FREE TRADE AGREEMENT BETWEEN THE EFTA STATES AND THE REPUBLIC OF CHILE

The Republic of Iceland, the Principality of Liechtenstein, the Kingdom of Norway and the Swiss Confederation (hereinafter referred to as "the EFTA States"), and The Republic of Chile (hereinafter referred to as "Chile"), hereinafter collectively referred to as "the Parties", resolved to:

STRENGTHEN the special bonds of friendship and co-operation between their nations;

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

ESTABLISH clear and mutually advantageous rules governing their trade; CREATE an expanded and secure market for goods and services in their territories;

ENSURE a stable and predictable environment for business planning and investment;

FOSTER creativity and innovation by protecting intellectual property rights; BUILD on their respective rights and obligations under the Marrakech Agreement establishing the World Trade Organization and other multilateral and bilateral instruments of co-operation;

ENSURE that the gains from trade liberalisation are not offset by the erection of private, anti-competitive barriers;

ENHANCE the competitiveness of their firms in global markets;

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

PROMOTE environmental protection and conservation, and sustainable development;

REAFFIRMING their commitment to democracy, the rule of law, human rights and fundamental freedoms in accordance with their obligations under international law, including principles and objectives set out in the United Nations Charter and the Universal Declaration of Human Rights; and

CONVINCED that this Agreement will create conditions encouraging economic, trade and investment relations between them;

HAVE AGREED, in pursuit of the above, to conclude the following Agreement (hereinafter referred to as "this Agreement"):

Chapter I. Initial Provisions

Article 1. Establishment of a Free Trade Area

The EFTA States and Chile hereby establish a free trade area by means of this Agreement and the complementary agreements on trade in agricultural goods, concurrently concluded between Chile and each individual EFTA State.

Article 2. Objectives

1. The objectives of this Agreement, as elaborated more specifically through its principles and rules, are to:

(a) achieve the progressive and reciprocal liberalisation of trade in goods, in conformity with Article XXIV of the General Agreement on Tariffs and Trade (hereinafter referred to as "the GATT 1994");

(b) achieve the liberalisation of trade in services, in conformity with Article V of the General Agreement on Trade in Services (hereinafter referred to as "the GATS");

(c) open the government procurement markets of the Parties;

(d) promote conditions of fair competition in the free trade area;

(e) substantially increase investment opportunities in the free trade area;

(f) provide adequate and effective protection and enforcement of intellectual property rights; and

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

Article 3. Territorial Application

1. Without prejudice to Annex I, this Agreement shall apply to the territory of each Party, as well as to areas beyond the territory in which each Party may exercise sovereign rights or jurisdiction in accordance with international law.

2. Annex II shall apply with respect to Norway.

Article 4. Relation to other International Agreements

The Parties confirm their rights and obligations under the Marrakech Agreement establishing the World Trade Organization and the other agreements negotiated thereunder (hereinafter referred to as "the WTO Agreement") to which they are party, and under any other international agreement to which they are a party.

Article 5. Trade and Economic Relations Governed by this Agreement

1. The provisions of this Agreement apply to the trade and economic relations between, on the one side, the individual EFTA States and, on the other side, Chile, but not to the trade relations between individual EFTA States, unless otherwise provided for in this Agreement.

2. As a result of the customs union established by the Treaty of 29 March 1923 between Switzerland and the Principality of Liechtenstein, Switzerland shall represent the Principality of Liechtenstein in matters covered thereby.

Article 6. Regional and Local Governments

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

Chapter II. Trade In Goods

Article 7. Coverage

This Chapter applies to trade between the Parties relating to:

(a) products falling within chapters 25 through 97 of the Harmonized Commodity Description and Coding System (hereinafter referred to as "the HS"), excluding the products listed in Annex III;

(b) products specified in Annex IV, with due regard to the arrangements provided for in that Annex; and

(c) fish and other marine products as provided for in Annex V.

Article 8. Rules of Origin and Administrative Co-operation

1. The provisions on rules of origin and administrative co-operation applicable to Article 9(1) and Article 19 are set out in Annex I.

2. For the purpose of Article 9(2), Article 13(1) and Article 18, the term "goods of a Party" shall mean domestic goods as understood within the meaning of GATT 1994 or such goods as the Parties may agree, and shall include originating products of that Party.

Article 9. Elimination of Customs Duties

1. The Parties shall, on the date of entry into force of this Agreement, abolish all customs duties on imports of products originating in an EFTA State or in Chile, except as provided for in Annex VI.

2. The Parties shall, on the date of entry into force of this Agreement, abolish all customs duties on exports of goods of a Party in trade between the Parties.

3. No new customs duty shall be introduced nor shall those already applied be increased in trade between the EFTA States and Chile.

Article 10. Customs Duty

A customs duty includes any duty or charge of any kind imposed in connection with the importation or exportation of a product, including any form of surtax or surcharge in connection with such importation or exportation, but does not include any:

(a) charge equivalent to an internal tax imposed consistently with Article 15;

(b) anti-dumping or countervailing duty applied consistently with Article 18; or

(c) fee or other charge imposed consistently with Article 11.

Article 11. Fees and other Charges

Fees and other charges referred to in Article 10(c) shall be limited in amount to the approximate cost of services rendered and shall not represent an indirect protection for domestic products or a taxation of imports or exports for fiscal purposes.

Article 12. Basic Duties

1. For each product the basic duty, to which the successive reductions set out in Annex VI are to be applied, shall be the most-favoured nation rate of duty applied on 1 January 2003.

2. If, before, by or after entry into force of this Agreement, any tariff reduction is applied on an erga omnes basis, in particular reductions in accordance with commitments resulting from multilateral negotiations under the World Trade Organization (hereinafter referred to as "the WTO"), such reduced duties shall replace the basic duties referred to in paragraph 1 as from the date when such reductions are applied, or from the entry into force of this Agreement if this is later.

3. The reduced duties calculated in accordance with Annex VI shall be applied rounded to the first decimal place or, in case of specific duties, to the second decimal place.

Article 13. Import and Export Restrictions

1. On the date of entry into force of this Agreement, all import or export prohibitions or restrictions on trade in goods of a Party between the EFTA States and Chile, other than customs duties and taxes, whether made effective through quotas, import or export licenses or other measures, shall be eliminated, except as provided for in Annex VII.

2. No new measures as referred to in paragraph 1 shall be introduced.

Article 14. Classification of Goods and Customs Valuation

1. The classification of goods in trade between the EFTA States and Chile shall be determined in accordance with each Party's respective tariff nomenclature in conformity with the HS.

2. The WTO Agreement on Implementation of Article VII of the GATT 1994 shall govern customs valuation rules applied to trade between the EFTA States and Chile.

Article 15. National Treatment

The Parties shall apply national treatment in accordance with Article III of the GATT 1994, including its interpretative notes,

which is hereby incorporated into and made part of this Agreement.

Article 16. Sanitary and Phytosanitary Measures

1. The rights and obligations of the Parties in respect of sanitary and phytosanitary measures shall be governed by the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (hereinafter referred to as "the SPS Agreement").

2. The Parties shall strengthen their co-operation in the field of sanitary and phytosanitary measures, with a view to increasing the mutual understanding of their respective systems and facilitating access to their respective markets.

3. At the request of a Party, expert consultations shall be convened if any Party considers that another Party has taken measures which are likely to affect, or have affected, access to its market. Such experts, representing the Parties concerned on specific issues in the field of sanitary and phytosanitary matters, shall aim at finding an appropriate solution in conformity with the SPS Agreement.

4. The Parties shall exchange names and addresses of "contact points" with sanitary and phytosanitary expertise in order to facilitate communication and the exchange of information.

5. In order to permit the efficient use of resources, the Parties shall, to the extent possible, endeavour to use modern technological means of communication, such as electronic communication, video or telephone conference, or arrange for meetings referred to in paragraph 3 to take place back-to-back with Joint Committee meetings or with sanitary and phytosanitary meetings in the framework of the WTO. The results of expert consultations convened in accordance with paragraph 3 shall be reported to the Joint Committee.

6. Chile and any of the EFTA States may, for better implementation of this Article, develop bilateral arrangements including agreements between their respective regulatory agencies.

Article 17. Technical Regulations

1. The rights and obligations of the Parties in respect of technical regulations, standards and conformity assessment shall be governed by the WTO Agreement on Technical Barriers to Trade (hereinafter referred to as "the TBT Agreement").

2. The Parties shall strengthen their co-operation in the field of technical regulations, standards and conformity assessment, with a view to increasing the mutual understanding of their respective systems and facilitating access to their respective markets.

3. Without prejudice to paragraph 1, the Parties agree to hold consultations in the framework of the Joint Committee where a Party considers that another Party has taken measures which are likely to create, or have created, an obstacle to trade, in order to find an appropriate solution in conformity with the TBT Agreement.

Article 18. Anti-dumping and Countervailing Measures

1. A Party shall not apply anti-dumping measures as provided for under the WTO Agreement on Implementation of Article VI of the GATT 1994 in relation to goods of a Party.

2. The Parties recognise that the effective implementation of competition rules may address economic causes leading to dumping.

3. The rights and obligations of the Parties related to countervailing measures shall be governed by the WTO Agreement on Subsidies and Countervailing Measures.

Article 19. Emergency Action on Imports of Particular Products

1. Where any product originating in a Party, as a result of the reduction or elimination of a customs duty under this Agreement, is being imported into the territory of another Party in such increased quantities and under such conditions as to constitute a substantial cause of serious injury or threat thereof to the domestic industry of like or directly competitive products in the territory of the importing Party, the importing Party may take emergency measures to the minimum extent necessary to remedy or prevent the injury.

2. Such measures may consist in:

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

(b) increasing the rate of duty on the product to a level not to exceed the lesser of:

i) the most-favoured nation rate of duty in effect at the time the action is taken;

ii) the most-favoured nation rate of duty in effect on the day immediately preceding the date of the entry into force of this Agreement.

3. Emergency measures shall be taken for a period not exceeding one year. In very exceptional circumstances, after review by the Joint Committee, measures may be taken up to a total maximum period of three years. In this case, the Party taking such measures shall present a schedule leading to their progressive elimination. No measures shall be applied to the import of a product which has previously been subject to such a measure for a period of, at least, five years since the expiry of the measure.

4. Emergency measures shall only be taken upon clear evidence that increased imports have caused or are threatening to cause serious injury pursuant to an investigation in accordance with the procedures laid down in the WTO Agreement on Safeguards.

5. The Party intending to take emergency measures under this Article shall promptly make a notification to the other Parties, containing all pertinent information which shall include evidence of serious injury caused by increased imports, precise description of the product involved, the proposed measure, the proposed date of introduction and expected duration of the measures. Any Party that may be affected shall simultaneously be offered compensation in the form of substantially equivalent trade liberalisation in relation to the imports from any such Party.

6. The Joint Committee shall, within 30 days from the date of notification to the Parties, meet to examine the information provided under paragraph 5 in order to facilitate a mutually acceptable solution of the matter. In the absence of such solution, the importing Party may adopt a measure pursuant to paragraph 2 to remedy the problem, and, in the absence of mutually agreed compensation, the Party against whose product the measure is taken may take retaliatory action. The emergency measure and any compensatory or retaliatory action shall be immediately notified to the Joint Committee. The retaliatory action shall consist of the suspension of concessions having substantially equivalent trade effects or concessions substantially equivalent to the value of the additional duties expected to result from the emergency action. In the selection of the emergency measure and the retaliatory action, priority must be given to the action which least disturbs the functioning of this Agreement.

7. In critical circumstances where delay would cause damage which would be difficult to repair, a Party may take a provisional emergency measure not exceeding 120 days pursuant to a preliminary determination that there is clear evidence that increased imports have caused or are threatening to cause serious injury. The Party intending to take such a measure shall immediately notify the other Parties thereof and, within 30 days of the date of such notification, the pertinent procedures set out in paragraphs 5 and 6, including for compensatory and retaliatory action, shall be initiated. Any compensation shall be based on the total period of application of the provisional measure. The period of application of any such provisional measure shall be counted as part of the duration of the definitive measure and any extension thereof.

Article 20. Global Safeguard

The Parties confirm their rights and obligations under Article XIX of GATT 1994 and the WTO Agreement on Safeguards.

Article 21. General Exceptions

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination of a Party where the same conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any Party of measures:

(a) necessary to protect public morals;

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

(c) relating to the importations or exportations of gold and silver;

(d) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement, including those relating to customs enforcement, the protection of intellectual property rights, and the prevention of deceptive practices;

(e) relating to the products of prison labour;

(f) imposed for the protections of national treasures of artistic, historic or archaeological value;

(g) relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption;

(h) undertaken in pursuance of obligations under any intergovernmental commodity agreement which conforms to criteria submitted to the WTO and not disapproved by it or which is itself so submitted and not so disapproved;

(i) involving restrictions on exports of domestic materials necessary to ensure essential quantities of such materials to a domestic processing industry during periods when the domestic price of such materials is held below the world price as part of a governmental stabilization plan; provided that such restrictions shall not operate to increase the exports of or the protection afforded to such domestic industry, and shall not depart from the provisions of this Agreement relating to non-discrimination;

(j) essential to the acquisition or distribution of products in general or local short supply; provided that any such measures shall be consistent with the principle that all WTO members are entitled to an equitable share of the international supply of such products, and that any such measures, which are inconsistent with the other provisions of this Agreement shall be discontinued as soon as the conditions giving rise to them have ceased to exist.

Chapter III. Trade In Services and Establishment

Section I. Trade In Services

Article 22. Coverage

1. This Section applies to measures affecting trade in services taken by central, regional or local governments and authorities as well as by non-governmental bodies in the exercise of powers delegated by central, regional or local governments or authorities.

