Canada - Ukraine Free Trade Agreement

Canada and Ukraine, hereinafter referred to as "the Parties",

Recalling the Free Trade Agreement Between Canada and Ukraine, done at Kyiv on 11 July 2016, and which entered into force on 1 August 2017 (the "2017 Agreement");

Desiring to further strengthen bilateral relations through trade, and to build upon the 2017 Agreement through the establishment of an enhanced and modernized new free trade agreement;

resolved to:

Strengthen the special bonds of friendship and cooperation between their peoples;

Contribute to the harmonious development and expansion of world and regional trade and to provide a catalyst to broader international cooperation;

Build on their respective rights and obligations under the WTO Agreement and other multilateral and bilateral instruments of cooperation;

Create an expanded and secure market for the goods and services produced in their territories, as well as promote new employment opportunities and improved working conditions and living standards in their respective territories;

Reduce distortions to trade;

Establish clear, transparent and mutually advantageous rules to govern their trade;

Ensure a predictable commercial framework for business planning and investment;

Enhance and promote the competitiveness of exports and firms in global markets, and conditions of fair competition;

Undertake each of the preceding in a manner that is consistent with environmental protection and conservation;

Protect, enhance and enforce basic workers' rights, and strengthen cooperation on labour matters and build on their respective international commitments on labour matters;

Promote high levels of environmental protection, including through effective enforcement by each Party of its environmental laws, as well as through enhanced environmental cooperation, and further the aims of sustainable development, including through mutually supportive trade and environmental policies and practices;

Encourage enterprises operating within their territory or subject to their jurisdiction to respect internationally recognized corporate social responsibility and responsible business conduct standards and principles and pursue best practices;

Promote broad-based economic development in order to reduce poverty;

Preserve their flexibility to safeguard the public welfare;

and

Recognizing that the promotion and the protection of investments of investors of a party in the territory of the other party will be conducive to the stimulation of mutually beneficial business activity;

Recognizing that States must maintain the ability to preserve, develop and implement their cultural policies for the purpose of strengthening cultural diversity, given the essential role that cultural goods and services play in the identity and diversity of societies and the lives of natural persons;

Affirming their commitment to respect the values and principles of democracy and to promote and protect human rights and fundamental freedoms as identified in the Universal Declaration of Human Rights;

Recognizing that Indigenous Peoples in Canada and Ukraine, including the Indigenous Peoples of the Crimean Peninsula,

have the right to economic development and participation in trade and to engage freely in all their traditional and other economic activities, the Parties resolve to improve the economic and social conditions of Indigenous Peoples when implementing this Agreement;

Supporting the growth and development of micro, small, and medium-sized enterprises (SMEs) by enhancing their ability to participate in and benefit from the opportunities created by this Agreement; and

Seeking to facilitate equal access to, and ability to benefit from, the opportunities created by this Agreement for women and men, and to support the conditions for women's full participation in domestic, regional, and international trade and investment.

Have agreed as follows:

Chapter 1. General Provisions and Definitions

Section A. General Provisions

Article 1.1. Establishment of the Free Trade Area

The Parties to this Agreement, consistent with Article XXIV of the GATT 1994, hereby continue the free trade area established by the Free Trade Agreement Between Canada and Ukraine, done at Kyiv on 11 July 2016.

Article 1.2. Relation to other Agreements

1. The Parties affirm their existing rights and obligations with respect to each other under the WTO Agreement and other agreements to which the Parties are party.

2. In the event of any inconsistency between this Agreement and the agreements referred to in paragraph 1, this Agreement prevails, except as otherwise provided in this Agreement.

3. The WTO Agreement exclusively governs the rights and obligations of the Parties regarding subsidies and the application of anti-dumping and countervailing measures, including the settlement of any disputes about those matters.

Article 1.3. Extent of Obligations

Each Party is fully responsible for the observance of all provisions of this Agreement and shall take reasonable measures that may be available to it to ensure observance of the provisions of this Agreement, except as otherwise provided in this Agreement, by the sub-national governments and authorities within its territory and, in the case of Ukraine, local self-government bodies of oblasts.

Article 1.4. Reference to other Agreements

When this Agreement refers to or incorporates by reference other agreements or legal instruments in whole or in part, those references include related footnotes, interpretative notes and explanatory notes. Unless the reference affirms existing rights, those references also include any successor agreements to which the Parties are party or amendments binding on the Parties.

Section B. General Definitions

Article 1.5. Definitions of General Application

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

2017 Agreement means the Free Trade Agreement Between Canada and Ukraine, done at Kyiv on 11 July 2016, and which entered into force on 1 August 2017;

Citizen means a natural person who is a citizen of a Party under its legislation;

Joint Commission means the Joint Commission referred to in Article 27.1 (Joint Commission);

Coordinators means the Agreement Coordinators referred to in Article 27.2 (Agreement Coordinators);

customs duty includes a customs or import duty and a charge of any kind imposed on or in connection with the importation of a good, including any form of surtax or surcharge in connection with that importation, but does not include:

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

(b) an anti-dumping or countervailing duty that is applied pursuant to a Party's law;

(c) a fee or other charge imposed consistently with Article VIII of the GATT 1994; or

(d) a premium offered or collected on an imported good arising out of a tendering system in respect of the administration of quantitative import restrictions, tariff rate quotas or tariff preference levels;

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

Days means calendar days;

DSU means the Understanding on Rules and Procedures Governing the Settlement of Disputes, contained in Annex 2 to the WTO Agreement;

Enterprise means an entity constituted or organized under applicable law, whether or not for profit, and of any form of ownership, whether privately owned or governmentally owned, including a corporation, trust, partnership, sole proprietorship, joint venture or other association;

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

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

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

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

Harmonized System (HS) means the Harmonized Commodity Description and Coding System, including its General Rules of Interpretation, Section Notes, Chapter Notes and subheading notes;

heading means a four-digit number, or the first four digits of a number, used in the nomenclature of the Harmonized System;

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

national means a natural person who is a citizen or is a permanent resident of a Party;

originating means qualifying as originating under the rules of origin set out in Chapter 3 (Rules of origin and origin procedures);

permanent resident means a natural person who is a permanent resident of a Party under its applicable legislation;

person means a natural person or an enterprise;

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

sanitary or phytosanitary measure means any measure referred to in Annex A, paragraph 1 of the SPS Agreement;

SPS Agreement means the Agreement on the Application of Sanitary and Phytosanitary Measures, contained in Annex 1A to the WTO Agreement;

state enterprise means an enterprise that is owned or controlled through ownership interests, by a Party;

subheading means a six-digit number, or the first six digits of a number, used in the nomenclature of the Harmonized System;

tariff classification means the classification of a good or material under a chapter, heading or subheading of the Harmonized

System;

tariff elimination schedule means Annex 2-B (National Treatment and Market Access-Tariff Elimination);

territory means:

(a) the land territory, air space, internal waters and territorial sea of the Party;

(b) the exclusive economic zone of the Party; and

(c) the continental shelf of the Party,

as determined by its domestic law and consistent with international law;

UNCLOS means the United Nations Convention on the Law of the Sea done at Montego Bay on 10 December 1982;

WTO means the World Trade Organization; and

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

2. For the purposes of this Agreement, a word in the singular includes that word in the plural, except where otherwise indicated.

Article 1.6. Country-specific Definitions

For the purposes of this Agreement, unless otherwise specified:

national government means:

(a) with respect to Canada, the Government of Canada; and

(b) with respect to Ukraine, the Government of Ukraine; and

sub-national government means:

(a) with respect of Canada, provincial, territorial, or local governments; and

(b) with respect to Ukraine, local executive power bodies of oblasts, the autonomous Republic of Crimea and cities with special status.

Chapter 2. National Treatment and Market Access

Article 2.1. Definitions

For the purposes of this Chapter:

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

agricultural good means a product listed in Annex 1 of the Agreement on Agriculture; and

export subsidy means an export subsidy as defined in Article 1(e) of the Agreement on Agriculture.

Article 2.2. Scope and Coverage

This Chapter applies to trade in goods of a Party except as otherwise provided in this Agreement.

Section A. National Treatment

Article 2.3. National Treatment

1. Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of the GATT 1994, and to this end Article III of the GATT 1994 is incorporated into and made part of this Agreement.

2. The treatment to be accorded by a Party under paragraph 1 means, with respect to a sub-national government, treatment

no less favourable than the most favourable treatment accorded by that sub-national government to a like, directly competitive or substitutable good, as the case may be, of the Party of which it forms a part.

3. This Article does not apply to a measure set out in Annex 2-A (Exceptions to Articles 2.3 and 2.5).

Section B. Tariffs

Article 2.4. Tariff Elimination on Imports

1. Except as otherwise provided in this Agreement, a Party may not increase an existing customs duty, or adopt a customs duty, on an originating good.

2. Except as otherwise provided in this Agreement, each Party shall apply its customs duties on originating goods in accordance with its Schedule to Annex 2-B (Tariff Elimination).

3. During the tariff elimination process, each Party shall apply to originating goods traded between the Parties the lesser of the customs duties resulting from a comparison between the rate established in accordance with the Schedule to Annex 2-B (Tariff Elimination) and the applied most-favoured-nation (MFN) rate.

4. At the request of a Party, the Parties shall discuss accelerating the elimination of customs duties set out in their Schedules to Annex 2-B (Tariff Elimination) or incorporating into a Party's Schedule a good that is not subject to tariff elimination. An agreement between the Parties to accelerate the elimination of a customs duty on a good or to include a good in a Party's Schedule to Annex 2-B (Tariff Elimination) shall supersede a duty rate or staging category determined pursuant to a Schedule for that good when approved by each Party in accordance with its applicable internal procedures.

5. For greater certainty, a Party may:

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

(b) increase a customs duty to the level established in its Schedule to Annex 2-B (Tariff Elimination) following a unilateral reduction;

(c) maintain or increase a customs duty as authorized by this Agreement, the Dispute Settlement Body of the WTO or any agreement under the WTO Agreement; or

(d) create a new tariff line more specific than the subheading level, provided that the Party does not impose customs duties on a good classified under that new tariff line greater than the rate of customs duty applicable to the good under the Party's Schedule to Annex 2-B (Tariff Elimination) before the new tariff line was created.

Section C. Non-Tariff Measures

Article 2.5. Import and Export Restrictions

1. Except as otherwise provided in this Agreement, a Party may not adopt or maintain a prohibition or restriction on the importation of a good of the other Party or on the exportation or sale for export of a good destined for the territory of the other Party, except in accordance with Article XI of the GATT 1994, and to this end Article XI of the GATT 1994 is incorporated into and made a part of this Agreement.

2. The rights and obligations of the GATT 1994 incorporated by paragraph 1 prohibit:

(a) an export price requirement in a circumstance in which another form of restriction is prohibited; and

(b) an import price requirement, except as permitted in enforcement of countervailing and antidumping orders and undertakings.

3. If a Party adopts or maintains a prohibition or restriction on the importation from or exportation to a non-Party of a good, this Agreement does not prevent the Party from:

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

(b) requiring as a condition of export of a good of the Party to the territory of the other Party that the good not be re-exported to the non-Party, directly or indirectly, without being consumed in the territory of the other Party.

4. If a Party adopts or maintains a prohibition or restriction on the importation of a good from a non-Party, at the request of

the other Party, the Parties shall discuss with a view to avoiding undue interference with or distortion of pricing, marketing or distribution arrangements in the other Party.

5. This Article does not apply to a measure set out in Annex 2-A (Exceptions to Articles 2.3 and 2.5).

Article 2.6. Customs User Fees and Similar Charges

1. A Party shall not adopt or maintain a fee or charge imposed on or in connection with importation of a good of the other Party, except in accordance with Article VIII of the GATT 1994, and to this end Article VIII of the GATT 1994 is incorporated into and made part of this Agreement.

2. Paragraph 1 does not prevent a Party from imposing a customs duty or a charge set out in paragraphs (a), (b), or (d) of the definition of "customs duty" in Article 1.5 (Definitions of General Application).

Article 2.7. Balance-of Payments Exception

1. The Parties shall endeavour to avoid the imposition of restrictive measures for balance-of-payments purposes.

2. A Party in serious balance-of-payments difficulties, or under imminent threat thereof, may, in accordance with the conditions established under the GATT 1994, the Understanding on the Balance-of-Payments Provisions of the GATT 1994 and the Declaration on Trade Measures Taken for Balance of Payments Purposes, adopt a trade restrictive measure, which shall be of limited duration and non-discriminatory and shall not go beyond what is necessary to remedy the balance-of-payments situation.

3. Before adopting a measure pursuant to paragraph 2, the Party shall notify the other Party.

4. The Party adopting the measure shall immediately consult the other Party and shall make every effort to hold such consultations before adopting the measure.

5. A measure under this Article shall not impair the relative benefits accorded to the other Party under this Agreement.

6. For greater certainty, the balance-of-payments exception contained in this Article applies only to balance-of-payments measures imposed on trade in goods.

Article 2.8. Customs Valuation

The Customs Valuation Agreement governs the customs valuation rules applied by the Parties to their reciprocal trade. A Party shall not make use, in its reciprocal trade, of the options and reservations permitted under Article 20 and paragraphs 2, 3 and 4 of Annex III of the Customs Valuation Agreement.

Article 2.9. Customs Duties on Exports

For greater certainty, each Party may apply export duties, in accordance with their rights and obligations under the WTO.

Article 2.10. Agriculture Export Subsides

A Party shall not adopt or maintain an export subsidy on an agricultural good that is exported, or incorporated in a product that is exported, to the territory of the other Party after the other Party has, immediately or after the transitional period, fully eliminated the tariff, on that agricultural good in accordance with Annex 2-B (Tariff Elimination).

Article 2.11. Special Safeguard on Agricultural Goods

A Party may not apply duties under Article V of the Agreement on Agriculture on goods of the other Party that are subject to tariff elimination under Annex 2-B (Tariff Elimination), including its tariff schedule.

Article 2.12. Distilled Spirits

A Party may not adopt or maintain a measure requiring that distilled spirits imported from the territory of the other Party for bottling be blended with distilled spirits of the Party.

Section D. Institutional Provisions

Article 2.13. Committee on Trade In Goods and Rules of Origin

1. The Parties continue the Committee on Trade in Goods and Rules of Origin established under the 2017 Agreement composed of government representatives of each Party.

2. The Committee shall meet at the request of a Party or the Joint Commission to consider any matter arising under this Chapter, Chapter 3 (Rules of Origin and Origin Procedures), Chapter 4 (Trade Facilitation) or Chapter 5 (Trade Remedies) but not less than once every two years unless otherwise decided by the Parties.

3. The Committee's functions shall include:

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

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

(c) recommending to the Joint Commission a modification of or addition to this Chapter, Chapter 3 (Rules of Origin and Origin Procedures), Chapter 4 (Trade Facilitation), Chapter 5 (Trade Remedies), or any other provision of this Agreement related to the Harmonized System; and

(d) considering any other matter referred to it by a Party relating to the implementation and administration by the Parties of this Chapter, Chapter 3 (Rules of Origin and Origin Procedures), Chapter 4 (Trade Facilitation), or Chapter 5 (Trade Remedies).

4. The Parties continue the Sub-Committee on Agriculture established under the 2017 Agreement that shall:

(a) except as otherwise provided in this Chapter, meet within 60 days of a request by a Party;

(b) provide a forum for the Parties to discuss issues resulting from the implementation of this Agreement for agricultural goods;

(c) refer to the Committee any matter under sub-paragraph (b) on which it has been unable to reach an understanding; and

(d) report to the Committee for its consideration an understanding under this paragraph.

5. At the request of a Party, the Parties shall convene a meeting of their officials responsible for customs, immigration, inspection of food and agricultural products, border inspection facilities, or regulation of transportation, as appropriate, for the purpose of addressing issues related to movement of goods through the Parties' ports of entry.

Chapter 3. Rules of Origin and Origin Procedures

Section A. General Provisions

Article 3.1. Definitions

For the purposes of this Chapter:

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

classified means the classification of a product under a particular heading or subheading of the Harmonized System;

customs authority means any governmental authority that is responsible under the law of a Party for the administration and application of customs legislation;

customs value means the value as determined in accordance with the Customs Valuation Agreement;

determination of origin means a determination as to whether a product qualifies as an originating product in accordance with this Chapter;

exporter means an exporter located in the territory of a Party;

identical originating products means products that are the same in all respects, including physical characteristics, quality and reputation, irrespective of minor differences in appearance that are not relevant to a determination of origin of those products under this Chapter;

importer means an importer located in the territory of a Party;

material means any ingredient, component, part or product that is used in the production of another product;

net weight of the non-originating material means the weight of the material as it is used in the production of the product, not including the weight of the material's packaging;

net weight of the product means the weight of a product not including the weight of packaging;

producer means a person who engages in any kind of working or processing, including such operations as growing, mining, raising, harvesting, fishing, trapping, hunting, manufacturing, assembling or disassembling a product;

product means the result of production, even if it is intended for use as a material in the production of another product;

production means any kind of working or processing, including such operations as growing, mining, raising, harvesting, fishing, trapping, hunting, manufacturing, assembling or disassembling a product;

transaction value or ex-works price of the product means the price paid or payable to the producer of the product at the place where the last production was carried out, and must include the value of all materials. If there is no price paid or payable or if it does not include the value of all materials, the transaction value or ex-works price of the product:

(a) must include the value of all materials and the cost of production employed in producing the product, calculated in accordance with generally accepted accounting principles; and

(b) may include amounts for general expenses and profit to the producer that can be reasonably allocated to the product.

Any internal taxes which are, or may be, repaid when the product obtained is exported are excluded. Any costs incurred subsequent to the product leaving the place of production, such as transportation, loading, unloading, handling or insurance, are to be excluded from the calculation of the transaction value or ex-works price of the product; and

value of non-originating materials means the customs value of the material at the time of its importation into a Party, as determined in accordance with the Customs Valuation Agreement. The value of the non-originating material must include any costs incurred in transporting the material to the place of importation, such as transportation, loading, unloading, handling or insurance. If the customs value is not known or cannot be ascertained, the value of non-originating materials will be the first ascertainable price paid for the materials in Canada or Ukraine.

Section B. Rules of Origin

Article 3.2. General Requirements

1. For the purposes of this Agreement, a product is originating in the Party where the last production took place if, in the territory of a Party or in the territory of both of the Parties in accordance with Article 3.3, it:

(a) has been wholly obtained within the meaning of Article 3.4;

(b) has been produced exclusively from originating materials, including those materials considered under Article 3.5(2); or

(c) has undergone sufficient production within the meaning of Article 3.5.

2. Except as provided for in Articles 3.3(3) and 3.3(4), the conditions set out in this Chapter relating to the acquisition of originating status must be fulfilled without interruption in the territory of one or both of the Parties.

Article 3.3. Cumulation of Origin

1. A product that originates in a Party is considered originating in the other Party when used as a material in the production of a product there.

2. An exporter may take into account production carried out on a non-originating material in the other Party for the purposes of determining the originating status of a product.

3. Subject to paragraph 4, where, as permitted by the WTO Agreement, each Party has a free trade agreement with the same non-Party, a material of that non-Party may be taken into consideration by the exporter when determining whether a product is originating under this Agreement.

4. A Party shall give effect to paragraph 3 upon agreement by the Parties on the applicable conditions.

Article 3.4. Wholly Obtained Products

The following shall be considered as wholly obtained in a Party:

(a) mineral products and other non-living natural resources extracted or taken from the territory of a Party;

(b) vegetables, plants and plant products harvested or gathered in the territory of a Party;

(c) live animals born and raised in the territory of a Party;

(d) products:

(i) obtained from live animals in the territory of a Party;

(ii) from slaughtered animals born and raised in the territory of Party;

(e) products:

(i) obtained by hunting, trapping or fishing conducted in the territory of a Party;

(ii) of aquaculture raised in the territory of Party;

(f) fish, shellfish and other marine life taken from the sea, seabed, ocean floor or the subsoil outside the territory of the Parties by a vessel registered, recorded or listed with a Party, and entitled to fly its flag;

(g) products made aboard factory vessels exclusively from products referred to in sub-paragraph 1(f), provided that such factory vessels are registered, recorded or listed with a Party, and entitled to fly its flag;

(h) mineral products and other non-living natural resources, taken or extracted from the seabed, subsoil or ocean floor of the Area as defined in Article 1(1) of UNCLOS by a Party or a person of a Party, provided that Party or person of a Party has rights to exploit that seabed, subsoil or ocean floor;

(i) raw materials recovered from used products collected in the territory of a Party, provided that these products are fit only for such recovery;

(j) components recovered from used products collected in the territory of a Party, provided that these products are fit only for such recovery, when the component is either:

(i) incorporated in another product; or

(ii) further produced resulting in a product with a performance and life expectancy equivalent or similar to those of a new product of the same type; and

(k) products, at any stage of production, produced in the territory of a Party exclusively from products specified in sub-paragraphs (a) through (j).

Article 3.5. Sufficient Production

1. For the purposes of Article 3.2, a product which is not wholly obtained is considered to have undergone sufficient production when the conditions set out in Annex 3-A are fulfilled.

2. If a non-originating material undergoes sufficient production, the resulting product is considered originating and no account must be taken of the non-originating material contained therein when that product is used in the subsequent production of another product.

Article 3.6. Tolerance

1. Notwithstanding Article 3.5(1), and except as provided in paragraphs 2, 3 and 4, if the non-originating materials used in

the production of the product do not fulfil the conditions set out in Annex 3-A, the product may be considered to be an originating product provided that:

(a) the total value of those non-originating materials does not exceed 10 per cent of the transaction value or ex-works price of the product;

(b) any of the percentages given in Annex 3-A for the maximum value, volume or weight of non-originating materials are not exceeded through the application of this paragraph; and

(c) the product satisfies all other applicable requirements of this Chapter.

2. A product of Chapters 50 through 60 of the Harmonized System that does not originate because certain non-originating materials used in the production of the product do not fulfil the requirements set out for that product in Annex 3-A is nonetheless originating if the total weight of all such materials does not exceed 10 per cent of the total weight of that product.

3. For a product of Chapter 61 through 62 of the Harmonized System, the Chapter Note of Chapter 61 or 62, whichever is applicable, shall apply.

4. A product of Chapter 63 of the Harmonized System that does not originate because certain non-originating materials used in the production of the component of the product that determines the tariff classification of that product do not fulfil the requirements set out for that product in Annex 3-A is nonetheless originating if the total weight of all such materials in that component does not exceed 10 per cent of the total weight of that component.

5. Paragraphs 1 through 4 are subject to Article 3.7(c).

6. Paragraph 1 does not apply to a product wholly obtained in a Party within the meaning of Article 3.4.

Article 3.7. Unit of Classification

For the purposes of this Chapter:

(a) the tariff classification of a particular product or material is determined according to the Harmonized System;

(b) if a product composed of a group or assembly of articles or components is classified pursuant to the terms of the Harmonized System under a single heading or subheading, the whole constitutes the particular product; and

(c) if a shipment consists of a number of identical products classified under the same heading or subheading of the Harmonized System, each product is considered separately.

Article 3.8. Packaging and Packing Materials and Containers

1. If, under Rule 5 of the General Rules for the Interpretation of the Harmonized System, packaging is included with the product for classification purposes, it is considered in determining whether all the non-originating materials used in the production of the product satisfy the requirements set out in Annex 3-A.

2. Packing materials and containers in which a product is packed for shipment are disregarded in determining the origin of that product.

Article 3.9. Accounting Segregation of Fungible Materials or Products

1. If originating and non-originating fungible:

(a) materials are used in the production of a product, the determination of the origin of the fungible materials need not be made through physical separation and identification of any specific fungible material, but may be determined on the basis of an inventory management system;

(b) products are physically combined or mixed in inventory in a Party before exportation to the other Party, the determination of the origin of the fungible products need not be made through physical separation and identification of any specific fungible product, but may be determined on the basis of an inventory management system.

2. The inventory management system must:

(a) ensure that, at any time, no more products receive originating status than would have been the case if the fungible

materials or fungible products had been physically segregated;

(b) specify the quantity of originating and non-originating materials or products, including the dates on which those materials or products were placed in inventory and if required by the applicable rule of origin, the value of those materials or products;

(c) specify the quantity of products produced using fungible materials, or the quantity of fungible products, that are supplied to customers requiring evidence of origin in a Party for the purposes of obtaining preferential treatment under this Agreement and to customers not requiring such evidence; and

(d) indicate if an inventory of originating products was available in sufficient quantity to support the declaration of originating status.

3. For the purposes of paragraph 1, fungible materials or fungible products means materials or products that are of the same kind and commercial quality, with the same technical and physical characteristics, and which cannot be distinguished from one another for origin purposes.

Article 3.10. Accessories, Spare Parts and Tools

Accessories, spare parts and tools delivered with a product that form part of its standard accessories, spare parts or tools, that are not invoiced separately from the product and which quantities and value are customary for the product, are:

(a) taken into account in calculating the value of the relevant non-originating materials when the rule of origin of Annex 3-A applicable to the product contains a percentage for the maximum value of non-originating materials; and

(b) disregarded in determining whether all the non-originating materials used in the production of the product undergo the applicable change in tariff classification or other requirements set out in Annex 3-A.

Article 3.11. Sets

1. Except as provided in Annex 3-A, a set classified as such as a result of the application of Rule 3 of the General Rules for the Interpretation of the Harmonized System, is originating, provided that:

(a) all of the set's component products are originating; or

(b) if the set contains a non-originating component product, the value of the non-originating component products does not exceed 25 per cent of the transaction value or ex-works price of the set.

2. The value of non-originating component products is calculated in the same manner as the value of non-originating materials.

3. The transaction value or ex-works price of the set is calculated in the same manner as the transaction value or ex-works price of the product.

Article 3.12. Neutral Elements

In order to determine whether a product originates, it is not necessary to determine the origin of the following which might be used in its production:

(a) energy and fuel;

(b) plant and equipment;

(c) machines and tools; or

(d) materials which do not enter and which are not intended to enter into the final composition of the product.

Article 3.13. Transport Through a Non-Party

1. A product is not considered originating by reason of having undergone production that satisfies the requirements of Article 3.2 if, subsequent to that production, the product:

(a) undergoes further production or any other operation outside the territories of the Parties, other than unloading,

reloading, or any other operation necessary to preserve it in good condition, to transport the product to the territory of a Party; or

(b) does not remain under customs control while outside the territories of the Parties.

2. The storage of a product or shipment or the splitting of shipments may take place if carried out under the responsibility of the exporter or of a subsequent holder of the products and the products remain under customs control in the country or countries of transit.

Article 3.14. Returned Originating Products

If an originating product exported from a Party to a non-Party is returned, it must be considered as non-originating, unless it can be demonstrated to the satisfaction of the customs authorities that the returning product:

(a) is the same as that exported; and

(b) has not undergone any operation beyond that necessary to preserve it in good condition.

Section C. Origin Procedures

Article 3.15. Proof of Origin

1. Products originating in Ukraine, on importation into Canada, and products originating in Canada, on importation into Ukraine, benefit from preferential tariff treatment of this Agreement on the basis of a declaration ("origin declaration").

2. The origin declaration is provided on an invoice or any other commercial document that describes the originating product in sufficient detail to enable its identification.

3. The different linguistic versions of the text of the origin declaration are set out in Annex 3-B.

Article 3.16. Obligations Regarding Exportations

1. Each Party shall provide that an origin declaration as referred to in Article 3.15(1) must be completed by an exporter in the territory of a Party of an originating product for the purposes of obtaining preferential tariff treatment for that product in the territory of the other Party.

2. Each Party shall require that the exporter completing an origin declaration shall, at the request of the customs authority of the Party of export, submit a copy of the origin declaration and all documents proving the originating status of the products concerned, including supporting documents or written statements from the producers or suppliers, as well as the fulfilment of the other requirements of this Chapter.

3. Each Party shall require that an origin declaration be completed and signed by the exporter unless otherwise provided by the Parties.

4. An origin declaration may be completed by the exporter when the product to which it relates is exported, or after exportation on the condition that it is presented in the importing Party within a period of two years, or within a longer period as specified in the legislation of the importing Party, after the importation of the product to which it relates.

5. The customs authority of the Party of import may, in accordance with its legislation, allow an origin declaration to apply to multiple shipments of identical originating products that take place within a period not exceeding 12 months as set out by the exporter in that declaration.

6. An exporter that has completed an origin declaration and that becomes aware or has reason to believe that the origin declaration contains incorrect information, shall immediately notify the importer in writing of any change affecting the originating status of each product to which the origin declaration applies.

7. The Parties may allow the establishment of a system that would permit an origin declaration to be submitted electronically and directly from the exporter in the territory of one Party to an importer in the territory of the other Party, including the replacement of the exporter's signature on the origin declaration with an electronic signature or identification code.

Article 3.17. Validity of the Origin Declaration

1. An origin declaration shall be valid for 12 months from the date when it was completed by the exporter, or for such longer period as determined by the Party of import. The preferential tariff treatment may be claimed, within the validity period, to the customs authority of the Party of import.

2. An origin declaration which is submitted to the customs authority of the Party of import after the validity period specified in paragraph 1 may be accepted for the purpose of preferential tariff treatment in accordance with the legislation of the Party of import.

Article 3.18. Obligations Regarding Importations

1. Each Party shall provide that, for the purpose of claiming preferential tariff treatment, the importer shall:

(a) submit the origin declaration to the customs authority of the Party of import as required by and in accordance with the procedures applicable in the Party of import;

(b) if required by the customs authority of the Party of import, submit a translation of the origin declaration; and

(c) if required by the customs authority of the Party of import, provide for a statement accompanying or forming part of the import declaration, to the effect that the product meets the conditions required for the application of this Agreement.

2. Each Party shall require that an importer that becomes aware or has reason to believe that an origin declaration for a product to which preferential tariff treatment has been granted contains incorrect information immediately notifies the customs authority of the Party of import in writing of any change affecting the originating status of that product and pays any duties owing.

3. If an importer claims preferential tariff treatment for a product imported from the territory of the other Party, the importing Party may deny preferential tariff treatment to the product if the importer fails to comply with any requirement under this Chapter.

4. A Party shall, in accordance with its legislation, provide that if a product would have qualified as an originating product when it was imported into the territory of that Party except that the importer did not have an origin declaration at the time of importation the importer of the product may, within a period of no less than three years after the date of importation, apply for a refund of duties paid as a result of the product not having been accorded preferential tariff treatment.

Article 3.19. Proof Related to Transport Through a Non-Party

1. Each Party, through its customs authority, may require an importer to demonstrate that a product for which the importer claims preferential tariff treatment was shipped in accordance with Article 3.13, by providing:

(a) carrier documents, including bills of lading or waybills, indicating the shipping route and all points of shipment and transhipment prior to the importation of the product; and

(b) if the product was shipped through or transhipped outside the territories of the Parties, a copy of the customs control documents indicating to that customs authority that the product remained under customs control while outside the territories of the Parties.

Article 3.20. Importation by Instalments

If, at the request of the importer and on the conditions laid down by the customs authority of the Party of import, dismantled or non-assembled products within the meaning of Rule 2(a) of the General Rules for the Interpretation of the Harmonized System falling within Sections XVI and XVII or headings 7308 and 9406 of the Harmonized System are imported by instalments, a single origin declaration for these products shall be submitted, as required, to that customs authority upon importation of the first instalment.

Article 3.21. Exemptions from Origin Declarations

1. A Party may, in conformity with its legislation, waive the requirement to present an origin declaration as referred to in Article 3.18 for low value shipments of originating products from the other Party and for originating products forming part of the personal luggage of a traveller coming from the other Party.

2. A Party may exclude any importation from the provisions of paragraph 1 when the importation is part of a series of importations that may reasonably be considered to have been undertaken or arranged for the purpose of avoiding the

requirements of this Chapter related to origin declarations.

3. The Parties may set value limits for products referred to in paragraph 1, and shall exchange information regarding those limits.

Article 3.22. Supporting Documents

The documents referred to in Article 3.16(2) may include documents relating to the following:

(a) the production processes carried out on the originating product or on materials used in the production of that product;

(b) the purchase of, the cost of, the value of and the payment for the product;

(c) the origin of, the purchase of, the cost of, the value of and the payment for all materials, including neutral elements, used in the production of the product; and

(d) the shipment of the product.

Article 3.23. Preservation of Records

1. Each Party shall require that an exporter that has completed an origin declaration keep a copy of the origin declaration, as well as the supporting documents referred to in Article 3.22, for three years after the completion of the origin declaration or for a longer period as the Party of export may specify.

2. Each Party shall provide that if an exporter has based an origin declaration on a written statement from the producer, the producer must be required to maintain records in accordance with paragraph 1.

3. When provided for in the legislation of the Party of import, an importer that has been granted preferential tariff treatment shall keep documentation relating to the importation of the product, including a copy of the origin declaration, for three years after the date on which preferential treatment was granted, or for a longer period of time as that Party may specify.

4. Each Party shall permit, in accordance with that Party's legislation, importers, exporters, and producers in its territory to maintain documentation or records in any medium, provided that the documentation or records can be retrieved and printed.

5. A Party may deny preferential tariff treatment to a product that is the subject of an origin verification when the importer, exporter, or producer of the product that is required to maintain records or documentation under this Article:

(a) fails to maintain records or documentation relevant to determining the origin of the product in accordance with the requirements of this Chapter; or

(b) denies access to those records or documentation.

Article 3.24. Discrepancies and Formal Errors

1. The discovery of slight discrepancies between the statements made in the origin declaration and those made in the documents submitted to the customs authorities for the purpose of carrying out the formalities for importing a product does not, because of that fact, render the origin declaration null and void if it is established that this document corresponds to the product submitted.

2. Obvious formal errors, such as typing errors, on an origin declaration shall not cause this document to be rejected if these errors do not create doubts concerning the correctness of the statements made in the document.

Article 3.25. Cooperation

1. The Parties shall cooperate in the uniform administration and interpretation of this Chapter and, through their customs authorities, assist each other in verifying the originating status of a product on which an origin declaration is based.

2. For the purpose of facilitating the verifications or assistance referred to in paragraph 1, the customs authorities of the Parties shall provide each other with addresses of the responsible customs authorities.

3. It is understood that the customs authority of the Party of export assumes all expenses in carrying out paragraph 1.

4. It is further understood that the customs authorities of the Parties will discuss the overall operation and administration of the verification process, including forecasting of workload and discussing priorities. If there is an unusual increase in the number of requests, the customs authorities of the Parties shall consult to establish priorities and consider steps to manage the workload, taking into consideration operational requirements.

5. With respect to products considered originating in accordance with Article 3.3, the Parties may cooperate with a non-Party to develop customs procedures based on the principles of this Chapter.

Article 3.26. Origin Verification

1. For the purpose of ensuring the proper application of this Chapter, the Parties shall assist each other, through their customs authorities, in verifying whether a product is originating and ensuring the accuracy of a claim for preferential tariff treatment.

2. The Parties shall ensure that a request for an origin verification concerning whether a product is originating or whether all other requirements of this Chapter are fulfilled is:

(a) based on risk assessment methods applied by the customs authority of the Party of import, which may include random selection; or

(b) made when the Party of import has reasonable doubts.

3. The customs authority of the Party of import may verify whether a product is originating by requesting, in writing, that the customs authority of the Party of export conduct a verification concerning whether a product is originating. When requesting a verification, the customs authority of the Party of import shall provide the customs authority of the Party of export with:

(a) the identity of the customs authority issuing the request;

(b) the name of the exporter or producer to be verified;

(c) the subject and scope of the verification; and

(d) a copy of the origin declaration and, where applicable any other relevant documentation.

4. If appropriate, the customs authority of the Party of import may request, pursuant to paragraph 3, specific documentation and information from the customs authority of the Party of export.

5. A request made by the customs authority of the Party of import pursuant to paragraph 3 shall be provided to the customs authority of the Party of export by certified or registered mail or any other method that produces a confirmation of receipt by that customs authority.

6. The origin verification shall be carried out by the customs authority of the Party of export. For this purpose, the customs authority may, in accordance with its legislation, request documentation, call for any evidence, or visit the premises of an exporter or a producer to review the records referred to in Article 3.22 and observe the facilities used in the production of the product.

7. If an exporter has based an origin declaration on a written statement from the producer or supplier, the exporter may arrange for the producer or supplier to provide documentation or information directly to the customs authority of the Party of export upon that Party's request.

8. As soon as possible and in any event within 12 months after receiving the request referred to in paragraph 3, the customs authority of the Party of export shall complete a verification of whether the product is originating, and fulfils the other requirements of this Chapter, and shall:

(a) provide to the customs authority of the Party of import, by certified or registered mail or any other method that produces a confirmation of receipt by that customs authority, a written report in order for it to determine whether the product is originating or not that contains:

(i) the result of the verification,

(ii) the description of the product subject to verification and the tariff classification relevant to the application of the rule of origin,

(iii) a description and explanation of the production sufficient to support the rationale concerning the originating status of

the product,

(iv) information on the manner in which the verification was conducted, and

(v) if appropriate, supporting documentation; and

(b) subject to its legislation, notify the exporter of its decision concerning whether the product is originating.

9. The period of time referred to in paragraph 8 may be extended by mutual consent of the customs authorities concerned.

10. Pending the results of an origin verification conducted pursuant to paragraph 8, the customs authority of the Party of import, subject to any precautionary measures it deems necessary, shall offer to release the product to the importer.

11. Where a written report has not been provided in accordance with sub-paragraph 8(a), or where the customs authority of the Party of import is unable to arrive at a conclusion as to whether a product is originating, that customs authority may deny preferential tariff treatment to the product.

12. If there are differences in relation to the verification procedure of this Article or in the interpretation of the rules of origin in determining whether a product qualifies as originating, and these differences cannot be resolved through consultations between the customs authority requesting the verification and the customs authority responsible for performing the verification, the Parties are encouraged to resolve those differences within the Subcommittee on Origin Procedures.

13. This Chapter does not prevent a customs authority of a Party from issuing a determination of origin or an advance ruling relating to any matter under consideration by the Subcommittee on Origin Procedures, or the Committee on Trade in Goods and Rules of Origin or from taking any other action that it considers necessary, pending a resolution of the matter under this Agreement.

Article 3.27. Review and Appeal

1. Each Party shall grant substantially the same rights of review and appeal of determinations of origin and advance rulings issued by its customs authority as it provides to importers in its territory, to any person who:

(a) has received a decision on origin in the application of this Chapter; or

(b) has received an advance ruling pursuant to Article 3.30(1).

2. Further to Articles 15.4 (Administrative Proceedings) and 15.5 (Review and Appeal), each Party shall provide that the rights of review and appeal referred to in paragraph 1 include access to at least two levels of appeal or review including at least one judicial or quasi-judicial level.

Article 3.28. Penalties

Each Party shall maintain measures imposing criminal, civil or administrative penalties for violations of its legislation relating to this Chapter.

Article 3.29. Confidentiality

1. This Chapter does not require a Party to furnish or allow access to business information or to information relating to an identified or identifiable natural person, the disclosure of which would impede law enforcement or would be contrary to that Party's law protecting business information and personal data and privacy.

2. Each Party shall maintain, in conformity with its law, the confidentiality of the information collected pursuant to this Chapter and shall protect that information from disclosure that could prejudice the competitive position of the person providing the information. If the Party receiving or obtaining the information is required by its legislation to disclose the information, that Party shall notify the person or Party who provided that information.

3. Each Party shall ensure that the confidential information collected pursuant to this Chapter is not used for purposes other than the administration and enforcement of determination of origin and of customs matters, except with the permission of the person or Party who provided the confidential information.

4. Notwithstanding paragraph 3, a Party may allow information collected pursuant to this Chapter to be used in any administrative, judicial or quasi-judicial proceeding instituted for failure to comply with customs related legislation implementing this Chapter. A Party shall notify the person or Party who provided the information in advance of this use.

5. The Parties shall exchange information on their respective law concerning data protection for the purpose of facilitating the operation and application of paragraph 2.

Article 3.30. Advance Rulings Relating to Origin

1. Each Party shall, through its customs authority, provide for the expeditious issuance of written advance rulings, prior to the importation of a product into its territory, on the request of an importer in its territory or an exporter or a producer in the territory of the other Party, concerning whether a product qualifies as an originating product under this Chapter.

2. Each Party shall adopt or maintain procedures for the issuance of advance rulings, including a detailed description of the information reasonably required to process an application for a ruling.

3. Each Party shall provide that its customs authority:

(a) may, at any time during the course of an evaluation of an application for an advance ruling, request supplemental information from the person requesting the ruling;

(b) issue the ruling within 150 days from the date on which it has obtained all necessary information from the person requesting the advance ruling; and

(c) provide, to the person requesting the advance ruling, a full explanation of the reasons for the ruling.

4. If an application for an advance ruling involves an issue that is the subject of:

(a) a verification of origin;

(b) a review by, or appeal to, a customs authority; or

(c) a judicial or quasi-judicial review in the customs authority's territory;

the customs authority, in conformity with its legislation, may decline or postpone the issuance of the ruling.

5. Subject to paragraph 7, each Party shall apply an advance ruling to importations into its territory of the product for which the ruling was requested on the date of its issuance or at a later date if specified in the ruling.

6. Each Party shall provide, to any person requesting an advance ruling, the same treatment as it provided to any other person to whom it issued an advance ruling, provided that the facts and circumstances are identical in all material respects.

7. The Party issuing an advance ruling may modify or revoke an advance ruling:

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

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

(c) to conform with an amendment of Chapter 2 (National Treatment and Market Access) or this Chapter; or

(d) to conform with a judicial decision or a change in that Party's law.

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

9. Notwithstanding paragraph 8, the Party issuing the advance ruling may, in conformity with its law, postpone the effective date of a modification or revocation for no more than six months.

10. Subject to paragraph 7, each Party shall provide that an advance ruling remains in effect and is honoured.

Article 3.31. The Subcommittee on Origin Procedures

1. The Parties continue the Subcommittee on Origin Procedures established under the 2017 Agreement, composed of representatives of each Party, to consider any matter arising under Section C – Origin Procedures.

2. The Subcommittee on Origin Procedures shall meet on the request of either Party and endeavour to decide upon:

(a) the uniform administration and interpretation of the rules of origin, including tariff classification and valuation matters

relating to the rules of origin;

(b) technical, interpretive or administrative matters that may arise under Section C – Origin Procedures; and

(c) any other matter referred to it by the Committee on Trade in Goods and Rules of Origin.

3. The Subcommittee on Origin Procedures reports to the Committee on Trade in Goods and Rules of Origin.

Chapter 4. Trade Facilitation

Article 4.1. Objectives, Principles, and General Provisions

1. The Parties acknowledge the importance of customs and trade facilitation matters in the evolving global trading environment.

2. The Parties shall, to the extent possible, cooperate and exchange information, including information on best practices, to promote the application of and compliance with the trade facilitation measures in this Agreement.

3. Each Party shall ensure that its measures to facilitate trade do not hinder mechanisms to protect a person through effective enforcement of and compliance with its law.

4. Each Party shall ensure that its import, export and transit requirements and procedures are no more administratively burdensome or trade restrictive than necessary to achieve a legitimate objective.

5. Each Party shall use existing international trade and customs instruments and standards as a basis for its import, export and transit requirements and procedures, unless they would be an inappropriate or ineffective means for the fulfilment of the legitimate objective pursued.

Article 4.2. Transparency

1. Each Party shall publish or otherwise make available, including electronically, its legislation, judicial decisions and administrative policies relating to import or export requirements.

2. Each Party shall endeavour to make public, including on the internet, proposed regulations and administrative policies relating to customs matters and to provide interested persons an opportunity to comment prior to their adoption.

3. Each Party shall designate or maintain one or more contact points to address inquiries by interested persons concerning customs matters and make available, including on the internet, information concerning the procedures for making these inquiries.

Article 4.3. Release of Goods

1. Each Party shall adopt or maintain simplified customs procedures for the efficient release of goods in order to facilitate trade between the Parties and reduce costs for importers and exporters. Each Party shall ensure that its procedures:

(a) allow for the release of goods within a period of time no longer than that required to ensure compliance with its law;

(b) require the submission of more extensive information through post-entry accounting and verifications, as appropriate;

(c) allow goods, and to the extent possible controlled or regulated goods, to be released at the first point of arrival;

(d) allow, to the extent possible, for the expeditious release of goods in need of emergency clearance;

(e) allow an importer or its agent to remove goods from customs control prior to the final determination and payment of customs duties, taxes, and fees. Before releasing the goods, a Party may require that an importer provide sufficient guarantee in the form of a surety, a deposit, or some other appropriate instrument. The guarantee shall be limited to an amount calculated to ensure compliance with a Party's requirements for customs duties, taxes and fees, and shall not represent an indirect protection of domestic products or taxation of imports for fiscal purposes; and

(f) provide for, in accordance with its law, simplified documentation requirements for the entry of low-value goods as determined by each Party.

2. Each Party shall adopt or maintain separate customs procedures for the expedited release of express shipments. These procedures shall:

(a) when applicable, use the World Customs Organization (WCO), Guidelines for the Immediate Release of Consignments by Customs, as amended;

(b) to the extent possible or if applicable, provide for advance electronic submission and processing of information before physical arrival of express shipments to enable their release upon arrival;

(c) to the extent possible, provide for clearance of certain goods with a minimum of documentation;

(d) not be limited by a maximum weight; and

(e) provide for, in accordance with a Party's legislation, simplified documentation requirements for the entry of low-value goods as determined by that Party.

3. Each Party shall ensure, to the extent possible, that its authorities and agencies involved in border and other import and export controls cooperate and coordinate to facilitate trade by, among other things, converging import and export data and documentation requirements and establishing a single location for one-time documentation and physical verification of consignments.

4. Each Party shall ensure, to the extent possible, that its import and export requirements are coordinated to facilitate trade, regardless of whether these requirements are administered by an agency or on behalf of that agency by the customs authority.

Article 4.4. Customs Valuation

The Customs Valuation Agreement governs customs valuation applied to reciprocal trade between the Parties.

Article 4.5. Fees and Charges

Each Party shall publish or otherwise make available information on fees and charges imposed by its customs authority, including electronically. This information shall include the applicable fees and charges, the specific reason for the fee or charge, the responsible authority, and when and how payment is to be made. A Party shall not impose new or amended fees and charges until it publishes or otherwise makes available this information.

Article 4.6. Risk Management

1. Each Party shall base its examination, release, and post-entry verification procedures on risk assessment principles, rather than requiring each shipment offered for entry to be examined in a comprehensive manner for compliance with import requirements.

2. Each Party shall adopt and apply its import, export and transit requirements and procedures for goods on the basis of risk management principles that focus compliance measures on transactions that merit attention.

3. Paragraphs 1 and 2 do not preclude a Party from conducting a quality control and compliance review that may require more extensive examinations.

Article 4.7. Automation

1. Each Party shall use information technologies that expedite its domestic procedures for the release of goods in order to facilitate trade, including trade between the Parties.

2. Each Party shall:

(a) endeavour to make available electronically customs forms that are required for the import or export of goods;

(b) allow, subject to its law, those customs forms to be submitted in electronic format; and

(c) if possible, provide for the electronic exchange of information with its trading community through its customs authority.

3. Each Party shall endeavour to:

(a) develop or maintain fully interconnected single window systems to facilitate a single electronic submission of information required by customs and non-customs legislation for cross-border movements of goods; and

(b) develop a set of data elements and processes in accordance with the WCO Data Model and related WCO recommendations and guidelines.

4. The Parties shall endeavour to cooperate on the development of interoperable electronic systems, taking account of the work at the WCO, in order to facilitate trade between the Parties.

Article 4.8. Advance Rulings for Tariff Classification

1. Subject to Chapter 3 (Rules of Origin and Origin Procedures), a Party shall issue a written ruling prior to an importation in response to a written request by an importer in its territory, exporter or producer in the territory of the other Party, or their respective representatives.

2. A Party shall issue these rulings for tariff classification or rate of customs duty, except with respect to any form of surtax or surcharge, applicable upon importation.

3. For the purposes of paragraph 1, the issuance of advance rulings shall be administered in the same manner as the procedures set out in Article 3.30 (Advance Rulings relating to Origin).

Article 4.9. Review and Appeal

1. Each Party shall ensure that an administrative action or official decision taken in respect of the import of goods is promptly reviewable by judicial, arbitral, or administrative tribunals or through administrative procedures.

2. The tribunal or official conducting the review referred to in paragraph 1 shall be independent of the official or office issuing the decision and shall have the competence to maintain, modify or reverse the determination, in accordance with the Party's law.

3. Before requiring a person to seek redress at a more formal or judicial level, each Party shall provide for an administrative level of appeal or review that is independent of the official or, if applicable, the office responsible for the original action or decision.

4. Each Party shall grant a person that has received an advance ruling pursuant to Article 4.8 (Advance Rulings for Tariff Classification) substantially the same right of review and appeal of determinations of advance rulings by its customs authority that the Party provides to importers in its territory.

Article 4.10. Penalties

Each Party shall ensure that its customs legislation provides that any penalty imposed for a breach of customs legislation or procedures is proportionate and non-discriminatory and, in its application, does not result in unwarranted delays.

Article 4.11. Confidentiality

1. Each Party shall, in accordance with its law:

(a) treat as strictly confidential information obtained under this Chapter that is by its nature confidential or that is provided on a confidential basis; and

(b) protect that information from disclosure that could prejudice the competitive position of the person providing the information.

2. If the Party receiving or obtaining the information referred to in paragraph 1 is required by its law to disclose this information, that Party shall notify the Party or person who provided the information.

3. Each Party shall ensure that information collected under this Chapter shall only be used for purposes related to the administration and enforcement of customs matters, except with the permission of the Party or person that provided the information.

4. A Party may allow information collected under this Chapter to be used in administrative, judicial, or quasi-judicial proceedings instituted for failure to comply with customs-related legislation implementing this Chapter. A Party shall notify the Party or person that provided the information in advance of such use.

Article 4.12. Cooperation

1. The Parties shall continue to cooperate in international fora, such as the WCO, to achieve mutually-recognised goals, including those set out in the WCO SAFE Framework of Standards to Secure and Facilitate Global Trade.

2. The Parties shall develop a technical cooperation program in customs matters under jointly decided terms as to the scope, timing and cost of cooperative measures.

3. The Parties shall cooperate:

(a) in the enforcement of their respective customs-related legislation implementing this Agreement;

(b) to the extent practicable and for purposes of facilitating the flow of trade between them, in customs matters such as the collection and exchange of statistics regarding the importation and exportation of goods, the harmonization of documentation used in trade and the standardization of data elements;

(c) to the extent practicable, to harmonize customs laboratories' methods and the exchange of information and personnel between the customs laboratories;

(d) in the development of effective mechanisms for communicating with the trade and business communities; and

(e) in such other matters as the Parties may decide.

4. If a Party has reasonable grounds to suspect that an offence related to a fraudulent claim for preferential tariff treatment pursuant to this Agreement has occurred, it may request the other Party to provide information pertaining to the offence, including:

(a) the name and address of persons and companies relevant to the investigation of the offence;

(b) shipping information relevant to the offence;

(c) customs clearance and accounting records or equivalent records for goods or materials imported into the territory of the other Party;

(d) information related to the sourcing of materials, including indirect materials used in the production of goods exported from the territory of the other Party; and

(e) information related to production capacity of an exporter or producer who has exported goods to the territory of the other Party.

5. If a Party makes a request pursuant to paragraph 4, it shall:

(a) make its request in writing;

(b) specify the grounds for suspicion of a fraudulent claim for preferential tariff treatment pursuant to this Agreement and the purposes for which the information is sought; and

(c) identify the requested information with sufficient specificity for the other Party to locate and provide the information.

6. Following the receipt of a request for information pursuant to paragraphs 4 and 5, a Party shall provide relevant information subject to its law.

7. Officials of a Party may, with the consent of the other Party, contact or visit an exporter, supplier or producer in the territory of the other Party in order to obtain information to further an investigation related to a suspected fraudulent claim for preferential tariff treatment made pursuant to this Agreement.

8. Each Party shall, when possible on its own initiative, provide the other Party with information relating to fraudulent claims for preferential tariff treatment made pursuant to this Agreement.

9. Nothing in this Chapter shall be construed to require a Party to furnish or to allow access to information the disclosure of which would impede law enforcement or would be contrary to the Party's law protecting personal privacy.

10. If a Party declines or postpones sharing the information requested by the other Party pursuant to this Article, the Party shall provide reasons to the other Party.

Article 4.13. Future Work Program

1. With the objective of developing further steps to facilitate trade under this Agreement, the Parties shall, as appropriate,

identify and submit for consideration by the Joint Commission new measures aimed at facilitating trade between the Parties.

2. The Parties shall regularly review relevant international initiatives on trade facilitation, including the Compendium of Trade Facilitation Recommendations, developed by the United Nations Conference on Trade and Development and the United Nations Economic Commission for Europe, to identify areas in which further joint action would facilitate trade between the Parties and promote shared multilateral objectives.

Chapter 5. Trade Remedies

Section A. Definitions

Article 5.1. Definitions

For the purposes of this Chapter:

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

Anti-Dumping Agreement means the WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, contained in Annex 1A to the WTO Agreement; and

SCM Agreement means the WTO Agreement on Subsidies and Countervailing Measures, contained in Annex 1A to the WTO Agreement.

Article B. Global Safeguards and Anti-Dumping and Countervailing Measures

Article 5.2. Article XIX of the GATT 1994 and the Agreement on Safeguards

Each Party retains its rights and obligations under Article XIX of the GATT 1994 and the Agreement on Safeguards, which exclusively govern global safeguard actions including the resolution of a dispute with respect to those matters.

Article 5.3. Relation to other Agreements

1. Each Party shall apply anti-dumping and countervailing measures in accordance with Article VI of the GATT 1994, the Anti-Dumping Agreement and the SCM Agreement.

2. This Section is not subject to Chapter 28 (Dispute Settlement).

Article 5.4. Transparency

1. A Party shall ensure, after an imposition of provisional measures, and in any case, before a final determination is made, full and meaningful disclosure of all essential facts under consideration which form the basis for the decision whether to apply final measures. This is without prejudice to Article 6.5 of the Anti-Dumping Agreement and Article 12.4 of the SCM Agreement.

2. Provided that it does not unnecessarily delay the conduct of the investigation, each interested party in an anti-dumping or countervailing investigation (1) shall be granted a full opportunity to defend its interests.

(1) For the purpose of this Article, "interested parties" are defined as per Article 6.11 of the Anti-Dumping Agreement and Article 12.9 of the SCM Agreement.

Chapter 6. Sanitary and Phytosanitary Measures

Article 6.1. Relation to other Agreements

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

2. The Parties shall use the WTO dispute settlement procedures for any formal disputes regarding sanitary and phytosanitary measures.

Article 6.2. Scope and Coverage

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

Article 6.3. Sanitary and Phytosanitary Contact Points

1. Each Party shall designate a Contact Point to facilitate communication on sanitary and phytosanitary trade-related matters and share the Contact Point information with the other Party.

2. The Contact Point is responsible for communications relating to sanitary and phytosanitary issue prevention and resolution.

Article 6.4. Sanitary and Phytosanitary Issue Prevention and Resolution

1. The Parties shall work expeditiously to resolve any specific sanitary or phytosanitary trade-related matters. The Parties shall give priority to resolving sanitary and phytosanitary issues through discussion between regulatory officials.

2. The Parties shall avail themselves of every means to prevent and resolve issues, including the use of technology (such as teleconference or videoconference) and opportunities that may arise at international forums.

3. At the request of a Contact Point, the Parties shall meet as soon as possible to resolve any specific sanitary or phytosanitary trade-related matters. Unless the Parties decide otherwise, they shall meet within 45 days of the request, through the use of technology (such as teleconference or videoconference) or in person.

Chapter 7. Technical Barriers to Trade

Article 7.1. Definitions

For the purposes of this Chapter:

TBT Agreement means the WTO Agreement on Technical Barriers to Trade; and

TBT Committee means the WTO Committee on Technical Barriers and Trade.

Article 7.2. WTO Agreement on Technical Barriers to Trade

The TBT Agreement, excluding Articles 10, 11, 12, 13, 14.1, 14.4 and 15, is hereby incorporated into and made part of this Agreement, mutatis mutandis.

Article 7.3. Scope

1. This Chapter applies to the preparation, adoption, and application of standards, technical regulations, and conformity assessment procedures of national governmental bodies that may affect the trade in goods between the Parties.

2. This Chapter does not apply to:

(a) a purchasing specification prepared by a governmental body for production or consumption requirements of a governmental body; or

(b) a sanitary or phytosanitary measure as defined in Annex A of the SPS Agreement.

Article 7.4. Joint Cooperation

1. 1.The Parties shall endeavour to strengthen their cooperation in the areas of standards, technical regulations, accreditation, conformity assessment procedures, and metrology in order to facilitate trade between the Parties.

2. Further to paragraph 1, the Parties shall endeavour to identify, develop and promote bilateral initiatives regarding standards, technical regulations, accreditation, conformity assessment procedures and metrology that are appropriate for particular issues or sectors. These initiatives may include:

(a) regulatory or technical cooperation programs directed at reaching effective and full compliance with the obligations of

this Chapter and the TBT Agreement;

(b) initiatives to develop common views on good regulatory practices, such as transparency and the use of equivalency and regulatory impact assessment; and

(c) the use of mechanisms to facilitate the acceptance of the results of conformity assessment procedures conducted in the other Party's territory.

3. A Party shall give consideration to a reasonable sector-specific proposal made by the other Party for further cooperation under this Chapter.

Article 7.5. International Standards

1. Each Party shall use relevant international standards, guides and recommendations as a basis for their technical regulations and conformity assessment procedures in accordance with Articles 2.4 and 5.4 of the TBT Agreement.

2. Each Party shall determine whether an international standard, guide or recommendation exists within the meaning of Articles 2 or 5 or Annex 3 of the TBT Agreement, based on whether the standard, guide or recommendation in question was developed by a standardizing body that observes the principles set out in the Decisions and Recommendations adopted by the WTO Committee on Technical Barriers to Trade since 1 January 1995, G/TBT/1/Rev.9, as may be revised, issued by the TBT Committee.

Article 7.6. Conformity Assessment

1. The Parties shall cooperate by encouraging their respective conformity assessment bodies, including accreditation bodies, to participate in cooperation arrangements that promote the mutual acceptance of conformity assessment results.

2. Each Party shall recognize conformity assessment bodies located in the territory of the other Party on conditions no less favorable than those that it applies for the recognition of conformity assessment bodies in its own territory. A Party shall not require conformity assessment bodies located in the territory of the other Party to establish a legal or physical presence in its own territory or that a separate agreement be concluded between the Parties as a pre-condition for the recognition of the other Party's conformity assessment bodies.

3. Notwithstanding paragraph 2, each Party shall consider a request to develop and implement the mutual recognition of conformity assessment bodies with respect to radio and terminal telecommunications equipment.

4. If a Party recognizes an accreditation body established in the territory of the other Party as competent to accredit conformity assessment bodies as having the competence to assess conformity with the Party's technical regulations, the Party shall apply for the recognition of those conformity assessment bodies, on conditions that are no less favourable than those applied for the recognition of its accredited conformity assessment body located in the territory of the Party.

5. Each Party is encouraged to recognize as competent to accredit conformity assessment bodies an accreditation body established in the territory of the other Party that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement; a signatory to the International Accreditation Forum Multilateral Recognition Agreement; or a signatory to, and for relevant accreditation scopes covered under, the European Accreditation Multilateral/Bilateral Agreement.

6. With respect to paragraph 4, each Party recognizes that it may apply additional procedures to verify the competence of an accredited conformity assessment body if:

(a) the Party applies conditions for the recognition of conformity assessment bodies that supplement international standards, including conditions with respect to the accreditation of those bodies; and

(b) the Party requires assurance that a conformity assessment body is technically capable to assess whether products fulfill the requirements of a particular standard or technical regulation.

7. Each Party shall take reasonable measures to ensure that accreditation bodies established in its territory accredit conformity assessment bodies established in the territory of the other Party under conditions no less favourable than the conditions applied to conformity assessment bodies located in its territory. A Party may not take measures that limit or discourage the ability of accreditation bodies established in its territory from accrediting conformity assessment bodies established in the territory of the other Party, under conditions no less favourable than those applied to the accreditation of conformity assessment bodies in its own territory.

8. Each Party shall accept the results of conformity assessment procedures conducted by conformity assessment bodies located in the other Party's territory, which have been recognized by the other Party, under conditions no less favourable than those conditions applied to the acceptance of the results of conformity assessment procedures conducted by recognized conformity assessment bodies in its territory.

9. The Parties shall exchange information on their respective conditions for the recognition of conformity assessment bodies, including applicable accreditation requirements and procedures that a conformity assessment body must fulfill to apply for recognition.

10. If a Party recognizes a conformity assessment body in the territory of the other Party, it shall promptly inform the other Party that it recognizes that conformity assessment body and of the scope of the body's accreditation.

11. Nothing in this agreement prevents each Party from retaining the powers established under their respective domestic laws to take all permissible measures with respect to products that may compromise the health or safety of persons in its respective territory, or which otherwise fail to conform to their respective technical regulations.

12. If a Party does not accept the results of a conformity assessment procedure conducted by a recognized conformity assessment body in the territory of the other Party, it shall, on the request of the other Party, provide the reasons for its decision.

13. Nothing in this Chapter prevents a Party from undertaking conformity assessment in relation to specific products solely by government bodies that are located in its territory, subject to the Parties' obligations under the TBT Agreement.

Article 7.7. Transparency

1. The obligations in this Article supplement those set out in Chapter 15 (Transparency, Anti-Corruption and Responsible Business Conduct). In the event of an inconsistency between this Article and the obligations in Chapter 15, this Article prevails.

