# Comprehensive Economic Partnership Agreement between Korea and the United Arab Emirates

PREAMBLE

The Governments of the United Arab Emirates (hereinafter referred to as the “UAE”) and the Republic of Korea (hereinafter referred to as “Korea”);

hereinafter being referred to individually as a “Party” and collectively as “the Parties”;

RECOGNIZING the strong economic and political ties between the UAE and Korea, and wishing to strengthen these links through the creation of a free trade area, thus establishing close and lasting relations;

DETERMINED to build on their respective rights and obligations under the Marrakesh Agreement Establishing the World Trade Organization;

CONSCIOUS of the dynamic and rapidly changing global environment brought about by globalization and technological progress that presents various economic and strategic challenges and opportunities to the Parties;

DETERMINED to develop and strengthen their economic and trade relations through the liberalization and expansion of trade in goods and services in their common interest and for their mutual benefit;

AIMING to promote cooperation in technology and expand trade;

CONVINCED that the establishment of a free trade area will provide a more favorable climate for the promotion and development of economic and trade relations between the Parties;

AIMING to establish clear and mutually advantageous rules governing their trade and investment and to reduce or eliminate the barriers to trade and investment between their territories;

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

AIMING to establishing a clear, transparent, and predictable legal and commercial framework for business planning, that supports further expansion of trade and investment;

DESIRING to strengthen mutually beneficial cooperation to foster creativity and innovation, and promote stronger linkage in and between sectors of their economies;

RECOGNIZING their inherent right to regulate and resolved to preserve the flexibility of the Parties to set legislative and regulatory priorities, and protect legitimate public welfare objectives.

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

# Chapter ONE. INITIAL PROVISIONS AND GENERAL DEFINITIONS

## Article 1.1. General Definitions

For the purposes of this Agreement:

Agreement on Agriculture means the Agreement on Agriculture in Annex 1A to the WTO Agreement;

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

customs authority means any authority that is responsible under the law of each Party for the administration and enforcement of its customs laws and regulation;

for the UAE, the Federal Authority for Identity, Citizenship,

Customs & Port Security, or its respective successors; and

for Korea, the Ministry of Economy and Finance (including the Korea Customs Service), or its respective successors;

Customs duty refers to any duty or charge of any kind imposed in connection with the importation of a product, including any form of surtax or surcharge in connection with such importation, but does not include any:

charge equivalent to an internal tax imposed in conformity with Article III of GATT 1994;

anti-dumping, countervailing, or safeguard duty that is applied in accordance with Article VI of GATT 1994, the Anti-Dumping Agreement, the SCM Agreement, Article XIX of GATT 1994, and the Safeguards Agreement;

fee or other charge in connection with importation commensurate with the cost of services rendered; or

duty imposed consistently with Article 5 of the Agreement on Agriculture.

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

days means calendar days, including weekends and holidays;

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

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

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

Harmonized System or HS means the Harmonized Commodity Description and Coding System, including its General Rules for the Interpretation, Section Notes, Chapter Notes and Subheading Notes;

Import Licensing Agreement means the Agreement on Import Licensing Procedures in Annex 1A to the WTO Agreement;

Joint Committee means the Joint Committee established pursuant to Article 17.1(Joint Committee) of this Agreement;

measure means any measure, whether in the form of a law, regulation, rule, procedure, decision, practice, administrative action, or any other form;

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

SCM Agreement means the Agreement on Subsidies and Countervailing Measures in Annex 1A to the WTO Agreement;

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

TBT Agreement means the Agreement on Technical Barriers to Trade in Annex 1A to the WTO Agreement;

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

WTO means the World Trade Organization; and

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

## Article 1.2. Establishment of the Free Trade Area

The Parties hereby establish a free trade area, in accordance with Article XXIV of GATT 1994 and Article V of GATS and to promote opportunities for market access and trade liberalization for goods, services and investments; strengthen the development of the digital economy; and deepen economic cooperation between the Parties.

## Article 1.3. Objectives

The objectives of this Agreement are to liberalize and facilitate trade and investment between the Parties in accordance with

the provisions of this Agreement.

### Article 1.4. Geographical Scope

This Agreement shall apply:

For the UAE, its land territories, internal waters, including its Free Zones, territorial sea, including the seabed, and subsoil thereof, and airspace over such territories and waters, as well as the contiguous zone, the continental shelf and exclusive economic zone, over which the UAE has sovereignty, sovereign rights or jurisdiction as defined in its laws, and in accordance with international law.

For Korea, the land, maritime, and air space over which Korea exercise sovereignty, and those maritime areas, including the seabed and subsoil adjacent to and beyond the outer limit of the territorial seas over which it may exercises sovereign rights or jurisdiction in accordance with international law and its domestic law.

### Article 1.5. 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 both Parties are party.

2. In the event of any inconsistency between this Agreement and other agreements to which both Parties are party, the Parties shall immediately consult with each other with a view to finding a mutually satisfactory solution.

### Article 1.6. Regional and Local Government

1. Each Party shall take such reasonable measures as may be available to it to ensure observance of the provisions of this Agreement by the regional and local governments and authorities and by non-governmental bodies in the exercise of governmental powers delegated by central, regional and local governments and authorities within its territories.

2. This provision is to be interpreted and applied in accordance with the principles set out in paragraph 12 of Article XXIV of GATT 1994 and paragraph 3 of Article I of GATS.

### Article 1.7. Transparency

1. Each Party shall publish or otherwise make publicly available their laws, regulations, and administrative rulings of general application as well as their respective international agreements which may affect the operation of this Agreement.

2. Without prejudice to Article 1.8, each Party shall respond with reasonable period of time to specific questions and provide, upon request, information to each other on matters referred to in paragraph 1.

### Article 1.8. Confidential Information

1. Each Party shall, in accordance with its laws and regulations, maintain the confidentiality of information designated as confidential by the other Party.

2. Nothing in this Agreement shall require a Party to disclose confidential information, the disclosure of which would impede law enforcement of the Party, or otherwise be contrary to the public interest, or which would prejudice the legitimate commercial interests of any economic operator.

## Chapter TWO. TRADE IN GOODS

### Article 2.1. Definitions

For purposes of this Chapter:

duty-free means free of customs duty; and

import licensing means an administrative procedure requiring the submission of an application or other documentation (other than that generally required for customs clearance purposes) to the relevant administrative body as a prior condition for importation into the territory of the importing Party.

## Article 2.2. Scope and Coverage

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

## Article 2.3. National Treatment on Internal Taxation and Regulation

Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of GATT 1994, including its interpretative notes. To this end, Article III of GATT 1994 and its interpretative notes are incorporated into and form part of this Agreement, mutatis mutandis.

## Article 2.4. Reduction or Elimination of Customs Duties

1. Except as otherwise provided in this Agreement, including as explicitly set out in each Party's Schedule included in Annex 2-A, neither Party shall increase any existing customs duty, or adopt any new customs duty, on an originating good of the other Party.

2. Upon the entry into force of this Agreement, Korea shall reduce or eliminate its customs duties applied on goods originating from the UAE inaccordance with Annex 2-A-1 and the UAE shall reduce or eliminate its customs duties on goods originating from Korea in accordance with Annex 2-A-2.

3. Where a Party reduces its most-favored-nation (hereinafter referred to as "MFN") applied rate of customs duty, that duty rate shall apply to an originating good of the other Party if, and for as long as, it is lower than the customs duty rate for such good as set out in each Party's Schedule included in Annex 2-A.

## Article 2.5. Acceleration or Broadening of Tariff Commitments

1. Upon request of a Party, the Parties shall consult to consider accelerating or broadening the scope of tariff commitments as set out in each Party's Schedule included in Annex 2-A.

2. Further commitments between the Parties pursuant to paragraph 1 shall supersede any duty rate or staging category determined pursuant to their respective Schedules included in Annex 2-A when approved by each Party in accordance with its applicable legal procedures.

3. Nothing in this Agreement shall prohibit a Party from unilaterally accelerating or broadening the scope of tariff commitments set out in its Schedule included in Annex 2-A on originating goods. Any such unilateral acceleration or broadening of the scope of tariff commitments will not:

(a) permanently supersede any duty rate or staging category determined pursuant to its respective Schedule to Annex 2-A; or

(b) serve to waive that Party's right to raise the customs duty back to the level established in its respective Schedule included in Annex 2-A following a unilateral reduction.

## Article 2.6. Classification of Goods and Transposition of Schedules

1. The classification of goods in trade between the Parties shall be in conformity with the HS and its amendments.

2. The Parties shall consult whether it is necessary to update each Party's Schedule included in Annex 2-A to reflect periodic amendments of the HS.

3. Each Party shall ensure that any transposition of its Schedule included in Annex 2-A is carried out without impairing the tariff commitments as set out in its Schedule included in Annex 2-A, which includes not affording less favorable treatment to an originating good of the other Party than set out in its Schedule included in Annex 2-A, and is in accordance with the agreed transposition guidelines, which are to be adopted by the Committee on Trade in Goods.

## Article 2.7. Import and Export Restrictions

1. Except as otherwise provided in this Agreement, neither Party shall adopt or maintain any prohibition or restriction on the importation of any good of the other Party or on the exportation or sale for export of any good destined for the territory of the other Party, except in accordance with Article XI of GATT 1994 and its interpretative notes, and to this end Article XI of

GATT 1994 and its interpretative notes are incorporated into and made a part of this Agreement, mutatis mutandis.

2. In the event that a Party introduces a measure that imposes a prohibition or restriction otherwise justified under the relevant provisions of the WTO Agreement with respect to the exportation of goods to the other Party, the Party imposing the measure shall publish the measure in a timely manner. Upon the request of the other Party, the Parties shall enter into consultations with the aim of resolving any problem that may arise due to that measure.

## Article 2.8. Import Licensing

1. Neither Party shall adopt or maintain a measure that is inconsistent with the Import Licensing Agreement (1), which is hereby incorporated into and made a part of this Agreement, mutatis mutandis.

(1) For purposes of paragraph 1 and for greater certainty, in determining whether a measure is inconsistent with the Import Licensing Agreement, the Parties shall apply the definition of "import licensing" contained in that Agreement.

2. Before applying any new or modified import licensing procedure, a Party shall publish it in such a manner as to enable governments and traders to become acquainted with it, including through publication on an official government Internet site.

## Article 2.9. Customs Valuation

Each Party shall determine the customs value of goods traded between the Parties in accordance with the provisions of Article VII of GATT 1994 and the Customs Valuation Agreement, mutatis mutandis.

## Article 2.10. Export Subsidies

1. Neither Party shall adopt or maintain any export subsidy on any good destined for the territory of the other Party, in accordance with the SCM Agreement and the Agreement on Agriculture.

2. Notwithstanding paragraph 1, the Parties reaffirm that a Party may maintain an export subsidy on an agricultural good only in accordance with its commitments made in the WTO Ministerial Conference Decision on Export Competition (WT/MIN (15)/45, WT/L/980) adopted in Nairobi on 19 December 2015, including the elimination of scheduled export subsidy entitlements for agricultural goods.

## Article 2.11. Measures to Safeguard the Balance-of-Payments

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

2. Any measures taken for balance-of-payments purposes for trade in goods shall be in accordance with Article XII of GATT 1994 and the Understanding on the Balance-of-Payments Provisions of GATT 1994, which are incorporated into and made a part of this Agreement, mutatis mutandis.

## Article 2.12. Administrative Fees and Formalities

1. Each Party shall ensure that all fees and charges imposed in connection with importation and exportation shall be consistent with its obligations under Article VIII:1 of GATT 1994 and its interpretive notes.

2. Each Party shall make available and maintain, through the Internet, a current list of the fees and charges it imposes in connection with importation or exportation.

## Article 2.13. Non-Tariff Measures

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

2. Each Party shall ensure that its laws, regulations, procedures and administrative rulings related to non-tariff measures are not prepared, adopted or applied with the view to, or with the effect of, creating unnecessary obstacles to trade with the other Party.

3. If a Party considers that a non-tariff measure of the other Party is creating an unnecessary obstacle to trade, that Party may nominate such a non-tariff measure for review by the Committee on Trade in Goods through a written letter of request, which shall be submitted at least 30 days before the date of the next scheduled meeting of the Committee on Trade in Goods. A nomination of a non-tariff measure for review shall include reasons for its nomination, how the measure adversely affects trade between the Parties, and if possible, suggested solutions. The Committee on Trade in Goods shall immediately review the measure with a view to securing a mutually agreed solution to the matter within 90 days from the date of receipt of the request. Review by the Committee on Trade in Goods is without prejudice to the Parties' rights under Chapter Fifteen (Dispute Settlement).

## Article 2.14. State Trading Enterprises

Nothing in this Agreement shall be construed to prevent a Party from maintaining or establishing a state trading enterprise in accordance with Article XVII of GATT 1994, its interpretative notes and the Understanding on the Interpretation of Article XVII of GATT 1994.

## Article 2.15. Temporary Admission of Goods (2)

(2) For purposes of this Article, the terms "goods intended for display or demonstration", "advertising films and recordings", "goods admitted for sports purposes", "container" and "pallet" are applied in accordance with each Party's laws and regulations.

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

(a) professional equipment, including equipment for the press or television, software, and broadcasting and cinematographic equipment, that are necessary for carrying out the business activity, trade, or profession of a person who qualifies for temporary entry pursuant to the laws of the importing Party;

(b) goods intended for display or demonstration;

(c) commercial samples and advertising films and recordings;

(d) goods admitted for sports purposes; and

(e) containers and pallets that are used for the transportation of equipment.

2. Each Party shall, at the request of the importer or person concerned and for reasons deemed valid by its customs authority, extend the time limit for temporary admission beyond the period initially fixed.

3. Neither Party shall condition the duty-free temporary admission of a good referred to in paragraph 1 into its territory, other than to require that the good:

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

(b) be accompanied by a security in an amount no greater than the custom duties and any other tax or charge imposed on imports that would otherwise be owed on entry or final importation, releasable on exportation of the good;

(c) be capable of identification when exported;

(d) be exported within the time period granted for temporary admission in accordance with its domestic law related to the purpose of the temporary admission;

(e) not be admitted in a quantity greater than is reasonable for its intended use;

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

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

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

5. Each Party, through its customs authority, shall adopt and maintain procedures providing for the expeditious release of

goods admitted under this Article. To the extent possible, such procedures shall provide that when such a good accompanies a national or resident of the other Party who is seeking temporary entry, the good shall be released simultaneously with the entry of that national or resident.

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

7. Each Party shall provide that the importer or person concerned, who is responsible for a good admitted under this Article, shall not be liable for failure to export the good on presentation of satisfactory proof to the importing Party that the good has been destroyed within the original period fixed for temporary admission or any lawful extension (3).

(3) In certain cases, a Party may condition relief of liability under this paragraph by requiring the importer or person concerned to receive prior approval from the customs authority of the importing Party before the good can be so destroyed.

## Article 2.16. Goods Re-Entered after Repair or Alteration

1. Neither Party shall apply a customs duty to a good, regardless of its origin, that re-enters its territory after that good has been temporarily exported from its territory to the territory of the other Party for repair or alteration, regardless of whether such repair or alteration could be performed in the territory of the Party from which the good was exported for repair or alteration, except that a customs duty or other taxes may be applied in accordance with each Party's laws and procedures to the addition resulting from the repair or alteration that was performed in the territory of the other Party.

2. Neither Party shall apply a customs duty to a good, regardless of its origin, imported temporarily from the territory of the other Party for repair or alteration.

3. For purposes of this Article, "repair" or "alteration" does not include an operation or process that:

(a) destroys a good's essential characteristics or creates a new or commercially different good; or

(b) transforms an unfinished good into a finished good.

## Article 2.17. Duty-Free Entry of Commercial Samples of Negligible Value and Printed Advertising Materials (4)

Each Party shall grant duty-free entry to commercial samples of negligible value, and to printed advertising materials, imported from the territory of the other Party, regardless of their origin, but may require that:

(a) such samples be imported solely for the solicitation of orders for goods or services provided from the territory of the other Party or a non-Party; or

(b) such advertising materials be imported in packets, that each contain no more than one copy of each such material, and that neither the materials nor the packets form part of a larger consignment.

(4) For the purpose of this Article, the terms "commercial samples of negligible value" and "printed advertising materials" are applied in accordance with each Party's laws and regulations.

## Article 2.18. Committee on Trade In Goods

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

2. The Committee shall meet once a year or on the request of the other Party at a mutually agreed time, venue and means, to consider any matter arising under this Chapter. The Committee may carry out its work through whatever means that are appropriate, which may include electronic mail, videoconferencing, or other means.

3. The functions of the Committee shall include:

(a) monitoring and reviewing the implementation and administration of this Chapter, and making reports and recommendations to the Joint Committee, if appropriate;

(b) promoting trade in goods between the Parties, including through consultations on accelerating or improving the scope of preferential treatment or tariff elimination under this Agreement and other issues as appropriate;

(c) addressing barriers to trade in goods between the Parties including those related to the application of non-tariff measures which may restrict trade in goods between the Parties and, if appropriate, referring such matters to the Joint Committee for its consideration;

(d) reviewing the amendments to the HS to ensure that each Party's obligations under this Agreement are not altered, and consulting to resolve any conflicts between such amendments to the HS and Annex 2-A, or Annex 2-A and national nomenclatures;

(e) consulting and endeavoring to resolve any difference that may arise among the Parties on matters related to the classification of goods under the HS, including adoption and review of transposition methodologies and guidelines;

(f) reviewing data on trade in goods in relation to the implementation of this Chapter; and

(g) carrying out other functions as may be assigned by the Joint Committee or agreed by the Parties.

# Chapter THREE. RULES OF ORIGIN

## Article Article 3.1: Definitions

For purposes of this Chapter:

aquaculture means the farming of aquatic organisms including fish, mollusks, 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, inter alia, regular stocking, feeding, protection from predators;

change in tariff classification means a change at the two-digit, four-digit, or six-digit level of the Harmonized System;

competent authority means:

for the UAE, the Ministry of Economy or any other agency notified from time to time; and

for Korea, the Ministry of Economy and Finance, or the Korea Customs Service, or their respective successors;

consignment means products which are either sent simultaneously from one exporter to one consignee or covered by a single transport document covering their shipment from the exporter to the consignee or, in the absence of such a document, by a single invoice;

customs value means the value as determined in accordance with the Agreement on implementation of Article VII of the Customs Valuation Agreement;

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

good means any article of trade including materials and products;

Harmonized System (HS) means the Harmonized Commodity Description and Coding System, including its general rules and legal notes set out in the Annex to the International Convention on the Harmonized Commodity Description and Coding System;

manufacture means any kind of working or processing, including assembly or specific operations;

material means any ingredient, raw material, compound, or part used in the production of a good;

non-originating goods or non-originating materials means goods or materials that do not qualify as originating in accordance with this Chapter;

originating goods or originating material means goods or materials that qualify as originating in accordance with this Chapter;

product means that which is obtained by growing, raising, mining, harvesting, fishing, aquaculture, trapping, hunting,

extracting, or manufactured, even if it is intended for later use in another manufacturing operation; and

production means methods of obtaining a good including growing, raising, mining, harvesting, fishing, aquaculture, trapping, hunting, manufacturing, processing, or assembling.

Section A: Origin Determination

## Article Article 3.2: Originating Goods

For the purpose of implementing this Agreement, goods shall be deemed to be originating in territory of a Party, if:

goods are wholly obtained there in accordance with Article 3.3;

goods are not wholly obtained there, provided that the goods have undergone sufficient working or processing there in accordance with Article 3.4; or

goods are produced there exclusively from originating materials.

In each case provided in paragraph 1, the goods shall satisfy all other applicable requirements of this Chapter.

## Article Article 3.3: Wholly Obtained Goods

For purposes of Article 3.2.1 (a), the following goods shall be deemed to be wholly obtained or produced in the territory of a Party:

plants and plant products grown, collected, or harvested there;

live animals born and raised there;

products obtained from live animals raised there;

mineral products or natural resources extracted or taken from that Party's soil, subsoil, waters, seabed, or beneath the seabed;

products obtained by hunting, trapping, collecting, capturing, fishing, or aquaculture conducted there;

products of sea fishing and other marine products taken from outside the territorial waters of the Parties by a vessel registered, recorded, listed, or licensed with a Party and flying its flag;

products made on board a factory ship registered, recorded, listed, or licensed with a Party and flying its flag, exclusively from products referred to in subparagraph (f);

products, other than products of sea fishing and other marine products, taken or extracted from the seabed, ocean floor, or the subsoil of the continental shelf or the exclusive economic zone of any of the Parties, provided that the Party or a person of the Party has the right to exploit such seabed, ocean floor, or subsoil in accordance with international law;

used goods collected there, provided that such goods are fit only for disposal, for the recovery of raw materials, or for recycling purposes;

wastes or scraps resulting from utilization, consumption or manufacturing operations conducted there, provided that such wastes or scraps are fit only for disposal, for the recovery of raw materials, or for recycling purposes; and

products produced or obtained there exclusively from products referred to in subparagraphs (a) through (j), or from their derivatives, at any stage of production.

