any matter through consultations under this Article or other consultative provisions of this Agreement. To this end, the Parties shall:

(a) provide sufficient information to enable a full examination of how the measure or other matter might affect the operation and application of this Agreement; and

(b) treat any confidential information exchanged in the course of consultations which the other Party has designated as confidential, on the same basis as the Party providing the said information.

(1) For greater certainty, the term “perishable goods” means perishable agricultural and fish goods classified in Chapters 1 through 24 of the Harmonized System.

Article 15.4. Referral to the Administrative Commission, Good Offices, Conciliation and Mediation

1. Except as otherwise provided in this Agreement, the provisions of this Article shall apply whenever:

(a) a Party considers that any benefit accruing to it directly or indirectly under this Agreement is being nullified or impaired, or that the attainment of any objective of this Agreement is being impeded, as a result of a measure of the other Party that is inconsistent with this Agreement;

(b) a Party considers that any benefit the Party could reasonably have expected to accrue to it under Chapters 2 (Trade in Goods), 3 (Rules of Origin) and 10 (Cross-Border Trade in Services), is being nullified or impaired as the result of a measure that is not inconsistent with this Agreement; or

(c) the Parties are unable to agree on compensatory adjustments pursuant to Headnotes of Section A and Section B of Annex III (Financial Services Annexes).

2. The Parties shall first seek to resolve a dispute described in paragraph 1 above through consultations under Article 15.3. The Parties shall make every effort to reach a mutually satisfactory resolution through consultation.

3. If the Parties fail to resolve a matter pursuant to Article 15.3 within:

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

(b) 15 days after the date of receipt of the request for consultations in matters regarding perishable goods; or

(c) such other period as they may agree, a Party may in writing refer the matter to the Administrative Commission established under Article 17.1 (Administrative Commission of the Agreement) which shall endeavour to resolve the dispute.

4. Good offices, conciliation and mediation are procedures that are initiated on a voluntary basis if the Parties so agree.

5. Proceedings involving good office, conciliation and mediation, and in particular the positions of the Parties to the dispute during these proceedings, shall be confidential and without prejudice to the rights of either Party in any further proceedings under these procedures.

6. Good offices, conciliation or mediation may be requested at any time by either Party to a dispute. They may begin at any time and be terminated at any time.

7. If the Parties agree, procedures for good offices, conciliation or mediation may continue while the dispute proceeds for resolution before an arbitral panel appointed under Article 15.6.

Article 15.5. Choice of Forum

1. Disputes regarding any matter arising under this Agreement as well as the WTO Agreement, any agreement negotiated thereunder, or any successor agreement, may be settled in the forum selected by the complaining Party.

2. Once a Party has requested the establishment of an arbitral panel under Article 15.6 or under the WTO Agreement, the forum selected shall be used to the exclusion of the others. The complaining Party shall notify the other Party in writing of its intention to bring a dispute to a particular forum before doing so.

3. For the purposes of this Article, dispute settlement proceedings under Article 15.6 or Article 6 of the Understanding on Rules and Procedures Governing the Settlement of Disputes of the WTO Agreement are deemed to be initiated upon a request for an arbitral panel by the Party.

Article 15.6. Request for an Arbitral Panel

1. If the Administrative Commission has not resolved a dispute within:

(a) 75 days after the date of receipt of the request for consultations pursuant to Article 15.3;

(b) 30 days after the date of receipt of the request for consultations pursuant to Article 15.3 in a matter regarding perishable goods; or

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

the complaining Party may request, in writing, for the establishment of an arbitral panel. The request shall identify the specific measure at issue and provide a brief summary of the legal basis of the complaint sufficient to present the problem clearly. The complaining Party shall deliver the request to the other Party.

2. The Parties shall establish an arbitral panel upon receipt of such a request.

3. Unless otherwise agreed by the Parties, the arbitral panel shall be established and perform its functions in a manner consistent with the provisions of this Chapter.