2. Each Party shall ensure that transparency procedures regarding the development of technical regulations and conformity assessment procedures allow interested persons to participate at an early appropriate stage, when amendments may be introduced and comments may be taken into account, unless urgent problems of safety, health, environmental protection or national security arise or threaten to arise. If a consultation process for the development of technical regulations and conformity assessment procedures is open to the public, a Party shall permit persons of the other Party to participate on terms no less favourable than those accorded to its own persons.

3. Each Party shall recommend that standardization bodies in its territory observe paragraph 2 in the consultation processes for the development of standards or voluntary conformity assessment procedures.

4. Each Party shall allow a period of at least 60 days following its notification to the WTO's Central Registry of Notifications of proposed technical regulations and conformity assessment procedures for the public and the other Party to provide written comments, unless urgent problems of safety, health, environmental protection or national security arise or threaten to arise.

5. At the time a Party submits its notification of technical regulations and conformity assessment procedures to the WTO Central Registry of Notifications in accordance with the TBT Agreement, it shall include an electronic link to, or a copy of, the full text of the document.

6. Each Party shall, at the request of the other Party, provide its responses or a summary of its responses, to significant comments it receives.

7. Each Party, at the request of the other Party, shall provide information regarding the objectives of, and rationale for, a technical regulation or conformity assessment procedure that the Party has adopted or is proposing to adopt.

8. If a Party does not accept a technical regulation of the other Party as equivalent to its own, it shall explain its decision at the request of the other Party. The Parties recognize that it may be necessary to develop common views, methods, and procedures to facilitate the use of equivalency.

9. The Parties shall ensure that all adopted technical regulations and conformity assessment procedures are published on official websites that are publicly available without charge.

10. If a Party, at a port of entry, detains a good imported from the territory of the other Party on the basis that the good may not comply with a technical regulation, it shall immediately notify the importer of the reasons for the detention of the good.

11. Any information that is provided at the request of a Party under this Chapter shall be provided in print or electronically within a reasonable period of time. The Party receiving the request shall endeavour to respond to the request within 60 days.

Article 7.8. Contact Points

1. The Contact Points are:

(a) in the case of Canada, the Department of Foreign Affairs, Trade and Development, or its successor; and

(b) in the case of Ukraine, Ministry of Economy of Ukraine, or its successor.

2. The Contact Points are responsible for communications related to matters that arise under this Chapter. Those communications include:

(a) the implementation and administration of this Chapter;

(b) issues related to the development, adoption or application of standards, technical regulations, or conformity assessment procedures, under this Chapter or the TBT Agreement;

(c) the exchange of information on standards, technical regulations, or conformity assessment procedures;

(d) the exchange of information pursuant to Article 7.6.9 (Conformity Assessment) and to Articles 7.7.6 through 7.7.8 and Article 7.7.11 (Transparency); and

(e) joint cooperation by the Parties, pursuant to Article 7.4.

3. A Contact Point is responsible for communication with the relevant institutions and persons in its territory as necessary to carry out its functions. The Contact Points may communicate by written, electronic, video-conference, or other means decided by the Parties.

Chapter 8. Digital Trade

Article 8.1. Definitions

For the purposes of this Chapter:

algorithm means a defined sequence of steps, taken to solve a problem or obtain a result;

computing facility means a computer server or storage device for processing or storing information for commercial use;

digital product means a computer program, text, video, image, sound recording, or other product that is digitally encoded, produced for commercial sale or distribution, and that can be transmitted electronically;

electronic address means an address used in connection with the transmission of an electronic message to an electronic mail account, instant messaging account, telephone account, or any similar account;

electronic authentication means the process or act of verifying the identity of a party to an electronic communication or transaction and ensuring the integrity of an electronic communication;

electronic message means a message sent by any means of telecommunication, including a text, sound, voice, or image message;

electronic signature means data in electronic form that is in, affixed to, or logically associated with, an electronic document or message, and that may be used to identify the signatory in relation to the electronic document or message and indicate the signatory's approval of the information contained in the electronic document and message;

commercial electronic message means an electronic message in any form intended to directly or indirectly promote goods, works, or services, or the business reputation of a person engaged in an economic or independent professional activity;

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

government data means data held by the central government, disclosure of which is not restricted under domestic law, and

which a Party makes digitally available for public access and use;

metadata means structural or descriptive information about data, such as content, format, source, rights, accuracy, provenance, frequency, periodicity, granularity, publisher or responsible party, contact information, method of collection, and context;

personal data means information relating to an identified or identifiable natural person;

unsolicited commercial electronic message means an electronic message that is sent for commercial or marketing purposes to an electronic address without the consent of the recipient or against the explicit rejection of the recipient;

significant harm includes bodily harm, humiliation, damage to reputation or relationships, loss of employment, business or professional opportunities, financial loss, identity theft, negative effects on the credit record, and damage to or loss of property.

Article 8.2. Scope

1. This Chapter applies to measures adopted or maintained by a Party that affect trade by electronic means.

2. This Chapter does not apply to:

(a) government procurement; or

(b) information held or processed by or on behalf of a Party, or measures related to that information, including measures related to its collection, except for Articles 8.7(6), 8.7(7), 8.7(8), and 8.13.

3. For greater certainty, a measure that affects the supply of a service delivered or performed electronically is subject to the relevant provisions of Chapter 17 (Investment), Chapter 18 (Cross-Border Trade in Services) and Chapter 20 (Financial Services).

4. Articles 8.10 and 8.11 shall not apply to the non-conforming aspects of measures adopted or maintained in accordance with Article 17.18 (Non-Conforming Measures), Article 18.7 (Reservations), or Article 20.10 (Non-Conforming Measures).

Article 8.3. Access to and Use of the Internet for Digital Trade

1. The Parties recognize that it is beneficial for consumers in their territories to be able to:

(a) access and use services and applications of a consumer's choice available on the Internet;

(b) connect end-user devices of a consumer's choice to the Internet, provided that such devices do not harm the network; and

(c) access information on the network management practices of a consumer's Internet access service supplier.

Article 8.4. Electronic Transactions

1. Except for circumstances provided for under its law, a Party shall not deny the legal validity of a transaction, including any document or contract related to the transaction, solely on the basis that it is in electronic form.

2. Each Party shall endeavour to avoid unnecessary regulatory burden on electronic transactions and facilitate input by interested persons in the development of its legal framework for electronic transactions.

Article 8.5. Electronic Authentication and Electronic Signatures

1. Except in circumstances provided for under its law, a Party shall not deny the legal validity of a signature solely on the basis that the signature is in electronic form.

2. A Party shall not adopt or maintain measures for electronic authentication and electronic signatures that would:

(a) prohibit parties to an electronic transaction from mutually determining the appropriate authentication methods or electronic signatures for that transaction; or

(b) prevent parties to an electronic transaction from having the opportunity to establish before judicial or administrative authorities that their transaction complies with a legal requirement with respect to authentication or electronic signatures.

3. Notwithstanding paragraph 2, a Party may require that, for a particular category of transactions, the method of authentication or electronic signature meets certain performance standards or is certified by an authority accredited in accordance with its law.

4. Each Party shall encourage the use of interoperable electronic authentication.

Article 8.6. Online Consumer Protection

1. The Parties recognize the importance of adopting and maintaining transparent and effective measures to protect consumers from fraudulent, misleading, or deceptive commercial activities when they engage in digital trade.

2. Each Party shall adopt or maintain consumer protection laws that address fraudulent, misleading or deceptive commercial activities that cause harm or potential harm to consumers engaged in online commercial activities.

3. The Parties recognize the importance of, and public interest in, cooperation between their respective national consumer protection authorities or other relevant bodies on activities related to cross-border digital trade, including the exchange of consumer complaints and other enforcement information as appropriate, in order to enhance consumer protection and their welfare.

Article 8.7. Personal Data Protection

1. The Parties recognize the economic and social benefits of protecting personal data of users of digital trade and the contribution that this makes to enhancing consumer confidence in digital trade.

2. To this end, each Party shall adopt or maintain a legal framework that provides for the protection of the personal data of the users of digital trade, taking into account the principles and guidelines of relevant international bodies. These principles include: limitation on collection; choice; data quality; purpose specification; use limitation; security safeguards; transparency; individual participation; and accountability.

3. Each Party shall endeavour to adopt or maintain non-discriminatory practices in protecting users of digital trade from personal data protection violations within its jurisdiction.

4. Each Party shall publish information on the personal data protections it provides to users of digital trade as part of its legal frameworks, including how:

(a) a natural person can access their own personal data;

(b) a natural person can pursue a remedy; and

(c) an enterprise can comply with legal requirements.

5. Recognizing that the Parties may take different legal approaches to protecting personal data, each Party should encourage the development of mechanisms to promote compatibility between these different regimes. The Parties shall endeavour to exchange information on the mechanisms applied in their jurisdictions and explore ways to extend these or other suitable arrangements to promote compatibility between them.

6. A Party shall not use the personal data of natural persons obtained from an enterprise operating within its jurisdiction in a manner that constitutes targeted discrimination on manifestly wrongful grounds such as race, colour, sex, sexual orientation, gender, language, religion, political or other opinion, national or social origin, property, medical, birth, or other status, genetic identity, age, ethnicity, or disability.

7. Each Party shall endeavour to ensure that any personal data disclosed to a government authority by an enterprise is protected against loss or theft, as well as unauthorized access, disclosure, copying, use, or modification.

8. Each Party shall ensure that any personal data disclosed to a government authority by an enterprise is not collected, created, accessed, disclosed, used, retained or modified by a government authority in a manner that can reasonably be expected to cause significant harm to a natural person.

9. The Parties acknowledge that their respective legal frameworks provide a suitable level of protection for personal information, including for personal information transferred between their jurisdictions. (1)

10. Unless a modification to the other Party's existing measures results in a materially lower standard of protection of personal information, a Party shall not adopt or maintain a measure for the protection of personal information that applies solely to cross-border transfers of personal information required for the conduct of business between the jurisdictions of

the Parties, in a manner that modifies the conditions of competition to the detriment of service suppliers or enterprises of the other Party.

(1) For greater certainty, the public disclosure of personal data that can reasonably be expected to cause significant harm does not constitute a violation of this obligation provided that it is not inconsistent with paragraph 6 of this Article and that it is done for the purposes of legitimate law enforcement activities, judicial proceedings, compliance with regulatory requirements, or national security.

Article 8.8. Unsolicited Commercial Electronic Messages

1. Each Party shall adopt or maintain measures providing for the limitation of unsolicited commercial electronic messages.

2. Each Party shall adopt or maintain measures regarding unsolicited commercial electronic messages that:

(a) require suppliers of unsolicited commercial electronic messages to facilitate the ability of recipients to prevent the ongoing reception of those messages; or

(b) require the consent, as specified in the measures of each Party, of recipients to receive commercial electronic messages.

3. The Parties shall endeavour to cooperate in cases of mutual concern regarding the regulation of unsolicited commercial electronic messages.

Article 8.9. Prohibition of Customs Duties on Digital Products Transmitted Electronically

1. A Party shall not impose customs duties on a digital product transmitted electronically between a person of one Party and a person of another Party.

2. For greater certainty, paragraph 1 does not prevent a Party from imposing internal taxes, fees, or other charges on a digital product transmitted electronically, provided that those taxes, fees, or charges are imposed in a manner consistent with this Agreement.

Article 8.10. Cross-Border Transfer of Information by Electronic Means

1. A Party shall not restrict the cross-border transfer of information by electronic means, including personal data if such activity is for the conduct of the business of an enterprise.

2. This Article does not prevent a Party from adopting or maintaining a measure inconsistent with paragraph 1 that is necessary to achieve a legitimate public policy objective, provided that the measure is not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade.

3. Paragraph 1 does not apply to a financial institution of the other Party or a cross-border financial service supplier of the other Party as defined in Chapter 20 (Financial Services).

Article 8.11. Location of Computing Facilities

1. A Party shall not require an enterprise to use or locate computing facilities in that Party's territory as a condition for conducting business in that territory.

2. This Article does not prevent a Party from adopting or maintaining a measure inconsistent with paragraph 1 that is necessary to achieve a legitimate public policy objective, provided that the measure is not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade.

3. Paragraph 1 does not apply to a financial institution of the other Party or a cross-border financial service supplier of the other Party as defined in Chapter 20 (Financial Services).

Article 8.12. Source Code

1. A Party shall not require the transfer of, or access to, source code of software owned by a person of another Party, or to an algorithm expressed in that source code, as a condition for the import, distribution, sale, or use of that software, or of products containing that software, in its territory.

2. This Article does not preclude a regulatory body or judicial authority of a Party from requiring a person of another Party to preserve and make available the source code of software, or an algorithm expressed in that source code, for a specific investigation, inspection, examination enforcement action, or judicial proceeding (2), subject to safeguards against unauthorized disclosure.

(2) This disclosure shall not be construed to negatively affect the software source code's status as a trade secret, if such status is claimed by the trade secret owner.

Article 8.13. Open Government Data

1. The Parties recognize the benefit of making data held by a regional or local government digitally available for public access and use in a manner consistent with paragraphs 2 to 4.

2. The Parties recognise that facilitating public access to and use of government data fosters economic and social development, competitiveness, and innovation. To this end, each Party shall endeavour to expand the coverage of such data, such as through engagement and consultation with interested stakeholders.

3. To the extent that a Party chooses to make government data digitally available for public access and use, each Party shall endeavour, to the extent practicable, to ensure that such data is:

(a) made available in a machine-readable and open format;

(b) searchable and retrievable;

(c) updated, as applicable, in a timely manner; and

(d) accompanied by metadata that is, to the extent possible, based on commonly used formats that allow the user to understand and utilise the data.

A Party shall further endeavour to make this data generally available at no or reasonable cost to the user.

4. To the extent that a Party chooses to make government data digitally available for public access and use, it shall endeavour to avoid imposing conditions (3) that unduly prevent or restrict the user of such data from:

(a) reproducing, redistributing, or republishing the data;

(b) regrouping the data; or

(c) using the data for commercial and non-commercial purposes, including in the process of production of a new product or service.

5. The Parties shall endeavour to cooperate in matters that facilitate and expand public access to and use of government data, including exchanging information and experiences on practices and policies, with a view to encouraging the development of digital trade and creating business opportunities, especially for small and medium-sized enterprises (SMEs).

(3) For greater certainty, this paragraph does not prevent a Party from requiring a user of such data to link to original sources.

Chapter 9. Competition Policy

Article 9.1. Objectives

1. The Parties recognize that anti-competitive business conduct and transactions may distort the proper functioning of markets and offset the benefits of trade liberalization.

2. The Parties shall endeavour to take appropriate measures to proscribe anti-competitive business conduct and transactions, to implement policies promoting competition, and to cooperate on matters covered by this Chapter to help secure the benefits of this Agreement.

3. The Parties agree that anti-competitive business conduct and transactions outlined in their competition laws, including abuse of a dominant position, are incompatible with this Agreement, insofar as they may affect trade and investment between the Parties.

Article 9.2. Competition Laws and Authorities

1. Each Party shall maintain competition laws that proscribe anti-competitive business conduct and transactions, with the objective of promoting economic efficiency and consumer-welfare, and shall take appropriate action with respect to anti-competitive business conduct and transactions.

2. Each Party shall endeavour to apply its competition laws to all commercial activities in its territory. This does not prevent a Party from applying its competition laws to a commercial activity outside its territory that has an appropriate nexus to its jurisdiction.

3. Each Party may provide for an exemption from the application of its competition laws provided that the exemption is transparent, established in its law, and based on legitimate public policy objectives.

4. Each Party shall maintain an authority responsible for the enforcement of its competition laws ("competition authority").

5. Each Party shall ensure and maintain independence in decision-making by its competition authority or in relation to the enforcement of its competition laws.

6. Each Party shall ensure that its competition authority enforces its competition laws in accordance with the objectives set out in Article 9.1, and does not discriminate on the basis of nationality.

Article 9.3. Procedural Fairness

1. For the purposes of this Chapter, "enforcement proceeding" means a judicial or administrative proceeding following an investigation into the alleged contravention of a Party's competition laws. (1)

2. Each Party shall ensure that, before it imposes a final sanction or remedy against a person for contravening its competition laws, it affords that person a reasonable opportunity, in accordance with its law, to have non-privileged information about the competition authority's reason for investigation, including identification of the specific competition laws alleged to have been contravened.

3. Each Party shall, in accordance with its law, provide a person subject to a contested enforcement proceeding with reasonable access to non-privileged information that is necessary to prepare an adequate defence.

4. Each Party shall, in accordance with its law, provide a person subject to a contested enforcement proceeding with a reasonable opportunity to be heard and to present, respond to, and challenge evidence.

5. Each Party shall, in accordance with its law, provide a person with a reasonable opportunity to contest an allegation that the person has contravened competition laws before an independent and impartial judicial or administrative body, including the review of an alleged substantive or procedural error.

6. Each Party shall ensure that its competition authority affords a person a reasonable opportunity to be represented by legal counsel.

7. Each Party shall ensure that its competition authority recognizes a privilege, as acknowledged by its law, if not waived, for lawful communications between the counsel and the person if the communications concern the soliciting or rendering of legal advice.

8. Each Party shall endeavor to conclude its investigations and aspects of enforcement proceedings under its control within a reasonable time period, taking into account the nature and complexity of the case.

9. Each Party shall adopt or maintain rules of procedure and evidence for conducting its enforcement proceedings and determining sanctions and remedies under these proceedings.

10. Each Party shall, in accordance with its law, provide for the protection of confidential information obtained by its competition authority during the investigation.

11. Each Party shall, if appropriate and legally permissible, ensure that its competition authority informs a person that is the subject of an investigation as soon as practicable. This information must include the legal basis for the investigation and the alleged conduct or transaction under investigation. In determining the timing for informing a person of an investigation, a Party's competition authority may consider the status and specific needs of the investigation, such as the need to keep the investigation covert or to take immediate action to mitigate further harm.

12. Each Party shall endeavour to, if appropriate and legally permissible, provide a person subject to an investigation that

has been informed of the investigation, or that has notified a merger or other transaction or conduct, with a reasonable opportunity for meaningful and timely engagement on the relevant factual, legal, economic, and procedural issues, according to the status and specific needs of the investigation.

(1) For Canada, this does not include the consensual resolution of an issue between the competition authority and a person alleged to have contravened competition laws, if the allegation made by the competition authority is not contested.

Article 9.4. Transparency

1. The Parties recognize the value of making their competition enforcement guidelines and advocacy policies as transparent as possible.

2. Each Party shall ensure that its competition laws are publicly available.

3. For greater certainty, this Article does not require a Party to disclose confidential information, privileged information, or information otherwise protected on the grounds of legitimate public policy objectives, including a Party's competition authority's internal operating procedures.

4. On request of a Party, the other Party shall make available to the requesting Party public information concerning:

(a) its competition law enforcement guidelines and practices; and

(b) exemptions to its competition laws.

5. Each Party shall ensure that a final decision from an enforcement proceeding finding a contravention of its competition laws sets out findings of fact and the reasoning (2), including legal and, if applicable, economic analysis, on which the decision is based.

6. Each Party shall ensure that a final decision referred to in paragraph 5 and any order implementing that decision are published, or if publication is not practicable, are made publicly available in a manner that enables an interested person or the other Party to become acquainted with them.

7. Each Party shall ensure that a decision or an order that is published or made publicly available is redacted to the extent necessary to be consistent with that Party's law regarding confidentiality, privilege, and any other applicable exceptions, including the need to safeguard information on the grounds of legitimate public policy objectives.

(2) This does not apply to jury trials in Canada.

Article 9.5. Confidentiality

1. Each Party shall have publicly available rules, policies, or guidance regarding the identification and treatment of confidential information that comes into the possession of the competition authority.

2. Each Party shall ensure that its competition authority, to the fullest extent possible, limits access to confidential information protected under its Party's laws, and, where the public seeks to obtain access to confidential information in the possession of the competition authority, the competition authority shall generally oppose such a request.

Article 9.6. Cooperation

1. The Parties recognize that anti-competitive business conduct and transactions increasingly transcend borders, and that cooperation and coordination between the Parties to foster effective competition law enforcement is important and in the public interest.

2. Each Party's competition authority shall endeavour to cooperate:

(a) in any area of competition policy by exchanging information on the development of competition policy; and

(b) on any issue of competition law enforcement, including the exchange of information, investigative and enforcement assistance, and consultation and coordination on any cross-border investigation.

3. A Party's competition authority may consider entering into a cooperation arrangement or agreement with the

competition authority of another Party that sets out decided terms of cooperation.

4. Recognizing that the Parties can benefit by sharing their diverse experience in developing, administering, and enforcing their competition laws and policies, the Parties may undertake technical cooperation activities, including:

(a) providing advice or training on any relevant issue, including through the exchange of officials;

(b) exchanging information and experience on competition advocacy, including ways to promote a culture of competition; and

(c) assisting a Party as it implements a new competition law.

5. The Parties shall cooperate under this Article in a manner compatible with their respective laws, policies, and mutual interests, and within their reasonably available resources. Information shared pursuant to this Article may be subject to additional requirements, including confidentiality requirements or restrictions on the purposes for which the information is used.

Article 9.7. Consultations

1. In order to foster understanding between the Parties, or to address a specific matter that arises under this Chapter, on written request of the other Party, a Party shall enter into consultations with the requesting Party. The requesting Party shall indicate, if relevant, how the matter affects trade or investment between the Parties.

2. The responding Party addressed shall accord full and sympathetic consideration to the concerns of the requesting Party.

3. To facilitate the discussion regarding the matter of consultations, each Party shall endeavour to provide relevant non-confidential, non-privileged information to the other Party.

Article 9.8. Non-Application of Dispute Settlement

A Party shall not have recourse to dispute settlement under Chapter 28 (Dispute Settlement) for a matter arising under this Chapter.

Chapter 10. Designated Monopolies and State-Owned Enterprises

Article 10.1. Definitions

For the purposes of this Chapter:

Arrangement means the Arrangement on Officially Supported Export Credits, developed within the framework of the Organization for Economic Co-operation and Development ("OECD"), or a successor undertaking, whether developed within or outside of the OECD framework, that has been adopted by at least 12 original WTO Members that were Participants to the Arrangement as of 1 January 1979;

commercial activities means activities that an enterprise undertakes with an orientation toward profit-making and that result in the production of a good or supply of a service that will be sold to a consumer in the relevant market in quantities and at prices determined by the enterprise. Activities undertaken by an enterprise that operates on a not-for-profit basis or on a cost-recovery basis are not activities undertaken with an orientation toward profit-making. Measures of general application to the relevant market shall not be construed as the determination by a Party of pricing, production, or supply decisions of an enterprise;

designate means a decision by a Party to establish, name, or authorize a monopoly, or expand the scope of a monopoly to cover an additional good or service;

designated monopoly means a privately owned monopoly that is designated after the date of entry into force of this Agreement or a government monopoly that a Party designates or has designated;

government monopoly means a monopoly owned, or controlled through ownership interests, by the national government of a Party or by another government monopoly;

in accordance with commercial considerations means consistent with normal business practices of a privately held enterprise in the relevant business sector or industry;

independent pension fund means an enterprise that is owned, or controlled through ownership interests, by a Party that:

(a) is engaged exclusively in the following activities:

(i) administering or providing a plan for pension, retirement, social security, disability, death or employee benefits, or any combination thereof solely for the benefit of natural persons who are contributors to such a plan and their beneficiaries; or

(ii) investing the assets of these plans;

(b) has a fiduciary duty to the natural persons referred to in subparagraph (a)(i); and

(c) is not subject to investment direction from the government of the Party. Investment direction from the government of a Party does not include general guidance with respect to risk management and asset allocation that is not inconsistent with usual investment practice and is not demonstrated solely by the presence of government officials on the enterprise's board of directors or investment panel;

Market means the geographic or commercial market for a good or service;

Monopoly means an entity, designated by a Party, including a consortium or government agency, that in any relevant market in the territory of a Party is the sole provider or purchaser of a good or service, but does not include an entity that has been granted an exclusive intellectual property right solely by reason of that grant;

sovereign wealth fund means an enterprise owned, or controlled through ownership interests, by a Party that:

(a) serves solely as a special purpose investment fund or arrangement for asset management, investment, or related activities, using financial assets of a Party. The Parties understand that the word "arrangement" herein as an alternative to "fund" allows for a flexible interpretation of the legal arrangement through which the assets can be invested; and

(b) is a Member of the International Forum of Sovereign Wealth Funds or endorses the Generally Accepted Principles and Practices ("Santiago Principles") issued by the International Working Group of Sovereign Wealth Funds, October 2008, or other principles and practices as may be agreed to by the Parties;

and includes any special purpose vehicles established solely for the activities described in subparagraph (a) wholly owned by the enterprise, or wholly owned by the Party but managed by the enterprise; and

state-owned enterprise means an enterprise that is principally engaged in commercial activities, and in which a Party:

(a) directly owns more than 50 per cent of the share capital;

(b) controls, through ownership interests, the exercise of more than 50 per cent of the voting rights; or

(c) holds the power to appoint a majority of members of the board of directors or any other equivalent management body.

Article 10.2. Scope

1. This Chapter applies with respect to the activities of state-owned enterprises, state enterprises, or designated monopolies of a Party that affect trade or investment between Parties within the free trade area.

2. This Chapter does not apply to:

(a) the regulatory or supervisory activities, or monetary and related credit policy and exchange rate policy, of a central bank or monetary authority of a Party;

(b) the regulatory or supervisory activities of a financial regulatory body of a Party, including a non-governmental body, such as a securities or futures exchange or market, clearing agency, or other organization or association, that exercises regulatory or supervisory authority over financial services suppliers; or

(c) activities undertaken by a Party or one of its state enterprises or state-owned enterprises for the purpose of the resolution of a failing or failed financial institution or any other failing or failed enterprise principally engaged in the supply of financial services.

3. This Chapter does not apply to a sovereign wealth fund of a Party.

4. This Chapter does not apply to:

(a) an independent pension fund of a Party; or

(b) an enterprise owned or controlled by an independent pension fund of a Party.

5. This Chapter does not apply to government procurement.

6. Articles 10.3, 10.4, and 10.6 do not apply to a service supplied in the exercise of governmental authority. For the purposes of this paragraph, "a service supplied in the exercise of governmental authority" has the same meaning as in the GATS, including the meaning in the Financial Services Annex if applicable.

7. Articles 10.3 and 10.4 do not apply to the extent that a Party's state-owned enterprise or designated monopoly makes purchases and sales of goods or services pursuant to:

(a) any existing non-conforming measure that the Party maintains, continues, renews, or amends in accordance with Article 17.18(1) (Non-Conforming Measures), Article 18.7(1) (Reservations), or Article 20.10(1) (Non-Conforming Measures), as set out in its Schedule to Annex I or in Section A of its Schedule to Annex III; or

(b) any non-conforming measure that the Party adopts or maintains with respect to sectors, subsectors, or activities in accordance with Article 17.18(2) (Non-Conforming Measures), Article 18.7(2) (Reservations), or Article 20.10(2) (Non-Conforming Measures), as set out in its Schedule to Annex II or in Section B of its Schedule to Annex III.

Article 10.3. Designated Monopolies

1. This Chapter does not prevent a Party from maintaining or designating a monopoly.

2. Each Party shall promptly notify the other Party or publish on an official website the designation of a monopoly or expansion of the scope of an existing monopoly and the terms of its designation.

3. Each Party shall ensure that a privately owned monopoly that it designates or a government monopoly that it maintains or designates:

(a) acts in a manner that is consistent with the Party's obligations under this Agreement whenever the monopoly exercises regulatory, administrative, or other governmental authority that the Party has delegated to it in connection with the monopoly good or service, such as the power to grant an import or export licence, approve a commercial transaction, or impose a quota, fee, or other charge;

(b) acts solely in accordance with commercial considerations in its purchase or sale of the monopoly good or service in the relevant market, including with regard to price, quality, availability, marketability, transportation, and other terms and conditions of purchase or sale, except to fulfil any terms of its designation that are not inconsistent with subparagraphs (c), (d), or (e);

(c) in its purchase of the monopoly good or service:

(i) accords to a good or service supplied by an enterprise of the other Party treatment no less favourable than it accords to a like good or a like service supplied by enterprises of the Party or of any non-Party; and

(ii) accords to a good or service supplied by an enterprise that is a covered investment in the Party's territory treatment no less favourable than it accords to a like good or a like service supplied by enterprises in the relevant market in the Party's territory that are investments of investors of the Party or of any non-Party; and

(d) in its sale of the monopoly good or service:

(i) accords to an enterprise of the other Party treatment no less favourable than it accords to enterprises of the Party or of any non-Party; and

(ii) accords to an enterprise that is a covered investment in the Party's territory treatment no less favourable than it accords to enterprises in the relevant market in the Party's territory that are investments of investors of the Party or of any non-Party; and

(e) does not use its monopoly position to engage in, either directly or indirectly, including through its dealings with its parent, subsidiaries, or other entities the Party or the designated monopoly owns, anticompetitive practices in a non-monopolized market in its territory that negatively affect trade or investment between the Parties.

4. Paragraphs 3(c) and 3(d) do not preclude a designated monopoly from:

(a) purchasing or selling goods or services on different terms or conditions including those relating to price; or

(b) refusing to purchase or sell goods or services;

provided that the differential treatment or refusal is undertaken in accordance with commercial considerations. For greater certainty, paragraph 4 does not allow a designated monopoly to violate a Party's domestic laws.

Article 10.4. State-Owned Enterprises

1. This Agreement does not prevent a Party from maintaining or establishing a state enterprise or a state-owned enterprise.

2. Each Party shall ensure that a state enterprise or a state-owned enterprise acts in a manner that is consistent with the Party's obligations whenever the enterprise exercises a regulatory, administrative, or other governmental authority that the Party has delegated to it, such as the power to expropriate, grant a licence, approve a commercial transaction, or impose a quota, fee, or other charge.

3. Each Party shall ensure that each of its state-owned enterprises, when engaging in commercial activities in its sale of a good or service, accords to an enterprise that is a covered investment in the Party's territory treatment no less favourable than it accords to enterprises in the relevant market in the Party's territory that are investments of investors of the Party.

4. Paragraph 3 does not preclude a state-owned enterprise from:

(a) selling goods or services on different terms or conditions including those relating to price; or

(b) refusing to sell goods or services;

provided that the differential treatment or refusal is undertaken in accordance with commercial considerations. For greater certainty, paragraph 4 does not allow a state-owned enterprise to violate a Party's domestic laws.

Article 10.5. Courts and Administrative Bodies

1. Each Party shall provide its courts with jurisdiction over civil claims against an enterprise owned or controlled through ownership interests by a foreign government based on a commercial activity carried on in its territory. This paragraph does not preclude a Party from providing its courts with jurisdiction over claims against enterprises owned or controlled through ownership interests by a foreign government other than those claims referred to in this paragraph. This paragraph does not require a Party to provide jurisdiction over those claims if it does not provide jurisdiction over similar claims against enterprises that are not owned or controlled through ownership interests by a foreign government.

2. Each Party shall ensure that any administrative body that the national government of a Party establishes or maintains that regulates a state-owned enterprise exercises its regulatory discretion in an impartial manner with respect to enterprises that it regulates, including enterprises that are not state-owned enterprises. The impartiality with which an administrative body exercises its regulatory discretion is to be assessed by reference to a pattern or practice of that administrative body.

Article 10.6. Transparency

1. On the written request of a Party, the other Party shall provide within a reasonable time the following information in writing concerning a state-owned enterprise or a government monopoly, provided that the request includes an explanation of how the activities of the entity may be affecting trade or investment between the Parties:

(a) the percentage of shares that the Party, its state-owned enterprises, or designated monopolies cumulatively own, and the percentage of votes that they cumulatively hold, in the entity;

(b) a description of any special shares or special voting or other rights that the Party, its state-owned enterprises, or designated monopolies hold, to the extent these rights are different than the rights attached to the general common shares of the entity;

(c) the government titles of any government official serving as an officer or member of the entity's board of directors;

(d) the entity's annual revenue and total assets over the most recent three year period for which information is available;

(e) any exemptions and immunities from which the entity benefits under the Party's law; and

(f) any additional information regarding the entity that is publicly available, including annual financial reports and third-party audits, and is sought in the written request.

2. When a Party provides written information pursuant to a request under this Article and informs the requesting Party that

it considers the information to be confidential, the requesting Party shall not disclose the information without the prior consent of the Party providing the information.

Article 10.7. Technical Cooperation

1. The Parties shall, where appropriate and subject to available resources, engage in mutually agreed technical cooperation activities, including:

(a) exchanging information regarding Parties' experiences in improving the corporate governance and operation of their state-owned enterprises;

(b) sharing best practices on policy approaches to ensure a level playing field between state-owned and privately owned enterprises, including policies related to competitive neutrality; and

(c) organizing international seminars, workshops, or any other appropriate forum for sharing technical information and expertise related to the governance and operations of state-owned enterprises.

Article 10.8. Contact Points

Each Party shall designate a Contact Point on State-Owned Enterprises and Designated Monopolies and notify the other Party to facilitate communications between the Parties on any matter covered by this Chapter.

Article 10.9. Exceptions

1. Articles 10.3 and 10.4 do not:

(a) prevent the adoption or enforcement by a Party of measures to respond temporarily to a national or global economic emergency; or

(b) apply to a state-owned enterprise with respect to which a Party has adopted or enforced measures on a temporary basis in response to a national or global economic emergency, for the duration of that emergency.

2. Article 10.4(3) does not apply with respect to the supply of financial services by a state-owned enterprise pursuant to a government mandate if that supply of financial services:

(a) supports exports or imports, provided that these services are:

(i) not intended to displace commercial financing; or

(ii) offered on terms no more favourable than those that could be obtained for comparable financial services in the commercial market. In circumstances in which no comparable financial services are offered in the commercial market:

(A) for the purposes of paragraphs 2(a)(ii) and 2(b)(ii), the state-owned enterprise may rely as necessary on available evidence to establish a benchmark of the terms on which those services would be offered in the commercial market; and

(B) for the purposes of paragraphs 2(a)(i) and 2(b)(i), the supply of the financial services must be deemed not to be intended to displace commercial financing;

(b) supports private investment outside the territory of the Party, provided that these services are:

(i) not intended to displace commercial financing, or

(ii) offered on terms no more favourable than those that could be obtained for comparable financial services in the commercial market; or

(c) is offered on terms consistent with the Arrangement, provided that it falls within the scope of the Arrangement.

3. Articles 10.3, 10.4, 10.6, and 10.8 do not apply to a state-owned enterprise or designated monopoly if in any one of the three previous consecutive fiscal years, the revenue derived from the commercial activities of the state-owned enterprise or designated monopoly was less than a threshold amount which must be calculated in accordance with Annex 10-A (Threshold Calculation).

4. If a Party invokes the exception in paragraph 3 during consultations under Article 28.5 (Consultations), the Parties should exchange and discuss available evidence concerning the revenue of the state-owned enterprise or the designated monopoly

derived from the commercial activities during the three previous consecutive fiscal years in an effort to resolve during the consultations any disagreement regarding the application of this exception.

Chapter 11. Government Procurement

Article 11.1. Incorporation and Application of Certain Provisions of the GPA 2012

1. Articles I to IV, VI to XV, XVI(1) to XVI(3), and XVII to XVIII set forth in the Annex to the Protocol Amending the Agreement on Government Procurement, done at Geneva on 30 March 2012, ("GPA 2012") are incorporated into and made part of this Agreement.

2. The articles of the GPA 2012 incorporated into this Agreement under paragraph 1, as well as Articles 11.2, 11.3, 11.4 and 11.5, shall apply to the Parties' annexes to their Market Access Schedule for this Chapter.

3. Further to Article 1.4 (Reference to Other Agreements), amendments to the articles of the GPA 2012 incorporated into this Agreement under paragraph 1 are also incorporated into this Agreement, except as decided by the Parties.

Article 11.2. Environmental, Socio-Economic, and Labour-related Considerations

1. The Parties recognize the role of government procurement in:

(a) advancing environmental and climate change objectives, including those set out in the Paris Agreement, done in Paris on 12 December 2015;

(b) creating opportunities for socially or economically disadvantaged groups; and

(c) promoting internationally recognized labour principles and rights, including those set out in the International Labour Organization Declaration on Fundamental Principles and Rights at Work (1998), as amended in 2022.

2. For greater certainty, a Party, including its procuring entities, may take into account environmental, socio-economic, or labour-related considerations in the procurement process, including through conditions for participation, technical specifications, or evaluation criteria, provided that those considerations are consistent with Article IV(1) and (2) of the GPA 2012 and do not constitute an unnecessary obstacle to international trade.

Article 11.3. Ensuring Integrity In Procurement Practices

1. Each Party shall ensure that criminal, civil, or administrative measures exist to address corruption, fraud, and other wrongful acts in its government procurement.

2. The criminal, civil, or administrative measures may include procedures to debar, suspend, or declare ineligible from participation in a Party's procurements, for a stated period of time, a supplier that the Party has determined to have engaged in corruption, fraud, or other wrongful acts relevant to a supplier's eligibility to participate in the Party's government procurement.

3. Each Party shall adopt or maintain measures to address potential conflicts of interest on the part of those engaged in or having influence over a procurement.

Article 11.4. Facilitation of Participation by Small and Medium Sized Enterprises

1. The Parties recognize the important contribution that small and medium sized enterprises (SMEs) can make to economic growth and employment and, accordingly, the importance of facilitating the participation of SMEs in government procurement.

2. To facilitate participation by SMEs in covered procurement, each Party shall, to the extent possible and if appropriate:

(a) ensure that information on how to participate in government procurement is readily available;

(b) endeavour to make all tender documentation available free of charge;

(c) conduct procurement by electronic means, including through new information and communication technologies;

(d) consider the size, design, and structure of the procurement, including subcontracting with SMEs; and

(e) promote prompt payment upon satisfactory provision of the goods or services.

Article 11.5. Cooperation In Government Procurement

1. The Parties recognize the importance of cooperation between them in helping to ensure the effective implementation of this Chapter. Taking into account the available and existing instruments, resources, and mechanisms, the Parties shall, to the extent possible, cooperate and exchange information, including through networks, seminars, and workshops, in matters such as:

(a) sustainable procurement practices; and

(b) streamlining and simplifying procurement processes to facilitate the participation of suppliers in government procurement.

Chapter 12. Intellectual Property

Article 12.1. Objectives

The objectives of this Chapter are to:

(a) maintain a balance between the rights of intellectual property right holders and the legitimate interests of intellectual property users with regard to intellectual property;

(b) facilitate international trade and economic, social and cultural development through the dissemination of ideas, technology and creative works; and

(c) facilitate the enforcement of intellectual property rights with a view, among other things, to eliminating trade in goods infringing intellectual property rights.

Article 12.2. Affirmation of International Agreements

1. The Parties affirm their rights and obligations under the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) and other intellectual property agreements to which both Parties are party.

2. The Parties confirm that the TRIPS Agreement can and should be interpreted and implemented in a manner supportive of WTO Members' right to protect public health and, in particular, to promote access to medicines for all. In this regard, the Parties affirm the right to fully avail themselves of the flexibilities established in the TRIPS Agreement, including those related to the protection of public health and in particular the promotion of access to medicines for all. The Parties take note of the WTO's General Council Decision on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health of 30 August 2003 and the Protocol amending the TRIPS Agreement adopted 6 December 2005.

Article 12.3. Protection of Geographical Indications

1. This Article concerns the protection in each of the Parties of geographical indications of wines and spirits originating in the territory of the other Party.

2. Part A of Annex 12-A contains geographical indications originating and protected in Canada. The terms listed in Part A of Annex 12-A are eligible for registration as protected geographical indications in Ukraine.

3. Part B of Annex 12-A contains geographical indications originating and protected in Ukraine. The terms listed in Part B of Annex 12-A are eligible for registration as protected geographical indications in Canada.

4. In order to secure protection, the authorities responsible for particular geographical indications in each Party shall apply for registration for protection in the territory of the other Party, in accordance with the procedures and requirements prescribed by the law of the other Party. The protection by each Party of these geographical indications shall be in accordance with Articles 22 through 24 of the TRIPS Agreement and subject to the exceptions provided in Article 24 of the TRIPS Agreement.

5. Each Party may adopt or maintain procedures that provide for the cancellation of the protection afforded to a geographical indication within its territory.

6. If a geographical indication of a Party listed in Annex 12-A ceases to be protected in the territory of its place of origin or falls into disuse in that place, that Party shall notify the other Party and request cancellation of the registration.

7. In accordance with the procedure established in paragraph 9, the Joint Commission referred to under Article 27.1 (Joint Commission) may amend Annex 12-A by removing a geographical indication of a wine or spirit which has ceased to be protected, or has fallen into disuse in Canada from Part A, or a geographical indication of a wine and spirit which has ceased to be protected, or has fallen into disuse in Ukraine from Part B.

8. In accordance with the procedure established in paragraph 9, the Joint Commission may amend Annex 12-A by adding a geographical indication of a wine or spirit originating and protected in Canada to Part A, and a geographical indication of a wine or a spirit originating and protected in Ukraine to Part B.

9. The Joint Commission, when exercising its powers of paragraph 7 or 8, shall act by consensus and on a recommendation by the Committee on Intellectual Property referred to under Article 12.12.

Article 12.4. Enforcement of Intellectual Property Rights

1. Each Party shall ensure that enforcement procedures are available under its legislation so as to permit effective action against any act of infringement of intellectual property rights (1), including expeditious remedies to prevent infringements and remedies which constitute a deterrent to further infringements. These procedures shall be applied in such a manner as to avoid the creation of barriers to legitimate trade and to provide for safeguards against their abuse.

2. Procedures concerning the enforcement of intellectual property rights shall be fair and equitable. They shall not be unnecessarily complicated or costly, or entail unreasonable time-limits or unwarranted delays.

(1) For the purposes of this Chapter, intellectual property rights refer to all categories of intellectual property rights that are the subject of Sections 1 through 7 of Part II of the TRIPS Agreement.

Article 12.5. Criminal Procedures

Each Party shall provide for criminal procedures and penalties to be applied at least in cases of wilful trademark counterfeiting or copyright piracy on a commercial scale. Remedies available shall include either imprisonment or monetary fines or both, sufficient to provide a deterrent, consistent with the level of penalties applied for crimes of a corresponding gravity. In appropriate cases, remedies available shall also include the seizure, forfeiture and destruction of the infringing goods and any materials or implements the predominant use of which has been in the commission of the offence. Each Party may provide for criminal procedures and penalties to be applied in other cases of infringement of intellectual property rights, in particular when they are committed wilfully and on a commercial scale.

Article 12.6. Camcording

1. Each Party shall provide for criminal procedures and penalties to be applied in accordance with that Party's laws and regulations for the unauthorised copying of a cinematographic work, or any part thereof, from a performance in a movie theatre.

2. For an offence specified in paragraph 1, each Party shall provide penalties that include imprisonment as well as monetary fines (2) sufficiently high to provide a deterrent against future acts of infringement, consistent with the level of penalties applied for crimes of a corresponding gravity.

(2) For greater certainty, there is no obligation for a Party to provide for the possibility of imprisonment and monetary fines to be imposed in parallel.

Article 12.7. Special Measures Against Copyright Infringers on the Internet or other Digital Networks

1. Each Party's civil and criminal enforcement procedures shall apply to infringement of copyright or related rights on the Internet or other digital networks, which may include the unlawful use of means of widespread distribution for infringing purposes.

2. A Party may provide its competent authorities, in accordance with its law, with the authority to order an online service provider to disclose expeditiously to a right holder information sufficient to identify a subscriber whose account was allegedly used for infringement, if that right holder has filed a legally sufficient claim for copyright or related rights infringement, and if that information is being sought for the purpose of protecting or enforcing those rights.

3. Each Party shall endeavour to promote cooperative efforts within the business community to effectively address copyright or related rights infringement while preserving legitimate competition and, consistent with that Party's domestic law, preserving fundamental principles such as freedom of expression, fair process, and privacy.

4. Each Party shall adopt or maintain measures to curtail copyright and related right infringement on the Internet or other digital network.

5. Each Party shall implement the procedures referred to in this Article in a manner that avoids the creation of barriers to legitimate activity, including electronic commerce and, consistent with that Party's law, preserves fundamental principles such as freedom of expression, fair process, and privacy. (3)

(3) For instance, the procedures in this Article are without prejudice to a Party's law, adopting or maintaining a regime providing for limitations on the liability of, or on the remedies available against, online service providers while preserving the legitimate interests of right holders.

Article 12.8. Special Requirements Related to Border Measures

1. For the purposes of this Article, goods infringing an intellectual property right mean counterfeit trademark goods or pirated copyright goods as defined in footnote 14 of Article 51 of the TRIPS Agreement. (4)

2. Each Party shall permit its competent authorities to request that a right holder supply relevant information to assist in taking the border measures referred to in this Article. A Party may also allow a right holder to supply relevant information to its competent authorities.

3. Each Party shall adopt or maintain procedures with respect to import and export shipments (5) under which its competent authorities may act upon their own initiative to suspend the release of, or to detain, goods suspected of infringing an intellectual property right.

4. Each Party shall adopt or maintain procedures with respect to import and export shipments under which a right holder may request the competent authorities of the Party providing the procedures to suspend the release of, or to detain, goods suspected of infringing an intellectual property right.

5. Each Party may provide that, if the applicant has abused the procedures described in this Article or if there is due cause, that Party's competent authorities have the authority to deny, suspend, or void the application.

6. Each Party shall adopt or maintain procedures by which its competent authorities may determine, within a reasonable period of time after the initiation of the procedures described in paragraph 3 or 4, if the goods suspected of infringing an intellectual property right infringe an intellectual property right.

7. Each Party may exclude from the application of this Article small quantities of goods of a non-commercial nature contained in travellers' personal luggage or sent in small consignments.

(4) Footnote 14 of the TRIPS Agreement contains the following definitions: "counterfeit trademark goods" shall mean any goods, including packaging, bearing without authorization a trademark which is identical to the trademark validly registered in respect of such goods, or which cannot be distinguished in its essential aspects from such a trademark, and which thereby infringes the rights of the owner of the trademark in question under the law of the country of importation; "pirated copyright goods" shall mean any goods which are copies made without the consent of the right holder or person duly authorized by the right holder in the country of production and which are made directly or indirectly from an article where the making of that copy would have constituted an infringement of a copyright or a related right under the law of the country of importation.

(5) For greater certainty, reference to "import and export shipments" referenced in this Article need not include shipments moving "in-transit".

Article 12.9. Cooperation on Enforcement of Intellectual Property Rights

1. The Parties recognize the challenges related to the enforcement of intellectual property rights, particularly in trans-border

contexts. The Parties shall endeavour to cooperate, as appropriate, to stem the economic and social costs of trade-mark counterfeiting and copyright piracy in accordance with each Party's law.

2. Each Party shall endeavour to encourage the development of expertise for the enforcement of intellectual property rights. The Parties shall also endeavour to exchange information and share best practices in areas of mutual interest relating to the enforcement of intellectual property rights in accordance with each Party's domestic law.

3. The Parties' respective competent authorities may cooperate, as appropriate, to better identify and target the inspection of shipments suspected of containing certain counterfeit trademark or pirated copyright, and, in doing so, endeavour to:

(a) share information on innovative approaches that may be developed to provide greater analytical targeting of shipments that could contain counterfeit or pirated goods; and

(b) share information and intelligence regarding shipments of suspected counterfeit trademark or pirated copyright goods in appropriate cases.

Article 12.10. Other Areas of Cooperation

Recognizing the growing importance of intellectual property rights in promoting innovation, social, economic, and cultural development, as well as economic competitiveness in a knowledge based economy, the Parties endeavour to cooperate, subject to availability of resources, in the field of intellectual property in areas of mutual interest.

Article 12.11. Designation of Contact Points

Each Party shall designate a Contact Point to facilitate communications between the Parties on intellectual property, and shall notify the other Party of the Contact Point and any changes to the Contact Point.

Article 12.12. Committee on Intellectual Property

1. The Parties continue the Committee on Intellectual Property (Committee) established under the 2017 Agreement composed of representatives of each Party with expertise in intellectual property.

2. The Committee shall be co-chaired by a representative of each Party.

3. The Committee shall:

(a) discuss topics relevant to the protection and enforcement of intellectual property rights covered by this Chapter, and any other relevant issue as mutually decided by the Parties;

(b) provide a forum for consultations pursuant to Article 12.15;

(c) oversee the Parties' cooperation under this Chapter; and

(d) make any recommendation to the Joint Commission referred to under Article 27.1 (Joint Commission) to amend Annex 12-A pursuant to Article 12.3.9.

4. The Parties shall endeavour to increase opportunities for cooperation in the field of intellectual property. This cooperation may include:

(a) promoting the development of contacts among the Parties' respective competent authorities that have an interest in the field of intellectual property;

(b) exchanging information on:

(i) each Party's legislation, procedures, policies, activities, and experiences in the field of intellectual property;

(ii) the implementation of intellectual property systems aimed at promoting the efficient registration of intellectual property rights; and

(iii) appropriate initiatives to promote public awareness of intellectual property rights.

5. With the exception of consultations pursuant to Article 12.15, the Committee shall meet as mutually decided by the Parties. Committee meetings may be held in person, or by electronic video-conference, telephone, or by other means.

Article 12.13. Transparency

With the aim of making the protection and enforcement of intellectual property rights transparent, each Party shall ensure that its laws, regulations, and procedures concerning intellectual property rights are published or otherwise made available in a manner that enables the other Party or any interested person to become acquainted with them.

Article 12.14. Disclosure of Information

This Chapter does not require a Party to disclose information that would impede law enforcement, be contrary to its law, or that is exempt from disclosure under its law.

Article 12.15. Consultations

1. Either Party may request consultations with the other Party regarding any actual or proposed measure, or any other matter which that Party considers might negatively affect its intellectual property interests.

2. Upon a request pursuant to paragraph 1, the Parties shall consult each other within the framework of the Committee referred to under Article 12.12 to consider ways of reaching a mutually satisfactory solution. In doing so, each Party shall:

(a) endeavour to provide sufficient information to enable a full examination of the matter; and

(b) maintain the confidentiality of the information provided by the other Party in the course of consultations.

3. Consultations within the framework of the Committee shall be conducted within 60 days following the request for consultations.

4. If the Parties are unable to reach a mutually satisfactory solution pursuant to the consultations under paragraph 2, either Party may refer the matter to the Joint Commission referred to under Article 27.1 (Joint Commission).

Article 12.16. Non-Application of Dispute Settlement

A Party shall not have recourse to dispute settlement under Chapter 28 (Dispute Settlement) for any matter arising under this Chapter.

Chapter 13. Environment

Article 13.1. Definitions

For the purposes of this Chapter:

environmental law means a statute or regulation of a Party, or provision thereof, including any that implements the Party's obligations under a multilateral environmental agreement, the primary purpose of which is the protection of the environment, or the prevention of a danger to human life or health, through:

(a) the prevention, abatement, or control of the release, discharge, or emission of pollutants or environmental contaminants;

(b) the control of environmentally hazardous or toxic chemicals, substances, materials, or wastes, and the dissemination of information related thereto; or

(c) the protection or conservation (1) of wild fauna or flora including endangered species, their habitat, and specially protected natural areas,

but does not include a statute or regulation, or provision thereof, directly related to worker safety or health, nor any statute or regulation, or provision thereof, the primary purpose of which is managing the subsistence or aboriginal harvesting of natural resources;

specially protected natural areas means those areas as defined by the Party in its law; and

statute or regulation means, for Canada, an Act of the Parliament of Canada or regulation made under an Act of the Parliament of Canada that is enforceable by action of the central level of government.

(1) The Parties recognize that "protection or conservation" may include the protection or conservation of biological diversity.

Article 13.2. Context and Objectives

1. The Parties recognize that a healthy environment is an integral element of sustainable development and recognize the contribution that trade makes to sustainable development.

2. The Parties recognize that the objectives of this Chapter are to:

(a) promote mutually supportive trade and environmental policies and practices;

(b) promote high levels of environmental protection and effective enforcement of environmental laws; and

(c) enhance the capacities of the Parties to address trade-related environmental issues, including through cooperation, in the furtherance of sustainable development.

3. Taking account of their respective national priorities and circumstances, the Parties recognize that enhanced cooperation to protect and conserve the environment and the sustainable use and management of their natural resources brings benefits that can contribute to sustainable development, strengthen their environmental governance, support implementation of multilateral environmental agreements to which they are a party, and complement the objectives of this Agreement.

4. The Parties recognize that the environment plays an important role in the economic, social, and cultural well-being of Indigenous Peoples, and rural or remote communities, and acknowledge the importance of engaging with these groups in the long-term conservation of the environment.

5. The Parties further recognize that it is inappropriate to establish or use their environmental laws or other measures in a manner which would constitute a disguised restriction on trade or investment between the Parties.

Article 13.3. Right to Regulate and Levels of Protection

1. The Parties recognize the sovereign right of each Party to establish its own levels of domestic environmental protection and its own environmental priorities, and to establish, adopt, or modify its environmental laws and policies accordingly.

2. Each Party shall endeavour to ensure that its environmental laws and policies provide for, and encourage, high levels of environmental protection, and shall endeavour to continue to improve its respective levels of environmental protection.

3. The Parties recognize that a key principle underpinning their environmental laws and policies is that those who pollute the environment should bear the cost of that pollution.

Article 13.4. Enforcement of Environmental Laws

1. A Party shall not fail to effectively enforce its environmental laws through a sustained or recurring course of action or inaction (2) in a manner affecting trade or investment between the Parties. (3) (4)

2. Each Party retains the right to exercise discretion and to make decisions regarding: (a) investigatory, prosecutorial, regulatory, and compliance matters; and (b) the allocation of environmental enforcement resources with respect to other environmental laws determined to have higher priorities. Accordingly, the Parties understand that, with respect to the enforcement of environmental laws, a Party is in compliance with paragraph 1 if a course of action or inaction reflects a reasonable exercise of that discretion, or results from a bona fide decision regarding the allocation of those resources in accordance with priorities for enforcement of its environmental laws.

3. Without prejudice to Article 13.3(1), the Parties recognize that it is inappropriate to encourage trade or investment by weakening or reducing the protection afforded in their environmental laws. Accordingly, a Party shall not waive or otherwise derogate, or offer to waive or otherwise derogate, from its environmental laws in a manner that weakens or reduces the protection afforded in those law in order to encourage trade or investment between the Parties.

4. Nothing in this Chapter shall be construed to authorize a Party to enforce its environmental laws in the territory of the other Party.

(2) For greater certainty, a "sustained or recurring course of action or inaction" is "sustained" if the course of action or inaction is consistent or

ongoing, and is "recurring" if the course of action or inaction occurs periodically or repeatedly and when the occurrences are related or the same in nature. A course of action or inaction does not include an isolated instance or case.

(3) For greater certainty, a "course of action or inaction" is "in a manner affecting trade or investment between the Parties" if the course involves: (a) a person or industry that produces a good or supplies a service traded between the Parties or has an investment in the territory of the Party that has failed to comply with this obligation; or (b) a person or industry that produces a good or supplies a service that competes in the territory of a Party with a good or a service of another Party.

(4) For purposes of dispute settlement, a failure is presumed to be in a manner affecting trade or investment between the Parties, unless the responding Party demonstrates otherwise.

Article 13.5. Public Information and Participation

1. Each Party shall promote public awareness of its environmental laws and policies, including enforcement and compliance procedures, by ensuring that relevant information is available to the public.

2. Each Party shall provide for the receipt and consideration of written questions or comments from persons of that Party regarding its implementation of this Chapter. Each Party shall respond in a timely manner to these questions or comments in writing and in accordance with its procedures, and make the questions, comments, and responses available to the public, including by publishing them on an appropriate public website.

3. Each Party shall make use of existing, or establish new, consultative mechanisms, including a national advisory committee, to seek views on matters related to the implementation of this Chapter. These mechanisms may include persons with relevant experience, as appropriate, including experience in business, natural resource conservation and management, or other environmental matters.

Article 13.6. Procedural Matters

1. Each Party shall ensure that an interested person may request that the Party's competent authorities investigate alleged violations of its environmental laws, and that the competent authorities give those requests due consideration, in accordance with its law.

2. Each Party shall ensure that persons with a recognized interest under its law in a particular matter have appropriate access to administrative, quasi-judicial, or judicial proceedings for the enforcement of the Party's environmental laws, and the right to seek appropriate remedies or sanctions for violations of those environmental laws.

3. Each Party shall ensure that administrative, quasi-judicial, or judicial proceedings for the enforcement of the Party's environmental laws are available under its law, and that those proceedings are fair, equitable, transparent, and comply with due process of law, including providing the opportunity for parties to the proceedings to support or defend their respective positions. The Parties recognize that these proceedings should not be unnecessarily complicated nor entail unreasonable fees or time limits.

4. Each Party shall provide that any hearings in these proceedings are conducted by impartial and independent persons who do not have an interest in the outcome of the matter. Hearings in these proceedings shall be open to the public, except when the administration of justice otherwise requires, and in accordance with its law.

5. Each Party shall ensure that final decisions on the merits of the case in these proceedings are:

(a) in writing, and if appropriate state the reasons on which the decisions are based;

(b) made available without undue delay to the parties to the proceedings and, in accordance with its law, to the public; and

(c) based on information or evidence submitted by the parties to the proceedings, or other sources, in accordance with its law.

6. Each Party shall also ensure, as appropriate, that parties to these proceedings have the right, in accordance with its law, to seek review and, if warranted, correction or redetermination, of final decisions in those proceedings.

7. Each Party shall provide appropriate sanctions or remedies for violations of its environmental laws and shall ensure that it takes account of relevant factors, which may include the nature and gravity of the violation, damage to the environment,

and any economic benefit derived by the violator, when ordering sanctions or remedies.

Article 13.7. Scientific and Technical Information

1. When preparing and implementing measures aimed at environmental protection that may affect trade or investment between the Parties, each Party shall take into account relevant scientific and technical information and related international standards, guidelines, or recommendations.

2. For the purposes of this Chapter, the Parties acknowledge that where there are threats of serious or irreversible damage to the environment, the lack of full scientific certainty should not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

Article 13.8. Environmental Impact Assessment

1. Each Party shall maintain appropriate procedures for assessing the impacts of proposed projects that are subject to an action by that Party's central level of government that may cause significant environmental effects, with a view to eliminating, avoiding, minimizing, or mitigating adverse effects.

2. Each Party shall ensure that these procedures provide for the assessment of environmental, economic, health, and social impacts and cumulative impacts, consideration of best available scientific information and if applicable, consideration of traditional knowledge of Indigenous Peoples, and rural or remote communities, and, in accordance with its law, allow for meaningful public participation.

Article 13.9. Multilateral Environmental Agreements

1. The Parties recognize the important role that multilateral environmental agreements can play in protecting the environment and as a response of the international community to global or regional environmental problems.

2. Each Party affirms its commitment to implement the multilateral environmental agreements to which it is a party.

3. The Parties shall consult and cooperate as appropriate with respect to environmental issues of mutual interest, in particular trade-related issues, pertaining to relevant multilateral environmental agreements. This includes: exchanging information on the implementation of multilateral environmental agreements to which a Party is party; ongoing negotiations of new multilateral environmental agreements; and, each Party's respective views on becoming a party to additional multilateral environmental agreements.

4. Nothing in this Agreement shall prevent a Party from adopting or maintaining measures to implement a multilateral environmental agreement to which it is a party, provided that those measures do not constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade or investment.

Article 13.10. Climate Change

1. The Parties recognize that climate change is a growing threat that requires urgent and collective action. Accordingly, the Parties are resolved to demonstrate international leadership and work together to pursue domestic and global efforts to limit the global temperature increase to 1.5 degrees Celsius above pre-industrial levels and transition to net-zero greenhouse gas emissions by 2050.

2. The Parties recognize the importance of nature-based climate solutions as actions that sustainably manage, protect, and restore natural and modified ecosystems, including forests and other terrestrial and marine ecosystems, to mitigate and adapt to the effects of climate change while simultaneously providing human well-being and biodiversity benefits.

3. Each Party shall effectively implement its obligations under the Paris Agreement, done at Paris on 12 December 2015 as amended.

4. The Parties acknowledge the important contribution of subnational governments, women, Indigenous Peoples, rural or remote communities, as well as private sector and interested stakeholders, in addressing and responding to climate change.

5. Each Party shall promote the positive contribution of trade to the transition to a net-zero and climate-resilient economy, recognizing the importance of mutually supportive trade and climate change policies.

6. Each Party shall endeavour to find innovative solutions to mitigate and adapt to the effects of climate change, including

through the use of market-based approaches and trade-related climate measures to achieve overall green growth objectives.

7. The Parties recognize that reducing human-caused methane emissions is one of the fastest ways to decrease near-term global warming and could contribute significantly to global efforts to limit warming to 1.5 degrees Celsius. The Parties affirm their intention to reduce global anthropogenic methane emissions across all sectors by at least 30 percent below 2020 levels by 2030, as part of the Global Methane Pledge, done at Glasgow on 12 November 2021.

8. Consistent with Article 13.24, the Parties shall cooperate bilaterally and in international forums to address matters of mutual interest, as appropriate, to:

(a) enhance their efforts towards the implementation of the Paris Agreement;

(b) improve transparency, including through greenhouse gas emissions measurement, reporting, and verification;

(c) increase energy efficiency;

(d) promote the rapid transition from unabated coal power to clean energy sources;

(e) encourage the development and deployment of cost-effective, low-emissions technologies and alternatives;

(f) promote environmental sustainability, including through the promotion of sustainable transport and sustainable urban infrastructure development;

(g) reduce emissions of short-lived climate pollutants, including methane;

(h) promote carbon pricing and measures to mitigate carbon leakage risks; and

(i) address impacts and risks associated with climate change through adaptation measures, including nature-based climate solutions.