## Article Article 3.4: Sufficient Working or Processing

For purposes of Article 3.2(b), a good shall be considered to have undergone sufficient working or processing and shall be deemed to be originating in a Party when the good satisfies any of the following:

a Change in Tariff Heading (CTH), which means that all non-originating materials used in the production of the good have undergone a change in HS tariff classification at the 4-digit level; or

a Qualifying Value Content (QVC) not less than 40% of the FOB Price.

Notwithstanding paragraph 1, a good that falls within the classifications included in the list of Product Specific Rules (PSR) in Annex 3-A (Product Specific Rules (PSRs)), shall satisfy the specific rule pertaining to it detailed therein.

For the purposes of paragraphs 1 and 2, the QVC shall be calculated as follows:

$$\text{QVC} = \left(\frac{\text{FOB Price} - \text{V.N.M}}{\text{FOB Price}}\right) * 100$$

$$\text{QVC} = \left(\frac{\text{Ex-Works Price} - \text{V.N.M}}{\text{Ex-Works Price}}\right) * 100$$

where Ex-Works Price is used, the QVC requirement shall be five percentage points lower than the QVC requirement which is calculated on the basis of FOB Price.

where:

QVC is the qualifying value content of a good expressed as a percentage;

FOB Price is the price of the good free on board, inclusive of the cost of transportation to the port or site of final shipment abroad, regardless of the mode of transportation;

Ex-Works Price is the price paid or payable for the good ex-works to the manufacturer in the Party in whose undertaking the last working or processing is carried out, provided the price includes the value of all the

materials used, minus any internal taxes which are, or may be, repaid when the good obtained is exported;

V.N.M means:

the customs value at the time of importation of the non-originating materials used including freight and insurance costs incurred in transporting the material to the importation port in the territory of the Party where the producer of the good is located or, if this is not known and cannot be ascertained, the first ascertainable price paid for the materials in the exporting Party;

where the producer of a good acquires non-originating materials in the territory of the Party where the producer is located, the value of such materials shall not include freight, insurance, packing costs and any other costs incurred in transporting the material from the supplier's warehouse to the producer's location; or

in the case of a self-produced material or where the relationship between the producer of the good and the seller of the material influences the price actually paid or payable for the material, the sum of all costs incurred in the production of the material, including general expenses. Additionally, it will be possible to add an amount for profit equivalent to the profit added in the normal course of trade.

## Article Article 3.5: Intermediate Goods

When an originating good is used in the subsequent production of another good, no account shall be taken of the non-originating materials contained in the originating good for purposes of determining the originating status of the subsequently produced good.

## Article Article 3.6: Accumulation

An originating good of a Party which is used in the processing or production in the territory of the other Party as material for a finished good shall be deemed as a material originating in the territory of the latter Party where the working or processing of the finished good has taken place.

Notwithstanding paragraph 1, an originating good of a Party that does not undergo processing beyond the insufficient working or processing operations listed in Article 3.8 in the other Party shall retain its originating status of the former Party.

The Joint Committee may agree to review this Article with a view to providing for other forms of accumulation for the purpose of qualifying goods as originating goods under this Agreement.

## Article Article 3.7: Tolerance

Notwithstanding Article 3.4, a good will be considered to have undergone a change in tariff classification if the value of all non-originating materials that are used in the production of the good and that do not undergo the applicable change in tariff classification does not exceed 15% of the Ex-Works Price of the good.

Notwithstanding paragraph 1, a good provided for in Chapters 50 through 63 of the HS will be considered to have undergone a change in tariff classification if the weight or value of all non-originating materials that are used in the production of the good and that do not undergo the applicable change in tariff classification does not exceed 10% of the weight or the Ex-Works Price of the good.

The good specified in paragraphs 1 and 2 shall meet all other applicable criteria set forth in this Chapter for qualifying as an originating good.

The value of non-originating materials referred to in paragraph 1 shall be included in the value of the non-originating materials for any applicable QVC requirement.

## Article Article 3.8: Insufficient Working or Processing

Whether or not the requirements of Article 3.4 are satisfied, a good shall not be considered to be originating in the territory of a Party if the following operations are undertaken exclusively by itself or in combination in the territory of that Party:

slaughter of animals;

operations to ensure the preservation of products in good condition during transport and storage such as drying, freezing, ventilation, chilling, and like operations;

sifting, washing, cutting, slitting, bending, coiling or uncoiling, sharpening, simple grinding, slicing;

cleaning, including removal of dust, oxide, oil, paint, or other coverings;

simple painting and polishing operations;

testing or calibration;

placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards, and packaging operations;

simple mixing of goods, whether or not of different kinds;

simple assembly of parts of products to constitute a complete good or disassembly of products into parts;

simple peeling, stoning, or un-shelling;

operations to color sugar or form sugar lumps;

ironing or pressing of textiles;

changes of packing, unpacking, or repacking operations, and breaking up and assembly of consignments;

affixing or printing marks, labels, logos, and other like distinguishing signs on goods or their packaging;

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

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

a combination of two or more operations specified in subparagraphs (a) through (p).

For the purposes of paragraph 1 above, the term “simple” will be defined as follows:

“Simple” generally describes an activity which does not need special skills, machines, apparatus, or equipment especially produced or installed for carrying out the activity.

“Simple mixing” generally describes an activity which does not need special skills, machine, apparatus, or equipment especially produced or installed for carrying out the activity. However, simple mixing does not include chemical reaction. Chemical reaction means a process (including a biochemical process) which results in a molecule with a new structure by breaking intramolecular bonds and by forming new intramolecular bonds, or by altering the spatial arrangement of atoms in a molecule. Nevertheless, the following are not considered to be chemical reactions for the purposes of this definition:

dissolving in water or other solvents;

the elimination of solvents, including solvent water; or

the addition or elimination of water of crystallization.

## Article Article 3.9: Indirect Materials

In order to determine whether a good is an originating good, the following material used in its production shall be treated as originating material, irrespective of the origin of such material.

energy and fuel;

plant and equipment;

machines and tools; or

other materials or goods used in the production, testing, or inspection of a good and do not enter and which are not intended to enter into the final composition of the good.

## Article Article 3.10: Accessories, Spare Parts, Tools

Accessories, spare parts, tools, and instructional or other information materials delivered with a good that form part of the good's standard accessories, spare parts, tools, and instructional or other information materials shall be regarded as a part of the good, and shall be disregarded in determining whether or not all the non-originating materials used in the production of the originating goods undergo the applicable change in tariff classification provided that:

the accessories, spare parts, tools, and instructional or other information materials are classified with and not invoiced separately from the good; and

the quantities and value of the accessories, spare parts, tools, and instructional or other information materials presented with the good are customary for the good.

Notwithstanding paragraph 1, for goods that are subject to QVC requirement, the value of the accessories, spare parts, tools, and instructional or other information materials shall be taken into account as originating or non-originating materials, as the case may be, in calculating the QVC of the goods.

## Article Article 3.11: Packaging Materials and Containers for Retail Sale

Each Party shall provide that packaging materials and containers in which a good is packaged for retail sale, if classified with the good, according to Rule 5 of the General Rules for the interpretation of the HS, shall be disregarded in determining whether all the non-originating materials used in the production of the good undergo the applicable change in tariff classification.

If the good is subject to QVC requirement, the value of such packaging materials and containers shall be taken into account as originating or non-originating materials, as the case may be, in calculating the QVC of the good.

## Article Article 3.12: Unit of Qualification

The unit of qualification for the application of the provisions of this Chapter shall be the particular product which is considered as the basic unit when determining classification using the nomenclature of the HS. Accordingly, it follows that:

when a product composed of a group or assembly of articles is classified under a single heading, the whole constitutes the unit of qualification; and

when a consignment consists of a number of identical products classified under the same heading, each product shall be taken individually into account when in determining whether it qualifies as an originating good.

## Article Article 3.13: Packaging Materials and Containers for Transportation and Shipment

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

## Article Article 3.14: Fungible Goods and Materials

Each Party shall provide that the determination of whether fungible goods or materials are originating shall be made

through physical segregation of each good or material, or, in case of any difficulty, through the use of any inventory management method, such as averaging, last-in, first-out, or first-in, first-out, recognized in the generally accepted accounting principles of the Party in which the production is performed, or otherwise accepted by the Party in which the production is performed.

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

## Article Article 3.15: Sets of Goods

Sets, as defined in General Rule 3 of the HS, shall be regarded as originating when all component goods are originating. However, when a set is composed of originating and non-originating products, the set as a whole shall be regarded as originating, provided that the value of non-originating products does not exceed 15% of the Ex-Works Price of the set.

Section B: Territoriality and Transit

## Article Article 3.16: Principle of Territoriality

The conditions for acquiring originating status set out in Article 3.2 must be fulfilled without interruption in the territory of the Party concerned.

Where originating goods exported from the territory of a Party to a non-Party, return to the exporting Party, they must be considered as non-originating, unless it can be demonstrated to the satisfaction of the customs authorities that:

the returning goods are the same as those exported; and

they have not undergone any operation beyond that necessary to preserve them in good condition while in that non-Party or while being exported.

The acquisition of originating status set out in Article 3.2 shall not be affected by working or processing done outside a Party on materials exported from this Party and subsequently re-imported there, provided:

the said materials are wholly obtained in the exporting Party or have undergone working or processing beyond the operations referred to in Article 3.8 prior to being exported; and

it can be demonstrated to the satisfaction of the customs authorities that:

the re-imported goods have been obtained by working or processing the exported materials; and

the total added value acquired outside a Party by applying this Article does not exceed 15% of the Ex-Works Price of the end product for which originating status is claimed.

For purposes of paragraph 3, the conditions for obtaining originating status set out in Section A shall not apply to working or processing done outside the exporting Party. However, where a QVC rule is applied in determining the originating status of the end product, the total added value acquired in the territory of the exporting Party shall not be less than the stated QVC percentage for the end product.

Paragraphs 3 and 4 shall not apply to products which do not fulfil the conditions set out in Article 3.4 or which can be considered sufficiently worked or processed only if the general tolerance of Article 3.7 is applied.

Factual information relevant to this Article will be indicated in the Certificate of Origin, in accordance with Annex 3-B.

For the purposes of applying paragraph 3(b)(ii), “total added value” shall be taken to mean all costs arising outside the exporting Party, including the value of the materials incorporated there.

Any working or processing of the kind covered by this Article and done outside the exporting Party shall be done under the Inward and Outward Processing Procedures in line with the guidelines of the World Customs Organization (WCO).

Upon the request of a Party, the Parties shall enter into discussions on the treatment for certain goods under this Article through the Joint Committee and conclude such discussions within three years from the start of the discussions.

## Article Article 3.17: Transit and Transshipment

Each Party shall provide that an originating good retains its originating status if the good has been transported directly to the importing Party without passing through the territory of a non-Party.

Notwithstanding paragraph 1, each Party shall provide that an originating good retains its originating status if transited or stored in a temporary warehousing through one or more intermediate non-Parties, provided that the good:

remained under customs control in the territory of the non-

Party(ies) of transit or storage; and

have not undergone any operation there other than unloading, reloading, adding, or affixing labels to ensure compliance with specific domestic requirements of the importing Party, split from bulk carried out under customs supervision in the non-Party(ies) of transit or storage or any operation required to keep them in good condition.

An importer shall upon request supply appropriate evidence to the customs authorities of the importing Party demonstrating that the goods remained under customs supervision in the country(ies) of transit or storage.

## Article Article 3.18: Free Zones

Both Parties shall take all necessary steps to ensure that originating goods traded under cover of a Proof of Origin which in the course of transport use a

free zone situated in their territory, are not substituted by other goods and do not undergo handling other than normal operations designed to prevent their deterioration.

By means of an exemption to the provisions contained in paragraph 1, when products originating in a Party enter into a free zone under cover of a Proof of Origin and undergo treatment or processing, another Proof of Origin can be made out if the treatment or processing undergone is in conformity with the provisions of this Chapter.

Goods produced or manufactured in a free zone situated within a Party shall be considered as originating goods in that Party when exported to the other Party provided that the treatment or processing is in conformity with the provisions of this chapter and supported by a proof or origin.

Section C: Origin Certification

## Article Article 3.19: Proof of Origin

Goods originating in a Party shall, on importation into the other Party, benefit from preferential tariff treatment under this Agreement on the basis of a Proof of Origin.

Any of the following shall be considered as a Proof of Origin:

a paper or electronic format Certificate of Origin issued by a competent authority as per Article 3.20;

an Electronic Certificate of Origin (E-Certificate) issued by a competent authority and exchanged by a mutually developed electronic system as per Article 3.21; or

an Origin Declaration made out by an approved exporter as per Article 3.22.

A Proof of Origin may apply to a single shipment of one or more goods into the territory of the other Party.

Each Party shall provide that a Proof of Origin shall be completed in the English language and shall remain valid for one year from the date on which it is issued or made out.

## Article Article 3.20: Certificate of Origin

Certificates of Origin shall be issued by the competent authority 1 of the exporting Party, upon an application by an exporter, a producer, or their authorized representative, in accordance with the domestic regulations of the exporting Party.

Certificates of Origin shall be in a format referred to in Annex 3-B.

The producer or exporter of goods, or its authorized representative applying for the issuance of a Certificate of Origin shall be prepared to submit at any time, at the request of the competent authority, of the exporting Party, all appropriate documents proving the originating status of the goods concerned, as well as the fulfillment of the other requirements of this

Chapter.

Certificates of Origin shall be issued by the competent authority of the exporting Party prior to or at the time of shipment or within five working days after the date of shipment. In exceptional cases where a Certificate of Origin has not been issued prior to or at the time of shipment, or within five working days after shipment due to involuntary errors or omissions or other valid causes, the Certificate of Origin may be issued retroactively but with a validity no longer than one year from the date of shipment, in which case it is necessary to indicate “Issued Retroactively” in the appropriate field as detailed in Annex 3-B.

The provisions of this Article shall be applied to goods which comply with the provisions of this Agreement, and which on the date of its entry into force, are either in transit or are in the territory of the Parties in temporary storage in bonded warehouse under customs control or in free zones. This shall be subject to the submission to the customs authorities of the importing Party, within 12 months from the said date, of a Certificate of Origin issued retrospectively by the competent authority of the exporting Party together with documents, showing that the goods have been transported directly in accordance with the provisions of Article 3.17.

Where, at the request of the importer and on the conditions laid down by the customs authority of the importing Party, dismantled or non-assembled products within the meaning of General Rule 2(a) of the Harmonized System are imported by installments, a single Certificate of Origin for such products shall be submitted to the customs authorities upon importation of the first installment.

1 The competent authority may delegate or grant authorization to a specific entity for the issuance of a Certificate of Origin. In such an instance, the competent authority shall provide notification to the other Party. In Korea, this responsibility has been conferred upon the Chamber of Commerce and Industry.

In the event of theft, loss, or destruction of the Certificate of Origin, the producer or exporter or his authorized representatives may apply to the issuing body of the exporting Party for a certified true copy of the original Certificate of Origin. The copy shall:

be issued no later than one year after the date of issuance of the original Certificate of Origin;

be based on the application for the original Certificate of Origin;

contain the same Certificate of Origin number and date as the original Certificate of Origin; and

be endorsed with the words “CERTIFIED TRUE COPY”.

Neither erasures nor superimposition shall be allowed on the Certificate of Origin. Any alterations shall be made by issuing a new Certificate of Origin to replace the erroneous one. The reference number of the corrected Certificate of Origin should be indicated in the appropriate field on the newly issued Certificate of Origin as detailed in Annex 3-B. The validity of the replacement Certificate will be the same as the original.

The discovery of minor discrepancies between the statements made in the Certificate of Origin and those made in the documents submitted to the customs authority of the importing Party for the purpose of carrying out the formalities for importing the goods shall not ipso facto invalidate the Certificate of Origin, if it does in fact correspond to the goods submitted. Obvious formal errors, such as typing errors, in a Certificate of Origin should not cause this document to be rejected if these errors are not such as to create doubts concerning the correctness of the statements made in this document.

## Article Article 3.21: Electronic Origin Data Exchange System

For the purposes of Article 3.19.2(b) the Parties shall, within two years from date of entry into force of this Agreement, establish a working group to develop an electronic origin data exchange system for origin data exchange to ensure the effective and efficient implementation of this Chapter particularly on transmission of electronic Certificate of Origin. For further clarity, “origin data” refers to the data contained in the Certificate of Origin as per Annex 3-B.

Before the establishment of such exchange system, both Parties may verify the authenticity of the Certificate of Origin through a secured

website run by the competent authority as well as the electronic origin data exchange.

## Article Article 3.22: Origin Declaration

For the purposes of Article 3.19.2(c) the Parties shall, within one year from the date of entry into force of this Agreement, implement provisions allowing each competent authority to recognize an Origin Declaration made by an approved exporter.

The customs or competent authorities of the exporting Party may authorise any exporter, (hereinafter referred to as "approved exporter"), who exports goods under this Agreement, to make out Origin Declarations, a specimen of which appears in Annex 3-C, irrespective of the value of the goods concerned.

An exporter seeking such authorization must offer to the satisfaction of the customs or competent authorities of the exporting Party all guarantees necessary to verify the originating status of the goods as well as the fulfilment of the other requirements of this Chapter.

The customs or competent authorities of the exporting party may grant the status of approved exporter, subject to any conditions which they consider appropriate.

The customs or competent authorities of the exporting Party shall share or publish the list of approved exporters and periodically update it.

Notwithstanding paragraph 5, a Party shall not be required to provide the information referred to in that paragraph to the other Party if it has established its own secured website, containing the above information, that is accessible to the other Party.

An Origin Declaration (the text of which appears in Annex 3-C) shall be made out by the approved exporter by typing, stamping or printing the declaration on the invoice, the delivery note or another commercial document which describes the products concerned in sufficient detail to enable them to be identified. The declaration may also be hand-written; if the declaration is hand-written, it shall be written in permanent ink in legible printed characters.

The approved exporter making out an Origin Declaration shall be prepared to submit at any time, at the request of the competent authority of the exporting Party, all appropriate documents proving the originating status of the goods concerned, including statements from suppliers or producers in accordance with the laws and regulations of

the importing Party as well as the fulfilment of the other requirements of this Chapter.

## Article Article 3.23: Claim for Preferential Tariff Treatment

An importing Party shall grant preferential tariff treatment in accordance with this Agreement to an originating good on the basis of a Proof of Origin.

Unless otherwise provided in this Chapter, an importing Party shall provide that, for the purposes of claiming preferential tariff treatment, the importer shall:

make a statement or otherwise indicate in its customs declaration that the good qualifies as an originating good;

have a valid Proof of Origin in its possession at the time the declaration referred to in subparagraph (a) is made and be ready to submit it to the custom authority if so required; and

promptly make a corrected declaration in a manner required by the customs authority of the importing Party, subject to the customs laws of the importing Party and pay any duties along with interest and other charges owing, where the importer has reason to believe that a Certificate of Origin on which a declaration was based contains information that is not correct.

Notwithstanding paragraphs 1 and 2, the importing Party may not require a Certificate of Origin if:

the customs value of the importation does not exceed US$1,000 or the equivalent amount in the importing Party's currency or any other amount as the importing Party may establish; or

it is a good for which the importing Party has waived the requirement,

provided that the importation does not form part of a series of importations carried out or planned for the purpose of evading compliance with the importing Party's laws and regulations governing claims for preferential tariff treatment under this Agreement.

The competent authority of the importing Party may require, where appropriate, the importer to submit supporting additional evidence that

a good qualifies as an originating good, in accordance with the requirements of this Chapter.

Where a Certificate of Origin is submitted to the customs authority of an importing Party after the expiration of the period of time for its submission, such Certificate of Origin may still be accepted, subject to the importing Party's laws, regulations, or administrative practices, when failure to observe the period of time results from force majeure or other valid causes beyond the control of the importer or exporter.