Article 15.7. Composition of Arbitral Panels

1. The arbitral panel referred to in Article 15.6 shall consist of three members. Each Party shall appoint a panelist within 30 days of the receipt of the request under Article 15.6.1, and the Parties shall within 30 days of the appointment of the second of them, designate by common agreement the third panelist who shall chair the arbitral panel. The chair shall not be a national of either Party and shall not have his or her usual place of residence in the territory of either Party.

2. If the third panelist has not been designated within 30 days of the appointment of the second panelist, the Director-General of the World Trade Organisation shall, at the request of either Party, appoint the chair of the arbitral panel within a further period of 30 days.

3. If one of the Parties does not appoint its panelist within 30 days of the receipt of the request under Article 15.6.1, the other Party may inform the Director-General of the WTO who shall appoint the chair of the arbitral panel within a further 30 days and the chair shall, upon appointment, request the Party which has not appointed a panelist to do so within 14 days. If after such period, that Party has still not appointed a panelist, the chair shall inform the Director-General of the WTO who shall make this appointment within a further 30 days.

4. If a panelist appointed under this Article resigns or becomes unable to act, a successor panelist shall be appointed in the same manner as prescribed for the appointment of the original panelist and the successor shall have all the powers and duties of the original panelist. In such a case, any time period applicable to the panel proceeding shall be suspended for a period beginning on the date the panelist resigns or becomes unable to act, and ending on the date the replacement is appointed.

5. Any person appointed as a member of the arbitral panel:

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

(b) shall be chosen strictly on the basis of objectivity, reliability, sound judgement and independence (2).

6. Persons appointed as a member of the arbitral panel shall comply with a Code of Conduct to be established by the Parties by the date of entry into force of this Agreement.

(2) For greater certainty, a person appointed as a member of the panel shall not be a government official of either Party.

Article 15.8. Functions of Arbitral Panels

1. The function of an arbitral panel is to make an objective assessment of the dispute before it, including an examination of the facts of the case and the applicability of and conformity with this Agreement. The findings and recommendations of the arbitral panel shall be set out in a final report presented to the Parties pursuant to Article 15.13.

2. Findings and recommendations of an arbitral panel shall not add to or diminish the rights and obligations of the Parties under this Agreement.

3. Arbitral panels appointed under this Chapter shall interpret and apply the provisions of this Agreement in accordance with customary rules of interpretation of public international law.

Article 15.9. Rules of Procedure

1. The Parties shall establish by the date of entry into force of this Agreement Model Rules of Procedure, which shall ensure that:

(a) the right of a hearing before the arbitral panel and the opportunity to present allegations and rebuttals in writing; and

(b) the hearings before the arbitral panel, the deliberations and the preliminary report, as well as all the writings and communications presented in be confidential.

2. Unless the Parties agree otherwise, the arbitral panel shall conduct the proceedings in accordance with the Model Rules of Procedure and may, after consulting the Parties, adopt additional rules of procedure not inconsistent with the model rules, or the provisions of this Chapter.

3. Unless the Parties otherwise agree within 20 days from the date of receipt of the request for the establishment of the arbitral panel, the terms of reference shall be:

"To examine, in the light of the relevant provisions of this Agreement, the matter referred to in the request for the establishment of an arbitral panel pursuant to Article 15.6, and to make findings, determinations and recommendations as provided in Article 15.12.2 and to present the written reports referred to in Article 15.12 and Article 15.13."

4. If the complaining Party wishes to argue that a matter has nullified or impaired benefits in the sense of Article 15.4.1(b), the terms of reference shall so indicate.

5. If a Party wishes the arbitral panel to make findings as to the degree of adverse trade effects on either Party of any measure found not to conform with the obligations of the Agreement or to have caused nullification or impairment in the sense of Article 15.4.1(b), the terms of reference shall so indicate.

6. The arbitral panel may rule on its own jurisdiction.

7. An arbitral panel may make its findings and recommendations upon the

default of a Party.