Article 13.11. Protection of the Ozone Layer

1. The Parties recognize that emissions of certain substances can significantly deplete and otherwise modify the ozone layer in a manner that is likely to result in adverse effects on human health and the environment. The Parties also note that certain substances that deplete the ozone layer and some of their alternatives contribute to climate change, and note the opportunity to control those substances in a coherent manner to minimize impacts on both the ozone layer and the climate. Accordingly, each Party recognizes the importance of implementing their obligations under the Montreal Protocol on Substances That Deplete the Ozone Layer done at Montreal on 16 September 1987, as adjusted and amended.

2. Consistent with Article 13.24, the Parties shall cooperate to address matters of mutual interest related to the substances referred to in paragraph 1. Cooperation may include exchanging information and experiences in areas related to:

(a) environmentally friendly alternatives to those substances;

(b) refrigerant management practices, policies, and programs;

(c) methodologies for stratospheric ozone measurements; and

(d) combatting illegal trade in those substances.

Article 13.12. Protection of the Marine Environment from Ship Pollution

1. The Parties recognize the importance of protecting and preserving the marine environment. To that end, each Party recognizes the importance of implementing obligations under the International Convention for the Prevention of Pollution from Ships done at London on 2 November 1973 (MARPOL Convention) (5) and taking measures to prevent the pollution of the marine environment from ships.

2. Consistent with Article 13.24, the Parties shall cooperate to address matters of mutual interest with respect to pollution of the marine environment from ships. Areas of cooperation may include:

(a) addressing accidental and deliberate pollution from ships, and pollution from routine operations of ships;

(b) developing technologies to minimize ship-generated waste;

(c) addressing underwater vessel noise to reduce impacts on marine ecosystems;

(d) assessing the adequacy of port waste reception facilities;

(e) increasing protection in special geographic areas; and

(f) conducting enforcement measures including notifications to flag States and, as appropriate, by port States.

(5) For greater certainty, this provision pertains to pollution regulated by the International Convention for the Prevention of Pollution from Ships, done at London, 2 November 1973, as modified by the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, done at London, 17 February 1978, and the Protocol of 1997 to Amend the International Convention for the Prevention of Pollution from Ships, 1973 as Modified by the Protocol of 1978 relating thereto, done at London, 26 September 1997 (MARPOL Convention), and any existing and future amendments to the MARPOL Convention, to which the Parties are parties.

Article 13.13. Circular Economy

1. The Parties recognize that the circular economy offers a systemic approach to adopting sustainable consumption and production patterns. The Parties further recognize the role that international trade can play in the transition to a circular economy, including facilitating the movement of secondary materials and related goods and services through global supply chains.

2. Consistent with Article 13.24, the Parties shall cooperate, as appropriate, to address matters of mutual interest to advance a more resource-efficient and circular economy.

Article 13.14. Air Quality

1. The Parties recognize that air pollution is a global challenge with far reaching impacts on health, the economy, and the environment, and affirm the need to promote sustainable development policies that support improved air quality. Further, the Parties recognize that air pollution contributes to climate change and note the importance of addressing air pollution and climate change in a coherent manner. The Parties also recognize the importance of reducing emissions of short-lived climate forcers, such as methane and black carbon, to both improve air quality and mitigate climate change.

2. The Parties recognize the importance of international agreements and other international efforts to improve air quality and control air pollutants, including pollutants that have the potential for long-range transport. The Parties further recognize that broader cooperation can be beneficial in meeting these objectives. Accordingly, the Parties reaffirm their commitment to contributing to the achievement of the relevant objectives and goals of such forums.

3. Consistent with Article 13.24, the Parties shall cooperate, as appropriate, to address matters of mutual interest with respect to air quality. This cooperation may include exchanging information and experiences in areas such as: ambient air quality management and air quality standards; best practices related to sound management of chemicals that are air pollutants; and air pollutant reduction, control, and prevention technologies and practices.

Article 13.15. Chemicals Management

1. The Parties recognize the importance of pursuing the sound management of chemicals through their complete life cycle in order to enhance the protection of human health and the environment, as well as its contribution to the achievement of the Sustainable Development Goals under the United Nations 2030 Agenda for Sustainable Development.

2. The Parties also recognize the importance of implementing their obligations under the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, done at Basel on 22 March 1999, the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, done at Rotterdam on 10 September 1998, the Stockholm Convention on Persistent Organic Pollutants, done at Stockholm on 22 May 2004, and the Minamata Convention on Mercury, done at Geneva on 19 January 2013.

3. Consistent with Article 13.24, the Parties shall cooperate, as appropriate, to address matters of mutual interest with respect to chemicals management. This cooperation may include exchanging information and experiences in areas such as: risk assessment and risk management methodologies, tools, and models; scientific data and assessment; environmental monitoring; pollutant release and transfer registers; implementation of relevant international agreements; and governance structures to manage chemicals.

Article 13.16. Plastic Pollution and Waste

1. The Parties recognize the importance of taking action to prevent and reduce plastic pollution and waste, including microplastics, in order to preserve human health and the environment, prevent the loss of biodiversity, and mitigate the costs and impacts of plastic pollution and waste.

2. Recognizing the global nature of the challenge of taking action under paragraph 1(a), each Party shall adopt or maintain measures to prevent and reduce plastic pollution and waste, including microplastics.

3. Recognizing that the Parties are taking action to address plastic pollution and waste in other forums, consistent with Article 13.24, the Parties shall cooperate to address matters of mutual interest with respect to addressing plastic pollution and waste, including microplastics, such as addressing land and sea-based pollution, promoting waste reduction, improving waste management, addressing plastic waste throughout its lifecycle, promoting the transition to a circular economy, and advancing efforts related to abandoned, lost, or otherwise discarded fishing gear.

Article 13.17. Corporate Social Responsibility and Responsible Business Conduct

1. The Parties recognize the importance of promoting corporate social responsibility and responsible business practices.

2. Each Party shall encourage enterprises organized or constituted under its law, or operating in its territory, to adopt and implement principles and standards of responsible business conduct and corporate social responsibility that are related to the environment. These principles and standards shall be consistent with internationally recognized standards and guidelines that have been adopted by that Party to strengthen coherence between economic and environmental objectives.

Article 13.18. Voluntary Mechanisms to Enhance Environmental Performance

1. The Parties recognize that flexible, voluntary mechanisms, such as voluntary auditing and reporting, market-based mechanisms, voluntary sharing of information and expertise, and public-private partnerships can contribute to the achievement and maintenance of high levels of environmental protection and complement regulatory measures. The Parties also recognize that those mechanisms should be designed in a manner that maximizes their environmental benefits and avoids the creation of unnecessary barriers to trade.

2. Therefore, in accordance with its laws or policies, each Party shall encourage, as appropriate:

(a) the use of those mechanisms to protect the environment and natural resources in its territory; and

(b) its relevant authorities, private sector entities, non-governmental organizations, and other interested persons involved in the development of criteria used to evaluate environmental performance, to continue to develop and improve the criteria used in those mechanisms.

3. If private sector entities or non-governmental organizations develop mechanisms for the promotion of products based on their environmental qualities, those mechanisms must not be misleading or deceptive under the relevant law of a Party.

4. Each Party should encourage its private sector entities and non-governmental organizations to develop mechanisms that:

(a) are based on relevant scientific and technical information;

(b) are based on relevant international standards, recommendations, guidelines, or best practices, as appropriate;

(c) promote competition and innovation; and

(d) do not treat a product less favourably on the basis of origin.

Article 13.19. Trade and Biological Diversity

1. The Parties recognize the importance of conservation and sustainable using biological diversity, including the ecosystem services it provides. The Parties also recognize the key role that conservation and sustainable use of biodiversity plays in achieving sustainable development.

2. The Parties recognize the importance of respecting, preserving, and maintaining knowledge and practices of Indigenous Peoples, and rural or remote communities embodying traditional lifestyles, that contribute to the conservation and sustainable use of biological diversity in accordance with its law.

3. The Parties recognize the importance of facilitating access to genetic resources within their respective national jurisdictions, consistent with their international obligations. The Parties further recognize that each Party may require, through national measures, prior informed consent to access genetic resources in accordance with national measures and, if access is granted, the establishment of mutually agreed terms, including with respect to sharing of benefits from the use of genetic resources between users and providers.

4. The Parties recognize that the movement of terrestrial and aquatic invasive alien species across borders through trade-related pathways can adversely affect the environment, economic activities and development, and human health. The Parties also recognize that the prevention, detection, early response and management, and when possible, eradication of invasive alien species, are critical strategies to averting or mitigating the adverse effects.

5. The Parties affirm the importance of ensuring that international trade in wild fauna and flora does not affect the survival of species in the wild and combatting the illegal take (6) of, and illegal trade in, wild fauna and flora. Further, the Parties acknowledge that illegal trade undermines efforts to conserve and sustainably manage wild fauna and flora, has social consequences, distorts legal trade in wild fauna and flora, and reduces the economic and environmental value of wild fauna and flora.

6. Each Party shall:

(a) promote and encourage the conservation and sustainable use of biological diversity, in accordance with its law or policy;

(b) adopt, maintain, and implement laws, regulations, and any other measures to fulfil its obligations under the Convention on International Trade in Endangered Species of Wild Fauna and Flora, done at Washington, D.C. on 3 March 1973, (CITES) (7) (8) (9);

(c) endeavour to implement CITES resolutions that aim to protect and conserve species whose survival is threatened by international trade;

(d) maintain or strengthen government capacity and institutional frameworks to promote the conservation of wild fauna and flora, and endeavour to enhance public participation and transparency in the institutional frameworks;

(e) adopt or maintain appropriate measures to protect and conserve wild fauna and flora that it has identified to be at risk within its territory, including measures to conserve the ecological integrity of specially protected natural areas such as grasslands and wetlands;

(f) adopt or maintain measures to combat, and cooperate to prevent, the trade of wild fauna and flora that, based on credible evidence (10), were taken or traded in violation of its law or another applicable law (11), the primary purpose of which is to conserve, protect, or manage wild fauna or flora;

(g) endeavour to adopt measures to combat the trade of wild fauna and flora transshipped through its territory that, based on credible evidence, were illegally taken or traded, including sanctions, penalties, or other effective measures, such as administrative measures that can act as a deterrent to that trade;

(h) endeavour to maintain or strengthen enforcement techniques to facilitate increased detection of illegal shipments containing wild fauna or flora, including parts and products thereof, at ports of entry; and

(i) treat intentional transnational trafficking of wildlife protected under its law (12) as a serious crime as defined in the United Nations Convention on Transnational Organized Crime done at New York on 15 November 2000. (13)

7. In implementing paragraph 6 (f) and (g), the Parties recognize that each Party:

(a) retains the right to exercise administrative, investigatory, and enforcement discretion including by taking into account in relation to each situation the strength of the available evidence and the seriousness of the suspected violation; and

(b) retains the right to make decisions regarding the allocation of administrative, investigatory, and enforcement resources.

8. Consistent with Article 13.24, the Parties shall cooperate to address matters of mutual interest with respect to trade and biological diversity, which may include:

(a) conservation and sustainable use of biological diversity and its mainstreaming across relevant sectors;

(b) protection and maintenance of ecosystems and ecosystem services;

(c) access to genetic resources and the sharing of benefits arising from their utilization;

(d) exchange of information and experiences on issues related to combatting the illegal take of, and illegal trade in, wild

fauna and flora, and promoting the legal trade in associated products;

(e) undertaking, as appropriate, of joint activities on conservation issues, including through relevant regional and international forums; and

(f) identifying opportunities to enhance cooperation on law enforcement and share information, for example by enhancing participation in law enforcement networks, and, as appropriate, by establishing new networks with the objective of developing a strong and effective global international network.

(6) For the purposes of this Article, the term "take" means captured, killed, or collected and with respect to a plant, also means harvested, cut, logged or removed.

(7) For the purposes of this Article, a Party's CITES obligations include existing and future amendments to which the Parties are parties and any existing and future reservations or exemptions applicable to a Party.

(8) To establish a violation of paragraph 6(b), a Party must demonstrate that the other Party has failed to adopt, maintain or implement laws, regulations or other measures to fulfil its obligations under CITES in a manner affecting trade or investment between the Parties.

(9) If a Party considers that the other Party is failing to comply with its obligations under paragraph 6(b), it shall endeavour, in the first instance, to address the matter through a consultative or other procedure under CITES.

(10) For greater certainty, for the purposes of this paragraph, each Party shall retain the right to determine what constitutes "credible evidence".

(11) For greater certainty, "another applicable law" means a law of the territory where the take or trade occurred and is only relevant to the question of whether the wild fauna and flora has been taken or traded in violation of that law.

(12) For greater certainty, the term "wildlife" includes all species of wild fauna and flora, including animals, timber, and marine species, and their related parts and products. Further, for the purposes of this Article, the term "protected" means a CITES-listed species or a species that is listed under a Party's law as endangered, threatened, or being at risk within its territory.

(13) The term "serious crime" has the same meaning as that under paragraph 2(b) of the United Nations Convention on Transnational Organized Crime.

Article 13.20. Sustainable Agriculture

1. The Parties note the increasing impact that global challenges, such as loss of biodiversity, land degradation, droughts, emergence of new pests and diseases, and climate change have on sustainable agriculture.

2. Considering this increasing impact, the Parties recognize the importance of strengthening policies and developing programs that contribute to more productive, sustainable, inclusive, and resilient agricultural practices.

3. Consistent with Article 13.24, the Parties shall, as appropriate, exchange information and best practices in the development and the implementation of integrated policies and programs to promote the economic, social, and environmental aspects of sustainable agriculture.

4. The Parties may cooperate in areas of mutual interest such as improving agricultural productivity taking into account the protection and sustainable use of ecosystems and natural resources, adaptation and resilience to climate change, and meeting the particular needs of farmers and rural communities.

Article 13.21. Marine Sustainable Fisheries and Aquaculture (14)

1. The Parties recognize:

(a) that a healthy ocean is critical to sustainably developing ocean economies;

(b) their role as consumers, producers, and traders of fisheries and aquaculture products;

(c) the importance of fisheries and aquaculture sectors to the development and livelihoods of coastal communities, including those engaged in artisanal, small scale, and Indigenous fisheries;

(d) the need for individual and collective action within international forums to address overfishing and unsustainable utilization of fisheries resources, and their impacts;

(e) the importance of taking measures aimed at the conservation and sustainable management of fisheries, and the contribution of those measures to environmental, economic, and social opportunities for present and future generations; and

(f) the importance of promoting and facilitating trade in sustainably and legally harvested fisheries products.

2. Accordingly, the Parties shall implement conservation measures, and shall seek to operate a fisheries management framework that is based on the best scientific evidence available and internationally recognized best practices in accordance with the United Nations Convention on the Law of the Sea done at Montego Bay on 10 December 1982 ("UNCLOS") and other relevant international instruments.

3. In furtherance of the objectives of conservation and sustainable fisheries, each Party shall seek to implement a fisheries management framework that regulates marine wild capture fishing and is designed to implement conservation and management measures that are consistent with the rules of international law, including those reflected in UNCLOS, and to act in accordance with the principles of the Food and Agricultural Organization (FAO) Code of Conduct for Responsible Fisheries.

4. The Parties shall cooperate with and participate, where appropriate, in regional fisheries management organizations ("RFMOs") and regional fisheries management arrangements ("RFMAs"), as members, observers, or cooperating non-contracting parties, with the aim of achieving good governance, including by advocating for science-based decisions by these RFMOs and RFMAs, and ensuring compliance with those decisions.

5. Each Party shall promote the long-term conservation of sharks, sea turtles, seabirds, and marine mammals through the implementation and enforcement of conservation and management measures. Such measures shall include, as appropriate:

(a) monitoring, studies, and assessments of the impact of fisheries and aquaculture operations on non-target species and their marine habitats;

(b) gear-specific studies and data collection of impacts on non-target species;

(c) measures to prevent, mitigate, or reduce bycatch of non-target species in fisheries; and

(d) cooperation on regional bycatch reduction measures, including measures applicable to commercial fisheries of straddling and high seas stocks and highly migratory species.

6. Each Party shall adopt or maintain measures designed to prohibit the practice of shark finning.

7. The Parties agree to continue to collaborate in the WTO towards strengthening international rules on the provisions of subsidies in the fisheries sector and enhancing transparency of fisheries subsidies. (15)

8. The Parties recognize the importance of concerted international action to prevent, deter, and eliminate illegal, unreported, and unregulated ("IUU") fishing as reflected in regional and international instruments (16), and shall endeavour to improve cooperation internationally in this regard, including with and through competent international organizations.

9. In support of international efforts to combat IUU fishing and to help deter trade in products derived from IUU fishing, each Party shall:

(a) implement port state measures, consistent with the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing. done at Rome on 23 November 2009 (Port State Measures Agreement); and

(b) support monitoring, control, surveillance, compliance, and enforcement schemes, including by adopting, maintaining, reviewing, or revising, as appropriate, measures to:

(i) deter vessels flying its flag and its nationals from engaging in IUU fishing;

(ii) address the transshipment at sea of fish caught through IUU fishing or fish products derived from IUU fishing; and

(iii) implement catch or trade document schemes consistent with the FAO Voluntary Guidelines for Catch Documentation.

10. In support of the development and management of an environmentally responsible and economically competitive aquaculture industry, the Parties shall endeavour to act in accordance with the principles of the FAO Code of Conduct for Responsible Fisheries that are applicable to the aquaculture sector.

(14) Paragraphs 1 through 9 do not apply to aquaculture, with the exception of paragraphs 1 (b), 1 (c) and 5 (a).

(15) Fisheries subsidies mean subsidies for marine wild capture fishing.

(16) These include: the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing; the 2005 Rome Declaration on Illegal, Unreported and Unregulated Fishing; the 2009 FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing; and instruments establishing and adopted by Regional Fisheries Management Organizations.

Article 13.22. Sustainable Forest Management and Trade

1. The Parties recognize the importance of conservation and sustainable management of forests in contributing to economic, environmental, and social objectives, livelihoods and job opportunities, including for Indigenous Peoples, and in rural or remote communities.

2. Accordingly, the Parties recognize the importance of:

(a) the conservation and sustainable management of forests for providing environmental, economic, and social benefits for present and future generations;

(b) the critical role of forests in providing numerous ecosystem services, including carbon storage, regulating temperature, maintaining water quantity and quality, stabilizing soils, and providing habitat for wild fauna and flora; and

(c) combatting illegal logging and associated trade.

3. The Parties recognize that forest products, when sourced from sustainably managed forests and used appropriately, store carbon and help to reduce greenhouse gas emissions in other sectors and thus contribute toward achieving global environmental objectives, including those related to climate change.

4. Accordingly:

(a) each Party shall maintain or strengthen government capacity and institutional frameworks to promote sustainable forest management;

(b) each Party shall encourage trade in forest products from sustainably managed forests harvested in accordance with the law of the country of harvest; and

(c) the Parties shall exchange information and cooperate, as appropriate, on initiatives to promote sustainable forest management, including initiatives designed to combat illegal logging and associated trade.

Article 13.23. Environmental Goods and Services

1. The Parties recognize the importance of trade and investment in environmental goods and services, including those goods and services that are particularly relevant to climate change mitigation and adaptation and, in particular, clean technologies, as a means of improving environmental and economic performance, contributing to green growth and jobs, and encouraging sustainable development, while addressing global environmental challenges.

2. Accordingly, each Party shall endeavour to facilitate and promote trade and investment in environmental goods and services.

3. The Parties shall facilitate joint activities to support the growth of, and trade and investment in, environmental goods and services. These activities may include:

(a) exchanging information on policies and programs that can support the commercialization, scale-up, and deployment of environmental goods and services, including goods of particular relevance for climate change mitigation and adaptation;

(b) exchanging information on the utilization of environmental goods and services to promote sustainable growth in all economic sectors, such as agriculture and natural resource extraction, and the transition to a more circular economy;

(c) considering ways that environmental goods and services can contribute to climate change mitigation and adaptation, in particular in the design and construction of green and climate resilient public infrastructure, as well as for the promotion, use, and scale-up of goods and services related to clean and renewable energy, energy efficiency, and sustainable transportation;

(d) promoting research and development opportunities between and among researchers, academic institutions, and the private sector, including women and Indigenous researchers and scientists, and women-owned and Indigenous-owned enterprises, to encourage the growth of the environmental goods and services sectors, value chains, and the development and deployment of clean technologies; and

(e) developing cooperative projects on environmental goods and services to address current and future global environmental challenges.

4. The Parties shall cooperate in international forums on ways to further facilitate and liberalize global trade in environmental goods and services.

5. The Parties shall endeavour to address any identified potential barriers to trade in environmental goods and services, including by working through the Committee of the Environment (Committee) referred to in Article 13.25.

6. The Committee shall consider issues identified by a Party related to trade in environmental goods and services, including issues identified as potential non-tariff barriers to that trade.

7. If appropriate, the Committee may work on identified potential barriers to trade in conjunction with other relevant committees established or continued under this Agreement.

Article 13.24. Cooperation

1. The Parties recognize the importance of cooperation as a mechanism to implement this Chapter, to enhance its benefits, including gender responsive and inclusive benefits, and to strengthen the Parties' joint and individual capacities to protect the environment, and capacities to promote sustainable development as they strengthen their trade and investment relations.

2. Taking account of their national priorities, circumstances, and available resources, the Parties shall cooperate to address matters of common interest related to the implementation of this Chapter if there is mutual benefit from that cooperation. If appropriate, each Party may involve the public, interested stakeholders, and any other entity, including Indigenous Peoples, in the cooperative activities undertaken pursuant to this Article.

3. If possible and appropriate, the Parties shall seek to complement and use existing cooperation mechanisms and take into account the relevant work of regional and international organizations.

4. The Parties may cooperate through various means such as: dialogues, workshops, seminars, conferences, collaborative programmes, and projects; technical assistance that promotes and facilitates cooperation and training; sharing of best practices on policies and procedures; and exchange of experts.

5. If appropriate, each Party shall promote inclusive public participation in the development and implementation of cooperative activities under this Article.

Article 13.25. Contact Points and the Committee on the Environment

1. Each Party shall designate and notify a contact point from its relevant authorities in order to facilitate communication between the Parties in the implementation of this Chapter. Each Party shall promptly notify the other Party of any change of its contact point.

2. The Parties continue the Committee on the Environment established under the 2017 Agreement ("the Committee")

composed of senior governmental representatives of each Party. The functions of the Committee are to:

(a) oversee and review the implementation of this Chapter;

(b) provide a forum to discuss cooperative activities under this Chapter;

(c) discuss any matter of common interest;

(d) consider and endeavour to resolve matters referred to it under Article 13.27 (Senior Representative Consultations);

(e) coordinate and work with other committees established under this Agreement as appropriate; and

(f) perform any other functions as the Parties may decide.

3. The Committee shall meet within one year of the date of entry into force of this Agreement and subsequently as decided by the Committee.

4. The Committee shall adopt decisions and reports by consensus, and make them publicly available unless the Committee decides otherwise.

5. The Committee shall prepare a summary record of each meeting unless it decides otherwise. The Committee may prepare reports and recommendations on any activity or action related to the implementation of this Chapter. The Committee shall submit a copy of its summary records, reports, and recommendations to the Joint Commission referred to in Article 27.1 (Joint Commission).

6. The Parties shall make summary records, decisions, reports, and recommendations of the Committee available to the public, unless otherwise decided by the Parties.

Article 13.26. Environment Consultations

1. The Parties shall endeavour to agree on the interpretation and application of this Chapter, and shall make every effort through dialogue, consultation, exchange of information, and, if appropriate, cooperation to address any matter that might affect the operation of this Chapter.

2. A Party (the requesting Party) may request consultations with the other Party (the responding Party) regarding any matter arising under this Chapter by delivering a request for consultations to the responding Party's contact point. The requesting Party shall include in its request information that is specific and sufficient to enable the responding Party to respond, including identification of the matter at issue and an indication of the legal basis for the request.

3. Unless the Parties decide otherwise, the Parties shall enter into consultations promptly and no later than 30 days after the date of receipt by the responding Party of the request.

4. The Parties shall make every effort to arrive at a mutually satisfactory resolution to the matter, which may include by undertaking appropriate cooperative activities. The Parties may seek advice or assistance from any person or body they deem appropriate in order to examine the matter.

Article 13.27. Senior Representative Consultations

1. If the Parties fail to resolve the matter under Article 13.26, the requesting Party may request in writing that the Committee on the Environment convene to consider the matter and deliver the request to the responding Party's contact point.

2. The Committee shall promptly convene following the delivery of the request referred to in paragraph 1, and shall attempt to resolve the matter including, if appropriate, by gathering relevant scientific and technical information from governmental or non-governmental experts.

Article 13.28. Ministerial Consultations

1. If the Parties fail to resolve the matter under Article 13.27, the requesting Party may refer the matter to the relevant Ministers of the Parties by delivering a written request to the responding Party's contact point.

2. Consultations pursuant to Articles 13.26 and 13.27, and this Article may be held in person or by any technological means available as decided by the Parties. If held in person, consultations shall be in the capital of the responding Party unless the Parties decide otherwise.

3. All consultations under Articles 13.26, 13.27 and 13.28 shall be confidential and without prejudice to the rights of a Party in any future proceedings.

Article 13.29. Dispute Resolution

If the Parties fail to resolve the matter under Articles 13.26, 13.27, and 13.28 within 75 days after the date of receipt of a request under Article 13.26, or any other period as the Parties may decide, the requesting Party may request the establishment of a panel under Article 28.7 (Establishment of a Panel).

Chapter 14. Labour

Article 14.1. Definitions

For the purposes of this Chapter:

ILO Declaration on Rights at Work means the International Labour Organization (ILO) Declaration on Fundamental Principles and Rights at Work and its Follow-Up (1998), as amended in 2022;

ILO Declaration on Social Justice means ILO Declaration on Social Justice for a Fair Globalization (2008), as updated in 2022; and

labour laws means a measure of a Party that implements or otherwise relates to the commitments and rights set out in Section B (Obligations).

Section A. Shared Commitments

Article 14.2. General Commitments

1. The Parties affirm their obligations as members of the ILO including those stated in the ILO Declaration on Rights at Work, such as the obligation to respect, promote, and realize in good faith the fundamental rights that are the subject of ILO Conventions, even if the Party has not ratified the Convention in question.

2. The Parties affirm their commitments to further the aims of the Decent Work Agenda that are enshrined in the ILO Declaration on Social Justice.

3. The Parties recognize the important role of workers' and employers' organizations in protecting internationally recognized labour rights.

Section B. Obligations

(1) To establish a violation of an obligation under this Section, a Party must demonstrate that the other Party has failed to meet its obligation in a matter related to trade or investment.

(2) For purposes of dispute settlement, a panel shall presume that a failure is related to trade or investment, unless the responding Party demonstrates otherwise.

Article 14.3. General Obligations

1. Each Party shall adopt and maintain in its labour laws the following internationally recognized labour principles and rights, taking into account its commitments, where applicable, under the ILO Declaration on Rights at Work:

(a) freedom of association and the effective recognition of the right to collective bargaining (3);

(b) the elimination of all forms of forced or compulsory labour;

(c) the effective abolition of child labour and a prohibition on the worst forms of child labour;

(d) the elimination of discrimination in respect of employment and occupation;

(e) a safe and healthy working environment;

(f) acceptable minimum employment standards such as minimum wage, hours of work and overtime pay for wage earners, including those not covered by collective agreements; and

(g) non-discrimination in respect of working conditions for migrant workers. (4)

2. Each Party shall effectively implement in its labour laws the fundamental ILO Conventions and shall strive to ratify those fundamental ILO Conventions if they have not yet done so. The Parties shall exchange information on their respective situations and advances regarding the ratification of the fundamental ILO Conventions at the request of one of the Parties.

(3) For greater certainty, the right to freedom of association includes protection of the right to organize and the right to strike.

(4) For greater certainty, non-discrimination in respect of working conditions for migrant workers means providing migrant workers in a Party's territory with the same legal protection as the Party's nationals in respect of working conditions.

Article 14.4. Fair and Balanced Labour Laws

1. Each Party shall ensure that its labour laws provide for high labour standards and shall endeavour to continue to improve those standards.

2. Each Party shall:

(a) ensure that its labour laws promote best practices in labour relations and shall endeavour to improve those practices;

(b) ensure that its labour laws do not undermine or erode the ability of employers and workers to meaningfully bargain collectively;

(c) ensure that its labour laws do not prevent workers' organizations from negotiating collective agreements that include a requirement for workers covered by the collective agreement to pay a reasonable fee to the workers' organization;

(d) adopt and maintain measures to prohibit and effectively deter employer interference with the organization of workers, including any exercise of undue influence, coercion, or intimidation by employers and any form of retaliation against a person involved in the organization of workers (5);

(e) establish a legislative framework that enables the adoption and maintenance of measures to ensure that workers' organizations are:

(i) representative of, and accountable to, their members; and

(ii) independent of the employer and the Party, including requirements that:

(A) leaders of workers' organizations are duly elected by the worker members they represent;

(B) workers vote to approve any collective agreement applicable to them;

(C) workers have timely access to by-laws of the workers' organizations representing them and to collective agreements applicable to them; and

(D) workers' organizations have a duty to represent their members.

3. A Party shall not provide special legal recognition to collective agreements between employers and workers unless such agreements are negotiated through workers' organizations that are:

(a) representative of, and accountable to, their members; and

(b) independent of the employer and the Party.

(5) For greater certainty, such measures shall ensure that employees are not required, as a condition of employment or in order to avoid any employment sanction, to listen or otherwise attend to communications by the employer intended to persuade the employee not to be represented by a workers' organization.

Article 14.5. Levels of Protection

1. A Party shall not weaken or reduce the protections afforded in its labour laws.

2. A Party shall not waive or otherwise derogate from, or offer to waive or otherwise derogate from, its labour laws if the waiver or derogation weakens or reduces adherence to the rights set out in this Section.

Article 14.6. Enforcement of Labour Laws

1. Each Party shall effectively enforce its labour laws through appropriate government action, including by:

(a) appointing and training inspectors;

(b) monitoring compliance and investigating suspected violations, including through on-site inspections;

(c) seeking assurances of voluntary compliance;

(d) requiring record keeping and reporting;

(e) encouraging the establishment of worker-management committees to address labour regulation of the workplace;

(f) providing or encouraging mediation, conciliation, and arbitration services;

(g) initiating, in a timely manner, proceedings to seek appropriate sanctions or remedies for violations of its labour laws; and

(h) ensuring remedies and sanctions imposed for violations of its labour laws are effective and appropriate, and implemented completely and in a timely manner, including by ensuring the timely collection of monetary penalties and the timely reinstatement of an affected worker.

Article 14.7. Forced or Compulsory Labour

1. The Parties recognize the goal of eliminating all forms of forced or compulsory labour, including forced or compulsory child labour.

2. Accordingly, each Party shall prohibit the importation of goods produced in whole or in part by forced or compulsory labour, including forced or compulsory child labour.

Article 14.8. Violence Against Workers

1. The Parties recognize that workers and labour organizations must be able to exercise the rights set out in Article 14.3 in a climate that is free from violence, threats, and intimidation, and the imperative of governments to effectively address incidents of violence, threats, and intimidation against workers.

2. Accordingly, a Party shall not fail to address violence or threats of violence against workers, directly related to exercising or attempting to exercise the rights set out in Article 14.3, in a matter related to trade or investment (6).

(6) For purposes of dispute settlement, a panel shall presume that a failure is in a matter related to trade or investment, unless the responding Party demonstrates otherwise.

Article 14.9. Public Awareness and Procedural Guarantees

1. Each Party shall promote public awareness of its labour laws, including by ensuring that information related to its labour laws and enforcement and compliance procedures is publicly available.

2. Each Party shall ensure that a person with a recognized interest under its law in a particular matter has appropriate access to administrative, quasi-judicial, or judicial proceedings for the enforcement of the Party's labour laws.

3. Each Party shall ensure that proceedings before administrative, quasi-judicial, or judicial bodies for the enforcement of its labour laws:

(a) are fair, equitable, and transparent;

(b) are conducted by impartial decision-makers who meet appropriate guarantees of independence and impartiality, including not having an interest in the outcome of the matter;

(c) comply with due process of law;

(d) do not entail unreasonable fees or time limits, and are not subject to unwarranted delay; and

(e) are open to the public, unless the law or the administration of justice requires otherwise.

4. Each Party shall ensure that:

(a) the parties to these proceedings are entitled to support or defend their respective positions, including by presenting information or evidence; and

(b) final decisions on the merits of the case:

(i) are based on information or evidence in respect of which the parties were offered the opportunity to be heard;

(ii) state the reasons on which they are based; and

(iii) are available in writing without undue delay to the parties to the proceedings and, consistent with its law, to the public.

5. Each Party shall provide that parties to these proceedings have the right, under its law, to seek review of the decisions and, if warranted, the correction of decisions issued in these proceedings, in accordance with due process.

6. Each Party shall ensure that the parties to these proceedings have access to remedies under its law for the effective enforcement of their rights under the Party's labour laws and that these remedies are executed in a timely manner.

7. Each Party shall provide procedures to effectively enforce a final decision in these proceedings.

8. Each Party shall ensure that its competent authorities give due consideration, in accordance with its law, to a request by an employer, worker, or their representatives, or another interested person, to investigate an alleged violation of that Party's labour laws.

9. Each Party shall ensure that investigations into alleged violations of its labour laws:

(a) are fair, equitable, and transparent;

(b) are conducted by investigators who meet appropriate guarantees of impartiality, including not having an interest in the outcome of the matter;

(c) do not entail unreasonable fees or time limits or are subject to unwarranted delay;

(d) provides a person directly affected by the alleged violation of the labour laws with a reasonable opportunity to present and respond to relevant information and evidence during the investigation; and

(e) documents and communicates decisions made in the investigation and the reasons upon which they were based to a person directly affected by the alleged violation of the labour laws.

Section C. Institutional Mechanisms

Article 14.10. Labour Council

1. The Parties establish a Labour Council (the "Council") composed of senior governmental representatives at the ministerial or other level from the ministries responsible for labour issues, as designated by each Party.

2. The Council shall meet within one year of the date of entry into force of this Agreement and thereafter as often as it considers necessary to discuss matters of common interest, and to oversee the implementation of, and review progress under, this Chapter.

3. In conducting its activities, including meetings, the Council shall provide a means for receiving and considering the views of an interested person on matters related to this Chapter. If practicable, meetings shall include a public session or other means for Council members to meet with the public to discuss matters relating to the implementation of this Chapter.

4. The Council may consider any matter within the scope of this Chapter and take any other action in the exercise of its functions.

5. The Council shall review the operation and effectiveness of this Chapter within five years of the date of entry into force of this Agreement and thereafter as may be decided by the Council.

Article 14.11. National Administrative Office

1. Each Party shall designate a National Administrative Office for this Chapter within its ministry responsible for labour issues, or an equivalent entity, as a contact point to address matters related to this Chapter.

2. Each Party shall notify the other Party promptly in the event of any change to its National Administrative Office.

3. The National Administrative Office of each Party shall serve as a point of contact with the other Party to:

(a) facilitate regular communication and coordination between the Parties, including responding to requests for information and providing sufficient information to enable a full examination of matters related to this Chapter;

(b) assist the Council;

(c) report to the Council, as appropriate;

(d) receive and independently review public submissions in accordance with Article 14.13;

(e) act as a channel for communication with the public in their respective territories; and

(f) work together, including with other appropriate agencies of their governments, to develop and implement cooperative activities, guided by the priorities of the Council, areas of cooperation identified in Article 14.14, and the needs of the Parties.

4. The National Administrative Office of a Party may develop and implement specific cooperative activities with the National Administrative Office of the other Party.

5. The National Administrative Offices of the Parties may communicate and coordinate activities in person or through electronic or other means of communication.

Article 14.12. Public Engagement

Each Party shall establish or maintain a national labour consultative or advisory body or similar mechanism, for members of its public, including representatives of its labour and business organizations, to consult with, and provide views to, on matters regarding this Chapter.

Article 14.13. Public Submissions

1. Each Party, through its National Administrative Office designated under Article 14.11, shall provide for the receipt and consideration of written submissions from a person of a Party on matters related to this Chapter in accordance with its domestic procedures. Each Party shall make readily accessible and publicly available its procedures, including timelines, for the receipt and consideration of written submissions.

2. Each Party shall:

(a) consider matters raised by the submission and provide a timely response to the submitter, including in writing, as appropriate; and

(b) make the submission and the results of its consideration available to the other Party and the public, as appropriate, in a timely manner.

3. A Party may request from the person or organization that made the submission additional information that is necessary to consider the substance of the submission.

Article 14.14. Cooperation

1. The Parties may develop a plan of action for cooperative labour activities between them to promote the objectives of this Chapter.

2. In carrying out the plan of action, the Parties may, commensurate with the availability of resources, cooperate through:

(a) seminars, training sessions, working groups, and conferences;

(b) joint research projects, including sector studies; and

(c) other means on which the Parties may decide.

3. The Parties may develop cooperative activities in the following areas:

(a) information sharing: exchanging of information and sharing of best practices on issues of common interest and on relevant events, activities, and initiatives organized in their respective territories;

(b) international forums: cooperation within international and regional forums, such as the ILO, on labour-related issues;

(c) fundamental rights and their effective application: laws and regulations, and practice related to the core elements of the ILO Declaration, namely, freedom of association and the effective recognition of the right to collective bargaining, elimination of all forms of forced or compulsory labour, the effective abolition of child labour, and the elimination of discrimination in respect of employment and occupation;

(d) worst forms of child labour: laws and regulations, and practice related to compliance with ILO Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, adopted at Geneva on 17 June 1999;

(e) labour administration: institutional capacity of labour administrations and administrative, quasi-judicial, and judicial bodies;

(f) labour inspectorates and inspection systems: methods and training to improve the level and efficiency of labour law enforcement, strengthen labour inspection systems, and help ensure compliance with labour laws and regulations;

(g) labour relations: forms of cooperation and dispute resolution to ensure productive labour relations among workers, employers, and governments;

(h) working conditions: mechanisms for supervising compliance with laws and regulations pertaining to hours of work, minimum wages and overtime, and employment conditions;

(i) occupational safety and health: prevention of occupational injuries and illnesses;

(j) union-based apprenticeship programs: creation and operation of union-based skills training programs for new and transitioning workers; and

(k) any other area that the Parties may decide.

4. The Parties may also develop cooperative activities in the following areas to further gender equity in the field of labour and employment:

(a) non-discrimination: eliminating discrimination in respect of employment and occupation including by engaging men and boys in addressing gender inequality in the workplace;

(b) pay equity: developing analytical and enforcement tools related to the realization of equal pay for work of equal value;

(c) capacity-building: building capacity and enhancing skills of women workers and union leaders;

(d) labour practices: sharing of best practices on how to address unconscious bias;

(e) occupational health and safety: mainstreaming of gender considerations in the prevention and compensation of occupational injuries and illnesses;

(f) policies and practices: advancing care policies and programs that include a gender and shared social responsibility perspective;

(g) statistics: using gender-focused statistical indicators, methods and procedures in the field of labour; and

(h) violence: preventing workplace gender-based violence and harassment.

5. The Parties may establish cooperative arrangements with the ILO and other competent international and regional organizations to draw on their expertise and resources to achieve the objectives of this Chapter.

Article 14.15. Labour Consultations

1. The Parties shall endeavour to come to an understanding on the interpretation and application of this Chapter.

2. A Party may request consultations (requesting Party) with the other Party regarding any matter under this Chapter by delivering a written request to the National Administrative Office of the other Party. The Parties shall make every attempt, including through cooperation, consultations, and the exchange of information, to address a matter that might affect the operation of this Chapter.

3. Labour consultations shall be confidential and without prejudice to the rights of a Party in any other proceedings. The Parties may decide to make the fact, timelines, and general subject-matter of the consultations publicly available.

4. If the Parties fail to resolve the matter, the requesting Party may request consultations under Article 14.16.

Article 14.16. Council Consultations

1. A Party may request that the Council representatives of the other Party convene to consider the matter at issue by delivering a written request to the other Party through its National Administrative Office. The Party making that request shall inform the other Party through its National Administrative Office. The Council representatives of the consulting Parties shall convene no later than 30 days after the date of receipt of the request, unless the Parties decide otherwise, and shall seek to resolve the matter, including, if appropriate, by consulting independent experts and having recourse to such procedures as good offices, conciliation, or mediation.

2. If the Parties are able to resolve the matter, they shall document any outcome including, if appropriate, specific steps and timelines that are decided by the Parties. The Parties shall make the outcome available to the public, unless they decide otherwise.

3. If the Parties fail to resolve the matter within 75 days after the date of receipt of a request under paragraph 1, the requesting Party may request the establishment of a panel under Article 28.7 (Establishment of a Panel), as provided in Chapter 28 (Dispute Settlement).

4. A Party shall not have recourse to dispute settlement under Chapter 28 (Dispute Settlement) for a matter arising under this Chapter without first seeking to resolve the matter in accordance with Articles 14.15 and 14.16.

5. Council consultations shall be confidential and without prejudice to the rights of a Party in any other proceedings. The Parties may decide to make the fact, timelines, and general subject-matter of the consultations publicly available.

Chapter 15. Transparency, Anti-Corruption, and Responsible Business Conduct

Section A. Definitions

Article 15.1. Definitions

For the purposes of this Chapter:

act or refrain from acting in relation to the performance or exercise of official duties includes any use of the public official's position, whether or not within the official's authorized competence;

administrative ruling of general application means an administrative ruling or interpretation that applies to all persons and factual situations that fall generally within the ambit of that administrative ruling or interpretation and that establishes a norm of conduct, but does not include:

(a) a determination or ruling made in an administrative or quasi-judicial proceeding that applies to a particular person, good, or service of the other Party in a specific case; or

(b) a ruling that adjudicates with respect to a particular act or practice;

foreign public official means an individual holding a legislative, executive, administrative, or judicial office of a foreign country, at any level of government, whether appointed or elected, permanent or temporary, paid or unpaid, and irrespective of that individual's seniority; or an individual exercising a public function for a foreign country, at any level of government, including for a public agency or public enterprise;

official of a public international organization means an international civil servant or an individual authorized by a public

international organization to act on its behalf; and

public official means an individual:

(a) holding a legislative, executive, administrative, or judicial office of a Party, whether appointed or elected, permanent or temporary, paid or unpaid, and irrespective of that person's seniority;

(b) who performs a public function for a Party, including for a public agency or public enterprise, or provides a public service, as defined under the Party's law and as applied in the pertinent area of that Party's law; or

(c) defined as a public official under a Party's law.

Section B. Transparency

Article 15.2. Publication

1. Each Party shall ensure that its laws, regulations, procedures, and administrative rulings of general application regarding any matter covered by this Agreement are promptly published or made available in such a manner as to enable interested persons and the other Party to become acquainted with them.

2. Each Party shall, to the extent possible:

(a) publish in advance any measure mentioned in paragraph 1 that it proposes to adopt; and

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

3. When introducing or changing the laws, regulations, or procedures referred to in paragraph 1, each Party shall endeavour to provide a reasonable period between the date when those laws, regulations, or procedures, proposed or final in accordance with its legal system, are made publicly available and the date when they enter into force.

4. With respect to a proposed regulation of general application of a Party's central level of government respecting any matter covered by this Agreement that is likely to affect trade or investment between the Parties and that is published in accordance with paragraph 2(a), each Party shall:

(a) publish the proposed regulation in an official journal of national circulation, or on a free, publicly accessible official website, preferably online and consolidated into a single portal;

(b) endeavour to publish the proposed regulation:

(i) no less than 60 days in advance of the date on which comments are due; or

(ii) within another period in advance of the date on which comments are due that provides sufficient time for an interested person to evaluate the proposed regulation, and formulate and submit comments;

(c) to the extent possible, include in the publication under subparagraph (a) an explanation of the purpose of, and rationale for, the proposed regulation; and

(d) consider comments received during the comment period, and is encouraged to explain any significant modifications made to the proposed regulation, preferably on an official website or in an official online journal of national circulation.

5. With respect to a regulation of general application adopted by its central level of government respecting any matter covered by this Agreement that is published in accordance with paragraph 1, each Party shall:

(a) promptly publish the regulation in an official journal of national circulation, or on a free, publicly accessible official website, preferably online and consolidated into a single portal; and

(b) if appropriate, include with the publication an explanation of the purpose of and rationale for the regulation.

Article 15.3. Notification and Provision of Information

1. A Party shall, to the extent possible, notify the other Party of any proposed or existing measure that the Party considers might materially affect the operation of this Agreement, or that substantially affects the interests of the other Party pursuant to this Agreement.

2. A Party shall, at the request of the other Party, promptly provide information and respond to questions related to any

proposed or existing measure that the requesting Party considers might materially affect the operation of this Agreement, or substantially affect its interests pursuant to this Agreement, regardless of whether the requesting Party has been previously notified of that measure.

3. Any notification, request, or information related to this Article shall be provided by the relevant contact points.

4. Any notification, answer, or information provided pursuant to this Article shall be without prejudice as to whether the measure is consistent with this Agreement.

Article 15.4. Administrative Proceedings

1. With a view to administering all measures of general application with respect to any matter covered by this Agreement in a consistent, impartial, and reasonable manner, each Party shall ensure in its administrative proceedings applying measures referred to in Article 15.2 to a particular person, good, or service of the other Party in specific cases that:

(a) whenever possible, a person of the other Party that is directly affected by a proceeding is provided with reasonable notice, in accordance with domestic procedures, of when a proceeding is initiated, including a description of the nature of the proceeding, a statement of the legal authority under which the proceeding is initiated, and a general description of any issue in question;

(b) a person of the other Party that is directly affected by a proceeding is afforded a reasonable opportunity to present facts and arguments in support of that person's position prior to any final administrative action, when time, the nature of the proceeding, and the public interest permit; and

(c) the procedures are in accordance with its law.

Article 15.5. Review and Appeal

1. Each Party shall establish or maintain judicial, quasi-judicial, or administrative bodies, or procedures for the prompt review and, if warranted, correction of final administrative actions regarding matters covered by this Agreement. Each Party shall ensure that its bodies are impartial and independent of the office or authority entrusted with administrative enforcement, and that they do not have any substantial interest in the outcome of the matter.

2. Each Party shall ensure that, with respect to the bodies or procedures referred to in paragraph 1, the parties to the proceedings are entitled to:

(a) a reasonable opportunity to support or defend their respective positions; and

(b) a decision based on the evidence and submissions of record or, if required by its law, on the record compiled by the relevant authority.

3. Each Party shall ensure, subject to appeal or further review as provided for in its law, that the decision referred to in paragraph 2(b) implemented by, and govern the practice of, the office or authority with respect to the administrative action at issue.

Article 15.6. Cooperation on Promoting Increased Transparency

The Parties shall endeavour to co-operate in bilateral, regional, and multilateral fora on ways to promote transparency in respect of international trade and investment.

Section C. Anti-Corruption

Article 15.7. Scope

1. The Parties affirm their resolve to prevent and combat corruption and bribery in international trade and investment with the understanding that this contributes to efforts to substantially reduce corruption and bribery in all their forms.

2. The Parties recognize the need to build integrity within the public and private sectors and that each sector has complementary responsibilities in this regard.

3. This Section applies to measures to prevent and combat bribery and corruption with respect to any matter covered by this Agreement.

4. The Parties recognize that the description of offences adopted or maintained in accordance with this Section, and of the applicable legal defences or legal principles controlling the lawfulness of conduct, is reserved to each Party's law, and that those offences shall be prosecuted and punished in accordance with each Party's law.

5. Each Party affirms their adherence to the United Nations Convention against Corruption, done at New York on 31 October 2003 (UNCAC), and, to the extent that they are a party, the Inter-American Convention Against Corruption, done at Caracas on 29 March 1996 and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, done at Paris on 17 December 1997 (OECD Anti-Bribery Convention).

6. A Party shall accede to the OECD Anti-Bribery Convention, at the earliest opportunity, if it is not a party to the Convention.

Article 15.8. Measures to Combat Corruption

1. Each Party shall adopt or maintain legislative and other measures as may be necessary to establish as criminal offences under its law, in matters that affect international trade or investment, if committed intentionally, by any person subject to its jurisdiction:

(a) the promise, offering, or giving to a public official, directly or indirectly, of an undue advantage for the official or another person or entity, in order that the official act or refrain from acting in relation to the performance or exercise of his or her official duties;

(b) the solicitation or acceptance by a public official, directly or indirectly, of an undue advantage for the official or another person or entity, in order that the official act or refrain from acting in relation to the performance or exercise of his or her official duties;

(c) the promise, offering, or giving to a foreign public official or an official of a public international organization, directly or indirectly, of an undue advantage for the official or another person or entity, in order that the official act or refrain from acting in relation to the performance or exercise of his or her official duties, in order to obtain or retain business or other undue advantage in relation to the conduct of international business; and

(d) the aiding or abetting, or conspiracy in the commission of any of the offences described in subparagraphs (a) through (c).

2. Each Party shall make the commission of an offence described in paragraph 1 or 5 liable to sanctions that take into account the gravity of that offence.

3. Each Party shall adopt or maintain measures as may be necessary, consistent with its legal principles, to establish the liability of legal persons for offences described in paragraphs 1 and 5. In particular, each Party shall adopt or maintain measures to ensure that legal persons held liable for offences described in paragraph 1 or 5 are subject to effective, proportionate, and dissuasive criminal or non-criminal sanctions, including monetary sanctions.

4. Each Party shall disallow the tax deductibility of expenses that constitute bribes and other expenses incurred in furtherance of corrupt conduct.

5. To prevent corruption, each Party shall adopt or maintain measures as may be necessary, in accordance with its laws and regulations, regarding the maintenance of books and records, financial statement disclosures, and accounting and auditing standards, to prohibit the following acts carried out for the purpose of committing any of the offences described in paragraph 1:

(a) the establishment of off-the-books accounts;

(b) the making of off-the-books or inadequately identified transactions;

(c) the recording of non-existent expenditure;

(d) the entry of liabilities with incorrect identification of their objects;

(e) the use of false documents; and

(f) the intentional destruction of bookkeeping documents earlier than foreseen by the law.

6. Each Party shall consider adopting or maintaining measures to protect, against any unjustified treatment, any person who, in good faith and on reasonable grounds, reports to the competent authorities any facts concerning offences described in paragraph 1 or 5.

7. The Parties recognize the harmful effects of facilitation payments. Each Party shall, in accordance with its laws and

regulations:

(a) encourage enterprises to prohibit or discourage the use of facilitation payments; and

(b) take steps to raise awareness among its public officials of its bribery laws, with a view to stopping the solicitation and the acceptance of facilitation payments.

Article 15.9. Cooperation In International Fora

The Parties recognize the importance of regional and multilateral initiatives to prevent and combat bribery and corruption in international trade and investment. The Parties recognize the importance of working together to advance efforts in regional and multilateral fora to prevent and combat bribery and corruption in international trade and investment, including by encouraging and supporting appropriate initiatives.

Article 15.10. Promoting Integrity Among Public Officials

1. To fight corruption in matters that affect trade and investment, each Party should promote, among other things, integrity, honesty, and responsibility among its public officials. To this end, each Party shall, in accordance with the fundamental principles of its legal system, adopt or maintain:

(a) measures to provide adequate procedures for the selection and training of natural persons for public positions considered by the Party to be especially vulnerable to corruption, and the rotation, if appropriate, of those natural persons to other positions;

(b) measures to promote transparency in the behaviour of public officials in the exercise of public functions;

(c) policies and procedures to identify and manage actual or potential conflicts of interest of public officials;

(d) measures that require senior public officials and other public officials as considered appropriate by the Party, to make declarations to the appropriate authorities regarding, among other things, their outside activities, employment, investments, assets, and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials; and

(e) measures to facilitate reporting by public officials of any facts concerning offences described in Article 15.8.1 or 15.8.5 to the appropriate authorities, if those facts come to their notice in the performance of their functions.

2. Each Party shall endeavour to adopt or maintain codes or standards of conduct for the correct, honourable, and proper performance of public functions, and measures providing for disciplinary or other measures, if warranted against public officials who violate these codes or standards.

3. Each Party shall, to the extent consistent with the fundamental principles of its legal system, consider establishing procedures through which a public official accused of an offence described in Article 15.8.1 may, as considered appropriate by that Party, be removed, suspended or reassigned by the appropriate authority, bearing in mind respect for the principle of the presumption of innocence.

4. Each Party shall, in accordance with the fundamental principles of its legal system and without prejudice to judicial independence, adopt or maintain measures to strengthen integrity, and to prevent opportunities for corruption, among members of the judiciary in matters that affect international trade or investment. These measures may include rules with respect to the conduct of members of the judiciary.

Article 15.11. Participation of Private Sector and Society

1. Each Party shall take appropriate measures, within its means and in accordance with the fundamental principles of its legal system, to promote the active participation and safety of individuals, groups, and institutions outside the public sector, such as enterprises, media, civil society, non-governmental organizations, women's organizations, and community-based organizations, in the prevention of and the fight against corruption in matters affecting international trade or investment, and to raise public awareness regarding the existence, causes, and gravity of, and the threat posed by, corruption. To this end, a Party may, for example:

(a) undertake inclusive public information activities and inclusive public education programs that contribute to non-tolerance of corruption;

(b) adopt or maintain measures to encourage professional associations and other non-governmental organizations, if

appropriate, in their efforts to encourage and assist enterprises, in particular small and medium-sized enterprises (SMEs), in developing internal controls, ethics, and compliance programs or measures for preventing and detecting bribery and corruption in international trade and investment;

(c) adopt or maintain measures to encourage company management to make statements in their annual reports or otherwise publicly disclose their internal controls, ethics, and compliance programs or measures, including those that contribute to preventing and detecting bribery and corruption in international trade and investment; and

(d) adopt or maintain measures that respect, promote, and protect the freedom to seek, receive, publish, and disseminate information concerning corruption.

2. Each Party shall endeavour to encourage private enterprises, taking into account their structure and size, to:

(a) adopt or maintain sufficient internal auditing controls to assist in preventing and detecting offences described in Article 15.8.1 or 15.8.5 in matters affecting international trade or investment; and

(b) ensure that their accounts and required financial statements are subject to appropriate auditing and certification procedures.

3. Each Party shall take appropriate measures to ensure that its relevant anti-corruption bodies are known to the public and shall provide access to those bodies, if appropriate, for the reporting, including anonymously, of any incident that may be considered to constitute an offence described in Article 15.8.1.

4. The Parties recognize the benefits of internal compliance programs in enterprises to combat corruption. Each Party shall encourage enterprises, taking into account their size, legal structure, and the sectors in which they operate, to establish compliance programs for the purpose of preventing and detecting offences described in Article 15.8.1 or 15.8.5.

Article 15.12. Application and Enforcement of Anti-Corruption Laws

1. In accordance with the fundamental principles of its legal system, a Party shall not fail to effectively enforce its laws or other measures adopted or maintained to comply with Article 15.8 through a sustained or recurring course of action or inaction, after the date of entry into force of this Agreement, as an encouragement for trade and investment. The Parties recognize that individual cases or specific discretionary decisions related to the enforcement of anti-corruption laws are subject to each Party's own laws and legal procedures.

2. In accordance with the fundamental principles of its legal system, each Party retains the right for its law enforcement, prosecutorial, and judicial authorities to exercise their discretion with respect to the enforcement of its anti-corruption laws. Each Party retains the right to take decisions with regard to the allocation of its resources.

3. The Parties affirm their commitments under applicable international agreements or arrangements to co-operate with each other, consistent with their respective legal and administrative systems, to enhance the effectiveness of law enforcement actions to combat the offences described in Article 15.8.

Article 15.13. Relation to other Agreements

Nothing in this Agreement shall affect the rights and obligations of the Parties under the UNCAC, the United Nations Convention against Transnational Organized Crime, done at New York on 15 November 2000, and if they are a party, the Inter-American Convention Against Corruption, done at Caracas on 29 March 1996, or the OECD Anti-Bribery Convention.

Section D. Responsible Business Conduct

Article 15.14. Responsible Business Conduct

1. Each Party recognizes the importance of responsible business conduct and commits to collaborate with relevant stakeholders to develop, adopt, promote, strengthen, and implement policies that support a responsible business environment.

2. Each Party recognizes the importance of encouraging enterprises to publicly disclose timely and accurate information on the actual or potential adverse impacts of their activities on people and the environment, with particular consideration for proactive engagement with marginalized groups in order to mitigate or prevent any adverse impacts on them.

3. Each Party affirms that enterprises operating within its jurisdiction are required to comply with all applicable laws,

particularly laws concerning human rights, the rights of Indigenous Peoples, gender equality, environmental protection, and labour.

4. Each Party shall encourage enterprises organized or constituted under its laws, or operating in its territory, including SMEs, to incorporate into their business practices and internal policies the internationally recognized standards, guidelines, and principles of responsible business conduct that have been endorsed or are supported by that Party, including the OECD Guidelines for Multinational Enterprises, as amended, and the UN Guiding Principles on Business and Human Rights, as amended. These standards, guidelines, and principles may address issues such as labour, the environment, gender equality, human rights, and corruption.

Chapter 16. Trade-Related Cooperation

Article 16.1. Trade-Related Cooperation

1. Recognizing that trade-related cooperation is a catalyst for the reforms and investments necessary to foster trade-driven economic growth and adjustment to liberalized trade, the Parties undertake to promote trade-related cooperation, with the following objectives:

(a) to strengthen the capacities of the Parties to maximize the opportunities and benefits deriving from this Agreement;

(b) to strengthen and develop cooperation at a bilateral, regional or multilateral level;

(c) to foster new trade and investment opportunities in areas of mutual interest such as those relating to science, technology and innovation; and

(d) to promote sustainable economic development, with an emphasis on small and medium-sized enterprises.

2. Trade-related cooperation may include:

(a) exchange of information, transfer and exchange of expertise and training, such as facilitating exchange visits of researchers, experts, specialists and private sector representatives;

(b) joint activities such as joint studies and joint research concerning issues relating to this Agreement;

(c) transfer of technology, skills and practices;

(d) institutional assistance and capacity-building such as through training seminars, workshops, conferences and internships;

(e) participation in international activities; and

(f) any other means of cooperation as jointly decided by the Parties.

3. Trade-related cooperation may build on previous cooperation activities, and may include the subject matters set out in the indicative list in Annex 16-A.

4. The provisions of this Chapter are cooperative and are not subject to dispute settlement under Chapter 28 (Dispute Settlement).

Article 16.2. Contact Points

1. Each Party designates a Contact Point to facilitate communication concerning the implementation of this Chapter.

2. The Contact Points may jointly work to establish guidelines for conducting their work and coordinate with other contact points and committees established or continued under this Agreement, as required, on trade-related cooperation pursuant to the objectives of this Chapter.

3. The Contact Points may communicate by electronic, video-conference, or any other means decided by the Parties.

4. The Contact Points are:

(a) For Ukraine:

Director, Department of Trade Agreements and Export Development,

Ministry of Economy of Ukraine (or successor)

12/2 M. Hrushevskoho Street, Kyiv, 01008, Ukraine

(b) For Canada:

Director, Head of Development Cooperation

Kyiv, Ukraine

Embassy of Canada to Ukraine

Government of Canada

Chapter 17. Investment

Section A. Definitions

Article 17.1. Definitions

For the purpose of this Chapter:

algorithm means a defined sequence of steps taken to solve a problem or obtain a result;

claimant means an investor of a Party that makes a claim under Article 17.23 (Submission of a Claim to Arbitration);

confidential information means confidential business information or information that is privileged or otherwise protected from disclosure under the law of a Party;

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

(a) in its territory;

(b) made in accordance with the applicable domestic law of the Party at the time the investment is made;

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

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

disputing parties means the claimant and the respondent Party;

disputing party means either the claimant or the respondent Party;

enterprise means an enterprise as defined in Article 1.5 (Definitions of General Application) and a branch of an enterprise;

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

ICSID means the International Centre for Settlement of Investment Disputes established by the ICSID Convention;

ICSID Additional Facility Rules means the Rules Governing the Additional Facility for the Administration of Proceedings by the Secretariat of the International Center for Settlement of Investment Disputes;

ICSID Convention means the Convention on the Settlement of Investment Disputes between States and Nationals of other States done at Washington, D.C. on 18 March 1965;

intellectual property rights means copyright and related rights, trademark rights, rights in geographical indications, rights in industrial designs, patent rights, rights in layout designs of integrated circuits, rights in relation to protection of undisclosed information, and plant breeders' rights;

investment means:

(a) any of the following:

(i) an enterprise;

(ii) a share, stock, or other form of equity participation in an enterprise;

(iii) a bond, debenture, or other debt instrument of an enterprise;

(iv) a loan to an enterprise;

(v) an interest in an enterprise that entitles the owner to share in income or profits of the enterprise;

(vi) an interest in an enterprise that entitles the owner to share in the assets of that enterprise on dissolution;

(vii) an interest arising from the commitment of capital or other resources in the territory of a Party to economic activity in that territory, such as under:

(A) a contract involving the presence of an investor's property in the territory of the Party, including a turnkey or construction contract, or a concession; or

(B) a contract under which remuneration depends substantially on the production, revenues, or profits of an enterprise;

(viii) intellectual property rights; and

(ix) any other tangible or intangible, moveable or immovable, property and related property rights acquired in the expectation of or used for the purpose of economic benefit or other business purpose;

(b) in each case, shall involve the commitment of capital or other resources, the expectation of gain or profit, contribution to the host Party's economy, a certain duration, or the assumption of risk (1); and

(c) for the purpose of this definition, investment does not mean:

(i) a claim to money that arises solely from:

(A) a commercial contract for the sale of a good or service by a national or enterprise in the territory of a Party to an enterprise in the territory of the other Party; or

(B) the extension of credit in connection with a commercial transaction, such as trade financing;

(ii) an order or judgment in a judicial or administrative action; or

(iii) any other claim to money that does not involve the kinds of interests set out in subparagraphs (a)(i) through (a)(ix);

investor of a Party means a national or an enterprise of a Party that seeks to make, is making, or has made an investment. For the purpose of this definition:

enterprise of a Party means:

(a) an enterprise that is constituted or organized under the law of that Party and that has substantial business activities in the territory of that Party. A determination of whether an enterprise has substantial business activities in the territory of a Party requires a case-by-case, fact-based inquiry; or

(b) an enterprise that is constituted or organised under the law of that Party, and is directly or indirectly owned or controlled by a national of that Party or by an enterprise mentioned under subparagraph (a);

national means a national as defined in Article 1.5 (Definitions of General Application), except that a natural person who is a dual citizen of Canada and Ukraine shall be deemed to be exclusively a national of the Party of his or her dominant and effective nationality;

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

non-disputing Party means a Party that is not a disputing party to an investment dispute;

respondent Party means a Party against which a claim is made under Article 17.23 (Submission of a Claim to Arbitration);

third party funding means any funding or other equivalent support provided by a person who is not a disputing party in order to finance part or all of the cost of the proceedings including through a donation or grant, or in return for remuneration dependent on the outcome of the dispute;

Tribunal means an arbitration tribunal established under Section D (Investor-State Dispute Settlement) or Section E (Expedited Arbitration);

UNCITRAL Arbitration Rules means the arbitration rules of the United Nations Commission on International Trade Law; and

UNCITRAL Transparency Rules means the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration, done at New York on 10 December 2014.