Where the customs authority of the importing Party determines that a Certificate of Origin is illegible, is defective on its face or has not been completed pursuant to Annex 3-B, or discovers that discrepancies exist between the Certificate of Origin and the written declaration, the importer will be granted a period of not less than five working days, but not exceeding 30 working days from the date of request by the customs authority to provide a copy of the replacement Certificate of Origin.

## Article Article 3.24: Post-Importation Claims for Preferential Tariff Treatment

Where a good was originating when it was imported into the territory of a Party, but the importer of the good did not make a claim for preferential tariff treatment at the time of importation, that importer of the good may, no more than one year after the date on which the good was imported, make a claim for preferential tariff treatment and apply for a refund of any excess duties paid as a result of the good not having been accorded preferential tariff treatment:

a valid Certificate of Origin and, where appropriate, other evidence that the good qualifies as an originating good; and

such other documentation in relation to the importation of the good as the importing Party may require.

Section D: Cooperation and Origin Verification

## Article Article 3.25: Denial of Preferential Tariff Treatment

Except as otherwise provided in this Chapter, the customs authority of the importing Party may deny a claim for preferential tariff treatment or recover unpaid duties, in accordance with its laws and regulations, where:

the good does not meet the requirements of this Chapter; or

the importer of the good failed to comply with any of the relevant requirements of this Chapter for obtaining preferential tariff treatment; or

the competent authority of the importing Party has not received sufficient information to determine that the good is originating; or

the exporter or producer or competent authority of the exporting Party does not comply with the requirements of verification in accordance with Article 3.26.

If the customs authority of the importing Party denies a claim for preferential tariff treatment, it shall provide the decision in writing to the importer that includes the reasons for the decision.

Upon being communicated the grounds for denial of preferential tariff treatment, the importer may, within the period provided for in the custom laws of the importing Party, file an appeal against such decision with the appropriate authority under the customs laws and regulations of the importing Party.

## Article Article 3.26: Verification

Subsequent verifications of Proofs of Origin may be carried out at random or whenever the customs authority of the importing Party has reasonable doubts as to the authenticity of such documents, the originating status of the goods concerned or the fulfilment of the other requirements of this Chapter.

For the purposes of implementing paragraph 1, the competent authority of the importing Party may conduct a verification by means of written requests for additional information from the exporter or producer, through the competent authority of the exporting Party.

If the customs authority of the importing Party decides to suspend the granting of preferential treatment to the goods concerned while awaiting the results of the verification, release of the goods shall be offered to the importer subject to any precautionary measures judged necessary.

The competent authority requesting the verification shall be informed of the results thereof as soon as possible. These results shall indicate clearly whether the documents are authentic and whether the goods

concerned may be considered as goods originating in a party and fulfil the other requirements of this Chapter.

If, in cases of reasonable doubt, there is no reply within six months of the date of the verification request or if the reply does not contain sufficient information to determine the authenticity of the document in question or the real origin of the goods, the requesting customs authority may refuse entitlement to the preferences.

If the competent authority of the importing Party is not satisfied with the results provided by competent authority of the exporting Party, the competent authority of the importing Party may conduct a verification in the exporting Party by means of:

written requests for additional information, documents, or explanations, to the competent authority of the exporting Party, concerning the results of the above verification. Such information shall be provided no later than 90 days from the receipt of such request from the customs authority of the importing Party; or

a verification visit to the premises of the exporter or producer in the exporting Party. To that purpose:

the customs authority of the importing Party shall deliver a written notification in advance to the competent authority of the exporting Party regarding the intention of the importing Party to conduct a visit at the exporter or the producer's premises;

the exporting Party shall set a date of visit upon agreement from the exporter or the producer, the importing Party and the exporting Party. The visit shall be conducted no later than 90 days from the receipt of the written notification by the competent authority of the exporting Party;

officials from the exporting Party shall accompany and assist the officials from the importing Party in their visit and at the exporter's premises; and

the competent authority of the importing Party conducting the verification shall provide the competent authority of the exporting Party with a written determination of whether the goods qualify as originating goods within three months after the date the

verification visit was completed, including findings of fact and the legal basis for the determination.

## Article Article 3.27: Third Party Invoicing

The customs authority in the importing Party shall not deny a claim for preferential tariff treatment only for the reason that the invoice was not issued by the exporter or producer of a good provided that the good meets the requirements in this Chapter. However, an Origin Declaration shall not be provided on an invoice or any other commercial document issued in a third party.

The exporter of the goods shall indicate "third party invoicing" and such information as name and country of the company issuing the invoice shall appear in in the appropriate field as detailed in Annex 3-B (Certificate of Origin) or, in the case of an origin declaration made out by an approved exporter as per Article 3.22, on the origin declaration

## Article Article 3.28: Record Keeping Requirement

For the purposes of the verification process pursuant to Article 3.26, each Party shall require that:

the manufacturer, producer, or exporter retain, for a period not less than five years from the date of issuance of the Proof of Origin, or a longer period in accordance with its domestic laws and regulations, all supporting records necessary to prove that the good for which the Proof of Origin was issued was originating;

The importer shall retain, for a period not less than five years from the date of importation of the good, or a longer period in accordance with its domestic laws and regulations, all records to prove that the good for which preferential tariff treatment was claimed was originating; and

The competent authority2 retain, for a period not less than five years from the date of issuance of the Proof of Origin, or a longer period in accordance with its domestic laws and

2 The competent authority may delegate or grant authorization to a specific entity for the issuance of a Certificate of Origin. In such an instance, the competent authority shall provide notification to the other Party. In Korea, this responsibility has been conferred upon the Chamber of Commerce and Industry.

regulations, all supporting records of the application for the Proof of Origin.

The records referred to in paragraph 1 may be maintained in any medium that allows for prompt retrieval, including but not limited to, digital, electronic, optical, magnetic, or written form.

### Article Article 3.29: Confidentiality

All information related to the application of this Chapter communicated between the Parties shall be treated as confidential. It shall not be disclosed by the Parties authorities without express permission of the person or authority providing it.

The information referred to paragraph 1 shall not be disclosed without the specific permission of the person or government providing such information, except to extent that it may be required to be disclosed for law enforcement purposes or in the course of judicial proceedings.

### Article Article 3.30: Contact Points

Each Party shall, within 30 days of the date of entry into force of this Agreement for that Party, designate one or more contact points within its competent authority for the implementation of this Chapter and notify the other Party of the contact details of that contact point or those contact points. Each Party shall promptly notify the other Party of any change to those contact details.

### Article Article 3.31: Mutual Assistance

The competent authorities of both Parties shall provide each other before the agreement getting in force with the following:

a specimen impression of the official stamps and signatures used in their offices for the issue of Certificate of Origin;

name and address of the competent authorities responsible for verifying the Proof of Origin; and

secured web address for the QR codes and electronic Certificates authentications.

Section E: Consultation and Modifications

### Article Article 3.32: Consultation and Modifications

The Parties shall consult and cooperate as appropriate through the Committee on Rules of Origin and Customs Procedures and Trade Facilitation to:

ensure that this Chapter is applied in an effective and uniform manner, including the interpretation of this Chapter;

work on matters unsettled between the competent authorities requesting verification and the competent authorities carrying out verification; and

discuss necessary amendments to this Chapter, taking into account developments in technology, production processes, and other related matters.

## Chapter FOUR. CUSTOMS PROCEDURES AND TRADE FACILITATION

### Article Article 4.1: Definitions

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

customs laws means provisions implemented by legislations and regulations concerning the importation, exportation, transit of goods, or any other customs procedures whether relating to customs duties, taxes or any other charges collected by the Customs Authority, or to measures for prohibition, restriction, or control enforced by the Customs Authority;

customs procedure means the measures applied by the customs authority of a Party to goods and to the means of transport that are subject to its customs laws and regulations;

persons means both natural and legal person, unless the context otherwise requires;

Customs Mutual Assistance Agreement (CMAA) means the agreement that further enhances customs cooperation and exchange of information between the Parties to secure and facilitate lawful trade which entered into force on the 16th of December 2015;

Authorized Economic Operator(s) (AEO) means the program which recognizes an operator involved in the international movement of goods in whatever function that has been approved by the national Customs Authority as complying with the World Customs Organization (WCO) or equivalent supply chain security standards; and

Mutual Recognition Arrangement (MRA) means the arrangement between the Parties that mutually recognize AEO authorizations that has been properly granted by one of the Customs Authority which entered into force on the 1st of October 2018.

## Article Article 4.2: Scope

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

## Article Article 4.3: General Provisions

Parties agree that their customs laws and procedures shall be transparent, non-discriminatory, consistent and avoid unnecessary procedural obstacles to trade.

Customs procedures of the Parties shall conform where possible, to the standards and recommended practices of the World Customs Organization.

The Customs Authority of each Party shall periodically review its customs procedures with a view to their further simplification and development to facilitate bilateral trade.

## Article Article 4.4: Publication and Availability of Information

Each Party shall ensure that its laws, regulations, guidelines, procedures, and administrative rulings governing customs matters are promptly published through the Internet, in the English language, to the extent possible.

Each Party shall designate, establish, and maintain one or more inquiry points to address inquiries from interested persons pertaining to customs matters, and shall endeavour to make available publicly through electronic means, information concerning procedures for making such inquiries.

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

Each Party shall, to the extent practicable, and in a manner consistent with its domestic laws and legal system, ensure that new or amended laws and regulations of general application related to the movement, release, and clearance of goods, including goods in transit, are published or information on them made otherwise publicly available, as early as possible before their entry into force, so that interested parties have the opportunity to become acquainted with the new or amended laws and regulations. The Parties shall endeavor to make such

information and publications available in the English language, to the extent possible.

## Article Article 4.5: Risk Management

The Parties shall adopt a risk management approach in their customs activities, based on their identified risk of goods, in order to facilitate the clearance of low risk consignments, while focusing their inspection activities on high-risk goods.

## Article Article 4.6: Paperless Communications

For the purposes of facilitating bilateral exchange of international trade data and expediting procedures for the release of goods trade facilitation, the Parties shall endeavour to provide an electronic environment that supports business transactions between their respective Customs Authority and their trading entities.

The Parties shall exchange views and information on realising and promoting paperless communications between their respective Customs Authority and their trading entities.

The respective Customs Authority of the Parties, in implementing initiatives which provide for the use of paperless communications, shall take into account the methodologies agreed at the WCO.

## Article Article 4.7: Advance Rulings

In accordance with its domestic laws and regulations, the Customs Authority of the Parties upon a request shall issue in a reasonable time-bound manner, not exceeding 90 days after a request, to a person, prior to the

importation of a good into their territory based on a request containing all the necessary information an advance ruling, in relation to:

tariff classification;

origin of goods;

the application of valuation criteria in accordance with the application of the provisions set forth in the Customs Valuation Agreement; and

such other matters as the Parties may agree.

The importing Party shall apply an advance ruling issued by it under paragraph 1 of this Article on the date that the ruling is issued or on another date specified in the ruling and remain in effect for a reasonable period of time and in accordance with the national procedures on advanced ruling unless the advance ruling is modified or revoked.

The advance ruling issued by the Party shall be binding in its territory to the person to whom the ruling is issued only.

A Party may decline to issue an advance ruling if the facts and circumstances forming the basis of the advance ruling are the subject of a post clearance audit or an administrative, judicial review or appeal. A Party that declines to issue an advance ruling shall promptly notify, in writing, the person requesting the ruling, setting out the relevant facts and circumstances and the basis for its decision.

A Party may modify or revoke an advance ruling where:

It is required to conform with a judicial decision or a change in its domestic laws;

Incorrect or incomplete information was provided or relevant information was withheld;

The advance ruling was based on an error of fact;

There is a change in the material facts or circumstances on which the ruling was based; or

It is required to conform with a modification of this Chapter.

Each Party shall provide written notice to the applicant explaining the Party's decision to revoke or modify the advance ruling issued to the applicant.

Each Party shall provide that any modification or revocation of an advance ruling shall be effective on the date on which the modification or revocation is issued, or on such later date as may be specified therein, and shall not be applied to importations of a good that have occurred prior to that date, unless the person

to whom the advance ruling was issued has not acted in accordance with its terms and conditions.

In accordance with each Party's procedures and laws, including any confidentiality requirements, each Party shall publish through the internet, its advance rulings.

## Article Article 4.8: Penalties

Each Party shall maintain measures imposing criminal, civil or administrative penalties, whether solely or in combination, for violations of the Party's customs laws, regulations or procedural requirements.

Each Party shall ensure that penalties issued for a breach of a customs laws, regulations or procedural requirements are imposed only on the person(s) responsible for the breach under its laws.

Each Party shall ensure that the penalty imposed by its Customs Administration is dependent on the facts and circumstances of the case and is commensurate with the degree and severity of the breach.

Each Party shall ensure that if a penalty is imposed by its Customs Administration for a breach of a customs law, regulation or procedural requirement, an explanation in writing is provided to the person(s) upon whom the penalty is imposed

specifying the nature of the breach and the laws, regulation or procedure used for determining the penalty amount.

## Article Article 4.9: Release of Goods

Each Party shall adopt or maintain simplified customs procedures for the efficient release of goods in order to facilitate trade.

Pursuant to paragraph 1, each Party shall adopt or maintain procedures that:

provide for the release of goods within a period no greater than that required to ensure compliance with its customs laws and regulations;

provide for the electronic submission and processing of documentation and data, including manifests, prior to the arrival of the goods in order to expedite the release of goods from customs control upon arrival;

allow goods to be released at the point of arrival without requiring temporary transfer to warehouses or other facilities; and

require that the importer be informed if a Party does not promptly release goods, including, to the extent practicable and permitted by its laws, the reasons why the goods are not released and which agency, if not the Customs Authority, has withheld release of the goods.

Nothing in this Article requires a Party to release a good if its requirements for release have not been met nor prevents a Party from liquidating a security deposit in accordance with its law.

Each Party may allow, to the extent practicable and in accordance with its customs laws, goods intended for import to be moved within its territory under customs control from the point of entry into the Party's territory to another customs office in its territory from where the goods are intended to be released, provided the applicable regulatory requirements are met.

The Parities shall give appropriate priority to perishable goods when scheduling any examinations that may be required.

## Article Article 4.10: Authorized Economic Operators

In order to facilitate trade and enhance compliance and risk management between them, the Parties agreed to continue the implementation of the MRA of their respective Authorized Economic Operator (AEO) programs.

## Article Article 4.11: Border Agency Cooperation

Each Party shall ensure that its authorities and agencies responsible for border controls and procedures dealing with the importation, exportation, and transit of goods cooperate with one another and coordinate their activities in order to facilitate trade pursuant to this Chapter.

## Article Article 4.12: Express Shipments

Each Party shall adopt or maintain expedited customs procedures for express shipments for at least those goods entered through air cargo facilities while maintaining appropriate customs control and selection. These procedures shall:

provide for information necessary to release an express shipment to be submitted and processed before the shipment arrives;

allow a single submission of information covering all goods contained in an express shipment, such as a manifest through, if possible, electronic means1;

to the extent possible, provide for the release of certain goods with a minimum of documentation;

under normal circumstances, provide for express shipments to be released as soon as possible after submission of the necessary customs documents and the fulfillment of all applicable procedures and requirements, provided the shipment has arrived;

apply to shipments of any weight or value recognizing that a Party may require formal entry procedures as a condition for release, including declaration and supporting documentation and payment of customs duties, based on the good's weight or value; and

provide that, under normal circumstances, no customs duties will be assessed on express shipments valued at or below a

fixed amount set under the Party's laws.2

## Article Article 4.13: Post-clearance Audit

With a view to expediting the release of goods, each Party shall adopt or maintain post-clearance audit to ensure compliance with its customs and other related laws and regulations.

Each Party shall select a person or a consignment for post-clearance audit in a risk-based manner, which may include appropriate selectivity criteria. Each Party shall conduct post-clearance audits in a transparent manner. Where the

1 Additional documents may be required as a condition for release.

2 Notwithstanding this Article, a Party may impose customs duties, or may require formal entry documents, for restricted or controlled goods, set under the Party's domestic laws.

person is involved in the audit process and conclusive results have been achieved, the Party shall, without delay, notify the person whose record was audited of the:

results;

reasons for the results; and

person's rights and obligations.

The Parties acknowledge that the information obtained in post-clearance audit may be used in further administrative or judicial proceedings.

Each Party shall, wherever practicable, use the result of post-clearance audit in applying risk management.

## Article Article 4.14: Review and Appeal

Each Party shall ensure that any person to whom it issues a determination on a customs matter has access to:

at least one level of administrative review of determinations by its Customs Authority independent3 of either the official or office responsible for the decision under review; and

judicial review of decisions.

Each Party shall ensure that its procedures for appeal and review are carried out in a non-discriminatory and timely manner.

Each Party shall ensure that an authority conducting a review or appeal under paragraph 1 notifies the person in writing of its determination or decision in the review or appeal, and the reasons for the determination or decision.

## Article Article 4.15: Customs Cooperation

With a view to further enhancing customs cooperation and exchange of information between their customs authorities to secure and facilitate lawful trade,

3 The level of administrative review for the UAE may include the competent authority supervising the Customs Administration.

the Parties agreed to continue the implementation of the CMAA signed between them and to operate this Chapter effectively.

Assistance under this Chapter shall be provided in accordance with the domestic laws of the requested Party and the provisions of the CMAA signed between the Parties.

The Parties shall exchange official contact points with a view to facilitating the effective implementation of this Chapter.

## Article Article 4.16: Confidentiality

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

this Agreement shall be treated as confidential.

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

### Article Article 4.17: Committee on Origin and Customs Procedures

The Parties hereby establish a Committee on Rules of Origin and Customs Procedures and Trade Facilitation composed of the customs and competent authorities of the Parties under the Joint Committee. Other competent authorities of the Parties may join the Committee if the Parties deem it necessary.

The Committee shall consider and, as appropriate, resolve any matter arising under this Chapter and Chapter X(Rules of Origin) by means of, inter alia, considering common approaches to the interpretation and implementation of those Chapters.

The Committee shall meet on request of either Party.

## Chapter FIVE. SANITARY AND PHYTOSANITARY MEASURES

### Article 5.1. Definitions

The definitions in Annex A of the SPS Agreement are incorporated into and made part of this Chapter, mutatis mutandis.

### Article 5.2. Objectives

The objectives of this Chapter are to protect human, animal, and plant life or health while facilitating trade, to enhance cooperation, communication, and transparency between the Parties, and to ensure that the Parties' sanitary and phytosanitary measures are science-based and do not create unjustified barriers to trade.

### Article 5.3. Scope

This Chapter shall apply to all sanitary and phytosanitary measures of each Party that may, directly or indirectly, affect trade between the Parties.

### Article 5.4. General Provisions

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

2. Both Parties shall exchange information of mutual interest, enhance cooperation and, upon request, consultation on sanitary and phytosanitary matters through contact points.

3. Neither Party shall have recourse to Chapter Fifteen (Dispute Settlement) under this Agreement for any matter arising under this Chapter.

### Article 5.5. Contact Points and Competent Authorities

1. Upon the entry into force of this Agreement, each Party shall designate a Contact Point or Contact Points to facilitate communication on matters covered by this chapter and promptly notify the other Party no later than 30 days after the entry into force of this Agreement.

2. Upon the entry into force of this Agreement, each Party shall designate a competent Authority for the purposes of implementing this Chapter and promptly notify the other Party no later than 30 days after the entry into force of this Agreement.

3. Each Party shall keep the information on Contact Points and Competent Authorities up to date and shall promptly inform the other Party of any change.

## Chapter SIX. TECHNICAL BARRIERS TO TRADE

### Article 6.1. Definitions

For the purposes of this chapter:

TBT Agreement means TBT Agreement, contained in Annex 1A to the WTO Agreement; and the definitions shall be those contained in Annex 1 of the TBT agreement.

## Article 6.2. Objectives

The objective of this Chapter is to facilitate trade, including by eliminating unnecessary technical barriers to trade, enhancing transparency, and promoting greater regulatory cooperation and good regulatory practices.

## Article 6.3. Scope

1. This Chapter shall apply to the preparation, adoption, and application of all standards, technical regulations, and conformity assessment procedures that may affect trade in goods between the Parties.

2. Notwithstanding paragraph 1, this Chapter shall not apply to:

(a) purchasing specifications prepared by a governmental body for its production or consumption requirements which are covered by Chapter Eleven (Government Procurement); or

(b) sanitary or phytosanitary measures which are covered by Chapter Five (Sanitary and Phytosanitary Measures).