2. This Section applies to measures affecting trade in all services sectors with the exception of air services, including domestic and international air transportation services, whether scheduled or non-scheduled, and related services in support of air services, other than:

(a) aircraft repair and maintenance services;

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

(c) computer reservation system (CRS) services. (1)

3. Nothing in this Section shall be construed to impose any obligation with respect to government procurement, which is subject to the Chapter V.

(1) The terms "aircraft repair and maintenance services", "selling and marketing of air transport services" and "computer reservation system (CRS) services" are as defined in paragraph 6 of the Annex on Air Transport Services to the GATS.

Article 23. Definitions

For the purposes of this Section:

(a) "trade in services" is defined as the supply of a service:

(i) from the territory of a Party into the territory of another Party (mode 1);

(ii) in the territory of a Party to the service consumer of another Party (mode 2);

(iii) by a service supplier of a Party, through commercial presence in the territory of another Party (mode 3);

(iv) by a service supplier of a Party, through presence of natural persons in the territory of another Party (mode 4).

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

(c) "supply of a service" includes the production, distribution, marketing, sale and delivery of a service;

(d) "measures by a Party affecting trade in services" include measures in respect of:

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

(ii) the access to and use of, in connection with the supply of a service, services which are required by that Party to be offered to the public generally;

(iii) the presence, including commercial presence, of persons of another Party for the supply of a service in the territory of that Party;

(e) "commercial presence" means any type of business or professional establishment, including through:

(i) the constitution, acquisition or maintenance of a juridical person; or

(ii) the creation or maintenance of a branch or a representative office; within the territory of a Party for the purpose of supplying a service;

(f) "service supplier" means any person that seeks to supply or supplies a service; (2)

(g) "natural person of a Party" is, in accordance with its legislation, a national or a permanent resident of that Party if he or she is accorded substantially the same treatment as nationals in respect of measures affecting trade in services;

(h) "juridical person" means any legal entity duly constituted or otherwise organised under applicable law, whether for profit or otherwise, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, joint venture, sole proprietorship or association;

(i) "services" includes any service in any sector except services supplied in the exercise of governmental authority;

(j) "juridical person of a Party" means a juridical person which is either:

(i) constituted or otherwise organised under the law of Chile or an EFTA State, and that is engaged in substantive business operations in Chile or in the EFTA State concerned, or (ii) in the case of the supply of a service through commercial presence, owned or controlled by:

(A) natural persons of that Party; or

(B) juridical persons identified under paragraph (j)(i); and

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

(2) Where the service is not supplied directly by a juridical person but through other forms of commercial presence such as a branch or a representative office, the service supplier (i.e. the juridical person) shall, nonetheless, through such presence be accorded the treatment provided for service suppliers under this Agreement. Such treatment shall be extended to the presence through which the service is supplied and need not be extended to any other parts of the supplier located outside the territory where the service is supplied.

Article 24. Most-favoured Nation Treatment

1. The rights and obligations of the Parties with respect to most-favoured nation treatment shall be governed by the GATS.

2. If a Party enters into an agreement with a non-Party which has been notified under Article V of the GATS, it shall, upon request from another Party, afford adequate opportunity to the other Parties to negotiate, on a mutually advantageous basis, the benefits granted therein.

Article 25. Market Access

1. With respect to market access through the modes of supply identified in Article 23, each Party shall accord services and service suppliers of another Party treatment no less favourable than that provided for under the terms, limitations and conditions agreed and specified in its Schedule referred to in Article 27.

2. In sectors where market-access commitments are undertaken, the measures which a Party shall not maintain or adopt either on the basis of a regional subdivision or on the basis of its entire territory, unless otherwise specified in its Schedule, are defined as:

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

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

(c) limitations on the total number of service operations or on the total quantity of service output expressed in the terms of designated numerical units in the form of quotas or the requirement of an economic needs test. (3)

(d) limitations on 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 a requirement of an economic needs test;

(e) measures which restrict or require specific types of legal entities or joint ventures through which a service supplier of another Party may supply a service; and

(f) limitations on the participation of foreign capital in terms of maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment.

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

Article 26. National Treatment

1. In the sectors inscribed in its Schedule referred to in Article 27 and subject to the conditions and qualifications set out therein, each Party shall grant to services and services suppliers of another Party, in respect of all measures affecting the supply of services, treatment no less favourable than that it accords to its own like services and services suppliers. (4)

2. A Party may meet the requirement of paragraph 1 by according to services and service suppliers of another Party, either formally identical treatment or formally different treatment to that it accords to its own like services and service suppliers.

3. Formally identical or formally different treatment shall be considered to be less favourable if it modifies the conditions of competition in favour of services or service suppliers of the Party compared to like services or service suppliers of another Party.

(4) Specific commitments assumed under this Article shall not be construed to require the Parties to compensate for any inherent competitive disadvantage which result from the foreign character of the relevant services and service suppliers.

Article 27. Trade Liberalisation

1. The Schedule of specific commitments that each Party undertakes under Articles 25 and 26 as well as paragraph 3 of this Article is set out at Annex VIII. With respect to sectors where such commitments are undertaken, each Schedule specifies:

(a) terms, limitations and conditions on market access;

(b) conditions and qualifications on national treatment;

(c) undertakings relating to additional commitments referred to in paragraph 3; and

(d) where appropriate, the time-frame for implementation of such commitments and the date of entry into force of such commitments.

2. Measures inconsistent with both Articles 25 and 26 are inscribed in the column relating to Article 25. In this case, the inscription is considered to provide a condition or qualification to Article 26 as well.

3. Where a Party undertakes a specific commitment on measures affecting trade in services not subject to scheduling under Articles 25 and 26, including those regarding qualifications, standards or licensing matters, such commitments are inscribed in its Schedule as additional commitments.

4. The Parties undertake to review their Schedules of specific commitments at least every three years, or more frequently, with a view to provide for a reduction or elimination of substantially all remaining discrimination between the Parties with regard to trade in services covered in this Section on a mutually advantageous basis and ensuring an overall balance of

rights and obligations.

Article 28. Domestic Regulation

1. In sectors where specific commitments are undertaken, each Party shall ensure that all measures of general application affecting trade in services are administered in a reasonable, objective and impartial manner.

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

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

4. The Parties shall jointly review the results of the negotiations on disciplines for measures relating to qualification requirements and procedures, technical standards and licensing requirements pursuant to Article VI.4 of the GATS aiming to ensure that such measure do not constitute unnecessary barriers to trade in services, 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;

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

5. In sectors in which a Party has undertaken specific commitments, until the incorporation of disciplines developed pursuant to paragraph 4, a Party shall not apply licensing and qualification requirements and technical standards in a manner which:

(a) does not comply with the criteria outlined in paragraphs 4 (a), (b) or (c); and

(b) could not reasonably have been expected of that Party at the time of the conclusion of the negotiation of the present agreement.

6. Whenever a domestic regulation is prepared, adopted and applied in accordance with international standards applied by both Parties, it shall be rebuttably presumed to comply with the provisions of this Article.

7. Each Party shall provide for adequate procedures to verify the competence of professionals of another Party.

Article 29. Recognition

1. The Parties shall encourage the relevant bodies in their respective territories to provide recommendations on mutual recognition, for the purpose of the fulfilment, in whole or in part, by service suppliers of the criteria applied by each Party for the authorisation, licensing, accreditation, operation and certification of service suppliers and, in particular, professional services.

2. The Joint Committee, within a reasonable period of time and considering the level of correspondence of the respective regulations, shall decide whether a recommendation referred to in paragraph 1 is consistent with this Section. If that is the case, such a recommendation shall be implemented through an agreement on mutual requirements, qualifications, licences and other regulations to be negotiated by the competent authorities.

3. Any such agreement shall be in conformity with the relevant provisions of the WTO Agreement and, in particular, Article VII of the GATS.

4. Where the Parties agree, each Party shall encourage its relevant bodies to develop procedures for the temporary licensing of professional services suppliers of another Party.

5. The Joint Committee shall periodically, and at least once every three years, review the implementation of this Article.

6. Where a Party recognises, by agreement or arrangement, the education or experience obtained, requirements met or

licenses or certifications granted in the territory of a non-Party, that Party shall accord another Party, upon request, adequate opportunity 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 another Party to demonstrate that the education or experience obtained, requirements met or licenses or certifications granted in the territory of that other Party should also be recognised.

Article 30. Movement of Natural Persons

1. This Section applies to measures affecting natural persons who are service suppliers of a Party, and natural persons of a Party who are employed by a service supplier of a Party, in respect of the supply of a service. Natural persons covered by a Party's specific commitments shall be allowed to supply the service in accordance with the terms of those commitments.

2. This Section shall not apply to measures affecting natural persons seeking access to the employment market of a Party, nor shall it apply to measures regarding nationality, residence or employment on a permanent basis.

3. This Section shall not prevent a Party from applying measures to regulate the entry of natural persons of another 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 a manner so as to nullify or impair the benefits accruing to a Party under the terms of a specific commitment. (5)

(5) The sole fact of requiring a visa shall not be regarded as nullifying or impairing benefits under a specific commitment.

Article 31. Telecommunications Services

Specific provisions on telecommunications services are set out in Annex IX.

Section II. Establishment

Article 32. Coverage

This Section shall apply to establishment in all sectors, with the exception of establishment in services sectors.

Article 33. Definitions

For the purposes of this Section,

(a) "juridical person" means any legal entity duly constituted or otherwise organised under applicable law, whether for profit or otherwise, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, joint venture, sole proprietorship or association;

(b) "juridical person of a Party" means a juridical person constituted or otherwise organised under the law of an EFTA State or of Chile and that is engaged in substantive business operations in Chile or in the EFTA State concerned;

(c) "natural person" means a national of an EFTA State or of Chile according to their respective legislation;

(d) "establishment" means:

(i) the constitution, acquisition or maintenance of a juridical person, or

(ii) the creation or maintenance of a branch or a representative office, within the territory of a Party for the purpose of performing an economic activity.

As regards natural persons, this shall not extend to seeking or taking employment in the labour market or confer a right of access to the labour market of a Party.

Article 34. National Treatment

With respect to establishment, and subject to the reservations set out in Annex X, each Party shall grant to juridical and natural persons of the other Party treatment no less favourable than that it accords to its own juridical and natural persons performing a like economic activity.

Article 35. Reservations

1. National treatment as provided for under Article 34 shall not apply to:

(a) any reservation that is listed by a Party in Annex X;

(b) an amendment to a reservation covered by paragraph (a) to the extent that the amendment does not decrease the conformity of the reservation with Article 34;

(c) any new reservation adopted by a Party, and incorporated into Annex X which does not affect the overall level of commitments of that Party under this Agreement; to the extent that such reservations are inconsistent with Article 34.

2. As part of the reviews provided for in Article 37 the Parties undertake to review at least every three years the status of the reservations set out in Annex X with a view to reducing or removing such reservations.

3. A Party may, at any time, either upon the request of another Party or unilaterally, remove in whole or in part reservations set out in Annex X by written notification to the other Parties.

4. A Party may, at any time, incorporate a new reservation into Annex X in accordance with paragraph 1(c) of this Article by written notification to the other Parties. On receiving such written notification, the other Parties may request consultations regarding the reservation. On receiving the request for consultations, the Party incorporating the new reservation shall enter into consultations with the other Parties.

Article 36. Right to Regulate

Subject to the provisions of Article 34, each Party may regulate the establishment of juridical and natural persons.

Article 37. Final Provisions

With the objective of progressive liberalisation of investment conditions, the Parties affirm their commitment to review the investment legal framework, the investment environment and the flow of investment between them consistent with their commitments in international investment agreements, no later than three years after the entry into force of this Agreement.

Section III. Payments and Capital Movements

Article 38. Objective and Scope

1. The Parties shall aim at the liberalisation of current payments and capital movements between them, in conformity with the commitments undertaken in the framework of the international financial institutions and with due consideration to each Party's currency stability.

2. This Section applies to all current payments and capital movements between the Parties. Specific provisions on current payments and capital movements are set out in Annex XI.

Article 39. Current Account

The Parties shall allow, in freely convertible currency and in accordance with the Articles of Agreement of the International Monetary Fund, any payments and transfers of the Current Account between the Parties.

Article 40. Capital Account

The Parties shall allow the free movements of capital relating to direct investments made in accordance with the laws of the host country and investments made in accordance with the provisions of Sections Trade in Services and Establishment of this Chapter, and the liquidation or repatriation of these capitals and of any profit stemming therefrom.

Article 41. Exceptions and Safeguard Measures

1. Where, in exceptional circumstances, payments and capital movements between the Parties cause or threaten to cause serious difficulties for the operation of monetary policy or exchange rate policy in any Party, the Party concerned may take safeguard measures with regard to capital movements that are strictly necessary for a period not exceeding one year. The

application of safeguard measures may be extended through their formal reintroduction.

2. The Party adopting the safeguard measures shall inform the other Party forthwith and present, as soon as possible, a time schedule for their removal.

Article 42. Final Provisions

The Parties shall consult each other with a view to facilitating the movement of capital between them in order to promote the objectives of this Agreement.

Section IV. Common Provisions

Article 43. Relation to other International Agreements

With respect to matters related to this Chapter, the Parties confirm the rights and obligations existing under any bilateral or multilateral agreements to which they are a party.

Article 44. General Exceptions

Article XIV and Article XXVIII paragraph (o) of the GATS are hereby incorporated into and made part of this Chapter.

Article 45. Financial Services

1. The Parties understand that no commitments have been made in financial services. For greater clarity, financial services are defined as in paragraph 5 of the Annex on Financial Services of the GATS.

2. Notwithstanding paragraph 1, two years after the entry into force of this Agreement, the Parties will consider the inclusion of financial services in this Chapter on a mutually advantageous basis and securing an overall balance of rights and obligations.