(1) A determination of whether one or more of these criteria are met requires a case-by-case, fact-based analysis.

Section B. Investment Protections

Article 17.2. Scope

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

(a) an investor of the other Party;

(b) a covered investment; and

(c) with respect to Articles 17.5 (Non-Derogation), 17.12 (Performance Requirements), and 17.15 (Responsible Business Conduct), an investment in its territory.

2. A Party's obligations under this Chapter apply to measures adopted or maintained by:

(a) the central, regional, or other governments of that Party; and

(b) any person, including a state enterprise or any other body, when it exercises any governmental authority delegated to it by central, regional, or other governments of that Party.

3. This Chapter does not bind a Party in relation to an act or fact that took place or a situation that ceased to exist before the date of entry into force of this Agreement for that Party.

Article 17.3. Relation to other Chapters

1. In the event of any inconsistency between this Chapter and any other Chapter of this Agreement, the other Chapter shall prevail to the extent of the inconsistency.

2. A requirement of a Party that a service supplier of another Party post a bond or other form of financial security as a condition for the cross-border supply of a service does not, in and of itself, make this Chapter applicable to measures adopted or maintained by the Party relating to such cross-border supply of the service. This Chapter applies to measures adopted or maintained by the Party relating to the posted bond or financial security to the extent that the bond or financial security is a covered investment.

3. This Chapter does not apply to measures adopted or maintained by a Party to the extent that they are covered by Chapter 20 (Financial Services).

4. Article 18.5 (Market Access) (2) is incorporated into and made part of this Chapter and applies to measures adopted or maintained by a Party relating to the supply of a service in its territory by a covered investment.

(2) The Parties understand that any reservation taken by a Party pursuant to Annex I (Cross-Border Trade in Services and Investment Non-Conforming Measures) against Article 18.5 (Market Access) applies to measures of that Party covered under paragraph 4.

Article 17.4. Right to Regulate

The Parties reaffirm the right of each Party to regulate within its territory to achieve legitimate policy objectives, such as with respect to: the protection of the environment and addressing climate change; national security and territorial integrity; the enforcement of domestic law; social or consumer protection; or the promotion and protection of health, safety, rights of Indigenous peoples, gender equality, or cultural diversity.

Article 17.5. Non-Derogation

The Parties recognize that it is not appropriate to encourage investment by relaxing domestic measures relating to health,

safety, the environment, other regulatory objectives, or the rights of Indigenous peoples. Accordingly, a Party shall not relax, waive, or otherwise derogate from, or offer to relax, waive, or otherwise derogate from, such measures in order to encourage the establishment, acquisition, expansion, or management of the investment of an investor in its territory. If a Party considers that the other Party has offered such an encouragement, it may request consultations with the other Party and the two Parties shall consult with a view to avoiding the encouragement.

Article 17.6. National Treatment

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

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

3. The treatment accorded by a Party under paragraphs 1 and 2 means, with respect to a government other than at the central level, treatment accorded, in like circumstances, by that government to investors, and to investments of investors, of the Party of which it forms a part.

4. Whether treatment accorded by a Party under paragraphs 1 and 2 is accorded in like circumstances depends on the totality of the circumstances, including whether the relevant treatment distinguishes between investors or investments on the basis of legitimate public policy objectives.

5. Paragraphs 1 and 2 prohibit discrimination based on nationality. A difference in treatment accorded to an investor or covered investment and a Party's own investors or investments of its own investors does not, in and of itself, establish discrimination based on nationality.

Article 17.7. Most-Favoured-Nation Treatment

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

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

3. The treatment accorded by a Party under paragraphs 1 and 2 means, with respect to a government other than at the central level, treatment accorded, in like circumstances, by that government to investors, and to investments of investors, of a non-Party.

4. Whether treatment accorded by a Party under paragraphs 1 and 2 is accorded in like circumstances depends on the totality of the circumstances, including whether the relevant treatment distinguishes between investors or investments on the basis of legitimate public policy objectives.

5. Paragraphs 1 and 2 prohibit discrimination based on nationality. A difference in treatment accorded to an investor or covered investment and a non-Party's investors or investments of a non-Party's investors does not, in and of itself, establish discrimination based on nationality.

6. The treatment referred to in paragraphs 1 and 2 does not include procedures for the resolution of investment disputes between investors and states provided for in other international investment treaties and other trade agreements.

7. Substantive obligations in other international investment treaties and other trade agreements do not in themselves constitute treatment, and thus cannot give rise to a breach of this Article, absent measures adopted or maintained by a Party pursuant to those obligations.

Article 17.8. Treatment In Case of Armed Conflict, Civil Strife, or Natural Disaster

1. Notwithstanding Article 17.18(5)(b) (Non-Conforming Measures), each Party shall accord to an investor of the other Party and to a covered investment treatment no less favourable than it accords to its own investors or investments, or to the investors or investments of a non-Party, whichever is more favourable to the investors or investments concerned, with

respect to measures it adopts or maintains relating to restitution, indemnification, compensation, or other settlement for losses incurred by investments in its territory as a result of armed conflict, civil strife, or a natural disaster.

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

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

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

the latter Party shall provide the investor restitution, compensation, or both, as appropriate, for that loss.

3. Paragraph 1 does not apply to an existing subsidy or grant provided by a Party, including a government supported loan, a guarantee, or insurance, that would be inconsistent with Article 17.6 (National Treatment) but for Article 17.18(5)(b) (Non-Conforming Measures).

Article 17.9. Minimum Standard of Treatment

1. Each Party shall accord in its territory to a covered investment of the other Party and to an investor with respect to their covered investment treatment in accordance with the customary international law minimum standard of treatment of aliens. A Party breaches this obligation only if a measure constitutes:

(a) denial of justice in criminal, civil, or administrative proceedings;

(b) fundamental breach of due process in judicial or administrative proceedings;

(c) manifest arbitrariness (3) ;

(d) targeted discrimination on manifestly wrongful grounds such as gender, race, or religious beliefs;

(e) abusive treatment of investors, such as physical coercion, duress, and harassment; or

(f) a failure to provide full protection and security. (4)

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

3. The fact that a measure breaches domestic law does not establish a breach of this Article.

(3) A measure is manifestly arbitrary when it is evident that the measure is not rationally connected to a legitimate policy objective, such as when a measure is based on prejudice or bias rather than on reason or fact.

(4) For greater certainty, full protection and security refers only to the physical security of an investor and their covered investment.

Article 17.10. Expropriation

1. A Party shall not expropriate a covered investment either directly or indirectly, except:

(a) for a public purpose (5) ;

(b) in accordance with due process of law;

(c) in a non-discriminatory manner; and

(d) on payment of compensation in accordance with paragraph 5.

2. A direct expropriation under paragraph 1 occurs only when a covered investment is taken by a Party through formal transfer of title or outright seizure.

3. An indirect expropriation under paragraph 1 may occur when a measure or a series of measures of a Party has an effect equivalent to direct expropriation without formal transfer of title or outright seizure. A non-discriminatory measure of a Party that is adopted and maintained in good faith to protect legitimate public welfare objectives, such as health, safety, or

the environment, does not constitute an indirect expropriation, even if it has an effect equivalent to direct expropriation. The determination of whether a measure or a series of measures of a Party has an effect equivalent to direct expropriation requires a case-by-case, fact-based inquiry that shall consider:

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

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

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

(d) the character of the measure or the series of measures.

4. A measure of a Party cannot violate this Article unless it expropriates a covered investment that is a tangible or intangible property right under the domestic law of the Party in which the investment was made. This determination requires the consideration of relevant factors, such as the nature and scope of the tangible or intangible property right under the applicable domestic law of the Party in which the investment was made.

5. The compensation referred to in paragraph 1 shall:

(a) be paid without delay in a freely convertible currency;

(b) be equivalent to the fair market value of the expropriated investment immediately before the expropriation took place (the "date of expropriation"). Appropriate valuation criteria include going concern value, asset value including the declared tax value of tangible property, and other criteria that may be appropriate or relevant under the circumstances to determine fair market value;

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

(d) include interest at a commercially reasonable rate for that currency from the date of the expropriation until the date of payment; and

(e) be freely transferable.

6. A measure of a Party that would otherwise constitute an expropriation of an intellectual property right under this Article does not constitute a breach of this Article if it is consistent with the Chapter 12 (Intellectual Property) and the TRIPS Agreement and any waiver or amendment of the TRIPS Agreement accepted by that Party.

(5) The Parties recognize that the meaning of “public purpose” may apply differently for the purposes of an Indigenous government.

Article 17.11. Transfer of Funds

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

(a) contributions to capital;

(b) profits, dividends, interest, capital gains, royalty payments, management fees, technical assistance, and other fees;

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

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

(e) payments of funds made under Articles 17.8 (Treatment in Case of Armed Conflict, Civil Strife, or Natural Disaster) and 17.10 (Expropriation);

(f) earnings and other remuneration of foreign personnel working in connection with an investment; and

(g) payments arising out of a dispute.

2. Each Party shall permit transfers of funds relating to a covered investment to be made in a freely convertible currency at

the market rate of exchange in effect at the time of transfer.

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

4. A Party shall not require its investors to transfer, or penalize one of its investors for failing to transfer, the income, earnings, profits, or other amounts derived from, or attributable to, an investment in the territory of the other Party.

5. Notwithstanding paragraphs 1 through 4 of this Article, a Party may prevent or limit a transfer through the equitable, non-discriminatory, and good faith application of its domestic law relating to:

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

(b) issuing, trading, or dealing in securities;

(c) criminal or penal offences;

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

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

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

6. Notwithstanding paragraph 3, a Party may restrict transfers of returns in kind in circumstances in which it could otherwise restrict those transfers under the WTO Agreement or as set out in paragraph 5.

Article 17.12. Performance Requirements

1. A Party shall not, in connection with the establishment, acquisition, expansion, management, conduct, operation, or sale or other disposition of an investment in its territory, impose or enforce a requirement, or enforce a commitment or undertaking:

(a) to export a given level or percentage of a good or service;

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

(c) to purchase, use, or accord a preference to a good produced or service provided in its territory, or to purchase a good or service from a person in its territory;

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

(e) to restrict sales of a good or service in its territory that the investment produces or provides by relating those sales to the volume or value of its exports or foreign exchange earnings;

(f) to transfer technology, a production process, source code of software, or other proprietary knowledge to a person in its territory;

(g)

(i) to purchase, use, or accord a preference to, in its territory, technology of the Party or of a person of the Party (6) , or

(ii) that prevents the purchase or use of, or the according of a preference to, in its territory, a technology;

(h) to supply exclusively from the territory of the Party a good that the investment produces, or a service it provides, to a specific regional market or to the world market.

2. A Party shall not condition the receipt or continued receipt of an advantage, in connection with the establishment, acquisition, expansion, management, conduct, operation, or sale or other disposition of an investment in its territory, on compliance with a requirement:

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

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

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

(d) to restrict sales of a good or service in its territory that the investment produces or provides by relating those sales to the volume or value of its exports or foreign exchange earnings.

3. The provisions of:

(a) paragraph 2 do not prevent a Party from conditioning the receipt or continued receipt of an advantage, in connection with any investments, on compliance with a requirement to locate production, provide a service, train or employ workers, construct or expand particular facilities, or carry out research and development in its territory;

(b) paragraphs 1(a), 1(b), 1(c), 2(a), and 2(b) do not apply to a qualification requirement for a good or service with respect to export promotion and foreign aid programs;

(c) paragraphs 1(b), 1(c), 1(f), 1(g), 1(h), 2(a), and 2(b) do not apply to procurement by a Party;

(d) paragraphs 2(a) and 2(b) do not apply to a requirement imposed by an importing Party relating to the content of a good necessary to qualify for a preferential tariff or preferential quota;

(e) paragraphs 1(f) and 1(g) do not apply:

(i) if a Party authorizes use of an intellectual property right in accordance with Article 31 (7) of the TRIPS Agreement, or to a measure requiring the disclosure of proprietary information that falls within the scope of, and is consistent with, Article 39 of the TRIPS Agreement; or

(ii) if the requirement is imposed or the requirement, commitment, or undertaking is enforced by a court, administrative tribunal, or competition authority to remedy an alleged violation of domestic competition law;

(f) paragraphs 1(b), 1(c), 1(f), 1(g), 2(a), and 2(b) shall not prevent a Party from adopting or maintaining a measure to achieve a legitimate public policy objective, provided that the measure:

(i) is not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade; and

(ii) does not impose restrictions greater than are required to achieve the objective;

(g) paragraph 1(f) do not preclude a regulatory body or judicial authority of a Party from requiring a person of the other Party to preserve and make available the source code of software, or an algorithm expressed in that source code, to the regulatory body for a specific investigation, inspection, examination, enforcement action, or judicial proceeding (8) , subject to safeguards against unauthorized disclosure.

(6) For the purposes of this Article, the term “technology of the Party or of a person of the Party” includes technology that is owned by the Party or a person of the Party, and technology for which the Party or a person of the Party holds an exclusive license.

(7) The reference to “Article 31” includes any waiver or amendment to the TRIPS Agreement implementing paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health (WT/MIN(01)/DEC/2).

(8) This disclosure shall not be construed to negatively affect the software source code’s status as a trade secret, if such status is claimed by the trade secret owner.

Article 17.3. Senior Management and Boards of Directors

1. A Party shall not require that an enterprise of that Party that is a covered investment appoint to a senior management position an individual of any particular nationality.

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

3. A Party should encourage enterprises to consider greater diversity in senior management positions or on their board of

directors, which may include a requirement to nominate women.

Article 17.14. Subrogation

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

(a) the other Party in whose territory the covered investment was made shall recognize the validity of the subrogation or transfer of any rights the investor would have possessed with respect to the covered investment but for the subrogation or transfer; and

(b) the investor shall be precluded from pursuing these rights to the extent of the subrogation or transfer, unless a Party or an agency of a Party authorizes the investor to act on its behalf.

Article 17.15. Responsible Business Conduct

1. The Parties reaffirm that investors and their investments shall comply with domestic laws and regulations of the host state, including laws and regulations on human rights, the rights of Indigenous peoples, gender equality, environmental protection, labour, anti-corruption, and taxation.

2. Each Party reaffirms the importance of internationally recognized standards, guidelines, and principles of responsible business conduct that have been endorsed or are supported by that Party, including the OECD Guidelines for Multinational Enterprises and the United Nations Guiding Principles on Business and Human Rights, and shall encourage investors and enterprises operating within its territory or subject to its jurisdiction to voluntarily incorporate these standards, guidelines, and principles into their business practices and internal policies. These standards, guidelines, and principles address areas such as labour, environment, gender equality, human rights, community relations, and anti-corruption.

3. Each Party should encourage investors or enterprises operating within its territory to undertake and maintain meaningful engagement and dialogue, in accordance with international responsible business conduct standards, guidelines, and principles that have been endorsed or are supported by that Party, with Indigenous peoples and local communities.

Article 17.16. Denial of Benefits

1. A Party may, within a reasonable time and no later than its principal submission on the merits, such as the counter-memorial, in an arbitration under this Chapter, deny the benefits of this Chapter to an investor of the other Party that is an enterprise of that Party and to investments of that investor if:

(a) an investor of a non-Party owns or controls the enterprise; and

(b) the denying Party adopts or maintains a measure with respect to the non-Party or investors of the non-Party that prohibits transactions with the enterprise or would be violated or circumvented if the benefits of this Agreement were accorded to the enterprise or to its investment.

Article 17.17. Special Formalities and Information Requirements

1. Article 17.6 (National Treatment) shall not be construed to prevent a Party from adopting or maintaining any measure that prescribes special formalities in connection with covered investments, such as a requirement that investors be residents of the Party, that an investor register or otherwise notify the appropriate authorities of its covered investment, or that covered investments be legally constituted under the laws or regulations of the Party, provided that such formalities do not materially impair the protection afforded by a Party to investors of another Party and covered investments pursuant to this Chapter.

2. Notwithstanding Articles 17.6 (National Treatment) and 17.7 (Most-Favoured-Nation Treatment), a Party may require an investor of another Party or a covered investment to provide information concerning that investment solely for informational or statistical purposes. The Party shall protect such information that is confidential from any disclosure that would prejudice the competitive position of the investor or the covered investment. This paragraph shall not be construed to prevent a Party from obtaining or disclosing information in connection with the equitable and good faith application of its law.

Section C. Reservations, Exceptions, Exclusions

Article 17.18. Non-Conforming Measures

1. Articles 17.6 (National Treatment), 17.7 (Most-Favoured-Nation Treatment), 17.12 (Performance Requirements), and 17.13 (Senior Management and Boards of Directors) shall not apply to:

(a) any existing non-conforming measure maintained in the territory of a Party at:

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

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

(iii) the level of government other than the central or regional levels;

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

(c) an amendment to any non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Articles 17.6 (National Treatment), 17.7 (Most-Favoured-Nation Treatment), 17.12 (Performance Requirements), and 17.13 (Senior Management and Boards of Directors).

2. Articles 17.6 (National Treatment), 17.7 (Most-Favoured-Nation Treatment), 17.12 (Performance Requirements), and 17.13 (Senior Management and Boards of Directors) shall not apply to a measure that a Party adopts or maintains with respect to sectors, subsectors, or activities, as set out in its Schedule to Annex II (Reservations for Future Measures).

3. A Party shall not, under any measure adopted after the date of entry into force of this Agreement and covered by its Schedule to Annex II (Reservations for Future Measures), require an investor of the other Party, by reason of its nationality, to sell or otherwise dispose of an investment existing at the time the measure becomes effective.

4. Articles 17.6 (National Treatment) and 17.7 (Most-Favoured-Nation Treatment) do not apply to a measure that relates to the protection of intellectual property rights (9) that is consistent with the TRIPS agreement, including any amendment of or waiver to the TRIPS Agreement that is in force for both Parties.

5. Articles 17.6 (National Treatment), 17.7 (Most-Favoured-Nation Treatment), and 17.13 (Senior Management and Boards of Directors) do not apply to:

(a) procurement by a Party; or

(b) a subsidy or grant provided by a Party, including a government-supported loan, a guarantee, or insurance.

(9) For the purpose of this paragraph, “protection of intellectual property rights” shall include matters affecting the availability, acquisition, scope, maintenance, use, and enforcement of intellectual property rights.

Article 17.19. Exclusions

Section D (Investor-State Dispute Settlement), Section E (Expedited Arbitration), and Chapter 28 (Dispute Settlement) do not apply to the matters set out in Annex 17-A (Exclusions from Dispute Settlement).

Section D. Investor-State Dispute Settlement

Article 17.20. Scope and Purpose

1. Without prejudice to the rights and obligations of the Parties under Chapter 28 (Dispute Settlement), the Parties establish in this Section a mechanism for the settlement of investment disputes.

2. Under this Section, an investor of a Party may submit a claim that the other Party has breached an obligation under Section B (Investment Protections), other than Articles 17.3(4) (Relation to Other Chapters), 17.5 (Non-Derogation), 17.12 (Performance Requirements), 17.13(3) (Senior Management and Boards of Directors), or 17.15 (Responsible Business Conduct).

3. For greater certainty, an investor may not submit a claim under this Section if the investment has been made through fraudulent misrepresentation, concealment, corruption, or conduct amounting to an abuse of process.

Article 17.21. Request for Consultations

1. In the event of an investment dispute under this Agreement, an investor of a Party shall seek to resolve the dispute through consultations, which may include the use of non-binding, third party procedures, such as good offices, conciliation, or mediation.

2. An investor of a Party shall deliver to the other Party a written request for consultations, which shall specify:

(a) whether the investor intends to claim under Articles 17.23(1) or 17.23(2) (Submission of a Claim to Arbitration);

(b) the name and address of the investor and evidence to establish that the investor is an investor of the other Party;

(c) the investment at issue and evidence to establish that the investor owns or controls the investment, including, if the investment is an enterprise, the name, address, and place of incorporation of the enterprise;

(d) if the investor is an enterprise, the corporate structure up to, and information on, any natural person that has ultimate ownership or control of that investor;

(e) for each claim:

(i) the provision of this Agreement alleged to have been breached; and

(ii) the factual basis for the alleged breach, including the measure at issue; and

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

3. An investor of a Party may, when submitting a request for consultations, propose to hold the consultations by videoconference, telephone, or similar means of communication as appropriate. The other Party should give sympathetic consideration to that request, in particular if the investor is a micro, small, or medium-sized enterprise.

4. The request for consultations shall be submitted to the other Party under this Article no later than:

(a) three years from the date on which the investor or, as applicable, the enterprise referred to in Article 17.23(2) (Submission of a Claim to Arbitration), first acquired or should have first acquired knowledge of the alleged breach and knowledge that the investor or, as applicable, the enterprise, has incurred loss or damage by reason of, or arising out of, that breach; or

(b) if the investor or, as applicable, the enterprise, has initiated a claim or proceeding before an administrative tribunal or court under the law of a Party with respect to the measure at issue in the investor's request for consultations delivered pursuant to paragraph 2, two years after:

(i) the investor or, as applicable, the enterprise, ceases to pursue that claim; or

(ii) when that proceeding has otherwise ended;

provided that it is no later than seven years after the date on which the investor or, as applicable, the enterprise, first acquired or should have first acquired knowledge of the alleged breach and knowledge that the investor or, as applicable, the enterprise, has incurred loss or damage by reason of, or arising out of, that breach.

5. Neither a continuing breach nor the occurrence of similar or related acts or omissions may renew or interrupt the periods set out in paragraphs 4(a) and 4(b).

6. Unless otherwise agreed, consultations shall be held within 90 days of the delivery of the request for consultations pursuant to paragraph 2.

7. Unless otherwise agreed, the place of consultations shall be the capital city of the other Party.

8. If the investor has not submitted a claim under Article 17.23 (Submission of a Claim to Arbitration) within one year of the delivery of the request for consultations, the investor is deemed to have withdrawn its request for consultations and shall not submit a claim under this Section with respect to the same measure. This period may be extended by agreement between the investor of a Party and the other Party.

Article 17.22. Mediation

The disputing parties may at any time agree to have recourse to mediation. A respondent shall give sympathetic

consideration to a request for mediation made by a micro, small, or medium-sized enterprise. Recourse to mediation is without prejudice to the legal position or rights of the disputing parties under this Section and is governed by the rules agreed to by the disputing parties, including any applicable rules for mediation adopted by the Joint Commission. If the disputing parties agree to have recourse to mediation, paragraphs 4, 5, and 8 of Article 17.21 (Request for Consultations) and all timelines pursuant to an arbitration under this section are suspended from the date on which the disputing parties agreed to have recourse to mediation, and shall resume on the date on which either disputing party decides to terminate the mediation. A decision by a disputing party to terminate the mediation shall be transmitted by way of letter to the mediator and the other disputing party.

Article 17.23. Submission of a Claim to Arbitration

1. An investor of a Party may make a claim that the other Party has breached an obligation in accordance with Article 17.20 (Scope and Purpose), and that the investor has incurred loss or damage by reason of, or arising out of, that breach, only if:

(a) the investor has fulfilled the requirements of Article 17.21 (Request for Consultations);

(b) 180 days have elapsed since the receipt by the other Party of a request for consultations under Article 17.21 (Request for Consultations);

(c) the claim relates to measures identified in the investor's request for consultations under Article 17.21 (Request for Consultations);

(d) the investor consents to dispute settlement in accordance with the procedures set out in this Agreement; and

(e) the investor and, if the claim is for loss or damage to an interest in an enterprise of the other Party that is a juridical person that the investor owns or controls directly or indirectly, the enterprise, waives its right to initiate or continue before any administrative tribunal or court under the law of any Party, or other dispute settlement procedure, any proceeding with respect to the measure of the other Party that is alleged to be a breach referred to in Article 17.21(2) (Request for Consultations), except for a proceeding for injunctive, declaratory, or other extraordinary relief, not involving the payment of damages, before an administrative tribunal or court under the law of the other Party.

2. An investor of a Party, on behalf of an enterprise of the other Party that is a juridical person that the investor owns or controls directly or indirectly, may make a claim that the other Party has breached an obligation in accordance with Article 17.20 (Scope and Purpose), and that the enterprise has incurred loss or damage by reason of, or arising out of, that breach, only if:

(a) the investor has fulfilled the requirements of Article 17.21 (Request for Consultations);

(b) 180 days have elapsed since the receipt by the other Party of a request for consultations under Article 17.21 (Request for Consultations);

(c) the claim relates to measures identified in the investor's request for consultations under Article 17.21 (Request for Consultations);

(d) the investor consents to dispute settlement in accordance with the procedures set out in this Agreement; and

(e) both the investor and the enterprise waive their right to initiate or continue before an administrative tribunal or court under the law of any Party, or other dispute settlement procedure, any proceeding with respect to the measure of the other Party that is alleged to be a breach referred to in Article 17.21(2) (Request for Consultations), except for a proceeding for injunctive, declaratory, or other extraordinary relief, not involving the payment of damages, before an administrative tribunal or court under the law of the other Party.

3. A consent and waiver required by this Article shall be in writing, shall be delivered to the respondent Party, and shall be included in the submission of a claim to arbitration.

4. Notwithstanding paragraph 3, a waiver from the enterprise under paragraph 1(e) or 2(e) is not required if the other Party has deprived the investor of control of the enterprise.

5. If an investor of a Party makes a claim under paragraph 2 and the investor or a non-controlling investor in the enterprise makes a claim under paragraph 1 arising out of the same events or circumstances, and two or more of the claims are submitted to dispute settlement under this Article, the claims should be heard together by a Tribunal constituted under Article 17.30 (Consolidation), unless the Tribunal finds that the interests of a disputing party would be prejudiced thereby.

6. An investor of a Party may submit a claim to dispute settlement under:

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

(b) the ICSID Additional Facility Rules, if only one Party is a party to the ICSID Convention;

(c) the UNCITRAL Arbitration Rules; or

(d) any other rules on agreement of the disputing parties.

7. Except to the extent modified by this Agreement, the arbitration shall be governed by the existing version of the arbitration rules applicable under paragraph 6, unless otherwise agreed by both disputing parties.

8. If the claimant proposes rules pursuant to paragraph 6(d), the respondent Party shall reply to the claimant's proposal within 45 days of receipt of the proposal. If the disputing parties have not agreed on those rules within 60 days of receipt, the claimant may submit a claim under the rules provided for in paragraph 6(a), 6(b), or 6(c).

9. An investor of a Party may, when submitting a claim under this Article, propose that a sole member of a Tribunal should hear the claim. The respondent Party may give sympathetic consideration to that request, in particular if the investor is a micro, small, or medium-sized enterprise or the compensation or damages claimed are relatively low.

10. A claim is submitted to arbitration under this Article when:

(a) the request for arbitration under Article 36(1) of the ICSID Convention is received by the Secretary-General of ICSID;

(b) the request for arbitration under Article 2 of Schedule C of the ICSID Additional Facility Rules is received by the Secretariat of ICSID; or

(c) the notice of arbitration under Article 3 of the UNCITRAL Arbitration Rules is received by the respondent Party.

Article 17.24. Consent to Arbitration

1. Each Party consents to the submission of a claim to arbitration under this Section in accordance with the provisions of this Agreement, including the requirements of Articles 17.21 (Request for Consultations) and 17.23 (Submission of a Claim to Arbitration).

2. The consent under paragraph 1 and the submission of a claim to arbitration under Article 17.23 (Submission of a Claim to Arbitration) shall satisfy the requirement of:

(a) Chapter II of the ICSID Convention and the ICSID Additional Facility Rules for written consent of the parties to the dispute; and

(b) Article II of the New York Convention for an "agreement in writing".

Article 17.25. Discontinuance

If the claimant fails to take a step in the proceeding within 180 days of the submission of a claim to arbitration under Article 17.23 (Submission of a Claim to Arbitration), or such other time period as agreed to by the disputing parties, the claimant is deemed to have withdrawn its claim and to have discontinued the proceeding. The Tribunal, if constituted, shall, at the request of the respondent Party, and after notice to the disputing parties, in an order take note of the discontinuance. After the order has been rendered the authority of the Tribunal shall cease.

Article 17.26. Arbitrators

1. Except in respect of a Tribunal established under Article 17.30 (Consolidation), and unless the disputing parties agree otherwise, the Tribunal shall be composed of three arbitrators. Each disputing party shall appoint one arbitrator, and the third arbitrator, who will be the presiding arbitrator, shall be appointed by agreement of, or pursuant to an appointment process agreed to by, the disputing parties. The disputing parties are encouraged to consider greater diversity in arbitrator appointments, including through the appointment of women.

2. Arbitrators should have expertise or experience in public international law, international investment law, international trade law, or dispute resolution arising under international investment or international trade agreements.

3. Arbitrators shall be independent of, and not be affiliated with or take instructions from, a Party or the disputing investor.

4. If the disputing parties do not agree on the remuneration of the arbitrators before the Tribunal is constituted, the

prevailing ICSID rate for arbitrators shall apply.

5. If a Tribunal, other than a Tribunal established under Article 17.30 (Consolidation), has not been constituted within 90 days of the submission of a claim to arbitration, a disputing party may ask the Secretary-General of ICSID to appoint the arbitrator or arbitrators not yet appointed. In accordance with this Article, the Secretary-General of ICSID shall make the appointment at his or her own discretion and, to the extent practicable, shall make this appointment in consultation with the disputing parties. The Secretary-General of ICSID shall not appoint as presiding arbitrator a national of a Party.

6. Arbitrators shall abide by the Arbitrator Code of Conduct for Investor-State Dispute Settlement set out in Annex 17-B.

Article 17.27. Agreement to Appointment of Arbitrators by ICSID

1. For the purposes of Article 39 of the ICSID Convention and Article 7 of Schedule C to the ICSID Additional Facility Rules, and without prejudice to an objection to an arbitrator based on a ground other than nationality:

(a) the respondent Party agrees to the appointment of each individual member of a Tribunal established under the ICSID Convention or the ICSID Additional Facility Rules;

(b) an investor of a Party referred to in Article 17.23(1) (Submission of a Claim to Arbitration) may submit a claim to arbitration or continue a claim under the ICSID Convention or the ICSID Additional Facility Rules only if the investor agrees in writing to the appointment of each member of the Tribunal; and

(c) an investor of a Party referred to in Article 17.23(2) (Submission of a Claim to Arbitration) may submit a claim to arbitration or continue a claim under the ICSID Convention or the ICSID Additional Facility Rules only if the investor and the enterprise agree in writing to the appointment of each member of the Tribunal.

Article 17.28. Applicable Law and Interpretation

1. A Tribunal constituted under this Section shall apply this Agreement as interpreted in accordance with the Vienna Convention on the Law of Treaties, done at Vienna on 23 May 1969, and other rules and principles of international law applicable between the Parties.

2. If serious concerns arise as regards matters of interpretation, the Committee on Services and Investment may recommend to the Joint Commission to adopt an interpretation of this Agreement. An interpretation adopted by the Joint Commission shall be binding on a Tribunal established under this Section. The Joint Commission may decide that an interpretation shall have binding effect from a specific date.

3. A Tribunal has no jurisdiction to determine the legality of a measure, alleged to constitute a breach of this Agreement, under the domestic law of a Party. In determining the consistency of a measure with this Agreement, the Tribunal may consider, as appropriate, the domestic law of a Party as a matter of fact. In doing so, the Tribunal shall follow the prevailing interpretation given to the domestic law by the courts or authorities of that Party, and any meaning given to domestic law by the Tribunal is not binding on the courts or authorities of that Party.

4. If an investor of a Party submits a claim to arbitration under Article 17.23 (Submission of a Claim to Arbitration), including a claim that a Party breached Article 17.9 (Minimum Standard of Treatment), the investor has the burden of proving all elements of its claim, consistent with the general principles of international law applicable to international arbitration.

Article 17.29. Preliminary Objections

1. Without prejudice to a Tribunal's authority to address other questions as a preliminary objection, a Tribunal shall address and decide as a preliminary question an objection by the respondent Party that, as a matter of law, a claim submitted is not a claim for which an award in favour of the investor may be made under this Agreement, including that a dispute is not within the competence of the Tribunal, or that a claim is manifestly without legal merit.

2. An objection under paragraph 1 shall be submitted to the Tribunal within 60 days of constitution of the Tribunal. The Tribunal shall suspend any proceeding on the merits and issue a decision or award on the objection, stating the grounds therefor, within 180 days of the objection. However, if a disputing party requests a hearing, the Tribunal may take an additional 30 days to issue the decision or award. Regardless of whether a disputing party requests a hearing, a Tribunal may, on a showing of extraordinary cause, delay issuing its decision or award by an additional brief period, which may not exceed 30 days.

3. When deciding an objection under paragraph 1, the Tribunal shall assume to be true the factual allegations in the claim to

arbitration under Article 17.23 (Submission of a Claim to Arbitration), or any amendment to that claim. The Tribunal may also consider relevant facts not in dispute.

4. Whether or not a respondent Party raises an objection under paragraph 1 concerning the competence of the Tribunal, the respondent Party shall have the right to raise, and the Tribunal the authority to address and decide, a question pertaining to its competence in the course of the proceedings.

5. The provisions on costs in Article 17.36 (Final Award) shall apply to decisions or awards issued under this Article.

Article 17.30. Consolidation

1. If two or more claims have been submitted separately to arbitration under Article 17.23 (Submission of a Claim to Arbitration) and the claims have a question of law or fact in common and arise out of the same events or circumstances, a disputing party may seek a consolidation order in accordance with the agreement of all the disputing parties sought to be covered by the order or the terms of paragraphs 2 through 10.

2. A disputing party that seeks a consolidation order under this Article shall deliver, in writing, a request to the Secretary-General of ICSID to establish a Tribunal and shall specify in the request:

(a) the name of the respondent Party, or the investors, against which the order is sought;

(b) the nature of the order sought; and

(c) the grounds for the order sought.

3. The disputing party shall deliver a copy of the request to the respondent Party, or the investors, against which the order is sought.

4. Unless the disputing parties sought to be covered by the order agree to a different appointment process, the Secretary-General of ICSID shall, within 60 days of receiving the request, establish a Tribunal composed of three arbitrators. The Secretary-General of ICSID shall appoint one member who is a national of the respondent Party, one member who is a national of the Party of the investors that submitted the claims, and a presiding arbitrator who is not a national of a Party.

5. A Tribunal established under this Article shall be established under the UNCITRAL Arbitration Rules and shall conduct its proceedings in accordance with the UNCITRAL Arbitration Rules, except as modified by this Section.

6. If a Tribunal established under this Article is satisfied that the claims submitted to arbitration under Article 17.23 (Submission of a Claim to Arbitration) have a question of law or fact in common, the Tribunal may, in the interest of fair and efficient resolution of the claims and after hearing the disputing parties, by order:

(a) assume jurisdiction over, and hear and determine together, all or part of the claims; or

(b) assume jurisdiction over, and hear and determine one or more of the claims, the determination of which it believes would assist in resolving the other claims.

7. If a Tribunal has been established under this Article, an investor that has submitted a claim to arbitration under Article 17.23 (Submission of a Claim to Arbitration) and that has not been named in a request made under paragraph 2 may make a written request to the Tribunal that it be included in an order made under paragraph 4. The request shall specify:

(a) the name and address of the investor;

(b) the nature of the order sought; and

(c) the grounds on which the order is sought.

8. An investor referred to in paragraph 7 shall deliver a copy of its request to the disputing parties named in a request under paragraph 1.

9. A Tribunal established under Article 17.23 (Submission of a Claim to Arbitration) does not have jurisdiction to decide a claim, or a part of a claim, over which a Tribunal established under this Article has assumed jurisdiction.

10. On application of a disputing party, a Tribunal established under this Article, pending its decision under paragraph 6, may order that the proceedings of a Tribunal established under Article 17.23 (Submission of a Claim to Arbitration) be stayed unless the latter Tribunal has already adjourned its proceedings.

Article 17.31. Seat of Arbitration

The disputing parties may agree on the seat of arbitration under the arbitration rules applicable under Articles 17.23 (Submission of a Claim to Arbitration) or 17.30 (Consolidation). If the disputing parties fail to agree, the Tribunal shall determine the seat of arbitration in accordance with the applicable arbitration rules, provided that the legal seat of arbitration shall be in the territory of a State that is a party to the New York Convention.

Article 17.32. Transparency of Proceedings

1. The UNCITRAL Transparency Rules, as modified by this Agreement, shall apply in connection with proceedings under this Section.

2. The agreement to mediate, the notice of intent to challenge a member of the Tribunal, the decision on challenge to a member of the Tribunal, and the request for consolidation shall be included in the list of documents to be made available to the public under Article 3(1) of the UNCITRAL Transparency Rules.

3. Exhibits shall be included in the list of documents to be made available to the public under Article 3(2) of the UNCITRAL Transparency Rules.

4. Prior to the constitution of the Tribunal, the respondent Party shall make publicly available in a timely manner relevant documents pursuant to paragraph 2, subject to the redaction of confidential or protected information. That documentation may be made publicly available by communication to the repository referred to in paragraph 9.

5. A disputing party may disclose to other persons in connection with the proceedings, including witnesses and experts, unredacted documents that it considers necessary to disclose in the course of proceedings under this Section. However, the disputing party shall ensure that those persons protect the confidential information in those documents as directed by the Tribunal.

6. A Party may disclose to government officials and officials of a government other than at the federal level, if applicable, unredacted documents that it considers necessary to disclose in the course of proceedings under this Section. However, that Party shall ensure that those persons protect the confidential information in those documents as directed by the Tribunal.

7. Hearings shall be open to the public. The Tribunal shall determine, in consultation with the disputing parties, the appropriate logistical arrangements to facilitate public access to the hearings. If the Tribunal determines that there is a need to protect confidential or protected information, it shall make the appropriate arrangements to hold in private that part of the hearing requiring that protection.

8. This Agreement does not require a respondent Party to withhold from the public information required to be disclosed by the respondent Party's law. To the extent that a Tribunal's confidentiality order designates information as confidential and a Party's law on access to information requires public access to that information, the Party's law on access to information prevails. The respondent Party should apply those laws in a manner sensitive to protecting from disclosure information that has been designated as confidential or protected information.

9. The administering authority to which a claim is submitted under this Section shall be the repository of information published pursuant to this Article.

Article 17.33. Participation of a Non-Disputing Party

1. The UNCITRAL Transparency Rules shall apply with respect to the participation of a non-disputing Party in proceedings under this Section, except as modified by this Agreement.

2. The respondent Party shall deliver to the non-disputing Party:

(a) a claim submitted pursuant to Article 17.23 (Submission of a Claim to Arbitration), a request for consolidation, and any document that is appended to such documents;

(b) on request:

(i) a request for consultations;

(ii) pleadings, memorials, briefs, requests, and other submissions made to the Tribunal by a disputing party;

(iii) written submissions made to the Tribunal pursuant to Article 4 of the UNCITRAL Transparency Rules;

(iv) minutes or transcripts of hearings of the Tribunal, if available;

(v) orders, awards, and decisions of the Tribunal; and

(c) on request and at the cost of the non-disputing Party, all or part of the evidence that has been tendered to the Tribunal, unless the requested evidence is publicly available.

3. The non-disputing Party receiving materials pursuant to paragraph 2 shall treat the information as if it were the respondent Party.

4. The Tribunal shall accept or, after consultation with the disputing parties, may invite, oral or written submissions from the non-disputing Party regarding the interpretation of this Agreement. The non-disputing Party may attend a hearing held under this Section.

5. The Tribunal shall not draw any inference from the absence of a submission pursuant to paragraph 4.

6. The Tribunal shall ensure that the disputing parties are given a reasonable opportunity to present their observations on a submission by the non-disputing Party.

Article 17.34. Expert Reports

Without prejudice to the appointment of other kinds of experts if authorized by the applicable arbitration rules, the Tribunal may, at the request of a disputing party or, unless the disputing parties disapprove, on its own initiative, appoint one or more experts to report to it in writing on any factual issue, including the rights of Indigenous peoples or scientific matters raised by a disputing party in a proceeding, subject to any terms and conditions agreed on by the disputing parties.

Article 17.35. Interim Measures of Protection

1. A Tribunal may order an interim measure of protection to preserve the rights of a disputing party or to ensure that the Tribunal's jurisdiction is made fully effective, including an order to preserve evidence in the possession or control of a disputing party or to protect the Tribunal's jurisdiction. A Tribunal shall not order attachment or enjoin the application of the measure alleged to constitute a breach referred to in Article 17.23 (Submission of a Claim to Arbitration). For the purposes of this paragraph, an order includes a recommendation.

2. At the request of a disputing party, the Tribunal may order the other disputing party to provide security for all or part of the costs, if there are reasonable grounds to believe that there is a risk the disputing party may not be able to honour a potential costs award against it. In considering that request, the Tribunal may take into account evidence of third party funding. If the security for costs is not posted in full within 30 days of the Tribunal's order, or within any other time period set by the Tribunal, the Tribunal shall so inform the disputing parties and may order the suspension or termination of the proceedings.

Article 17.36. Final Award

1. If a Tribunal makes a final award against the respondent Party, in respect of its finding of liability, the Tribunal may award, separately or in combination, only:

(a) monetary damages and any applicable interest; and

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

2. Subject to paragraph 1, if a claim is made under Article 17.23(2) (Submission of a Claim to Arbitration):

(a) an award of monetary damages and any applicable interest shall provide that the sum be paid to the enterprise;

(b) an award of restitution of property shall provide that restitution be made to the enterprise;

(c) an award of costs in favour of the investor shall provide that the sum be paid to the investor; and

(d) the award shall provide that it is made without prejudice to a right that a person, other than a person which has provided a waiver pursuant to Article 17.23 (Submission of a Claim to Arbitration), may have in monetary damages or property awarded under a Party's domestic law.

3. The Tribunal shall make an order with respect to the costs of the arbitration, which shall in principle be borne by the unsuccessful disputing party or parties. In determining the appropriate apportionment of costs, the Tribunal shall consider all relevant circumstances, including:

(a) the outcome of any part of the proceeding, including the number or extent of the successful parts of the claims or defenses;

(b) the disputing parties' conduct during the proceeding, including the extent to which they acted in an expeditious and cost-effective manner;

(c) the complexity of the issues; and

(d) the reasonableness of the costs claimed.

4. The Tribunal and the disputing parties shall make every effort to ensure the dispute settlement process is carried out in a timely manner. The Tribunal shall issue its final award within 12 months of the final date of the hearing on the merits. A Tribunal may, with good cause and notice to the disputing parties, delay issuing its final award by an additional brief period.

5. Monetary damages in an award:

(a) shall not be greater than the loss or damage incurred by the investor, or, as applicable, by the enterprise referred to in Article 17.23(2) (Submission of a Claim to Arbitration), as valued on the date of the breach (10) ;

(b) shall only reflect loss or damage incurred by reason of, or arising out of, the breach; and

(c) shall be determined with reasonable certainty, and shall not be speculative or hypothetical.

6. In making an award under paragraph 5, the Tribunal shall calculate monetary damages based only on the submissions of the disputing parties, and shall consider, as applicable:

(a) contributory fault, whether deliberate or negligent;

(b) failure to mitigate damages;

(c) prior damages or compensation received for the same loss; or

(d) restitution of property, or repeal or modification of the measure.

7. The Tribunal may award monetary damages for lost future profits only insofar as such damages satisfy the requirements under paragraph 5. Such determination requires a case-by-case, fact-based inquiry that takes into consideration, among other factors, whether a covered investment has been in operation in the territory of the respondent Party for a sufficient period of time to establish a performance record of profitability.

8. The Tribunal may award pre-award and post-award interest at a reasonable rate of return compounded annually.

9. The Tribunal shall not award punitive damages.

10. The Tribunal shall not award monetary damages under Article 17.23(1) (Submission of a Claim to Arbitration) for loss or damage incurred by the investment.

(10) In the case of a breach of Article 17.10 (Expropriation), the valuation of the loss or damage incurred by the investor, or, as applicable, by the enterprise referred to in Article 17.23(2) (Submission of a Claim to Arbitration), as valued on the date the breach, shall be made in accordance with Article 17.10(5) (Expropriation).

Article 17.37. Finality and Enforcement of an Award

1. An award made by a Tribunal has no binding force except between the disputing parties and in respect of that particular case.

2. Subject to paragraph 3 and the applicable review procedure for an interim award, a disputing party shall abide by and comply with an award without delay.

3. A disputing party shall not seek enforcement of a final award until:

(a) in the case of a final award made under the ICSID Convention:

(i) 120 days have elapsed from the date the award was rendered, provided that a disputing party has not requested the award be revised or annulled; or

(ii) revision or annulment proceedings have been completed; or

(b) in the case of a final award under the ICSID Additional Facility Rules or the UNCITRAL Arbitration Rules:

(i) 90 days have elapsed from the date the award was rendered and no disputing party has commenced a proceeding to revise, set aside, or annul the award; or

(ii) a court has dismissed or allowed an application to revise, set aside, or annul the award, and there is no further appeal.

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

5. If a respondent Party fails to abide by or comply with a final award, the Joint Commission, on delivery of a request by a Party whose investor was a disputing party to the arbitration, shall establish a panel under Article 28.7 (Establishment of a Panel). The requesting Party may seek in those proceedings:

(a) a determination that the failure to abide by or comply with the final award is inconsistent with the obligations of this Agreement; and

(b) a recommendation that the Party abide by or comply with the final award.

6. A claim submitted to arbitration under Article 17.23 (Submission of a Claim to Arbitration) shall be considered to arise out of a commercial relationship or transaction for the purposes of Article I of the New York Convention.

Article 17.38. Third Party Funding

1. A claimant benefiting from a third party funding arrangement shall disclose to the respondent Party and to the Tribunal the name and address of the third party funder.

2. The claimant shall make the disclosure under paragraph 1 at the time of the submission of a claim to arbitration under Article 17.23 (Submission of a Claim to Arbitration), or, if the third party funding is arranged after the submission of a claim, within 10 days of the date on which the third party funding was arranged.

3. The claimant shall have a continuing obligation to disclose any changes to the information referred to in paragraph 1 occurring after its initial disclosure, including termination of the third party funding arrangement.

Article 17.39. Service of Documents

Each Party shall promptly make publicly available, and notify the other Party by diplomatic note, the location for delivery of notice and other documents, including any subsequent change to the location for delivery. Investors shall ensure that service of documents to a Party is made to the appropriate location.

Article 17.40. Establishment of a First Instance Investment Tribunal or an Appellate Mechanism for Investor-State Dispute Settlement

If an investor-state dispute settlement mechanism, consisting of a first instance investment tribunal or an appellate mechanism, is developed under other institutional arrangements and is open to the Parties for acceptance, the Parties shall consider whether, and to what extent, a dispute under this Section should be decided pursuant to that investor-state dispute settlement mechanism.

Section E. Expedited Arbitration

Article 17.41. Consent to Expedited Arbitration

1. The disputing parties to an arbitration under Section D (Investor-State Dispute Settlement) may consent to expedite the arbitration in accordance with this Section, when the damages claimed do not exceed CAD 10 million, by following the procedure in paragraph 2.

2. The disputing parties shall jointly notify the ICSID Secretariat in writing of their consent to an expedited arbitration in

accordance with this Section. The notice must be received within 20 days of the submission of a claim to arbitration under Articles 17.23(6)(a) or 17.23(6)(b) (Submission of a Claim to Arbitration).

3. Section D (Investor-State Dispute Settlement), as modified by this Section, applies to the investment dispute, except for Article 17.29 (Preliminary Objections), which does not apply.

Article 17.42. Mediation

1. The disputing parties may consent to have recourse to mediation in accordance with this Section. Recourse to mediation is without prejudice to the legal position or rights of a disputing party under this Section.

2. If the disputing parties jointly agree to have recourse to mediation, the disputing parties shall appoint a mediator to facilitate the resolution of the dispute within 20 days of the notification provided under Article 17.41(2) (Consent to Expedited Arbitration).

3. If the disputing parties do not select a mediator within the time period provided for in paragraph 2, the Secretary-General of ICSID shall select the mediator within 20 days of the expiration of that time period.

4. The disputing parties may hold mediation sessions by videoconference, telephone, or similar means of communication as appropriate.

5. If the disputing parties fail to reach a resolution of the dispute within 60 days of the appointment of the mediator, the dispute shall proceed to arbitration in accordance with this Section.

Article 17.43. Constitution of the Tribunal

1. The Tribunal in an expedited arbitration shall consist of a sole arbitrator appointed pursuant to Article 17.44 (Method of Appointing the Sole Arbitrator).

2. An appointment under Article 17.44 (Method of Appointing the Sole Arbitrator) shall be deemed an appointment in accordance with a method agreed by the parties pursuant to Article 37(2)(a) of the ICSID Convention.

Article 17.44. Method of Appointing the Sole Arbitrator

1. The disputing parties shall jointly appoint the sole arbitrator within 30 days of the notification delivered under Article 17.41(2) (Consent to Expedited Arbitration).

2. If the disputing parties do not appoint the sole arbitrator within the time period under paragraph 1, the Secretary-General of ICSID shall appoint the sole arbitrator in the following manner:

(a) the Secretary-General shall transmit a list of five candidates for appointment as the sole arbitrator to the disputing parties within 30 days of the expiration of the time period under paragraph 1;

(b) each disputing party may strike one candidate from the list, and shall rank the remaining candidates in order of preference and transmit such ranking to the Secretary-General within 14 days of receipt of the list;

(c) the Secretary-General shall inform the disputing parties of the result of the rankings on the next business day after receipt of the rankings, and shall appoint the candidate with the best ranking. If two or more candidates share the best ranking, the Secretary-General shall select one of them;

(d) the Secretary-General shall immediately send the request for acceptance of the appointment to the selected candidate, and shall request a reply within 10 days of receipt; and

(e) if the selected candidate does not accept the appointment, the Secretary-General shall select the next highest-ranked candidate.

3. The sole arbitrator shall have expertise or experience as an arbitrator of investor-State disputes arising under international investment agreements. The sole arbitrator shall not have the nationality of either disputing party and shall otherwise be independent of, and not be affiliated with or take instructions from, either disputing party.

4. The sole arbitrator shall be prepared to meet the shorter timeframes provided for in this Section.

5. The sole arbitrator's fees shall be fixed according to the scales of administrative expenses and arbitrator's fees for the expedited procedure set out in Appendix III of the Arbitration Rules of the International Chamber of Commerce.

6. The sole arbitrator shall abide by the Arbitrator Code of Conduct for Investor-State Dispute Settlement set out in Annex 17-B.

Article 17.45. First Session In Expedited Arbitration

1. The sole arbitrator shall hold a first session within 30 days of the constitution of the Tribunal under Article 17.43 (Constitution of the Tribunal).

2. The sole arbitrator shall hold the first session by videoconference, telephone, or similar means of communication, unless both disputing parties and the sole arbitrator agree it shall be held in person.

Article 17.46. Procedural Schedule for Expedited Arbitration

1. The following schedule for written submissions and the hearing applies in the expedited arbitration:

(a) the claimant shall file, within 90 days of the first session, a principal submission on the merits, such as a memorial, of no more than 150 pages;

(b) the respondent Party shall file, within 90 days of the claimant's filing of its principal submission on the merits pursuant to subparagraph (a), a principal submission on the merits, such as a counter-memorial, of no more than 150 pages;

(c) the claimant shall file, within 90 days of the respondent Party's filing of its principal submission on the merits pursuant to subparagraph (b), a reply of no more than 100 pages;

(d) the respondent Party shall file, within 90 days of the claimant's filing of the reply pursuant to subparagraph (c), a rejoinder of no more than 100 pages;

(e) a non-disputing Party may file, within 60 days of the respondent Party's filing of the rejoinder pursuant to subparagraph (d), a written submission regarding the interpretation of this Agreement pursuant to Article 17.33 (Participation of a Non-Disputing Party);

(f) the sole arbitrator shall hold the hearing within 120 days of the respondent Party's filing of the rejoinder pursuant to subparagraph (d);

(g) each disputing party shall file a statement of costs within 30 days of the last day of the hearing referred to in subparagraph (f); and

(h) the sole arbitrator shall render the award as soon as possible, and in any event within 180 days of the last day of the hearing referred to in subparagraph (f).

2. The sole arbitrator may grant a claimant in default a grace period not exceeding 30 days, otherwise the claimant is deemed to have withdrawn its claim and to have discontinued the proceedings. The sole arbitrator, if appointed, shall, at the request of the respondent Party, and after notice to the disputing parties, in an order take note of the discontinuance. After the order has been rendered, the authority of the Tribunal shall cease.

3. The sole arbitrator may grant a respondent Party in default a grace period not exceeding 30 days, otherwise the claimant may request that the sole arbitrator address the questions submitted to it and render an award.

4. At the request of a disputing party, the sole arbitrator may grant limited requests for specifically identifiable documents that the requesting disputing party knows, or has good cause to believe, exist and are in the possession, custody, or control of the other disputing party, and shall adjust the schedule under paragraph 1 as appropriate.

5. The sole arbitrator may, after consulting the disputing parties, limit the number, length, or scope of written submissions or written witness evidence (both fact witnesses and experts).

6. The sole arbitrator may, following a joint request by the disputing parties, decide the dispute solely on the basis of the documents submitted by the disputing parties, with no hearing and no or a limited examination of witnesses or experts. If the sole arbitrator holds a hearing under paragraph 1(f), the sole arbitrator may conduct the hearing by videoconference, telephone, or similar means of communication.

7. The sole arbitrator shall, following a joint request by the disputing parties, but no later than the date of filing of the respondent Party's principal submission on the merits referred to in paragraph 1(b), decide that this Section shall no longer apply to the case.

8. The sole arbitrator may, at the request of a disputing party, but no later than the date of filing of the respondent Party's principal submission on the merits referred to in paragraph 1(b), decide that this Section shall no longer apply to the case. The disputing party that has made the request shall bear the costs of the expedited arbitration.

9. If, pursuant to paragraph 7 or 8, the sole arbitrator decides that this Section no longer applies to the case, and unless the disputing parties agree otherwise, the sole arbitrator appointed pursuant to Articles 17.43 (Constitution of the Tribunal) and 17.44 (Method of Appointing the Sole Arbitrator) shall be appointed as presiding arbitrator of the Tribunal constituted under Section D (Investor-State Dispute Settlement).

10. In all matters concerning an expedited arbitration procedure not expressly provided for in this Agreement, the disputing parties shall endeavour to agree on the applicable procedural rules. If the disputing parties do not agree on the applicable procedural rules, the sole arbitrator, if appointed, may decide the matter.

Article 17.47. Consolidation

When two or more claims falling under Article 17.41 (Consent to Expedited Arbitration) have a question of law or fact in common and arise out of the same events or circumstances, Article 17.30 (Consolidation) applies.

Annex 17-A. Exclusions from Dispute Settlement

1. Sections D (Investor-State Dispute Settlement) and E (Expedited Arbitration), and Chapter 28 (Dispute Settlement) do not apply to a measure adopted or maintained relating to a review under the Investment Canada Act, R.S.C. 1985, c. 28, as amended, with respect to whether or not to permit an investment that is subject to review.

2. Sections D (Investor-State Dispute Settlement) and E (Expedited Arbitration) do not apply to a tobacco control measure adopted or maintained by a Party. A tobacco control measure means a measure of a Party related to the production or consumption of manufactured tobacco products (including products made or derived from tobacco), their distribution, labelling, packaging, advertising, marketing, promotion, sale, purchase, or use, as well as enforcement measures, such as inspection, recordkeeping, and reporting requirements. A measure with respect to tobacco leaf that is not in the possession of a manufacturer of tobacco products, or that is not part of a manufactured tobacco product, is not a tobacco control measure.

Annex 17-B. Arbitrator Code of Conduct for Investor-State Dispute Settlement

1. Definitions

For the purposes of this Code of Conduct:

arbitrator means a member of a Tribunal constituted pursuant to Article 17.26 (Arbitrators);

assistant means a person who, under the terms of appointment of an arbitrator, conducts research or provides support for the arbitrator;

candidate means a person who is under consideration for selection as an arbitrator pursuant to Articles 17.26 (Arbitrators) or 17.44 (Method of Appointing the Sole Arbitrator);

expert means a person appointed pursuant to Article 17.34 (Expert Reports) or applicable arbitration rules;

family member means the spouse or partner of an arbitrator or candidate; the parent, child, grandparent, grandchild, sister, brother, aunt, uncle, niece, or nephew of the arbitrator or candidate or spouse or partner of the arbitrator or candidate (including whole and half-blood relatives and step relatives), or the spouse or partner of such a person; or a resident of the arbitrator's or candidate's household whom the arbitrator or candidate treats as a member of his or her family;

Rules means applicable rules pursuant to Article 17.23 (Submission of a Claim to Arbitration); and

staff, in respect of an arbitrator, means individuals under the direction and control of the arbitrator other than assistants.

2. Responsibilities to the Dispute Settlement Process

Each candidate, arbitrator, and former arbitrator shall avoid impropriety and the appearance of impropriety, and shall observe high standards of conduct so that the integrity and impartiality of the dispute settlement process is preserved.

3. Governing Principles

1. Each arbitrator shall be independent and impartial, and shall avoid direct or indirect conflicts of interest.

2. Each arbitrator and former arbitrator shall respect the confidentiality of tribunal proceedings.

3. Each candidate or arbitrator shall disclose the existence of any interest, relationship, or matter that is likely to affect the candidate's or arbitrator's independence or impartiality, or that might reasonably create an appearance of impropriety or an apprehension of bias. An appearance of impropriety or an apprehension of bias is created when a reasonable person, with knowledge of all the relevant circumstances that a reasonable inquiry would disclose, would conclude that a candidate's or arbitrator's ability to carry out the duties with integrity, impartiality, and competence is impaired.

4. Upon appointment, an arbitrator shall refrain, for the duration of the proceeding, from acting as counsel or party-appointed expert or witness in any pending or new investment dispute under this Agreement or any other international investment treaty.

5. This Code of Conduct shall be interpreted in a manner consistent with other internationally recognized standards or guidelines regarding direct or indirect conflicts of interest, such as the International Bar Association Guidelines on Conflicts of Interest in International Arbitration.

6. In the event of an alleged breach of this Code of Conduct, the Rules governing the arbitration shall apply to any challenge, disqualification, or replacement of an arbitrator.

4. Disclosure Obligations

1. Throughout the tribunal proceeding, each candidate or arbitrator has a continuing obligation to disclose any interest, relationship, or matter that may bear on the integrity or impartiality of the dispute settlement process.

2. The disputing parties or the Secretary-General of ICSID, as the appointing authority for a Tribunal referred to in Article 17.26 (Arbitrators), shall provide a candidate a copy of this Code of Conduct and the Initial Disclosure Statement set out in the Appendix to this Code of Conduct.

3. A candidate shall submit the Initial Disclosure Statement set out in the Appendix to this Code of Conduct to the disputing parties or the Secretary-General of ICSID, as the appointing authority, as soon as possible and no later than seven days from receipt of that Initial Disclosure Statement.

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

(a) any financial or personal interest of the candidate in:

(i) the tribunal proceeding or its outcome; and

(ii) an administrative proceeding, a domestic judicial proceeding, or any other international dispute settlement proceeding that involves issues that may be decided in the tribunal proceeding for which the candidate is under consideration;

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

(i) the tribunal proceeding or its outcome; and

(ii) an administrative proceeding, a domestic judicial proceeding, or any other international dispute settlement proceeding that involves issues that may be decided in the tribunal proceeding for which the candidate is under consideration;

(c) any past or current financial, business, professional, family, or social relationship with any interested parties (11) in the tribunal proceeding or their counsel, or any such relationship involving a candidate's employer, business partner, business associate, or family member; and

(d) any public advocacy or legal or other representation concerning an issue in dispute in the tribunal proceeding or involving the same investment.

5. Once appointed, an arbitrator shall continue to make all reasonable efforts to become aware of any interest, relationship, or matter referred to in subparagraph 4, and shall disclose them. The obligation to disclose is a continuing duty that requires an arbitrator to disclose any such interest, relationship, or matter that may arise during any stage of the tribunal proceeding.

6. In the event of any uncertainty regarding whether an interest, relationship, or matter must be disclosed under

subparagraph 4 or 5, a candidate or arbitrator should err in favour of disclosure. Disclosure of an interest, relationship, or matter is without prejudice as to whether the interest, relationship, or matter is covered by subparagraph 4 or 5, or whether it warrants recusal, amelioration, or disqualification.