## Article 6.4. Affirmation of the TBT Agreement

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

## Article 6.5. International Standards

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

2. In determining whether an international standard, guide, or recommendation within the meaning of Articles 2 and 5 and Annex 3 of the TBT Agreement exists, each Party shall base its determination on the principles set out in the "Decision of the Committee on Principles for the Development of International Standards, Guides and Recommendations with relation to Articles 2, 5 and Annex 3 of the Agreement", adopted on 13 November 2000 by the WTO Committee on Technical Barriers to Trade, and any subsequent version thereof.

3. The Parties shall encourage cooperation between their respective national standardizing organizations in areas of mutual interest, in the context of their participation in international standardizing bodies, to ensure that international standards developed within such organizations are trade facilitating and do not create unnecessary obstacles to international trade.

## Article 6.6. Technical Regulations

1. The Parties shall use international standards as a basis for preparing their technical regulations, unless those international standards are ineffective or inappropriate for achieving the legitimate objective pursued. Each Party shall, upon request of the other Party, provide its reasons for not having used international standards as a basis for preparing its technical regulations.

2. Each Party shall give positive consideration to a request by the other Party to negotiate arrangements for achieving the equivalence of technical regulations. Upon request of the other Party, each Party shall explain the reasons why it has not accepted a request by the other Party to negotiate such arrangements.

3. The Parties shall strengthen communications and coordination with each other, where appropriate, in the context of discussions on the equivalence of technical regulations and related issues in international fora, such as the WTO Committee on Technical Barriers to Trade.

## Article 6.7. Conformity Assessment Procedures

1. The Parties recognize that, depending on the specific sectors involved, a broad range of mechanisms exists to facilitate the acceptance in a Party's territory of the results of conformity assessment procedures conducted in the other

Party's territory. Such mechanisms may include:

(a) recognizing existing international multilateral recognition agreements and arrangements among conformity assessment bodies;

(b) promoting mutual recognition of conformity assessment results by the other Party, through recognizing the other Party's designation of conformity assessment bodies;

(c) encouraging voluntary arrangements between conformity assessment bodies in the territory of each Party;

(d) accepting a supplier's declaration of conformity where appropriate;

(e) harmonizing criteria for the designation of conformity assessment bodies, including accreditation procedures; or

(f) other mechanisms as mutually agreed by the Parties.

2. Each Party shall ensure, whenever possible, that the results of conformity assessment procedures conducted in the territory of the other Party are accepted, even when those procedures differ from its own, provided that those procedures offer a satisfactory assurance of applicable technical regulations or standards equivalent to its own procedures. Where a Party does not accept the results of a conformity assessment procedure conducted in the territory of the other Party, it shall, upon request of the other Party, explain the reasons for its decision.

3. In order to enhance confidence in the consistent reliability of conformity assessment results, the Parties may consult on matters such as the technical competence of the conformity assessment bodies involved.

4. Each Party shall give positive consideration to a request by the other Party to negotiate agreements or arrangements for the mutual recognition of the results of their respective conformity assessment procedures.

5. The Parties shall endeavor to intensify their exchange of information on acceptance mechanisms with a view to facilitating the acceptance of conformity assessment results.

6. A Party shall consider the possibility to prevent the imposition of duplicative testing and certification requirements as contained in national and regional conformity assessment procedures, if any.

## Article 6.8. Cooperation

1. The Parties shall strengthen their cooperation in the field of standards, technical regulations, and conformity assessment procedures with a view to:

(a) increasing the mutual understanding of their respective systems;

(b) enhancing cooperation between the Parties' regulatory agencies on matters of mutual interests including health, safety and environmental protection;

(c) facilitating trade by implementing good regulatory practices; and

(d) enhancing cooperation, as appropriate, to ensure that technical regulations and conformity assessment procedures are based on international standards or the relevant parts of them and do not create unnecessary obstacles to trade between the Parties.

2. In order to achieve the objectives set out in paragraph 1, the Parties shall, as mutually agreed and to the extent possible, co-operate on regulatory issues, which may include the:

(a) promotion of good regulatory practices based on risk management principles;

(b) exchange of information with a view to improving the quality and effectiveness of their technical regulations;

(c) development of joint initiatives for managing risks to health, safety, or the environment, and preventing deceptive practices; and

(d) exchange of market surveillance information where appropriate.

3. The Parties shall encourage cooperation between their respective organizations responsible for standardization, conformity assessment, accreditation, and metrology, with the view to facilitating trade and avoiding unnecessary obstacles to trade between the Parties.

## Article 6.9. Transparency

1. Each Party shall, upon request of the other Party, provide information, including the objective of, and rationale for, a technical regulation or conformity assessment procedure which the Party has adopted or proposes to adopt and may affect the trade between the Parties, within a reasonable period of time as agreed between the Parties.

2. When a proposed technical regulation is notified to the WTO, a Party shall give appropriate consideration to the comments received from the other Party, and, upon request of the other Party, provide written answers to the comments made by the other Party.

3. The Parties shall ensure that all adopted technical regulations and conformity assessment procedures are publicly available.

4. A Party shall allow at least 60 days after the notification of its proposed technical regulations and conformity assessment procedures to WTO Central Registry of Notifications for the other Party to provide comments on the proposal except where urgent problems of safety, health, environmental protection, or national security arise or threaten to arise.

5. Except in urgent circumstances, the Parties shall allow a reasonable interval between the publication of technical regulations or conformity assessment procedures and their entry into force in order to allow time for producers in the exporting Party to adapt their products or methods of production to the requirements of the importing Party.

## Article 6.10. Committee on TBT

1. The Parties hereby establish a Committee on Technical Barriers to Trade (hereinafter referred to as “the Committee”) under the Joint Committee comprising representatives of the Parties. The Committee may meet in person, via teleconference, via video-conference or through any other means, as agreed by the Parties.

2. The functions of the Committee include:

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

(b) enhancing co-operation in the development and improvement of standards, technical regulations, and conformity assessment procedures;

(c) ensuring appropriate steps are taken promptly to address any issue that a Party may raise related to the development, adoption, application, or enforcement of technical regulations or conformity assessment procedures;

(d) considering any sector-specific proposal a Party makes for further co-operation between regulatory authorities, accreditation bodies or conformity assessment bodies;

(e) considering a request that a Party recognize the results of conformity assessment procedures conducted by bodies in the other Party’s territory, including a request for the negotiation of an agreement, in a sector nominated by that other Party;

(f) exchanging information on developments in non-governmental, regional, and multilateral fora engaged in activities related to standards, technical regulations, and conformity assessment procedures;

(g) enhancing cooperation regarding the TBT Agreement.

3. For the purposes of this Chapter, the Contact Points are:

(a) For Korea: Korea Agency for Technology and Standards, or its successor; and

(b) For the UAE: the Standards and Regulation Sector, the Ministry of Industry and Advanced Technology, or its successor.

4. Each Party shall promptly notify the other Party of any change of its Contact Point.

5. The Contact Points shall work jointly in order to facilitate implementation of this Chapter and co-operation between the Parties in all matters pertaining to this Chapter.

## Article 6.11. Information Exchange and Technical Discussions

1. Any information or explanation that a Party provides upon request of the other Party pursuant to this Chapter shall be provided in print or electronically within a reasonable period of time. Each Party shall endeavor to respond to such a request within 60 days.

2. All communication between the Parties on any matter covered by this Chapter shall be conducted through the Contact Points designated under Article 6.10.

3. On request of a Party for technical discussions on any matter arising under this Chapter, the Parties shall endeavor, to the extent practicable, to enter into technical discussions by notifying the Contact Points designated under Article 6.10.

# Chapter SEVEN. TRADE REMEDIES

Section A: Scope

## Article Article 7.1: Scope

This Chapter shall apply to investigations and measures that are taken under each Party's competent authority.

For purposes of this Chapter, competent authority means:

for Korea, the Korea Trade Commission, or its successor; and

for the UAE, the Ministry of Economy, or its successor.

Section B: Anti-Dumping and Countervailing Measures

## Article Article 7.2: General Provisions

The Parties reaffirm their rights and obligations under Articles VI and XVI of GATT 1994, the Anti-Dumping Agreement; and the SCM Agreement.

The Parties recognize the right to apply measures consistent with Article VI of GATT 1994, the Anti-Dumping Agreement and the SCM Agreement, and the importance of promoting transparency.

Except as otherwise stipulated in this Article, this Agreement does not confer any additional rights or obligations on the Parties with regard to anti-dumping and countervailing measures, including the initiation and conduct of anti-dumping and countervailing duty investigations as well as the application of anti-dumping and/or countervailing measures.

Each Party's competent authority shall ensure, before a final determination is made, the disclosure of all essential facts under consideration which form the basis for the decision whether to apply definitive measures. This is without prejudice to Article 6.5 of the Anti-Dumping Agreement and Article 12.4 of the

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SCM Agreement. Disclosures shall be made in writing and allow interested parties sufficient time to make their comments.

## Article Article 7.3: Notification and Consultation

When a Party's competent authority receives a written application by or on behalf of its domestic industry for the initiation of an anti-dumping investigation in respect of a good from the other Party, the receiving Party shall notify the other Party of the application as far in advance of the initiation of such investigation.

As soon as possible after accepting an application for a countervailing duty investigation in respect of a good imported from the other Party, and in any event before initiating an investigation, the Party shall provide a written notification of its receipt of the application to the other Party and invite the other Party for consultations with the aim of clarifying the situation as to the matters referred to in the application and arriving at a mutually agreed solution.

Interested parties should be granted the right to express their views during anti-dumping and anti-subsidy investigations in accordance with each Party's domestic law.

The Party whose goods are subject to anti-dumping or countervailing measures imposed by the other Party has the right to request consultations in order to discuss the impact of these measures on bilateral trade.

## Article Article 7.4: Lesser Duty Rule

Should a Party decide to impose a provisional or definitive anti-dumping or countervailing duty, the amount of such duty

shall not exceed the margin of dumping or amount of the countervailable subsidy, but it may be less than that margin if, pursuant to the Party's domestic law, such a lesser duty would be adequate to remove the injury to the domestic industry.

## Article Article 7.5: Non-Application of Dispute Settlement

Neither Party shall have recourse to Chapter Fifteen (Dispute Settlement) of this Agreement for any matter arising under this Section.

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Section C: Bilateral Safeguard Measures

## Article Article 7.6: Definitions

For purposes of this Section:

bilateral safeguard measure means a bilateral safeguard measure applied within a transition period and as described in Article 7.7;

domestic industry means, with respect to an imported good, the producers as a whole of the like or directly competitive good operating within the territory of a Party, or those producers whose collective production of the like or directly competitive good constitutes a major proportion of the total domestic production of that good;

provisional measure means a provisional bilateral safeguard measure described in Article 7.10;

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

threat of serious injury means serious injury that, on the basis of facts and not merely on allegation, conjecture or remote possibility, is clearly imminent; and

transition period means the period from the date of entry into force of this Agreement until five years from the date of completion of tariff reduction or elimination in accordance with each Party's Schedule in Annex 2-A (Reduction or Elimination of Customs Duties).

## Article Article 7.7: Application of Bilateral Safeguard Measures

If, as a result of the reduction or elimination of a customs duty under this Agreement, an originating good of a Party is being imported into the territory of the other Party in such increased quantities, in absolute terms or relative to domestic production, and under such conditions as to cause serious injury or threat thereof to a domestic industry producing a like or directly competitive good, the other Party may, to the extent necessary to prevent or remedy the serious injury, apply a bilateral safeguard measure consisting of:

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the suspension of the further reduction of any rate of customs duty on the good provided for under this Agreement; or

an increase of the rate of customs duty on the good to a level not to exceed the lesser of:

the most-favored-nation (hereinafter referred to as "MFN") applied rate of customs duty on the good in effect on the date on which the bilateral safeguard measure is taken; or

the MFN applied rate of customs duty on the good in effect on the day immediately preceding the date this Agreement enters into force.

## Article Article 7.8: Notification and Consultation

A Party shall immediately notify the other Party in writing upon:

initiation of an investigation described in Article 7.9:

making a finding of serious injury or threat thereof caused by increased imports of an originating good of the other Party as a result of the reduction or elimination of a customs duty on the good pursuant to this Agreement; and

taking a decision to apply or extend a provisional or final bilateral safeguard measure.

A Party shall consult with the other Party as far in advance of applying a bilateral safeguard measure as practicable, with a view to reviewing the non-confidential version of the information arising from the investigation and exchanging views on the measure.

## Article Article 7.9: Conditions and Limitations

A Party shall apply a bilateral safeguard measure only following an investigation by the Party's competent authorities in accordance with Articles 3 and 4.2(c) of the Safeguards Agreement, and to this end, Articles 3 and 4.2(c) of the Safeguards Agreement are incorporated into and made a part of this Agreement, mutatis mutandis.

In the investigation described in paragraph 1, the Party shall comply with the requirements of Articles 4.2(a) and 4.2(b) of the Safeguards Agreement, and to this end, Articles 4.2(a) and 4.2(b) of the Safeguards Agreement are incorporated into and made a part of this Agreement, mutatis mutandis.

Each Party shall ensure that its competent authorities complete any such investigation within one year of its date of initiation.

Neither Party shall apply a bilateral safeguard measure:

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

for a period exceeding two years, except that the period may be extended by up to one year if the competent authorities of the importing Party determine, in conformity with the procedures specified in this Section, that the measure continues to be necessary to prevent or remedy serious injury and to facilitate adjustment and that there is evidence that the industry is adjusting, provided that the total period of application of a bilateral safeguard measure, including the period of initial application and any extension thereof, shall not exceed three years; or

beyond the expiration of the transition period, except with the consent of the other Party.

No bilateral safeguard measure shall be applied again to the import of a good which has been previously subject to such measure for a period of time equal to the period during which the previous measure was applied.

Where the expected duration of the bilateral safeguard measure is over one year, the importing Party shall progressively liberalize it at regular intervals.

When a Party terminates a bilateral safeguard measure, the rate of customs duty shall be the rate that, according to the Party's Schedule in Annex 2-A (Reduction or Elimination of Customs Duties), would have been in effect but for the measure.

## Article Article 7.10: Provisional Measures

In critical circumstances where delay would cause damage that would be difficult to repair, a Party may apply a bilateral safeguard measure on a provisional basis pursuant to a preliminary determination by its competent authorities that there is clear evidence that imports of an originating good from the other Party have increased as the result of the reduction or elimination of a customs duty under this Agreement, and such imports have caused serious injury or threat thereof to the domestic industry.

Before applying a bilateral safeguard measure on a provisional basis, the applying Party shall notify the other Party. A Party may not apply a provisional measure until at least 45 days after the date its competent authorities initiate an investigation.

The duration of any provisional measure shall not exceed 200 days, during which time the Party shall comply with the requirements of Articles 7.9.1 and 7.9.2.

The Party shall promptly refund any tariff increases if the investigation described in Article 7.9 does not result in a finding that the requirements of Article

7.7 are met. The duration of any provisional measure shall be counted as part of the period described in Article 7.9.4(b).

## Article Article 7.11: Compensation

No later than 30 days after it applies a bilateral safeguard measure, a Party shall afford an opportunity for the other Party to consult with it regarding appropriate trade liberalizing compensation in the form of concessions having substantially equivalent trade effects or equivalent to the value of the additional duties expected to result from the bilateral safeguard

measure. The applying Party shall provide such compensation as the Parties mutually agree.

If the Parties are unable to agree on compensation within 30 days after consultations begin, the Party against whose originating good the measure is applied may suspend the application of concessions with respect to originating goods of the applying Party that have trade effects substantially equivalent to the bilateral safeguard measure. The Party exercising the right of suspension may suspend the application of concessions only for the minimum period necessary to achieve the substantially equivalent effects.

A Party against whose good the bilateral safeguard measure is applied shall notify the Party applying the bilateral safeguard measure in writing within a reasonable period of time before it suspends concessions in accordance with paragraph 2.

The right of suspension referred in paragraph 2 shall not be exercised for the first 24 months during which a bilateral safeguard measure is in effect, provided that the bilateral safeguard measure has been applied as a result of an absolute increase in imports and conforms to the provisions of this Agreement.

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

Section D: Global Safeguard Measures

### Article Article 7.12: Global Safeguard Measures

Each Party retains its rights and obligations under Article XIX of GATT 1994 and the Safeguards Agreement, including Article 9 of the Safeguards Agreement. This Agreement shall not confer any additional rights or impose any additional obligations on the Parties with regard to actions taken under Article XIX of GATT 1994 and the Safeguards Agreement.

Neither Party shall apply, with respect to the same good, at the same time:

a bilateral safeguard measure as applied in Section C; and

a measure under Article XIX of GATT 1994 and the Safeguards Agreement.

Where, as a result of a global safeguard measure, a safeguard duty is imposed, the margin of preference, in accordance with the Party's Schedule in Annex 2-A (Reduction or Elimination of Customs Duties), shall be maintained.

At the request of the other Party, and provided that it has a substantial interest, the Party intending to take safeguard measures shall provide immediately written notification of all pertinent information on the initiation of the safeguard investigation, including the provisional findings and the final findings of the investigation, as well as offer the possibility for consultations to the other Party.

For purposes of this Article, it is considered that a Party has a substantial interest when it is among the five largest suppliers of the good under investigation during the most recent three-year period of time, measured in terms of either absolute volume or value.

### Article Article 7.13: Non-Application of Dispute Settlement

Neither Party shall have recourse to Chapter Fifteen (Dispute Settlement) of this Agreement for any matter arising under this Section.

Section E: Cooperation on Trade Remedies

### Article Article 7.14: Cooperation on Trade Remedies

The Parties shall endeavor to encourage cooperation on trade remedies between the relevant authorities of each Party who have responsibility for trade remedy matters.

## Chapter EIGHT. TRADE IN SERVICES

### Article 8.1. Definitions

Article 8.1: Definitions

For purposes of this Chapter:

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

commercial presence means any type of business or professional establishment including through:

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

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

computer reservation system services means services provided by computerized systems that contain information about air carriers' schedules, availability, fares and fare rules, through which reservations can be made or tickets may be issued;

ground handling services means the supply at an airport, on a fee or contract basis, of the following: airline representation, administration and supervision; passenger handling; baggage handling; ramp services; catering (except the preparation of the food); air cargo and mail handling; fueling of an aircraft; aircraft servicing and cleaning; surface transport; and flight operations, crew administration and flight planning. Ground handling services do not include: self-handling; security; line maintenance; aircraft repair and maintenance; or management or operation of essential centralized airport infrastructure such as de-icing facilities, fuel distribution systems, baggage handling systems, and fixed intra-airport transport systems;

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

juridical person of the other Party means a juridical person which is either:

(a) constituted or otherwise organized under the law of that other Party, and is engaged in substantive business operations in the territory of that Party; or

(b) in the case of the supply of a service through commercial presence, owned or controlled by:

(i) natural persons of that Party; or

(ii) juridical persons of that other Party identified under subparagraph (a);

a juridical person is:

(a) owned by persons of a Party if more than 50 percent of the equity interest in it is beneficially owned by persons of that Party;

(b) controlled by persons of a Party if such persons have the power to name a majority of its directors or otherwise to legally direct its actions; or

(c) affiliated with another person when it controls, or is controlled by, that other person; or when it and the other person are both controlled by the same person;

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

measures by Parties means measures adopted or maintained by:

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

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

In fulfilling its obligations and commitments under this Chapter, each Party shall take such reasonable measures as may be available to it to ensure their observance by regional and local governments and authorities and non- governmental bodies within its territory;

measures by Parties affecting trade in services includes measures in respect of

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

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

(c) the presence, including commercial presence, of persons of a Party for the supply of a service in the territory of the

other Party;

monopoly supplier of a service means any person, public or private, which in the relevant market of the territory of a Party is authorized or established formally or in effect by that Party as the sole supplier of that service;

natural person of a Party means a national or a permanent resident (1) of a Party according to its laws and regulations;

(1) With respect to the UAE, the term permanent resident means any natural person who is in possession of a valid residency permit under the laws and regulations of the UAE. For the purposes of this Chapter and its Annexes, the term permanent resident shall exclude natural persons who are in possession of foreign student residency, foreign retiree residency, remote working residency, domestic worker residency, and foreign dependents residency permits.

person means either a natural person or a juridical person;

sector of a service means:

(a) with reference to a specific commitment, one or more, or all, subsectors of that service, as specified in a Party's Schedule; or

(b) otherwise, the whole of that service sector, including all of its subsectors;

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

services includes any service in any sector except services supplied in the exercise of governmental authority;

service consumer means any person that receives or uses a service;

service of the other Party means a service which is supplied:

(a) from or in the territory of that other Party, or in the case of maritime transport, by a vessel registered under the laws of that other Party, or by a person of that other Party which supplies the service through the operation of a vessel and/or its use in whole or in part; or

(b) in the case of the supply of a service through commercial presence or through the presence of natural persons, by a service supplier of that other Party;

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

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

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

supply of a service includes the production, distribution, marketing, sale, and delivery of a service;

trade in services means the supply of a service:

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

(b) in the territory of a Party to the service consumer of the other Party;

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

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

traffic rights means the right for scheduled and non-scheduled services to operate and/or to carry passengers, cargo and mail for remuneration or hire from, to, within, or over the territory of a Party, including points to be served, routes to be operated, types of traffic to be carried, capacity to be provided, tariffs to be charged and their conditions, and criteria for designation of airlines, including such criteria as number, ownership, and control.