Chapter IV. Protection of Intellectual Property

Article 46. Intellectual Property Rights

1. The Parties shall grant and ensure adequate, effective and non-discriminatory protection of intellectual property rights, and provide for measures for the enforcement of such rights against infringement thereof, counterfeiting and piracy, in accordance with the provisions of this Article, Annex XII to this Agreement and the international agreements referred to therein.

2. The Parties shall accord to each other's nationals treatment no less favourable than that they accord to their own nationals. Exemptions from this obligation must be in accordance with the substantive provisions of Articles 3 and 5 of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (hereinafter referred to as "the TRIPS Agreement"). (6)

3. The Parties shall grant to each other's nationals treatment no less favourable than that accorded to nationals of any other State. Exemptions from this obligation must be in accordance with the substantive provisions of the TRIPS Agreement, in particular Articles 4 and 5 thereof (6).

4. The Parties agree, upon request of any Party to the Joint Committee and subject to its consensus, to review the provisions on the protection of intellectual property rights contained in the present Article and in Annex XII, with a view to further improving the levels of protection and to avoid or remedy trade distortions caused by actual levels of protection of intellectual property rights.

(6) It is understood that the reference of paragraphs 2 and 3 to Articles 3 to 5 of the TRIPS Agreement is made for the purpose of outlining their applicability to the provisions on Intellectual Property of this Agreement.

Chapter V. Government Procurement

Article 47. Objective

In accordance with the provisions of this Chapter, the Parties shall ensure the effective and reciprocal opening of their government procurement markets.

Article 48. Scope and Coverage

1. This Chapter applies to any law, regulation, procedure or practice regarding any procurement, by the entities of the Parties, of goods (7) and services including works, subject to the conditions specified by each Party in Annexes XIII and XIV.

2. This Chapter shall not be applicable to:

(a) contracts awarded pursuant to:

(i) an international agreement and intended for the joint implementation or exploitation of a project by the contracting parties;

(ii) an international agreement relating to the stationing of troops; and

(iii) the particular procedure of an international organisation;

(b) non-contractual agreements or any form of government assistance and procurement made in the framework of assistance or co-operation programmes;

(c) contracts for:

(i) the acquisition or rental of land, existing buildings, or other immovable property or concerning rights thereon;

(ii) the acquisition, development, production or co-production of programme material by broadcasters and contracts for broadcasting time;

(iii) arbitration and conciliation services;

(iv) employment contracts; and

(v) research and development services other than those where the benefits accrue exclusively to the entity for its use in the conduct of its own affairs, on condition that the service is wholly remunerated by the entity;

(d) financial services.

3. Public works concessions, as defined in Article 49, shall also be subject to this Chapter, as specified in Annexes XIII and XIV.

4. No Party may prepare, design or otherwise structure any procurement contract in order to avoid the obligations under this Chapter.

(7) For the purpose of this Chapter, "goods" shall mean goods classified in chapters 1 to 97 of the HS.

Article 49. Definitions

For the purpose of this Chapter, the following definitions shall apply:

(a) "entity" means an entity covered in Annex XIII;

(b) "government procurement" means the process by which a government obtains the use of or acquires goods or services, or any combination thereof, for governmental purposes and not with a view to commercial sale or resale, or use in the production or supply of goods or services for commercial sale or resale;

(c) "liberalisation" means a process as a result of which an entity enjoys no exclusive or special rights and is exclusively engaged in the provision of goods or services on markets that are subject to effective competition;

(d) "offsets" means those conditions imposed or considered by an entity prior to, or in the course of its procurement process, that encourage local development or improve its Party's balance of payments accounts by means of requirements of local content, licensing of technology, investment, counter-trade or similar requirements;

(e) "privatisation" means a process by means of which a public entity is no longer subject to government control, whether by public tender of the shares of that entity or otherwise, as contemplated in the respective Party's legislation in force;

(f) "public works concessions" means a contract of the same type as the public works procurement contracts, except for the fact that the remuneration for the works to be carried out consists either solely in the right to exploit the construction or in this right together with a payment;

(g) "supplier" means a natural or legal person that provides or could provide goods or services to an entity;

(h) "technical specifications" means a specification, which lays down the characteristics of the products or services to be procured, such as quality, performance, safety and dimensions, symbols, terminology, packaging, marking and labelling, or the processes and methods for their production and requirements relating to conformity assessment procedures prescribed by procuring entities; and

(i) "tenderer" means a supplier who has submitted a tender.

Article 50. National Treatment and Non-discrimination

1. With respect to any laws, regulations, procedures and practices regarding government procurement covered by this Chapter, each Party shall grant the goods, services and suppliers of another Party a treatment no less favourable than that accorded by it to domestic goods, services and suppliers.

2. With respect to any laws, regulations, procedures and practices regarding government procurement covered by this Chapter, each Party shall ensure:

(a) that its entities do not treat a locally-established supplier less favourably than another locally-established supplier on the basis of the degree of foreign affiliation to or ownership by, a person of another Party; and

(b) that its entities do not discriminate against a locally-established supplier on the basis that the goods or services offered by that supplier for a particular procurement are goods or services of another Party.

3. This Article shall not apply to measures concerning customs duties or other charges of any kind imposed on, or in connection with importation, the method of levying such duties and charges, other import regulations, including restrictions and formalities, nor to measures affecting trade in services other than measures specifically governing procurement covered by this Chapter.

Article 51. Prohibition of Offsets

Each Party shall ensure that its entities do not, in the qualification and selection of suppliers, goods or services, in the evaluation of bids or in the award of contracts, consider, seek or impose offsets.

Article 52. Valuation Rules

1. Entities shall not split up a procurement, nor use any other method of contract valuation with the intention of evading the application of this Chapter when determining whether a contract is covered by the disciplines thereof, subject to the conditions set out in Annexes XIII and XIV.

2. In calculating the value of a contract, an entity shall take into account all forms of remuneration, such as premiums, fees, commissions and interests, as well as the maximum permitted total amount, including option clauses, provided for by the contract.

3. When, due to the nature of the contract, it is not possible to calculate in advance its precise value, entities shall estimate this value on the basis of objective criteria.

Article 53. Transparency

1. Each Party shall promptly publish any law, regulation, judicial decision and administrative ruling of general application and procedure, including standard contract clauses, regarding procurement covered by this Chapter in the appropriate publications referred to in Appendix 2 of Annex XIV, including officially designated electronic media.

2. Each Party shall promptly publish in the same manner all modifications to such measures.

Article 54. Tendering Procedures

1. Entities shall award their public contracts by open or selective tendering procedures according to their national procedures, in compliance with this Chapter and in a non-discriminatory manner.

2. For the purposes of this Chapter:

(a) open tendering procedures are those procedures whereby any interested supplier may submit a tender;

(b) selective tendering procedures are those procedures whereby, consistent with Article 55 and other relevant provisions of this Chapter, only suppliers satisfying qualification requirements established by the entities are invited to submit a tender.

3. However, in the specific cases and only under the conditions laid down in Article 56, entities may use a procedure other than the open or selective tendering procedures referred to in paragraph 1, in which case the entities may choose not to publish a notice of intended procurement, and may consult the suppliers of their choice and negotiate the terms of contract with one or more of these.

4. Entities shall treat tenders in confidence. In particular, they shall not provide information intended to assist particular participants to bring their tenders up to the level of other participants.

Article 55. Selective Tendering

1. In selective tendering, entities may limit the number of qualified suppliers they will invite to tender, consistent with the efficient operation of the procurement process, provided that they select the maximum number of domestic suppliers and suppliers of another Party, and that they make the selection in a fair and non-discriminatory manner and on the basis of the criteria indicated in the notice of intended procurement or in tender documents.

2. Entities maintaining permanent lists of qualified suppliers may select suppliers to be invited to tender from among those listed, under the conditions foreseen in Article 57(7). Any selection shall allow for equitable opportunities for suppliers on the lists.

Article 56. Other Procedures

1. Provided that the tendering procedure is not used to avoid maximum possible competition or to protect domestic suppliers, entities shall be allowed to award contracts by means other than an open or selective tendering procedure in the following circumstances and subject to the following conditions, where applicable:

(a) when no suitable tenders or request to participate have been submitted in response to a prior procurement, on condition that the requirements of the initial procurement are not substantially modified;

(b) when, for technical or artistic reasons, or for reasons connected with protection of exclusive rights, the contract may be performed only by a particular supplier and no reasonable alternative or substitute exists;

(c) for reasons of extreme urgency brought about by events unforeseeable by the entity, the products or services could not be obtained in time by means of open or selective tendering procedures;

(d) for additional deliveries of goods or services by the original supplier where a change of supplier would compel the entity to procure equipment or services not meeting requirements of interchangeability with already existing equipment, software or services;

(e) when an entity procures prototypes or a first product or service which are developed at its request in the course of, and for, a particular contract for research, experiment, study or original development;

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

(g) for new services consisting of the repetition of similar services and for which the entity has indicated in the notice concerning the initial service, that tendering procedures other than open or selective might be used in awarding contracts for such new services;

(h) in the case of contracts awarded to the winner of a design contest, provided that the contest has been organised in a

manner which is consistent with the principles of this Chapter; in case of several successful candidates, all successful candidates shall be invited to participate in the negotiations; and

(i) for quoted goods purchased on a commodity market and for purchases of goods made under exceptionally advantageous conditions which only arise in the very short term in the case of unusual disposals and not for routine purchases from regular suppliers.

2. The Parties shall ensure that, whenever it is necessary for entities to resort to a procedure other than the open or selective tendering procedures based on the circumstances set forth in paragraph 1, the entities shall maintain a record or prepare a written report providing specific justification for the contract awarded under that paragraph.

Article 57. Qualification of Suppliers

1. Any conditions for participation in procurement shall be limited to those that are essential to ensure that the potential supplier has the capability to fulfil the requirements of the procurement and the ability to execute the contract in question.

2. In the process of qualifying suppliers, entities shall not discriminate between domestic suppliers and suppliers of another Party.

3. A Party shall not impose the condition that, in order for a supplier to participate in a procurement, the supplier has previously been awarded one or more contracts by an entity of that Party or that the supplier has prior work experience in the territory of that Party.

4. Entities shall recognise as qualified suppliers all suppliers who meet the conditions for participation in a particular intended procurement. Entities shall base their qualification decisions solely on the conditions for participation that have been specified in advance in notices or tender documentation.

5. Nothing in this Chapter shall preclude the exclusion of any supplier on grounds such as bankruptcy or false declarations or conviction for a serious crime such as participation in criminal organisations.

6. Entities shall promptly communicate to suppliers that have applied for qualification their decision on whether or not they qualify.

7. Entities may establish permanent lists of qualified suppliers provided that the following rules are respected:

(a) entities establishing permanent lists shall ensure that suppliers may apply for qualification at any time;

(b) any supplier having requested to become a qualified supplier shall be notified by the entities concerned of the decision in this regard;

(c) suppliers requesting to participate in a given intended procurement who are not on the permanent list of qualified suppliers shall be given the possibility to participate in the procurement by presenting the equivalent certifications and other means of proof requested from suppliers who are on the list;

(d) when an entity operating in the utilities sector uses a notice on the existence of a permanent list as a notice of intended procurement, as provided in Annex XIV, Appendix 5, paragraph 6, suppliers requesting to participate who are not on the permanent list of qualified suppliers shall also be considered for the procurement, provided there is sufficient time to complete the qualification procedure; in this event, the procuring entity shall promptly start procedures for qualification and the process of, and the time required for, qualifying suppliers shall not be used in order to keep suppliers of other Parties off the suppliers' list.

Article 58. Publication of Notices

General provisions

1. Each Party shall ensure that its entities provide for effective dissemination of the tendering opportunities generated by the relevant government procurement processes, providing suppliers of another Party with all the information required to take part in such procurement.

2. For each contract covered by this Chapter, except as set out in Articles 54(3) and 56, entities shall publish in advance a notice inviting interested suppliers to submit tenders, or where appropriate, requests for participation for that contract.

3. The information in each notice of intended procurement shall include at least the following:

(a) name, address, telefax number, electronic address of the entity and, if different, the address where all documents relating to the procurement may be obtained;

(b) the tendering procedure chosen and the form of the contract;

(c) a description of the intended procurement, as well as essential contract requirements to be fulfilled;

(d) any conditions that suppliers must fulfil to participate in the procurement;

(e) time-limits for submission of tenders and, where appropriate, other time limits;

(f) main criteria to be used for award of the contract; and

(g) if possible, terms of payment and any other terms.

Common provisions

4. Each notice referred to in this Article and Appendix 5 of Annex XIV, shall be accessible during the entire time period established for tendering for the relevant procurement.

5. Entities shall publish the notices in a timely manner through means which offer the widest possible and non-discriminatory access to the interested suppliers of the Parties. These means shall be accessible free of charge through a single point of access specified in Appendix 2 to Annex XIV.

Article 59. Tender Documentation

1. Tender documentation provided to suppliers shall contain all information necessary to permit them to submit responsive tenders.

2. Where contracting entities do not offer free direct access to the entire tender documents and any supporting documents by electronic means, entities shall make promptly available the tender documentation at the request of any supplier of the Parties.

3. Entities shall promptly reply to any reasonable request for relevant information relating to the intended procurement, on condition that such information does not give that supplier an advantage over its competitors.

Article 60. Technical Specifications

1. Technical specifications shall be set out in the notices, tender documents or additional documents.

2. Each Party shall ensure that its entities do not prepare, adopt or apply any technical specifications with a view to, or with the effect of, creating unnecessary obstacles to trade between the Parties.

3. Technical specifications prescribed by entities shall be:

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

(b) based on international standards, where these exist or, in their absence, on national technical regulations (8), recognised national standards (9), or building codes.

4. The provisions of paragraph 3 do not apply when the entity can objectively demonstrate that the use of technical specifications referred to in that paragraph would be ineffective or inappropriate for the fulfilment of the legitimate objectives pursued.