7. The disclosure obligations set out in subparagraphs 1 through 6 should not be interpreted so that the burden of detailed disclosure makes it impractical for individuals in the legal or business community to serve as arbitrators, thereby depriving the disputing parties of the services of those who might be best qualified to serve as arbitrators. Accordingly, a candidate or arbitrator should not be called upon to disclose an interest, relationship, or matter whose bearing on the candidate's or arbitrator's role in the tribunal proceeding would be trivial.

(11) For greater certainty, “interested parties” includes the home State of the investor.

5. Performance of Duties by Candidates and Arbitrators

1. A candidate who accepts an appointment as an arbitrator shall be available to perform, and shall perform, once the arbitrator is appointed pursuant to Article 17.26 (Arbitrators), an arbitrator's duties thoroughly, fairly, diligently, and expeditiously throughout the course of the tribunal proceeding.

2. An arbitrator shall ensure that he or she is contactable, at all reasonable times, by the Secretary-General of ICSID, disputing parties, arbitration institution in charge of the proceeding, and other arbitrators of the Tribunal in order to conduct tribunal work.

3. An arbitrator shall comply with the provisions of Sections D (Investor-State Dispute Settlement) and E (Expedited Arbitration), as applicable, and the Rules.

4. An arbitrator shall not deny other arbitrators the opportunity to participate in all aspects of the tribunal proceeding.

5. An arbitrator shall consider only those issues raised in the tribunal proceeding and necessary to make a decision, order, or award.

6. An arbitrator shall not delegate the duty to make a decision, order, or award to any other person.

7. An arbitrator shall take all reasonable steps to ensure that his or her assistants and staff comply with paragraph 2 (Responsibilities to the Dispute Settlement Process), subparagraphs 1, 4 through 7 of paragraph 4 (Disclosure Obligations), subparagraphs 3, 8 and 9 of this paragraph, and paragraph 8 (Maintenance of Confidentiality) of this Code of Conduct.

8. An arbitrator shall not engage in any ex parte contact concerning the tribunal proceeding.

9. A candidate or arbitrator shall only communicate matters concerning actual or potential violations of this Code of Conduct, or if necessary to ascertain whether that candidate or arbitrator has violated or may violate this Code of Conduct, to the Secretary-General of ICSID, the disputing parties, and arbitration institution in charge of the proceedings.

10. Each arbitrator shall keep a record and render a final account of the time devoted to the tribunal proceeding and of his or her expenses, as well as the time and expenses of his or her staff and assistants.

6. Independence and Impartiality of Arbitrators

1. An arbitrator shall be independent and impartial. An arbitrator shall act in a fair manner and shall not create an appearance of impropriety or an apprehension of bias.

2. An arbitrator shall not be influenced by self-interest, outside pressure, political considerations, public clamour, loyalty to a disputing party or a non-disputing Party, or fear of criticism.

3. An arbitrator shall not, directly or indirectly, incur any obligation or accept any benefit that would in any way interfere, or appear to interfere, with the proper performance of his or her duties.

4. An arbitrator shall not use his or her position on the Tribunal to advance any personal or private interests. An arbitrator shall avoid actions that may create the impression that others are in a special position to influence the arbitrator. An arbitrator shall make every effort to prevent or discourage others from representing themselves as being in such a position.

5. An arbitrator shall not allow past or ongoing financial, business, professional, family, or social relationships or responsibilities to influence his or her conduct or judgment.

6. An arbitrator shall avoid entering into any relationship, or acquiring any financial interest, that is likely to affect his or her

impartiality or that might reasonably create an appearance of impropriety or an apprehension of bias.

7. If an interest, relationship, or matter of a candidate or arbitrator is inconsistent with subparagraphs 1 through 6, the candidate may accept appointment to a tribunal, and an arbitrator may continue to serve on a tribunal, if the disputing parties waive the violation or if, after the candidate or arbitrator has taken steps to ameliorate the violation, the disputing parties determine that the inconsistency has ceased.

7. Duties of Former Arbitrators

A former arbitrator shall avoid actions that may create the appearance that the arbitrator was biased in carrying out his or her duties or would benefit from the decision, order, or award of the tribunal.

8. Maintenance of Confidentiality

1. An arbitrator or former arbitrator shall not at any time disclose or use any non-public information concerning the tribunal proceeding or acquired during the tribunal proceeding, except for the purposes of the tribunal proceeding, and shall not, in any case, disclose or use any such information to gain a personal advantage, or an advantage for another person, or to adversely affect the interest of another person.

2. An arbitrator shall not disclose a decision, order, or award, or a part thereof, prior to its publication in accordance with Section D (Investor-State Dispute Settlement).

3. An arbitrator or former arbitrator shall not at any time disclose the deliberations of the Tribunal, or any arbitrator's view. (12)

4. An arbitrator shall not make a public statement regarding the merits of a pending tribunal proceeding.

(12) For greater certainty, this paragraph does not apply to the arbitrator’s view in a decision, order, award, or opinion.

9. Responsibilities of Experts, Assistants and Staff

Paragraph 2 (Responsibilities to the Dispute Settlement Process), subparagraphs 1, 4, 5, 6 and 7 of paragraph 4 (Disclosure Obligations), subparagraphs 3, 8 and 9 of paragraph 5 (Performance of Duties by Candidates and Arbitrators), paragraph 7 (Duties of Former Arbitrators), and paragraph 8 (Maintenance of Confidentiality) of this Code of Conduct shall also apply to experts, assistants, and staff.

10. Review

A Party may request to review and amend this Code of Conduct to take into account, as appropriate, relevant developments concerning investor-State dispute settlement.

Appendix to the Arbitrator Code of Conduct for Investor-State Dispute Settlement: Initial Disclosure Statement Form

1. I acknowledge having received a copy of the Arbitrator Code of Conduct for Investor-State Dispute Settlement (the "Code of Conduct").

2. I acknowledge having read and understood the Code of Conduct.

3. I understand that I have a continuing obligation, while participating in the tribunal proceeding, to disclose any interest, relationship, or matter that may bear on the integrity or impartiality of the dispute settlement process. As a part of this continuing obligation, I am making the following initial disclosures:

(a) My financial interest in the tribunal proceeding for which I am under consideration or in its outcome is as follows:

(b) My financial interest in any administrative proceeding, domestic judicial proceeding, or other international dispute settlement proceeding that involves issues that may be decided in the tribunal proceeding is as follows:

(c) The financial interests that any employer, business partner, business associate, or family member of mine may have in the tribunal proceeding or in its outcome are as follows:

(d) The financial interests that any employer, business partner, business associate, or family member of mine may have in any administrative proceeding, domestic judicial proceeding or other international dispute settlement proceeding that involves issues that may be decided in the tribunal proceeding are as follows:

(e) My past or current financial, business, professional, family, and social relationships with any interested party in the

tribunal proceeding, or their counsel, are as follows:

(f) The past or current financial, business, professional, family, and social relationships with any interested party in the tribunal proceeding, or their counsel, involving any employer, business partner, business associate, or family member of mine are as follows:

(g) My public advocacy or legal or other representation concerning an issue in dispute in the tribunal proceeding or involving the same investment is as follows:

(h) My other interests, relationships, and matters that may bear on the integrity or impartiality of the dispute settlement process and that are not disclosed in subparagraphs (a) through (g) above are as follows:

SIGNED on this day of 20__.

By:

SIGNATURE _____

NAME _____

Chapter 18. Cross-Border Trade In Services

Article 18.1. Definitions

For the purposes of this Chapter:

computer reservation system services means services provided by computerised systems that contain information about air carriers' schedules, availability, fares and fare rules, through which reservations can be made or tickets may be issued;

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

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

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

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

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

enterprise means an enterprise as defined in Article 1.5 (Definitions of General Application), or a branch of an enterprise;

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

professional service means a service, the provision of which requires specialized post-secondary education, or equivalent training or experience, and for which the right to practise is granted or restricted by a Party, but does not include a service provided by a tradesperson, or a vessel or aircraft crew member;

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

selling and marketing of air transport services means opportunities for the air carrier concerned to sell and market freely its air transport services, including all aspects of marketing such as market research, advertising, and distribution. These activities do not include the pricing of air transport services or the applicable conditions;

service supplier of a Party means a person of a Party that seeks to supply or supplies a service; and

speciality air services means a specialized commercial operation using an aircraft whose primary purpose is not the transportation of goods or passengers, such as aerial fire-fighting, flight training, sightseeing, spraying, surveying, mapping, photography, parachute jumping, glider towing, and helicopter-lift for logging and construction, and other airborne agricultural, industrial, and inspection services.

Article 18.2. Scope

1. This Chapter applies to measures adopted or maintained by a Party relating to cross-border trade in services by a service

supplier of the other Party, including a measure relating to:

(a) the production, distribution, marketing, sale, or delivery of a service, including by electronic means;

(b) the purchase or use of, or payment for, a service, including by electronic means;

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

(d) the presence in the Party's territory of a service supplier of the other Party for the supply of a service.

2. In addition to paragraph 1 and in accordance with Article 17.3 (Relation to Other Chapters), Article 18.5 applies to measures adopted or maintained by a Party relating to the supply of a service in its territory by a covered investment.

3. This Chapter does not apply to:

(a) financial services as defined in Article 20.1 (Definitions);

(b) government procurement;

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

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

4. This Chapter does not apply to air services, including domestic and international air transportation services, whether scheduled or non-scheduled, or to related service in support of air services, other than the following:

(a) aircraft repair or maintenance services during which an aircraft is withdrawn from service, excluding so-called line maintenance;

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

(c) computer reservation system (CRS) services; and

(d) specialty air services.

5. In the event of any inconsistency between this Agreement and a bilateral, plurilateral, or multilateral air services agreement to which both Parties are party, the air services agreement prevails in determining the rights and obligations of the Parties.

6. If the Parties have the same obligations under this Agreement and a bilateral, plurilateral, or multilateral air services agreement, they may invoke the dispute settlement procedures of this Agreement only after any dispute settlement procedures in the other agreement have been exhausted.

7. If the Annex on Air Transport Services of GATS is amended, the Parties shall jointly review any new definitions with a view to aligning the definitions in this Agreement with those definitions, as appropriate.

8. This Chapter does not impose an obligation on a Party with respect to a national of the other Party who seeks access to its employment market or who is employed on a permanent basis in its territory, and does not confer any right on that national with respect to that access or employment.

Article 18.3. National Treatment

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

2. The treatment to be accorded by a Party under paragraph 1 means, with respect to a government other than at the central level, treatment accorded, in like circumstances, by that government to services or service suppliers of the Party of which it forms a part.

3. Whether treatment referred to in paragraph 1 is accorded in "like circumstances" depends on the totality of the circumstances, including whether the relevant treatment distinguishes between services or services suppliers based on legitimate policy objectives.

Article 18.4. Most-Favoured-Nation Treatment

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

2. The treatment to be accorded by a Party under paragraph 1 means, with respect to a government other than at the central level, treatment accorded, in like circumstances, by that government in its territory to services or service suppliers of a non-Party.

3. Whether treatment referred to in paragraph 1 is accorded in "like circumstances" depends on the totality of the circumstances, including whether the relevant treatment distinguishes between services or services suppliers based on legitimate policy objectives.

Article 18.5. Market Access

1. A Party shall not adopt or maintain, either on the basis of a regional subdivision or on the basis of its entire territory, a measure that:

(a) imposes a limitation on:

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

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

(iii) the total number of service operations or the total quantity of service output expressed in terms of a designated numerical unit in the form of a quota or the requirement of an economic needs test (1); or

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

(b) restricts or requires a specific type of legal entity or joint venture through which a service supplier may supply a service.

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

Article 18.6. Formal Requirements

1. Article 18.3 does not prevent a Party from adopting or maintaining a measure that prescribes formal requirements in connection with the supply of a service, provided that these requirements are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination. These measures include requirements:

(a) to obtain a licence, registration, certification, or authorization to supply a service or as a membership requirement of a particular profession, such as requiring membership in a professional organisation or participation in collective compensation funds for members of professional organisations;

(b) for a service supplier to have a local agent for service or maintain a local address;

(c) to speak a national language or hold a driver's licence; or

(d) that a service supplier:

(i) post a bond or other form of financial security;

(ii) establish or contribute to a trust account;

(iii) maintain a particular type and amount of insurance;

(iv) provide other similar guarantees; or

(v) provide access to records.

Article 18.7. Reservations

1. Articles 18.3, 18.4 and 18.5 do not apply to:

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

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

(ii) a regional level of government, as set out by that Party in its Schedule to Annex I; or

(iii) at level of government other than at the central and regional level;

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

(c) an amendment to a non-conforming measure referred to in subparagraph (a), to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Articles 18.3, 18.4 or >18.5.

2. Articles 18.3, 18.4 and 18.5 do not apply to any measure that a Party adopts or maintains with respect to sectors, sub-sectors, or activities as set out by that Party in its Schedule to Annex II.

Article 18.8. Recognition

1. For the purposes of the fulfilment, in whole or in part, of a Party's standards or criteria for the authorization, licensing, or certification of service suppliers, and subject to the requirements of paragraph 4, a Party may recognize the education or experience obtained, requirements met, or licences or certifications granted in a particular country. This recognition, which may be achieved through harmonization or otherwise, may be based upon an agreement or arrangement with the country concerned, or may be accorded autonomously.

2. If a Party recognizes, autonomously or by agreement or arrangement, the education or experience obtained, requirements met or licences or certifications granted in the territory of a non-Party, Article 18.4 is not to be construed to require the Party to accord recognition to the education or experience obtained, requirements met or licences or certifications granted in the territory of the other Party.

3. Parties shall endeavour to publish, by electronic means, relevant information, including appropriate descriptions, concerning a recognition agreement or arrangement that the Party or relevant bodies or authorities in its territory have concluded.

4. A Party that is party to an agreement or arrangement of the type referred to in paragraph 1, whether existing or future, shall afford adequate opportunity for the other Party, if the other Party is interested, to negotiate accession to the agreement or arrangement or to negotiate a comparable one with that other Party. If a Party accords recognition autonomously, it shall afford adequate opportunity for the other Party to demonstrate that education, experience, licences, or certifications obtained or requirements met in that other Party's territory should be recognized.

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

6. The Parties should seek to ensure that recognition does not require citizenship or any form of residency, or education, experience, or training in the territory of the host jurisdiction.

7. As set out in Annex 18-A (Professional Services), the Parties shall endeavour to facilitate trade in professional services, including through the establishment of a Professional Services Working Group.

Article 18.9. Denial of Benefits

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

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

Article 18.10. Payments and Transfers

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

2. Each Party shall permit transfers and payments that relate to the cross-border supply of services to be made in a freely convertible currency at the market rate of exchange that prevails at the time of transfer.

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

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

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

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

(d) criminal or penal offences; or

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

4. This Article does not preclude the equitable, non-discriminatory, and good faith application of a Party's laws relating to its social security, public retirement, or compulsory savings programs.

Annex 18-A. Professional Services

General Provisions

1. Each Party shall consult with relevant professional bodies or authorities in its territory to seek to identify professional services if the Parties are mutually interested in establishing a dialogue on issues that relate to the recognition of professional qualifications, licensing, or registration.

2. If a professional service described in paragraph 1 is identified, each Party shall encourage its relevant bodies or authorities to establish dialogues with the relevant bodies or authorities of the other Parties, with a view to facilitating trade in professional services. The dialogues may consider, as appropriate:

(a) recognition of professional qualifications and facilitating licensing and registration procedures through mutual recognition agreements;

(b) autonomous recognition of the education or experience obtained by a candidate in the territory of the other Party, for the purposes of fulfilling some or all of the licensing or examination requirements of that profession;

(c) the development of mutually acceptable standards and criteria for authorization of professional service suppliers from the territory of the other Party, including for education, examinations, experience, continuous professional development and re-certification, scope of practice, conduct and ethics, local knowledge, and consumer protection;

(d) temporary or project-specific licensing or registration based on a foreign supplier's home license or recognized professional body membership, without the need for further written examination;

(e) the form of association and procedures by which a foreign-licensed supplier may work in association with a professional service supplier of the Party; or

(f) any other approaches to facilitate authorization to provide services by professionals licensed in the other Party, including by reference to international standards and criteria.

3. If relevant bodies or authorities enter into discussions for the purpose of creating a Mutual Recognition Agreement pursuant to paragraph 2(a), those discussions may be guided by Appendix 18-A (Guidelines for Mutual Recognition Agreements or Arrangements for Professional Services) for the negotiation of the agreement.

4. If a Mutual Recognition Agreement has been entered into by a relevant body at the national level, each Party shall work with the relevant body to encourage the application and implementation of the Agreement.

5. Any temporary or project-specific licensing or registration of the type referred to in paragraph 2(d) should not operate to prevent a foreign service supplier from gaining a local licence once that service supplier satisfies the applicable local

licensing requirements.

6. Each Party shall encourage its relevant bodies or authorities to take into account agreements that relate to professional services in the development of agreements on the recognition of professional qualifications, licensing, and registration.

7. If applicable, each Party shall encourage its relevant bodies or authorities to recognize through electronic means education or experience obtained or requirements met in the territory of the other Party, including through online portals to apply for recognition, online courses, online registers of licensed individuals, as well as online platforms for continuous professional education and development.

8. Further to any dialogue referred to in paragraphs 2 (a) through (f), each Party shall encourage its respective relevant bodies or authorities to consider undertaking any related activity within a mutually agreed time as well as through electronic means.

Professional Services Working Group

9. The Parties hereby establish a Professional Services Working Group (Working Group), composed of representatives of each Party.

10. The Working Group shall liaise, as appropriate, to support the Parties' relevant bodies or authorities in pursuing the activities listed in paragraph 2 and 4. This support may include providing points of contact, facilitating meetings, and providing information regarding regulation of professional services in the Parties' territories.

11. The Working Group shall meet within one year of the date of entry into force of this Agreement, and afterwards as decided by the Parties, to discuss activities covered by this Annex.

12. The Working Group shall report to the Joint Commission progress undertaken by the Parties pursuant to this Annex, and on the future direction of its work, within 60 days after each meeting.

Appendix 18-A. Guidelines for Mutual Recognition Agreements or Arrangements for Professional Services

Introductory Notes

This Appendix provides practical guidance for governments, relevant bodies, or authorities, or other entities entering into mutual recognition negotiations for regulated professional services sector. These guidelines are non-legally binding and intended to be used by the Parties on a voluntary basis. They do not modify or affect the rights and obligations of the Parties under this Agreement.

The objective of these guidelines is to facilitate the negotiation of mutual recognition agreements or arrangements (MRAs).

The guidelines listed under this Appendix are provided by way of illustration. The listing of these guidelines is indicative and not intended to be exhaustive or an endorsement of the application of such measures by the Parties.

Section A. Conduct of Negotiations and Relevant Obligations

Opening of Negotiations

1. Entities intending to enter into negotiations towards an MRA are encouraged to inform the Professional Services Working Group established under Annex 18-A. The following information should be supplied:

(a) the entities involved in negotiations (for example, governments, organizations in professional services or institutes which have authority, statutory or otherwise, to enter into these negotiations);

(b) a contact point to obtain further information;

(c) the subject of the negotiations (specific activity covered); and

(d) the expected time of the start of negotiations.

Focal Points for Negotiations

2. Entities entering into negotiations towards an MRA shall establish a single point of contact for negotiations.

Results

3. Upon the conclusion of an MRA, the parties to the MRA should inform the Professional Services Working Group, and should supply the following information in its notification:

(a) the content of a new MRA; or

(b) the significant modifications to an existing MRA.

Follow-up Actions

4. As a follow-up action to a conclusion of an MRA, parties to the MRA are encouraged to inform the Professional Services Working Group of the following:

(a) that the MRA complies with the provisions of Chapter 18 (Cross-Border Trade in Services) and Chapter 19 (Development and Administration of Measures);

(b) measures and actions taken regarding the implementation and monitoring of the MRA; and

(c) that the text of the MRA is publicly available.

Section B. Form and Content of MRAs

Introductory Note

This Section sets out various issues that may be addressed in MRA negotiations and, if so agreed during the negotiations, included in the MRA. It includes some basic ideas on what a Party might require of foreign professionals seeking to take advantage of an MRA.

Participants

5. The MRA should identify clearly:

(a) the parties to the MRA (for example, governments, organisations in professional services, or institutes);

(b) competent authorities or organizations other than the parties to the MRA, if any, and their position in relation to the MRA; and

(c) the status and area of competence of each party to the MRA.

Purpose of the MRA

6. The purpose of the MRA should be clearly stated.

Scope of the MRA

7. The MRA should set out clearly:

(a) its definitions;

(b) its scope in terms of the specific profession or titles and professional activities it covers in the territories of the parties;

(c) who is entitled to use the professional titles concerned;

(d) whether the recognition mechanism is based on qualifications, on the license obtained in the jurisdiction of the party of origin or on some other requirement; and

(e) whether it covers temporary access (including a range of possible duration and conditions for renewal, if applicable), permanent access, or both, to the profession concerned.

MRA Provisions

8. The MRA should clearly specify the qualifications or registration conditions, and their equivalences, to be met for recognition between the parties to the MRA. If the requirements of the various sub-national jurisdictions under an MRA are not identical, the difference and the modalities for the recognition of qualifications between sub-national jurisdictions should be clearly presented.

9. The MRA should seek to ensure that recognition does not require citizenship or any form of residency, or education,

experience, or training in the jurisdiction of the host party as a condition for recognition by that host party.

10. The requirements and procedures under the MRA should not discriminate based on age, gender, and race.

Eligibility for Recognition – Qualifications

11. If the MRA is based on recognition of qualifications, then it should, where applicable, state:

(a) the minimum level of education required (including entry requirements, length of study, and subjects studied);

(b) the minimum level of experience required (including location, length, and conditions of practical training or supervised professional practice prior to licensing, and framework of ethical and disciplinary standards);

(c) examinations required, especially examinations of professional competence;

(d) the extent to which qualifications obtained in the jurisdiction of the party of origin are recognized in the jurisdiction of the host party; and

(e) the qualifications which the parties to the MRA are prepared to recognize, for instance, by listing particular diplomas or certificates issued by certain institutions, or by reference to particular minimum requirements to be certified by the authorities of the jurisdiction of the party of origin, including whether the possession of a certain level of qualification would allow recognition for some activities but not others.

Eligibility for Recognition – Registration

12. If the MRA is based on recognition of the licensing, membership, or registration decision made by regulators in the jurisdiction of the party of origin, it should specify the mechanism by which eligibility for this recognition may be established.

Eligibility for recognition - Additional Requirements for Recognition in the Jurisdiction of the Host Party ("Compensatory Measures")

13. If it is considered necessary to provide for additional requirements to ensure the quality of the service, the MRA should set out the conditions under which those requirements may apply, for example, in case of shortcomings in relation to qualification requirements in the jurisdiction of the host party or knowledge of local law, practice, standards, and regulations. This knowledge should be essential for practice in the jurisdiction of the host party or required because there are differences in the scope of licensed practice.

14. If additional requirements are deemed necessary, the MRA should set out in detail what they entail (for example, examination, aptitude test, additional practice in the jurisdiction of the host party or in the jurisdiction of the party of origin, practical training, and language used for examination).

Mechanisms for Implementation

15. The MRA should state:

(a) the rules and procedures to be used to monitor and enforce the provisions of the MRA;

(b) the mechanisms for dialogue and administrative cooperation between the parties to the MRA; and

(c) the means of arbitration for disputes under the MRA.

16. As a guide to the treatment of individual applicants, the MRA should include details on:

(a) the focal point of contact in each party to the MRA, for information on all issues relevant to the application (such as the name and address, licensing formalities, and information on additional requirements which need to be met in the jurisdiction of the host party);

(b) the duration of procedures for the processing of applications by the relevant authorities of the jurisdiction of the host party;

(c) the documentation required of applicants and the form, including by electronic means, in which it should be presented and any time limits for applications;

(d) acceptance of documents and certificates, including by electronic means if applicable, issued in the jurisdiction of the party of origin in relation to qualifications and licensing;

(e) the procedures of appeal to or review by the relevant authorities in case of the rejection of an individual application for

recognition; and

(f) the fees that might be reasonably required.

17. The MRA should also include the following commitments:

(a) that requests about the measures will be promptly dealt with;

(b) that adequate preparation time will be provided if necessary;

(c) that any exams or tests will be arranged with reasonable periodicity and accessibility;

(d) that fees to applicants seeking to take advantage of the terms of the MRA will be in proportion to the cost to the jurisdiction of the host party or organisation; and

(e) that information on any assistance programs in the jurisdiction of the host party for practical training, and any commitments of the jurisdiction of the host party in that context, be supplied.

18. The MRA could require the parties to the MRA to communicate to their counterpart any new requirements or modifications to existing requirements that might have an impact on the recognition of qualifications under the MRA.

Licensing and Other Provisions in the Jurisdiction of the Host Party

19. If applicable:

(a) the MRA should also set out the means by which, and the conditions under which, a license is actually obtained following the establishment of eligibility, and what this license entails (such as a license and its content, membership of a professional body, and use of professional or academic titles);

(b) a licensing requirement, other than qualifications and experience, should include, for example:

(i) proof of payment of any required application fees;

(ii) a language proficiency requirement;

(iii) proof of good conduct and financial standing;

(iv) professional indemnity insurance in accordance with the laws of the jurisdiction of the host party;

(v) demonstration of local knowledge of occupational legislation (i.e., Acts, regulations and codes) in the host jurisdiction;

(vi) compliance with the jurisdiction of the host party's requirements for use of trade or firm names; and

(vii) compliance with the jurisdiction of the host party's ethics, for instance independence and incompatibility.

Revision of the MRA

20. If the MRA includes terms under which it can be reviewed or revoked, the details of these terms should be clearly stated.

Annex 18-B. Understanding on New Services Not Classified in the United Nations Provisional Central Product Classification (CPC), 1991

1. The Parties agree that Article 18.3, Article 18.4, Article 18.5, and Chapter 19 (Development and Administration of Measures) do not apply to a measure relating to a new service that cannot be classified in the United Nations Provisional Central Product Classification (CPC), 1991.

2. To the extent possible, each Party shall notify the other Party prior to adopting a measure inconsistent with Article 18.3, Article 18.4, Article 18.5, and Chapter 19 (Development and Administration of Measures) with respect to a new service, as referred to in paragraph 1 of this Annex.

3. At the request of a Party, the Parties shall enter into negotiations to incorporate the new service into the scope of the Agreement.

4. For greater certainty, paragraph 1 of this Annex does not apply to an existing service that could be classified in the United Nations Provisional Central Product Classification (CPC), 1991 but that could not previously be provided on a cross-border basis due to lack of technical feasibility.

Chapter 19. Development and Administration of Measures

Article 19.1. Definitions

For the purposes of this Chapter:

authorization means the granting of permission by a competent authority to a person to supply a service or to pursue any other economic activity;

competent authority means a national or sub-national government of a Party, as defined in Article 1.6 (Country-specific Definitions), or non-governmental body in the exercise of powers delegated by a national or sub-national government of a Party, that grants an authorisation;

licensing procedures means administrative or procedural rules, including for the amendment or renewal of a licence, that must be adhered to in order to demonstrate compliance with licensing requirements;

licensing requirements means substantive requirements, other than qualification requirements, that must be complied with in order to obtain, amend, or renew an authorisation;

qualification procedures means administrative or procedural rules that must be adhered to in order to demonstrate compliance with qualification requirements; and

qualification requirements means substantive requirements relating to competency that must be complied with in order to obtain, amend, or renew an authorisation.

Article 19.2. Scope

1. This Chapter applies to measures adopted or maintained by a Party with respect to licensing requirements, licensing procedures, qualification requirements, or qualification procedures relating to:

(a) the cross-border supply of services as defined in Article 18.1 (Cross-Border Trade in Services – Definitions); and

(b) the pursuit of an economic activity, through commercial presence in the territory of the other Party, including the establishment of that commercial presence.

2. This Chapter does not apply to the aspects of a measure set out in an entry to a Party's Schedule to Annex I, or to a measure that a Party adopts or maintains with respect to sectors, sub-sectors, or activities as set out by that Party in its Schedule to Annex II.

Article 19.3. Right to Regulate

The Parties recognize the right of each Party to regulate economic activity within its territory with regard to any matter under this Chapter in order to meet its legitimate policy objectives.

Article 19.4. Development of Licensing and Qualification Requirements and Procedures

1. If a Party adopts or maintains a measure within the scope of this Chapter, the Party shall, with respect to that measure:

(a) ensure that requirements and procedures are based on criteria that:

(i) are objective and transparent; such criteria may include competence and ability to supply a service or to pursue any other economic activity, including to do so in a manner consistent with the Party's regulatory requirements, such as those relating to health and the protection of the environment; and

(ii) are established in advance and made publicly accessible;

(b) ensure that procedures do not in themselves unduly prevent the fulfilment of a requirement; and

(c) ensure that the measure does not discriminate (1) between men and women.

2. The Parties recognise that the exercise of statutory discretion conferred on a minister with respect to a decision on the granting of an authorization in the public interest is not inconsistent with subparagraph 1(a)(ii), provided that it is exercised consistently with the object of the applicable statute and not in an arbitrary manner, and that this exercise is not otherwise

inconsistent with this Agreement.

3. If a Party develops regulations relating to licensing requirements, licensing procedures, qualification requirements, or qualification procedures, the Party shall endeavour to undertake a regulatory impact assessment, as provided in Chapter 26 (Good Regulatory Practices). The regulatory impact assessment shall take into consideration:

(a) the Party's obligations under international trade agreements; and

(b) the impact of the proposed regulation on small- and medium-sized enterprises.

(1) Differential treatment that is reasonable and objective, and aims to achieve a legitimate policy objective, and the adoption of temporary special measures aimed at accelerating equality between men and women, shall not be considered discrimination for the purposes of this provision.

Article 19.5. Administration of Licensing and Qualification Requirements and Procedures

1. Each Party shall ensure that its measures of general application within the scope of this Chapter are administered in a reasonable, objective, and impartial manner.

2. Each Party shall ensure that licensing and qualification procedures used by the competent authority and decisions of the competent authority in the authorisation process are impartial with respect to all applicants. The competent authority should reach its decisions in an independent manner and, in particular, should not be accountable to any person supplying a service or pursuing any other economic activity for which the authorization is required.

3. To the extent practicable, each Party shall avoid requiring an applicant to approach more than one competent authority for each application for authorisation. For greater certainty, a Party may require multiple applications for authorisation if a service or any other economic activity is within the jurisdiction of multiple competent authorities.

4. If a Party requires an authorisation, the competent authority of the Party shall:

(a) to the extent practicable, permit an applicant to submit an application at any time (2);

(b) allow a reasonable period for the submission of an application when specific time periods for applications exist;

(c) initiate the processing of an application without undue delay;

(d) ensure that the processing of an application, including reaching a final decision, is completed within a reasonable timeframe from the submission of a complete application;

(e) at the request of an applicant, provide, without undue delay, information concerning the status of their application;

(f) if an examination is required, schedule the examination at reasonably frequent intervals, and provide a reasonable period of time to enable applicants to request to take an examination;

(g) if possible, accept an application, including an examination, through electronic means under similar conditions of authenticity as paper submissions at all stages of the authorization process; and

(h) accept a copy of a document, that is authenticated in accordance with the legislation of each Party, in place of the original document, unless the original document is required to protect the integrity of the authorisation process.

5. Each Party shall ensure that an authorisation is granted as soon as the competent authority determines that the conditions for the authorisation have been met, and once granted, that the authorisation enters into effect without undue delay, in accordance with its terms and conditions. (3)

6. If an application for an authorisation is considered incomplete, a Party's competent authority shall, within a reasonable period of time, to the extent practicable:

(i) inform the applicant that the application is incomplete;

(ii) at the request of the applicant, identify the additional information required to complete the application, or otherwise provide guidance on why the application is considered incomplete; and

(iii) provide the applicant an opportunity (4) to provide the additional information that is required to complete the

application.

7. If a Party's competent authority rejects an application for an authorisation, it shall inform the applicant in writing, including by electronic means, and within a reasonable timeframe from the submission of an application. Upon request of the applicant, the Party's competent authority shall also inform the applicant of the reasons the application was rejected and of the timeframe for an appeal or review against the decision. An applicant should be permitted, within reasonable time limits, to resubmit an application.

(2) In the case of professional services, each Party shall ensure that there are domestic procedures in place to assess the competency of those professionals.

(3) Competent authorities are not responsible for delays due to reasons outside their competence.

(4) This opportunity does not require a competent authority to provide extensions of deadlines.

Article 19.6. Fees

1. Each Party shall ensure that the authorisation fee charged by a competent authority is reasonable, transparent, and does not restrict the supply of the relevant service or the pursuit of any other economic activity. Having regard to the cost and administrative burden, each Party is encouraged to accept payment of authorisation fees by electronic means.

2. Authorisation fees do not include fees for the use of natural resources, royalties, payments for auction, tendering, or other non-discriminatory means of awarding concessions or mandated contributions to provide a universal service.

Article 19.7. Review of Administrative Decisions

Each Party shall maintain or institute judicial, arbitral, or administrative tribunals or procedures that provide, at the request of a service supplier of a Party, as defined in Article 18.1 (Cross-Border Trade in Services – Definitions) or an investor of a Party, as defined in Article 17.1 (Investment – Definitions), a prompt review of, and if justified, appropriate remedies for, administrative decisions relating to the scope of this Chapter. If the review procedures are not independent of the competent authority entrusted with the administrative decision concerned, each Party shall ensure that the review procedures are applied in a way that provides for an objective and impartial review.

Article 19.8. Transparency

1. If a Party requires an authorisation, the Party shall promptly publish (5), or otherwise make publicly available in writing, the information necessary to comply with the requirements and procedures for obtaining, maintaining, amending, and renewing that authorisation. This information includes, if it exists:

(a) authorisation fees;

(b) contact information of relevant competent authorities;

(c) procedures for appeal or review of decisions concerning applications;

(d) procedures for monitoring or enforcing compliance with the terms and conditions of licences or qualifications;

(e) opportunities for public involvement, such as through hearings or comments;

(f) indicative timeframes for processing of an application; and

(g) the requirements and procedures.

(5) For the purposes of this Article, "publish" means to include in an official publication, such as an official journal, or on an official website.

Chapter 20. Financial Services

Article 20.1. Definitions

For the purposes of this Chapter:

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

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

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

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

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

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

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

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

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

Insurance and insurance-related services

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

(i) life; and

(ii) non-life;

(b) reinsurance and retrocession;

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

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

Banking and other financial services (excluding insurance)

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

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

(g) financial leasing;

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

(i) guarantees and commitments;

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

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

(ii) foreign exchange;

(iii) derivative products, including futures and options;

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

(v) transferable securities; and

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

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

(l) money broking;

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

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

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

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

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

investment means "investment" as defined in Article 17.1 (Definitions), except that, with respect to "a loan to an enterprise" and "a debt instrument of an enterprise" referred to in that Article:

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

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

For greater certainty, a loan granted by or debt instrument owned by a cross-border financial service supplier, other than a loan to or debt instrument issued by a financial institution, is an investment for the purposes of Chapter 17 (Investment), if such loan or debt instrument meets the criteria for investments set out in Article 17.1 (Definitions);

investor of a Party means a Party, or a person of a Party, that attempts to make (1), is making, or has made an investment in the territory of the other Party. For the purpose of this definition, a "person of a Party" that is an enterprise of a Party means:

(a) an enterprise that is constituted or organized under the law of that Party and that has substantial business activities in the territory of that Party. A determination of whether an enterprise has substantial business activities in the territory of a Party requires a case-by-case, fact-based inquiry; or

(b) an enterprise that is constituted or organized under the law of that Party, and is directly or indirectly owned or controlled by a national of that Party or by an enterprise mentioned under subparagraph (a);

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

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

public entity means a central bank or monetary authority of a Party, or a financial institution that is owned or controlled by a Party; and

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

(1) For greater certainty, the Parties understand that an investor "attempts to make" an investment when that investor has taken concrete action or actions to make an investment, such as channelling resources or capital in order to set up a business, or applying for permits or licenses.

Article 20.2. Scope

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

(a) financial institutions of the other Party;

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

(c) cross-border trade in financial services.

2. Chapter 17 (Investment) and Chapter 18 (Cross-Border Trade in Services) shall apply to measures described in paragraph 1 only to the extent that those Chapters are incorporated into this Chapter.

(a) Article 17.4 (Right to Regulate), Article 17.5 (Non-Derogation), Article 17.8 (Treatment in Case of Armed Conflict, Civil Strife, or Natural Disaster), Article 17.9 (Minimum Standard of Treatment), Article 17.10 (Expropriation), Article 17.11 (Transfer of Funds), Article 17.16 (Denial of Benefits), Article 17.17 (Special Formalities and Information Requirements), Article 17.19 (Exclusions), and Article 18.9 (Denial of Benefits) are hereby incorporated into and made a part of this Chapter.

(b) Sections D and E of Chapter 17 (Investment) are hereby incorporated into and made a part of this Chapter (2) solely for claims that a Party has breached Article 17.8 (Treatment in Case of Armed Conflict, Civil Strife, or Natural Disaster), Article 17.10 (Expropriation), or Article 17.11 (Transfer of Funds), incorporated into this Chapter under subparagraph (a). (3)

(c) Article 18.10 (Payments and Transfers) is incorporated into and made a part of this Chapter to the extent that cross-border trade in financial services is subject to obligations pursuant to Article 20.6.

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

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

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

except that this Chapter applies to the extent that a Party allows any of the activities or services referred to in subparagraph (a) or (b) to be conducted by its financial institutions in competition with a public entity or a financial institution.

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

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

(2) For greater certainty, Section D of Chapter 17 (Investment) shall not apply to cross-border trade in financial services.

(3) For greater certainty, if an investor of a Party submits a claim to arbitration under Section D of Chapter 17 (Investment): (1) as referenced in Article 17.28 (Applicable Law and Interpretation), the investor has the burden of proving all elements of its claims, consistent with general principles of international law applicable to international arbitration; (2) pursuant to Article 17.29 (Preliminary Objections), a Tribunal shall address and decide as a preliminary question any objection by the respondent Party that, as a matter of law, a claim submitted is not a claim for which an award in favour of the investor may be made under this Agreement, including that a dispute is not within the competence of the Tribunal, or that a claim is manifestly without legal merit; and (3) pursuant to Article 17.36 (Final Award), the Tribunal shall make an order with respect to the costs of the arbitration.

Article 20.3. National Treatment

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

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

3. The treatment accorded by a Party under paragraphs 1 and 2 means, with respect to a government other than at the central level of government, treatment accorded, in like circumstances, by that government to financial institutions of the Party, investors of the Party, and investments of those investors, in financial institutions, of the Party of which it forms a part.

4. For the purposes of the national treatment obligations in Article 20.6, a Party shall accord to cross-border financial service suppliers of the other Party treatment no less favourable than that it accords to its own financial service suppliers, in like circumstances, with respect to the supply of the relevant service.

5. Whether treatment is accorded in like circumstances depends on the totality of the circumstances, including whether the relevant treatment distinguishes between investors in financial institutions, investments in financial institutions, financial institutions, financial services, or financial service suppliers on the basis of legitimate public policy objectives.

6. Paragraphs 1 and 2 prohibit discrimination based on nationality. A difference in treatment accorded to an investor of another Party, or their investments, in a financial institution, or a financial institution of another Party and a Party's own investors, or their investments, in a financial institution, or financial institutions does not, in and of itself, establish discrimination based on nationality.

Article 20.4. Most-Favoured-Nation Treatment

1. Each Party shall accord to:

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

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

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

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

2. The treatment to be accorded by a Party under paragraph 1 means, with respect to a government other than at the central level, treatment accorded, in like circumstances, by that government to: financial institutions of a non-Party; investors of a non-Party, and investments of those investors, in financial institutions; or financial services or cross- border financial service suppliers of a non-Party.

3. The "treatment" referred to in paragraph 1 and 2 does not include procedures for the resolution of investment disputes between investors and states provided for in other international investment treaties and other trade agreements.

4. Substantive obligations in other international investment treaties and other trade agreements do not in themselves constitute "treatment", and thus cannot give rise to a breach of this Article, absent measures adopted or maintained by a Party pursuant to those obligations.

5. Whether treatment is accorded in like circumstances depends on the totality of the circumstances, including whether the relevant treatment distinguishes between investors in financial institutions, investments in financial institutions, financial institutions, financial services, or financial service suppliers on the basis of legitimate public policy objectives.

6. Paragraph 1 prohibits discrimination based on nationality. A difference in treatment accorded to an investor of another Party, or their investments, in a financial institution, or a financial institution of another Party and a Party's own investors, or their investments, in a financial institution, or financial institutions does not, in and of itself, establish discrimination based on nationality.

Article 20.5. Market Access for Financial Institutions

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

(a) impose limitations on:

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

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

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

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

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

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

Article 20.6. Cross-Border Trade

1. Each Party shall permit, under terms and conditions that accord national treatment, cross-border financial service suppliers of the other Party to supply the financial services specified in Annex 20-A (Cross-Border Trade).

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

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

Article 20.7. New Financial Services (5)

Each Party shall permit a financial institution of the other Party to supply a new financial service that the Party would permit its own financial institutions, in like circumstances, to supply without adopting a law or modifying an existing law. (6) Notwithstanding Article 20.5(1)(b), a Party may determine the institutional and juridical form through which the new financial service may be supplied, and may require authorization for the supply of the service. If a Party requires a financial institution to obtain authorization to supply a new financial service, the Party shall decide within a reasonable period of time whether to issue the authorization and may refuse the authorization only for prudential reasons.

(5) The Parties understand that nothing in this Article prevents a financial institution of a Party from applying to the other Party to request that it authorize the supply of a financial service that is not supplied in the territory of any Party. That application shall be subject to the law of the Party to which the application is made and, for greater certainty, shall not be subject to this Article.

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

Article 20.8. Treatment of Customer Information

This Chapter does not require a Party to disclose information related to the financial affairs and accounts of individual customers of financial institutions or cross- border financial service suppliers.

Article 20.9. Senior Management and Boards of Directors

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

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

3. A Party may require financial institutions operating within their territory, or subject to their jurisdiction, to nominate women to senior management positions or to boards of directors.

Article 20.10. Non-Conforming Measures

1. Articles 20.3 through 20.6 and Article 20.9 shall not apply to:

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

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

(ii) a regional level of government, as set out by that Party in Section A of its Schedule to Annex III; or

(iii) a level of government other than the central or regional levels;

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

(c) an amendment to any non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the measure as it existed:

(i) immediately before the amendment, with Article 20.3, Article 20.4, Article 20.5, or Article 20.9; or

(ii) on the date of entry into force of the Agreement for the Party applying the non-conforming measure, with Article 20.6.

2. Articles 20.3 through 20.6 and Article 20.9 shall not apply to any measure that a Party adopts or maintains with respect to sectors, subsectors, or activities, as set out by that Party in Section B of its Schedule to Annex III.

3. A non-conforming measure, set out in a Party's Schedule to Annex I or II as not subject to Article 17.6 (National Treatment), Article 17.7 (Most-Favoured-Nation Treatment), Article 17.13 (Senior Management and Boards of Directors), Article 18.3 (National Treatment), or Article 18.4 (Most-Favoured-Nation Treatment), shall be treated as a non-conforming measure not subject to Article 20.3, Article 20.4, or Article 20.9, as the case may be, to the extent that the measure, sector, subsector, or activity set out in the entry is covered by this Chapter.

4. Article 20.3 shall not apply to any measure that falls within an exception to, or derogation from, the obligations which are imposed by Article 3 of the TRIPS Agreement, if the exception or derogation relates to matters not addressed by Chapter 12 (Intellectual Property).

5. Article 20.4 shall not apply to any measure that falls within Article 5 of the TRIPS Agreement, or an exception to, or derogation from, the obligations which are imposed by Article 4 of the TRIPS Agreement.

Article 20.11. Exceptions

1. Notwithstanding any other provisions of this Chapter and Agreement except for Chapter 2 (National Treatment and Market Access), Chapter 3 (Rules of Origin and Origin Procedures), Chapter 4 (Trade Facilitation), Chapter 5 (Trade Remedies), Chapter 6 (Sanitary and Phytosanitary Measures), and Chapter 7 (Technical Barriers to Trade), a Party shall not be prevented from adopting or maintaining measures for prudential reasons (7) (8), including for the protection of investors, depositors, policy holders, or persons to whom a fiduciary duty is owed by a financial institution or cross-border financial service supplier, or to ensure the integrity and stability of the financial system. If these measures do not conform with the provisions of this Agreement to which this exception applies, they shall not be used as a means of avoiding the Party's commitments or obligations under those provisions.

2. Nothing in this Chapter, Chapter 17 (Investment), Chapter 18 (Cross-Border Trade in Services), Chapter 19 (Development and Administration of Measures), Chapter 22 (Telecommunications) including specifically Article 22.24 (Relation to Other Chapters), or Chapter 8 (Digital Trade), shall apply to non-discriminatory measures of general application taken by any public entity in pursuit of monetary and related credit policies or exchange rate policies. This paragraph shall not affect a Party's obligations under Article 17.12 (Performance Requirements) with respect to measures covered by Chapter 17 (Investment), under Article 17.11 (Transfer of Funds) or Article 18.10 (Payments and Transfers).

3. Notwithstanding Article 17.11 (Transfer of Funds) and Article 18.10 (Payments and Transfers), as incorporated into this Chapter, a Party may prevent or limit transfers by a financial institution or cross-border financial service supplier to, or for the benefit of, an affiliate of or person related to such institution or supplier, through the equitable, non- discriminatory, and good faith application of measures relating to maintenance of the safety, soundness, integrity, or financial responsibility of financial institutions or cross-border financial service suppliers. This paragraph does not prejudice any other provision of

this Agreement that permits a Party to restrict transfers.

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

(7) The Parties understand that the term "prudential reasons" includes the maintenance of the safety, soundness, integrity, or financial responsibility of individual financial institutions or cross-border financial service suppliers as well as the safety, and financial and operational integrity of payment and clearing systems.

(8) For greater certainty, if a measure challenged under Section D of Chapter 17 (Investment) is determined to have been adopted or maintained by a Party for prudential reasons in accordance with procedures in Article 20.24, a Tribunal shall find that the measure is not inconsistent with the Party's obligations in the Agreement and accordingly shall not award any damages with respect to that measure.

Article 20.12. Recognition

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

(a) accorded autonomously;

(b) achieved through harmonization or other means; or

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

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

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

4. For greater certainty, nothing in Article 20.4 requires a Party to accord recognition to prudential measures of any other Party.

Article 20.13. Transparency

1. Chapter 19 (Development and Administration Measures), Chapter 26 (Good Regulatory Practices), and paragraphs 2, 3, and 4 of Article 15.2 (Publication) do not apply to a measure relating to this Chapter.

2. The Parties recognize that transparent regulations and policies governing the activities of financial institutions and cross-border financial service suppliers are important in facilitating their ability to gain access to and operate in each other's markets. Each Party commits to promote regulatory transparency in financial services.

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

4. Each Party shall, to the extent practicable:

(a) publish in advance any such regulation that it proposes to adopt and the purpose of the regulation; and

(b) provide interested persons and other Parties with a reasonable opportunity to comment on that proposed regulation.

5. At the time that it adopts a final regulation, a Party should, to the extent practicable, address in writing the substantive comments received from interested persons with respect to the proposed regulation. (9)

6. To the extent practicable, each Party should allow a reasonable period of time between publication of a final regulation of general application and the date when it enters into effect.

7. Each Party shall ensure that the rules of general application adopted or maintained by a self-regulatory organization of the Party are promptly published or otherwise made available in a manner that enables interested persons to become acquainted with them.

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

(9) For greater certainty, a Party may address those comments collectively on an official government website.

Article 20.14. Processing of Applications

1. If a Party requires authorization for the supply of a financial service, it shall ensure that its financial regulatory authorities:

(a) to the extent practicable, permit an applicant to submit an application at any time throughout the year (10);

(b) allow a reasonable period for the submission of an application if specific time periods for applications exist;

(c) provide to service suppliers and persons seeking to supply a service the information necessary to comply with the requirements and procedures for obtaining, maintaining, amending, and renewing such authorization;

(d) to the extent practicable, provide an indicative timeframe for processing of an application;

(e) at the request of the applicant, provide without undue delay information concerning the status of the application;

(f) to the extent practicable, ascertain without undue delay the completeness of an application for processing under the Party's laws and regulations;

(g) endeavour to accept applications in electronic format;

(h) accept copies of documents that are authenticated in accordance with the Party's domestic laws and regulations, in place of original documents, unless the financial regulatory authorities require original documents to protect the integrity of the authorization process;

(i) in the case of an application considered complete under the Party's laws and regulations (11) within a reasonable period of time, after the submission of the application, ensure that:

(i) the processing of an application is completed; and

(ii) the applicant is informed of the decision concerning the application, to the extent possible in writing (12);

(j) in the case of an application considered incomplete under the Party's law, within a reasonable period of time, to the extent practicable:

(i) inform the applicant that the application is incomplete;

(ii) at the request of the applicant, identify the additional information required to complete the application and provide guidance on why the application is considered incomplete; and

(iii) provide the applicant with the opportunity (13) to provide the additional information that is required to complete the application;

however, if none of the above is practicable, and the application is rejected due to incompleteness, ensure that the applicant is informed within a reasonable period of time;

(k) if an application is rejected, to the extent practicable, either upon their own initiative or upon request of the applicant, inform the applicant of the reasons for rejection and, if applicable, the procedures for resubmission of an application. An applicant should not be prevented from submitting another application (14) solely on the basis of an application has been previously rejected; and

(l) ensure that authorization, once granted, enters into effect without undue delay, subject to applicable terms and conditions. (15)

2. Each Party shall ensure that its financial regulatory authorities, with respect to an authorization fee (16) they charge, provide an applicant with a schedule of fees or information on how fee amounts are calculated, and do not use the fees as a means of avoiding the Party's commitments or obligations under this Chapter.

3. If a Party adopts or maintains measures with respect to authorization requirements and procedures for the supply of a financial services, the Party shall ensure that:

(a) the financial regulatory authority reaches and administers its decisions in a manner independent from any suppliers of the services for which authorization is required (17);

(b) such measures are based on objective and transparent criteria (18);

(c) the procedures are impartial, and that the procedures are adequate for applicants to demonstrate whether they meet the requirements, if such requirements exist;

(d) the procedures do not in themselves unjustifiably prevent fulfilment of requirements; and

(e) such measures do not discriminate against natural persons on the basis of gender. (19)

(10) Financial regulatory authorities are not required to start considering applications outside of their official working hours and working days.

(11) Financial regulatory authorities may require that all information is submitted in a specific format to consider it "complete for processing".

(12) "In writing" may include in electronic form.

(13) For greater certainty, such opportunity does not require a competent authority to provide extensions of deadlines.

(14) Financial regulatory authorities may require that the content of such an application be revised.

(15) Financial regulatory authorities are not responsible for delay due to reasons outside their competence.

(16) An authorization fee does not include a fee for the use of natural resources, payments for auction, tendering or other non-discriminatory means of awarding concessions, or mandated contributions to universal service provision.

(17) This provision does not mandate a particular administrative structure; it refers to the decision-making process and administering of decisions.

(18) Such criteria may include, inter alia, competence and the ability to supply a service, including to do so in a manner consistent with a Party's regulatory requirements. Financial regulatory authorities may assess the weight to be given to each criterion.

(19) For greater certainty, legitimate differentiation, as well as the adoption of temporary special measures aimed at accelerating de facto gender equality, shall not be considered discrimination for the purposes of this provision.

Article 20.15. Self-Regulatory Organizations

If a Party requires a financial institution or a cross-border financial service supplier of the other Party to be a member of, participate in, or have access to a self-regulatory organization in order to provide a financial service in or into its territory, it shall ensure that the self-regulatory organization observes the obligations contained in this Chapter.

Article 20.16. Payment and Clearing Systems

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

Article 20.17. Expedited Availability of Insurance Services

Parties recognize the importance of maintaining and developing regulatory procedures to expedite the offering of insurance services by licensed suppliers. These procedures may include: allowing introduction of products unless those products are disapproved within a reasonable period of time; not requiring product approval or authorization of insurance lines for insurance other than insurance sold to individuals or compulsory insurance; or not imposing limitations on the number or frequency of product introductions. If a Party maintains regulatory product approval procedures, that Party shall endeavour to maintain or improve those procedures.

Article 20.18. Performance of Back-Office Functions

1. The Parties recognize that the performance of the back-office functions of a financial institution in its territory by the head office or an affiliate of the financial institution, or by an unrelated service supplier, either inside or outside its territory, is important to the effective management and efficient operation of that financial institution. While a Party may require financial institutions to ensure compliance with any domestic requirements applicable to those functions, they recognize the importance of avoiding the imposition of arbitrary requirements on the performance of those functions.

2. For greater certainty, nothing in paragraph 1 prevents a Party from requiring a financial institution in its territory to retain certain functions.

Article 20.19. Cross-Border Electronic Payments

The Parties endeavour to support the development of efficient, safe and secure cross-border electronic payments by fostering the development and adoption of internationally accepted standards, promoting interoperability and the interlinking of payment infrastructures, and encouraging useful innovation and competition in the payments ecosystem.

Article 20.20. Transfer of Information

A Party shall not prevent a financial institution or a cross-border financial services supplier of the party from transferring information, including personal information, into and out of the Party's territory by electronic or other means when this activity is for the conduct of business within the scope of the license, authorization, or registration of that financial institution or cross-border financial services supplier of the other party. Nothing in this Article restricts the right of a Party to adopt or maintain measures to protect personal data, personal privacy, and the confidentiality of individual records and accounts, provided that such measures are not used to circumvent this Article.

Article 20.21. Financial Services Committee

1. The Parties hereby establish a Financial Services Committee. The principal representative of each Party shall be an official of the Party's authority responsible for financial services set out in Annex 20-B (Authorities Responsible for Financial Services).

2. The Financial Services Committee shall:

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

(b) consider issues regarding financial services that are referred to it by a Party; and

(c) participate in the dispute settlement procedures in accordance with Article 20.24.

3. The Financial Services Committee shall meet as the Parties decide to assess the functioning of this Agreement as it applies to financial services. The Financial Services Committee shall inform the Commission of the results of any meeting.

4. The Financial Services Committee shall endeavour to encourage the participation of women when undertaking its functions, such as by seeking to establish a gender balance among their membership.

Article 20.22. Consultations

1. A Party may request, in writing, consultations with the other Party regarding any matter arising under this Agreement that affects financial services. The other Party shall give sympathetic consideration to the request to hold consultations. The consulting Parties shall report the results of their consultations to the Financial Services Committee.

2. Consultations under this Article shall include officials of the authorities specified in Annex 20-B (Authorities Responsible for Financial Services).

3. For greater certainty, nothing in this Article shall be construed to require a Party to derogate from its law regarding sharing of information between financial regulators or the requirements of an agreement or arrangement between financial authorities of the Parties, or to require a regulatory authority to take any action that would interfere with specific regulatory, supervisory, administrative, or enforcement matters.

Article 20.23. Dispute Settlement

1. Chapter 28 (Dispute Settlement) shall apply as modified by this Article to the settlement of disputes arising under this Chapter.

2. For disputes arising under this Chapter or a dispute in which a Party invokes Article 20.11, when selecting panellists to compose a panel under Article 28.7 (Establishment of a Panel), each disputing Party shall select panellists so that:

(a) the chairperson has expertise or experience in financial services law or practice, such as the regulation of financial institutions, and meets the qualifications set out in Article 28.9 (Qualifications of Panellists); and

(b) each of the other panellists:

(i) has expertise or experience in financial services law or practice, such as the regulation of financial institutions, and meets the qualifications set out in subparagraphs 1(b) through 1(f) of Article 28.9 (Qualifications of Panellists); or

(ii) meets the qualifications set out in Article 28.9 (Qualification of Panellists).

3. A Party may request the establishment of a panel pursuant to Article 20.24(3) to consider whether and to what extent Article 20.11 is a valid defence to a claim without having to request consultations under Article 28.5 (Consultations). The panel shall endeavour to present its initial report pursuant to Article 28.11 (Panel Reports) within 120 days of the selection of the last panellist.

4. If a Party seeks to suspend benefits in the financial services sector, a panel that reconvenes to make a determination on the proposed suspension of benefits, in accordance with Article 28.13 (Non-Implementation – Suspension of Benefits), shall seek the views of financial services experts, as necessary.

5. Notwithstanding Article 28.13 (Non-Implementation – Suspension of Benefits), when a panel's determination is that a Party's measure is inconsistent with this Agreement and the measure affects:

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

(b) the financial services sector and another sector, the complaining Party may not suspend benefits in the financial services sector that have an effect that exceeds the effect of the measure in the complaining Party's financial services sector.

Article 20.24. Investment Disputes In Financial Services

1. If a dispute under Section D of Chapter 17 (Investment) involves a measure referred to in Article 20.2 (Scope), arbitrators shall be selected in accordance with Article 17.26 (Arbitrators) as modified in this Article, such that:

(a) the presiding arbitrator has expertise or experience in financial services law or practice, such as the regulation of financial institutions, and meets the qualifications set out in Article 17.26 (Arbitrators); and

(b) each of the other arbitrators of the tribunal:

(i) meets the qualifications set out in Article 17.26 (Arbitrators); or

(ii) have expertise or experience in financial services law or practice, such as the regulation of financial institutions, and meet the qualifications set out in paragraphs 3 and 6 of Article 17.26 (Arbitrators).

2. If a dispute under Section E of Chapter 17 (Investment) involves a measure referred to in Article 20.2, the arbitrator shall have expertise or experience in financial services law or practice, such as the regulation of financial institutions.

3. If an investor of a Party submits a claim to arbitration under Section D of Chapter 17 (Investment), and the respondent asserts a defence under Article 20.11, the respondent shall, no later than the date the tribunal fixes for the respondent to submit its principal submission on the merits, such as the counter-memorial, submit in writing to the authorities responsible for financial services of the Party of the claimant, as set out in Annex 20-B (Authorities Responsible for Financial Services), a request for a joint determination by the financial authorities of the Parties on the issue of whether and to what extent Article 20.11 is a valid defence to the claim. The respondent shall provide the tribunal, if constituted, a copy of its request. The tribunal may proceed to hear the claim only as provided in paragraphs 5, 6, and 7.

4. With respect to the joint determination by the financial authorities of the Parties referred to in paragraph 3:

(a) the financial authorities of the Parties shall have 60 days from the date of the receipt of the request to exchange positions;

(b) the financial authorities of the Parties shall have 60 days from the exchange of positions in subparagraph (a) to make a joint determination;

(c) if a joint determination is made under subparagraph (b), the financial authorities of either Party shall transmit their decision to the disputing parties and the tribunal, if constituted; and

(d) If the financial authorities of the Parties have not made a joint determination under sub-paragraph (b), either Party may request, within 130 days of the receipt of the request for a joint determination, an arbitral panel to be established under Chapter 28 (Dispute Settlement) to decide whether and to what extent the paragraph asserted is a valid defence to the claim. The arbitral panel shall transmit its decision to the disputing parties and to the tribunal, if constituted.

5. If it is determined in the joint determination referred to in subparagraph 4(b) or the decision of the arbitral panel referred to in subparagraph 4(d) that the paragraph asserted is a valid defence to all parts of the claim, the investor is deemed to have withdrawn its claim and to have discontinued the proceeding, with prejudice. The tribunal, if constituted, shall take note of the discontinuance in an order, after which the authority of the tribunal shall cease.

6. If it is determined the joint determination referred to in subparagraph 4(b) or the decision of the arbitral panel referred to in subparagraph 4(d) that the paragraph asserted is only a valid defence to a part of the claim, the investor is deemed to have withdrawn that part of the claim and to have discontinued that part of the proceedings, with prejudice. The tribunal shall take note of the discontinuance of that part of the claim in an order and shall not proceed with the part of the claim for which the paragraph asserted is determined to be a valid defence.

7. If the financial authorities of the Parties do not make a joint determination under subparagraph 4(b) and no request for the establishment of an arbitral panel has been made under subparagraph 4(d), the tribunal may decide the matter, provided that:

(a) in addition to the disputing parties, the Party of the investor may make oral or written submissions to the tribunal regarding the issue of whether and to what extent the paragraph asserted is a valid defence to the claim prior to the tribunal deciding this issue. Unless it makes such as submission, the Party of the investor shall be presumed, for the purposes of the arbitration, to take a position on the application of the paragraph asserted that is not inconsistent with that of the respondent Party; and

(b) the tribunal shall draw no inference regarding the application of the paragraph asserted from the fact that the authorities have not made a joint determination as described in subparagraph 4(b).

8. For the purposes of this Article, the definitions of the following terms set out in Article 17.1 (Definitions) are incorporated, mutatis mutandis: "claimant", "disputing parties", "disputing party", "non-disputing Party", and "respondent".

Annex 20-A. Cross-Border Trade

Canada (20)

Insurance and insurance-related services

1. Article 20.6 (Cross-Border Trade) shall apply to the cross-border supply of or trade in financial services, as defined in subparagraph (a) of the definition of "cross-border supply of financial services" in Article 20.1 (Definitions), with respect to:

(a) insurance of risks relating to:

(i) maritime transport and commercial aviation and space launching and freight (including satellites), with such insurance to cover any or all of the following: the goods being transported; the vehicle transporting the goods; and any liability deriving therefrom; and

(ii) goods in international transit;

(b) reinsurance and retrocession;

(c) services auxiliary to insurance, as described in subparagraph (d) of the definition of "financial service" in Article 20.1 (Definitions); and

(d) insurance intermediation, such as brokerage and agency, as referred to in subparagraph (c) of the definition of "financial service" in Article 20.1 (Definitions), of insurance of risks related to services listed in subparagraphs (a) and (b) of this paragraph.