## Article 8.2. Scope and Coverage

1. This Chapter shall apply to measures by Parties affecting trade in services.

2. This Chapter shall not apply to:

(a) laws, regulations, or requirements governing the procurement by government agencies of services purchased for governmental purposes and not with a view to commercial resale or with a view to use in the supply of services for commercial sale;

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

(c) measures affecting natural persons seeking access to the employment market of a Party, or measures regarding citizenship, residence or employment on a permanent basis; and

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

(i) aircraft repair and maintenance services;

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

(iii) computer reservation system services; or

(iv) ground handling services.

3. Nothing in this Chapter shall prevent a Party from applying measures to regulate the entry of natural persons into, or their temporary stay in, its territory, including those measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across, its borders, provided that such measures are not applied in such a manner as to nullify or impair the benefits accruing to any Party under the terms of a specific commitment. (3)

(3) The sole fact of requiring a visa for natural persons of certain country and not for those of others shall not be regarded as nullifying or impairing benefits under a specific commitment.

## Article 8.3. Market Access

1. With respect to market access through the modes of supply identified in Article 8.1, each Party shall accord services and service suppliers of the other Party treatment no less favorable than that provided for under the terms, limitations, and conditions agreed and specified in its Schedule of Specific Commitments. (4)

(4) If a Party undertakes a market access commitment in relation to the supply of a service through the mode of supply referred to in subparagraph (a) of the definition of trade in services in Article 8.1 and if the cross-border movement of capital is an essential part of the service itself, that Party is thereby committed to allow such movement of capital. If a Party undertakes a market access commitment in relation to the supply of a service through the mode of supply referred to in subparagraph (c) of the definition of trade in services in Article 8.1, it is thereby committed to allow related transfers of capital into its territory.

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

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

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

(c) limitations on the total number of service operations or on the total quantity of service output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test; (5)

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

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

(e) measures which restrict or require specific types of legal entity or joint venture through which a service supplier may supply a service; and

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

## Article 8.4. National Treatment

1. In the sectors inscribed in its Schedule of Specific Commitments, and subject to any conditions and qualifications set out therein, each Party shall accord to services and service suppliers of the other Party, in respect of all measures affecting the supply of services, treatment no less favorable than that it accords to its own like services and service suppliers. (6)

(6) Specific commitments assumed under this Article shall not be construed to require either Party to compensate for any inherent competitive disadvantages which result from the foreign character of the relevant services or service suppliers.

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

3. Formally identical or formally different treatment by a Party shall be considered to be less favorable if it modifies the conditions of competition in favor of services or service suppliers of that Party compared to the like service or service suppliers of the other Party.

## Article 8.5. Additional Commitments

The Parties may negotiate commitments with respect to measures affecting trade in services not subject to scheduling under Articles 8.3 and 8.4, including those regarding qualifications, standards, or licensing matters. Such commitments shall be inscribed in a Party's Schedule of Specific Commitments.

## Article 8.6. Schedules of Specific Commitments

1. Each Party shall set out in a schedule the specific commitments it undertakes under Articles 8.3, 8.4, and 8.5. With respect to sectors where such commitments are undertaken, each Schedule of Specific Commitments shall specify:

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

(b) conditions and qualifications on national treatment;

(c) undertakings relating to additional commitments;

(d) where appropriate, the time-frame for implementation of such commitments; and

(e) the date of entry into force of such commitments.

2. Measures inconsistent with both Articles 8.3 and 8.4 shall be inscribed in the column relating to Article 8.3. In this case, the inscription will be considered to provide a condition or qualification to Article 8.4 as well.

3. Schedules of Specific Commitments shall be annexed to this Chapter and shall form an integral part of this Agreement.

## Article 8.7. Most-Favored Nation Treatment

If, after the date of entry into force of this Agreement, a Party enters into an agreement notified under Article V or Article V bis of GATS, it shall upon request from the other Party afford adequate opportunity to that Party to negotiate the benefits granted therein.

## Article 8.8. Modification of Schedules

1. (a) A Party (referred to in this Article as the “modifying Party”) may modify or withdraw any commitment in its Schedule, at

any time after three years have elapsed from the date on which that commitment entered into force, in accordance with the provisions of this Article.

(b) A modifying Party shall notify its intent to modify or withdraw a commitment pursuant to this Article to the Committee on Trade in Services no later than three months before the intended date of implementation of the modification or withdrawal.

2. At the request of a Party the benefits of which under this Chapter may be affected (referred to in this Article as an "affected Party") by a proposed modification or withdrawal notified under paragraph 1(b), the modifying Party shall enter into negotiations with a view to reaching agreement on any necessary compensatory adjustment. In such negotiations and agreement, the Parties shall endeavor to maintain a general level of mutually advantageous commitments not less favorable to trade than that provided for in Schedules of Specific Commitments prior to such negotiations.

3. If agreement is not reached between the modifying Party and the affected Party before the end of the period provided for negotiations, the affected Party may refer the matter to the Committee on Trade in Services. Where the Committee on Trade in Services fails to reach an agreement on the matter, the Committee on Trade in Services may refer the matter to the Joint Committee to adopt a decision or make a recommendation.

4. The Joint Committee shall establish procedures for rectification or modification of Schedules. A Party which has modified or withdrawn scheduled commitments under this Article shall modify its Schedule according to such procedures.

## Article 8.9. Domestic Regulation

Scope

1. This Article shall apply to measures by a Party relating to licensing requirements and procedures, qualification requirements and procedures, and technical standards affecting trade in services.

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

3. This Article shall not apply to any terms, limitations, conditions, or qualifications set out in a Party's Schedule pursuant to Articles 8.3 or 8.4.

4. For the purpose of this Article, authorization means the permission to supply a service, resulting from a procedure to which an applicant must adhere in order to demonstrate compliance with licensing requirements, qualification requirements, or technical standards.

Submission of Applications

5. Each Party shall, to the extent practicable, avoid requiring an applicant to approach more than one competent authority for each application for authorization. If a service is within the jurisdiction of multiple competent authorities, multiple applications for authorization may be required.

Application Timeframes

6. If a Party requires authorization for the supply of a service, it shall ensure that its competent authorities to the extent practicable permit submission of an application at any time throughout the year. (7) If a specific time period for applying exists, the Party shall ensure that the competent authorities allow a reasonable period for the submission of an application.

(7) Competent authorities are not required to start considering applications outside of their official working hours and working days.

Electronic Applications and Acceptance of Copies

7. If a Party requires authorization for the supply of a service, it shall ensure that its competent authorities:

(a) taking into account their competing priorities and resource constraints, endeavor to accept applications in electronic format; and

(b) accept copies of documents, that are authenticated in accordance with the Party's domestic laws and regulations, in place of original documents, unless the competent authorities require original documents to protect the integrity of the authorization process.

Processing of Applications

8. If a Party requires authorization for the supply of a service, it shall ensure that its competent authorities:

(a) to the extent practicable, provide an indicative timeframe for processing of an application;

(b) at the request of the applicant, provide without undue delay information concerning the status of the application;

(c) to the extent practicable, ascertain without undue delay the completeness of an application for processing under the Party's domestic laws and regulations;

(d) if they consider an application complete for processing under the Party's domestic laws and regulations, (8) within a reasonable period of time after the submission of the application ensure that:

(8) Competent authorities may require that all information is submitted in a specified format to consider it "complete for processing".

(i) the processing of the application is completed; and

(ii) the applicant is informed of the decision concerning the application, (9)

(9) Competent authorities may meet this requirement by informing an applicant in advance in writing, including through a published measure, that lack of response after a specified period of time from the date of submission of an application indicates acceptance of the application or rejection of the application.

to the extent possible in writing; (10)

(10) "In writing" may include in electronic form.

(e) if they consider an application incomplete for processing under the Party's domestic laws and regulations, 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 with the opportunity (11) to provide the additional information that is required to complete the application;

(11) Such opportunity does not require a competent authority to provide extensions of deadlines.

however, if none of the above is practicable, and the application is rejected due to incompleteness, ensure that they so inform the applicant within a reasonable period of time; and

(f) if an application is rejected, to the extent possible, 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 (12) solely on the basis of a previously rejected application.

(12) Competent authorities may require that the content of such an application has been revised.

9. The competent authorities of a Party shall ensure that authorization, once granted, enters into effect without undue delay, subject to applicable terms and conditions. (13)

(13) Competent authorities are not responsible for delays due to reasons outside their competence.

Fees

10. Each Party shall ensure that the authorization fees (14) charged by its competent authorities are reasonable, transparent, based on authority set out in a measure, and do not in themselves restrict the supply of the relevant service.

(14) Authorization fees do not include fees 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.

Assessment of Qualifications

11. If a Party requires an examination for authorization for the supply of a service, that Party shall ensure that its competent authorities schedule such an examination at reasonably frequent intervals and provide a reasonable period of time to enable applicants to request to take the examination. Having regard to the cost, administrative burden, and the integrity of the procedures involved, the Parties are encouraged to accept requests in electronic format to take such examinations, and to consider, to the extent practicable, the use of electronic means in other aspects of examination processes.

Recognition

12. Where professional bodies of the Parties are mutually interested in establishing dialogues on issues relating to recognition of professional qualifications, licensing or registration, the Parties should consider supporting the dialogue of those bodies where requested and appropriate.

Independence

13. If a Party adopts or maintains measures relating to the authorization for the supply of a service, the Party shall ensure that its competent authorities reach and administer their decisions in a manner independent from any supplier of the service for which authorization is required. (15)

(15) For greater certainty, this provision does not mandate a particular administrative structure; it refers to the decision-making process and administering of decisions.

Publication and Information available (16)

(16) Paragraph 14 recognize that the Parties have different systems to consult interested persons and the other Party on certain measures before its adoption, and that the alternatives set out in paragraph 14 reflect different legal systems.

14. Further to Article 1.7 (Transparency), if a Party requires authorization for the supply of a service, the Party shall promptly publish, (17) or otherwise make publicly available in writing, the information necessary for service suppliers or persons seeking to supply a service to comply with the requirements and procedures for obtaining, maintaining, amending, and renewing such authorization. Such information shall include, inter alia, where it exists:

(17) For purposes of this Article, publish means to include in an official publication, such as an official journal, or on an official website. The Parties are encouraged to consolidate electronic publications into a single portal.

(a) the requirements and procedures;

(b) contact information of relevant competent authorities;

(c) fees;

(d) technical standards;

(e) procedures for appeal or review of decisions concerning applications;

(f) procedures for monitoring or enforcing compliance with the terms and conditions of licenses or qualifications;

(g) opportunities for public involvement, such as through hearings or comments; and

(h) indicative timeframes for processing of an application.

Enquiry Points

15. Each Party shall maintain or establish appropriate mechanisms for responding to enquiries from service suppliers or persons seeking to supply a service regarding the measures referred to in paragraph 1. (18) A Party may choose to address such enquiries through either the enquiry and contact points or any other mechanisms as appropriate.

(18) It is understood that resource constraints may be a factor in determining whether a mechanism for responding to enquiries is appropriate.

Technical Standards

16. Each Party shall encourage its competent authorities, when adopting technical standards, to adopt technical standards developed through open and transparent processes, and shall encourage any body, including relevant international organizations, (19) designated to develop technical standards to use open and transparent processes.

(19) The term “relevant international organizations” refers to international bodies whose membership is open to the relevant bodies of the Parties to this Agreement.

Development of Measures

17. If a Party adopts or maintains measures relating to the authorization for the supply of a service, the Party shall ensure that:

(a) such measures are based on objective and transparent criteria; (20)

(20) 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, such as health and environmental requirements. Competent authorities may assess the weight to be given to each criterion.

(b) the procedures are impartial, and that the procedures are adequate for applicants to demonstrate whether they meet the requirements, if such requirements exist;

(c) the procedures do not in themselves unjustifiably prevent the fulfilment of requirements; and

(d) such measures do not discriminate between men and women. (21)

(21) Differential treatment that is reasonable and objective, and aims to achieve a legitimate purpose, and adoption by the Parties of temporary special measures aimed at accelerating de facto equality between men and women, shall not be considered discrimination for the purposes of this provision.

## Article 8.10. Recognition

1. For the purposes of the fulfilment, in whole or in part, of its standards or criteria for the authorization, licensing or certification of service suppliers, and subject to the requirements of paragraph 3, a Party may recognize, or encourage its relevant competent bodies to recognize, the education or experience obtained, requirements met, or licenses or certifications granted in a particular country. Such recognition, which may be achieved through harmonization or otherwise, may be based upon an agreement or arrangement with the country concerned, or may be accorded autonomously.

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

3. A Party shall not accord recognition in a manner which would constitute a means of discrimination between the other Party and non-Parties in the application of its standards or criteria for the authorization, licensing or certification of service suppliers, or a disguised restriction on trade in services.

4. Wherever appropriate, recognition should be based on multilaterally agreed criteria. In appropriate cases, the Parties shall work in cooperation with relevant intergovernmental and non-governmental organizations towards the establishment

and adoption of common international standards and criteria for recognition and common international standards for the practice of relevant services trades and professions.

## Article 8.11. Payments and Transfers

1. Except under the circumstances envisaged in Article 8.12, a Party shall not apply restrictions on international transfers and payments for current transactions relating to its specific commitments.

2. Nothing in this Chapter shall affect the rights and obligations of the Parties as members of the International Monetary Fund under the Articles of Agreement of the International Monetary Fund (hereinafter referred to as the "Articles of Agreement"), including the use of exchange actions which are in conformity with the Articles of Agreement, provided that a Party shall not impose restrictions on any capital transactions inconsistently with its specific commitments regarding such transactions, except under Article 8.12 or at the request of the International Monetary Fund.

## Article 8.12. Restrictions to Safeguard the Balance-of-Payments

1. In the event of serious balance-of-payments and external financial difficulties or threat thereof, a Party may adopt or maintain restrictions on trade in services on which it has undertaken specific commitments, including on payments or transfers for transactions related to such commitments.

2. The restrictions referred to in paragraph 1:

(a) shall not discriminate between the other Party and non-Party;

(b) shall be consistent with the Articles of Agreement;

(c) shall avoid unnecessary damage to the commercial, economic and financial interests of the other Party;

(d) shall not exceed those necessary to deal with the circumstances described in paragraph 1; and

(e) shall be temporary and be phased out progressively as the situation specified in paragraph 1 improves.

3. In determining the incidence of such restrictions, a Party may give priority to the supply of services which are more essential to its economic or development programs. However, such restrictions shall not be adopted or maintained for the purpose of protecting a particular service sector.

4. Any restrictions adopted or maintained under paragraph 1, or any changes therein, shall be promptly notified to the Committee on Trade in Services.

## Article 8.13. Monopolies and Exclusive Service Suppliers

1. Each Party shall ensure that any monopoly supplier of a service in its territory does not, in the supply of the monopoly service in the relevant market, act in a manner inconsistent with that Party's obligations and specific commitments.

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

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

4. This Article shall also apply to cases of exclusive service suppliers, where a Party, formally or in effect, (a) authorizes or establishes a small number of service suppliers and (b) substantially prevents competition among those suppliers in its territory.

## Article 8.14. Business Practices

1. The Parties recognize that certain business practices of service suppliers, other than those falling under Article 8.13, may restrain competition and thereby restrict trade in services.

2. Each Party shall, on the request of the other Party (referred to in this Article as the "Requesting Party"), enter into

consultations with a view to eliminating practices referred to in paragraph 1. The Party addressed (referred to in this Article as the “Requested Party”), shall accord full and sympathetic consideration to such a request and shall cooperate through the supply of publicly available non-confidential information of relevance to the matter in question. The Requested Party shall also provide other information available to the Requesting Party, subject to its domestic law and to the conclusion of satisfactory agreement concerning the safeguarding of its confidentiality by the Requesting Party.

## Article 8.15. 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 a juridical person owned or controlled by persons 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 juridical person or that would be violated or circumvented if the benefits of this Chapter were accorded to the juridical person. A Party may deny the benefits of this Chapter in the case of the supply of a maritime transport service, if it establishes that the service is supplied:

(a) by a vessel registered under the laws of a non-Party; and

(b) by a person which operates and/or uses the vessel in whole or in part but which is of a non-Party;

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

## Article 8.16. Review

1. With the objective of further liberalizing trade in services between them, the Parties agree to jointly review their Schedules of Specific Commitments taking into account any services liberalization developments as a result of on-going work under the auspices of the WTO.

2. The first such review shall take place no later than two years after the date of entry into force of this Agreement.

## Article 8.17. Committee on Trade In Services

1. The Parties hereby establish a Committee on Trade in Services (referred to as the “Committee” in this Chapter), comprising representatives of each Party.

2. The Committee’s functions shall include:

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

(b) identifying and recommending measures to promote trade in services; and

(c) at a Party’s request, consulting on any matter arising under this Chapter.

3. The Committee shall meet within one year after the date of entry into force of this Agreement and every two years thereafter unless the Parties otherwise agree. The Committee shall inform the Joint Commission of the results of each meeting.

## Annex 8-A. Financial Services (1)

(1) For greater certainty, this Annex constitutes an integral part of this Chapter.

Definitions

1. For purposes of this Annex:

A financial service is any service of a financial nature offered by a financial service supplier of a Party. Financial services include all insurance and insurance-related services, and all banking and other financial services (excluding insurance). Financial services include the following activities:

Insurance and insurance-related services

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

(i) life

(ii) non-life

(b) Reinsurance and retrocession;

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

(d) 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, travelers checks and bankers drafts;

(i) Guarantees and commitments;

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

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

(ii) foreign exchange;

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

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

(v) transferable securities;

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

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

(l) Money broking;

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

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

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

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

A financial service supplier means any natural or juridical person of a Party wishing to supply or supplying financial services but the term "financial service supplier" does not include a public entity.

Public entity means:

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

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

Scope and Definition

2. This Annex shall apply to measures affecting the supply of financial services. Reference to the supply of a financial service in this Annex shall mean the supply of a service as defined in Article 8.1

3. For purposes of the definition of services as set out in Article 8.1, services supplied in the exercise of governmental authority means the following:

(a) activities conducted by a central bank or monetary authority or by any other public entity in pursuit of monetary or exchange rate policies;

(b) activities forming part of a statutory system of social security or public retirement plans; and

(c) other activities conducted by a public entity for the account or with the guarantee or using the financial resources of the Government.

4. For purposes of the definition of services as set out in Article 8.1, if a Party allows any of the activities referred to in subparagraphs (b) or (c) of paragraph 2 to be conducted by its financial service suppliers in competition with a public entity or a financial service supplier, services shall include such activities.

5. A service supplied in the exercise of governmental authority as defined in Article 8.1 shall not apply to services covered by this Annex.

Domestic Regulation

6. Notwithstanding any other provisions of this Chapter, a Party shall not be prevented from taking measures for prudential reasons, including for the protection of investors, depositors, policy holders or persons to whom a fiduciary duty is owed by a financial service supplier, or to ensure the integrity and stability of the financial system. Where such measures do not conform with the provisions of this Chapter, they shall not be used as a means of avoiding the Party's commitments or obligations under this Chapter.

7. Nothing in the Agreement shall be construed to require a Party to disclose information relating to the affairs and accounts of individual customers or any confidential or proprietary information in the possession of public entities.