8. An arbitral panel shall make its decision by consensus; provided that where an arbitral panel is unable to reach consensus it may make its decision by majority vote. Panelists may furnish separate opinions on matters not unanimously agreed upon. No arbitral panel may disclose which panelists are associated with majority or minority opinions in its initial or final reports.

9. An arbitral panel shall meet in closed session. The Parties shall be present at the meetings only when invited by the arbitral panel to appear before it.

10. The panel hearings, deliberations, initial reports, all documents submitted to and all communications with the arbitral panel shall be kept confidential. Nothing in this Article shall preclude a Party from disclosing statements of its own positions or its submissions to the public; provided that a Party shall treat as confidential information submitted by the other Party to the arbitral panel which that Party has designated as confidential. Where a Party submits a confidential version of its written submissions to the arbitral panel, it shall also, upon request of the other Party, provide a non-confidential summary of the information contained in its submissions that could be disclosed to the public.

11. A Party may disclose to other persons such information in connection with the arbitral proceedings as it considers necessary for the preparation of the case, but it shall ensure that those persons maintain the confidentiality of any information.

Article 15.10. Location of Panel Hearings

The location of the proceedings of the arbitral panel shall be decided by mutual agreement of the Parties, failing which shall alternate between the capitals of the Parties in alphabetical order.

Article 15.11. Role of Experts

On request of a Party or on its own initiative, the arbitral panel may seek information and technical advice from any person or body that it deems appropriate, provided that the Parties so agree and subject to such terms and conditions as the Parties may agree.

Article 15.12. Initial Report

1. Unless the Parties otherwise agree, the arbitral panel shall base its report on the relevant provisions of the Agreement, the submissions and arguments of the Parties, and on any information before it pursuant to Article 15.11.

2. Unless the Parties otherwise agree, the arbitral panel shall, within 90 days after the last panelist is selected, present to the Parties an initial report containing:

(a) findings of fact, including any findings pursuant to a request under Article 15.9.5, together with reasons;

(b) its determination as to whether the measure at issue is inconsistent with this Agreement or cause nullification or impairment in the sense of Article 15.4.1(b) or any other determination requested in the terms of reference; and

(c) its recommendations, if any, for resolution of the dispute.

3. If the arbitral panel considers that it cannot provide its report within 90 days, it shall inform the Parties in writing of the reasons for the delay together with an estimate of the period within which it will provide its report. In no case should the period to provide the report exceed 120 days.

4. A Party may submit written comments to the arbitral panel on its initial report within 14 days of presentation of the report or within such other period as the Parties may agree. A copy of the comments submitted shall be provided to the other Party.

5. After considering any such written comments on the initial report, the arbitral panel, on its own initiative or on the request of either Party, may request or receive the views of a Party, reconsider its report and make any further examination it considers appropriate.

Article 15.13. Final Report

1. The arbitral panel shall present a final report to the Parties, including any separate opinions on matters not unanimously agreed, within 45 days of presentation of the initial report, unless the Parties otherwise agree.

2. The Parties shall release the final report to the public within 15 days thereafter, subject to the protection of confidential information.

Article 15.14. Suspension and Termination of Proceedings

1. The Parties may agree to suspend the work of the arbitral panel at any time for a period not exceeding 12 months from the date of such agreement. If the work of the arbitral panel has been suspended for more than 12 months, the authority for establishment of the arbitral panel shall lapse unless the Parties agree otherwise.

2. The Parties may agree to terminate the proceedings before an arbitral panel at any time by jointly notifying the chair of the arbitral panel to this effect.

Article 15.15. Implementation of Final Report

1. On the receipt of the final report of an arbitral panel, the Parties shall agree on the resolution of the dispute, including the reasonable period of time necessary to implement the resolution of the dispute, which normally shall conform with the determinations and recommendations, if any, of the arbitral panel.