Banking and other financial services (excluding insurance)

2. Article 20.6. (Cross-Border Trade) shall apply to the cross-border supply of or trade in financial services, as defined in subparagraph (a) of the definition of "cross-border supply of financial services" in Article 20.1 (Definitions), with respect to:

(a) provision and transfer of financial information, and financial data processing, as referred to in subparagraph (o) of the definition of "financial service" in Article 20.1 (Definitions);

(b) advisory and other auxiliary financial services, and credit reference and analysis, excluding intermediation, relating to banking and other financial services, as referred to in subparagraph (p) of the definition of "financial service" in Article 20.1 (Definitions); and

(c) electronic payments services for payment card transactions falling within subparagraph (h) of the definition of "financial services" in Article 20.1 (Definitions), and within subcategory 71593 of the United Nations Central Product Classification, Version 2.1, and including only:

(i) the processing of financial transactions, such as verification of financial balances, authorization of transactions, notification of banks (or credit card issuers) of individual transactions, and provision of daily summaries and instructions regarding the net financial position of relevant institutions for authorized transactions, and

(ii) those services that are provided on a business-to-business basis and use proprietary networks to process payment transactions,

but not including the transfer of funds to and from transactors' accounts. (21)

Portfolio Management Services

3. Article 20.6 (Cross-Border Trade) shall apply to the cross-border supply of or trade in financial services, as defined in subparagraph (a) of the definition of "cross-border supply of financial services" in Article 20.1 (Definitions), with respect to the following services if they are provided to a collective investment scheme located in Canada:

(a) investment advice; and

(b) portfolio management services, excluding:

(i) trustee services; and

(ii) custodial services and execution services that are not related to managing a collective investment scheme.

4. For the purposes of paragraph 3, in Canada, a collective investment scheme means, an "investment fund" (22) as defined under the relevant Securities Act.

(20) For greater certainty, Canada requires that a cross-border financial services supplier maintain a local agent and records in Canada.

(21) Nothing in this subparagraph prevents a Party from adopting or maintaining measures to protect personal data, personal privacy, and the confidentiality of individual records and accounts, provided that these measures are not used to circumvent the commitments or obligations of this subparagraph. For greater certainty, nothing in this subparagraph prevents a Party from adopting or maintaining measures that regulate fees, such as interchange or switching fees, or that impose fees.

(22) In Canada, a financial institution organized in the territory of another Party can only provide custodial services to a collective investment scheme located in Canada if the financial institution has shareholders' equity equivalent to at least $100 million.

Ukraine

Insurance and insurance-related services

1. Article 20.6 (Cross-Border Trade) shall apply to the cross-border supply of or trade in financial services, as defined in subparagraph (a) of the definition of "cross-border supply of financial services" in Article 20.1 (Definitions), with respect to:

(a) insurance of risks relating to:

(i) maritime transport and commercial aviation and space launching and freight (including satellites), with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods, and any liability deriving therefrom; and

(ii) goods in international transit;

(b) reinsurance and retrocession;

(c) services auxiliary to insurance, as described in subparagraph (d) of the definition of "financial service" in Article 20.1 (Definitions); and

(d) insurance intermediation, such as brokerage and agency, as referred to in subparagraph (c) of the definition of "financial service" in Article 20.1 (Definitions), of insurance of risks related to services listed in subparagraphs (a) and (b) of this paragraph.

Banking and other financial services (excluding insurance)

2. Article 20.6 (Cross-Border Trade) shall apply to the cross-border supply of or trade in financial services, as defined in subparagraph (a) of the definition of "cross-border supply of financial services" in Article 20.1 (Definitions), with respect to:

(a) provision and transfer of financial information, and financial data processing, as referred to in subparagraph (o) of the definition of "financial service" in Article 20.1 (Definitions); and

(b) advisory and other auxiliary financial services, and credit reference and analysis, excluding intermediation, relating to banking and other financial services, as referred to in subparagraph (p) of the definition of "financial service" in Article 20.1 (Definitions);

(c) electronic payments services for payment card transactions falling within subparagraph (h) of the definition of "financial services" in Article 20.1 (Definitions), and within subcategory 71593 of the United Nations Central Product Classification, Version 2.1, and including only:

(i) the processing of financial transactions, such as verification of financial balances, authorization of transactions, notification of banks (or credit card issuers) of individual transactions and provision of daily summaries and instructions regarding the net financial position of relevant institutions for authorized transactions, and

(ii) those services that are provided on a business-to-business basis and use proprietary networks to process payment transactions,

but not including the transfer of funds to and from transactors' accounts. (23)

Portfolio Management Services

3. Article 20.6 (Cross-Border Trade) shall apply to the cross-border supply of or trade in financial services, as defined in subparagraph (a) of the definition of "cross-border supply of financial services" in Article 20.1 (Definitions), with respect to the following services if they are provided to a collective investment scheme located in Ukraine:

(a) investment advice, and

(b) portfolio management services, excluding:

(i) trustee services, and

(ii) custodial services and execution services that are not related to managing a collective investment scheme.

4. For the purposes of paragraph 3, in Ukraine, a collective investment scheme means collective investment institutions that operate in accordance with the legislation on collective investment institutions.

(23) Nothing in this subparagraph prevents a Party from adopting or maintaining measures to protect personal data, personal privacy, and the confidentiality of individual records and accounts, provided that these measures are not used to circumvent the commitments or obligations of this subparagraph. For greater certainty, nothing in this subparagraph prevents a Party from adopting or maintaining measures that regulate fees, such as interchange or switching fees, or that impose fees.

Annex 20-B. Authorities Responsible for Financial Services

Authorities Responsible for Financial Services

The authorities for each Party responsible for financial services are:

(a) For Canada, the Department of Finance Canada

(b) For Ukraine, the National Bank of Ukraine

Chapter 21. Temporary Entry for Business Persons

Article 21.1. Definitions

For the purposes of this Chapter:

business person means a natural person who is a citizen or permanent resident of a Party engaged in the trade of goods, the supply of services, or the conduct of investment activities.

temporary entry means entry into the territory of a Party by a business person of the other Party without the intent to establish permanent residence.

Article 21.2. Scope

1. This Chapter shall apply to measures affecting the temporary entry of business persons of a Party into the territory of the other Party under the categories set out in Annex 21-A.

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

3. Nothing in this Agreement shall prevent a Party from applying measures to regulate the entry of natural persons of the other Party into, or their temporary stay in, its territory, including those measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across, its borders, provided that those measures are not applied in a manner that nullifies or impairs the benefits accruing to the other Party under this Chapter.

Article 21.3. Grant of Temporary Entry

1. Each Party shall grant temporary entry to a business person of the other Party, who is otherwise qualified for entry under its immigration measures, including measures relating to public health and safety and national security, in accordance with this Chapter.

2. A Party may refuse to grant temporary entry or issue a work permit, in accordance with its domestic laws and regulations, to a business person of the other Party if the temporary entry of that business person might adversely affect:

(a) the settlement of any labour dispute that is in progress at the intended place of employment; or

(b) the employment of any natural person who is involved in that dispute.

3. If a Party refuses to grant temporary entry or issue a work permit, pursuant to paragraph 2, it shall provide written notice to the applicant of the reasons for the refusal.

4. A Party may require a business person seeking temporary entry under this Chapter to obtain an entry visa or an

equivalent requirement prior to entry in accordance with its immigration measures. The sole fact that a Party requires business persons of the other Party to obtain a visa or an equivalent requirement prior to entry shall not be regarded as nullifying or impairing the benefits accruing to the other Party under this Chapter.

5. The sole fact that a Party grants temporary entry to a business person of another Party pursuant to this Chapter does not exempt that business person from meeting any applicable licensing or other requirements, including any mandatory codes of conduct, to practise a profession, or otherwise engage in business activities.

Article 21.4. Application Procedures

1. Each Party shall, as expeditiously as possible following receipt of a complete application for a work permit, issue its decision to the applicant. If approved, the decision must specify the period of stay and other conditions.

2. At the request of an applicant, the Party that has received a complete application for a work permit shall endeavour to promptly provide information concerning the status of the application.

3. Each Party shall endeavor to accept and process applications in electronic format.

4. Each Party shall limit its respective fees for processing applications for temporary entry of a business person to the approximate cost of services rendered.

5. This Chapter does not impair the ability of a business person to apply for temporary entry through other mechanisms available through a Party's domestic laws and regulations relating to the entry of foreign nationals.

Article 21.5. Provision of Information

1. Further to Article 15.2 (Publication), each Party shall, no later than six months after the date of entry into force of this Agreement:

(a) make publicly available, in electronic format, online explanatory material on its measures relating to this Chapter; and

(b) establish or maintain appropriate mechanisms to respond to enquiries from interested persons regarding measures relating to temporary entry covered by this Chapter.

2. If a Party collects and maintains data relating to temporary entry by category of business persons under this Chapter, the Party shall make this data available to the other Party on request, in accordance with its law related to privacy and data protection.

Article 21.6. Contact Points

1. The Parties designate the following Contact Points:

(a) for Canada:

Director

Temporary Workers Policy and Program Division

Social and Temporary Migration Branch

Citizenship and Immigration Canada

(b) for Ukraine:

Director

Department of Labor and Employment, or a successor

Ministry of Economy of Ukraine

Director

Legal Department, or a successor

State Employment Service of Ukraine

2. The Contact Points shall meet as required to exchange information as described in Article 21.5 and to consider matters pertaining to this Chapter, such as:

(a) the implementation and administration of this Chapter;

(b) the development and adoption of common criteria and interpretations for the implementation of this Chapter;

(c) the development of measures to further facilitate temporary entry of business persons on a reciprocal basis;

(d) proposed modifications to this Chapter; and

(e) consider any other matter arising under this Chapter.

Article 21.7. Dispute Settlement

1. A Party may not have recourse to dispute settlement under Chapter 28 (Dispute Settlement) regarding a refusal to grant temporary entry to business persons under this Chapter unless:

(a) the matter involves a pattern of practice;

(b) the business person who has been refused temporary entry has exhausted the applicable administrative remedies; and

(c) the Contact Points have been unable to resolve the issue.

2. The remedies referred to in subparagraph (1)(b) shall be deemed to have been exhausted if a final determination in the matter has not been issued by the competent authority within one year of the institution of an administrative proceeding, and the failure to issue a determination is not attributable to delay caused by the business person.

Article 21.8. Relation to other Chapters

1. This Agreement shall not impose an obligation on a Party regarding its immigration measures, except as specifically provided in this Chapter or Chapter 15 (Transparency, Anti-Corruption and Responsible Business Conduct).

2. Nothing in this Chapter shall be construed to impose obligations or commitments with respect to other Chapters of this Agreement.

Article 21.9. Review of Commitments

1. Within 5 years following the entry into force of this Agreement, the Parties shall consider updating their respective commitments under Annex 21-A to this Chapter.

Annex 21-A. Temporary Entry for Business Persons

Definitions

Intra-corporate transferee means a business person employed by an enterprise who seeks to render services to that enterprise or its subsidiary or affiliate as an executive, manager, or specialist;

executive means a business person within an enterprise who:

(a) primarily directs the management of the enterprise or a major component or function of the enterprise;

(b) establishes the goals and policies of the enterprise, or of a component or function of the enterprise; and

(c) exercises wide latitude in decision-making and receives only general supervision or direction from higher-level executives, the board of directors, or shareholders of the enterprise;

manager means a business person within an enterprise who:

(a) primarily directs the enterprise or a department or sub-division of the enterprise;

(b) supervises and controls the work of other supervisory, professional, or managerial employees;

(c) has the authority to hire and terminate employees or take other personnel actions, such as promotion or leave authorization; and

(d) exercises discretionary authority over day-to-day operations;

specialist means a business person within an enterprise possessing specialized knowledge of the enterprise's products or services and their application in international markets, knowledge of the enterprise's process and procedures, and an advanced level of expertise gained through significant and recent experience with the organization;

occupation means, with respect to Canada, an occupation listed in its National Occupational Classification (NOC), and with respect to Ukraine, an occupation listed in its National Classifier of Ukraine "Occupation Classifier" (1);

professional means a business person seeking to engage in an occupation set out in Appendix 21-2 and has:

(a) a post-secondary degree of at least three years of study from an institution recognized or accepted by the Party granting entry, as well as any other requirements for entry and to practice an occupation; and

(b) two years of paid work experience in the sector of activity of the contract.

In determining whether a professional meets the criteria and qualifications described in the definition above, a Party may take into account whether the salary paid by the employer is commensurate with other similarly qualified professionals.

(1) The National Classifier of Ukraine "Occupation Classifier" is created according to the methodological principles of ISCO-88 (ISCO 88: International Standard Classification of Occupations/ILO, Geneva).

Section A. Business Visitors

1. Each Party shall grant temporary entry for a period of up to 180 days within a 12-month period, with extensions possible, to a business person seeking to engage in a business activity set out under Appendix 21-1, without requiring that business person to obtain a work permit, provided that the business person otherwise complies with immigration measures applicable to temporary entry and upon presentation of evidence demonstrating that the proposed business activity as set out in Appendix 21-1 is international in scope and the business person is not seeking to enter the local labour market.

2. Each Party shall provide that a business person may satisfy the requirements of paragraph 1 by demonstrating that:

(a) the primary source of remuneration for the proposed business activity is outside the territory of the Party granting temporary entry; and

(b) the business person's principal place of business and the actual place of accrual of profits, at least predominantly, remain outside that Party's territory.

3. A Party shall normally accept an oral declaration as to the principal place of business and the actual place of accrual of profits. If the Party requires further proof, it should consider a letter from the employer attesting to these matters as sufficient proof.

4. A Party shall not:

(a) as a condition for temporary entry under paragraph 1, require prior approval procedures, labour market tests, or other procedures of similar effect; or

(b) impose or maintain any numerical restriction relating to temporary entry and the issuance of a work permit, under paragraph 1 or 2.

Section B. Investors

1. Each Party shall grant temporary entry and, upon request, a work permit for a period of up to one year to a business person seeking to establish, develop, or administer an investment in a capacity that is supervisory, executive, or involves essential skills, provided that the business person otherwise complies with immigration measures applicable to temporary entry and the business person or the business person's enterprise has committed, or is in the process of committing, a substantial amount of capital in the territory of the Party granting temporary entry.

2. Provided that the spouse of a business person admitted pursuant to paragraph 1 of this Section B complies with immigration measures applicable to temporary entry, each Party shall grant temporary entry and, upon request, a work permit, to that spouse. If a work permit is required, it may be granted either at the time the spouse is granted temporary entry or after the spouse enters the territory of that Party. The duration of temporary entry must coincide with that of the

business person the spouse is accompanying.

3. A Party shall not:

(a) as a condition for temporary entry and the issuance of a work permit under paragraph 1 or 2, require labour market tests or other procedures of similar effect; or

(b) impose or maintain any numerical restriction relating to temporary entry and the issuance of a work permit, under paragraph 1 or 2.

Section C. Intra-Company Transferees

1. Each Party shall grant temporary entry and a work permit for a period of up to three years, with extensions possible, to an intra-corporate transferee, provided that the intra-corporate transferee otherwise complies with immigration measures applicable to temporary entry. A Party may also require the intra-corporate transferee to have been employed continuously by the enterprise for one year within the three-year period immediately preceding the date of the application for temporary entry.

2. Provided that the spouse of a business person admitted pursuant to paragraph 1 of this Section C complies with immigration measures applicable to temporary entry, each Party shall grant temporary entry and, upon request, a work permit to that spouse. If a work permit is required, it may be granted either at the time the spouse is granted temporary entry or after the spouse enters the territory of that Party. The duration of temporary entry must coincide with that of the business person the spouse is accompanying.

3. A Party shall not:

(a) as a condition for temporary entry and the issuance of a work permit under paragraph 1 or 2, require labour market tests or other procedures of similar effect; or

(b) impose or maintain any numerical restriction relating to temporary entry and the issuance of a work permit under paragraph 1 or 2.

Section D. Professionals

1. Each Party shall grant temporary entry and a work permit for a period of up to one year (2), with extensions possible, to a professional who otherwise complies with immigration measures applicable to temporary entry and upon presentation of documentation demonstrating that the professional is seeking to enter the territory of the other Party to provide services which have been contracted prior to entry and in the field for which the professional has the appropriate qualifications.

2. Provided that the spouse of a business person admitted pursuant to paragraph 1 of this Section D complies with immigration measures applicable to temporary entry, each Party shall grant temporary entry and, upon request, a work permit to that spouse. If a work permit is required, it may be granted either at the time the spouse is granted temporary entry or after the spouse enters the territory of that Party. The duration of temporary entry must coincide with that of the business person the spouse is accompanying.

3. A Party shall not:

(a) as a condition for temporary entry and the issuance of a work permit under paragraph 1 or 2, require labour market tests or other procedures of similar effect; or

(b) impose or maintain any numerical restriction relating to temporary entry and the issuance of a work permit under paragraph 1 or 2.

(2) For greater certainty, a Party may issue a work permit for a professional with a duration of stay that is longer than one year.

Appendix 21-1. Activities for Business Visitors

Meetings and Consultations

Business persons attending meetings, seminars, or conferences; or engaged in consultations with business associates.

Research and Design

Technical, scientific, or statistical researchers conducting independent research or research for an enterprise located in the territory of the other Party.

Growth, Manufacture and Production

Purchasing or production management personnel, conducting commercial transactions for an enterprise located in the territory of the other Party.

Marketing

Market researchers or analysts conducting research or analysis independently or for an enterprise located in the territory of the other Party.

Trade-fair or promotional personnel attending a trade convention.

Sales

Sales representatives or agents taking orders or negotiating contracts for goods or services for an enterprise located in the territory of the other Party but not delivering goods or providing services.

Buyers purchasing for an enterprise located in the territory of the other Party.

Distribution

Transportation operators transporting goods or passengers to the territory of a Party from the territory of the other Party or loading and transporting goods or passengers from the territory of a Party, with no unloading in that territory, to the territory of the other Party.

Customs brokers providing consulting services regarding the facilitation of the import or export of goods.

After-Sales or After-Lease Service

Installers, repair or maintenance personnel, or supervisors, possessing specialized knowledge essential to a seller's contractual obligation, performing services or training workers to perform services, pursuant to a warranty or other service contract incidental to the sale or lease of commercial or industrial equipment or machinery, including computer software, purchased or leased from an enterprise located outside the territory of the Party into which temporary entry is sought, during the life of the warranty or service agreement.

General Service

Individuals engaged in a non-remunerated business activity associated to an occupation set out in Appendix 21-2.

Management or supervisory personnel engaging in a commercial transaction for an enterprise located in the territory of the other Party.

Financial services personnel, including insurers, bankers, or investment brokers, engaging in commercial transactions for an enterprise located in the territory of the other Party.

Tourism personnel, including tour and travel agents, tour guides, or tour operators, attending or participating in conventions or conducting a tour that has begun in the territory of the other Party.

Translators or interpreters performing services as employees of an enterprise located in the territory of the other Party.

Appendix 21-1. Professionals

The following occupations are covered under this Chapter:

all occupations listed, with respect to Canada's commitments to Ukraine, in NOC TEER 0 and NOC TEER 1, and with respect to Ukraine's commitments to Canada, in Section 1 (Subsections 12, 13, 14), Section 2 and Section 3 of National Classifier of Ukraine "Occupation Classifier", except for:

all health, education, and social services occupations and related occupations;

all professional occupations related to Cultural Industries;

Recreation, Sports, and Fitness Program and Service Directors;

Managers in Telecommunications Carriers;

Managers in Postal and Courier Services; and

Judges, Lawyers, and Notaries except for Foreign Legal Consultants.

Chapter 22. Telecommunications

Article 22.1. Definitions

For the purposes of this Chapter:

cost-oriented means based on cost, and may include a reasonable profit, and may involve different cost methodologies for different facilities or services;

end-user means a final consumer of or subscriber to a public telecommunications service, including a service supplier other than a supplier of public telecommunications services;

enterprise means an "enterprise" as defined in Article 1.5 (Definitions of General Application) and a branch of an enterprise;

essential facilities means facilities of a public telecommunications network or service that:

(a) are exclusively or predominantly provided by a single or a limited number of suppliers; and

(b) cannot feasibly be economically or technically substituted in order to supply a service;

interconnection means linking with suppliers providing public telecommunications networks or services to allow the users of one supplier to communicate with users of another supplier and to access services provided by another supplier;

leased circuits means telecommunications facilities between two or more designated points that are set aside for the dedicated use of, or availability to, particular users;

licence means any authorisation that a Party may require of a person, in accordance with its laws and regulations, in order for such a person to offer a telecommunications network or service, including concessions, permits, or registrations;

major supplier means a supplier that has the ability to materially affect the terms of participation having regard to price and supply in the relevant market for public telecommunications networks or services as a result of:

(a) control over essential facilities; or

(b) the use of its position in the market;

network element means a facility or equipment used in supplying a public telecommunications service, including features, functions, and capabilities provided by means of that facility or equipment;

non-discriminatory means treatment no less favourable than that accorded to any other user of like public telecommunications networks or services in like circumstances;

number portability means the ability of end-users of public telecommunications services to retain the same telephone numbers when switching between suppliers of public telecommunications services;

physical co-location means access to space in order to install, maintain, or repair equipment at premises owned or controlled and used by a major supplier to supply public telecommunications services;

public telecommunications network means telecommunications infrastructure used to provide public telecommunications services between and among defined network termination points;

public telecommunications service means a telecommunications service that a Party requires, explicitly or in effect, to be offered to the public generally that involves the real-time transmission of customer-supplied information between two or more points without any end-to-end change in the form or content of the customer's information. This service may include telephone and data transmission;

reference interconnection offer means an interconnection offer extended by a major supplier and filed with, approved by, or determined by a telecommunications regulatory body that sufficiently details the terms, rates, and conditions for

interconnection so that a supplier of public telecommunications services that is willing to accept it may obtain interconnection with the major supplier on that basis, without having to engage in negotiations with the major supplier concerned;

telecommunications means the transmission and reception of signals by electromagnetic means;

telecommunications regulatory body means any body or bodies responsible for the regulation of telecommunications;

user means an end-user or a supplier of public telecommunications networks or services; and

virtual co-location means an arrangement whereby a requesting supplier that seeks co-location may specify equipment to be used in the premises of a major supplier but does not obtain physical access to those premises and allows the major supplier to install, maintain, and repair that equipment.

Article 22.2. Scope of Application

1. This Chapter applies to measures of a Party affecting trade in public telecommunications services, including:

(a) a measure adopted or maintained by a Party in relation to access to and use of a public telecommunications service;

(b) a measure adopted or maintained by a Party relating to an obligation of a supplier of a public telecommunications service; and

(c) any other measure adopted or maintained by a Party relating to a public telecommunications service.

2. This Chapter shall not apply to measures affecting the cable or broadcast distribution of radio or television programming, except to ensure that cable or broadcast service suppliers have access to and use of public telecommunications networks and services.

3. Nothing in this Chapter shall be construed to:

(a) require a Party to authorize an enterprise of the other Party to establish, construct, acquire, lease, operate, or supply a telecommunications network or service, other than the former Party's commitments under Chapter 18 (Cross-Border Trade in Services); or

(b) require a Party, or require a Party to oblige an enterprise under its jurisdiction, to establish, construct, acquire, lease, operate, or supply a telecommunications network or service not provided to the public generally.

Article 22.3. Approaches to Regulation

1. The Parties recognise the value of competitive markets to deliver a wide choice in the supply of telecommunications services and to enhance consumer welfare, and that regulation may not be needed if there is effective competition. Accordingly, the Parties recognise that regulatory needs and approaches differ market by market, and that each Party may determine how to implement its obligations under this Chapter.

2. In this respect, the Parties recognise that a Party may:

(a) engage in direct regulation either in anticipation of an issue that the Party expects may arise or to resolve an issue that has already arisen in the market;

(b) rely on the role of market forces, particularly with respect to market segments that are, or are likely to be, competitive or that have low barriers to entry, such as services provided by suppliers of telecommunications services that do not own network facilities; or

(c) use any other appropriate means that benefit the long-term interest of end-users.

Article 22.4. Access to and Use of Public Telecommunications Networks or Services

1. Each Party shall ensure that an enterprise of the other Party is accorded access to and use of public telecommunications networks and services, including leased circuits, offered in its territory or across its borders, and on terms and conditions that are reasonable and non-discriminatory, through paragraphs 2 through 6.

2. Subject to paragraphs 5, 6, and 7, each Party shall ensure that enterprises of the other Party are permitted to:

(a) purchase or lease and attach terminal or other equipment that interfaces with a public telecommunications network and that is necessary to supply their services;

(b) connect leased or owned circuits with public telecommunications networks and services, or with circuits leased or owned by another service supplier;

(c) use operating protocols of their choice; and

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

3. Each Party shall ensure that enterprises of the other Party may use public telecommunications networks and services for the movement of information in its territory or across its borders, including for intra-corporate communications of such service suppliers, and for access to information contained in databases or otherwise stored in machine-readable form in the territory of any Party.

4. Notwithstanding paragraph 3, a Party may take measures that are necessary to ensure the security and confidentiality of messages and to protect the personal information of end users of public telecommunications networks or services, provided that such measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade in services.

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

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

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

6. For greater certainty, a Party may impose a condition on access to and use of public telecommunications networks and services pursuant to Article 29.3 (National Security).

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

(a) a requirement to use specified technical interfaces, including interface protocols, for connection with public telecommunications networks and services;

(b) a requirement, where necessary, for the inter-operability of public telecommunications networks and services;

(c) type approval of terminal or other equipment that interfaces with public telecommunications networks and technical requirements relating to the attachment of such equipment to public telecommunications networks;

(d) a restriction on connection of leased or owned circuits with public telecommunications networks or services or with circuits leased or owned by other service suppliers; or

(e) a requirement for notification and licensing.

Article 22.5. Number Portability

Each Party shall ensure that a supplier of public telecommunications services in its territory provides mobile number portability without impairment to quality and reliability for mobile services, on a timely basis, and on terms and conditions that are reasonable and non-discriminatory.

Article 22.6. Competitive Safeguards

1. Each Party shall adopt or maintain appropriate measures for the purpose of preventing suppliers that, alone or together, are a major supplier from engaging in or continuing anti-competitive practices.

2. The anti-competitive practices referred to in paragraph 1 shall include, in particular:

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

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

(c) not making available to other suppliers of public telecommunications networks or services, on a timely basis, technical

information about essential facilities and commercially relevant information which are necessary for them to provide services.

Article 22.7. Treatment by Major Suppliers

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

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

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

Article 22.8. Resale

Each Party may determine, in accordance with its laws and regulations, which public telecommunications services must be offered for resale by a major supplier based on the need to promote competition or to benefit the long-term interests of end-users. Where a Party has determined that a service must be offered for resale by a major supplier, that Party shall ensure that any major supplier in its territory does not impose unreasonable or discriminatory conditions or limitations on the resale of that service.

Article 22.9. Interconnection: Obligations Relating to Suppliers of Public Telecommunications Services

1. Each Party shall ensure that a supplier of public telecommunications services in its territory provides, directly or indirectly, interconnection with the suppliers of public telecommunications networks or services of the other Party.

2. Each Party shall provide its telecommunications regulatory body with the authority to require interconnection at reasonable rates.

3. In carrying out paragraph 1, each Party shall ensure that suppliers of public telecommunications services in its territory take reasonable steps to protect the confidentiality of commercially sensitive information of, or relating to, suppliers and end-users of public telecommunications services obtained as a result of interconnection arrangements and that those suppliers only use that information for the purpose of providing these services.

Article 22.10. Interconnection: Obligations Relating to Major Suppliers

1. Each Party shall ensure that a major supplier in its territory provides interconnection for the facilities and equipment of suppliers of public telecommunications networks and services of the other Party at any technically feasible point in the major supplier's network. Such interconnection shall be provided:

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

(b) of a quality no less favourable than that provided by the major supplier for its own like services, for like services of non-affiliated service suppliers, or for its subsidiaries or other affiliates;

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

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

2. Each Party shall ensure that a major supplier in its territory provides suppliers of public telecommunications services of the other Party with the opportunity to interconnect their facilities and equipment with those of the major supplier through at least one of the following options:

(a) a reference interconnection offer or any other interconnection offer containing the rates, terms, and conditions that the major supplier offers generally to suppliers of public telecommunications services;

(b) the terms and conditions of an interconnection agreement that is in effect; or

(c) a new interconnection agreement through commercial negotiation.

3. Each Party shall ensure that the procedures applicable for interconnection to a major supplier are made publicly available.

4. Each Party shall provide means for suppliers of the other Party to obtain the rates, terms, and conditions necessary for interconnection offered by a major supplier. Those means include, at a minimum, ensuring the public availability of:

(a) interconnection agreements that are in effect between a major supplier in its territory and other suppliers of public telecommunications services in its territory;

(b) rates, terms, and conditions for interconnection with a major supplier set by the telecommunications regulatory body or other competent body; or

(c) a reference interconnection offer.

Services for which those rates, terms, and conditions are made publicly available do not have to include all interconnection-related services offered by a major supplier, as determined by a Party under its laws and regulations.

Article 22.11. Access to Essential Facilities

1. Each Party shall ensure that a major supplier in its territory makes available its essential facilities, which may include network elements and associated facilities, to suppliers of public telecommunications services of the other Party on reasonable and non-discriminatory terms and conditions.

2. Each Party shall provide its regulatory body with the authority to determine those essential facilities required to be made available in its territories, in accordance with its laws and regulations.

Article 22.12. Co-location

1. Each Party shall ensure that a major supplier that has control over essential facilities in its territory allows suppliers of public telecommunications services of the other Party physical co-location of their equipment necessary for interconnection or access to unbundled network elements, based on a generally available offer on a timely basis, and on terms and conditions, including technical feasibility and space availability where applicable, and at rates that are reasonable, non-discriminatory, and transparent.

2. Where physical co-location is not practical for technical reasons or because of space limitations, each Party shall endeavour to ensure that a major supplier in its territory provides an alternative solution, such as facilitating virtual co-location, based on a generally available offer, on a timely basis, and on terms and conditions and at cost-oriented rates that are reasonable, non-discriminatory, and transparent.

3. A Party may determine, in accordance with its laws and regulations, which premises owned or controlled by major suppliers in its territory are subject to paragraphs 1 and 2, having regard to factors such as the state of competition in the market where co-location is required, and whether such premises can feasibly be economically or technically substituted in order to provide a competing service.

Article 22.13. International Submarine Cable Systems

Where a Party has authorised a major supplier in its territory to operate an international submarine cable system as a public telecommunications service, that Party shall ensure that the major supplier accords a supplier of public telecommunications services of the other Party access to the international submarine cable system on reasonable and non-discriminatory terms and conditions.

Article 22.14. Independent Telecommunications Regulatory Body

1. Each Party shall ensure that its telecommunications regulatory body is separate from, and not accountable to, any supplier of public telecommunications services. With a view to ensuring the independence and impartiality of telecommunications regulatory bodies, each Party shall ensure that its telecommunications regulatory body does not hold a financial interest or maintain an operating or management role in any supplier of public telecommunications services.

2. Each Party shall ensure that the regulatory decisions of, and the procedures used by, its telecommunications regulatory body are impartial with respect to all market participants.

Article 22.15. Universal Service

Each Party has the right to define the kind of universal service obligations it wishes to maintain. Such obligations shall not be regarded as anti-competitive per se, provided that they are administered in a transparent, non-discriminatory, and competitively neutral manner, and are not more burdensome than necessary for the kind of universal service defined by the Party.

Article 22.16. Licensing

1. If a Party requires a supplier of public telecommunications services to have a licence, the Party shall ensure the public availability of:

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

(b) the period that it normally requires to reach a decision concerning an application for a licence; and

(c) the terms and conditions of all licences in effect.

2. The Party shall notify an applicant of the outcome of its application without undue delay after a decision has been taken.

3. Each Party shall ensure that, upon request, an applicant or a licensee is provided with the reasons for the:

(a) denial of a licence;

(b) imposition of supplier-specific conditions on a licence;

(c) refusal to renew a licence; or

(d) revocation of a licence.

Article 22.17. Allocation and Use of Scarce Resources

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

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

3. For greater certainty, a measure of a Party that allocates or assigns spectrum or manages frequency is not in itself inconsistent with Article 18.5 (Market Access), either as it applies to cross-border trade in services or through the operation of Article 18.2 (Scope) to an investor or covered investment of the other Party. Accordingly, each Party retains the right to establish and apply spectrum and frequency management policies that may have the effect of limiting the number of suppliers of public telecommunications networks or services, provided that the Party does so in a manner that is consistent with this Agreement. This includes the ability to allocate frequency bands, taking into account current and future needs and spectrum availability.

4. When making a spectrum allocation for commercial telecommunications services, each Party shall endeavour to rely on an open and transparent process that considers the public interest, including the promotion of competition. Each Party shall endeavour to rely generally on market-based approaches in assigning spectrum for terrestrial commercial telecommunications services, if appropriate. To this end, each Party may use mechanisms such as auctions, administrative incentive pricing, or unlicensed use, if appropriate, to assign spectrum for commercial use.

Article 22.18. Transparency

1. Further to Article 15.2(2) (Publication), each Party shall endeavour to ensure that when its telecommunications regulatory body seeks input on a proposal for a law or regulation, that body provides relevant suppliers of public telecommunications networks or services of the other Party operating in its territory an opportunity to comment. That body shall:

(a) make the proposal public or otherwise available to any interested persons;

(b) include an explanation of the purpose of and reasons for the proposal;

(c) provide interested persons with adequate public notice of the ability to comment and reasonable opportunity for such comment;

(d) to the extent practicable, make publicly available all relevant comments filed with it; and

(e) respond to all significant and relevant issues raised in comments filed, in the course of issuance of the final regulation.

2. Each Party shall ensure that relevant information on conditions affecting access to and use of public telecommunications networks or services is publicly available, including:

(a) tariffs and other terms and conditions of service;

(b) specifications of technical interfaces with such networks and services;

(c) information on bodies responsible for the preparation and adoption of standards affecting such access and use;

(d) conditions for attaching terminals or other equipment; and

(e) requirements for notification or licensing, if any.

Article 22.19. Enforcement

Each Party shall provide its competent authority with the authority to enforce the Party's measures relating to the obligations set out in Article 22.4 (Access to and Use of Public Telecommunications Networks or Services), Article 22.5 (Number Portability), Article 22.6 (Competitive Safeguards), Article 22.7 (Treatment by Major Suppliers), Article 22.8 (Resale), Article 22.9 (Interconnection: Obligations Relating to Suppliers of Public Telecommunications Services), Article 22.10 (Interconnection: Obligations Relating to Major Suppliers), Article 22.11 (Access to Essential Facilities), Article 22.12 (Co-Location), and Article 22.13 (International Submarine Cable Systems). That authority shall include the ability to impose effective sanctions, which may include financial penalties, injunctive relief (on an interim or final basis), or the modification, suspension or revocation of licences.

Article 22.20. Resolution of Telecommunications Disputes

1. Each Party shall ensure that an enterprise of the other Party may have timely recourse to a telecommunications regulatory body or other relevant body of the Party to resolve disputes arising under this Chapter.

2. Each Party shall ensure that suppliers of public telecommunications services of the other Party that have requested interconnection with a major supplier in the Party's territory may seek review, within a reasonable and publicly specified period of time after the supplier requests interconnection, by its telecommunications regulatory body to resolve disputes regarding the terms, conditions and rates for interconnection with that major supplier.

3. Each Party shall ensure that any supplier of public telecommunications networks or services aggrieved by a final determination or decision of its relevant telecommunications regulatory body may obtain a review of such determination or decision in accordance with its laws and regulations.

4. A Party shall not permit the making of an application for review to constitute grounds for non-compliance with the determination or decision of its telecommunications regulatory body, unless its relevant body determines otherwise.

Article 22.21. Relation to International Organisations

The Parties recognise the importance of international standards for global compatibility and interoperability of telecommunications networks and services, and undertake to promote such standards through the work of relevant international bodies.

Article 22.22. Relation to other Chapters

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

Chapter 23. Trade and Gender

Article 23.1. General Understandings

1. The Parties acknowledge the importance of incorporating a gender perspective into the promotion of inclusive economic growth, and the key role that coherent gender responsive domestic and international trade policies can play in achieving sustainable socioeconomic development. Inclusive economic growth aims to distribute benefits across the entire population by providing equitable opportunities for the participation of diverse groups of women and men in business, industry, and the labour market.

2. The Parties affirm the importance of promoting gender equality policies and practices, building and strengthening the capacity of the Parties in this area, including in non-government sectors, to promote equal rights, equal treatment and opportunities for women and men, and the elimination of all forms of discrimination against women.

3. The Parties acknowledge that international trade and investment are engines of economic prosperity and sustainable development, and that improving women's access to opportunities, eliminating all forms of discrimination against women, and removing gender-related and other barriers to international trade and investment, enhance women's participation in national and international economies and contribute to sustainable economic development.

4. Each Party affirms its commitment to promoting gender equality through, as appropriate, laws, regulations, policies, and practices.

5. The Parties affirm that all women and other genders have the right to the full range of economic rights, without the consent of another person in any relationship capacity.

6. Each Party shall domestically promote public knowledge of its gender equality laws, regulations, policies, and practices.

7. The Parties acknowledge the important work being done on trade and gender in multilateral forums, such as the WTO. The Parties shall endeavour to work together in these forums, if possible, to advance knowledge and understanding of the trade and gender nexus and ensure that women can participate in and benefit from trade. If possible, the Parties may consider voluntary reporting on women in trade at the WTO Trade Policy Review Mechanism.

Article 23.2. International Instruments

1. Each Party affirms its commitment to implement its obligations under the Convention on the Elimination of All Forms of Discrimination Against Women, done at New York on 18 December 1979, and to give due consideration to the general comments made by its Committee.

2. The Parties recognize Goal 5 of the Sustainable Development Goals in the United Nations 2030 Agenda for Sustainable Development, which is to achieve gender equality and empower all women and girls.

3. Each Party affirms its commitment to implement its obligations under the Convention on the Rights of Persons with Disabilities, done at New York on 13 December 2006, and to give due consideration to the general recommendations made by its Committee.

4. The Parties recognize the importance to promote the objectives of the Beijing Declaration and Platform for Action (1995), in particular its strategic objective to promote women's economic rights and independence.

5. Each Party affirms its commitment to implement the Buenos Aires Joint Declaration on Trade and Women's Economic Empowerment (2017) of the Eleventh WTO Ministerial Conference (MC11).

6. Each Party affirms its commitment to implement the obligations addressing gender equality or women's rights under any other international agreement to which it is a party.

7. For the purpose of this Agreement, the Parties shall use the definitions to the extent possible of women-owned business, women-led business, and women-led cooperative, established on 8 March 2021 by the International Organisation for Standardisation (ISO) and the International Trade Centre (ITC).

Article 23.3. Non-Derogation

1. A Party shall not fail to implement its laws that ensure equal rights and equal opportunities for women and men through a sustained or recurring course of action or inaction in a manner affecting trade or investment between the Parties.

2. A Party shall not weaken or reduce the protection afforded to women and men in its gender equality laws, regulations,

and policies in order to encourage trade or investment between the Parties or between them and any other economy.

Article 23.4. Cooperation Activities

1. The Parties acknowledge the benefit of sharing their respective experiences and practices in designing, implementing, monitoring, evaluating, and strengthening policies and programs to encourage women's participation in national and international economies.

2. The Parties shall carry out cooperation activities designed to improve the capacity, competitiveness, and conditions for women, including workers, business women, business owners, and entrepreneurs, to access and fully benefit from the opportunities created by this Agreement. The Parties shall carry out these activities with the inclusive participation of women in all their diversity.

3. The Parties shall be proactive and results-oriented in carrying out cooperation activities under this Chapter, and shall be guided by the principles of:

(a) equity, diversity, inclusivity, intersectionality, and gender balance;

(b) evidence-based decision-making;

(c) stakeholder engagement;

(d) accountability and transparency; and

(e) openness, flexibility, and reasonableness.

4. The Parties shall carry out cooperation activities on issues and topics determined by the Parties through the interaction of their respective government institutions, businesses, labour unions, education and research organizations, other non-governmental organizations, and their representatives, as appropriate.

5. Areas of cooperation may include:

(a) developing programs that encourage capacity-building and skills enhancement of women at work, in business, and at leadership levels in all sectors, to promote women's full participation and advancement in the economy and international trade, including on corporate boards;

(b) improving women's access to, and participation and leadership in, science, technology, and innovation, including education in science, technology, engineering, mathematics, and business;

(c) promoting financial inclusion, education, and training for women, as well as promoting access to financial assistance including trade and microfinancing;

(d) promoting business development services for women, and programs to improve women's digital skills and access to online business tools;

(e) developing better practices to promote gender equality within institutions and businesses;

(f) fostering women's representation in decision-making positions in public, private, and not-for-profit sectors;

(g) promoting women-owned businesses, competitiveness, and internationalization, in order to enhance their access to government procurement markets and local, regional, and global supply chains;

(h) developing trade missions for business women and women entrepreneurs;

(i) supporting economic opportunities for under-represented women;

(j) promoting women's participation in standards development and implementation, including through standards bodies and sharing best practices;

(k) sharing methods and procedures for the collection of sex-disaggregated data, the use of indicators, and the analysis of gender-focused statistics related to trade;

(l) sharing information on advancing non-discrimination in the workplace; and

(m) other issues as decided by the Parties.

6. The Parties may carry out activities in the cooperation areas set out in paragraph 5 through:

(a) workshops, seminars, dialogues, and other forums for exchanging knowledge, experiences, and best practices;

(b) internships, visits, and research studies to document and study policies and practices;

(c) collaborative research and development of best practices in subject matters of mutual interest;

(d) specific exchanges of specialized technical knowledge and technical assistance; and

(e) other means as decided by the Parties.

7. The Parties shall decide the priorities for cooperation activities based on their interests and available resources.

Article 23.5. Committee on Trade and Gender

1. The Parties hereby establish a Trade and Gender Committee (the "Committee") composed of representatives from each Party, including gender equality experts.

2. The Committee shall:

(a) determine, organize, and facilitate the cooperation activities under Article 23.4;

(b) report and make recommendations, as appropriate, to the Joint Commission referred to in Article 27.1 on any matter related to this Chapter;

(c) facilitate the exchange of information on each Party's experiences and best practices with respect to the establishment and implementation of policies and programs that address trade and gender-related issues, in order to achieve the greatest possible benefit under this Agreement;

(d) facilitate the exchange of information on the Parties' experiences and lessons learned through the cooperation activities carried out under Article 23.4;

(e) discuss joint proposals to support policies and other initiatives on trade and gender;

(f) invite international donor institutions, private sector entities, non-governmental organizations, or other relevant institutions, as appropriate, to assist with the development and implementation of cooperation activities;

(g) encourage multilateral and regional organizations to finance projects to enable women-owned businesses to participate in trade;

(h) consider matters related to the implementation and operation of this Chapter;

(i) at the request of a Party, consider and discuss matters that may arise related to the interpretation and application of this Chapter; and

(j) carry out other duties as determined by the Parties.

3. The Committee shall meet as decided by the Parties, and annually thereafter or as otherwise decided by the Parties, in person or by any other technological means available, to consider any matter arising under this Chapter.

4. In the performance of its duties, the Committee may work with any other body established under this Agreement.

5. The Committee may request that the Joint Commission refer work to be conducted under this Article to any other body established under this Agreement.

6. The Parties may invite experts or relevant organizations to Committee meetings to provide information.

7. The Committee shall periodically review the cooperation activities carried out under Article 23.4, as well as the implementation of this Chapter and gender-related provisions of this Agreement. The Committee shall report and make recommendations to the Joint Commission on this review and other matters as necessary.

Article 23.6. Dispute Settlement

1. The Parties shall make all possible efforts, through dialogue, consultations, and cooperation, to resolve any matter that may arise relating to this Chapter.

2. If the Parties cannot resolve the matter in accordance with paragraph 1, they may consent to submit the matter to dispute settlement under Chapter 28 (Dispute Settlement).

Chapter 24. Trade and Small and Medium-Sized Enterprises

Article 24.1. General Provisions

1. The Parties recognize the participation of SMEs in domestic markets, as well as in international trade and investment, and their contribution in achieving inclusive economic growth, sustainable development, and enhanced productivity, and acknowledge the importance of promoting an environment that facilitates and supports the development, growth, and competitiveness of SMEs.

2. The Parties recognize the fundamental role of SMEs in creating and maintaining dynamism and enhancing competitiveness of the economies of the Parties. Accordingly, each Party shall endeavor to develop and promote cooperation on SMEs, with the purpose of contributing to the expansion, diversification, and deepening of economic and commercial ties between the Parties.

3. The Parties recognize that improving the ability of SMEs to participate in trade and investment will enhance their competitiveness. Accordingly, each Party shall endeavor to the extent possible to identify and as appropriate remove barriers to international trade and investment for SMEs.

4. The Parties recognize the importance of innovation for SMEs' competitiveness. Accordingly, each Party shall endeavor to enhance SMEs' access to information, financing, and networking to facilitate the innovation of SMEs.

5. Each Party shall take into account that SMEs may require support when enhancing the growth, competitiveness, and access of SMEs to international trade and investment.

6. Each Party may encourage SMEs operating within its territory or subject to its jurisdiction to observe internationally recognized standards, guidelines, and principles of responsible business conduct (RBC), as appropriate.

7. The Parties recognize the importance of current initiatives on SMEs developed under relevant forums, and the importance of taking into account their findings and recommendations, as appropriate.

Article 24.2. Information Sharing

1. Each Party shall make available, and update to the extent possible and as appropriate, information regarding this Agreement through a digital medium, including:

(a) the text of this Agreement, including annexes, tariff schedules, and product specific rules of origin;

(b) a summary of this Agreement; and

(c) information designed for SMEs that contains:

(i) a description of the provisions in this Agreement that the Party considers to be relevant to SMEs; and

(ii) any additional information that the Party considers useful for SMEs interested in benefiting from the opportunities provided by this Agreement.

2. Each Party shall include links to:

(a) the equivalent webpage of the other Party; and

(b) the websites or webpages of its own government agencies and other appropriate entities that provide information the Party considers useful to any person interested in trading, investing, or doing business in that Party's territory.

3. The information described in paragraph 2(b) may include:

(a) customs regulations and procedures;

(b) regulations and procedures concerning intellectual property rights;

(c) information to enhance SMEs' cybersecurity;

(d) technical regulations, standards, conformity assessment procedures, and sanitary and phytosanitary measures relating

to importation and exportation;

(e) foreign investment regulations;

(f) business registration procedures;

(g) trade promotion programs including start-up promotion programs;

(h) SME financing programs;

(i) employment regulations; and

(j) taxation information.

4. Each Party shall ensure that the information referred to in this Article is accessible within the timeframe decided by the Parties.

5. Each Party, as appropriate, shall ensure the information referred to in this Article is available in its own official language(s).

Article 24.3. Cooperation Activities on SMEs

1. The Parties recognize the importance of cooperation activities between the Parties to support the objectives of this Chapter.

2. The Parties shall endeavour to involve the private sector and SME-related support agencies in the development and implementation of these activities, as appropriate.

3. The Parties shall collaborate to identify and as appropriate remove barriers to international trade for SMEs, support productive sectors in which SMEs operate, and promote the growth and creation of higher paying, more productive jobs by SMEs.

4. Cooperation activities may include:

(a) facilitating the exchange of best practices concerning public policies and programs, including on: improving SMEs' access to capital and credit, including government financing instruments; SMEs' cyber security; and the collection and analysis of gender-disaggregated data;

(b) promoting cooperation between the Parties' small business support infrastructure to create an international network for sharing best practices, developing SMEs' capacity and culture, including SMEs' entrepreneurs, exchanging market research, and promoting SME participation in international trade, and business growth in local markets and enhancing integration into global value chains;

(c) encouraging SMEs' participation in platforms, such as web-based platforms, for business entrepreneurs and counsellors to share information and best practices to help SMEs link with international suppliers, buyers, and other potential business partners;

(d) supporting SMEs' digital-related skills development to enhance their participation in electronic commerce and digital trade in order to take advantage of the opportunities resulting from this Agreement and rapidly access new markets;

(e) promoting the organization of trade promotion networks and business forums, and the joint implementation of seminars, conferences, symposiums, business roundtables, or other related activities to explore business, industrial, and technical opportunities, and to inform SMEs of the benefits available to them under this Agreement;

(f) improving SMEs' access to, and participation, leadership, and entrepreneurship in, science, technology, and innovation related to business and trade, including education in science, technology, engineering, mathematics, and business; and

(g) exchanging information and best practices on SME-related cybersecurity programs, cybersecurity and privacy regulations, standards, controls, and conformity assessment measures to improve SMEs' cybersecurity posture.

5. The Parties may endeavor to collaborate within existing international forums to promote and advance the interests of SMEs and their participation in international trade and investment.

Article 24.4. Committee on SMEs

1. The Parties hereby establish a Committee on SMEs (hereafter the "Committee"), composed of representatives from each Party.

2. The Committee shall:

(a) identify ways to assist SMEs of each Party to take advantage of the commercial opportunities under this Agreement;

(b) exchange and discuss experiences and best practices in supporting and assisting SME exporters with respect to, among other things, training programs, trade education, trade finance, trade missions, trade facilitation, electronic commerce and digital trade, cooperative business practices, identifying commercial partners in the other Party, and establishing good business credentials;

(c) review and coordinate the Committee's work program with the work of other committees, subcommittees, and contact points;

(d) review the implementation and operation of this Chapter and SME-related provisions within this Agreement and report findings and make recommendations to the Joint Commission that can be included in future work and SME assistance programs as appropriate; and

(e) consider any other matter pertaining to SMEs as the Committee may decide, including issues raised by SMEs regarding their ability to benefit from this Agreement.

3. The Committee shall meet as mutually decided by the Parties. Committee meetings may be held in person, by videoconference, by telephone, or by other means.

4. The Committee may seek to collaborate with appropriate experts, international donor organizations, SMEs, including workers, and business advocacy representatives and associations, in developing and carrying out its programs and activities.

Article 24.5. Non-Application of Dispute Settlement

A Party shall not have recourse to dispute settlement under Chapter 28 (Dispute Settlement) for any matter arising under this Chapter.

Chapter 25. Trade and Indigenous Peoples

Article 25.1. General Provisions

1. For the purposes of this Chapter, Indigenous Peoples means:

(a) for Canada, Aboriginal peoples (including First Nations, Inuit, and Métis peoples) as defined in subsection 35(2) of the Constitution Act, 1982 of Canada;

(b) for Ukraine, Karaite, Crimean Tatar, and Krymchak, including those based on the Crimean Peninsula.

2. The Parties recognize that the history of Indigenous Peoples in Canada and the history of Indigenous Peoples in Ukraine, including those found on the Crimean Peninsula, set the unique context for the domestic policies of each Party.

3. The Parties further recognize that since Indigenous Peoples have been engaged in trade since time immemorial, trade is fundamental to Indigenous histories, identities, cultural heritage, and economic prosperity.

4. The Parties acknowledge that international trade and investment contribute to sustainable development, innovation and prosperity, and that improving Indigenous Peoples' access to international trade and investment opportunities will enhance their ability to participate in and benefit from economic activity, including trade and investment.

5. The Parties commit to implementing constructive, innovative, and inclusive practices to ensure that Indigenous Peoples have access to the benefits of this Agreement.

6. The Parties affirm that effective coordination and implementation of policies, programs, and projects, including the identification and removal of barriers to trade and increasing international trade and investment opportunities for, by, and between Indigenous Peoples, can further contribute to sustainable economic development and the ability of Indigenous Peoples to participate in and benefit from economic activity.

7. The Parties acknowledge that Indigenous Peoples have the right to maintain and develop their economic systems and institutions, and to engage freely in all their traditional and other economic activities in a manner consistent with the law of

each Party.

8. The Parties affirm that Indigenous Peoples have the right to all human rights and fundamental freedoms, including those recognized under the Charter of the United Nations, the Universal Declaration of Human Rights, and in the United Nations Declaration on the Rights of Indigenous Peoples.

9. The Parties affirm that Indigenous Peoples have the right to be free from discrimination and the right to enjoy fully all rights recognized under applicable international or domestic law, including with respect to their participation in international trade.

10. Each Party recalls its commitment to implement the multilateral environmental agreements to which it is a Party.

11. The Parties acknowledge the importance of the United Nations 2030 Agenda for Sustainable Development and the importance of achieving the Sustainable Development Goals given their relevance to Indigenous Peoples, including how they relate to the protection of lands, waters, and natural resources, and how they support the conditions for sustainable and inclusive economic development.

Article 25.2. Non-Derogation

A Party shall not weaken or reduce protections for Indigenous Peoples in its laws and regulations, so as to encourage international trade and investment between the Parties, or between the Parties and any other economy.

Article 25.3. Responsible Business Conduct

1. Each Party shall encourage businesses operating within its territory or subject to its jurisdiction to incorporate into their internal policies and practices the internationally recognized standards, guidelines, and principles of responsible business conduct that have been endorsed, supported, or are observed by the Party.

2. The Parties recognize that it is imperative that businesses operating within their territory or subject to their jurisdiction respect the rights of Indigenous Peoples that are recognized and affirmed within this Agreement and under international or domestic law.

Article 25.4. Cooperation Activities to Facilitate Indigenous Peoples' Participation In International Trade and Investment

1. The Parties acknowledge the importance of implementing measures to foster and enhance the participation of Indigenous Peoples in domestic and international economic activity.

2. The Parties shall facilitate the exchange of experiences and shall implement cooperation activities to promote and enhance Indigenous Peoples' participation in international trade and investment, including government procurement opportunities.

3. The Parties shall endeavor to engage in ongoing bilateral discussions to undertake cooperation activities guided by the following principles:

(a) respect and partnership;

(b) equity, diversity, and gender balance;

(c) accountability and transparency; and

(d) openness, flexibility, and pragmatism.

4. The Parties recognize the importance of undertaking cooperation activities that are designed to facilitate dialogue, and to enhance the ability of Indigenous-owned businesses to fully access and benefit from the opportunities created by this Agreement.

5. The Parties shall jointly facilitate cooperation activities while engaging with Indigenous Peoples, as appropriate, so that the opportunities created by this Agreement may more effectively support the objectives, priorities, and interests of Indigenous Peoples. These cooperation activities may include:

(a) considering ways to facilitate the engagement of Indigenous Peoples in international trade and investment, including programs designed to encourage capacity building and skills enhancement, such as digital skills;

(b) supporting Indigenous Peoples in identifying barriers to their participation in international trade and investment, and in designing strategies to remove those barriers;

(c) considering ways to improve access to capital and financing, including export financing;

(d) exchanging best practices on promoting successful, innovative, and environmentally sustainable Indigenous-owned businesses;

(e) supporting Indigenous Peoples in their use of e-commerce to sell Indigenous products and services domestically and internationally;

(f) promoting businesses owned by Indigenous women, including activities to support the internationalization of micro, small, and medium-sized enterprises, including cooperatives and social enterprises;

(g) fostering Indigenous business leadership and networks;

(h) exploring opportunities to facilitate each Party's work in developing and enhancing export counselling, assistance, and training programs for Indigenous owned-businesses;

(i) exchanging information, expertise, and best practices on facilitating access to existing supply chains for Indigenous-owned businesses and the promotion and development of Indigenous supply chains;

(j) considering ways to encourage businesses to seek products and services from Indigenous-owned businesses; and

(k) any other issue as decided by the Parties.

6. The Parties may invite international institutions, businesses, non-governmental organizations, or other relevant institutions, as appropriate, to assist with the development and implementation of cooperation activities under this Article.

7. Within one year of the date of entry into force of this Agreement, each Party shall endeavor to establish a webpage with information to promote awareness of the opportunities created by this Agreement for Indigenous Peoples, including a list of activities planned or undertaken under this Article, and will regularly update and maintain the webpage, as appropriate.

8. The Parties may cooperate, as appropriate, in international and multilateral forums to advance the participation of Indigenous Peoples in international trade, including at the WTO.

Article 25.5. Committee on Trade and Indigenous Peoples

1. The Parties hereby establish a Committee on Trade and Indigenous Peoples (the "Trade and Indigenous Peoples Committee") composed of representatives from each Party, responsible for matters covered by this Chapter. As appropriate, each Party may wish to invite representatives of Indigenous institutions, including Indigenous rights holders and partners.

2. The purpose of the Trade and Indigenous Peoples Committee is to oversee the implementation of this Chapter, and its functions may include:

(a) providing a forum to discuss and review any matters related to the operation and implementation of this Chapter;

(b) providing coordination and oversight of the cooperation activities under Article 25.4;

(c) working with other committees, working groups, and subsidiary bodies established under this Agreement to ensure that Indigenous Peoples can benefit fully from this Agreement;

(d) preparing and making publicly available, on an annual basis, a report with respect to its activities under this Chapter;

(e) providing recommendations, if necessary, to the Joint Commission; and

(f) performing any other functions that the Parties may decide.

3. The Trade and Indigenous Peoples Committee shall meet in person or by any other technological means available within one year of the date of entry into force of this Agreement, and thereafter as decided by the Parties to consider any matters arising under this Chapter.

Article 25.6. Provisions In the Agreement That Benefit Indigenous Peoples

The Parties recognize that there are provisions in other Chapters of this Agreement that seek to enhance cooperation

between the Parties on Indigenous economic issues or that otherwise may contribute to further enhance the participation of Indigenous Peoples in international trade and investment opportunities derived from this Agreement. These include: Chapter 10 (Designated Monopolies and State-Owned Enterprises); Chapter 11 (Government Procurement); Chapter 13 (Environment); Chapter 17 (Investment); and Chapter 29 (Exceptions).

Article 25.7. Dispute Settlement

A Party shall not have recourse to dispute settlement under Chapter 28 (Dispute Settlement) for any matter arising under this Chapter.

Chapter 26. Good Regulatory Practices

Article 26.1. Definitions

For the purposes of this Chapter:

covered regulatory measures means the regulatory measures determined by each Party to be covered by this Chapter under Article 26.3; and

regulatory authority means a regulation making authority at the central level of government.

Article 26.2. General Provisions

1. For the purposes of this Chapter, good regulatory practices refers to the use of best practices in the preparation, planning, designing, issuing, adoption, implementation, performance monitoring, and review of regulatory measures in order to facilitate the achievement of public policy objectives.

2. The Parties recognize that implementation of government-wide practices to promote regulatory quality through greater transparency, objective analysis, accountability, and predictability, which are based on principles of the public regulatory policy of the Party and can facilitate international trade, investment, and economic growth, while contributing to each Party's ability to achieve its public policy objectives (including health, safety, and environmental objectives) at the level of protection it considers appropriate.

3. Regulatory authorities of the Parties shall endeavour to enhance cooperation and to prevent, reduce, or eliminate unnecessary regulatory requirements to facilitate trade and promote economic growth, while maintaining or enhancing standards of public health and safety and environmental protection.

4. The Parties affirm the importance of:

(a) maintaining and enhancing the benefits of cooperation promoted by the Parties under this Agreement through good regulatory practices that facilitate increased trade in goods and services, as well as investment between the Parties;

(b) each Party's right to identify its regulatory priorities and to establish and implement regulatory measures to address these priorities, in areas and by the levels of government that the Party considers appropriate;

(c) pursuing its public policy objectives (including health, safety, and environmental objectives) at the level it considers to be appropriate;

(d) taking into account input from interested persons in the development of regulatory measures;

(e) developing measures to foster cooperation and capacity building of the Parties; and

(f) taking measures to minimize unintended inequities or disparities within and between groups of people likely to be impacted by a proposed regulatory measure particularly women and Indigenous Peoples, as well as impacts on the environment.

Article 26.3. Scope of Application

Each Party shall, no later than two years after the date of entry into force of this Agreement, determine and make publically available the regulatory measures covered by this Chapter (covered regulatory measures) in accordance with its own legislation. Each Party should aim to provide significant coverage of regulatory measures it determines to be covered under this paragraph.

Article 26.4. Internal Coordination of Regulatory Development

1. The Parties recognize that good regulatory practices can be encouraged through mechanisms that facilitate coordination among regulatory authorities and are associated with processes for the development and review of covered regulatory measures. Accordingly, each Party shall endeavour to maintain the existence of such mechanisms or processes and should maintain the coordination of them through their central regulatory coordinating bodies in accordance with their mandates and consistent with the Party's law.

2. The Parties recognize that the mechanisms or processes referred to in paragraph 1 may vary depending on their differences in the levels of economic development, and the political and institutional structures, in each Party.

3. Each Party should make descriptions of the operation of these mechanisms or processes referred to in paragraph 1 publicly available.

4. Each Party should ensure that its mechanisms or processes referred to in paragraph 1 allow for:

(a) reviewing the covered regulatory measures proposed by the Party in order to determine whether the Party has considered good regulatory practices in the preparation of the measures, and making recommendations based on the review of the regulatory measures;

(b) strengthening consultation and coordination among regulatory authorities in order to identify potential overlap and duplication between proposed and existing regulations, and prevent inconsistent requirements between the proposed and existing regulations;

(c) making recommendations for regulatory improvements;

(d) reporting to the public on covered regulatory measures that have been reviewed under subparagraph (a) and on any proposals for government-wide regulatory improvement, as well as updates on changes to the processes and mechanisms referred to in paragraph 1; and

(e) encouraging regulatory approaches that avoid unnecessary restrictions on competition in the marketplace.

Article 26.5. Early Planning

Each party should, in a manner it considers appropriate and in accordance with its laws and regulations, notify the public, on an annual basis, of any regulatory measure that it reasonably expects its regulatory authorities to issue within a 12-month period.