Recognition

8. A Party may recognize prudential measures of a non-Party in determining how the Party's measures relating to financial services shall be applied. Such recognition, which may be achieved through harmonization or otherwise, may be based upon an agreement or arrangement with the non-Party concerned or may be accorded autonomously.

9. A Party that is a party to such an agreement or arrangement referred to in paragraph 8, whether future or existing, shall afford adequate opportunity for the other Party to negotiate its accession to such agreements or arrangements, or to negotiate comparable ones with it, under circumstances in which there would be equivalent regulation, oversight, implementation of such regulation, and, if appropriate, procedures concerning the sharing of information between the parties to the agreement or arrangement. Where a Party accords recognition autonomously, it shall afford adequate opportunity for the other Party to demonstrate that such circumstances exist.

Dispute Settlement

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

## Annex 8-B. Telecommunications (1)

(1) For greater certainty, this Annex constitutes an integral part of this Chapter.

Definitions

1. For purposes of this Annex:

end-user means a final consumer of or subscriber to a public telecommunications network or service, including a service supplier other than a supplier of public telecommunications networks or services;

essential facilities means facilities of a public telecommunications network or service that:

(a) are exclusively or predominantly provided by a single or limited number of suppliers; and

(b) cannot feasibly be economically or technically substituted in order to provide a service;

interconnection means linking with suppliers providing public telecommunications networks or services in order to allow the users of one supplier to communicate with users of another supplier and to access services provided by another supplier, where specific commitments are undertaken;

international mobile roaming service means a commercial mobile service provided pursuant to a commercial agreement between suppliers of public telecommunications networks or services that enables end-users to use their home mobile handset or other device for voice, data, or messaging services while outside the territory in which the end-user's home public telecommunications network is located;

license means any authorization 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 of public telecommunications networks or services that has the ability to materially affect the terms of participation, having regard to price and supply, in the relevant market for public telecommunications networks or services as a result of:

(a) control over essential facilities; or

(b) 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 favorable 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 the same category of suppliers of public telecommunications services;

public telecommunications network means public telecommunications infrastructure used to provide public telecommunications services between and among defined network termination points;

public telecommunications service means any telecommunications service that a Party requires, explicitly or in effect, to be offered to the public generally. Such services may include, inter alia, telephone and data transmission typically involving customer-supplied information between two or more points without any end-to-end change in the form or content of the customer's information, and excludes value-added services;

telecommunications means the transmission and reception of messages, sounds, visual images, or signals by any electromagnetic means;

telecommunications regulatory body means any body or bodies responsible under the laws and regulations of a Party for the regulation of telecommunications;

user means an end-user of or a supplier of public telecommunications networks or services; and

value-added services means services that add value to telecommunications services through enhanced functionality, and specifically means those services as respectively defined in the relevant laws or regulations of each Party.

Scope

2. This Annex applies to measures affecting trade in telecommunications services, including:

(a) measures relating to access to and use of public telecommunications services;

(b) measures relating to obligations of suppliers of public telecommunications services;

(c) other measures relating to public telecommunications networks or services; and

(d) measures relating to the supply of value-added services.

3. Except to ensure that service suppliers operating broadcast stations and cable systems have continued access to and use of public telecommunications networks or services, this Annex shall not apply to any measure relating to broadcast or cable

distribution of radio or television programming.

4. Nothing in this Annex shall be construed to:

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

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

Access and Use

5. Each Party shall ensure that service suppliers of the other Party have access to and use of any public telecommunications network or service, including leased circuits, offered in its territory or across its borders, on reasonable and non-discriminatory terms and conditions, including as set out in paragraphs 6 through 10. 6. Each Party shall ensure that service suppliers of the other Party are permitted to:

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

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

(c) connect owned or leased circuits with public telecommunications networks or services in the territory, or across the borders, of that Party, or with circuits leased or owned by another service supplier;

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

(e) use operating protocols of their choice in the supply of any service.

7. Each Party shall ensure that service suppliers of the other Party may use public telecommunications services for the movement of information in its territory or across its borders, including for intra-corporate communications, and for access to information contained in databases or otherwise stored in machine-readable form in the territory of either Party.

8. Notwithstanding paragraph 7, a Party may take such measures as are necessary to ensure the security and confidentiality of messages, provided that such measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination or disguised restriction on trade in services.

9. 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.

10. Provided that conditions for access to and use of public telecommunications networks and services satisfy the criteria set out in paragraph 9, such conditions may include:

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

(b) requirements, where necessary, for the inter-operability of such networks and services; and

(c) type approval of terminal or other equipment that interfaces with the network and technical requirements relating to the attachment of that equipment to such networks.

Competitive Safeguard

11. Each Party shall maintain appropriate measures for the purpose of preventing suppliers of public telecommunications networks and services that, alone or together, are a major supplier in its territory from engaging in or continuing anticompetitive practices.

12. The anticompetitive practices referred to in paragraph 11 include in particular:

(a) engaging in anticompetitive cross-subsidization;

(b) using information obtained from competitors with anticompetitive results; and

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

Number Portability

13. Each Party shall ensure that suppliers of public telecommunications services in its territory provide number portability for mobile services, to the extent technically feasible, on a timely basis, and on terms and conditions that are reasonable and non-discriminatory.

Interconnection

General Terms and Conditions

14. Each Party shall ensure that a major supplier in its territory is required to provide interconnection for the facilities and equipment of suppliers of public telecommunications services of the other Party at any technically feasible point in the 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 favorable than that provided for its own like services, for like services of non-affiliated service suppliers, or for like services of its subsidiaries or other affiliates;

(c) in a timely fashion, on terms, conditions (including technical standards and specifications) and cost-oriented rates that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the suppliers need not pay for network components 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 users, subject to charges that reflect the cost of construction of necessary additional facilities. Public Availability of the Procedures for Interconnection Negotiations

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

Transparency of Interconnection Arrangements

16. Each Party shall ensure that major suppliers make their interconnection agreements available to service suppliers providing public telecommunications network or services of the other Party.

Unbundling of Network Elements

17. Each Party shall endeavor to ensure that a major supplier in its territory offers access to network elements on an unbundled basis on terms and conditions that are reasonable, non-discriminatory, and transparent for the supply of public telecommunications services. A Party may determine the network elements required to be made available in its territory, and the suppliers that may obtain those elements, in accordance with its laws and regulations.

Access to Poles, Ducts, and Conduits

18. Each Party shall endeavor to ensure that a major supplier in its territory provides access to poles, ducts, conduits, or any other structures as determined by the Party, owned or controlled by the major supplier, to suppliers of public telecommunications services of the other Party in the Party's territory, on a timely basis, and on terms and conditions and at rates that are reasonable, nondiscriminatory, and transparent, subject to technical feasibility.

19. A Party may determine, in accordance with its laws and regulations, the poles, ducts, conduits, or any other structures to which it requires major suppliers in its territory to provide access in accordance with paragraph 18. When the Party makes this determination, it shall take into account factors such as the competitive effect of lack of such access, whether such structures can be substituted in an economically or technically feasible manner in order to provide a competitive service, or other specified public interest factors.

Conditions for the Supply of Value-Added Services

20. Neither Party may require an enterprise in its territory that it classifies as a supplier of value-added services and that supplies those services over facilities that the enterprise does not own to:

(a) supply those services to the public generally;

(b) cost-justify its rates for those services;

(c) file a tariff for those services;

(d) connect its networks with any particular customer for the supply of those services; or

(e) conform with any particular standard or technical regulation of the telecommunications regulatory body for connecting to any other network, other than a public telecommunications network.

21. Notwithstanding paragraph 20, a Party may take the actions described in paragraph 20 to remedy a practice of a supplier of value-added services that the Party has found in a particular case to be anticompetitive under its law or regulations, or to otherwise promote competition or safeguard the interests of consumers.

International Mobile Roaming

22. The Parties shall endeavor to cooperate on promoting transparent and reasonable rates for international mobile roaming services that can help promote the growth of trade among the Parties and enhance consumer welfare.

23. A Party may take steps to enhance transparency and competition with respect to international mobile roaming services, such as:

(a) ensuring that information regarding retail rates is easily accessible to consumers; and

(b) minimizing impediments to roaming, whereby consumers when visiting the territory of a Party from the territory of the other Party can access telecommunications services using the device of their choice.

Universal Service

24. Each Party has the right to define the kind of universal service obligations it wishes to adopt or maintain.

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

Licensing Process

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

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

(b) the period it normally requires to reach a decision concerning an application for a license; and

(c) the terms and conditions of all licenses in effect.

27. Each Party shall ensure that, on request, an applicant receives the reasons for the denial of, revocation of, refusal to renew, or imposition of conditions on, a license.

Telecommunications Regulatory Body

28. Each Party shall ensure that its telecommunications regulatory body is separate from and functionally independent of any supplier of public telecommunications networks or services. To this end, each Party shall ensure that its telecommunications regulatory body does not own equity (2) or maintain an operating or management role in any such supplier.

(2) For greater certainty, this paragraph shall not prohibit a government entity of a Party other than the telecommunications regulatory body from owning equity in a supplier of telecommunications services.

29. Each Party shall ensure that the decisions and procedures of its telecommunications regulatory body are impartial with respect to all market participants.

Allocation and Use of Scarce Resources

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

31. Each Party shall make publicly available the current state of allocated frequency bands but retains the right not to

provide detailed identification of frequencies allocated or assigned for specific government uses.

32. A Party's measures allocating and assigning spectrum and managing frequencies shall not be considered inconsistent with Article 8.3. Accordingly, each Party retains the right to establish and apply spectrum and frequency management policies that may limit the number of suppliers of public telecommunications networks and services. Each Party also retains the right to allocate frequency bands, taking into account present and future needs and spectrum availability.

Resolution of Telecommunications Disputes

33. Each Party shall ensure that:

Recourse

(a) (i) suppliers of public telecommunications networks or services may have recourse to a telecommunications regulatory body or other relevant body of the Party in its territory to resolve disputes between suppliers of public telecommunications networks or services on a timely basis regarding measures relating to matters set out in paragraph 5 through 19;

(ii) suppliers of public telecommunications networks or services of the other Party, which have obtained licenses in accordance with the laws and regulations of the Party, that have requested interconnection with a major supplier in the Party's territory may have recourse, within a reasonable and publicly specified period after the supplier requests interconnection, to a telecommunications regulatory body or other relevant body to resolve disputes regarding the terms, conditions, and rates for interconnection with such major supplier; and

Judicial Review

(b) any service supplier whose legally-protected interests are adversely affected by a determination or decision of the Party's telecommunications regulatory body may obtain review of the determination or decision by an impartial and independent judicial authority of the Party according to the laws of the Party.

Neither Party shall permit the making of an application for judicial review to constitute grounds for non-compliance with the determination or decision of the telecommunications regulatory body, unless the relevant judicial body otherwise determines.

Transparency

34. 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 terminal or other equipment; and

(e) requirements for notification or licensing, if any. Flexibility in the Choice of Technology

35. Each Party shall not prevent suppliers of public telecommunications networks or services from having the flexibility to choose the technologies that they use to supply their services.

36. Notwithstanding paragraph 35, a Party may apply a measure that limits the technologies that a supplier of public telecommunications networks or services may use to supply its services, provided that the measure is designed to achieve a legitimate public policy objective and is not prepared, adopted, or applied in a manner that creates unnecessary obstacles to trade.

## ANNEX X-C. Movement of Natural Persons Supplying Services (1)

(1) For greater certainty, this Annex constitutes an integral part of this Chapter.

General Principles

1. This Annex reflects the Parties' mutual desire to facilitate entry and temporary stay of natural persons in accordance with

their laws and regulations and the commitments in their Schedule of Specific Commitments in this Chapter and of establishing transparent measures affecting the entry and temporary stay of natural persons covered by their respective Schedule of Specific Commitments, while recognizing the need to ensure border security and to protect the domestic labor force and permanent employment in their respective territories.

General Obligations

2. Each Party shall apply its measures related to this Annex in accordance with paragraph 1 and, in particular, shall apply those measures so as to avoid unduly nullifying or impairing the benefits accruing to the other Party or delaying trade in services under this Chapter. Grant of Entry and Temporary Stay

3. The Parties may make commitments in respect of entry and temporary stay of natural persons. Such commitments and the conditions governing them shall be inscribed in the schedule of specific commitments referred to in Article 8.6. 4. In accordance with this Annex and subject to each Party's Schedule of Specific Commitments, a Party shall grant entry or extension of temporary stay to natural persons of the other Party to the extent provided for in those commitments made pursuant to paragraph 3, provided that those natural persons:

(a) follow the granting Party's prescribed application procedures under its relevant laws and regulations; and

(b) meet all relevant eligibility requirements for entry and temporary stay or extension of temporary stay.

5. Each Party shall endeavor to ensure that fees charged by its competent authorities for the processing of an application for entry and temporary stay are reasonable, in that they do not unduly nullify or impair the benefits accruing to the other Party or delay trade in services under this Chapter.

6. The sole fact that a Party grants entry to a natural person of the other Party pursuant to this Chapter shall not be construed to exempt that natural person from meeting any applicable licensing or other requirements, including any mandatory codes of conduct, to practice a profession or otherwise engage in business activities.

Transparency

7. Further to Article 1.7 (Transparency), each Party shall:

(a) provide to the other Party such information, to the extent practicable, as will enable the other Party to become acquainted with its measures relating to this Annex;

(b) no later than one year after the date of entry into force of this Agreement, to the extent possible, prepare, publish, and make available explanatory information regarding the requirements for entry and temporary stay under this Annex including applicable laws and regulations in such a manner as will enable natural persons of the other Party specified in the Schedule of Specific Commitments to become acquainted with them; and

(c) upon modifying or amending a measure that affects the entry and temporary stay of natural persons specified in the Schedule of Specific Commitments, ensure that such modifications or amendments are, to the extent possible, promptly published or made available in such a manner as will enable natural persons of the other Party to become acquainted with them.

8. Each Party shall establish or maintain appropriate mechanisms to respond to inquiries from interested persons regarding applications and procedures related to the entry and temporary stay of natural persons specified in the Party's Schedule of Specific Commitments.

9. Upon the request of the applicant, the Party shall endeavor to provide, without undue delay, information on the status of the application or the decision about the outcome of the application.

Cooperation

10. The Parties may discuss mutually agreed areas of cooperation to further facilitate the entry and temporary stay of natural persons of the other Party in line with their respective laws and regulations, which shall take into consideration areas proposed by either Party during the course of negotiations or other areas as may be identified by the Parties. Dispute Settlement

11. The relevant authorities of both Parties shall endeavor to favorably resolve any problems that may arise from the implementation and administration of this Annex through consultations.

12. If both Parties cannot reach agreement with regard to any specific issues raised from the implementation and administration of this Annex as provided for in paragraph 11, Chapter Fifteen (Dispute Settlement) shall apply to the issues.

13. A Party shall not initiate proceedings under Chapter Fifteen (Dispute Settlement) regarding a refusal to grant entry under this Annex unless:

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

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

14. The remedies referred to in subparagraph 13(b) shall be deemed to be exhausted if a final determination in the matter has not been issued by the competent authority within one year of the institution of an administrative proceeding, and the failure to issue a determination is not attributable to delay caused by the natural person.

# Chapter NINE. DIGITAL TRADE

## Article 9.1. Definitions

For purposes of this Chapter:

computing facilities means computer servers and storage devices for processing or storing information for commercial use;

covered person means a service supplier of a Party as defined in Article 8.1 (Definitions);

digital product means a computer programs, text, video, image, sound recording or other product that is digitally encoded, produced for commercial sale or distribution, and that can be transmitted electronically; (1) (2)

(1) For greater certainty, "digital product" does not include a digitized representation of a financial instrument, including money.

(2) The definition of "digital product" should not be understood to reflect a Party's view on whether trade in digital products through electronic transmission should be categorized as trade in services or trade in goods.

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 invoicing means the automated creation, exchange, and processing of a request for payment between a supplier and a buyer using a structured digital format;

electronic payments means a payer's transfer of a monetary claim acceptable to a payee made through electronic means;

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

electronic transmission or transmitted electronically means a transmission made using any electromagnetic means, including by photonic means;

FinTech means the use of technology to improve and automate the delivery and use of financial services;

open data means digital data that is made available with the technical and legal characteristics necessary for it to be freely used, reused, and redistributed. This definition relates only to information held or processed by or on behalf of a Party;

personal data means any information about an identified or identifiable natural person;

trade administration documents means forms issued or controlled by a Party that must be completed by or for an importer or exporter in connection with the import or export of goods; and

unsolicited commercial electronic message means an electronic message which is sent for commercial or marketing purposes to an electronic address of a person, without the consent of the recipient or despite the explicit rejection of the recipient, through an Internet access service supplier or, to the extent provided for under the laws and regulations of each Party, other telecommunications service.

## Article 9.2. Objectives

1. The Parties recognize the economic growth and opportunity that digital trade provides, the importance of avoiding

barriers to its use and development, the importance of frameworks that promote consumer confidence in digital trade, and the applicability of the WTO Agreement to measures affecting digital trade.

2. The Parties seek to foster an environment conducive to the further advancement of digital trade, including electronic commerce and the digital transformation of the global economy, by strengthening their bilateral relations on these matters.

## Article 9.3. Scope and General Provisions

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

2. This Chapter shall not apply to:

(a) government procurement;

(b) except for Article 9.15, information held or processed by or on behalf of a Party, or measures related to such information, including measures related to its collection.

3. For greater certainty, the Parties affirm that measures affecting the supply of a service delivered or performed electronically are subject to the obligations contained in the relevant provisions of Chapter Eight (Trade in Services) and its Annexes, including any exceptions set out in this Agreement that are applicable to those obligations. 4. Articles 9.5, 9.13, and 9.14 shall not apply to aspects of a Party's measures that do not conform with an obligation in Chapter Eight (Trade in Services) to the extent that such measures are adopted or maintained in accordance with:

(a) any terms, limitations, qualifications, and conditions specified in a Party's commitments, or are with respect to a sector that is not subject to a Party's commitments, made in accordance with Article 8.6 (Schedules of Specific Commitments); or

(b) any exception that is applicable to the obligations in Chapter Eight (Trade in Services).

## Article 9.4. Customs Duties

1. Neither Party shall impose customs duties on electronic transmissions, including content transmitted electronically, between a person of a Party and a person of the other Party.

2. For greater certainty, paragraph 1 shall not preclude a Party from imposing internal taxes, fees, or other charges on content transmitted electronically, provided that such taxes, fees, or charges are imposed in a manner consistent with this Agreement.

## Article 9.5. Non-discriminatory Treatment of Digital Products

1. Neither Party shall accord less favorable treatment to a digital product created, produced, published, contracted for, commissioned, or first made available on commercial terms in the territory of the other Party, or to a digital product of which the author, performer, producer, developer, or owner is a person of the other Party, than it accords to other like digital products. (3)

(3) In interpreting the obligations of Article 9.5, the Parties understand that the non- discriminatory treatment of digital products shall be limited to national treatment and not cover most-favored-nation treatment.

2. Paragraph 1 shall not apply to the extent of any inconsistency with the rights and obligations in Chapter Ten (Intellectual Property).

3. The Parties understand that this Article shall not apply to subsidies or grants provided by a Party, including government-supported loans, guarantees, and insurance.

4. Paragraph 1 shall not apply to broadcasting.

## Article 9.6. Domestic Electronic Transactions Framework

1. Each Party shall maintain a legal framework governing electronic transactions consistent with the principles of the UNCITRAL Model Law on Electronic Commerce (1996) or the United Nations Convention on the Use of Electronic Communications in International Contracts, done at New York, on 23 November 2005.

2. Each Party shall endeavor to:

(a) avoid any unnecessary regulatory burden on electronic transactions; and

(b) facilitate input by interested persons in the development of its legal framework for electronic transactions.

## Article 9.7. Electronic Authentication and Electronic Signatures

1. Except in circumstances otherwise 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. Neither Party shall adopt or maintain measures regarding electronic authentication that would:

(a) prohibit parties to an electronic transaction from mutually determining the appropriate authentication methods 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 any legal requirements with respect to authentication.

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

4. The Parties shall encourage the use of interoperable electronic authentication.

## Article 9.8. Paperless Trading

1. Each Party shall:

(a) to the extent practicable, make trade administration documents available to the public in electronic form;

(b) to the extent practicable, accept trade administration documents submitted electronically as the legal equivalent of the paper version of those documents; and

(c) to the extent practicable, provide electronic versions of trade administration documents referred to in subparagraph (a) in English.