2. If, in its final report, the arbitral panel determines that a Party has not conformed with its obligations under this Agreement or that a disputing Party's measure is causing nullification and impairment in the sense of Article 15.4.1(b), the resolution, whenever possible, shall be to eliminate the non- conformity or the nullification or impairment.

Article 15.16. Non-Implementation – Compensation and Suspension of Benefits

1. If an arbitral panel has made a determination of the type described in Article 15.15.2, and the Parties are unable to reach agreement on a resolution pursuant to Article 15.15.1 within 45 days of receiving the final report, or such other period as the Parties agree, the Party complained against shall enter into negotiations with the other Party with a view to developing mutually acceptable compensation.

2. If the Parties:

(a) are unable to agree on compensation within 30 days after the period for developing such compensation has begun; or

(b) have agreed on compensation or on a resolution pursuant to Article 15.15.1 and the complaining Party considers that the Party complained against has failed to observe the terms of the agreement;

such complaining Party may at any time thereafter provide written notice to the Party complained against that it intends to suspend the application to the Party complained against of benefits of equivalent effect. The notice shall specify the level of benefits that the Party proposes to suspend (3). The complaining Party may begin suspending benefits 30 days after the later of the date on which it provides notice under this paragraph or the arbitral panel issues its determination under paragraph 3, as the case may be.

3. If the Party complained against considers that:

(a) the level of benefits proposed to be suspended is manifestly excessive; or

(b) it has eliminated the non-conformity or the nullification or impairment that the arbitral panel has found,

it may, within 30 days after the complaining Party provides notice under paragraph 2, request that the original arbitral panel be reconvened to consider the matter. The Party complained against shall deliver its request in writing to the complaining Party. The arbitral panel shall reconvene, as soon as possible, after delivery of the request and shall present its determination to the disputing Parties within 90 days after it reconvenes to review a request under sub-paragraph (a) or (b), but in any case no later than 120 days after such request. Where the original arbitral panel cannot hear the matter for any reason, a new arbitral panel shall be appointed pursuant to the procedures set out in Article 15.7. If the arbitral panel determines that the level of benefits proposed to be suspended is manifestly excessive, it shall determine the level of benefits it considers to be of equivalent effect.

4. The complaining Party may suspend benefits up to the level the arbitral panel has determined under paragraph 3 or, if the arbitral panel has not determined the level, the level the complaining Party has proposed to suspend under paragraph 2, unless the arbitral panel has determined that the Party complained against has eliminated the non-conformity or the nullification or impairment.

5. If the arbitral panel decides that the Party complained against has eliminated the non-conformity or the nullification or impairment, the complaining Party shall promptly reinstate any benefits such Party has suspended under paragraph 3.

6. In considering what benefits to suspend pursuant to paragraph 2:

(a) a complaining Party should first seek to suspend benefits in the same sector or sectors as that affected by the measure or other matter that the arbitral panel has found to be inconsistent with the obligations of this Agreement or to have caused nullification or impairment in the sense of Article 15.4.1(b); and

(b) a complaining Party that considers it is not practicable or effective to suspend benefits in the same sector or sectors may suspend benefits in other sectors.

7. The suspension of benefits shall be temporary and shall only be

applied until such time as:

(a) the Party removes the measure found to be inconsistent with this Agreement;

(b) the Party eliminates the nullification or impairment caused by a measure in the sense of Article 15.4.1(b) that the arbitral panel has found;

(c) the Party that must implement the arbitral panel's recommendations has done so; or

(d) a mutually satisfactory solution is reached.

(3) For greater certainty, the phrase "the level of benefits that the Party proposes to suspend" refers to the level of concessions under the Agreement the suspension of which a complaining Party considers will have an effect equivalent to that of the disputed measure and shall be restricted to benefits granted to the Party complained against under this Agreement.

Article 15.17. Private Rights

No Party may provide for a right of action under its domestic law against the other Party on the ground that a measure of

the other Party is inconsistent with this Agreement.