Article 26.6. Regulatory Impact Assessment

1. Each Party shall endeavour to encourage its regulatory authorities, in accordance with its laws and regulations, to conduct regulatory impact assessments when developing proposed regulatory measures that exceed a threshold of economic impact or meet other criteria established by the Party for an assessment, to assist it in designing regulatory measures that best achieve the objectives pursued by that Party.

2. Recognizing that differences in the Parties' institutional, social, cultural, legal, and developmental circumstances may result in specific regulatory approaches, each Party should ensure that the regulatory impact assessment, among other things:

(a) assesses the need for a proposed regulatory measure, that includes a description of the nature and significance of the problem addressed by the measure;

(b) examines feasible alternatives to the proposed regulatory measure, including, to the extent possible and in accordance with its laws and regulations, the corresponding benefits and costs of the proposed regulatory measure and feasible alternatives, including the relevant impacts, such as economic, social, environmental, public health, and safety effects, and the risks and distributional effects over time of the proposed regulatory measure and feasible alternatives, recognizing that some costs and benefits are difficult to quantify or monetize;

(c) explains the reasons for concluding that the alternative does not achieve the policy objectives in an efficient manner, including, if appropriate, reference to the costs and benefits and the potential for managing risks; and

(d) relies on the best reasonably available information including relevant scientific, technical, economic, or other

information, within the boundaries of the authority, mandate, capacity, and resources of the particular regulatory agency.

3. When conducting regulatory impact assessments, each Party should ensure that its regulatory authorities take into consideration the potential impacts of the proposed regulation on small and medium-sized enterprises (SMEs).

Article 26.7. Public Consultations and Transparency

1. When preparing a regulatory measure, each Party should endeavour to:

(a) publish the proposed regulatory measure on a government website that is freely and publicly available and that would allow any person to assess whether and how its interests might be significantly affected;

(b) publish the regulatory impact assessment associated with the proposed regulatory measure on a government website that is freely and publicly available; and

(c) offer reasonable opportunities for any person, on a non-discriminatory basis, to provide input on the proposed regulatory measure.

2. When a proposed regulatory measure is expected to have a significant impact on international trade, the Party should normally provide a comment period of at least 60 days from the date that the proposed regulatory measure is published and, if appropriate, provide a comment period of up to 90 days from the date when the proposed regulatory measure is published.

3. Each Party shall take into account input received during the comment period on the proposed regulatory measure, and make publicly available a summary of the results of public consultations, subject to the need to protect confidential information or to withhold personal data or inappropriate content.

4. Before finalizing its work on a regulation, a regulatory authority of a Party shall evaluate any information provided to it in writing during the comment period.

Article 26.8. Use of Plain Language

Each Party should ensure that proposed and final regulatory measures are plainly written, concise, organized, and easy to understand, recognizing that some measures involve technical issues for which specialized knowledge might be required to understand and apply the measures.

Article 26.9. Consideration of other Measures

To the extent appropriate and consistent with its laws and regulations, each Party should encourage its relevant regulatory authorities to consider regulatory measures of the other Party, as well as relevant regulatory developments activities in international, regional, and other forums, when developing covered regulatory measures.

Article 26.10. Public Access

Consistent with its laws and regulations, each Party shall endeavour to ensure that relevant regulatory authorities provide public access to covered regulatory measures and, to the extent possible, ensure that access is available online or through a special web portal designated in its law that is freely and publicly available.

Article 26.11. Retrospective Review

1. Each Party should review its covered regulatory measures at intervals it deems appropriate, to determine whether they should be modified, streamlined, expanded, or repealed, so as to make the regulatory regime of the Party more effective in achieving policy objectives.

2. Each Party should endeavour to publish, to the extent possible, any official plans and results of its review under paragraph 1.

Article 26.12. Cooperation

1. The Parties shall endeavour to cooperate in order to implement this Chapter and maximize the benefits arising from it. Each Party should take into consideration, in the cooperation activities of the Parties, the other Party's needs. Cooperation

activities may include:

(a) information exchange, dialogues, or meetings with officials of the other Party;

(b) information exchanges, dialogues, or meetings with interested persons, including SMEs, of the other Party, and with international organizations;

(c) training programs, seminars, and other assistance initiatives;

(d) strengthening cooperation between the regulatory authorities of the Parties; and

(e) other cooperation activities that Parties may decide.

Article 26.13. Report on Implementation and Review

1. For the purposes of transparency, and to serve as a basis for cooperation, each Party shall prepare a report on the implementation of this Chapter within three years of the date of entry into force of this Agreement and submit subsequent reports at least once every three years thereafter. The report shall be provided to the other Party through the Contact Points designated under Article 26.14(1).

2. In the first report under paragraph 1, each Party shall describe the actions it has taken to comply with and implement this Chapter since the date of entry into force of this Agreement and the actions it plans to take in the future to implement this Chapter, including those that:

(a) establish a body, and a mechanism or process to facilitate effective interagency coordination;

(b) review proposed regulatory measures in accordance with Article 26.4;

(c) encourage its regulatory authorities to conduct regulatory impact assessments in accordance with Article 26.6;

(d) ensure that new and existing covered regulatory measures are accessible to the public, in accordance with Article 26.10;

(e) review covered regulatory measures, in accordance with Article 26.11(1); and

(f) make publicly available the annual notice of regulatory measures that it reasonably expects to issue or adopt during the next 12 months, in accordance with Article 26.5.

3. In subsequent reports under paragraph 1, each Party shall describe the actions it has taken since the submission of the previous report, and the actions it plans to take in the future to implement this Chapter.

4. At least once during the three-year period commencing after the date of entry into force of this Agreement, each Party shall review developments in its good regulatory practices and their experiences in implementing this Chapter with a view towards considering whether to make recommendations to the Joint Commission for improving this Chapter in order to further enhance the benefits of this Agreement. During this review, the Parties may discuss, or raise questions on specific aspects of, the report of a Party. The Parties may also identify opportunities for future assistance of cooperation activities.

Article 26.14. Contact Points

1. Each Party shall designate a contact point for matters arising under this Chapter. Each Party shall notify the other Party who is its contact point and promptly notify the other Party of any changes of its contact point.

2. Each contact point shall be responsible for:

(a) providing information relating to its implementation of this Chapter requested by the other Party to the contact point of the other Party;

(b) consulting and coordinating with the Party's respective regulatory authorities, as appropriate, on matters arising under this Chapter;

(c) submitting the report prepared under Article 26.13 to the other Party; and

(d) facilitating cooperation activities undertaken by the Parties under Article 26.12.

Article 26.15. Relationship to other Chapters

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

Article 26.16. Non-Application of Dispute Settlement

A Party shall not have recourse to dispute settlement under Chapter 28 (Dispute Settlement) for any matter arising under this Chapter.

Chapter 27. Administration of the Agreement

Article 27.1. Joint Commission

1. The Parties hereby continue the Joint Commission established under the 2017 Agreement, composed of representatives at the Ministerial level or their designees, and incorporate it under this Agreement.

2. The Joint Commission shall:

(a) supervise the implementation of this Agreement;

(b) review the general functioning of this Agreement;

(c) oversee the further elaboration of this Agreement;

(d) supervise the work of all committees and subcommittees established or continued under this Agreement referred to in Articles 1 and 2 of Annex 27-A, and any other bodies established or continued under paragraph 5; and

(e) consider any other matter that may affect the operation of this Agreement.

3. The Joint Commission may:

(a) adopt interpretive decisions concerning this Agreement binding on panels established under Article 28.7 (Establishment of a Panel);

(b) seek the advice of non-governmental persons or groups;

(c) further the implementation of the objectives of this Agreement by approving any revisions of:

(i) a Party's Schedule to Annex 2-B (Tariff Elimination) with the purpose of adding one or more goods excluded in the Tariff Elimination Schedule;

(ii) the phase-out periods established in Annex 2-B (Tariff Elimination), with the purpose of accelerating the tariff reduction;

(iii) the product-specific rules of origin established in Annex 3-A (Product-Specific Rules of Origin); and

(iv) the procuring entities listed in Annex 11-A.1 and Annex 11-B.1 (Central Government Entities) and Annex 11-A.2 and Annex 11-B.2 (Other Entities);

(d) consider any amendments or modifications to the rights and obligations under this Agreement;

(e) establish the amount of remuneration and expenses that will be paid to panellists; and

(f) take any other action in the exercise of its functions as the Parties may decide.

4. The revisions referred to in subparagraph 3(c) shall be subject to the completion of any necessary legal procedures of either Party.

5. The Joint Commission may establish and delegate responsibilities to committees, subcommittees, or working groups. Unless otherwise provided in this Agreement, the committees, subcommittees, and working groups shall work under a mandate recommended by the Agreement Coordinators referred to in Article 27.2 and approved by the Joint Commission. Responsibilities established and delegated by the Joint Commission pursuant to Article 16.1(6) (Joint Commission) of the 2017 Agreement are continued under this Agreement.

6. The Joint Commission shall establish its rules and procedures. Decisions of the Commission shall be taken by mutual consent.

7. The Joint Commission shall convene once a year or upon the request in writing of either Party. Unless otherwise decided by the Parties, sessions of the Joint Commission shall be held alternately in the territory of each Party or by any technological means available.

8. All decisions and actions of the Joint Commission and any committees, subcommittees, working groups, or other bodies are continued and incorporated under the relevant body of this Agreement.

Article 27.2. Agreement Coordinators

1. All appointments of Agreement Coordinators made pursuant to Article 16.2(1) (Agreement Coordinators) of the 2017 Agreement are continued under this Agreement. Each Party shall notify to the other Party any changes made to its Agreement Coordinator.

2. The Agreement Coordinators shall jointly:

(a) monitor the work of all bodies established or continued under this Agreement, referred to in Annex 27-A and any other bodies established under Article 27.1(5), including communications relating to successors to those bodies;

(b) recommend to the Joint Commission the establishment of bodies that they consider necessary to assist the Joint Commission;

(c) coordinate preparations for Joint Commission meetings;

(d) follow up on any decisions taken by the Joint Commission, as appropriate;

(e) receive notifications and information provided pursuant to this Agreement and, as necessary, facilitate communications between the Parties on any matter covered by this Agreement; and

(f) consider any other matter that may affect the operation of this Agreement as mandated by the Joint Commission.

3. The Coordinators shall meet as often as required.

4. A Party may request in writing at any time that a special meeting of the Coordinators be held. This meeting shall take place within 30 days of receipt of the request by the other Party.

Annex 27-A. Committees, Subcommittees, and Other Bodies

1. The Committees established under the 2017 Agreement are continued under this Agreement. These committees are the:

(a) Committee on Trade in Goods and Rules of Origin (Article 2.13);

(b) Committee on Intellectual Property (Article 12.12); and

(c) Committee on the Environment (Article 13.25).

2. The Subcommittees established under the 2017 Agreement are continued and incorporated under this Agreement. These Subcommittees are the:

(a) Subcommittee on Agriculture (Article 2.13(4)); and

(b) Subcommittee on Origin Procedures (Article 3.31).

3. The other Committees or bodies established under this Agreement are the:

(a) Labour Council (Article 14.10);

(b) Financial Services Committee (Article 20.21);

(c) Committee on Trade and Gender (Article 23.5);

(d) Committee on SMEs (Article 24.4); and

(e) Committee on Trade and Indigenous Peoples (Article 25.5).

4. Contact points are established by:

(a) Chapter 2 (National Treatment and Market Access), Article 3(i) of Annex 2-B (Tariff Elimination);

(b) Chapter 6 (Sanitary and Phytosanitary Measures), Article 6.3 (Sanitary and Phytosanitary Contact Points);

(c) Chapter 7 (Technical Barriers to Trade), Article 7.8 (Contact Points);

(d) Chapter 12 (Intellectual Property), Article 12.11 (Designation of Contact Points);

(e) Chapter 13 (Environment), Article 13.25 (Contact Points and the Committee on the Environment);

(f) Chapter 14 (Labour), Article 14.11 (National Administrative Office);

(g) Chapter 16 (Trade-Related Cooperation), Article 16.2 (Contact Points);

(h) Chapter 21 (Temporary Entry for Business Persons), Article 21.6 (Contact Points); and

(i) Chapter 26 (Good Regulatory Practices), Article 26.14 (Contact Points).

Chapter 28. Dispute Settlement

Section A. State to State Dispute Settlement

Article 28.1. Definitions

For the purposes of this Chapter:

complaining Party means a Party that requests the establishment of a panel under Article 28.7;

panel means a panel established under Article 28.7; and

Party complained against means the Party that receives the request for the establishment of a panel under Article 28.7.

Article 28.2. Cooperation

The Parties shall endeavour to come to an understanding on the interpretation and application of this Agreement, and attempt through cooperation and consultations to arrive at a mutually satisfactory resolution of a matter that may affect its operation.

Article 28.3. Scope and Coverage

1. Except for matters arising under Chapters 6 (Sanitary and Phytosanitary Measures), 12 (Intellectual Property), 16 (Trade-Related Cooperation), 9 (Competition Policy) and 10 (Designated Monopolies and State-Owned Enterprises) and as otherwise provided under this Agreement, the provisions of this Chapter apply with respect to the settlement of disputes between the Parties regarding the interpretation or application of this Agreement, including whenever a Party considers that:

(a) an actual or proposed measure of the other Party is or would be inconsistent with one of its obligations under this Agreement;

(b) the other Party has otherwise failed to carry out one of its obligations under this Agreement; or

(c) there is nullification or impairment within the meaning of Annex 28-A (Nullification or Impairment).

2. Annex 28-B (Dispute Settlement for Anti-Corruption) applies to a dispute arising under Section B of Chapter 15 (Transparency, Anti-Corruption and Responsible Business Conduct). Except as set out in the Annex 28-B (Dispute Settlement for Anti-Corruption), Articles 28.4 through 28.14 do not apply to that dispute.

Article 28.4. Choice of Forum

1. Subject to paragraph 2, a dispute regarding a matter arising under both this Agreement and the WTO Agreement or any other free trade agreement to which both Parties are party may be settled in a forum designated under the terms of one of these agreements at the discretion of the complaining Party.

2. If the complaining Party requests the establishment of a dispute settlement panel under an agreement referred to in paragraph 1, the forum selected shall be used to the exclusion of the other.

Article 28.5. Consultations

1. A Party may request, in writing, consultations with the other Party regarding a matter referred to in Article 28.3.

2. The Party requesting consultations shall deliver the request to the other Party, setting out the reasons for the request, identifying the measure or matter at issue under Article 28.3 and indicating the legal basis for the complaint.

3. Subject to paragraph 4, the Parties, unless they otherwise decide, shall enter into consultations within 30 days of the date of receipt of the request by the other Party.

4. In urgent cases, including those involving a good or service that rapidly loses its trade value, such as perishable goods, consultations shall commence within 15 days of the date of receipt of the request by the other Party.

5. The requesting Party may request that the other Party make available personnel of its governmental agencies or other regulatory bodies with expertise in the subject matter of the consultations.

6. The Parties shall attempt to arrive at a mutually satisfactory resolution of a matter through consultations under this Article. To this end, each Party shall:

(a) provide sufficient information for a full examination of the measure or matter at issue; and

(b) treat as confidential any information, including proprietary information, received in the course of consultations that is designated as confidential by the Party providing the information.

7. Consultations are confidential and without prejudice to the rights of the Parties in proceedings under this Chapter.

8. Consultations may be held in person or by another means that the Parties decide.

Article 28.6. Good Offices, Conciliation, and Mediation

1. The Parties, at any time, may decide to undertake an alternative method of dispute resolution, such as good offices, conciliation, or mediation.

2. The Parties shall conduct alternative methods of dispute resolution according to procedures on which they decide.

3. Either Party, at any time, may begin, suspend or terminate proceedings established under this Article.

4. Proceedings involving good offices, conciliation and mediation are confidential and without prejudice to the rights of the Parties in other proceedings.

Article 28.7. Establishment of a Panel

1. Unless the Parties decide otherwise, the complaining Party may refer the matter to a dispute settlement panel if a matter referred to in Article 28.5 has not been resolved:

(a) within 45 days of the date of receipt of the request for consultations; or

(b) within 25 days of the date of receipt of the request for consultations for matters referred to in Article 28.5(4).

2. The complaining Party shall deliver the written request for panel establishment to the Party complained against, indicating the reason for the request, identifying the specific measure or other matter at issue, and providing a brief summary of the legal basis of the complaint sufficient to present the problem clearly.

Article 28.8. Panel Selection

1. The panel shall consist of three panellists.

2. Within 30 days of receiving the request to establish a panel, each Party shall notify the other Party of its appointment of a panellist, and propose up to four candidates to serve as the chair of the panel. If a Party fails to appoint a panellist within this time, the panellist shall be selected by the other Party from the candidates proposed for the chair.

3. The Parties, within 45 days of the date of receipt of the request for panel establishment, shall endeavour to select a panellist who will serve as a chair from among the candidates proposed. If the Parties fail to select a chair within this time

period, within a further 7 days the chair shall be selected randomly from the candidates proposed.

4. If a panellist appointed by a Party withdraws, is removed, or becomes unable to serve, a replacement shall be appointed by that Party within 30 days, failing which the replacement shall be appointed in accordance with the second sentence of paragraph 2.

5. If the chair of the panel withdraws, is removed, or becomes unable to serve, the Parties shall endeavour to decide on the appointment of a replacement within 30 days, failing which the replacement shall be appointed in accordance with the second sentence of paragraph 3.

6. If an appointment pursuant to paragraph 4 or 5 requires selecting from the list of candidates proposed for chair and there are no remaining candidates, each Party shall propose up to 3 additional candidates within 30 days and, within 7 days of that deadline, the panellist or the chair, as the case may be, shall be selected randomly from the candidates proposed.

7. A time limit applicable to the proceeding is suspended as of the date the panellist withdraws, is removed, or becomes unable to serve, and resumes on the date that the replacement is selected.

Article 28.9. Qualifications of Panellists

1. Each panellist shall:

(a) have expertise or experience in law, international trade or other matters covered by this Agreement, or in the settlement of disputes arising under international trade agreements;

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

(c) be independent of, and not be affiliated with or take instructions from, either Party;

(d) not be a national of a Party, nor have their usual place of residence in the territory of a Party, nor be employed by either of them;

(e) comply with a Code of Conduct that the Joint Commission shall approve; and

(f) not have been involved in an alternative dispute settlement proceeding referred to in Article 28.6 regarding the same dispute.

2. For a dispute arising under Chapter 14 (Labour) or Chapter 13 (Environment), each Party shall select a panellist in accordance with the following requirements, in addition to those requirements set out in paragraph 1:

(a) in a dispute arising under Chapter 14 (Labour), panellists other than the chair shall have expertise or experience in labour law or practice; and

(b) in a dispute arising under Chapter 13 (Environment), panellists other than the chair shall have expertise or experience in environmental law or practice.

Article 28.10. Rules of Procedure

1. A panel shall follow the provisions of this Chapter, including Annex 28-C (Rules of Procedure). A panel, in consultation with the Parties, may establish supplementary rules of procedure that do not conflict with the provisions of this Chapter.

2. Unless the Parties decide otherwise, the rules of procedure shall ensure that:

(a) each Party has the opportunity to provide initial and rebuttal written submissions;

(b) the Parties have the right to at least one hearing before the panel; subject to subparagraph (g) these hearings shall be open to the public;

(c) the Parties have the right to present and receive written submissions and oral arguments in any of the Parties' official languages;

(d) all submissions and comments made to the panel are available to the other Party;

(e) a Party makes available to the public either Party's written submissions, transcripts of oral statements, and written responses to requests or questions from the panel, subject to subparagraph (g);

(f) the panel allows a non-governmental person of a Party to provide written views regarding the dispute that may assist the panel in evaluating the submissions and arguments of the Parties; and

(g) information designated by either Party for confidential treatment is protected.

3. Unless the Parties decide otherwise, within 15 days of the date of receipt of the request for panel establishment, the terms of reference of the panel 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 the panel and to make findings, determinations and recommendations as provided in Article 28.11."

4. If the complaining Party claims that a benefit has been nullified or impaired within the meaning of Annex 28-A (Nullification or Impairment), the terms of reference shall so indicate.

5. If a Party so requests, the terms of reference of a panel shall include determining the degree of adverse trade effects on a Party of a measure found:

(a) to be inconsistent with an obligation in the Agreement; or

(b) to have caused nullification or impairment within the meaning of Annex 28-A (Nullification or Impairment).

6. At the request of a Party, or on its own initiative, the panel may seek information and technical advice from a person or body it deems appropriate, subject to those terms and conditions that the Parties may decide upon.

7. The panel may rule on its own jurisdiction.

8. The panel may delegate to the chair authority to make administrative and procedural decisions.

9. The panel, in consultation with the Parties, may modify a time period applicable in the panel proceedings and make other procedural or administrative adjustments required for the fairness or efficiency of the proceeding.

10. Findings, determinations and recommendations of the panel under Article 28.11 shall be made by a majority of its members.

11. Panellists may furnish separate opinions on matters not unanimously agreed. A panel may not disclose which panellists are associated with majority or minority opinions.

12. Unless the Parties decide otherwise, the expenses of the panel, including the remuneration of the panellists, shall be borne in equal shares by the Parties.

Article 28.11. Panel Reports

1. Unless the Parties decide otherwise, the panel shall issue reports in accordance with the provisions of this Chapter.

2. The panel shall base its reports on the provisions of this Agreement applied and interpreted in accordance with the rules of interpretation of public international law, the submissions and arguments of the Parties and information and technical advice before it under the provisions of this Chapter.

3. The panel shall issue an initial report to the Parties within 120 days of the selection of the last panellist. This report shall contain:

(a) findings of fact;

(b) a determination as to whether the Party complained against has conformed with its obligations under this Agreement and any other finding or determination requested in the terms of reference; and

(c) a recommendation for resolution of the dispute, if requested by a Party.

4. Notwithstanding Article 28.10, the initial report of the panel shall be confidential.

5. A Party may submit written comments to the panel on its initial report, subject to time limits that may be set by the panel. After considering those comments, the panel, on its own initiative or on the request of a Party, may:

(a) request the views of a Party;

(b) reconsider its report; or

(c) carry out a further examination that it considers appropriate.

6. The panel shall present to the Parties a final report within 30 days of presentation of the initial report.

7. Unless the Parties decide otherwise, the final report of the panel may be published by either Party 15 days after it is presented to the Parties, subject to Article 28.10(2)(g).

Article 28.12. Implementation of the Final Report

1. On receipt of the final report of a panel, the Parties shall decide on the resolution of the dispute. Unless the Parties decide otherwise, the resolution shall conform with a determination or recommendation made by the panel.

2. Whenever possible, the resolution shall be the removal of a measure not conforming to this Agreement or removal of the nullification or impairment within the meaning of Annex 28-A (Nullification or Impairment).

3. If the Parties are unable to reach a resolution within 30 days of presentation of the final report, or within another period of time as decided by the Parties, the Party complained against, if so requested by the complaining Party, shall enter into negotiations with a view to determining compensation.

Article 28.13. Non-Implementation – Suspension of Benefits

1. The complaining Party, subject to paragraph 4 and following notice to the Party complained against, may suspend the application to the Party complained against of benefits of equivalent effect if:

(a) in its final report a panel determines that a measure is inconsistent with the obligations of this Agreement or that there is nullification or impairment within the meaning of Annex 28-A (Nullification or Impairment);

(b) the Parties have not been able to resolve the dispute to their mutual satisfaction within 30 days of receiving the final report; or

(c) the Parties fail to decide on compensation within 30 days of the complaining Party's request, if a request was made.

2. The notice referred to in paragraph 1 shall specify the level of benefits that the complaining Party proposes to suspend.

3. In considering which benefits to suspend under paragraph 1:

(a) the complaining Party should first seek to suspend benefits or other obligations in the same sector affected by the measure or other matter that the panel has found to be inconsistent with an obligation under this Agreement or to have caused nullification or impairment within the meaning of Annex 28-A (Nullification or Impairment); and

(b) the complaining Party that considers it is not practicable or effective to suspend benefits or other obligations in the same sector may suspend benefits in another sector.

4. A Party may only suspend benefits temporarily, and only until the other Party has brought the inconsistent measure or other matter into conformity with this Agreement, including as a result of the panel process described in Article 28.14, or until the time when the Parties arrive at a resolution of the dispute.

5. For the purposes of paragraph 4, "inconsistent measure or other matter" means a measure or other matter found by a panel to be inconsistent with the obligations of this Agreement or otherwise nullifying or impairing benefits within the meaning of Annex 28-A (Nullification or Impairment).

Article 28.14. Review of Compliance and Suspension of Benefits

1. A Party may, by written notice to the other Party, request that a panel be reconvened to make a determination regarding:

(a) whether the level of benefits suspended by a Party under Article 28.13(1) is manifestly excessive; or

(b) any disagreement as to the existence or consistency with this Agreement of a measure taken to comply with the determinations or recommendations of the previously established panel.

2. In the written notice of the request referred to in paragraph 1, the Party shall identify the specific measure or matter at issue and provide a brief summary of the legal basis of the complaint sufficient to present the problem clearly.

3. The panel shall be reconvened when the other Party receives written notice of the request referred to in paragraph 1. In

the event that a panellist is unable to serve on the reconvened panel, they shall be replaced under Article 28.8(4).

4. The provisions of Articles 28.10 and 28.11 apply to procedures adopted and a report issued by a panel reconvened under this Article, with the exception that, subject to Article 28.10(9), the panel shall present an initial report within 60 days of being reconvened if the request concerns only paragraph 1(a), and otherwise within 90 days.

5. A panel reconvened under this Article may include in its report a recommendation, if appropriate, that a suspension of benefits be terminated or that the amount of benefits suspended be modified.

Article 28.15. Referrals of Matters from Judicial or Administrative Proceedings

1. If an issue of interpretation or application of this Agreement arises in a domestic judicial or administrative proceeding of a Party that either Party considers would merit its intervention, or if a court or administrative body solicits the views of a Party, that Party shall notify the other Party. The Joint Commission shall endeavour to decide on an appropriate response as expeditiously as possible.

2. The Party in whose territory the court or administrative body is located shall submit any interpretation of the Joint Commission to the court or administrative body in accordance with the rules of that forum.

3. If the Joint Commission is unable to decide on the interpretation, a Party may submit its own views to the court or administrative body in accordance with the rules of that forum.

Section B. Other Dispute Settlement

Article 28.16. Private Rights

A Party may not provide a right of action under its law against the other Party on the ground that an act or omission of that Party is inconsistent with this Agreement.

Article 28.17. Alternative Dispute Resolution

1. Each Party shall encourage and facilitate the use of arbitration and other means of alternative dispute resolution to the extent possible in order to settle international commercial disputes between private parties in the free trade area.

2. To this end, each Party shall provide appropriate procedures to ensure observance of agreements to arbitrate and for the recognition and enforcement of awards in those disputes.

3. A Party is deemed to comply with paragraph 2 if it is a party to and complies with the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York on 10 June 1958.

Annex 28-A. Nullification or Impairment

1. If a Party considers that a benefit it could reasonably have expected to accrue to it under a provision of:

(a) Chapter 2 (National Treatment and Market Access), Chapter 3 (Rules of Origin and Origin Procedures), Chapter 4 (Trade Facilitation), Chapter 5 (Trade Remedies) or Chapter 11 (Government Procurement); or

(b) Chapter 8 (Digital Trade)

is being nullified or impaired as a result of the application of a measure of the other Party that is not inconsistent with this Agreement, in the sense of Article XXIII:1(b) of the GATT 1994 or Article XX(2)(b) of the GPA 2012, the Party may have recourse to dispute settlement under this Chapter. A panel established under this Chapter shall take into account relevant case law interpreting Article XXIII:1(b) of the GATT 1994 and Article XX(2)(b) of the GPA 2012.

2. A Party may not invoke paragraph 1(a) or (b) with respect to a measure subject to an exception under Article 29.2 (General Exceptions).

3. A Party may not invoke paragraph 1 with respect to a measure subject to the exception under Article 29.7 (Cultural Industries).

Annex 28-B. Dispute Settlement for Transparency, Anti-Corruption, and Responsible Business Conduct

Consultations

1. A Party may request consultations with the other Party regarding a matter related to Section B of Chapter 15 (Transparency, Anti-Corruption and Responsible Business Conduct) by delivering a request in writing to the Agreement Coordinator of the other Party. The Agreement Coordinators shall consult as soon as possible to discuss the matter.

2. If the Parties fail to resolve the matter within 60 days of delivery of the request for consultations referred to in paragraph 1, and the matter relates to an obligation under Section B of Chapter 15 (Transparency, Anti-Corruption and Responsible Business Conduct), a Party may request cabinet-level consultations. The Parties shall conduct cabinet-level consultations as soon as possible after the request for those consultations is made.

Review Panel

3. If the Parties fail to resolve the matter within 120 days of delivery of the request for cabinet-level consultations referred to in paragraph 2, the requesting Party may request establishment of a Review Panel by delivering a request in writing to the other Party.

4. Unless the Parties decide otherwise, the terms of reference of the Review Panel shall be:

"To examine, in the light of the relevant provisions of Section B of Chapter 15 of the Agreement, the matter referred by (name of the complaining Party) as set out in the request for the establishment of the Review Panel and to make determinations and recommendations as provided in paragraph 14."

5. Unless the Parties decide otherwise, the Review Panel shall conduct its proceedings in accordance with Annex 28-C (Rules of Procedure). A Review Panel may establish, in consultation with the Parties, supplementary rules of procedure that do not conflict with the provisions of this Annex.

6. If the Review Panel determines that there has been a violation of an obligation under Section B of Chapter 15 (Transparency, Anti-Corruption and Responsible Business Conduct), the Parties may decide on a mutually satisfactory action plan to implement the Panel's recommendations. Any action plan agreed upon by the Parties may be made publically available by either Party.

Panel selection

7. A Review Panel shall be composed of three panellists.

8. Panellists shall:

(a) be chosen on the basis of expertise in anti-corruption matters or other appropriate disciplines, objectivity, reliability and sound judgment;

(b) be independent of, and not be affiliated with or take instructions from, either Party;

(c) not have an interest in the review directly, nor be affiliated with a person or organization that has an interest in the review; and

(d) comply with the Code of Conduct referred to in Article 28.9(1)(e).

Panel selection procedures

9. Each Party shall, within 20 days of delivery of the request referred to in paragraph 3, appoint a panellist, propose up to four candidates that are not nationals of either Party to serve as the chair of the Review Panel, and notify the other Party in writing of the appointment and its proposed candidates to serve as chair.

10. If a Party fails to appoint a panellist within this time, the other Party shall select the panellist from among qualified individuals who are nationals of the Party that has failed to select its panellist.

11. The Parties shall, within 30 days after the date of receipt of the request for panel establishment, endeavour to decide on and appoint a chair. If the Parties fail to decide on the chair within this time, within a further seven days the chair shall be selected by lot from among the candidates proposed.

12. If either Party believes that a panellist is in violation of the Code of Conduct referred to in Article 28.9(1)(e), the Parties shall consult and, if they agree, the panellist shall be removed and a new panellist shall be selected in accordance with the procedures set out in paragraphs 9 to 11. The time limits for that selection will run from the date the Parties agree to remove the panellist.

Review Panel Process

Initial Report

13. The Review Panel shall present to the Parties an initial report within 120 days of the selection of the last panellist.

14. The report shall contain:

(a) findings of fact;

(b) the Review Panel's determination as to whether there has been a violation of an obligation; and

(c) if a violation has been found, the Review Panel's recommendations for the resolution of the matter.

Final Report

15. The Parties may provide comments on the initial report within 60 days of its presentation to the Parties.

16. The Review Panel shall present the final report to the Parties within 90 days of providing the initial report.

17. A Party may publish the final report 60 days after it is presented to the Parties.

18. The Parties may decide to modify any time limits set out in this Annex.

19. The Parties shall determine a separate budget for each set of panel proceedings pursuant to this Annex. If the Parties do not decide on a budget, the expenses of the Review Panel will be shared by the Parties equally.

Annex 28-C. Rules of Procedure

Application

1. The following rules of procedure apply to a dispute settlement proceeding under this Chapter, unless the Parties decide otherwise.

Definitions

2. For the purposes of this Annex:

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

legal holiday means every Saturday and Sunday and any other day designated by a Party as a holiday for the purposes of these rules; and

representative means an employee of a government department or agency or of another government entity of a Party.

Written Submissions and Other Documents

3. Each Party shall deliver the original and a minimum of three copies of any written submission to the panel and one copy to the Embassy of the other Party. Delivery of submissions and any other document related to the panel proceeding may be made by e-mail or other means of electronic transmission if the Parties so decide. When a Party delivers physical copies of written submissions or any other document related to the panel proceeding, that Party shall also deliver an electronic version of the submissions or other documents.

4. The complaining Party shall deliver an initial written submission no later than 10 days after the date on which the last panellist is appointed. The Party complained against, in turn, shall deliver a written counter-submission no later than 20 days after the date on which the initial written submission of the complaining Party is due.

5. The panel, in consultation with the Parties, shall establish dates for the delivery of the subsequent written rebuttal submissions of the Parties and any other written submissions that the panel and the Parties determine are appropriate.

6. At any time a Party may correct minor errors of a clerical nature in any written submission or other document related to the panel proceeding by delivering a new document clearly indicating the changes.

7. If the last day for delivery of a document falls on a legal holiday observed by either Party or on another day on which the government offices of either Party are closed by order of the government or by force majeure, the document may be delivered on the next business day.

Burden of Proof

8. A complaining Party asserting that a measure of the other Party is inconsistent with the provisions of this Agreement shall have the burden of establ hat inconsistency. If the Party complained against asserts that a measure is subject to an exception or exemption under this Agreement, it shall have the burden of establishing that the exception or exemption applies.

Written Submission by a Non-Governmental Person

9. A panel, on application, may grant leave to a non-governmental person of a Party to file written submissions. In making its decision to grant leave, the panel shall consider, among other things:

(a) if the subject matter of the proceeding is of public interest;

(b) if the non-governmental person has a substantial interest in the proceeding, which requires more than an interest in the development of trade law case law, the interpretation of the Agreement or the subject matter of the dispute;

(c) if the written submission would assist the panel in determining a factual or legal issue related to the proceeding by bringing a perspective, particular knowledge or insight that is different from that of the Parties; and

(d) submissions by the Parties on the application for leave.

10. If the panel has granted leave to a non-governmental person to file a written submission, the panel shall ensure that:

(a) the written submission does not introduce new issues to the dispute;

(b) the written submission is within the terms of reference of the dispute as defined by the Parties;

(c) the written submission addresses only the issues of fact and law that the non-governmental person described in its application for leave;

(d) the written submission avoids disrupting the proceeding and preserves the equality of the Parties; and

(e) the Parties have the opportunity to respond to the written submission.

Role of Experts

11. On request of a Party, or on its own initiative, the panel may seek information and technical advice from a person or body that it deems appropriate, subject to paragraphs 12 and 13 and any additional terms and conditions as the Parties may decide. The requirements set out in Article 28.9 apply to the experts or bodies, as appropriate.

12. Before the panel seeks information or technical advice under paragraph 11, it shall:

(a) notify the Parties of its intention to seek information or technical advice and provide them with an adequate period of time to submit comments; and

(b) provide the Parties with a copy of information or technical advice received and provide them with an adequate period of time to submit comments.

13. If the panel takes into consideration the information or technical advice received under paragraph 11 for the preparation of its report, it shall also take into consideration comments or observations submitted by the Parties with respect to that information or technical advice.

14. Notwithstanding paragraph 11, in a dispute arising under Chapter 13 (Environment), the Panel shall seek information or technical advice from any environment expert or an authorized body under a relevant multilateral environmental agreement, that it deems appropriate. The requirements set out in Article 28.9 apply to experts or bodies, as appropriate. Paragraphs 12 and 13 apply to this paragraph.

Operation of Panels

15. The chair shall preside at all of the panel's meetings.

16. The panel may conduct its business by any appropriate means, including by telephone, facsimile transmission and video or computer links.

17. Only panellists may take part in the deliberations of the panel. The panel, in consultation with the Parties, may employ assistants, interpreters or translators, or stenographers to the extent they may be required for the proceeding, and may

permit them to be present during the deliberations. The members of the panel and the persons employed by the panel shall maintain the confidentiality of the panel's deliberations and information that is protected under Article 28.10(2)(g).

18. A panel, in consultation with the Parties, may modify a time period applicable in the panel proceedings and make other procedural or administrative adjustments required in the proceeding.

Hearings

19. The chair shall fix the date and time of the initial hearing and any subsequent hearing in consultation with the Parties and the panellists, and then notify the Parties in writing of those dates and times.

20. Unless the Parties decide otherwise, the location of hearings shall alternate between the territories of the Parties, with the first hearing to take place in the territory of the Party complained against.

21. No later than 5 days before the date of a hearing, each Party shall deliver to the other Party and the panel a list of the names of the persons who will be present at the hearing on behalf of that Party, as well as a list of the other representatives or advisers who will be attending the hearing.

22. Each hearing shall be conducted by the panel in a manner that ensures that the complaining Party and the Party complained against are afforded equal time for arguments, replies, and counter-replies.

23. Hearings shall be open to the public, except as necessary to protect information designated by either Party for confidential treatment. The panel, in consultation with the Parties, shall adopt appropriate logistical arrangements and procedures to ensure that hearings are not disrupted by the attendance of the public. Those procedures may include, among other methods, the use of live web-broadcasting or closed-circuit television.

24. The panel shall arrange the preparation of any hearing transcripts and shall deliver a copy of those transcripts to each Party as soon as possible after they are prepared.

Ex Parte Contacts

25. A Party may not communicate with the panel without notifying the other Party. The panel shall not communicate with a Party in the absence of, or without notifying, the other Party.

26. A panellist may not discuss an aspect of the substantive subject matter of the proceeding with the Parties in the absence of the other panellists.

Remuneration and Payment of Expenses

27. Each panellist shall keep a record and render a final account to the Parties of their time and expenses, and those of any assistant. The chair of the panel shall keep a record and render a final account to the Parties of all general expenses.

Chapter 29. Exceptions

Article 29.1. Definitions

For the purposes of this Chapter:

competition authority means:

(a) for Canada, the Commissioner of Competition and includes a successor notified to the other Party through the Coordinators; and

(b) for Ukraine, the Antimonopoly Committee of Ukraine and includes a successor notified to the other Party through the Coordinators;

designated authority means:

(a) for Canada, the Assistant Deputy Minister for Tax Policy, Department of Finance and includes a successor notified to the other Party through the Coordinators; and

(b) for Ukraine, the State Tax Service of Ukraine and includes a successor notified to the other Party through the Coordinators;

information protected under its competition laws means:

(a) for Canada, information within the scope of Section 29 of the Competition Act, R.S.C. 1985, c. C-34, and includes any successor provision; and

(b) for Ukraine, information with restricted access according to Article 221 of the Law of Ukraine On the Antimonopoly Committee of Ukraine and includes any successor provision;

person engaged in a cultural industry means a person engaged in any of the following activities:

(a) the publication, distribution, or sale of books, magazines, periodicals, or newspapers in print or machine-readable form, but not including the sole activity of printing or typesetting any of the foregoing;

(b) the production, distribution, sale, or exhibition of film or video recordings;

(c) the production, distribution, sale, or exhibition of audio or video music recordings;

(d) the publication, distribution, or sale of music in print or machine-readable form; or

(e) radiocommunications in which the transmissions are intended for direct reception by the general public, and all radio, television, and cable broadcasting undertakings and all satellite programming and broadcast network services;

tax convention means a convention for the avoidance of double taxation or other international taxation agreement or arrangement; and

tax and taxation measure do not include:

(a) a customs duty as defined in Article 1.5 (Definitions of General Application); or

(b) a measure listed in exceptions (b), (c), or (d) of that definition.

Article 29.2. General Exceptions

1. For the purposes of Chapter 2 (National Treatment and Market Access), Chapter 3 (Rules of Origin and Origin Procedures), Chapter 4 (Trade Facilitation), Chapter 5 (Trade Remedies), Chapter 6 (Sanitary and Phytosanitary Measures), Chapter 7 (Technical Barriers to Trade), and Chapter 8 (Digital Trade), Article XX of the GATT 1994 is incorporated into this Agreement.

2. For the purposes of Chapter 8 (Digital Trade), Chapter 10 (Designated Monopolies and State-Owned Enterprises), Chapter 18 (Cross-border Trade in Services), Chapter 21 (Temporary Entry for Business Persons), and Chapter 22 (Telecommunications), paragraphs (a), (b), and (c) of Article XIV of the GATS are incorporated into this Agreement. (1)

3. The Parties understand that the measures referred to in Article XX(b) of the GATT 1994 and Article XIV(b) of the GATS include environmental measures necessary to protect human, animal, or plant life or health. The Parties recognize that the measures referred to in Article XX(b) of GATT 1994 and Article XIV(b) of the GATS include environmental measures taken by the Parties to address climate change. The Parties understand that Article XX(g) of the GATT 1994 applies to measures for the conservation of living and non-living exhaustible natural resources.

(1) For the purposes of Chapter 10 (Designated Monopolies and State-Owned Enterprises), Article XIV of the GATS (including its footnotes) is incorporated into this Agreement, only with respect to measures of a Party (including the implementation of measures through the activities of a state-owned enterprise or designated monopoly) affecting the purchase or supply of services, or affecting activities the end result of which is the supply of services.

Article 29.3. National Security

1. This Agreement does not:

(a) require a Party to furnish or allow access to information if that Party determines that the disclosure of this information would be contrary to its essential security interests;

(b) prevent a Party from taking an action that it considers necessary to protect its essential security interests:

(i) relating to the traffic in arms, ammunition and implements of war and to such traffic and transactions in other goods, materials, services and technology undertaken directly or indirectly for the purpose of supplying a military or other security establishment;

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

(iii) relating to the implementation of national policies or international agreements respecting the non-proliferation of nuclear weapons or other nuclear explosive devices; or

(c) prevent a Party from fulfilling its obligations under the Charter of the United Nations for the maintenance of international peace and security.

Article 29.4. Taxation

1. Except as provided in this Article, this Agreement does not apply to a taxation measure.

2. This Agreement does not affect the rights and obligations of either Party under a tax convention. In the event of any inconsistency between this Agreement and a tax convention, that convention prevails to the extent of the inconsistency.

3. In the case of a tax convention between the Parties, if an issue arises as to whether an inconsistency exists between this Agreement and the tax convention, the issue shall be referred to the designated authorities of the Parties. The designated authorities of the Parties shall have six months from the date of referral of the issue to make a determination as to the existence and extent of any inconsistency. If those designated authorities agree, the period may be extended up to 12 months from the date of referral of the issue. No procedures concerning the measure giving rise to the issue may be initiated under Chapter 28 (Dispute Settlement) or Article 17.23 (Submission of a Claim to Arbitration) until the expiry of the six-month period, or any other period as may have been decided by the designated authorities. A panel or tribunal established to consider a dispute related to a taxation measure shall accept as binding a determination of the designated authorities of the Parties.

4. Notwithstanding paragraph 2:

(a) Article 2.3 (National Treatment) and other provisions of this Agreement as are necessary to give effect to that Article apply to taxation measures to the same extent as does Article III of the GATT 1994; and

(b) Article 2.9 (Customs Duties on Exports) applies to taxation measures.

5. Subject to paragraph 2:

(a) Article 20.3 (National Treatment) and Article 18.3 (National Treatment) apply to a taxation measure on income, capital gains, the taxable capital of corporations, or the value of an investment or property (2) (but not on the transfer of that investment or property), that relate to the purchase or consumption of particular services, except that this subparagraph does not prevent a Party from conditioning the receipt or continued receipt of an advantage that relates to the purchase or consumption of particular services on requirements to provide the service in its territory; and

(b) Article 17.6 (National Treatment), Article 17.7 (Most-Favoured-Nation Treatment), Article 18.3 (National Treatment), Article 18.4 (Most-Favoured-Nation Treatment), Article 20.3 (National Treatment) and Article 20.4 (Most-Favoured-Nation Treatment) apply to a taxation measure, other than a taxation measure on income, capital gains, the taxable capital of corporations, the value of an investment or property (3) (but not on the transfer of that investment or property), or taxes on estates, inheritances, gifts and generation-skipping transfers;

but nothing in the Articles referred to in subparagraphs (a) and (b) apply to:

(c) a most-favoured nation obligation with respect to an advantage accorded by a Party pursuant to a tax convention;

(d) a non-conforming provision of an existing taxation measure;

(e) the continuation or prompt renewal of a non-conforming provision of an existing taxation measure;

(f) an amendment to a non-conforming provision of an existing taxation measure to the extent that the amendment does not decrease its conformity, at the time of the amendment, with any of those Articles;

(g) the adoption or enforcement of a new taxation measure aimed at ensuring the equitable or effective imposition or collection of taxes, including a taxation measure that differentiates between persons based on their place of residence for tax purposes, provided that the taxation measure does not arbitrarily discriminate between persons, goods, or services of the Parties (4); or

(h) a provision that conditions the receipt or continued receipt of an advantage relating to the contributions to, or income of, a pension trust, pension plan, superannuation fund or other arrangement to provide pension, superannuation or similar

benefits, on a requirement that the Party maintain continuous jurisdiction, regulation or supervision over that trust, plan, fund, or other arrangement.

6. Subject to paragraph 2, and without prejudice to the rights and obligations of the Parties under paragraph 4, paragraphs 2 and 3 of Article 17.12 (Performance Requirements), apply to a taxation measure.

7. Article 17.10 (Expropriation) applies to a taxation measure. However, no investor may invoke Article 17.10 (Expropriation) as the basis for a claim if it has been determined pursuant to this paragraph that the measure is not an expropriation. An investor that seeks to invoke Article 17.10 (Expropriation) with respect to a taxation measure must first refer to the issue of whether that taxation measure is not an expropriation of the designated authority of the Party of the investor and the designated authority of the respondent Party, at the time that it gives its notice of intent under Article 17.23 (Submission of a Claim to Arbitration). If the designated authorities decide not to consider the issue or, having decided to consider it, fail to decide that the measure is not an expropriation within a period of six months of the referral, the investor may submit its claim to arbitration under Article 17.23 (Submission of a Claim to Arbitration).

8. This Agreement does not require a Party to furnish or allow access to information the disclosure of which would be contrary to that Party's law protecting information concerning the taxation affairs of a taxpayer.

(2) This is without prejudice to the methodology used to determine the value of that investment or property under the Parties' respective laws.

(3) This is without prejudice to the methodology used to determine the value of that investment or property under the Parties' respective laws.

(4) The Parties understand that this subparagraph must be interpreted by reference to the footnote to Article XIV(d) of the GATS as if the Article was not restricted to services or direct taxes.

Article 29.5. Disclosure of Information

1. This Agreement does not require a Party to furnish or allow access to information that if disclosed would impede law enforcement, or would be contrary to the Party's law protecting the deliberative and policy-making processes of the executive branch of government at the cabinet level, personal privacy, or the financial affairs and accounts of individual customers of financial institutions.

2. In the course of a dispute settlement procedure under this Agreement:

(a) a Part required to furnish or allow access to information protected under its competition laws; and

(b) a competition authorit required to furnish or allow access to information that is privileged or otherwise protected from disclosure.

Article 29.6. Indigenous Peoples' Rights

This Agreement does not prevent Canada from adopting or maintaining a measure it considers necessary to fulfill its legal obligations to Aboriginal peoples, including those recognized and affirmed by section 35 of the Constitution Act, 1982, or those set out in self-government agreements between central or regional levels of government and Aboriginal peoples.

Article 29.7. Cultural Industries

This Agreement does not apply to a measure adopted or maintained by a Party with respect to a person engaged in a cultural industry except as specifically provided in Article 2.4 (Tariff Elimination on Imports).

Article 29.8. World Trade Organization Waivers

If a right or obligation in this Agreement duplicates a right or obligation under the WTO Agreement, a measure adopted by a Party in conformity with a waiver decision adopted by the WTO pursuant to Article IX of the WTO Agreement is deemed to be also in conformity with this Agreement.

Chapter 30. Final Provisions

Article 30.1. Transitional Provision from the 2017 Agreement

1. The Parties recognize the importance of a smooth transition from the 2017 Agreement to this Agreement.

2. Issues under consideration, including cooperation, documents or other work under development, by the Joint Commission or a committee, subcommittee or other body of the 2017 Agreement may be continued under any relevant body in this Agreement, subject to any decision by the Parties on whether and in what manner that continuation is to occur.

Article 30.2. Annexes, Appendices, and Footnotes

The Annexes, Appendices, and footnotes to this Agreement constitute integral parts of this Agreement.

Article 30.3. Review Clause

The Parties undertake to review this Agreement within five years of its entry into force, in light of further developments including within the framework of the WTO Agreement, and other agreements to which the Parties are party.

Article 30.4. Amendments

The Parties may agree, in writing, to amend this Agreement. An amendment shall enter into force after the Parties exchange written notifications certifying that they have completed their respective applicable internal requirements and procedures necessary for the entry into force of the amendment, on the date agreed by the Parties.

Article 30.5. Reservations and Unilateral Declarations

This Agreement shall not be subject to unilateral reservations or unilateral interpretive declarations.

Article 30.6. Entry Into Force

1. Each Party shall notify the other Party in writing of the completion of its domestic procedures required for the entry into force of this Agreement.

2. This Agreement shall enter into force on:

(a) the first day of the second month following receipt of the latter notification of the completion of the procedures for entry into force; or

(b) 1 January 2024,

whichever is later.

Article 30.7. Termination of this Agreement

1. This Agreement may be terminated by either Party by giving notice in writing of its intention to terminate to the other Party. The Agreement shall terminate six months after the date of receipt of that notice.

2. Notwithstanding paragraph 1, in the event that this Agreement is terminated, the provisions of Chapter 17 (Investment) shall continue to be effective for a period of 10 years after the date of termination of this Agreement in respect of investments made before that date.

Article 30.8. Termination of the 2017 Agreement

This Agreement terminates and replaces the Free Trade Agreement Between Canada and Ukraine, done at Kyiv on 11 July 2016.

Article 30.9. Suspension of other Agreements

1. The Agreement between the Government of Canada and the Government of Ukraine for the Promotion and Protection of Investments done at Ottawa on 24 October 1994 (the “FIPA”) shall be suspended from the date of entry into force of this

Agreement and until such time as this Agreement is no longer in force.

2. Notwithstanding paragraph 1, the FIPA shall remain operative for a period of 10 years after the entry into force of this Agreement for the purpose of any breach of the obligations of the FIPA that occurred before the entry into force of this Agreement. During this period the right of an investor of a Party to submit a claim to arbitration concerning such a breach shall be governed by the relevant provisions of the FIPA.

Article 30.10. Accession

A non-Party may accede to this Agreement upon terms and conditions to be set out in an Agreement on Accession between the Parties and the non-Party. The Parties and the non-Party shall notify each other through diplomatic channels of the completion of the internal procedures necessary to approve the Agreement on Accession.

IN WITNESS WHEREOF, the undersigned, being duly authorized, have signed this Agreement.

Done in duplicate at , this day of 202__, in the English, French, and Ukrainian languages, each version being equally authentic.

_____

FOR CANADA

_____

FOR UKRAINE

Annex I. Cross-Border Trade in Services and Investment Non-Conforming Measures

Annex I. Explanatory Note

1. The Schedule of a Party to this Annex sets out, pursuant to Articles 17.18 (Non-Conforming Measures) and 18.7 (Reservations), a Party's existing measures that are not subject to some or all of the obligations imposed by:

(a) Article 17.6 (National Treatment) or 18.3 (National Treatment);

(b) Article 17.7 (Most-Favoured-Nation Treatment) or 18.4 (Most-Favoured-Nation Treatment);

(c) Article 17.12 (Performance Requirements);

(d) Article 17.13 (Senior Management and Boards of Directors); or

(e) Article 18.5 (Market Access).

2. Each Schedule entry sets out the following elements:

(a) Sector refers to the sector for which the entry is made;

(b) Sub-Sector, where referenced, refers to the specific subsector for which the entry is made;

(c) Obligations Concerned specifies the obligation(s) referred to in paragraph 1 that, pursuant to Articles 17.18 (Non-Conforming Measures) and 18.7 (Reservations), do not apply to the non-conforming aspects of the law, regulation, or other measure, as set out in paragraph 3;

(d) Level of Government indicates the level of government maintaining the scheduled measure(s);

(e) Measures identifies the laws, regulations, or other measures for which the entry is made. A measure cited in the Measures element:

(i) means the measure as amended, continued, or renewed as of the date of entry into force of this Agreement, and

(ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure; and

(f) Description, as indicated in the introductory note for each Party's Schedule, either sets out the non-conforming measure or provides a general non-binding description of the measure for which the entry is made.

Annex I. Schedule of Canada

Introductory Notes

1. Description provides a general non-binding description of the measure for which the entry is made.

2. Obligations Concerned specifies the obligations referred to in Article 17.18 (Non-Conforming Measures) and Article 18.7 (Reservations) that do not apply to the listed measures.

3. In the interpretation of an entry, all elements of the entry shall be considered. An entry shall be interpreted in light of the relevant provisions of the Chapters against which the entry is taken. To the extent that:

(a) the Measures element is qualified by a liberalization commitment from the Description element, the Measures element as so qualified prevails over all other elements; and

(b) the Measures element is not so qualified, the Measures element prevails over other elements, unless a discrepancy between the Measures element and the other elements considered in their totality is so substantial and material that it would be unreasonable to conclude that the Measures element prevails, in which case the other elements prevail to the extent of that discrepancy.

Reservation I-C-1

Sector:

All Sectors

Sub-Sector:

Obligations Concerned:

National Treatment (Article 17.6)

Performance Requirements (Article 17.12)

Senior Management and Boards of Directors (Article 17.13)

Level of Government:

Central

Measures:

Investment Canada Act, R.S.C. 1985, c. 28 (1st Supp.)

Investment Canada Regulations, SOR/85-611

Description:

Investment

1. Except as set out in paragraphs 5 and 9, the Director of Investments will review a direct "acquisition of control", as defined in the Investment Canada Act, of a Canadian business by a WTO investor if the value of the Canadian business is not less than CAD 1.287 billion, adjusted in accordance with the applicable methodology in January of each subsequent year, starting in 2023, as set out in the Investment Canada Act.

2. Notwithstanding the definition of "investor of a Party" in Article 17.1 (Definitions), only WTO investors or entities controlled by WTO investors as provided for in the Investment Canada Act may benefit from the CAD 1.141 billion threshold.

3. Except as set out in paragraphs 5 and 9, the Director of Investments will review a direct "acquisition of control", as defined in the Investment Canada Act, of a Canadian business by a trade agreement investor if the value of the Canadian business is not less than CAD 1.931 billion, adjusted in accordance with the applicable methodology in January of each subsequent year, starting in 2023, as set out in the Investment Canada Act.

4. Notwithstanding the definition of "investor of a Party" in Article 17.1 (Definitions), only a trade agreement investor or an

entity controlled by a trade agreement investor as provided for in the Investment Canada Act may benefit from the CAD 1.931 billion threshold.

5. The higher threshold in paragraphs 1 and 3 does not apply to a direct acquisition of control by a state-owned enterprise of a Canadian business. These acquisitions are subject to review by the Director of Investments if the value of the Canadian business is not less than CAD 512 million in 2023, adjusted in accordance with the applicable methodology in January of each subsequent year as set out in the Investment Canada Act.

6. An investment subject to review under the Investment Canada Act may not be implemented unless the Minister responsible for the Investment Canada Act advises the applicant that the investment is likely to be of net benefit to Canada. This determination is made in accordance with six factors described in the Investment Canada Act, summarized as follows:

(a) the effect of the investment on the level and nature of economic activity in Canada, including the effect: on employment; on the use of parts, components, and services produced in Canada; and on exports from Canada;

(b) the degree and significance of participation by Canadians in the investment;

(c) the effect of the investment on productivity, industrial efficiency, technological development, and product innovation in Canada;

(d) the effect of the investment on competition within an industry in Canada;

(e) the compatibility of the investment with national industrial, economic, and cultural policies, taking into consideration industrial, economic, and cultural policy objectives enunciated by the government or legislature of a province likely to be significantly affected by the investment; and

(f) the contribution of the investment to Canada's ability to compete in world markets.

7. In making a net benefit determination, the Minister, through the Director of Investments, may review plans under which the applicant demonstrates the net benefit to Canada of the proposed acquisition. An applicant may also submit an undertaking to the Minister in connection with a proposed acquisition that is the subject of review. In the event of noncompliance with an undertaking by an applicant, the Minister may seek a court order directing compliance or any other remedy authorized under the Investment Canada Act.

8. A non-Canadian who establishes or acquires a Canadian business, other than those that are subject to review, must notify the Director of Investments.

9. The review thresholds set out in paragraphs 1, 3, and 5 do not apply to an acquisition of a cultural business, as defined in the Investment Canada Act.

10. In addition, the specific acquisition or establishment of a new business in designated types of business activities relating to Canada's cultural heritage or national identity, which are normally notifiable, may be subject to review if the Governor in Council authorises a review in the public interest.

11. An indirect "acquisition of control" of a Canadian business by an investor of Ukraine, other than a cultural business, is not reviewable.

12. Notwithstanding Article 17.12 (Performance Requirements), Canada may impose requirements or enforce a commitment or undertaking in connection with the establishment, acquisition, expansion, conduct, operation, or management of an investment of an investor of Ukraine or of a non-Party for the transfer of technology, production process, or other proprietary knowledge to a national or enterprise, affiliated to the transferor, in Canada in connection with the review of an acquisition of an investment under the Investment Canada Act.

13. Except for requirements, commitments, or undertakings relating to technology transfer as set out in paragraph 12 of this entry, Article 17.12 (Performance Requirements) applies to requirements, commitments, or undertakings imposed or enforced under the Investment Canada Act.

14. For the purposes of this entry:

(a) a non-Canadian means an individual, government or agency thereof, or an entity that is not Canadian; and

(b) Canadian means a Canadian citizen or permanent resident, a government in Canada or agency thereof, or a Canadian-controlled entity as described in the Investment Canada Act.

Reservation I-C-2

Sector:

All Sectors

Sub-Sector:

Obligations Concerned:

National Treatment (Article 17.6)

Senior Management and Boards of Directors (Article 17.13)

Level of Government:

Central

Measures:

As set out in the Description element.

Description:

Investment

1. Canada, or a province or territory of Canada, when selling or disposing of its equity interests in, or the assets of, an existing government enterprise or an existing governmental entity, may prohibit or impose limitations on the ownership of these interests or assets and on the ability of owners of these interests or assets to control a resulting enterprise by investors of Ukraine or of a third country or their investments. With respect to a sale or other disposition, Canada, or a province or territory of Canada, may adopt or maintain a measure relating to the nationality of senior management or members of the board of directors.

2. For the purposes of this entry:

(a) a measure maintained or adopted after the date of entry into force of this Agreement that, at the time of sale or other disposition, prohibits or imposes a limitation on the ownership of equity interests or assets or imposes a nationality requirement described in this entry is an existing measure; and

(b) government enterprise means an enterprise owned or controlled through ownership interests by Canada, or a province or territory of Canada, and includes an enterprise established after the date of entry into force of this Agreement solely for the purposes of selling or disposing of equity interests in, or the assets of, an existing state enterprise or governmental entity.

Reservation I-C-3

Sector:

All Sectors

Sub-Sector:

Obligations Concerned:

National Treatment (Article 17.6)

Level of Government:

Central

Measures:

Canada Business Corporations Act, R.S.C. 1985, c. C-44

Canada Business Corporations Regulations, 2001, SOR/2001-512

Canada Cooperatives Act, S.C. 1998, c. 1

Canada Cooperatives Regulations, SOR/99-256

Description:

Investment

1. A corporation may place constraints on the issue, transfer, and ownership of shares in a federally incorporated corporation. The object of those constraints is to permit a corporation to meet Canadian ownership or control requirements, under certain laws set out in the Canada Business Corporations Regulations, 2001, in sectors where Canadian ownership or control is required as a condition to receive licences, permits, grants, payments, or other benefits. In order to maintain certain Canadian ownership levels, a corporation is permitted to sell shareholders' shares without the consent of those shareholders, and to purchase its own shares on the open market.

2. The Canada Cooperatives Act provides that constraints may be placed on the issue or transfer of investment shares of a cooperative to persons not resident in Canada, to permit cooperatives to meet Canadian ownership requirements to obtain a licence to carry on a business, to become a publisher of a Canadian newspaper or periodical, or to acquire investment shares of a financial intermediary and in sectors where ownership or control is a required condition to receive licences, permits, grants, payments, and other benefits. Where the ownership or control of investment shares would adversely affect the ability of a cooperative to maintain a level of Canadian ownership or control, the Canada Cooperatives Act provides for the limitation of the number of investment shares that may be owned or for the prohibition of the ownership of investment shares.

3. For the purposes of this entry, Canadian means "Canadian" as defined in the Canada Business Corporations Regulations, 2001 or in the Canada Cooperatives Regulations.

Reservation I-C-4

Sector:

All Sectors

Sub-Sector:

Obligations Concerned:

National Treatment (Article 17.6)

Level of Government:

Central

Measures:

Agricultural and Recreational Land Ownership Act, R.S.A. 1980, c. A-9

Citizenship Act, R.S.C. 1985, c. C-29

Foreign Ownership of Land Regulations, SOR/79-416

Description:

Investment

1. The Foreign Ownership of Land Regulations are made pursuant to the Citizenship Act and the Agricultural and Recreational Land Ownership Act. In Alberta, an ineligible person or foreign owned or controlled corporation may only hold an interest in controlled land consisting of a maximum of two parcels containing, in the aggregate, a maximum of 20 acres.