5. In all cases, entities shall consider bids which do not comply with the technical specifications but meet the essential requirements thereof and are fit for the purpose intended. The reference to technical specifications in the tender documents must include words such as "or equivalent".

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

7. The tenderer shall have the burden of proof to demonstrate that his bid meets the essential requirements.

(8) For the purpose of this Chapter, a technical regulation is a document which lays down characteristics of a product or a service or their

related processes and production methods, including the applicable administrative provisions, with which compliance is mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labeling requirements as they apply to a product, service, process or production method.

(9) For the purpose of this Chapter, a standard is a document approved by a recognised body, that provides, for common and repeated use, rules, guidelines or characteristics for products or services or related processes and production methods, with which compliance is not mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labeling requirements as they apply to a product, service, process or production method.

Article 61. Time Limits

1. All time limits established by the entities for the receipt of tenders and requests to participate shall be adequate to allow suppliers of another Party, as well as domestic suppliers, to prepare and to submit tenders, and where appropriate, requests for participation or applications for qualifying. In determining any such time limit, entities shall, consistent with their own reasonable needs, take into account such factors as the complexity of the intended procurement and the normal time for transmitting tenders from foreign as well as domestic points.

2. Each Party shall ensure that its entities shall take due account of publication delays when setting the final date for receipt of tenders or of requests for participation or for qualifying for the suppliers' list.

3. The minimum time limits for the receipt of tenders are specified in Appendix 3 to Annex XIV.

Article 62. Negotiations

1. A Party may provide for its entities to conduct negotiations:

(a) in the context of procurements in which they have indicated such intent in the notice of intended procurement; or

(b) when it appears from evaluation that no one tender is obviously the most advantageous in terms of the specific evaluation criteria set forth in the notices or tender documentation.

2. Negotiations shall primarily be used to identify the strengths and weaknesses in tenders.

3. Entities shall not, in the course of negotiations, discriminate between tenderers. In particular, they shall ensure that:

(a) any elimination of participants is carried out in accordance with the criteria set forth in the notices and tender documentation;

(b) all modifications to the criteria and to the technical requirements are transmitted in writing to all remaining participants in the negotiations;

(c) on the basis of the revised requirements and/or when negotiations are concluded, all remaining participants are afforded an opportunity to submit new or amended tenders in accordance with a common deadline.

Article 63. Submission, Receipt and Opening of Tenders

1. Tenders and requests to participate in procedures shall be submitted in writing.

2. Entities shall receive and open bids from tenderers under procedures and conditions guaranteeing the respect of the principles of transparency and nondiscrimination.

Article 64. Awarding of Contracts

1. To be considered for award, a tender must, at the time of opening, conform to the essential requirements of the notices or tender documentation and be submitted by a supplier which complies with the conditions for participation.

2. Entities shall make the award to the tenderer whose tender is either the lowest tender or the tender which, in terms of the specific objective evaluation criteria previously set forth in the notices or tender documentation, is determined to be the most advantageous.

Article 65. Information on Contract Award

1. Each Party shall ensure that its entities provide for effective dissemination of the results of government procurement processes.

2. Entities shall promptly inform tenderers of decisions regarding the award of the contract and of the characteristics and relative advantages of the selected tender. Upon request, entities shall inform any eliminated tenderer of the reasons for the rejection of its tender.

3. Entities may decide to withhold certain information on the contract award where release of such information would prevent law enforcement or otherwise be contrary to the public interest, would prejudice the legitimate commercial interests of suppliers, or might prejudice fair competition between them.

Article 66. Bid Challenges

1. Entities shall accord impartial and timely consideration to any complaints from suppliers regarding an alleged breach of this Chapter in the context of a procurement procedure.

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

3. Challenges shall be heard by an impartial and independent reviewing authority. A reviewing authority which is not a court shall either be subject to judicial review or shall have procedural guarantees similar to those of a court.

4. Challenge procedures shall provide for:

(a) rapid interim measures to correct breaches of this Chapter and to preserve commercial opportunities. Such action may result in suspension of the procurement process. However, procedures may provide that overriding adverse consequences for the interests concerned, including the public interest, may be taken into account in deciding whether such measures should be applied; and

(b) if appropriate, correction of the breach of this Chapter or, in the absence of such correction, compensation for the loss or damages suffered, which may be limited to costs for tender preparation and protest.

Article 67. Information Technology and Co-operation

1. The Parties shall, to the extent possible, endeavour to use electronic means of communication to permit efficient dissemination of information on government procurement, particularly as regards tender opportunities offered by entities, while respecting the principles of transparency and non-discrimination.

2. The Parties shall endeavour to provide each other with technical co-operation, particularly aimed at small and medium size enterprises, with a view to achieve a better understanding of their respective government procurement systems and statistics, as well as a better access to their respective markets.

Article 68. Modifications to Coverage

1. A Party may modify its coverage under this Chapter, provided that it:

(a) notifies the other Parties of the modification; and

(b) provides the other Parties, within 30 days following the date of such notification, appropriate compensatory adjustments to its coverage in order to maintain a level of coverage comparable to that existing prior to the modification.

2. Notwithstanding paragraph 1(b), no compensatory adjustments shall be provided to the other Parties where the modification by a Party of its coverage under this Chapter concerns:

(a) rectifications of a purely formal nature and minor amendments to Annexes XIII and XIV;

(b) one or more covered entities on which government control or influence has been effectively eliminated as a result of privatisation or liberalisation.

3. Where the Parties agree on the modification, the Joint Committee shall give effect to the agreement by amending the relevant Annex.

Article 69. Further Negotiations

In the case that a Party offers, in the future, a third party additional advantages with regard to its respective government procurement market access coverage agreed under this Chapter, it shall agree, upon request of another Party, to enter into negotiations with a view to extending coverage under this Chapter on a reciprocal basis.

Article 70. Exceptions

Provided that such measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination between the Parties or a disguised restriction on trade between them, nothing in this Chapter shall be construed to prevent any Party from adopting or maintaining measures necessary to protect:

(a) public morals, order or safety;

(b) human life, health or security;

(c) animal or plant life or health;

(d) intellectual property; or

(e) relating to goods or services of handicapped persons, of philanthropic institutions or of prison labour.

Article 71. Review and Implementation

1. The Joint Committee shall review the implementation of this Chapter every two years, unless otherwise agreed by the Parties; it shall consider any issue arising from it, and take appropriate action in the exercise of its functions.

2. At the request of a Party, the Parties shall convene a bilateral Working Group to address issues related to the implementation of this Chapter. Such issues may include:

(a) bilateral cooperation relating to the development and use of electronic communications in government procurement systems;

(b) the exchange of statistics and other information needed for monitoring procurement conducted by the Parties and the results of the application of this Chapter; and

(c) exploration of potential interest in further negotiations aimed at further broadening of the scope of market access commitments under this Chapter.

Chapter VI. Competition Policy

Article 72. Objectives

1. The Parties recognise that anti-competitive business conduct may frustrate the benefits arising from this Agreement.

2. The Parties undertake to apply their competition laws in a manner consistent with this Chapter so as to avoid that the benefits of the liberalisation process in goods and services as provided by this Agreement may be diminished or cancelled out by anti-competitive business conduct. (10) To facilitate this, the Parties agree to co-operate and coordinate under the provisions of this Chapter. This co-operation includes notification, consultation, and exchange of information.

3. For the purposes of this Agreement, "anti-competitive business conduct" includes, but is not limited to, anti-competitive agreements, concerted practices or arrangements by competitors, the abuse of single or joint dominant positions in a market and mergers with substantial anti-competitive effects. These practices refer to goods and services and may be carried out by private and public enterprises.

4. The Parties recognise the importance of principles of competition that are accepted in relevant multilateral fora of which the Parties are members or observers, including non-discrimination, due process, and transparency.

(10) For the purpose of this Chapter, "goods" shall mean goods classified in chapters 1 to 97 of the HS.

Article 73. Notifications

1. Each Party, through its designated authority, shall notify the other Parties of an enforcement activity regarding anti-competitive business conduct relating to goods and services if it is liable to substantially affect another Party's important interests, or if the anti-competitive business conduct is liable to have a direct and substantial effect in the territory of that other Party or is taking place principally in the territory of that other Party.

2. Provided that this is not contrary to the Parties' competition laws and does not affect any investigation being carried out, notification shall take place at an early stage of the procedure.

3. The notifications provided for in paragraph 1 should be detailed enough to permit an evaluation in the light of the interests of the other Parties.

Article 74. Co-ordination of Enforcement Activities

A Party, through its designated authority, may notify another Party of its willingness to co-ordinate enforcement activities with respect to a specific case. This co-ordination shall not prevent the Parties from taking autonomous decisions.

Article 75. Consultations

1. Each Party shall, in accordance with its laws, take into consideration the important interests of the other Parties in the course of its enforcement activities on anticompetitive business conduct relating to goods and services. If a Party considers that an investigation or proceeding being conducted by another Party may adversely affect such Party's important interests it may transmit its views on the matter to that other Party through its designated authority. Without prejudice to the continuation of any action under its competition laws and to its full freedom of ultimate decision, the Party so addressed should give full and sympathetic consideration to the views expressed by the requesting Party.

2. If a Party considers that an anti-competitive business conduct carried out within the territory of another Party may have an adverse effect on its interests, the first Party may, through its designated authority, request that that other Party initiates appropriate enforcement activities. The request shall be as specific as possible about the nature of the anti-competitive business conduct and its effect on the interest of the requesting Party, and shall include an offer of such further information and other assistance as the requesting Party is able to provide. The requested Party shall carefully consider whether to initiate enforcement activities, or to expand ongoing enforcement activities, with respect to the anti-competitive business conduct identified in the request.

3. Regarding the issues addressed in paragraphs 1 and 2 each Party undertakes to exchange information regarding sanctions and remedies applied and to provide the grounds on which those actions were taken, when requested by another Party.

4. A Party may request consultations within the Joint Committee regarding the issues addressed in paragraphs 1 and 2 as well as any other matter covered by this Chapter. Such a request shall indicate the reasons for the request and whether any procedural time limit or other constraints require that consultations be expedited.

Article 76. Exchange of Information and Confidentiality

1. With a view to facilitating the effective application of their competition laws in order to eliminate the negative effects of anti-competitive business conduct relating to goods and services, the Parties are encouraged to exchange information.

2. All exchange of information shall be subject to the rules and standards of confidentiality applicable in the territory of each Party. No Party shall be required to provide information when this is contrary to its laws regarding disclosure of information. Each Party shall maintain the confidentiality of any information provided to it according to the limitations that the submitting Party requests for the use of such information. Where the laws of a Party so provide, confidential information may be provided to their respective courts of justice.

Article 77. Public Enterprises and Enterprises Entrusted with Special or Exclusive Rights, Including Designated Monopolies

1. With regard to public enterprises and enterprises to which special or exclusive rights have been granted, the Parties shall ensure that no measure is adopted or maintained that distorts trade in goods or services between the Parties to an extent contrary to the Parties' interests and that such enterprises shall be subject to the rules of competition insofar as the application of such rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them.

2. The Parties confirm their rights and obligations under Article XVII of the GATT 1994 and Article VIII of the GATS with regard to enterprises referred to in paragraph 1.

Article 78. Dispute Settlement

No Party may have recourse to dispute settlement under this Agreement for any matter arising under this Chapter.

Article 79. Designated Authorities

For the purpose of applying Articles 73, 74 and 75, each Party shall designate its competition authority or any other public entity and communicate its decision to the other Parties at the first meeting of the Joint Committee but in no case later than 60 days after the entry into force of the Agreement.

Article 80. Definitions

For the purpose of this Chapter:

(a) "competition laws" means:

(i) for Chile, Decreto Ley N° 211 of 1973 and Ley N° 19.610 of 1999 and their implementing regulations or amendments as well as other laws dealing with competition matters;

(ii) for the Republic of Iceland, Competition Law No. 8/1993 as amended by Law No. 24/1994, 83/1997, 82/1998 and 107/2000 as well as other laws dealing with competition matters;

(iii) for the Principality of Liechtenstein, any competition rules that Liechtenstein recognises or undertakes to apply within its territory, including those provided for in other international agreements, such as the Agreement on the European Economic Area;

(iv) for the Kingdom of Norway, Act No. 65 of 11 June 1993 relating to Competition in Commercial Activity as well as other laws dealing with competition matters;

(v) for the Swiss Confederation, the Federal Act on Cartels and Other Restraints of Competition of 6 October 1995 and the Order on the Control of Business Concentration of 17 June 1996, and any regulation provided for by these acts as well as other laws dealing with competition matters, and any changes that the above mentioned legislation may undergo after the conclusion of this Agreement;

(b) "enforcement activity" includes any application of competition laws by way of investigation or proceeding conducted by a Party, which may result in the imposition of penalties or remedies.

Chapter VII. Subsidies

Article 81. Subsidies/state Aid

1. The rights and obligations of the Parties in respect of subsidies related to goods shall be governed by Article XVI of the GATT 1994 and the WTO Agreement on Subsidies and Countervailing Measures.

2. The rights and obligations of the Parties in respect of subsidies related to services shall be governed by the GATS.

3. Each Party may request information on individual cases of state aid believed to affect trade between the Parties. The requested Party will make its best efforts to provide such information.

Chapter VIII. Transparency

Article 82. Publication

1. The Parties shall publish, or otherwise make publicly available, their laws, regulations, procedures and administrative rulings of general application as well as the international agreements, that may affect the operation of this Agreement.

2. The Parties shall provide, upon request, information on matters referred to in paragraph 1.

Article 83. Contact Points and Exchange of Information

1. In order to facilitate communication between the Parties on any trade matter covered by this Agreement, each Party shall designate a contact point. On the request of any Party, the contact point of the other Parties shall indicate the office or official responsible for the matter and provide the required support to facilitate communication with the requesting Party.