Chapter 16. STRATEGIC PARTNERSHIP

Article 16.1. Objectives

1. The Parties agree to establish a framework for cooperation between themselves to expand and enhance the benefits of this Agreement.

2. The Parties shall establish close cooperation aimed inter alia at:

(a) strengthening and building on existing cooperative relationships,

including a focus on innovation, research and development;

(b) creating new opportunities for trade and investment; and

(c) promote and foster technical and scientific cooperation in areas of mutual interest.

Article 16.2. Scope

1. The Parties affirm the importance of all forms of cooperation, with particular attention given to economic, scientific and technological cooperation in contributing towards implementation of the objectives and principles of this Agreement. Cooperation may be extended to other areas as mutually agreed between the Parties.

2. Possible areas of trade and investment cooperation and technical and scientific cooperation are set out in Annex 16.2.

3. Such cooperation should contribute to achieving the objectives of this Agreement through the identification and development of innovative cooperation programmes capable of providing added value to their relationships.

4. Cooperation between Parties under this Chapter will supplement the cooperation and cooperative activities set out in other Chapters of this Agreement.

Article 16.3. Trade and Investment Cooperation

1. The Parties shall:

(a) develop a program of mutually agreed cooperative activities so as to pursue the areas of cooperation described in Annex 16.2;

(b) develop other mutually agreed cooperation activities between the Parties to assist the private sector in both Parties to better understand business and investment opportunities in the other Party; and

(c) undertake such other mutually agreed activities in furtherance of the object of this Agreement.

2. The areas of cooperation between the Parties shall reflect their respective national priorities for the promotion and attraction of investment related cooperative activities and shall be agreed upon in writing by the Parties. The program for cooperation may include long, medium and short- term activities related to:

(a) building capacity for investment, job creation and workers' well- being;

(b) organizing joint investment promotion activities, e.g., conferences, seminars, workshops, meetings, outreach / education programs, and joint promotion of specific projects of interest;

(c) exchanging lists of sectors / industries where one Party could encourage investments from the other Party and initiate promotional activities; and

(d) the facilitation of partnerships, linkages or other new channels for the development of investments in such sectors.

Article 16.4. Technical and Scientific Cooperation

1. The Parties shall:

(a) develop a program of mutually agreed programs and projects so as to pursue the areas of cooperation described in

Annex 16.2; and

(b) support, where appropriate, the participation of public, private and social organizations, including the participation of universities, institutions dedicated to research and non governmental organisations, in the execution of these programs and projects

2. Provided both Parties agree, the technical and scientific cooperation

Parties may, apart from what has been provided for in Annex 16.2, take the following between the forms:

(a) exchange of specialists, researchers and university professors;

(b) apprenticeship programs for professional training and instruction;

(c) joint or coordinated implementation of research and/or technological development programs and projects that link centres for research industry;

(d) information exchange on scientific and technological research;

(e) development of joint cooperation activities in third countries, as may be agreed by the Parties;

(f) granting scholarships for studies of professional specialization and intermediate studies of technical instruction;

(g) organising seminars, workshops and conferences; and

(h) any other form of cooperation agreed upon by the Parties.

Article 16.5. Contact Point

1. The Parties shall designate a contact point to facilitate communication concerning the interpretation of implementation of the Chapter

2. The contact points for the Parties are as follows:

(a) For Panama:

Ministry of Trade and Industries

Edison Plaza, Ave, Ricardo J. Alfaro, El Paical, 2nd Floor Panama, Republic of Panama

Tel: (507) 360-0690

Fax : (507) 360-0691

Email: admtratados@mici.gob.pa; and

(b) For Singapore

Ministry of Trade and Industry,

Trade Division,

100 High Street # 09-01, The Treasury, Singapore 179434, Republic of Singapore Tel: (65) 6225 9911

Fax: (65) 6332 7260

Email: mti_fta@mti.gov.sg.

or their successors or designated contact points.