2. For the purposes of this entry:

(a) ineligible person means:

(i) a natural person who is not a Canadian citizen or permanent resident;

(ii) a foreign government or agency thereof; or

(iii) a corporation incorporated in a country other than Canada; and

(b) controlled land means land in Alberta but does not include:

(i) land of the Crown in right of Alberta;

(ii) land within a city, town, new town, village, or summer village; and

(iii) mines or minerals.

Reservation I-C-5

Sector:

All Sectors

Sub-Sector:

Obligations Concerned:

National Treatment (Article 17.6)

Level of Government:

Central

Measures:

Canadian Arsenals Limited Divestiture Authorization Act, S.C. 1986, c. 20

Eldorado Nuclear Limited Reorganization and Divestiture Act, S.C. 1988, c. 41

Nordion and Theratronics Divestiture Authorization Act, S.C. 1990, c. 4

Description:

Investment

1. A "non-resident" or "non-residents" may not own more than a specified percentage of the voting shares of the corporation to which each Act applies. For some companies the restrictions apply to individual shareholders, while for others the restrictions may apply in the aggregate. If there are limits on the percentage that an individual Canadian investor can own, these limits also apply to non-residents. The restrictions are as follows:

(a) Cameco Limited (formerly Eldorado Nuclear Limited): 15 percent per non-resident natural person, 25 percent in the aggregate;

(b) Nordion International Inc.: 25 percent in the aggregate;

(c) Theratronics International Limited: 49 percent in the aggregate; and

(d) Canadian Arsenals Limited: 25 percent in the aggregate.

2. For the purposes of this entry, non-resident includes:

(a) a natural person who is not a Canadian citizen and not ordinarily resident in Canada;

(b) a corporation incorporated, formed, or otherwise organized outside Canada;

(c) the government of a foreign State or a political subdivision of a government of a foreign State, or a person empowered to perform a function or duty on behalf of that government;

(d) a corporation that is controlled directly or indirectly by a person or an entity referred to in subparagraphs (a) through (c);

(e) a trust:

(i) established by a person or an entity referred to in subparagraphs (b) through (d), other than a trust for the administration of a pension fund for the benefit of natural persons the majority of whom are resident in Canada; or

(ii) in which a person or an entity referred to in subparagraphs (a) through (d) has more than 50 percent of the beneficial interest; and

(f) a corporation that is controlled directly or indirectly by a trust referred to in subparagraph (e).

Reservation I-C-6

Sector:

All Sectors

Sub-Sector:

Obligations Concerned:

National Treatment (Article 18.3)

Level of Government:

Central

Measures:

Export and Import Permits Act, R.S.C. 1985, c. E-19

Description:

Cross-Border Trade in Services

Only a natural person ordinarily resident in Canada, an enterprise with its head office in Canada, or a branch office in Canada of a foreign enterprise may apply for and be issued an import or export permit or transit authorization certificate for a good or related service subject to controls under the Export and Import Permits Act.

Reservation I-C-7

Sector:

Communications services

Sub-Sector:

Telecommunications Transport Networks and Services

Radiocommunications

Obligations Concerned:

National Treatment (Article 17.6)

Senior Management and Boards of Directors (Article 17.13)

Level of Government:

Central

Measures:

Telecommunications Act, S.C. 1993, c. 38

Canadian Telecommunications Common Carrier Ownership and Control Regulations, SOR/94-667

Radiocommunication Act, R.S.C. 1985, c. R-2

Radiocommunication Regulations, SOR/96-484

Description:

Investment

1. Foreign investment in a facilities-based telecommunications service supplier is restricted to a maximum, cumulative total of 46.7 percent voting interest, based on 20 percent direct investment and 33.3 percent indirect investment.

2. A facilities-based telecommunications service supplier must be controlled in fact by Canadians.

3. At least 80 percent of the members of the board of directors of a facilities-based telecommunications service suppliers

must be Canadians.

4. Notwithstanding the restrictions described above:

(a) foreign investment is allowed up to 100 percent for suppliers conducting operations under an international submarine cable licence;

(b) mobile satellite systems of a foreign service supplier may be used by a Canadian service supplier to supply services in Canada;

(c) fixed satellite systems of a foreign service supplier may be used to provide services between points in Canada and all points outside Canada;

(d) foreign investment is allowed up to 100 percent for a supplier conducting operations under a satellite authorization; and

(e) foreign investment is allowed up to 100 percent for a facilities-based telecommunications service supplier that has revenues, including those of its affiliates, from the supply of a telecommunications service in Canada representing less than 10 percent of the total telecommunications services' annual revenues in Canada. A facilities-based telecommunications service supplier that previously had annual revenues, including those of its affiliates, from the supply of a telecommunication service in Canada representing less than 10 percent of the total telecommunications services annual revenues in Canada may increase to 10 percent or beyond as long as the increase in revenues did not result from the acquisition of control of, or the acquisition of assets used to supply telecommunications services by, another facilities-based telecommunications service supplier that is subject to the legislative authority of the Parliament of Canada.

Reservation I-C-8

Sector:

Business Services Industries

Sub-Sector:

Obligations Concerned:

National Treatment (Articles 17.6 and 18.3)

Senior Management and Boards of Directors (Article 17.13)

Level of Government:

Central

Measures:

Customs Act, R.S.C. 1985, c. 1 (2nd Supp.)

Customs Brokers Licensing Regulations, SOR/86-1067

Description:

Investment and Cross-Border Trade in Services

To be a licensed customs broker in Canada, in addition to meeting all other licensing requirements:

(a) a natural person must be a Canadian national;

(b) a corporation must be incorporated in Canada with a majority of its directors being Canadian nationals; and

(c) a partnership must be composed of persons who are Canadian nationals who meet all other licensing requirements, or corporations incorporated in Canada with a majority of their directors being Canadian nationals who meet all other licensing requirements.

Reservation I-C-9

Sector:

Business Services Industries

Sub-Sector:

Duty Free Shops

Obligations Concerned:

National Treatment (Articles 17.6 and 18.3)

Level of Government:

Central

Measures:

Customs Act, R.S.C. 1985, c. 1 (2nd Supp.)

Duty Free Shop Regulations, SOR/86-1072

Description:

Investment and Cross-Border Trade in Services

1. In addition to all other licensing requirements, to be a licensed duty free shop operator at a border crossing in Canada, a natural person must be a Canadian national.

2. In addition to all other licensing requirements, to be a licensed duty free shop operator at a border crossing in Canada, a corporation must be incorporated in Canada and have all of its shares beneficially owned by Canadian nationals who meet all other licensing requirements.

Reservation I-C-10

Sector:

Business Services Industries

Sub-Sector:

Examination Services relating to the Export and Import of Cultural Property

Obligations Concerned:

National Treatment (Article 18.3)

Level of Government:

Central

Measures:

Cultural Property Export and Import Act, R.S.C. 1985, c. C-51

Description:

Cross-Border Trade in Services

1. Only a resident of Canada or an institution in Canada may be designated as an expert examiner of cultural property for the purposes of the Cultural Property Export and Import Act.

2. For the purposes of this entry:

(a) institution means an entity that is publicly owned and operated solely for the benefit of the public, that is established for educational or cultural purposes, and that conserves objects and exhibits them; and

(b) resident of Canada means a natural person who is ordinarily resident in Canada, or a corporation that has its head office in Canada or maintains an establishment in Canada to which employees employed in connection with the business of the corporation ordinarily report for work.

Reservation I-C-11

Sector:

Professional Services

Sub-Sector:

Patent Agents

Patent Agents supplying Legal Advisory and Representation Services

Obligations Concerned:

National Treatment (Article 18.3)

Level of Government:

Central

Measures:

Patent Act, R.S.C. 1985, c. P-4

Patent Rules, SOR/2019-251

College of Patent Agents and Trademark Agents Act, S.C.2018, c.27, s.247

College of Patent Agents and Trademark Agents Regulations, SOR/2021-129

By-laws of the College of Patent Agents and Trademark Agents (Board), SOR/2021-168

By-laws of the College of Patent Agents and Trademark Agents (College), SOR/2021-167

Description:

Cross-Border Trade in Services

To represent a person in the prosecution of a patent application or in other business before the Patent Office, a patent agent must be resident in Canada and registered by the College of Patent Agents and Trademark Agents.

Reservation I-C-12

Sector:

Professional Services

Sub-Sector:

Trademark Agents

Trademark Agents supplying Legal Advisory and Representation Services in Statutory Procedures

Obligations Concerned:

National Treatment (Article 18.3)

Level of Government:

Central

Measures:

Trademarks Act, R.S.C. 1985, c. T-13

Trademarks Regulations, SOR/2018-227

College of Patent Agents and Trademark Agents Act, S.C.2018, c.27, s.247

College of Patent Agents and Trademark Agents Regulations, SOR/2021-129

By-laws of the College of Patent Agents and Trademark Agents (Board), SOR/2021-168

By-laws of the College of Patent Agents and Trademark Agents (College), SOR/2021-167

Description:

Cross-Border Trade in Services

To represent a person in the prosecution of an application for a trademark or in other business before the Office of the Registrar of Trademarks, a trademark agent must be resident in Canada and registered by the College of Patent Agents and Trademark Agents.

Reservation I-C-13

Sector:

Energy

Sub-Sector:

Oil and Gas

Obligations Concerned:

National Treatment (Article 17.6)

Level of Government:

Central

Measures:

Canada Petroleum Resources Act, R.S.C. 1985, c. 36 (2nd Supp.)

Territorial Lands Act, R.S.C. 1985, c. T-7

Federal Real Property and Federal Immovables Act, S.C. 1991, c. 50

Canada-Newfoundland and Labrador Atlantic Accord Implementation Act, S.C. 1987, c. 3

Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act, S.C. 1988, c. 28

Description:

Investment

1. This reservation applies to a production licence issued for "frontier lands" and "offshore areas" (areas not under provincial jurisdiction) as defined in the applicable measures.

2. A person who holds an oil and gas production licence or shares therein must be a corporation incorporated in Canada.

Reservation I-C-14

Sector:

Energy

Sub-Sector:

Oil and Gas

Obligations Concerned:

National Treatment (Article 18.3)

Performance Requirements (Article 17.12)

Level of Government:

Central

Measures:

Canada Oil and Gas Operations Act, R.S.C. 1985, c. O-7

Canada - Nova Scotia Offshore Petroleum Resources Accord Implementation Act, S.C. 1988, c. 28

Canada - Newfoundland and Labrador Atlantic Accord Implementation Act, S.C. 1987, c. 3

Measures implementing the Canada-Yukon Oil and Gas Accord, including the Canada-Yukon Oil and Gas Accord Implementation Act, S.C. 1998, c.5, s. 20, and the Oil and Gas Act, RSY 2002, c. 162

Measures implementing the Northwest Territories Oil and Gas Accord, including implementing measures that apply to or are adopted by Nunavut as the successor territories to the former Northwest Territories

Measures implementing the Accord between the Government of Canada and the Government of Quebec for the joint management of petroleum resources in the Gulf of St. Lawrence, or any other similar federal-provincial accords related to the joint management of petroleum resources.

Description:

Investment and Cross-Border Trade in Services

1. Under the Canada Oil and Gas Operations Act, a "benefits plan" must be approved by the Minister in order to be authorized to proceed with an oil and gas development project.

2. A benefits plan means a plan for the employment of Canadians and for providing Canadian manufacturers, consultants, contractors, and service companies with a full and fair opportunity to participate on a competitive basis in the supply of goods and services used in proposed work or activity referred to in the benefits plan.

3. The benefits plan contemplated by the Canada Oil and Gas Operations Act permits the Minister to impose on the applicant an additional requirement to ensure that disadvantaged individuals or groups have access to training and employment opportunities or can participate in the supply of goods and services used in proposed work referred to in the benefits plan.

4. Provisions continuing those set out in the Canada Oil and Gas Operations Act are included in laws that implement the Canada-Yukon Oil and Gas Accord.

5. Provisions continuing those set out in the Canada Oil and Gas Operations Act will be included in laws or regulations to implement accords with various provinces and territories, including implementing legislation by provinces and territories (for example, the Northwest Territories Oil and Gas Accord, the Canada-Quebec Gulf of St. Lawrence Petroleum Resources Accord, and the New Brunswick Oil and Gas Accord). For the purposes of this reservation, these accords and implementing legislation shall be deemed, once concluded, to be existing measures.

6. The Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act and the Canada-Newfoundland and Labrador Atlantic Accord Implementation Act have the same requirement for a benefits plan but also require that the benefits plan ensures that:

(a) the corporation or other body submitting the plan establishes in the applicable province an office where appropriate levels of decision-making are to take place, prior to carrying out work or an activity in the offshore area;

(b) expenditures be made for research and development to be carried out in the province, and for education and training to be provided in the province; and

(c) first consideration be given to goods produced or services provided from within the province, where those goods or services are competitive in terms of fair market price, quality, and delivery.

7. The boards administering the benefits plan under the Acts referred to in paragraph 6 may also require that the plan include provisions to ensure that disadvantaged individuals or groups, or corporations owned or cooperatives operated by them, participate in the supply of goods and services used in proposed work or activity referred to in the plan. Furthermore, such boards may also impose or enforce expenditure and other requirements relating to research and development and education and training to be carried out in the province.

8. In addition, Canada may impose a requirement or enforce a commitment or undertaking for the transfer of technology, a production process, or other proprietary knowledge to a person of Canada in connection with the approval of development projects under the applicable Acts.

Reservation I-C-15

Sector:

Energy

Sub-Sector:

Oil and Gas

Obligations Concerned:

Performance Requirements (Article 17.12)

Level of Government:

Central

Measures:

Hibernia Development Project Act, S.C. 1990, c. 41

Canada-Newfoundland and Labrador Atlantic Accord Implementation Act, S.C. 1987, c. 3

Description:

Investment

1. Under the Hibernia Development Project Act, Canada and the Hibernia Project Owners may enter into agreements. Those agreements may require the Project Owners to undertake to perform certain work in Canada and Newfoundland and Labrador and to use their best efforts to achieve specific Canadian and Newfoundland and Labrador target levels in relation to the provisions of a "benefits plan" required under the Canada- Newfoundland and Labrador Atlantic Accord Implementation Act. "Benefits plans" are further described in I-C-14.

2. In addition, Canada may impose in connection with the Hibernia Project a requirement or enforce a commitment or undertaking for the transfer of technology, a production process, or other proprietary knowledge to a national or enterprise in Canada.

Reservation I-C-16

Sector:

Energy

Sub-Sector:

Uranium

Obligations Concerned:

National Treatment (Article 17.6)

Most-Favoured-Nation Treatment (Article 17.7)

Level of Government:

Central

Measures:

Investment Canada Act, R.S.C. 1985, c. 28 (1st Supp.)

Investment Canada Regulations, SOR/85-611

Policy on Non-Resident Ownership in the Uranium Mining Sector, 1987

Description:

Investment

1. Ownership by "non-Canadians", as defined in the Investment Canada Act, of a uranium mining property is limited to 49

percent at the stage of first production. Exceptions to this limit may be permitted if it can be established that the property is in fact "Canadian-controlled", as defined in the Investment Canada Act.

2. Exemptions from the Non-Resident Ownership Policy in the Uranium Mining Sector are permitted, subject to approval of the Governor in Council, only in cases where Canadian participants in the ownership of the property are not available. Investments in properties by non-Canadians, made prior to 23 December 1987, and that are beyond the permitted ownership level, may remain in place. No increase in non-Canadian ownership is permitted.

Reservation I-C-17

Sector:

Transportation

Sub-Sector:

Air Transportation

Obligations Concerned:

National Treatment (Article 17.6)

Most-Favoured-Nation Treatment (Article 17.7)

Senior Management and Board of Directors (Article 17.13)

Level of Government:

Central

Measures:

Canada Transportation Act, S.C. 1996, c. 10

Aeronautics Act, R.S.C. 1985, c. A-2

Canadian Aviation Regulations, SOR/96-433 Part II, Subpart 2 – "Aircraft Marking and Registration"; Part IV "Personnel Licensing and Training"; and Part VII "Commercial Air Services"

Description:

Investment

1. Only Canadians may provide the following commercial transportation air services:

(a) domestic services (air services between points, or from and to the same point, in the territory of Canada, or between a point in the territory of Canada and a point not in the territory of another country);

(b) scheduled international services (scheduled air services between a point in the territory of Canada and a point in the territory of another country) where those services have been reserved to Canadian carriers under existing or future air services agreements;

(c) non-scheduled international services (non-scheduled air services between a point in the territory of Canada and a point in the territory of another country) where those services have been reserved to Canadian carriers under the Canada Transportation Act; and

(d) specialty air services including, but not limited to aerial mapping, aerial surveying, aerial photography, forest fire management, fire-fighting, aerial advertising, glider towing, parachute jumping, aerial construction, heli-logging, aerial inspection, aerial surveillance, flight training, aerial sightseeing, and aerial crop spraying.

2. For the purposes of 1(a), (b), and (c), the Canada Transportation Act, in section 55, defines "Canadian" in the following manner:

(a) a Canadian citizen or a permanent resident as defined in subsection 2(1) of the Immigration and Refugee Protection Act, S.C. 2001, c.27;

(b) a government in Canada or an agent or mandatary of that government; or

(c) a corporation or entity that is incorporated or formed under the laws of Canada or a province, that is controlled in fact by Canadians and of which at least 51 percent of the voting interests are owned and controlled by Canadians and where:

(i) no more than 25 percent of the voting interests are owned directly or indirectly by any single non-Canadian, either individually or in affiliation with another person; and

(ii) no more than 25 percent of the voting interests are owned directly or indirectly by one or more non-Canadians authorized to provide an air service in any jurisdiction, either individually or in affiliation with another person.

3. Regulations made under the Aeronautics Act include distinct definitions of "Canadian" referenced in paragraphs (2) and (4). These Regulations require that a Canadian operator of commercial air services operate Canadian-registered aircraft. These Regulations require an operator to be Canadian in order to obtain a Canadian Air Operator Certificate and to qualify to register aircraft as "Canadian".

4. For the purposes of paragraph 1(d), the Canadian Aviation Regulations define "Canadian" in the following manner:

(a) a Canadian citizen or a permanent resident as defined in subsection 2(1) of the Immigration and Refugee Protection Act;

(b) a government in Canada or an agent or mandatary of that government; or

(c) a corporation or entity that is incorporated or formed under the laws of Canada or a province, that is controlled in fact by Canadians and of which at least 75 percent of the voting interests are owned and controlled by Canadians.

5. No foreign individual is qualified to be the registered owner of a Canadian- registered aircraft.

6. Further to the Canadian Aviation Regulations, a corporation incorporated in Canada, but that does not meet the Canadian ownership and control requirements, may only register an aircraft for private use where a significant majority of use of the aircraft (at least 60 percent) is in Canada.

7. The Canadian Aviation Regulations also have the effect of limiting foreign-registered private aircraft registered to non-Canadian corporations to be present in Canada for a maximum of 90 days per twelve-month period. The foreign-registered private aircraft shall be limited to private use, as would be the case for Canadian- registered aircraft requiring a private operating certificate.

Reservation I-C-18

Sector:

Air Transportation

Sub-Sector:

Specialty Air Services as defined in Article 18.1 (Definitions)

Obligations Concerned:

National Treatment (Article 18.3)

Most-Favoured-Nation Treatment (Article 18.4)

Level of Government:

Central

Measures:

Canada Transportation Act, S.C. 1996, c. 10

Air Transportation Regulations, SOR/88-58

Canadian Aviation Regulations, SOR/96-433

Description:

Cross-Border Trade in Services

Authorization from Transport Canada is required to supply a specialty air service in the territory of Canada. In determining whether to grant a particular authorization, Transport Canada will consider, among other factors, whether the country in

which the applicant, if an individual, is resident or, if an enterprise, is constituted or organized, provides Canadian specialty air service operators reciprocal access to supply specialty air services in that country's territory. Any foreign service supplier authorized to supply a specialty air service is required to comply with Canadian safety requirements while supplying these services in Canada.

Reservation I-C-19

Sector:

Transportation

Sub-Sector:

Air Transportation

Obligations Concerned:

National Treatment (Article 18.3)

Most-Favoured-Nation Treatment (Article 18.4)

Level of Government:

Central

Measures:

Aeronautics Act, R.S.C. 1985, c. A-2

Canadian Aviation Regulations, SOR/96-433, Part IV "Personnel Licensing and Training"; Part V "Airworthiness"; Part VI "General Operating and Flight Rules"; and Part VII "Commercial Air Services"

Description:

Cross-Border Trade in Services

Aircraft and other aeronautical product repair, overhaul, or maintenance activities required to maintain the airworthiness of Canadian-registered aircraft and other aeronautical products must be performed by a person meeting Canadian aviation regulatory requirements (that is, approved maintenance organizations and aircraft maintenance engineers). A certification is not provided for persons located outside Canada, except sub-organizations of approved maintenance organizations that themselves are located in Canada.

Reservation I-C-20

Sector:

Transportation

Sub-Sector:

Land Transportation

Obligations Concerned:

National Treatment (Article 18.3)

Level of Government:

Central

Measures:

Motor Vehicle Transport Act, R.S.C. 1985, c. 29 (3rd Supp.), as amended by S.C. 2001, c. 13.

Canada Transportation Act, S.C. 1996, c. 10

Customs Tariff, S.C. 1997, c. 36

Description:

Cross-Border Trade in Services

Only a person of Canada using Canadian-registered and either Canadian-built or duty-paid trucks or buses may provide truck or bus services between points in the territory of Canada.

Reservation I-C-21

Sector:

Transportation

Sub-Sector:

Water Transportation

Obligations Concerned:

National Treatment (Articles 18.3 and 17.6)

Level of Government:

Central

Measures:

Canada Shipping Act, 2001, S.C. 2001, c. 26

Description:

Investment and Cross-Border Trade in Services

1. To register a vessel in Canada, the owner of that vessel or the person who has exclusive possession of that vessel must be:

(a) a Canadian citizen or a permanent resident within the meaning of subsection 2(1) of the Immigration and Refugee Protection Act, S.C. 2001, c.27;

(b) a corporation incorporated under the laws of Canada or a province or territory; or

(c) when the vessel is not already registered in another country, a corporation incorporated under the laws of a country other than Canada if one of the following is acting with respect to all matters relating to the vessel, namely:

(i) a subsidiary of that corporation that is incorporated under the law of Canada or a province or territory;

(ii) an employee or director in Canada of any branch office of that corporation that is carrying on business in Canada; or

(iii) a ship management company incorporated under the law of Canada or a province or territory.

2. A vessel registered in a foreign country which has been bareboat chartered may be listed in Canada for the duration of the charter while the vessel's registration is suspended in its country of registry, if the charterer is:

(a) a Canadian citizen or permanent resident, as defined in subsection 2(1) of the Immigration and Refugee Protection Act, S.C. 2001, c.27; or

(b) a corporation incorporated under the law of Canada or a province or territory.

Reservation I-C-22

Sector:

Transportation

Sub-Sector:

Water Transportation

Obligations Concerned:

National Treatment (Article 18.3)

Level of Government:

Central

Measures:

Canada Shipping Act, 2001, S.C. 2001, c. 26

Marine Personnel Regulations, SOR/2007-115

Description:

Cross-Border Trade in Services

Masters, mates, engineers, and certain other seafarers must hold certificates granted by the Minister of Transport as a requirement of service on Canadian registered vessels. These certificates may be granted only to Canadian citizens or permanent residents.

Reservation I-C-23

Sector:

Transportation

Sub-Sector:

Water Transportation

Obligations Concerned:

National Treatment (Article 18.3)

Level of Government:

Central

Measures:

Pilotage Act, R.S.C., 1985, c. P-14

General Pilotage Regulations, SOR/2000-132

Description:

Cross-Border Trade in Services

Subject to Canada's Reservation II-C-8, a licence or a pilotage certificate issued by the Minister of Transport is required to provide pilotage services in the compulsory pilotage waters of the territory of Canada. Only a Canadian citizen or permanent resident may obtain a licence or pilotage certificate. A permanent resident of Canada who has been issued a pilot's licence or pilotage certificate must become a Canadian citizen within five years of receipt of that licence or pilotage certificate in order to retain it.

Reservation I-C-24

Sector:

Transportation

Sub-Sector:

Water Transportation Services by Sea-going and Non-sea-going Vessels

Obligations Concerned:

National Treatment (Article 18.3)

Level of Government:

Central

Measures:

Shipping Conferences Exemption Act, 1987, R.S.C. 1985, c.17 (3rd Supp.)

Description:

Cross-Border Trade in Services

Members of a shipping conference must maintain jointly an office or agency in the region of Canada where they operate. A shipping conference is an association of ocean carriers that has the purpose or effect of regulating rates and conditions for the transportation by those carriers of goods by water.

Reservation I-C-25

Sector:

All

Sub-Sector:

Obligations Concerned:

National Treatment (Articles 17.6 and 18.3)

Most-Favoured-Nation Treatment (Articles 17.7 and 18.4)

Performance Requirements (Article 17.12)

Senior Management and Boards of Directors (Article 17.13)

Level of Government:

Regional

Measures:

An existing non-conforming measure of a province and territory.

Description:

Investment and Cross-Border Trade in Services

Annex I. Schedule of Ukraine

Introductory Notes

1. Description provides a general non-binding description of the measure for which the entry is made.

2. Obligations Concerned specifies the obligations referred to in Article 17.18 (Non-Conforming Measures) and Article 18.7 (Reservations) that do not apply to the listed measures.

3. In the interpretation of an entry, all elements of the entry shall be considered. An entry shall be interpreted in light of the relevant provisions of the Chapters against which the entry is taken. To the extent that:

(a) the Measures element is qualified by a liberalization commitment from the Description element, the Measures element as so qualified prevails over all other elements; and

(b) the Measures element is not so qualified, the Measures element prevails over other elements, unless a discrepancy between the Measures element and the other elements considered in their totality is so substantial and material that it would be unreasonable to conclude that the Measures element prevails, in which case the other elements prevail to the extent of that discrepancy.

Reservation I-U-1

Sector: All Sectors

Sub-Sector:

Obligations Concerned: National treatment (Article 17.6)

Measures: Land Code of Ukraine on 25.10.2001 No. 2768-III

Tax Code of Ukraine on 02.12.2010 No. 2755-VI

Economic Code of Ukraine on 16.01.2003 No. 436-IV

Civil Code of Ukraine on 16.01.2003 No. 435-IV

Forest Code of Ukraine on 21.01.1994 No. 3852-XII

Water Code of Ukraine on 06.06.1995 No. 213/95-BP

Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Regarding Conditions of Transfer of Agricultural Land" on 31.03.2020 No. 552-IX

Law of Ukraine "On Land Lease" on 06.10.1998 No. 161-XIV Law of Ukraine "On Lease of State and Communal Property" on 03.10.2019 No. 157-IX

Law of Ukraine "On Ensuring the Rights and Freedoms of Citizens and the Legal Regime in the Temporarily Occupied Territory of Ukraine" on 15.04.2014 No. 1207-VII

Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Regarding the Creation of Conditions for Ensuring Food Security in Martial Law" on 24.03.2022 No. 2145-IX

Law of Ukraine "On Sanctions" on 14.08.2014 No. 1644-VII

Law of Ukraine "On the State Land Cadastre" on 07.07.2011 No. 3613-VI

Law of Ukraine "On State Registration of Real Property Rights and Encumbrances" on 01.07.2004 No. 1952-IV

Cabinet of Ministers of Ukraine (CMU) Resolution "On Adoption of Model Land Lease Contract" on 03.03.2004 No. 220 CMU

Resolution "On Approval of the Procedure for Maintaining the State Land Cadastre" on 17.10.2012 No. 1051

CMUResolution "On approval of the Procedure for verification of the compliance of the purchaser or owner of the agricultural plot of land with the requirements specified in Article 130 of the Land Code of Ukraine" on 16.06.2021 No. 637

Description: Investment Land ownership

1. Foreign citizens and persons without citizenship have no right to acquisition into property of agricultural lands. Foreign citizens and persons without citizenship do not have a right to acquire free of charge land plots, which belong to the State, and municipal property, or to privatize land plots previously given to them to use.

2. Foreign legal persons may acquire property rights only for land plots of non-agricultural designation in the territory of populated localities in case of acquisition of real estate objects related with business activity carried out in Ukraine, and outside inhabited localities - in case of acquisition of real estate objects.

3. Forests may belong only to citizens and legal persons of Ukraine.

4. There are no restrictions on the rent of land by foreigners and foreign legal entities.

5. The acquisition of land ownership may be prohibited for natural and legal persons that are subject to sanctions, in the form of a prohibition on the conclusion of transactions for the acquisition of land ownership, as well as for persons related to them.

6. During martial law, land relations in Ukraine shall take into account the following features:

(a) agricultural land plots of State and communal ownership shall be provided for use only for commercial agricultural production;

(b) the formation of land plots of State and communal property, unclaimed and unallocated land plots, as well as land plots that remained in collective ownership and were leased by local self-government bodies, except for those leased for commercial agricultural production for a period of up to one year of agricultural land plots of State and communal ownership (except for those that are in permanent use by persons who do not belong to State, communal enterprises, institutions, organizations), as well as remaining land plots in the collective ownership of a collective agricultural enterprise,

an agricultural cooperative, an agricultural joint-stock company, unallocated and unclaimed land plots, and land shares (shares), is prohibited;

(c) land auctions regarding the rights of lease, emphyteusis, superficies regarding land plots of agricultural purpose of State, and communal property shall not be conducted; and (d) the announcement of new land auctions regarding the acquisition of the right to lease, emphyteusis, superficies for agricultural land plots of state, and communal property are prohibited.

Reservation I-U-2

Sector: Professional services

Sub-Sector: Notary services

Obligations Concerned: Market Access (Article 18.5)

Measures: Law of Ukraine "On Notariate" on 02.09.1993 No. 3425-XII

Law of Ukraine "On Licensing of Economic Activity Types" on 02.03.2015 No. 222-VIII

Procedure for Admission of Persons to the Qualification Examination and Qualification Examination by the Higher Qualification Commission of Notaries, approved by the Order of the Ministry of Justice of Ukraine of 28.07.2011 No.1905/5

Procedure for Issuing Certificates of the Right to Engage Notarial Activity, approved by the Order of the Ministry of Justice of Ukraine on 11.07.2012 No. 1043/5

Description: Cross-Border Trade in Services

Only citizens of Ukraine are permitted to supply notary services.

Reservation I-U-3

Sector: Professional services

Sub-Sector: Legal services

Obligations Concerned: Market Access (Article 18.5)

Measures: Law of Ukraine "On Enforcement Proceedings" on 02.06.2016 No. 1404-VIII

Law of Ukraine "On Bodies and Persons Ensuring Enforcement of Court Decisions and Decisions of Other Bodies" on 02.06.2016 No. 1403-VIII

Procedure for Admission into the Profession of Private Executive, approved by the Order of the Ministry of Justice of Ukraine on 25.10.2016 ?No. 3053/5

Law of Ukraine "On Licensing of Economic Activity Types" on 02.03.2015 No. 222-VIII

Description: Cross-Border Trade in Services

Only citizens of Ukraine may be private enforcement agents who must be authorised by the State to carry out activities for the enforcement of decisions under the procedure established by law.

Reservation I-U-4

Sector: Professional services

Sub-Sector: Legal services

Obligations Concerned: Market Access (Article 18.5)

Measures: Code of Ukraine on Bankruptcy Procedures on 18.10.2018 No. 2597-VIII

Regulation on the system of preparation and retraining of persons who intend to carry out the activities of the arbitration manager, preparation and retraining of arbitration managers, their training in cases of bankruptcy of insurance organizations, approved by the Order of the Ministry of Justice of Ukraine on 13.08.2019 No. 2536/5

Procedure for Passing the Qualification Examination by Persons Who Intend to Perform the Activities of the Arbitration Manager, approved by the Order of the Ministry of Justice of Ukraine on 13.08.2019 No. 2535/5

Law of Ukraine "On Licensing of Economic Activity Types" on 02.03.2015 No. 222-VIII

Description: Cross-Border Trade in Services

Only citizens of Ukraine may be arbitration managers.

Reservation I-U-5

Sector: Professional services

Sub-Sector: Legal services

Obligations Concerned: Market Access (Article 18.5)

Measures: Law of Ukraine "On State Registration of Corporeal Rights to Real Estate and Their Encumbrances" on 01.07.2004 No. 1952-IV

Law of Ukraine "On State Registration of Legal Entities and Natural Persons – Entrepreneurs" on 15.05.2003 No. 755-IV

Qualification requirements for state registrars, approved by the Order of the Ministry of Justice of Ukraine "On the Settlement of Relations Related to the Status of the State Registrar" on 29.12.2015 No. 2790/5

Description: Cross-Border Trade in Services

Only citizens of Ukraine may be state registrars.

Reservation I-U-6

Sector: Professional services

Sub-Sector: Auditing services

Obligations Concerned: Market Access (Article 18.5)

Measures: Law of Ukraine "On audit of financial statements and auditing" on 21.12.2017 No. 2258-VIII

Description: Cross-Border Trade in Services

An audit report must be confirmed by an auditor or auditing firm that operates pursuant to the legislation of Ukraine.

Reservation I-U-7 Sector: Communication services

Sub-Sector: Postal and Courier Services (including express delivery services) (1)

Obligations Concerned: Market Access (Article 18.5)

Measures: Law of Ukraine "On Postal Communications" on 03.11.2022 No. 2722-IX

Law of Ukraine "On Licensing of Economic Activity Types" on 02.03.2015 No. 222-VIII

Description: Cross-Border Trade in Services

1. Licensing systems may be established for which a general Universal Service Obligations exists. These licenses may be subject to particular universal service obligations and/or financial contribution to a compensation fund.

2. Licensing may be required for (2):

(a) Handling of addressed written communication on any kind of physical medium (3), including Hybrid mail service and Direct mail;

(b) Handling of addressed parcels and packages (4);

(c) Handling of addressed press products (5);

(d) Handling of items referred to in (a) to (c) above as registered or insured mail.

(1) The commitment on postal and courier services and express delivery services applies to commercial operators of all forms of ownership, both private and state.

(2) For the purpose of the following commitments, written communication excludes simple letters weighing less than 50 grams and postcards.

(3) E.g. letter, postcards.

(4) Books and catalogues are included in this subsector.

(5) Magazines, newspapers and periodicals.

Reservation I-U-8

Sector: Educational Services

Sub-Sector: Primary education services, Secondary education services, Higher education services

Obligations Concerned: Market Access (Article 18.5) National Treatment (Articles 18.3 and Article 17.6)

Measures: Law of Ukraine “On Licensing of Economic Activity Types” on 02.03.2015 No. 222-VIII

Law of Ukraine “On Education” on 05.09.2017 No. 2145-VIII

Law of Ukraine “On Vocational and Technical Education” on 10.02.1998 No. 103/98-BP

Law of Ukraine “On the Professional Pre-higher Education” on 06.06.2019 No. 2745-VIII

Law of Ukraine “On Comprehensive General Secondary Education” on 16.01.2020 No. 463-IX

Law of Ukraine “On Extracurricular Education” on 22.06.2000 No. 1841-III

Law of Ukraine “On Preschool Education” on 11.07.2001 No. 2628-III

Law of Ukraine “On Higher Education” on 01.07.2014 No. 1556-VII

Description: Cross Border Trade in Services and Investment In line with Ukrainian legislation, only a citizen of Ukraine may be the head of an educational institution, notwithstanding the type of ownership.

Reservation I-U-9

Sector: Recreational, cultural and sporting services

Sub-Sector: News agency services

Obligations Concerned: Market Access (Article 18.5) National Treatment (Article 17.6)

Measures: Law of Ukraine "On Licensing of Economic Activity Types" on 02.03.2015 No. 222-VIII

Law of Ukraine "On the media" on 13.12.2022 No. 2849-IX

Description: Cross-Border Trade in Services and Investment

In line with Ukrainian legislation, foreign investment in news agencies publishing in electronic media, print media, photography, cinema, audio, video, and other formats not forbidden by the current legislation of Ukraine, is limited to 35 percent.

Reservation I-U-10

Sector: Road transport services

Sub-Sector: Passenger transportation, Freight transportation

Obligations Concerned: Market Access (Article 18.5)

Measures: Law of Ukraine "On Licensing of Economic Activity Types" on 02.03.2015 No. 222-VIII

Licensed conditions of implementation of economic activity on transportation of passengers, dangerous goods and dangerous wastes by road transport, international carriages of passengers and loads road transport, approved by CMU Resolution of 02.12.2015 No. 1001

Description: Cross-Border Trade in Services

1. Persons engaged in passenger and goods transport must be registered as legal persons in the territory of Ukraine.

2. For the purposes of this entry, registration does not set requirements regarding the extent of foreign ownership.

Reservation I-U-11

Sector: Transportation

Sub-sector: Water Transportation

Obligations Concerned: National Treatment (Articles 18.3 and 17.6)

Measures: The Merchant Shipping Code of Ukraine on 23.05.1995 No. 176/95-BP

Law of Ukraine "On Internal Waterways Transport" of 03.12.2020 No. 1054-IX

Procedure for the registration of vessels in the State Shipping Registry of Ukraine and the Shipping Book of Ukraine, approved by the Order of the Ministry of Infrastructure of Ukraine on 11.04.2022 No. 203

Description: Cross Border Trade in Services and Investment

1. The right to fly the State Flag of Ukraine shall be granted to a vessel owned by:

(a) a natural person that is a citizen of Ukraine; or

(b) a legal person registered in the territory of Ukraine. For greater certainty, registration does not set requirements regarding the extent of foreign ownership.

2. A vessel registered in a foreign country, which was chartered under a bareboat charter, may be registered in Ukraine for the duration of the charter in the event of temporary termination of its registration in another or in a previous country.

3. Registration of vessels in the State Shipping Registry of Ukraine and the Shipping Book of Ukraine is prohibited for:

(a) ships whose owners are citizens of a state recognized by Ukraine as an aggressor state or an occupying state; legal persons registered in the territory of a state recognized by Ukraine as an aggressor state or an occupying state; legal persons registered in the territory of Ukraine, the participants (shareholders, members) or ultimate beneficiaries who are citizens of a state recognized by Ukraine as an aggressor state or an occupying state; or legal entities registered on the territory of Ukraine, the participants (shareholders, members) or ultimate beneficiaries of which are the state, recognized by Ukraine as an aggressor state or an occupying state; and

(b) natural and legal persons to whom special economic and other restrictive measures (sanctions) have been applied in accordance with the Law of Ukraine "On Sanctions".

4. Registration of vessels in the State Shipping Registry of Ukraine is prohibited for:

(a) oil tankers that do not meet the requirements for double hull or equivalent construction laid down in Regulations 19 and 28 of Annex I to the International Convention for the Prevention of Pollution from Ships, 1973, as amended by the 1978 Protocol thereto, as well as oil tankers 25 years of age and older after the date of delivery of the vessel, which is determined by clauses 28.1 - 28.9 of Rule 1 of the specified Appendix;

(b) vessels that have been detained in seaports by port state control inspectors during control within the framework of established port state control systems (regional memorandums of understanding on port state control of vessels) more than three times during the last 36 months immediately prior to the submitting an application for registration in the State Shipping Registry of Ukraine; and

(c) from 2025: vessels aged 35 years or more.

Reservation I-U-12

Sector: Trade-Related energy

Sub-Sector: Prospecting, exploring for and producing hydrocarbons

Obligations Concerned: National Treatment (Article 17.6)

Measures: Law of Ukraine "On Oil and Gas" on 12.07.2001 No. 2665-III

Subsoil Code of Ukraine on 27.07.1994 No. 132/94-BP

Law of Ukraine "On Defence of Ukraine" on 06.12.1991 No. 1932-XII

Law of Ukraine "On Sanctions" on 14.08.2014 No. 1644-VII

Description: Investment

1. Subsoil use can be prohibited for natural and legal persons which are subject to sanctions, as well as for persons related to them.

2. For greater certainty, the types of sanctions that can be imposed include, but are not limited to, the following:

(a) preventing the withdrawal of capital from Ukraine;

(b) suspending the performance of economic and financial obligations; and

(c) cancelling or suspending licences and other permits required for a certain type of business activity, in particular, cancelling or suspending special subsoil use permits.

Annex II. Cross-Border Trade in Services and Investment Non-Conforming Measures

Annex II. Explanatory Note

1. The Schedule of a Party to this Annex sets out, pursuant to Articles 17.18 (Non-Conforming Measures) and 18.7 (Reservations), the specific sectors, subsectors, or activities for which that Party may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

(a) Article 17.6 (National Treatment) or 18.3 (National Treatment);

(b) Article 17.7 (Most-Favoured-Nation Treatment) or 18.4 (Most-Favoured-Nation Treatment);

(c) Article 17.12 (Performance Requirements);

(d) Article 17.13 (Senior Management and Boards of Directors); or

(e) Article 18.5 (Market Access).

2. Each Schedule entry sets out the following elements:

(a) Sector refers to the sector for which the entry is made;

(b) Sub-Sector, where referenced, refers to the specific subsector for which the entry is made;

(c) Obligations Concerned specifies the obligation(s) referred to in paragraph 1 that, pursuant to Articles 17.18 (Non-Conforming Measures) and 18.7 (Reservations), do not apply to the sectors, subsectors, or activities listed in the entry;

(d) Description sets out the scope or nature of the sectors, subsectors, or activities covered by the entry to which the reservation applies; and

(e) Existing Measures identifies, for transparency purposes, a non-exhaustive list of existing measures that apply to the sectors, subsectors, or activities covered by the entry.

3. For greater certainty, in the interpretation of an entry, all elements of the entry shall be considered, and the Description element prevails over all other elements.

4. In accordance with Articles 17.18 (Non-Conforming Measures) and 18.7 (Non-Conforming Measures), the articles of this Agreement specified in the Obligations Concerned element of an entry do not apply to the sectors, subsectors, and activities identified in the Description element of that entry.

Annex II. Schedule of Canada

Reservation II-C-1

Sector:

Aboriginal Affairs

Sub-Sector:

Obligations Concerned:

National Treatment (Articles 17.6 and 18.3)

Most-Favoured-Nation Treatment (Articles 17.7 and 18.4)

Performance Requirements (Article 17.12)

Senior Management and Boards of Directors (Article 17.13)

Description:

Investment and Cross-Border Trade in Services

1. Canada reserves the right to adopt or maintain measures with respect to the rights or preferences provided to Aboriginal peoples, including those recognized and affirmed by section 35 of the Constitution Act, 1982 or those set out in self-government agreements between a central or regional level of government and Indigenous peoples. (1)

(1) For greater clarity, Indigenous peoples of Canada are the First Nations, Inuit and the Métis peoples.

Existing Measures:

Constitution Act, 1982, being Schedule B of the Canada Act 1982 (U.K.), 1982, c. 11, as well as land claims agreements and self-government agreements that have been implemented by statute.

Reservation II-C-2

Sector:

All Sectors

Sub-Sector:

Obligations Concerned:

National Treatment (Article 17.6)

Description:

Investment

Canada reserves the right to adopt or maintain a measure relating to residency requirements for the ownership of oceanfront land by an investor of Ukraine or its investments.

Existing Measures:

Reservation II-C-3

Sector:

Fisheries

Sub-Sector:

Fishing and Services Incidental to Fishing

Obligations Concerned:

National Treatment (Articles 17.6 and 18.3)

Most-Favoured Nation Treatment (Articles 17.7 and 18.4)

Description:

Investment and Cross-Border Trade in Services

1. Canada reserves the right to adopt or maintain any measure with respect to licensing or otherwise authorizing fishing or fishing related activities, including entry of foreign fishing vessels to Canada's exclusive economic zone, territorial sea, internal waters, or ports, and use of any services therein.

2. Canada shall endeavour to accord to vessels entitled to fly the flag of Ukraine treatment no less favourable than the treatment it accords, in like situations, to vessels entitled to fly the flag of any other foreign State.

Existing Measures:

Fisheries Act, R.S.C. 1985, c. F14

Coastal Fisheries Protection Act, R.S.C. 1985, c.33

Coastal Fisheries Protection Regulations, C.R.C. 1978, c. 413

Commercial Fisheries Licensing Policy

Policy on Foreign Investment in the Canadian Fisheries Sector, 1985

Reservation II-C-4

Sector:

Government Finance

Sub-Sector:

Securities

Obligations Concerned:

National Treatment (Article 17.6)

Description:

Investment

Canada reserves the right to adopt or maintain a measure relating to the acquisition, sale, or other disposition by a national of Ukraine of bonds, treasury bills, or other kinds of debt securities issued by the Government of Canada or a Canadian sub-national government.

Existing Measures:

Financial Administration Act, R.S.C. 1985, c. F-11

Reservation II-C-5

Sector:

Minority Affairs

Sub-Sector:

Obligations Concerned:

National Treatment (Articles 17.6 and 18.3)

Performance Requirements (Article 17.12)

Senior Management and Boards of Directors (Article 17.13)

Description:

Investment and Cross-Border Trade in Services

Canada reserves the right to adopt or maintain a measure conferring rights or privileges to a socially or economically disadvantaged minority.

Existing Measures:

Reservation II-C-6

Sector:

Social Services

Sub-Sector:

Obligations Concerned:

National Treatment (Articles 17.6 and 18.3)

Most-Favoured-Nation Treatment (Articles 17.7 and 18.4)

Performance Requirements (Article 17.12)

Senior Management and Boards of Directors (Article 17.13)

Description:

Investment and Cross-Border Trade in Services

Canada reserves the right to adopt or maintain a measure with respect to the supply of public law enforcement and correctional services, as well as the following services to the extent they are social services established or maintained for a public purpose: income security or insurance; social security or insurance; social welfare; public education; public training; health; and child care.

Existing Measures:

Reservation II-C-7

Sector:

Transportation

Sub-Sector:

Water Transportation

Obligations Concerned:

National Treatment (Articles 17.6 and 18.3)

Most-Favoured-Nation Treatment (Articles 17.7 and 18.4)

Performance Requirements (Article 17.12)

Senior Management and Boards of Directors (Article 17.13)

Description:

Investment and Cross-Border Trade in Services

1. Canada reserves the right to adopt or maintain a measure affecting the investment in or supply of marine cabotage services, including:

(a) the transportation of goods or passengers by vessel between points in the territory of Canada or above the continental shelf of Canada, directly or by way of a place outside Canada; but with respect to waters above the continental shelf of Canada, the transportation of goods or passengers only in relation to the exploration, exploitation, or transportation of the mineral or non-living natural resources of the continental shelf of Canada; and

(b) engaging by vessel in any other marine activity of a commercial nature in the territory of Canada and, with respect to

waters above the continental shelf, in such other marine activities of a commercial nature that are in relation to the exploration, exploitation, or transportation of the mineral or non-living natural resources of the continental shelf of Canada.

2. This reservation relates, among other things, to limitations and conditions for services suppliers entitled to participate in these activities, to criteria for the issuance of a temporary cabotage license to foreign vessels, and to limits on the number of cabotage licenses issued to foreign vessels.

3. For greater certainty, this reservation applies, among other things, to marine activities of a commercial nature undertaken by or from a vessel, including feeder services and repositioning of empty containers.

Existing Measures:

Coasting Trade Act, S.C. 1992, c. 31

Canada Shipping Act, S.C. 2001, c.26

Customs Act, R.S.C. 1985, c.1 (2nd Supp.)

Customs and Excise Offshore Application Act, R.S.C. 1985, c. C-53

Reservation II-C-8

Sector:

Transportation

Sub-Sector:

Water Transportation

Obligations Concerned:

Most-Favoured-Nation Treatment (Article 18.4)

Description:

Cross-Border Trade in Services

Canada reserves the right to adopt or maintain a measure relating to the implementation of an agreement, arrangement, or other formal or informal undertaking with other countries with respect to maritime activities in waters of mutual interest in areas such as pollution control (including double hull requirements for oil tankers), safe navigation, barge inspection standards, water quality, pilotage, salvage, drug abuse control, or maritime communications.

Existing Measures:

Reservation II-C-9

Sector:

Water Transportation

Sub-Sector:

Technical Testing and Analysis Services

Obligations Concerned:

National Treatment (Articles 17.6 and 18.3)

Most-Favoured-Nation Treatment (Articles 17.7 and 18.4)

Description:

Investment and Cross-Border Trade in Services

1. Canada reserves the right to adopt or maintain a measure affecting the statutory inspection and certification of a vessel on behalf of Canada.

2. For greater certainty, only a person, classification society, or other organization authorized by Canada may carry out

statutory inspections and issue Canadian Maritime Documents to Canadian-registered vessels and their equipment on behalf of Canada.

Existing Measures:

Reservation II-C-10

Sector:

All Sectors

Sub-Sector:

Obligations Concerned:

Most-Favoured-Nation Treatment (Articles 17.7 and 18.4)

Description:

Investment and Cross-Border Trade in Services

1. Canada reserves the right to adopt or maintain a measure that accords differential treatment to countries under any international agreement in force or signed prior to the date of entry into force of this Agreement.

2. Canada reserves the right to adopt or maintain a measure that accords differential treatment to countries under any international agreement in force or signed after the date of entry into force of this Agreement involving:

(a) aviation;

(b) fisheries; or

(c) maritime matters, including salvage.

Existing Measures:

Reservation II-C-11

Sector:

All

Sub-Sector:

Obligations Concerned:

Market Access (Article 18.5)

Description:

Cross-Border Trade in Services

1. Canada reserves the right to adopt or maintain a measure that is not inconsistent with:

(a) Canada's obligations under Article XVI of GATS, including obligations resulting from future amendments to Canada's Schedule to Article XVI of GATS; and

(b) Canada's Schedule of Specific Commitments under GATS (GATS/SC/16, GATS/SC/16/Suppl.1, GATS/SC/16/Suppl.1/Rev.1, GATS/SC/16/Suppl.2, GATS/SC/16/Suppl.2/Rev.1, GATS/SC/16/ Suppl.3, GATS/SC/16/Suppl.4 and GATS/SC/16/Suppl.4/Rev.1).

2. This entry applies to measures adopted or maintained that affect the supply of a service by a covered investment pursuant to Article 18.5 (Market Access). For purposes of this entry only, Canada's Schedule of Specific Commitments is modified as indicated in Appendix I of this Annex.

Existing Measures:

Appendix I

For the following sectors, Canada's obligations under Article XVI of GATS are modified as described.

Sector/Sub-sector Market Access Improvements

Accounting, auditing, and book-keeping services

Under Mode 1 remove:

Auditing

- Commercial presence requirement: Nova Scotia.

- Citizenship requirement for accreditation: Manitoba, Quebec.

- Permanent residence requirement for accreditation: Ontario.

Under Mode 2 remove:

Auditing

- Commercial presence requirement: Nova Scotia.

- Citizenship requirement for accreditation: Manitoba, Quebec.

- Permanent residence requirement for accreditation: Ontario.

Architectural services

Under Mode 1 remove:

Architects

- Citizenship requirement for accreditation: Quebec.

Engineering services

Under Mode 1 remove:

Consulting Engineers

- Commercial presence requirement for accreditation: Manitoba.

Engineers

- Permanent residence requirement for accreditation: Newfoundland and Labrador, Nova Scotia.

- Citizenship requirement for accreditation: Quebec.

Under Mode 2 remove:

Consulting Engineers

- Commercial presence requirement for accreditation: Manitoba.

Engineers

- Permanent residence requirement for accreditation: Newfoundland and Labrador, Nova Scotia.

- Citizenship requirement for accreditation: Quebec.

Integrated engineering services

Under Mode 1 remove:

Consulting Engineers

- Commercial presence requirement for accreditation: Manitoba.

Engineers

- Permanent residence requirement for accreditation: Newfoundland and Labrador, Nova Scotia.

- Citizenship requirement for accreditation: Quebec.

Under Mode 2 remove:

Consulting Engineers

- Commercial presence requirement for accreditation: Manitoba.

Engineers

- Permanent residence requirement for accreditation: Newfoundland and Labrador, Nova Scotia.

- Citizenship requirement for accreditation: Quebec.

Urban planning and landscape architectural services

Under Mode 1 remove:

Community/Urban Planning

- Citizenship requirement for use of title: Quebec.

Real estate services

Under Mode 1 remove:

Chartered Appraisers

- Citizenship requirement for use of title: Quebec.

Management consulting services

Under Mode 1 remove:

Agrologists

- Citizenship requirement for accreditation: Quebec.

Professional Administrators and Certified Management Consultants

- Citizenship requirement for use of title: Quebec Professional Corporation of Administrators.

Industrial Relations Counsellors

- Citizenship requirement for use of title: Quebec.

Under Mode 2 remove:

Agrologists

- Citizenship requirement for accreditation: Quebec.

Investigation and security services

Under Mode 3 remove:

Business and Personnel Information Investigations

- Foreign ownership restriction to 25 percent in total and 10 percent by any individual holding shares: Ontario.

Related scientific and technical consulting services

Under Mode 1 remove:

Land Surveyors

- Citizenship requirement for accreditation: Nova Scotia, Quebec.

Subsurface Surveying Services

- Citizenship requirement for accreditation: Quebec.

Professional Technologist

- Citizenship requirement for accreditation: Quebec.

Chemists

- Citizenship requirement for accreditation: Quebec.

Under Mode 2 remove:

Land Surveyors

- Citizenship requirement for accreditation: Nova Scotia, Quebec.

Subsurface Surveying Services

- Citizenship requirement for accreditation: Quebec.

Other business services

Under Mode 1 remove:

Certified Translators and Interpreters

- Citizenship requirement for use of title: Quebec.

Under Mode 2 remove:

Certified Translators and Interpreters

- Citizenship requirement for use of title: Quebec.

Under Mode 3 remove:

Collection Agencies

- Foreign ownership restriction to 25 percent in total and 10 percent by any individual: Ontario.

Courier services

Under Mode 3 remove:

- Economic needs test (Criteria related to approval include: examination of the adequacy of current levels of service; market conditions establishing the requirement for expanded service; the effect of new entrants on public convenience, including the continuity and quality of service; and the fitness, willingness, and ability of the applicant to supply proper service.): Nova Scotia, Manitoba.

General construction work for civil engineering

Under Mode 3 remove:

Construction

- An applicant and holder of a water power site development permit must be incorporated in Ontario.

Wholesale trade services

Under Mode 1 remove

Marketing of Fish Products (Nova Scotia): Nova Scotia residents require ministerial approval to enter into agreements with non-residents.

Railway passenger and freight transport

Under Mode 1 remove:

- cabotage limitation

Road passenger transportation

Under Mode 3 remove:

Interurban bus transport and scheduled services:

- Public convenience and needs test (Criteria related to approval include: examination of the adequacy of current levels of service; market conditions establishing the requirement for expanded service; the effect of new entrants on public convenience, including the continuity and quality of service; and the fitness, willingness, and ability of the applicant to supply proper service.): Prince Edward Island.

Road freight transportation

Under Mode 3 remove:

Highway freight transportation

- Public convenience and needs test (Criteria related to approval include: examination of the adequacy of current levels of service; market conditions establishing the requirement for expanded service; the effect of new entrants on public convenience, including the continuity and quality of service; and the fitness, willingness, and ability of the applicant to supply proper service.): British Columbia, Manitoba, Ontario, Prince Edward Island, Nova Scotia.

Telecommunications

Under Mode 3 remove:

Nova Scotia: no person may vote more than 1,000 shares of Maritime Telegraph and Telephone Ltd.

Annex II. Schedule of Ukraine

Reservation II-U-1

Sector:

All Sectors

Sub-Sector:

Obligations Concerned:

Most-Favoured-Nation Treatment (Articles 18.4 and 17.7)

Description:

Cross-Border Trade in Services and Investment

1. Ukraine reserves the right to adopt or maintain any measure that accords differential treatment to countries under any international agreement in force or signed prior to the date of entry into force of this Agreement.

2. Ukraine reserves the right to adopt or maintain any measure that accords differential treatment to countries under any international agreement in force or signed after the date of entry into force of this Agreement involving:

(a) Air services;

(b) Maritime and services auxiliary to maritime and port matters;

(c) Land transport matters;

Reservation II-U-2

Sector:

Services related to Strategic Industries

Sub-Sector:

Obligations Concerned:

National Treatment (Article 17.6)

Measures:

CMU Resolution "Some issues of the development of the industrial complex of Ukraine" (draft at the stage of approval)

Description:

Investment

Ukraine reserves the right to adopt or maintain any measure related to the participation of enterprises and government authorities in the privatization of Ukrainian enterprises that belongs to strategic industries.

Reservation II-U-3

Sector:

Certain Sectors

Sub-Sector:

Obligations Concerned:

Market Access (Article 18.5)

National Treatment (Articles 18.3 and 17.6)

Description:

Cross-Border Trade in Services and Investment

1. For the sectors listed in Appendix I, Ukraine reserves the right to adopt or maintain a measure that is not inconsistent with:

(a) Ukraine's obligations under Articles XVI and XVII of the GATS; and

(b) Ukraine's Schedule of Specific Commitments under the GATS (GATS/SC/144).

For greater certainty, this entry applies to measures adopted or maintained that affect the supply of a service by a covered investment pursuant to Article 18.5 (Market Access). This reservation does not apply to Market Access (Article 18.5) or National Treatment (Articles 18.3 and 17.6) reservations listed in Annex I.

Reservation II-U-4

Sector:

Water Transportation

Sub-Sector:

Technical Testing and Analysis Services

Obligations Concerned:

National Treatment (Articles 18.3 and 17.6)

Most-Favoured-Nation Treatment (Articles 18.4 and 17.7)

Description:

Cross-Border Trade in Services and Investment

1. Ukraine reserves the right to adopt or maintain a measure affecting the statutory inspection and certification of a vessel on behalf of Ukraine.

2. For greater certainty, only a person, classification society or other organization authorized by Ukraine may carry out statutory inspections and issue Ukrainian Maritime Documents to Ukrainian registered vessels and their equipment on behalf of Ukraine

Reservation II-U-5

Sector:

Transport Services

Sub-Sector:

Rail Transport Services

Obligations Concerned:

Most-Favoured-Nation Treatment (Articles 18.4 and 17.7)

Measures:

Law of Ukraine "On Licensing of Economic Activity Types" on 02.03.2015 № 222-VII

Law of Ukraine "On Forwarding Activities" on 01.07.2004 № 1955-IV

Law of Ukraine "On Transport" on 10.11.1994 № 232/94-BP

Law of Ukraine "On Natural Monopolies" on 20.04.2000 № 1682-III

Law of Ukraine "On Railway Transport" on 04.07.1996 № 273/96-BP

Economic Code of Ukraine on 16.01.2003 № 436-IV

Description:

Cross-Border Trade in Services and Investment

Transportation is carried out under existing agreements which govern access and/or traffic rights and the terms of conduct of this kind of economic activity in the territory of Ukraine or between the countries which are parties to the corresponding agreements.

Reservation II-U-6

Sector:

Transport Services

Sub-Sector:

Road Transport Services

Obligations Concerned:

Most-Favoured-Nation Treatment (Articles 18.4 and 17.7)

Measures:

Law of Ukraine "On Licensing of Economic ActivityTypes" on 02.03.2014 № 222-VII

Law of Ukraine "On Forwarding Activities" on 01.07.2004 № 1955-IV

Law of Ukraine "On Transport" on 10.11.1994 № 232/94-BP

Law of Ukraine "On Road Transport" on 05.04.2001 № 2344-III

Economic Code of Ukraine on 16.01.2003 № 436-IV

Description:

Cross-Border Trade in Services and Investment

Transportation is carried out under existing agreements, which reserve and/or restrict the supply of this kind of transportation services and specify the terms and conditions of this supply, including transit permits and/or preferential road taxes, in the territory of Ukraine or across the borders of Ukraine.

Appendix I

This Appendix lists the sectors/subsectors in which Ukraine has the GATS limitations with respect to Market Access (Article 18.5) or National Treatment (Articles 18.3 and 17.6), or in which Ukraine has taken no commitment under the GATS, and would like to preserve policy flexibility under this Agreement.

Sector/Sub-sector:

(a) Services provided by midwives, nurses, physiotherapists and paramedical personnel

(b) Investigation and security services

(c) Photographic services

(d) Health related and social services

(e) Recreational, cultural, and sporting services (excluding News agency services)

(f) Maritime transport services (excluding port services available to international maritime transport services suppliers – pilotage; towing and tug assistance; provisioning, fueling and watering; garbage collecting and ballast waste disposal; Port Captain's services; navigation aids; shore-based operational services essential to ship operations, including communications, water and electrical supplies; emergency repair facilities; anchorage, berth and berthing services; maritime agency; and maritime freight forwarding services)

(g) International Maritime Transport Services (excluding liner shipping; bulk, tramp, and other international shipping, including passenger transportation; and certain requirements related to the establishment of registered companies)

(h) Internal waterways transport (excluding rental services of vessels with crew; maintenance and repair of vessels; pushing and towing services; and supporting services for internal water transport)

(i) Air transport services (excluding aircraft repair and maintenance; and selling and marketing of air transport services)

(j) Space transport

(k) Rail transport services (excluding maintenance and repair of railway transportation equipment; and supporting services for railway transportation services)

(l) Road transport services (excluding certain registration of legal entity requirements for passenger and freight transport; rental of commercial vehicles with operator; maintenance and repair of road transport equipment; and supporting services for road transport services)

(m) Services auxiliary to all modes of transport (excluding the establishment of cargo handling, storage and warehouse, and freight transport agency services)

(n) Other services not elsewhere specified

- Beauty and Physical Well-Being Services (CPC Ver. 1.0: 972)

- Massage Services excluding Therapeutic Massage (part of CPC Ver. 1.0: 97230)Footnote1

- Spa Services (part of CPC Ver. 1.0: 97230) (1), including Spa Management Services

- Hairdressing and other beauty services (CPC 9702)

(1) This subclass does not include medical treatment services, cf. 931.