2. On the request of a Party, each Party shall provide information and reply to any question from the other Parties relating to an actual measure that may affect the operation of this Agreement. The Parties shall make information on proposed measures available to the extent possible under their domestic laws and regulations.

3. The information referred to under this Article shall be considered to have been provided when the information has been made available by appropriate notification to the WTO or when the information has been made available on the official, publicly and fee-free accessible website of the Party concerned.

Article 84. Cooperation on Increased Transparency

The Parties agree to cooperate in bilateral and multilateral fora on ways to increase transparency in trade matters.

Chapter IX. Administration of the Agreement

Article 85. The Joint Committee

1. The Parties hereby establish the EFTA-Chile Joint Committee, comprising Ministers of each Party, or senior officials delegated by them for this purpose.

2. The Joint Committee shall:

(a) supervise the implementation of this Agreement and evaluate the results obtained in its application;

(b) oversee the further elaboration of this Agreement;

(c) endeavour to resolve disputes that may arise regarding the interpretation or application of this Agreement;

(d) supervise the work of the sub-committees and working groups established or created under this Agreement; and

(e) carry out any other function assigned to it under this Agreement.

3. The Joint Committee may decide to set up such sub-committees and working groups as it considers necessary to assist it in accomplishing its tasks. The Joint Committee may seek the advice of non-governmental persons and groups.

4. The Joint Committee shall establish its rules of procedure. (11) It may take decisions as provided for in this Agreement. On other matters the Joint Committee may make recommendations. The Joint Committee shall take decisions and make recommendations by consensus.

5. Subject to the provisions set out in Annex XV, the Joint Committee may amend the Annexes and the Appendices to this Agreement.

6. The Joint Committee shall meet whenever necessary but normally every two years. The regular meetings of the Joint Committee shall alternate between Chile and an EFTA State.

7. Each Party may request at any time, through a notice in writing to the other Parties, that a special meeting of the Joint Committee be held. Such a meeting shall take place within 30 days of receipt of the request, unless the Parties agree otherwise.

(11) Rules of procedure were adopted by Joint Committee Decision No. 1 of 2006 (31 January 2006).

Article 86. The Secretariat

1. The Parties hereby establish a Secretariat of this Agreement, comprising the competent organs referred to in Annex XVI.

2. All communications to or by a Party shall be sent through the respective competent organs unless otherwise provided for in this Agreement.

Chapter X. Dispute Settlement

Article 87. Scope

1. This Chapter shall apply with respect to the avoidance or the settlement of all disputes arising from this Agreement between one or several EFTA States and Chile.

2. The Parties shall at all times endeavour to agree on the interpretation and application of this Agreement, and shall make every attempt through co-operation and consultations to arrive at a mutually satisfactory resolution of any matter that might affect its operation.

3. This Chapter shall not apply to Articles 14(2), 16(1), 17(1), 18(3), 20, 24(1) and 81(1) and (2).

Article 88. Choice of Forum

1. Disputes on the same matter arising under both this Agreement and the WTO Agreement, or any agreement negotiated thereunder, to which the Parties are party, may be settled in either forum at the discretion of the complaining Party. The forum thus selected shall be used to the exclusion of the other.

2. Once dispute settlement procedures have been initiated under this Agreement pursuant to Article 91 or dispute settlement proceedings have been initiated under the WTO Agreement, the forum selected shall be used to the exclusion of the other.

3. For the purposes of this Article, dispute settlement proceedings under the WTO Agreement are deemed to be initiated by a Party's request for the establishment of a panel pursuant to Article 6 of the Understanding on Rules and Procedures Governing the Settlement of Disputes.

4. Before a Party initiates dispute settlement proceedings under the WTO Agreement against another Party or Parties, that Party shall notify all other Parties of its intention.

Article 89. Good Offices, Conciliation or Mediation

1. Good offices, conciliation and mediation are procedures that are undertaken voluntarily if the Parties involved so agree. They may begin at any time and be terminated at any time.

2. Proceedings involving good offices, conciliation and mediation shall be confidential and without prejudice to the rights of the Parties in any other proceedings.

Article 90. Consultations

1. A Party may request in writing consultations with another Party whenever it considers that a measure applied by that Party is inconsistent with this Agreement or that any benefit accruing to it directly or indirectly under this Agreement is impaired by such measure. The Party requesting consultations shall at the same time notify the other Parties in writing thereof. Consultations shall take place before the Joint Committee unless the Party or Parties making or receiving the request for consultations disagree.

2. Consultations shall be held within 30 days from the date of receipt of the request for consultations. Consultations on urgent matters, including those on perishable agricultural goods, shall commence within 15 days from the receipt of the request for consultations.

3. The Parties involved in the consultations shall provide sufficient information to enable a full examination of how the measure is inconsistent with, or may impair the benefit accruing to them under this Agreement and treat any confidential or proprietary information exchanged in the course of consultations in the same manner as the Party providing the information.

4. The consultations shall be confidential and without prejudice to the rights of the Parties involved in any further proceedings.

5. The Parties involved in the consultations shall inform the other Parties of any mutually agreed resolution of the matter.

Article 91. Establishment of Arbitration Panel

1. If the matter has not been resolved within 60 days, or 30 days in relation to a matter of urgency, after the date of receipt of the request for consultations, it may be referred to arbitration by one or more of the Parties involved by means of a written notification addressed to the Party or Parties complained against. A copy of this notification shall also be communicated to all Parties so that each Party may determine whether to participate in the dispute.

2. Where more than one Party requests the establishment of an arbitration panel relating to the same matter, a single arbitration panel should be established to examine these complaints whenever feasible.

3. A request for arbitration shall give the reason for the complaint including the identification of the measure at issue and an indication of the legal basis of the complaint.

4. A Party to this Agreement which is not a Party to the dispute, on delivery of a written notice to the disputing Parties, shall be entitled to make written submissions to the arbitration panel, receive written submissions of the disputing Parties, attend all hearings and make oral submissions.

Article 92. Arbitration Panel

1. The arbitration panel shall comprise three members.

2. In the written notification pursuant to Article 91, the Party or the Parties referring the dispute to arbitration shall designate one member of the arbitration panel.

3. Within 15 days of the receipt of the notification referred to in paragraph 2, the Party or Parties to which it was addressed to shall designate one member of the arbitration panel.

4. The Parties to the dispute shall agree on the appointment of the third arbitrator within 15 days of the appointment of the second arbitrator. The member thus appointed shall chair the arbitration panel.

5. If all 3 members have not been designated or appointed within 30 days from the date of receipt of the notification referred to in paragraph 2, the necessary designations shall be made at the request of any Party to the dispute by the Director-General of the WTO within a further 30 days.

6. The Chair of the arbitration panel shall not be a national of any of the Parties, nor have his or her usual place of residence in the territory of any of the Parties, nor be employed or previously have been employed by any of the Parties, nor have dealt with the case in any capacity.

7. If an arbitrator dies, withdraws or is removed, a replacement shall be selected within 15 days in accordance with the selection procedure followed to select him or her. In such a case, any time period applicable to the arbitration panel proceedings shall be suspended for a period beginning on the date the arbitrator dies, withdraws or is removed and ending on the date the replacement is selected.

8. The date of establishment of the arbitration panel shall be the date on which the Chair is appointed.

Article 93. Procedures of the Arbitration Panel

1. Unless the Parties to the dispute agree otherwise, the arbitration panel proceedings shall be conducted in accordance with the Model Rules of Procedure set out at Annex XVII.

2. Unless the Parties to the dispute otherwise agree within 10 days from the date of delivery of the request for the establishment of the arbitration panel, the terms of reference shall be:

"To examine, in the light of the relevant provisions of the Agreement, the matter referred to in the request for the establishment of an arbitration panel pursuant to Article 91 and to make findings of law and fact together with the reasons therefore for the resolution of the dispute."

3. At the request of a Party to the dispute or on its own initiative, the arbitration panel may seek scientific information and technical advice from experts as it deems appropriate. Any information so obtained shall be submitted to the Parties for comments.

4. The arbitration panel shall make its ruling based on the provisions of this Agreement, in particular in the light of its objectives as set out in Article 2, applied and interpreted in accordance with the rules of interpretation of public international law.

5. Decisions of the arbitration panel shall be taken by a majority of its members. Arbitrators may furnish separate opinions

on matters not unanimously agreed. No arbitration panel may disclose which arbitrators are associated with majority or minority opinions.

6. The expenses of the arbitration panel, including the remuneration of its members, shall be borne by the Parties to the dispute in equal shares.

Article 94. Ruling

1. The arbitration panel shall within 90 days from the date of the establishment of the arbitration panel present to the Parties to the dispute its ruling.

2. The arbitration panel shall base its ruling on the submissions and arguments of the Parties to the dispute and on any scientific information and technical advice pursuant to Article 93(3).

3. Unless the Parties to the dispute decide otherwise, the ruling shall be published 15 days after it is presented to them.

Article 95. Termination of Arbitration Panel Proceedings

A complaining Party may withdraw its complaint at any time before the ruling has been issued. Such withdrawal is without prejudice to its right to introduce a new complaint regarding the same issue at a later point in time.

Article 96. Implementation of Arbitration Panel Rulings

1. The ruling shall be final and binding on the Parties to the dispute. Each Party to the dispute shall be bound to take the measures necessary to comply with the ruling referred to in Article 94.

2. The Parties to the dispute shall endeavour to agree on the specific measures that are required for complying with the ruling.

3. The Party complained against shall notify the other Party within 30 days after the ruling has been transmitted to the Parties to the dispute:

(a) the specific measures required for complying with the ruling;

(b) the reasonable period of time to do so; and

(c) a concrete proposal of a temporary compensation until the full implementation of the specific measures required for compliance with the ruling.

4. In case of disagreement between the Parties to the dispute on the content of such notification, the complaining Party may request the original arbitration panel to rule on whether the proposed measures referred to under paragraph 3(a) are in compliance with the ruling, on the duration of the period of time and on whether the compensation proposal is manifestly disproportionate. The ruling shall be given within 45 days after that request.

5. The Party or Parties concerned shall notify to the other Party or Parties to the dispute and the Joint Committee the measures adopted in order to implement the ruling before the expiry of the reasonable period of time determined in accordance with paragraph 4. Upon that notification, any Party to the dispute may request the original arbitration panel to rule on the conformity of those measures with the ruling. The ruling of the arbitration panel shall be given within 45 days from that request.

6. If the Party or Parties concerned fails to notify the implementing measures before the expiry of the reasonable period of time determined in accordance with paragraph 4, or if the arbitration panel rules that the implementing measures notified by the Party or Parties concerned are not in compliance with the ruling, such Party or Parties shall, if so requested by the complaining Party or Parties, enter into consultations with a view to agree on a mutually acceptable compensation. If no such agreement has been reached within 20 days from the request, the complaining Party or Parties shall be entitled to suspend only the application of benefits granted under this Agreement equivalent to those affected by the measure found to be inconsistent with, or to impair benefits under, this Agreement.

7. In considering what benefits to suspend, the complaining Party or Parties should first seek to suspend benefits in the same sector12 or sectors as that affected by the measure that the arbitration panel has found to be inconsistent with, or to impair benefits under, this Agreement. The complaining Party or Parties that consider it is not practicable or effective to suspend benefits in the same sector or sectors may suspend benefits in other sectors.

8. The complaining Party or Parties shall notify the other Party or Parties of the benefits which it intends to suspend no later than 60 days before the date on which the suspension is due to take effect. Within 15 days from that notification, any of the Parties to the dispute may request the original arbitration panel to rule on whether the benefits which the complaining Party or Parties intend to suspend are equivalent to those affected by the measure found to be inconsistent with, or to impair benefits under, this Agreement, and whether the proposed suspension is in accordance with paragraphs 6 and 7. The ruling of the arbitration panel shall be given within 45 days from that request. Benefits shall not be suspended until the arbitration panel has issued its ruling.

9. The suspension of benefits shall be temporary and shall only be applied by the complaining Party or Parties until the measure found to be inconsistent with, or to impair benefits under, this Agreement has been withdrawn or amended so as to bring it For the purpose of this Article, with respect to goods ‘sector' shall mean goods classified in Chapters 1 to 97 of the HS. into conformity with this Agreement, or the Parties to the dispute have reached agreement on a resolution of the dispute.

10. At the request of any of the Parties to the dispute, the original arbitration panel shall decide on the conformity with the ruling of any implementing measures adopted after the suspension of benefits and, in light of such ruling, whether the suspension of benefits should be terminated or modified. The ruling of the arbitration panel shall be given within 30 days from the date of that request.

11. The rulings provided for in this Article shall be binding.

Article 97. Other Provisions

1. Any time period mentioned in this Chapter may be extended by mutual agreement of the Parties involved.

2. Hearings of the arbitration panels shall be closed to the public, unless the Parties decide otherwise.

Chapter XI. General Exceptions

Article 98. Balance of Payments Difficulties

1. Where a Party is in serious balance of payments and external financial difficulties, or under threat thereof, it may adopt or maintain restrictive measures with regard to trade in goods and in services and with regard to payments and capital movements, including those related to direct investment.

2. The Parties shall endeavour to avoid the application of the restrictive measures referred to in paragraph 1.

3. Any restrictive measure adopted or maintained under this Article shall be nondiscriminatory and of limited duration and shall not go beyond what is necessary to remedy the balance of payments and external financial situation. Such a measure shall be in accordance with the conditions established in the WTO Agreements and consistent with the Articles of Agreement of the International Monetary Fund, as applicable.

4. The Party maintaining or having adopted restrictive measures, or any changes thereto, shall promptly notify them to the other Parties and present, as soon as possible, a time schedule for their removal.

5. The Party applying restrictive measures shall consult promptly within the Joint Committee. Such consultations shall assess the balance of payments situation of the Party concerned and the restrictions adopted or maintained under this Article, taking into account, inter alia, such factors as:

(a) the nature and extent of the balance of payments and the external financial difficulties;

(b) the external economic and trading environment of the consulting Party;

(c) alternative corrective measures which may be available.