3. The Parties will make maximum use of diplomatic channels to promote

dialogue and cooperation consistent with this Agreement.

Article 16.6. General

Any cooperative activity agreed to between the Parties pursuant to this Chapter shall be in writing and shall specify the

objectives, financial and technical resources required, work timelines, as well as the tasks that must be performed by each Party.

Chapter 17. ADMINISTRATION OF THE AGREEMENT

Article 17.1. Administrative Commission of the Agreement

1. The Parties hereby establish an Administrative Commission of the Agreement to supervise the implementation of this Agreement and to review the trade relationship between the Parties.

(a) The Administrative Commission of the Agreement shall be composed of government officials of each Party and shall be chaired by:

(i) Panamá s Minister for Trade and Industry; and

(ii) Singapore's Minister for Trade and Industry

or their designees.

(b) The Administrative Commission of the Agreement may establish ad hoc and standing committees or working groups (1), based on the agreed terms of reference (2) for such working groups or committees (where necessary) and also the composition thereof in order to:

(i) study and recommend to the Ministers in charge of trade negotiations of the Parties any appropriate measures to resolve any issue arising from the implementation or application of any part of this Agreement; and / or

(ii) consider, at either Party's request, fresh concessions or issues not already dealt with by this Agreement.

2. The Administrative Commission of the Agreement shall:

(a) review the general functioning of this Agreement;

(b) review and consider specific matters related to the operation and implementation of this Agreement in the light of its objectives;

(c) facilitate the avoidance and settlement of disputes arising under this Agreement, including through consultations pursuant to Article 15.3 (Consultations);

(d) consider and adopt any amendment to this Agreement or other modification to the commitments (3) therein, subject to the completion of necessary domestic legal procedures by each Party and Article 18.9 (Amendments);

(e) consider any other matter that may affect the functioning of this Agreement and make recommendations, as appropriate, for enhancing the implementation of this Agreement;

(f) consider ways to further enhance trade relations between the Parties and to further the objectives of this Agreement;

(g) adopt, as appropriate, binding interpretations of this Agreement; and pursuant to Article 9.13 (Investor - State Dispute Settlement); and

(h) take such other action as the Parties may agree.

3. The Administrative Commission shall normally convene every two years, or such other time as the Parties may agree, with such sessions to be held alternatively in the territory of each Party. A request by the Tribunal to the Administrative Commission pursuant to Article 9.13.9 (Investor – State Dispute Settlement) shall not be construed as to require the convening of a session of the Administrative Commission of the Agreement.

(1) This may include working groups or committees on maritime services and investment issues, where appropriate and necessary.

(2) For greater certainty, the ad hoc and standing committees or working groups, may have the following functions, where appropriate: (a) reviewing, for the purpose of avoiding disputes between the Parties, claims by a Party that a measure of the other Party (which is in force) has affected the effective implementation of the undertakings in this Agreement; (b) assessing and recommending to the Administrative Commission, proposed amendments or other modifications to this Agreement.

(3) For greater certainty, this includes Annexes such as Annex 2.3 (Customs Duties Elimination Schedule) of Chapter 2 (Trade in Goods), Annex 3A (Product-Specific Rules) of Chapter 3 (Rules of Origin), Annex I and II of Chapters 9 (Investment) and 10 (Cross-Border Trade in Services) and Annex III of Chapter 11 (Financial Services).

Article 17.2. Administration of Dispute Settlement Proceedings

1. Each Party shall:

(a) designate an office that shall be responsible for providing administrative assistance to panels established under Article 15.6 (Request for an Arbitral Panel) (4) .

(b) be responsible for the operation and costs of its designated office; and

(c) notify the other Party of the location of its office.

2. Unless otherwise agreed between the Parties, the expenses of the Panel, including the remuneration of panelists and their assistants, their travel and lodging expenses, and all general expenses relating to proceedings of a panel established under Article 15.6 (Request for an Arbitral Panel) shall be borne equally by the Parties.