2. Noting the obligations in the Agreement on Trade Facilitation in Annex 1A to the WTO Agreement, each Party shall establish or maintain a single window that enables persons to submit trade administration documents and data requirements for importation, exportation, or transit of goods through a single entry point to the participating authorities or agencies.

3. Each Party shall endeavor to establish or maintain a seamless, trusted and secure interface with the other Party's single window to facilitate the exchange of data relating to trade administration documents, which may be agreed by the Parties.

4. The Parties shall endeavor to develop data exchange systems to support the exchange of data relating to the trade administration documents referred to in paragraph 3 between the competent authorities of each Party.

5. The Parties recognize that the data exchange systems referred to in paragraph 4 should, as far as possible, be compatible and interoperable with each other. To this end, the Parties shall endeavor to work towards the development and adoption of internationally recognized standards in the development and governance of the data exchange systems.

6. In developing initiatives that provide for the use of paperless trading, each Party shall endeavor to take into account the methods agreed by international organizations.

## Article 9.9. Online Consumer Protection

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

2. Each Party shall adopt or maintain consumer protection laws to proscribe misleading, deceptive, and fraudulent commercial activities that cause harm or potential harm to consumers engaged in digital trade. (4)

(4) For greater certainty, a Party may comply with the obligation in this paragraph by adopting or maintaining measures such as generally-

applicable consumer protection laws or regulations.

3. Each Party shall publish information on the consumer protection it provides to users of electronic commerce, including how:

(a) consumers can pursue remedies; and

(b) business can comply with any legal requirements.

## Article 9.10. Personal Data Protection

1. The Parties recognize the economic and social benefits of protecting the 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. (5) In the development of any legal framework for the protection of personal data, each Party should endeavor to take into account principles and guidelines of relevant international organizations or bodies.

(5) For greater certainty, a Party may comply with the obligation in this paragraph by adopting or maintaining measures such as comprehensive privacy or personal data protection laws, sector-specific laws covering privacy, or laws that provide for the enforcement of voluntary undertakings by enterprises relating to privacy.

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

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

(a) individuals can pursue remedies; and

(b) business can comply with any legal requirements.

## Article 9.11. Principles on Access to and Use of the Internet for Digital Trade

To support the development and growth of digital trade, each Party recognizes that consumers in its territory should be able to:

(a) access and use services and applications of their choice, unless prohibited by the Party's law;

(b) run services and applications of their choice, subject to the Party's law, including the needs of legal and regulatory enforcement activities; and

(c) connect their choice of devices to the Internet, provided that such devices do not harm the network and are not otherwise prohibited by the Party's law.

## Article 9.12. Unsolicited Commercial Electronic Messages

1. Each Party shall adopt or maintain measures regarding unsolicited commercial electronic messages sent to an electronic mail address that:

(a) require a supplier of unsolicited commercial electronic messages to facilitate the ability of a recipient to prevent ongoing reception of those messages;

(b) require the consent, as specified in the laws and regulations of each Party, of recipients to receive commercial electronic messages; or

(c) otherwise provide for the minimization of unsolicited commercial electronic messages.

2. Each Party shall provide recourse against a supplier of unsolicited commercial electronic messages that does not comply with a measure adopted or maintained in accordance with paragraph 1.

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

## Article 9.13. Article 9.13: Cross-Border Flow of Information (6)

1. The Parties recognize that each Party may have its own regulatory requirements concerning the transfer of information by electronic means.

2. Neither Party shall prohibit or restrict the cross-border transfer of information by electronic means, including personal data, if this activity is for the conduct of business of a covered person.

3. Nothing in this Article shall prevent a Party from adopting or maintaining measures inconsistent with paragraph 2 to achieve a legitimate public policy objective, provided that the measure:

(a) is not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade; and

(b) does not impose restrictions on transfers of information greater than are required to achieve the objective.

(6) This Article shall not apply to financial services.

## Article 9.14. Location of Computing Facilities (7)

1. The Parties recognize that each Party may have its own regulatory requirements regarding the use of computing facilities, including requirements that seek to ensure the security and confidentiality of communications.

2. Neither Party shall require a covered person to use or locate computing facilities in that Party's territory as a condition for conducting business in that territory.

3. Nothing in this Article shall prevent a Party from adopting or maintaining measures inconsistent with paragraph 2 to achieve a legitimate public policy objective, provided that the measure:

(a) is not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade; and

(b) does not impose restrictions on the use or location of computing facilities greater than are required to achieve the objective.

(7) This Article shall not apply to financial services.

## Article 9.15. Open Government Data

1. The Parties recognize that facilitating public access to and use of government information may foster economic and social development, competitiveness, and innovation.

2. To the extent that a Party makes government information, including data, available to the public, it shall endeavor to ensure that the information is made available as open data.

3. The Parties shall endeavor to cooperate to identify ways in which the Parties can expand access to and use of open data, with a view to enhancing and generating business opportunities.

## Article 9.16. Digital Government

1. The Parties recognize that technology can enable more efficient and agile government operations, improve the quality and reliability of government services, and enable governments to better serve the needs of their citizens and other stakeholders.

2. To this end, each Party shall endeavor to develop and implement strategies to digitally transform its government operations and services, which may include:

(a) adopting open and inclusive government processes focusing on accessibility, transparency, and accountability in a manner that overcomes digital divides;

(b) promoting cross-sectoral and cross-governmental coordination and collaboration on digital agenda issues;

(c) shaping government processes, services and policies with digital inclusivity in mind;

(d) providing a unified digital platform and common digital enablers for government service delivery;

(e) leveraging emerging technologies to build capabilities in anticipation of disasters and crises and facilitating proactive responses;

(f) generating public value from government data by applying it in the planning, delivering and monitoring of public policies, and adopting rules and ethical principles for the trustworthy and safe use of data;

(g) making government data and policy-making processes (including algorithms) available for the public to engage with; and

(h) promoting initiatives to raise the level of digital capabilities and skills of both the populace and the government workforce.

3. Recognizing that the Parties can benefit by sharing their experiences with digital government initiatives, the Parties shall endeavor to cooperate on activities relating to the digital transformation of government and government services, which may include:

(a) exchanging information and experiences on digital government strategies and policies;

(b) sharing best practices on digital government and the digital delivery of government services; and

(c) providing advice or training, including through exchange of officials, to assist the other Party in building digital government capacity.

## Article 9.17. Electronic Invoicing

1. The Parties recognize the importance of electronic invoicing to increase the efficiency, accuracy, and reliability of commercial transactions. Each Party also recognizes the benefits of ensuring that the systems used for electronic invoicing within its territory are interoperable with the systems used in the other Party's territory.

2. Each Party shall endeavor to ensure that the implementation of measures related to electronic invoicing in its territory supports cross-border interoperability between the Parties' electronic invoicing frameworks. To this end, each Party shall endeavor to base its measures relating to electronic invoicing on international frameworks.

3. The Parties recognize the economic importance of promoting the global adoption of interoperable electronic invoicing systems, including interoperable international frameworks. To this end, the Parties shall endeavor to:

(a) promote, encourage, support, or facilitate the adoption of electronic invoicing by enterprises;

(b) promote the existence of policies, infrastructure, and processes that support electronic invoicing;

(c) generate awareness of, and build capacity for, electronic invoicing; and

(d) share best practices and promote the adoption of interoperable international electronic invoicing systems.

## Article 9.18. Electronic Payments

1. Recognizing the rapid growth of electronic payments, in particular those provided by non-bank, non-financial institutions and financial technology (FinTech) enterprises, the Parties shall endeavor to support the development of efficient, safe, and secure cross-border electronic payments by:

(a) fostering the adoption and use of internationally accepted standards for electronic payments;

(b) promoting interoperability and the interlinking of electronic payment infrastructures; and

(c) encouraging innovation and competition in electronic payments services.

2. To this end, each Party shall endeavor to:

(a) make publicly available its laws and regulations of general applicability relating to electronic payments, including in relation to regulatory approval, licensing requirements, procedures and technical standards;

(b) finalize decisions on regulatory or licensing approvals relating to electronic payments in a timely manner;

(c) not arbitrarily or unjustifiably discriminate between financial institutions and non-financial institutions in relation to access to services and infrastructure necessary for the operation of electronic payment systems;

(d) adopt or utilize international standards for electronic data exchange between financial institutions and services suppliers to enable greater interoperability between electronic payment systems;

(e) facilitate the use of open platforms and architectures such as tools and protocols provided for through Application Programming Interfaces (APIs) and encourage payment service providers to safely and securely make APIs for their products and services available to third parties, where possible, to facilitate greater interoperability, innovation, and competition in electronic payments; and

(f) facilitate innovation and competition and the introduction of new financial and electronic payment products and services in a timely manner, such as through adopting regulatory and industry sandboxes.

3. In view of paragraph 1, the Parties recognize the importance of upholding safety, efficiency, trust, and security in electronic payment systems through regulations, and that the adoption and enforcement of regulations and policies should be proportionate to the risks undertaken by the payment service providers.

## Article 9.19. Digital Identities

1. Recognizing that cooperation between the Parties on digital identities for natural persons and enterprises will promote connectivity and further growth of digital trade, and recognizing that each Party may take different legal and technical approaches to digital identities, the Parties shall endeavor to pursue mechanisms to promote compatibility between their respective digital identity regimes. This may include:

(a) developing appropriate frameworks and common standards to foster technical interoperability between each Party's implementation of digital identities;

(b) developing comparable protection of digital identities under each Party's respective legal frameworks, or the recognition of their legal effects, whether accorded autonomously or by agreement;

(c) supporting the development of international frameworks on digital identity regimes; and

(d) exchanging knowledge and expertise on best practices relating to digital identity policies and regulations, technical implementation and security standards, and the promotion of the use of digital identities.

2. For greater certainty, nothing in this Article shall prevent a Party from adopting or maintaining measures inconsistent with paragraph 1 to achieve a legitimate public policy objective.

## Article 9.20. Cooperation

Recognizing the importance of digital trade to their economies, the Parties shall endeavor to maintain a dialogue on regulatory matters relating to digital trade with a view to sharing information and experiences, as appropriate, including on related laws, regulations, and their implementation, and best practices with respect to digital trade, including in relation to:

(a) online consumer protection;

(b) personal data protection;

(c) anti-money laundering and sanctions compliance for digital trade;

(d) unsolicited commercial electronic messages;

(e) electronic authentication;

(f) intellectual property concerns with respect to digital trade;

(g) challenges for small and medium-sized enterprises in digital trade;

(h) digital government;

(i) open government data; and

(j) any other area mutually agreed by the Parties.

### Article 9.21. Cybersecurity

The Parties have a shared vision to promote secure digital trade and recognize that threats to cybersecurity undermine confidence in digital trade. Accordingly, the Parties recognize the importance of:

(a) building the capabilities of their appropriate competent authorities responsible for cybersecurity incident response;

(b) strengthening existing collaboration mechanisms and further cooperation through exchanging experiences and best practices; and

(c) cooperating on identification and mitigation of malicious intrusions or dissemination of malicious code that affect the electronic networks of the Parties.

### Article 9.22. FinTech Cooperation

The Parties shall promote cooperation between their FinTech industries. The Parties recognize that effective cooperation regarding FinTech will require involvement of businesses. To this end, the Parties shall:

(a) promote development of FinTech solutions for business or financial sectors; and

(b) encourage collaboration of entrepreneurship or start-up talent between the Parties in FinTech, consistent with their respective laws and regulations.

### Article 9.23. Artificial Intelligence

1. The Parties recognize that the use and adoption of Artificial Intelligence (AI) technologies are becoming increasingly important within a digital economy offering significant social and economic benefits to natural persons and enterprises.

2. The Parties also recognize the importance of developing ethical governance frameworks for the trusted, safe, and responsible use of AI technologies that will help realize the benefits of AI. In view of the cross-border nature of the digital economy, the Parties further acknowledge the benefits of ensuring that such frameworks are internationally aligned as far as possible.

3. To this end, the Parties shall endeavor to:

(a) collaborate on and promote the development and adoption of frameworks that support the trusted, safe, and responsible use of AI technologies (AI Governance Frameworks), through relevant regional, multilateral, and international fora;

(b) take into consideration internationally-recognized principles or guidelines when developing such AI Governance Frameworks; and

(c) cooperate through promoting dialogue and sharing experiences on regulations, policies and initiatives relating to the use and adoption of AI technologies.

## Chapter TEN. INTELLECTUAL PROPERTY

Section A: General Provisions

### Article Article 10.1: Definitions

For the purposes of this Chapter:

intellectual property embodies:

copyright, including copyright in computer programs and in databases, and related rights;

patents and utility models;

trademarks;

industrial designs;

layout-designs (topographies) of integrated circuits;

geographical indications;

plant varieties; and

protection of undisclosed information;

national means, in respect of the relevant right, a person of a Party that would meet the criteria for eligibility for protection provided for in the agreements listed in Article 10.5 or the TRIPS Agreement; and

WIPO means the World Intellectual Property Organization.

The protection and enforcement of intellectual property rights should contribute to the promotion of trade, investment and technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations.

Nothing in this Chapter shall prevent a Party from adopting appropriate measures to prevent the abuse of intellectual property rights by right holders or the resort to practices that

unreasonably restrain trade or adversely affect the international transfer of technology, provided that such measures are consistent with this Chapter.

A Party may, in formulating or amending its laws and regulations, adopt measures necessary to protect public health and nutrition, and to promote the public interest in sectors of vital importance to their socio-economic and technological development, provided that such measures are consistent with the provisions of this Chapter.

Each Party shall give effect to the provisions of this Chapter. A Party may, but shall not be obliged to, provide more extensive protection for, or enforcement of, intellectual property rights under its law than is required by this Chapter, provided that such protection or enforcement does not contravene the provisions of this Chapter. Each Party shall be free to determine the appropriate method of implementing the provisions of this Chapter within its own legal system and practice.

The Parties reaffirm their obligations set out in the following multilateral agreements:

the TRIPS Agreement;

the Patent Cooperation Treaty, done on 19 June 1970, as modified on 3 October 2001;

the Paris Convention for the Protection of Industrial Property, done on 20 March 1883, as amended on 28 September 1979 (hereinafter referred to as the “Paris Convention”);

the Berne Convention for the Protection of Literary and Artistic Works, done on 9 September 1886, as amended on 24 July 1971 (hereinafter referred to as the “Berne Convention”);

the Protocol relating to the Madrid Agreement concerning the International Registration of Marks, done on 27 June 1989;

the WIPO Performances and Phonograms Treaty, done on 20 December 1996 (hereinafter referred to as the “WPPT”);

the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, done on 26 October 1961 (hereinafter referred to as the “Rome Convention”);

the WIPO Copyright Treaty, done on 20 December 1996 (hereinafter referred to as the “WCT”);

the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure, done on 28 April 1977, as amended on 26 September 1980;

the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled, done on 27 June 2013 (hereinafter referred to as the “Marrakesh Treaty”); and

the International Convention for the Protection of New Varieties of Plants, done on 19 March 1991.

The Parties recognize the principles established in the Declaration on the TRIPS Agreement and Public Health, adopted on 14 November 2001 (hereinafter referred to as the “Doha Declaration”) by the Ministerial Conference of the WTO and confirm that the provisions of this Chapter are without prejudice to the Doha Declaration.

In respect of all categories of intellectual property covered in this Chapter, each Party shall accord to nationals of the other Party treatment no less favorable than it accords to its own nationals with regard to the protection1 of intellectual property rights in accordance with Article 3.1 of the TRIPS Agreement.

A Party may derogate from paragraph 1 in relation to its judicial and administrative procedures, including requiring a national of the other Party to designate an address for service of process in its territory, or to appoint an agent in its territory, provided that such derogation is:

necessary to secure compliance with laws or regulations that are not inconsistent with this Chapter; and

not applied in a manner that would constitute a disguised restriction on trade.

Paragraph 1 does not apply to procedures provided in multilateral agreements concluded under the auspices of WIPO relating to the acquisition or maintenance of intellectual property rights.

1 For the purposes of this paragraph, “protection” includes (1) matters affecting the availability, acquisition, scope, maintenance, and enforcement of intellectual property rights as well as matters affecting the use of intellectual property rights specifically covered by this Chapter, and (2) the prohibition on circumvention of effective technological measures, and the rights and obligations concerning rights management information set out in Article 10.43.

Each Party shall make available on the Internet its laws and regulations regarding the protection and enforcement of intellectual property rights.

Each Party shall, subject to its legal system and practice, endeavor to make information concerning applications for, and registration of, trademarks, geographical indications, industrial designs, patents, and plant variety rights accessible for the general public.

The Parties also acknowledge the importance of informational materials, such as publicly accessible databases of registered intellectual property rights that assist in the identification of subject matter that has fallen into the public domain.

Each Party shall, to the extent possible, endeavor to make available such information in English language.

Unless otherwise provided in this Chapter, this Chapter gives rise to obligations in respect of all subject matter existing at the date of entry into force of this Agreement for a Party and that is protected on that date in the territory of a Party where protection is claimed, or that meets or comes subsequently to meet the criteria for protection under this Chapter without unreasonably impairing the fair interest of third parties.

Unless provided in this Chapter, a Party shall not be required to restore protection to subject matter that on the date of entry into force of this Agreement has fallen into the public domain in its territory.

Without prejudice to any provisions addressing the exhaustion of intellectual property rights in international agreements to which a Party is a member, nothing in this Agreement prevents a Party from determining whether or under what conditions the exhaustion of intellectual property rights applies under its legal system.

## Article Article 10.11: Cooperation Activities and Initiatives

The Parties shall endeavor to cooperate on the subject matter covered by this Chapter, such as through appropriate coordination, training, and exchange of information between the respective intellectual property offices of the Parties, or other institutions, as determined by each Party. Cooperation activities and initiatives undertaken under this Chapter shall be subject to the availability of resources of the Parties, on request of a Party, and on terms and conditions mutually agreed upon between the Parties. Cooperation may cover areas such as:

developments in domestic and international intellectual property policy;

patent examination quality and efficiency;

intellectual property administration and registration systems;

education and awareness relating to intellectual property;

intellectual property issues relevant to:

small and medium-sized enterprises;

science, technology and innovation activities;

the generation, transfer and dissemination of technology; and

empowering women and youth;

policies involving the use of intellectual property for research, innovation and economic growth;

implementation of multilateral intellectual property agreements, such as those concluded or administered under the auspices of WIPO;

capacity-building;

enforcement of intellectual property rights; and

other activities and initiatives as may be mutually determined between the Parties.

## Article Article 10:12 Types of Signs Registrable as Trademarks

No Party shall require, as a condition of registration, that a sign be visually perceptible, nor shall a Party deny registration of a trademark only on the ground that the sign of which it is composed is a sound. Additionally, each Party shall make best efforts to register scent marks. A Party may require a concise and accurate description, or graphical representation, or both, as applicable, of the trademark.

Each Party shall provide that trademarks include collective marks and certification marks. A Party is not obligated to treat certification marks as a separate category in its law, provided that those marks are protected. Each Party shall also provide that signs that may serve as geographical indications are capable of protection under its trademark system.

Each Party shall provide that the owner of a registered trademark shall have the exclusive right to prevent third parties that do not have the owner's consent from using in the course of trade

identical or similar signs for goods or services that are identical or similar to those goods or services in respect of which the owner's trademark is registered, where such use would result in a likelihood of confusion. In the case of the use of an identical sign for identical goods or services, a likelihood of confusion shall be presumed.

A Party may provide limited exceptions to the rights conferred by a trademark, such as fair use of descriptive terms, provided that such exceptions take account of the legitimate interest of the owner of the trademark and of third parties.

Neither Party may require, as a condition for determining that a mark is a well-known mark, that the mark has been registered in the territory of that Party or in another jurisdiction. Additionally, neither Party may deny remedies or relief with respect to well-known marks solely because of the lack of:

registration;

inclusion on a list of well-known marks; or

prior recognition of the mark as well-known.

## Article Article 6 Bis of the Paris Convention Shall Apply, Mutatis Mutandis, to Goods or Services That Are Not Identical or Similar to Those Identified by a Well-known Trademark,2 Whether Registered or Not, Provided That Use of That Trademark In Relation to Those Goods or Services Would Indicate a Connection between Those Goods or Services and the Owner of the Trademark, and Provided That the Interests of the Owner of the Trademark Are Likely to Be Damaged by such Use.