The consultations shall address the compliance of any restrictive measures with paragraphs 3 and 4. All findings of statistical and other facts presented by the International Monetary Fund relating to foreign exchange, monetary reserves and balance of payments shall be accepted and conclusions shall be based on the assessment by the International Monetary Fund of the balance of payments and the external financial situation of the consulting Party.

Article 99. National Security Clause

1. Nothing in this Agreement shall be construed:

(a) to require a Party to furnish any information the disclosure of which it considers contrary to its essential security interests;

(b) to prevent a Party from taking any action which it considers necessary for the protection of its essential security interests

(i) relating to fissionable and fusionable materials or the materials from which they are derived;

(ii) relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials or relating to the supply of services, as carried on directly or indirectly for the purpose of supplying or provisioning a military establishment;

(iii) relating to the government procurement of arms, ammunition or war materials or procurement indispensable for national security or for national defense purposes; or

(iv) taken in time of war or other emergency in international relations; or

(c) to prevent a Party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

2. The Joint Committee shall be informed to the fullest extent possible of measures taken under paragraphs 1(b) and (c) and of their termination.

Article 100. Taxation

1. Nothing in this Agreement shall apply to taxation measures except:

(a) Article 15, and such other provisions of this Agreement as are necessary to give effect to that Article to the same extent as does Article III of the GATT 1994; and

(b) with regard to taxation measures applicable in Section I of Chapter III, where Article XIV of the GATS applies.

2. Nothing in this Agreement shall affect the rights and obligations of any 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.

Chapter XII. Final Provisions

Article 101. Definitions

For the purposes of this Agreement, unless otherwise specified:

"days" means calendar days;

"measure" includes inter alia any law, regulation, procedure, requirement or practice; and

"Party" means any State regarding which this Agreement has entered into force.

Article 102. Annexes and Appendices

The Annexes and Appendices to this Agreement constitute an integral part thereof.

Article 103. Amendments

1. The Parties may agree on any amendment to this Agreement. Unless the Parties decide otherwise, the amendments shall enter into force on the first day of the third month following the deposit of the last instrument of ratification, acceptance or approval.

2. Notwithstanding paragraph 1, with respect to decisions of the Joint Committee amending the Annexes and Appendices to this Agreement, Article 85(5) shall apply. Such decisions shall enter into force on the date that the last Party notifies that its internal requirements have been fulfilled, unless the decision itself specifies a later date. The Joint Committee may decide that any decision shall enter into force for those Parties that have fulfilled their internal requirements, provided that Chile is

one of those Parties. An EFTA State may apply a decision of the Joint Committee provisionally until such decision enters into force, subject to its constitutional requirements.

3. The text of the amendments shall be deposited with the Depositary.

Article 104. Additional Parties

Any third State may, upon invitation by the Joint Committee, become a Party to this Agreement. The terms and conditions of the accession of the additional Party shall be the subject of an agreement between the Parties and the invited State.

Article 105. Withdrawal and Termination

1. Any Party to this Agreement may withdraw therefrom by means of a written notification to the Depositary. The withdrawal shall take effect on the first day of the sixth month after the date on which the notification was received by the Depositary.

2. If one of the EFTA States withdraws from this Agreement, a meeting of the remaining Parties shall be convened to discuss the issue of the continued existence of this Agreement.

Article 106. Entry Into Force

1. This Agreement is subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Depositary.

2. This Agreement shall enter into force on 1 February 2004 in relation to those Signatory States which by then have ratified, accepted or approved the Agreement, provided they have deposited their instruments of ratification, acceptance or approval with the Depositary at least 30 days before the date of entry into force, and provided that Chile is among the States that have deposited their instruments of ratification, acceptance or approval.

3. In case this Agreement does not enter into force on 1 February 2004, it shall enter into force on the first day of the first month following the latter deposit of the instruments of ratification, acceptance or approval by Chile and at least one EFTA State.

4. In relation to an EFTA State depositing its instrument of ratification, acceptance or approval after this Agreement has entered into force, this Agreement shall enter into force on the first day of the third month following the deposit of its instrument.

5. If its constitutional requirements permit, any EFTA State may apply this Agreement provisionally. Provisional application of this Agreement under this paragraph shall be notified to the Depositary.

Article 107. Relation to the Complementary Agreements

1. The complementary agreement on trade in agricultural goods between an EFTA State and Chile referred to in Article 1 shall enter into force on the same date for that EFTA State and Chile as this Agreement enters into force. The complementary agreement shall remain in force as long as the Parties to it remain Parties to this Agreement.

2. If an EFTA State or Chile withdraws from the complementary agreement, this Agreement shall terminate between that EFTA State and Chile on the same date as the withdrawal from the complementary agreement becomes effective.

Article 108. Depositary

The Government of Norway shall act as Depositary.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto, have signed this Agreement. Done at Kristiansand, this 26th day of June 2003, in a single authentic copy in the English language which shall be deposited with the Government of Norway. The Government of Norway shall transmit certified copies to all Signatory States to this Agreement.

For the Republic of Iceland

For the Republic of Chile

For the Principality of Liechtenstein

For the Kingdom of Norway

For the Swiss Confederation

Annex X. REFERRED TO IN ARTICLE 35. RESERVATIONS

Appendix 1. Reservations by Chile

Sector: All sectors

Subsector:

Level of Government: National

Legal source or authority of the measures:

Decreto Ley 1939, Diario Oficial, noviembre 10, 1977, Normas sobre Adquisición, Administración y Disposición de Bienes del Estado, Título I

Decreto con Fuerza de Ley 4 del Ministerio de Relaciones Exteriores, Diario Oficial, noviembre 10, 1967

Succinct description of the measure:

Chile may only dispose of the ownership or other rights over "State land" to Chilean natural or juridical persons, unless the applicable legal exceptions, such as in Decreto Ley 1939, apply. "State land" for these purposes refers to State-owned land up to a distance of 10 kilometers from the border and up to a distance of 5 kilometers from the coastline. Corporeal immovable property situated in areas declared the borderland zone by virtue of Decreto con Fuerza de Ley 4, 1967, of the Ministerio de Relaciones Exteriores may not be acquired, either as property or in any other title, by (1) natural persons with nationality in a neighboring country; (2) juridical persons with their principal seat in a neighboring country; (3) juridical persons with 40 percent or more of capital owned by natural persons with nationality in a neighboring country; or (4) juridical persons effectively controlled by such natural persons.

Notwithstanding the foregoing, this limitation may not apply if an exemption is granted by a Decreto Supremo of the President of the Republic based on considerations of national interest.

Sector: All sectors

Subsector:

Level of Government: National

Legal source or authority of the measure:

Any existing or future measure as described below

Description:

Chile reserves the right to adopt or maintain any measure relating to the ownership or control of land within five kilometers of the coastline that is used for agricultural activities. Such measures could include a requirement that the majority of each class of stock of a Chilean juridical person that seeks to own or control such land be held by Chilean persons or by persons residing in Chile for 183 days or more per year.

Sector: All sectors

Subsector:

Level of Government: National

Legal source or authority of the measure:

Any existing or future measure as described below

Succinct description of the measure:

In the transfer or disposal of any interest in stock or asset held in an existing state enterprise or governmental entity, Chile reserves the right to prohibit or impose limitations on the ownership of said interest or asset, and also on the right of foreign investors or their investment to control any state company created thereby or investments made by the same. In connection with any such transfer or disposal, Chile may adopt or maintain any measure related to the nationality of senior management and members of the Board of Directors.

A "State owned company" shall mean any company owned or controlled by Chile by means of an interest share in the ownership thereof, and it shall include any company created after the effective date of this Treaty for the sole purpose of selling or disposing of its interest share in the capital or assets of an existing state enterprise or governmental entity.

Sector: Energy

Subsector:

Level of Government: National

Legal source or authority of the measures:

Constitución Política de la República de Chile, Capítulo III

Ley 18097, Diario Oficial, enero 21, 1982, Ley Orgánica Constitucional sobre Concesiones Mineras, Títulos I, II y III.

Ley 18248, Diario Oficial, octubre 14, 1983, Código de Minería , Títulos I y II.

Ley 16319, Diario Oficial octubre 23, 1965, Crea la Comisión Chilena de Energía Nuclear, Títulos I, II y III.

Succinct description of the measure:

The exploration, exploitation and treatment (beneficio) of liquid or gaseous hydrocarbons, deposits of any kind existing in sea waters subject to national jurisdiction, and deposits of any kind wholly or partially located in areas classified as important to national security with mining effects, which qualification shall be made by law only, can be the object of administrative concessions or special operating contracts, subject to the requirements and the conditions to be determined, in each case by a supreme decree of the President of the Republic. For greater certainty, it is understood that the term beneficio shall not include the storage, transportation or refining of the energy material referred to in this paragraph.

The production of nuclear energy for peaceful purposes may only be carried out by the Comisión Chilena de Energía Nuclear or, with its authorization, jointly with third persons. Should the Comisión grant such an authorization, it may determine the terms and conditions thereof.

Sector: Issues involving minorities and indigenous peoples

Subsector:

Level of Government: National

Legal source or authority of the measure:

Any existing or future measure as described below

Succinct description of the measure:

Chile reserves the right to adopt or maintain any measure according rights or preferences to socially or economically disadvantaged minorities.

Chile reserves the right to adopt or maintain any measure denying investors of the EFTA States and their investments or service providers of the EFTA States, any rights or preferences provided to indigenous peoples.

Sector: Fisheries

Subsector: Aquaculture

Level of Government: National

Legal source or authority of the measures:

Ley 18892, Diario Oficial enero 21, 1992, Ley General de Pesca y Acuicultura, Títulos I y VI.

Succinct description of the measure:

A concession or authorization is required for the use of beaches, land adjacent to beaches (terrenos de playas), water-column (porciones de agua) and sea-bed lots (fondos marinos) to engage in aquaculture activities.

Only Chilean natural or juridical persons constituted in accordance with Chilean law and foreigners with permanent residency may be holders of an authorisation or concession to carry out aquaculture activities.

Sector: Fisheries

Subsector:

Level of Government: National

Legal source or authority of the measures:

Ley 18892, Diario Oficial, enero 21, 1992, Ley General de Pesca y Acuicultura, Títulos I, III, IV y IX

Decreto Ley 2.222, Diario Oficial, mayo 31, 1978, Ley de Navegación, Títulos I y II

Succinct description of the measure:

In order to harvest and to catch hydrobiological species in interior waters, in the territorial sea and Exclusive Economic Zone of Chile, a permit issued by the Subsecretaría de Pesca is required.

Only Chilean natural persons or juridical persons constituted in accordance with Chilean law and foreigners with permanent residency may be holders of permits to harvest and to catch hydrobiological species.

Only Chilean vessels are permitted to fish in interior waters, in the Territorial seas and Chile's Exclusive Economic Zone. Chilean vessels are those defined in the Ley de Navegación. Access to industrial extractive fishing activities shall be subject to prior registration of the vessel in Chile.

Only a Chilean natural or juridical person may register a vessel in Chile. A juridical person must be constituted in Chile with principal domicile and real and effective seat in Chile with its president, manager and the majority of the directors or administrators being Chilean natural persons. In addition, more than 50 percent of its equity capital must be held by Chilean natural or juridical persons. For these purposes, a juridical person with ownership participation in another juridical person that owns a vessel has to comply with all the aforementioned requisites.

A joint ownership (comunidad) may register a vessel if the majority of the joint owners are Chilean with domicile and residency in Chile. The administrators must be Chilean natural persons and the majority of the rights of the joint ownership (comunidad) must belong to a Chilean natural or juridical person. For these purposes a juridical person with ownership participation in a joint ownership (comunidad) that owns a vessel, has to comply with all the aforementioned requisites.

An owner (natural or juridical person) of a fishing vessel registered in Chile prior to June 30, 1991, shall not be subject to the nationality requirement above mentioned.

Fishing vessels specifically authorized by the maritime authorities, pursuant to powers conferred by law in cases of reciprocity granted to Chilean vessels by other States may be exempted from the above mentioned requisites on equivalent terms provided to Chilean vessels by that State.

Access to small scale fishing activities (pesca artesanal) shall be subject to registration in the Registro de Pesca Artesanal. Registration for small scale fishing (pesca artesanal) is only granted to Chilean natural persons and foreign natural persons with permanent residency, or a Chilean juridical person constituted by the aforementioned persons.

Sector: Fisheries

Subsector: Fishing-related activities

Level of Government: National

Legal source or authority of the measures:

Any existing or future measure as described below

Succinct description of the measure:

Chile retains the right to control the activities of foreign fishing, including fish landing, first landing of fish processed at sea, and access to Chilean ports (port privileges).

Chile reserves the right to control the use of beaches, land adjacent to beaches (terenos de playas), water-columns (porciones de agua) and sea-bed lots (fondos marinos) for the issuance of maritime concessions. For greater certainty, “maritime concessions” does not include aquaculture.

Sector: Government finance

Subsector: Securities

Level of Government: National

Legal source or authority of the measure:

Any existing or future measure as described below

Succinct description of the measure:

Chile reserves the right to adopt or maintain any measure related to the acquisition, sale or disposal by EFTA States’ nationals of bonds, treasury securities or any other type of debt instruments issued by the Central Bank or the Government of Chile. This is not intended to affect the rights of EFTA States’ financial institutions (banks) established in Chile to acquire, sale or dispose such instruments when required for purposes of regulatory capital.

Sector: Mining

Subsector:

Level of Government: National

Legal source or authority of the measures:

Constitución Política de la República de Chile, Capítulo III.

Ley 18097, Diario Oficial, enero 12, 1982,Ley Orgánica Constitucional sobre Concesiones Mineras, Títulos I, II y III

Ley 18248, Diario Oficial, octubre 14, 1983, Código de Minería, Títulos I y III.