3. Each Party shall bear its own expenses and legal costs in the arbitral proceedings.

(4) For greater certainty, it is clarified that this Article does not require Parties to establish a new or separate office for the purposes of providing administrative assistance to arbitral panels established under Article 15.6 (Request for an Arbitral Panel).

Chapter 18. GENERAL AND FINAL PROVISIONS

Article 18.1. General Exceptions

1. For purposes of Chapters 2 (Trade in Goods), 3 (Rules of Origin), 4 (Customs Procedure) and 6 (Technical Barriers to Trade), Article XX of GATT 1994 and its interpretive notes are incorporated into and made part of this Agreement, mutatis mutandis. The Parties understand that the measures referred to in Article XX(b) of GATT 1994 include environmental measures necessary to protect human, animal, or plant life or health, and that Article XX(g) of GATT 1994 applies to measures relating to the conservation of living and non-living exhaustible natural resources.

2. For purposes of Chapters 9 (Investment), 10 (Cross-Border Trade in Services), 12 (Telecommunications) and 13 (Electronic Commerce), Article XIV of GATS (including its footnotes) is incorporated into and made part of this Agreement, mutatis mutandis. The Parties understand that the measures referred to in Article XIV(b) of GATS include environmental measures necessary to protect human, animal, or plant life or health.

Article 18.2. Essential Security

Unless otherwise provided for in this Agreement, nothing in this Agreement shall be construed to:

(a) require a Party to furnish or allow access to any information, the disclosure of which it determines to be contrary to its essential security interests; or

(b) preclude a Party from applying measures that it considers necessary for the fulfilment of its obligations with respect to the maintenance or restoration of international peace or security, or the protection of its own essential security interests (1).

(1) For greater certainty, nothing in this Agreement shall prevent a Party from taking any action which it considers necessary for the protection of critical communications infrastructure from deliberate attempts intended to disable or degrade such infrastructure.

Article 18.3. Taxation

1. Except as set out in this Article, nothing in this Agreement shall apply to taxation measures.

2. Nothing in this Agreement shall affect the rights and obligations of either Party under any tax convention. In the event of

any inconsistency between this Agreement and any such convention, that convention shall prevail to the extent of the inconsistency. In the case of a tax convention between the Parties, the competent authorities under that convention shall have sole responsibility for determining whether any inconsistency exists between this Agreement and that convention.

3. Notwithstanding paragraph 2:

(a) Article 2.2 (National Treatment) and such other provisions of this Agreement as are necessary to give effect to that Article shall apply to taxation measures to the same extent as does Article III of GATT 1994; and

(b) Article 2.4 (Export Duties) shall apply to taxation measures.

4. Subject to paragraph 2:

(a) Article 9.3 (National Treatment) and Article 10.3 (National Treatment) shall not be applied to the adoption or enforcement of any taxation measure aimed at ensuring the equitable or effective imposition or collection of taxes permitted by Article XIV(d) of GATS; and

(b) Article 9.4 (Most-Favoured Nation Treatment) and Article 10.4 (Most-Favoured Nation Treatment) shall not be applied to any Most-Favoured Nation obligation with respect to an advantage accorded to a Party pursuant to an agreement on double taxation or provisions on the avoidance of double taxation in any international agreement or arrangement by which a Party is bound, as permitted by Article XIV(e) of GATS.

5. Subject to paragraph 2 and without prejudice to the rights and

obligations of Parties under Articles 9.6.2, 9.6.3 and 9.6.4 (Performance Requirements) shall apply to taxation measures.

6. Article 9.7 (Expropriation and Compensation) shall apply to taxation measures to the extent that such taxation measures constitute expropriation as provided for in Article 9.7 (Expropriation and Compensation)2. An investor that seeks to invoke Article 9.7 (Expropriation and Compensation) with respect to a taxation measure must first refer to the competent authorities described in paragraph 7 at the time that it gives notice under Article 9.13.4(c) (Investor-State Dispute Settlement), the issue of whether that taxation measure involves an expropriation. If the competent authorities do not agree to consider the issue or, having agreed to consider it, fail to agree that the measure is not an expropriation within a period of 6 months of such referral, the investor may submit its claim to arbitration under Article 9.13 (Investor- State Dispute Settlement).