Ley 16319, Diario Oficial, octubre 23, 1965, crea la Comisión Chilena de Energía Nuclear, Títulos I, II y III

Succinct description of the measure:

The exploration, exploitation and treatment (beneficio) of lithium, deposits of any kind existing in sea waters subject to national jurisdiction, and deposits of any kind wholly or partially located in areas classified as important to national security with mining effects, which qualification shall be made by law only, can be the object of administrative concessions or special operating contracts, subject to the requirements and the conditions to be determined, in each case by a supreme decree of the President of the Republic. For greater certainty, Chile has the right of first refusal, at the customary market prices and terms, for the purchase of mineral products from mining operations in the country, when thorium or uranium are contained in significant amounts therein.

For greater certainty, Chile may demand that producers separate from mining products, the portion of substances which may not be granted in mining concessions which exist, in significant amounts, in said products, and which can be economically and technically separated, for delivery to or for sale on behalf of the State. For these purposes, economically and technically separated requires that the costs incurred to recover the substances concerned through a sound technical procedure, and to commercialize and deliver the same shall be lower than its commercial value.

Natural atomic materials and lithium extracted, and concentrates, derivatives and compounds of both of them, cannot be subject to any kind of juridical acts, unless executed or entered into by the Comisión Chilena de Energía Nuclear, or with its prior authorization. Should the Comisión grant an authorization, it shall determine, in turn, the conditions granted therein.

Sector: Printing, publishing and other related industries

Subsector:

Level of Government: National

Legal source or authority of the measures:

Ley 19733, Diario Oficial junio 4, 2001, Ley sobre las Libertades de Opinión e Información y Ejercicio del Periodismo, Títulos I y III

Succinct description of the measure:

The owner of a social communication medium such as newspapers, magazine or regularly published texts whose publishing address is located in Chile or a national news agency, shall in the case of a natural person have a duly established domicile in Chile and in the case of a juridical persons shall be constituted with domicile in Chile or have an agency authorized to operate within the national territory. Only Chilean nationals may be president, administrators or legal representatives of the juridical person. The director legally responsible and the person who replaces him or her must be Chilean with domicile and residence in Chile.

Appendix 2. Reservations by Iceland

Sector: All sectors

Sub-sector: Company Law

Level of Government: National

Legal source or authority of the measure:

Law No. 138/1994 Respecting Private Limited Companies, Law No. 2/1995 Respecting Public Limited Companies, Law No. 34/1991 on Investment by Non-Residents in Business Enterprises

Succinct description of the measure:

The majority of the founders of a private limited company or a public limited company must be resident in Iceland or another EEA (1) Member State. The Minister of Commerce can grant exemptions from these restrictions on grounds of an application.

The managers and at least half the board of directors of a private limited company or a public limited company must be residents in Iceland or another EEA Member State. The Minister of Commerce can grant exemptions from these restrictions on grounds of an application.

(1) European Economic Area

Sector: All sectors

Sub-sector: Real estate

Level of Government: National

Legal source or authority of the measure:

Law No. 19/1966 on the Right to Own and Use Real Estate, Law No. 34/1991 on Investment by Non-Residents in Business Enterprises

Succinct description of the measure:

Only Icelandic citizens and Icelandic legal entities and citizens and legal entities from another EEA Member State are allowed to own real estate in Iceland unless the ownership and use is linked to an investment in real estate pertaining to the business activity of the investor. The same applies to renting of real estate if the duration of the lease lasts for more than three years. These restrictions do not apply to a non-EEA citizen who has been residing in Iceland for at least five years. The Minister of Justice can grant exemptions from these restrictions on grounds of an application.

Sector: Fisheries

Sub-sector: Fishing, whaling

Level of Government: National

Legal source or authority of the measure:

Law No. 13/1992 on the Right to Conduct Fishing in Iceland’s Economic Zone, Law No. 34/1991 on Investment by Non-

Residents in Business Enterprises, Law No. 26/1949 on Whaling

Succinct description of the measure:

Only Icelandic citizens and Icelandic legal entities under Icelandic control are allowed to fish in the Icelandic economic zone. The same applies to whaling.

Sector: Fisheries

Sub-sector: Fish Processing

Level of Government: National

Legal source or authority of the measure:

Law No. 34/1991 on Investment by Non-Residents in Business Enterprises

Succinct description of the measure:

Only Icelandic citizens and Icelandic legal entities are allowed to own and manage enterprises engaged in fish processing in Iceland. Fish processing in this context is freezing, salting, drying and any other process used to initially preserve fish and fish products, including melting and meal processing. This reservation does not apply to secondary fish processing.

Sector: Fisheries

Subsector: Fish Auctioning

Level of Government: National

Legal source or authority of the measure:

Law No. 123/1989 on the Auctioning of Fish

Succinct description of the measure:

Only Icelandic citizens and Icelandic legal entities are allowed to own and manage enterprises engaged in fish auctioning in Iceland.

Sector: Power and Energy sector

Sub-sector: -

Level of Government: National

Legal source or authority of the measure:

Not Applicable

Succinct description of the measure:

All activities in the power and energy sector shall be treated as services under this Agreement.

Appendix 3. Reservations by Liechtenstein

Sector: All sectors

Sub-sector:

Level of Government: National

Legal source or authority of the measure:

Gewerbegesetz vom 10. Dezember 1969 (Act on Commercial Law of 10 December 1969), LR (Systematic Collection of Liechtenstein Law) 930.1 and the relevant laws with regard to categories mentioned in Article 2, paragraph 1 of that Act as well as relevant Parliament or Government decisions.

Succinct description of the measure:

The establishment of a commercial presence by a juridical person (including branches) is subject to the requirement that no objection for reasons of national economy (balanced proportion of national and foreign capital; balanced ratio of foreigners in comparison with the number of resident population; balanced ratio of total number of jobs in the economy in comparison with the number of the resident population; balanced geographic situation; balanced development of the national economy, between and within the sectors) exists.

Sector: All sectors

Sub-sector:

Level of Government: National

Legal source or authority of the measure:

Gewerbegesetz vom 10. Dezember 1969 (Commercial Law Act), Personen- und Gesellschaftsrecht vom 20. Januar 1926 (Company Law), LR 216.0

Succinct description of the measure:

The establishment of a commercial presence by an individual is subject to the requirement of prior residence during a certain period of time and of permanent domicile in Liechtenstein.

He/she must possess sector specific government-recognized professional qualifications.

The establishment of a commercial presence by a juridical person (including branches) is subject to the following requirements: At least one of the managers has to fulfil the requirements of prior residence during a certain period of time and of permanent domicile in Liechtenstein. He must possess sector specific government-recognized professional qualifications. The majority of the administrators (authorized to manage and represent the juridical person) must be residents in Liechtenstein and have either to be Liechtenstein citizens or have prior residence during a certain period of time in Liechtenstein. The general and the limited partnership have to fulfil the same conditions as corporations with limited liability (juridical person). In addition the majority of the associates have to be Liechtenstein citizens or to have prior residence during a certain period of time in Liechtenstein.

The Liechtenstein company law does not prohibit joint stock companies from foreseeing in their articles of incorporation the preclusion or limitation of the transfer of registered shares.

Sector: All sectors

Subsector:

Level of Government: National

Legal source or authority of the measure:

Agreement on the European Economic Area of 2 May 1992 (EEA Agreement)

Succinct description of the measure:

Treatment accorded to subsidiaries of third-country companies formed in accordance with the law of an EEA Member State and having registered office, central administration or principal place of business within an EEA Member State is not extended to branches or agencies established in an EEA Member State by a third-country company.

Treatment less favourable may be accorded to subsidiaries of third countries having only their registered office in the territory of an EEA Member State unless they show that they possess an effective and continuous link with the economy of one of the EEA Member States.

Sector: All sectors

Subsector:

Level of Government: National and Sub-national

Legal source or authority of the measure:

Grundverkehrsgesetz vom 9. Dezember 1992 (Law on the acquisition of real estate of 9 December 1992), LR 214.11

Succinct description of the measure:

All acquisitions of real estate are subject to authorization. Such authorization is granted only if an actual and proven requirement for living or business purposes is given and a certain period of residence has been completed. Non-residents are excluded from the acquisition of real estate.

Sector: Power and Energy sector

Sub-sector: -

Level of Government: National

Legal source or authority of the measure:

Not Applicable

Succinct description of the measure:

All activities in the power and energy sector shall be treated as services under this Agreement.

Appendix 4. Reservations by Norway

Sector: All sectors

Sub-sector: -

Level of Government: National

Legal source or authority of the measure:

Companies Act of 13 June 1997 No 44 (aksjeloven) and Joint Stock Public Companies Act of 13 June 1997, No 45 (allmennaksjeselskapsloven)

Succinct description of the measure:

The general manager in a joint stock company and at least half of the members of the board of directors and of the corporate assembly must be residents of Norway. The residency criteria do not apply to nationals of an EEA Member State who are permanent residents of one of these States. The Ministry of Trade and Industry may grant exemptions from this provision.

Sector: Power and Energy sector

Repair of Transport Equipment sector

Sub-sector: -

Level of Government: National and Sub-national

Legal source or authority of the measure:

Not Applicable

Succinct description of the measure:

All activities in the power and energy sector as well as in the repair of transport equipment sector shall be treated as services under this Agreement.

Sector: Real estate

Sub-sector: Secondary residences

Level of Government: National

Legal source or authority of the measure:

Concessions Act of 31 May 1974, No. 19

Succinct description of the measure:

Acquisition or leasing of secondary residences by non-residents is subject to a concession.

Sector: Fishing and fish processing

Subsector: -

Level of Government:

Legal source or authority of the measure:

Regulation of Participation in Fishing Act of 16 June 1972, No 57

Economic Zone Act of 17 December 1976, No 91

The Fishing Limit Act of 17 June 1966, No 19

Succinct description of the measure:

A concession to acquire a fishing vessel or share in a company which owns such vessels can only be given to a Norwegian citizen or a body that can be defined as a Norwegian citizen. A company is regarded as having equal rights with a Norwegian citizen when its main office is situated in Norway and the majority of the Board, including the Chair of the Board, are Norwegian citizens and have stayed in the country the last two years. Norwegian citizens also have to own a minimum of 60% of the shares and have to be authorised to vote for at least 60% of the votes.

Ownership to the fishing fleet shall be reserved for professional fishermen. To obtain the right to own a fishing vessel, one has to have a record of active, professional fishing on a Norwegian fishing boat for at least three of the last five years.

It is prohibited for other persons than Norwegian nationals or companies, as defined above, to process, pack or transship fish, crustaceans and molluscs or parts and products of these inside the fishing limits of the Norwegian Economic Zone. This applies to catches from both Norwegian and foreign vessels. Exceptions are granted under special circumstances.

Appendix 5. Reservations by Switzerland

Sector: All sectors

Sub-sector: -

Level of Government: National

Legal source or authority of the measure:

Federal Act of 30 March 1911 (Code of Obligations) supplementing the Swiss Civil Code (Systematic Collection of Federal Laws and Regulations [RS], No. 220)

Succinct description of the measure:

- The vast majority of companies in Switzerland are organized as corporations (Société anonyme [SA] – Aktiengesellschaft [AG]), featuring a predetermined capital and shareholders' liability limited to the nominal capital invested. Of the members of the board of directors of a Swiss corporation, the majority must be Swiss citizens residing in Switzerland. Exceptions are possible in the case of holding companies.

- Limited liability companies (Société à responsabilité limité [Sàrl] – Gesellschaft mit beschränkter Haftung [GmbH]) are characterized by a limited capital divided into quotas. In a limited liability company, at least one managing officer must be residing in Switzerland.

- A foreign company may also establish one or several branch offices in Switzerland. At least one representative of a branch office must be residing in Switzerland.

Sector: All sectors

Sub-sector: Real estate

Level of Government: National and sub-national

Legal source or authority of the measure:

Federal Act of 16 December 1983 on the Acquisition of Real Estate by Persons Abroad (RS 211.412.41)

Succinct description of the measure:

Foreign nationals not residing in Switzerland and companies established, or controlled from, abroad are not allowed to invest in the residential property market (except for residential property directly linked to a business presence) and in agricultural real estate. For the acquisition of vacation homes, a cantonal permit is required.

Sector: Energy

Sub-sector: Oil Prospection and Exploitation

Level of Government: Sub-national

Legal source or authority of the measure:

Concordat of 24 September 1955 on Oil Prospecting and Exploitation (RS 931.1)

Succinct description of the measure:

This intercantonal agreement (among 10 cantons) stipulates that oil concessions may be granted only to companies that are at least 75 percent Swiss-owned. Other cantons apply similar restrictions.

Sector: Energy

Sub-sector: Nuclear energy

Level of Government: National

Legal source or authority of the measure:

Federal Act of 23 December 1959 on the Peaceful Uses of Atomic Energy, (RS 732.0); Federal Decree of 8 October 1978 relative to the Atomic Energy Act (RS 732.01)

Succinct description of the measure:

Authorization to construct and operate nuclear facilities is granted only to Swiss citizens domiciled in Switzerland and legal persons that are subject to Swiss law, headquartered in Switzerland and Swiss-owned.

Sector: Energy

Sub-sector: Hydroelectric power

Level of Government: National

Legal source or authority of the measure:

Federal Act of 22 December 1916 on the Uses of Hydroelectric Power, (RS 721.80)

Succinct description of the measure:

When granting concessions, cantons take public interest considerations into account (they may in particular require the concession-holder to have its registered office in the relevant canton).

Sector: Energy

Sub-sector: Pipelines

Level of Government: National

Legal source or authority of the measure:

Federal Act of 4 October 1963 on Pipelines for Liquid or Gaseous Fuels (RS 746.1)

Succinct description of the measure:

For foreign-owned or controlled companies a registered office and management presence in Switzerland is required.

Appendix 6. Reservations by All Parties

Sector: Social services

Subsector:

Level of Government: National

Legal source or authority of the measure:

Any existing or future measure as described below

Succinct description of the measure:

All Parties reserve the right to adopt or maintain any measure with respect to the provision of public law enforcement and correctional services, and the following services to the extent that they are social services established or maintained for reasons of public interest: income security or insurance, social security or insurance, social welfare, public education, public training, health care and child care.

Appendix 7. Reservations by the EFTA States

Sector: All sectors

Sub-sector: -

Level of Government: National and sub-national

Legal source or authority of the measure:

Not applicable

Succinct description of the measure:

Collective copyright or neighbouring rights' management systems; royalties, levies, grants and funds, designed to preserve and promote linguistic and cultural diversity.

ANNEX XV. REFERRED TO IN ARTICLE 85. DECISIONS OF THE JOINT COMMITTEE

1. In the case of Chile, the decisions of the Joint Committee shall be implemented by means of Executive Agreements, in accordance with the purposes of this Agreement, and in conformity with article 50 N° 1, second paragraph, of the Political Constitution of the Republic of Chile, when such decisions concern:

(i) Annex I;

(ii) the tariff elimination schedules established in Annexes IV and VI in order to accelerate the tariff liberalisation of trade in goods or add new products;

(iii) the schedules of specific commitments undertaken, set out Annex VIII; and

(iv) Annexes XIII and XIV.

2. In the case of the EFTA States, the final acceptance of a decision of the Joint Committee may be subject to the fulfillment of their respective constitutional requirements.

ANNEX XVI. REFERRED TO IN ARTICLE 86. SECRETARIAT

For the purposes of Article 86 of this Agreement, the competent organs of the Parties are:

(a) for Chile, the General Directorate of International Economic Affairs of the Ministry of Foreign Affairs (Dirección General de Relaciones Económicas Internacionales del Ministerio de Relaciones Exteriores), or its successor,

and

(b) for the EFTA States, the EFTA Secretariat.

ANNEX XVII. REFERRED TO IN ARTICLE 93. MODEL RULES OF PROCEDURE FOR THE CONDUCT OF ARBITRATION PANELS

General provisions

1. In these rules:

“adviser” means a person retained by a Party to advise or assist that Party in connection with the arbitration panel proceeding;

“complaining Party” means any Party that requests the establishment of an arbitration panel under Article 91 of this Agreement;

“arbitration panel” means an arbitration panel established pursuant to Article 92 of this Agreement;

“representative of a Party” means an employee or any person appointed by a government department or agency or of any other government entity of a Party; and

“Party or Parties” means the Party or Parties to the dispute.

2. The Party complained against shall be in charge of the logistical administration of dispute settlement proceedings, in particular the organisation of hearings, unless otherwise agreed.

Notifications

3. Any request, notice, written submissions or other document shall be delivered by either Party or the arbitration panel by delivery against receipt, registered post, courier, facsimile transmission, telex, telegram or any other means of telecommunication that provides a record of the sending thereof.

4. A Party shall provide a copy of each of its written submissions to the other Party and to each of the arbitrators. A copy of the document shall also be provided in electronic format.

5. All notifications shall be made and delivered to Chile and the EFTA State Party.

6. Minor errors of a clerical nature in any request, notice, written submission or other document related to the arbitration panel proceeding may be corrected by delivery of a new document clearly indicating the changes.

7. If the last day for delivery of a document falls on a legal holiday of a Party, the document may be delivered on the next business day.

Commencing the arbitration

8. Unless the Parties otherwise agree, they shall meet with the arbitration panel within seven days following the date of the establishment of the arbitration panel in order to determine such matters that the Parties or the arbitration panel deem appropriate, including the remuneration and expenses that shall be paid to the arbitrators, which normally shall conform to the WTO standards.

Initial submissions

9. The complaining Party shall deliver its initial written submission no later than 20 days after the date of establishment of the arbitration panel. The Party complained against shall deliver its written counter-submission no later than 20 days after the date of delivery of the initial written submission.

Operation of arbitration panels

10. The chair of the arbitration panel shall preside at all of its meetings. An arbitration panel may delegate to the chair authority to make administrative and procedural decisions.

11. Except as otherwise provided in these rules, the arbitration panel may conduct its activities by any means, including telephone, facsimile transmissions or computer links.

12. Only arbitrators may take part in the deliberations of the arbitration panel but the arbitration panel may permit their assistants to be present during such deliberations.

13. The drafting of any decision and ruling shall remain the exclusive responsibility of the arbitration panel.

14. Where a procedural question arises that is not covered by these rules, an arbitration panel may adopt an appropriate procedure that is not inconsistent with this Agreement.

15. When the arbitration panel considers that there is a need to modify any time period applicable in the proceeding, or to make any other procedural or administrative adjustment in the proceeding, it shall inform the Parties in writing of the

reasons for the modification or adjustment with the indication of the period or adjustment needed.

Hearings

16. The chair shall fix the date and time of the hearing in consultation with the Parties and the other members of the arbitration panel. It shall notify in writing to the Parties of the date, time and location of the hearing. That information shall also be made publicly available by the Party in charge of the logistical administration of the proceeding when the hearing is open to the public. Unless the Parties disagree, the arbitration panel may decide not to convene a hearing.

17. Unless the Parties otherwise agree, the hearing shall be held in Geneva, where the complaining Party is Chile, or in Santiago, where the complaining Party is an EFTA State.

18. The arbitration panel may convene additional hearings if the Parties so agree.

19. All arbitrators shall be present at hearings.

20. The following persons may attend the hearing, irrespective of whether the proceedings are open to the public or not:

(a) representatives of a Party;

(b) advisers to a Party;

(c) administration personnel, interpreters, translators and court reporters; and

(d) arbitrators' assistants.

Only the representative and advisor of a Party may address the arbitration panel.

21. No later than five days before the date of a hearing, each Party shall deliver a list of the names of those persons who will make oral arguments or presentations at the hearing on behalf of that Party and of other representatives or advisers who will be attending the hearing.

22. The hearings of the arbitration panels shall be closed to the public, unless the Parties decide otherwise. If the Parties decide that the hearing is open to the public, part of the hearing may however be closed to the public, if the arbitration panel, on application by the Parties, so decides for serious reasons. In particular, the arbitration panel shall meet in closed sessions when the submission and arguments of a Party contain business confidential information.

23. The arbitration panel shall conduct the hearing in the following manner, ensuring that the complaining Party and the Party complained against are afforded equal time:

Argument

(a) argument of the complaining Party.

(b) argument of the Party complained against.

Rebuttal Argument

(a) reply of the complaining Party.

(b) counter-reply of the Party complained against.

24. The arbitration panel may direct questions to either Party at any time during a hearing.

25. The arbitration panel shall arrange for a transcript of each hearing to be prepared and shall, as soon as possible after it is prepared, deliver a copy of the transcript to the Parties.

26. Within 10 days after the date of the hearing, each Party may deliver a supplementary written submission responding to any matter that arose during the hearing.

Questions in writing

27. The arbitration panel may at any time during the proceedings address questions in writing to one or both Parties. The arbitration panel shall deliver the written questions to the

Party or Parties to whom the questions are addressed.

28. A Party to whom the arbitration panel addresses written questions shall deliver a copy of any written reply to the other

Party and to the arbitration panel. Each Party shall be given the opportunity to provide written comments on the reply within five days after the date of delivery.

Confidentiality

29. The Parties shall maintain the confidentiality of the panel's hearings, to the extent that the panel holds the hearing in closed session under rule 22. Each Party shall treat as confidential the information submitted by the other Party to the arbitration panel which that Party has designated as confidential. Where a Party submits a confidential version of its written submissions to the panel, it shall also, upon request of the other Party, provide a nonconfidential summary of the information contained in its submissions that could be disclosed to the public, no later than 15 days after the date of either the request or the submission, whichever is later. Nothing in these rules shall preclude a Party from disclosing statements of its own positions to the public.

Ex parte contacts

30. The arbitration panel shall not meet or contact a Party in the absence of the other Party.

31. No arbitrator may discuss an aspect of the subject matter of the proceeding with a Party or both Parties in the absence of the other arbitrators.

Role of experts

32. Upon request of a Party or on its own initiative, the arbitration panel may obtain information and technical advice from any person or body that it deems appropriate. Any information so obtained shall be submitted to the Parties for comments.

33. When a request is made for a written report of an expert, any time period applicable to the arbitration panel proceeding shall be suspended for a period beginning on the date of delivery of the request and ending on the date the report is delivered to the arbitration panel.

Amicus curiae submissions

34. Unless the Parties otherwise agree within three days following the date of the establishment of the arbitration panel, the arbitration panel may receive unsolicited written submissions, provided that they are made within 10 days following the date of the establishment of the arbitration panel, that they are concise and in no case longer than 15 typed pages, included any annexes, and that they are directly relevant to the factual and legal issue under consideration by the panel.

35. The submission shall contain a description of the person, whether natural or legal, making the submission, including the nature of its activities and the source of its financing, and specify the nature of the interest that that person has in the arbitration proceeding. It shall be made in English and Spanish languages.

36. The arbitration panel shall list in its ruling all the submissions that it has received and that conform to the provisions of the above rules. The arbitration panel shall not be obliged to address, in its ruling, the factual or legal arguments made in such submissions. Any submission obtained by the arbitration panel under this rule shall be submitted to the Parties for comments.

Cases of urgency

37. In cases of urgency referred to in Article 91(1) of this Agreement, the arbitration panel shall appropriately adjust the time periods mentioned to in these rules.

Translation and interpretation

38. Subject to agreement by the Parties, the languages used in the proceedings of the arbitration panel shall be English and Spanish. This shall apply to all oral or written submissions.

39. Each Party shall arrange for and bear the costs of the translation of its written submissions into the languages of the arbitration panel.

40. The arbitration panel may suspend the proceeding for the time necessary to allow a Party to complete a translation.

41. The Party complained against shall arrange for the interpretation of oral submissions into English and Spanish languages.

42. Arbitration panel rulings shall be issued in English and Spanish languages.

43. The costs incurred to prepare a translation of an arbitration panel ruling shall be borne equally by the Parties.

44. Any Party may provide comments on a translated version of a document that is prepared in accordance with these rules.

Computation of time

45. Where anything under this Agreement or these rules is to be done, or the arbitration panel requires anything to be done, within a number of days after, before or of a specified date or event, the specified date or the date on which the specified event occurs shall not be included in calculating that number of days.

46. Where, by reason of the operation of rule 7, a Party receives a document on a date other than the date on which the same document is received by the other Party, any period of time the calculation of which is dependent on such receipt shall be calculated from the date of receipt of the last such document.

Other proceedings

47. These rules shall apply to the proceedings established under Article 96(4), (5), (8) and (10) of this Agreement except that:

(a) the Party making a request under Article 96(4) shall deliver its initial written submission within 10 days after the date the request is submitted, and the responding Party shall deliver its written counter-submission within 10 days after the date of delivery of the initial written submission;

(b) the Party making a request under Article 96(5) shall deliver its initial written submission within 10 days after the date the request is submitted and the responding Party shall deliver its written counter-submission within 10 days after the date of delivery of the initial written submission;

(c) the Party making a request under Article 96(8) shall deliver its initial written submission within 10 days after the date the request is submitted and the responding Party shall deliver its written counter-submission within 10 days after the date of delivery of the initial written submission; and

(d) the Party making a request under Article 96(10) shall deliver its initial written submission within 10 days after the date the request is submitted and the responding Party shall deliver its written counter-submission within 10 days after the date of delivery of the initial written submission.

48. If appropriate, the arbitration panel shall fix the time limit for delivering any further written submissions, including rebuttal written submissions, so as to provide each Party with the opportunity to make an equal number of written submissions subject to the time limits for arbitration panel proceedings set out in Article 96 of this Agreement and these rules.

Qualification of arbitrators

49. Arbitrators should be selected among persons whose independence and impartiality are beyond doubt. The members shall have sufficiently diverse background and a wide spectrum of experience. Arbitrators shall serve in their individual capacities and not as government representatives, nor as representatives of any organisation.

A. A candidate shall disclose any interest, relationship or matter that is likely to affect the candidate's independence or impartiality or that might reasonably create an appearance of impropriety or an apprehension of bias in the proceeding. To this end, a candidate shall make all reasonable efforts to become aware of any such interests, relationships and matters.

The candidate shall disclose such interests, relationships and matters by completing an Initial Disclosure Statement provided by the Joint Committee and sending it to the Joint Committee.

Without limiting the generality of the foregoing, candidates shall disclose the following interests, relationships and matters:

(1) any financial interest of the candidate:

(a) in the proceeding or in its outcome; and

(b) in an administrative proceeding, a domestic court proceeding or another arbitration panel or committee proceeding that involves issues that may be decided in the proceeding for which the candidate is under consideration;

(2) any financial interest of the candidate's employer, partner, business associate or family member:

(a) in the proceeding or in its outcome; and

(b) in an administrative proceeding, a domestic court proceeding or another arbitration panel or committee proceeding that involves issues that may be decided in the proceeding for which the candidate is under consideration;

(3) any past or existing financial, business, professional, family or social relationship with any interested parties in the proceeding, or their counsel, or any such relationship involving a candidate's employer, partner, business associate or family member; and

(4) public advocacy or legal or other representation concerning an issue in dispute in the proceeding or involving the same goods.

B. Once appointed, a member shall continue to make all reasonable efforts to become aware of any interests, relationships or matters referred to in Section A and shall disclose them. The obligation to disclose is a continuing duty which requires a member to disclose any such interests, relationships and matters that may arise during any stage of the proceeding.

The member shall disclose such interests, relationships and matters by communicating them in writing to the Joint Committee for consideration by the Parties.