7. For purposes of this Article: competent authorities means:

(a) in the case of Singapore, Director (Fiscal Planning), Ministry of Finance, or his successor; and

(b) in the case of Panama, Ministry of Economy and Finance or his successor; and

taxes and taxation measures do not include:

(a) a “customs duty” as defined in Article 2.16.2 (Definitions); or

(b) the measures listed in exception (b) and (c) of the definition of customs duty in Article 2.16.2 (Definitions).

Article 18.4. Transfers and Restrictions to Safeguard the Balance of Payments

1. For the purpose of Chapter 2 (Trade in Goods), the Parties shall endeavour to avoid the imposition of restrictive measures for balance of payments purposes.

2. Any such measures taken for trade in goods must be in accordance with Art XII of GATT 1994 and the Understanding on the Balance of Payments Provisions of GATT 1994, which shall be incorporated and made a part of this Agreement.

3. For purposes of Chapters 9 (Investment), 10 (Cross-Border Trade in Services) and 11 (Financial Services), Articles XI and XII of GATS (including its footnotes) is incorporated into and made part of this Agreement, mutatis mutandis. For greater certainty, it is clarified that such restrictions shall be applied on a national treatment basis and such that the other Party is treated no less favourably than any non-Party.

Article 18.5. Disclosure of Information

Nothing in this Agreement shall be construed to require a Party to furnish or allow access to confidential information, the disclosure of which would impede law enforcement, or otherwise be contrary to the public interest, or which would

prejudice the legitimate commercial interests of particular enterprises, public or private, unless otherwise provided for in this Agreement (3).

(3) For greater certainty, nothing in the Agreement shall be construed to require a Party to disclose information relating to the affairs and accounts of individual customers or any confidential or proprietary information in the possession of public entities.

Article 18.6. Accession

1. Any country or group of countries may accede to this Agreement subject to such terms and conditions as may be agreed between such country or countries and the Parties, and following approval in accordance with the applicable legal procedures of each country.

2. This Agreement shall not apply as between any Party and any acceding country or group of countries if, at the time of the accession, either does not consent to such accession.

Article 18.7. Relation to other Agreements

In the event of any inconsistency between this Agreement and any other agreement to which both Parties are parties, the Parties shall immediately consult with each other with a view to finding a mutually satisfactory solution.

Article 18.8. Annexes

The Annexes to this Agreement shall form an integral part of this Agreement.

Article 18.9. Amendments

This Agreement may be amended with the agreement of the Parties. Any amendments shall be in writing and shall enter into force on such date or dates as may be agreed between them.

Article 18.10. Entry Into Force and Termination

1. This Agreement shall enter into force on the date on which the Parties have exchanged notes confirming the completion of their respective procedures for the entry into force of this Agreement, or such other date as the Parties may agree.

2. Either Party may terminate the Agreement by giving the other Party six months' advance notice in writing.

3. Within 30 days after the date of receipt of a notification under paragraph 2, either Party may request consultations regarding whether the termination of any provision of this Agreement should take effect at a later date than provided under paragraph 2. Such consultations shall commence within 30 days of a Party's receipt of such request.

4. In the event of termination of this Agreement, in respect of investments made prior to the date when the notice of termination of the Agreement becomes effective, the provisions of Chapter 9 (Investment) shall continue in force for a further period of 10 years from that date.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE at Singapore on this 1st day of March, 2006, in duplicate in the English and Spanish languages, both texts being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

For Singapore

Chan Soo Sen

Minister of State

for Trade and Industry and Education

For Panama

Carmen Gisela Vergara Vice-Minister for Foreign Trade Ministry of Trade and Industries