Each Party recognizes the importance of the Joint Recommendation Concerning Provisions on the Protection of Well-Known Marks as adopted by the Assembly of the Paris Union for the Protection of Industrial Property and the General Assembly of WIPO at the Thirty-Fourth Series of Meetings of the Assemblies of the Member States of WIPO held on 20 to 29 September 1999.

Each Party shall provide for appropriate measures to refuse the application or cancel the registration and prohibit the use of a trademark that is identical or similar to a well-known trademark,3 for identical, similar, or related goods or services, if the use of that trademark is likely to cause confusion or to deceive with the prior well-known trademark.

2 In determining whether a trademark is well-known in a Party, that Party need not require that the reputation of the trademark extend beyond the sector of the public that normally deals with the relevant goods or services.

3 The Parties understand that a well-known trademark is one that was already well-known before, as determined by a Party, the application for, registration of or use of the first-mentioned trademark.

Each Party shall provide that its competent authority has the authority to cancel a registration of a trademark where the application to register the trademark was made in bad faith in accordance with its laws and regulations.

Each Party shall provide a system for the examination and registration of trademarks which includes among other things:

communicating to the applicant in writing, which may be by electronic means, the reasons for any refusal to register a trademark;

providing the applicant with an opportunity to respond to communications from the competent authorities, to contest any initial refusal, and to make a judicial appeal of any final refusal to register a trademark;

providing an opportunity to oppose the registration of a trademark or to seek cancellation of a registered trademark; and

requiring administrative decisions in opposition and cancellation proceedings to be reasoned and in writing, which may be provided by electronic means.

Each Party shall provide:

a system for the electronic application for, electronic processing of, and maintenance of trademarks; and

a publicly available electronic information system, including an online database, of trademark applications and of registered trademarks.

Each Party shall adopt or maintain a trademark classification system that is consistent with the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, done at Nice on 15 June 1957, as revised and amended (hereinafter referred to as the “Nice Classification”). Each Party shall provide that:

registrations and the publications of applications indicate the goods and services by their names, grouped according to the classes established by the Nice Classification;4 and

4 A Party that relies on translations of the Nice Classification shall follow updated versions of the Nice Classification to the extent that official translations have been issued and published.

goods or services may not be considered as being similar to each other on the ground that, in any registration or publication, they are classified in the same class of the Nice Classification. Conversely, each Party shall provide that goods or services may not be considered as being dissimilar from each other on the ground that, in any registration or publication, they are classified in different classes of the Nice Classification.

Each Party shall provide that initial registration and each renewal of registration of a trademark shall be for a term of no less than 10 years.

No Party shall require recordal of trademark licenses:

to establish the validity of the license; or

as a condition for use of a trademark by a licensee to be deemed to constitute use by the holder in a proceeding that relates to the acquisition, maintenance, or enforcement of trademarks.

In connection with each Party’s system for the management of its country-code top-level domain (ccTLD) domain names, the following shall be available:

an appropriate procedure for the settlement of disputes, based on, or modelled along the same lines as, the principles established in the Uniform Domain-Name Dispute-Resolution Policy, as approved by the Internet Corporation for Assigned Names and Numbers (ICANN) or that:

is designed to resolve disputes expeditiously and at low cost;

is fair and equitable;

is not overly burdensome; and

does not preclude resort to judicial proceedings;

online public access to a reliable and accurate database of contact information concerning domain name registrants in accordance with each Party's law and, if applicable, relevant administrator policies regarding the protection of privacy and personal data; and

appropriate remedies,5 at least in cases in which a person registers or holds, with a bad faith intent to profit, a domain name that is identical or confusingly similar to a trademark.

5 The Parties understand that such remedies may, but need not, include among other things, revocation, cancellation, transfer, damage or injunctive relief.

In order to identify and mitigate copyright infringements in digital trade, each Party shall have in place measures to block access to and shut down online services making profits primarily from distribution of copyright infringing materials.

Each Party shall adopt or maintain 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 holder.

Each Party shall provide the legal means for interested persons to prevent commercial use of the country name of a Party in relation to a good in a manner that misleads consumers as to the origin of that good.

## Article Article 10.25: Protection of Geographical Indications

Geographical indication means an indication that identifies a good as originating in the territory of a Party, or a region or locality in that territory, where a given quality, reputation, or other characteristic of the good is essentially attributable to its geographical origin.

The Parties reaffirm that geographical indications may be protected through a trademark or sui generis system or other legal means.

Each Party shall provide administrative procedures for the registration or recognition of geographical indications through a trademark or a sui generis system. Each Party shall, with respect to applications for that registration or requests for that recognition, ensure that its laws and regulations governing the filing of those applications or requests are readily available to the public and clearly set out the procedures for these actions.

If a Party grants protection to a geographical indication, the protection shall commence no earlier than the filing date6 or the registration date in that Party according to its domestic laws and regulations.

6 For greater certainty, the filing date referred to in this Article includes, as applicable, the priority filing date under the Paris Convention.

## Article Article 10.28: Patentable Subject Matter

Each Party shall make patents available for any invention, whether a product or process, in all fields of technology, provided that the invention is new, involves an inventive step and is capable of industrial application.7 In addition, each Party may provide that a patent shall be available for any new use or method of using a known product.

Each Party may exclude from patentability:8

inventions, the prevention within its territory of the commercial exploitation of which is necessary to protect ordre public or morality, including to protect human, animal, or plant life or health or to avoid serious prejudice to the environment, provided that such exclusion is not made merely because the exploitation is prohibited by its law; and

diagnostic, therapeutic, and surgical methods for the treatment of humans or animals.

Each Party shall disregard information contained in public disclosures of an invention related to an application to register a patent9 if the public disclosure:

was made by the inventor, applicant or a person that obtained the information from the inventor or applicant inside or outside its territory; and

occurred within at least 12 months prior to the date of filing of the application.

Each Party shall provide a system for the examination and registration of patents which includes among other things:

communicating to the applicant in writing, which may be by electronic means, the reasons for any refusal to register a

patent;

7 For purposes of this Article, the terms “inventive step” and “capable of industrial application” may be deemed by a Party to be synonymous with the terms “non-obvious” and “useful” respectively.

8 For greater certainty, it is understood that this paragraph does not prevent a Party from legislating exceptions to patentability that are consistent with Article 27 of the TRIPS Agreement.

9 For greater certainty, patent may include utility model in accordance with domestic law and regulations.

providing the applicant with an opportunity to respond to communications from the competent authorities, to contest any initial refusal, and to make a judicial appeal of any final refusal to register a patent;

providing an opportunity for interested parties to seek cancellation or invalidation of a registered patent; and

requiring decisions in opposition, cancellation, or invalidation proceedings to be reasoned and in writing, which may be delivered by electronic means.

Each Party shall provide a patent applicant with at least one opportunity to make amendments, corrections, or observations in connection with its application.

Each Party shall provide a patent owner with opportunities to make amendments or corrections after registration, provided that such amendments or corrections do not change or expand the scope of the patent right as a whole.10

A Party may provide limited exceptions to the exclusive rights conferred by a patent, provided that such exceptions do not unreasonably conflict with a normal exploitation of the patent and do not unreasonably prejudice the legitimate interests of the patent owner, taking account of the legitimate interests of third parties.

## Article Article 10.33: Protection of Undisclosed Test or other Data for Pharmaceutical Products

If a Party requires, as a condition for granting marketing approval for a new pharmaceutical product, the submission of undisclosed test or other data concerning either the safety or efficacy of the product or both, that Party shall not permit third persons, without the consent of the person that previously submitted such information, to market the same or a similar11 product on the basis of:

that information; or

10 It is understood that the amendments or corrections which do not change or expand the scope of the right means that the scope of the patent right stays same as before or reduced.

11 For greater certainty, for the purposes of this Section, a pharmaceutical product is “similar” to a previously approved pharmaceutical product if the marketing approval, or, in the alternative, the applicant’s request for such approval, of that similar pharmaceutical product is based upon the undisclosed test or other data concerning the safety and efficacy of the previously approved pharmaceutical product, or the prior approval of that previously approved product.

the marketing approval granted to the person that submitted such information,

for at least five years from the date of marketing approval of the new pharmaceutical product in its territory.

A Party shall adopt or maintain a system other than judicial proceedings that precludes, based upon patent information submitted to the regulatory authority by a patent owner or the applicant for marketing approval, the issuance of marketing approval to any third person seeking to market a pharmaceutical product subject to a patent claiming that product, unless by consent or acquiescence of the patent owner.

Notwithstanding paragraph 1, a Party may take measures to protect public health in accordance with:

the Doha Declaration;

any waiver of any provision of the TRIPS Agreement granted by WTO Members in accordance with the WTO Agreement to implement the Doha Declaration and that is in force between the Parties; or

any amendment of the TRIPS Agreement to implement the Doha Declaration that enters into force with respect to the Parties.

For the purposes of paragraph 1, a new pharmaceutical product means a pharmaceutical product that contains an active ingredient for which no other pharmaceutical product containing the same active ingredient has previously obtained marketing approval in the territory of the Party.

## Article Article 10.34: Industrial Design Protection

Each Party shall ensure in its domestic law adequate and effective protection of industrial designs including a part(s) of an article.

Each Party shall ensure that requirements for securing or enforcing registered industrial design protection do not unreasonably impair the opportunity to obtain or enforce such protection.

The duration of protection available for registered industrial designs shall amount to at least 20 years from the date of filing.

Each Party shall provide a system for the examination and registration of industrial designs which includes among other things:

communicating to the applicant in writing, which may be by electronic means, the reasons for any refusal to register an industrial design;

providing the applicant with an opportunity to respond to communications from the competent authorities, to contest any initial refusal, and to make a judicial appeal of any final refusal to register an industrial design;

providing an opportunity for interested parties to seek cancellation or invalidation of a registered industrial design; and

requiring decisions in opposition, cancellation, or invalidation proceedings to be reasoned and in writing, which may be delivered by electronic means.

Each Party shall provide an applicant for an industrial design with at least one opportunity to make amendments, corrections, or observations in connection with its application before registration.

Each Party shall disregard information contained in public disclosures of a design related to an application to register an industrial design if the public disclosure:

was made by the creator, applicant or a person that obtained the information from the creator or applicant inside or outside its territory; and

occurred within at least 12 months prior to the date of filing of the application.

A Party may provide limited exceptions to the exclusive rights conferred by an industrial design, provided that such exceptions do not unreasonably conflict with a normal exploitation of an industrial design and do not unreasonably prejudice the legitimate interests of the owner of the protected design, taking account of the legitimate interests of third parties.

## Article Article 10.39: Protection of Copyright and Related Rights

The Parties shall comply with:

## Article Articles 1 Through 22 of the Rome Convention;

## Article Articles 1 Through 18 of the Berne Convention;

## Article Articles 1 Through 14 of the WCT; and

## Article Articles 1 Through 23 of the WPPT.

With respect to this Section, each Party shall confine limitations or exceptions to exclusive rights to certain special cases that do not conflict with a normal exploitation of the work, performance, phonogram, or broadcasting, and do not unreasonably prejudice the legitimate interests of the right holder.

This Article does not reduce or extend the scope of applicability of the limitations and exceptions permitted by the TRIPS Agreement, the Berne Convention, the WCT, or the WPPT.

Each Party shall endeavor to achieve an appropriate balance in its copyright and related rights system, among other things

by means of limitations or exceptions that are consistent with Article 10.40, including those for the digital environment, giving due consideration to legitimate purposes such as, but not limited to: criticism; comment; news reporting; teaching, scholarship, research, and other similar purposes; and facilitating access to published works for persons who are blind, visually impaired, or otherwise print disabled.12

Each Party shall provide that for copyright and related rights, any person acquiring or holding any economic right in a work, performance, or phonogram:

may freely and separately transfer that right by contract; and

by virtue of contract, including contracts of employment underlying the creation of works, performances, or phonograms, shall be able to exercise that right in that person's own name and enjoy fully the benefits derived from that right.

Each Party shall provide adequate legal protection and effective legal remedies against the circumvention of effective technological measures that are used by authors, performers, or producers of phonograms in connection with the exercise of their rights and that restrict acts, in respect of their works, performances, or phonograms, which are not authorized by the authors, performers, or producers of phonograms concerned or permitted by its law.

12 As recognized by the Marrakesh Treaty.

Each Party shall provide adequate and effective legal remedies against any person knowingly removing or altering any electronic rights management information13 without authority knowing, or with respect to civil remedies having reasonable grounds to know, that it will induce, enable, facilitate, or conceal an infringement of any copyright or related rights.

The Parties recognize the role of collective management societies for copyright and related rights in collecting and distributing royalties based on practices that are fair, efficient, transparent, and accountable, which may include appropriate record keeping and reporting mechanisms.

In civil, administrative, and criminal proceedings involving copyright or related rights, each Party shall provide for a presumption that, in the absence of proof to the contrary, the person whose name is indicated as the author, publisher, performer, producer, or broadcasting organizations of the work, performance, phonogram, or broadcast in the usual manner, is the designated right holder in such work, performance, phonogram, or broadcast.

## Article Article 10.46: General Obligation In Enforcement

The Parties shall provide in their respective laws for the enforcement of intellectual property rights consistent with the TRIPS Agreement, in particular Articles 41 through 61.

Each Party shall ensure that enforcement procedures as specified in this Section are available under its law so as to permit effective action against any act of infringement of intellectual property rights covered by this Chapter, including expeditious remedies to prevent infringements and remedies that constitute a deterrent to future infringements. These procedures shall be applied

13 For the purposes of this Chapter, rights management information means information which identifies the work, the author of the work, the owner of any right in the work, or the performer, the performance of the performer, the producer of the phonogram, the phonogram, the owner of any right in the performance or phonogram, or information about the terms and conditions of use of the work, the performance or the phonogram, and any numbers or codes that represent such information, when any of these items of information is attached to a copy of a work, a fixed performance or a phonogram or appears in connection with the communication of a work, or with the communication or making available of a fixed performance or a phonogram to the public.

in such a manner as to avoid the creation of barriers to legitimate trade and to provide for safeguards against their abuse.14

Each Party shall take measures to curtail infringement of copyright on the Internet or other digital networks.15

Each Party shall, in conformity with its domestic law and regulations and the provisions of Section 4 of Part III of the TRIPS Agreement, adopt or maintain procedures to enable a right holder, who has valid grounds for suspecting that the importations of counterfeit trademark or pirated copyright goods may take place, to lodge an application in writing with its competent authorities for the suspension by that Party's customs authorities of the release into free circulation of such goods.

A Party may enable such an application to be made in respect of goods which involve other infringements of intellectual property rights, provided that the requirements of Section 4 of Part III of the TRIPS Agreement are met. A Party may also

provide for corresponding procedures concerning the suspension by the customs authorities of the release of infringing goods destined for exportation from its territory in accordance with its domestic law and regulations.

14 For greater certainty, each Party confirms that the enforcement procedures set out in this Section shall be available to the same extent with respect to acts of infringement of copyright or related rights and trademarks, in the digital environment.

15 For greater certainty, it is understood that such measures may include, but are not limited to, legislation, guidelines, policies, awareness campaigns, etc.

# Chapter ELEVEN. GOVERNMENT PROCUREMENT

For purpose of this Chapter:

build-operate-transfer contract and public works concession contract means a contractual arrangement the primary purpose of which is to provide for the construction or rehabilitation of physical infrastructure, plants, buildings, facilities, or other government-owned works and under which, as consideration for a supplier's execution of a contractual arrangement, a procuring entity grants to the supplier, for a specified period of time, temporary ownership or a right to control and operate, and demand payment for the use of those works for the duration of the contract;

commercial goods or services means goods or services of a type generally sold or offered for sale in the commercial marketplace to, and customarily purchased by, non-governmental buyers for non-governmental purposes;

construction service means a service that has as its objective the realization by whatever means of civil or building works, based on Division 51 of the United Nations Provisional Central Product Classification (CPC);

days means calendar days;

in writing or written means any worded or numbered expression that can be read, reproduced and may be later communicated, and may include electronically transmitted and stored information;

limited tendering means a procurement method whereby the procuring entity contacts a supplier or suppliers of its choice;

multi-use list means a list of suppliers that a procuring entity has determined satisfy the conditions for participation in that list, and that the procuring entity intends to use more than once;

notice of intended procurement means a notice published by a procuring entity inviting interested suppliers to submit a request for participation, a tender, or both;

offset means any condition or undertaking that encourages local development or improves a Party's balance-of-payments accounts, such as the use of domestic content, the licensing of technology, investment, counter-trade, and a similar action or requirement;

open tendering means a procurement method whereby all interested suppliers may submit a tender;

procuring entity means an entity listed in Annex 11-A (Government Procurement Schedules);

qualified supplier means a supplier that a procuring entity recognizes as having satisfied the conditions for participation;

selective tendering means a procurement method whereby the procuring entity invites only qualified suppliers to submit a tender;

services includes construction services, unless otherwise specified;

supplier means a person or group of persons that provides or could provide a good or service to a procuring entity; and

technical specification means a tendering requirement that:

lays down the characteristics of goods or services to be procured, including quality, performance, safety and dimensions, or the processes and methods for their production or provision; or

addresses terminology, symbols, packaging, marking, or labelling requirements, as they apply to a good or service.

Application of Chapter

This Chapter shall apply to any measure regarding covered procurement.

For the purposes of this Chapter, covered procurement means government procurement:

of a good, service, or any combination thereof:

as specified in each Party's Schedule to Annex 11-A (Government Procurement Schedules); and

not procured with a view to commercial sale or resale, or for use in the production or supply of goods or services for commercial sale or resale;

by any contractual means, including: purchase; rental or lease, with or without an option to buy; build-operate-transfer contracts; and public works concessions contracts;

for which the value, as estimated in accordance with paragraphs 9 to 11, equals or exceeds the relevant threshold specified in a Party's Schedule to Annex 11-A (Government Procurement Schedules), at the time of publication of a notice of intended procurement;

by a procuring entity; and

that is not otherwise excluded from coverage under this Agreement.

Activities Not Covered

Unless otherwise provided in a Party's Schedule to Annex 11-A (Government Procurement Schedules), this Chapter does not apply to:

the acquisition or rental of land, existing buildings or other immovable property or the rights thereon;

non-contractual agreements or any form of assistance that a Party, including its procuring entities, provides, including cooperative agreements, grants, loans, equity infusions, guarantees, subsidies, fiscal incentives, and sponsorship arrangements;

the procurement or acquisition of: fiscal agency or depository services; liquidation and management services for regulated financial institutions; or services related to the sale, redemption and distribution of public debt, including loans and government bonds, notes and other securities;

public employment contracts;

procurement:

conducted for the specific purpose of providing international assistance, including development aid;

funded by an international organization or foreign or international grants, loans or other assistance to which procurement procedures or conditions of the international organization or donor apply. If the procedures or conditions of the international organization or donor do not restrict the participation of suppliers then the procurement shall be subject to Article 11.5.1; or

conducted under the particular procedure or condition of an international agreement relating to the stationing of troops or relating to the joint implementation by the signatory countries of a project.

Schedules

Each Party shall specify the following information in its Schedule to Annex 11-A (Government Procurement Schedules):

in Section A, the central government entities for which procurement is covered by this Chapter;

in Section B, the goods covered by this Chapter;

in Section C, the services, other than construction services, covered by this Chapter;

in Section D, the construction services covered by this Chapter;

in Section E, General Notes;

in Section F, any procurement preferences;

in Section G, Threshold Adjustment; and

in Section H, Procurement Information.

Where a procuring entity, in the context of covered procurement, requires persons not covered in Section A to procure in accordance with particular requirements, Article 11.5 shall apply mutatis mutandis to such requirements.

Compliance

Each Party shall ensure that its procuring entities comply with this Chapter in conducting covered procurements.

No procuring entity shall prepare or design a procurement, or otherwise structure or divide a procurement into separate procurements in any stage of the procurement, or use a particular method to estimate the value of a procurement, in order to avoid the obligations of this Chapter.

Nothing in this Chapter shall be construed to prevent a Party, including its procuring entities, from developing new procurement policies, procedures or contractual means, provided that they are not inconsistent with this Chapter.

Valuation

In estimating the value of a procurement for the purposes of ascertaining whether it is a covered procurement, a procuring entity shall include the estimated maximum total value of the procurement over its entire duration, taking into account:

all forms of remuneration, including any premium, fee, commission, interest, or other revenue stream that may be provided for under the contract;

the value of any option clause; and

any contract awarded at the same time or over a given period to one or more suppliers under the same procurement.

Where an individual requirement for a procurement results in the award of more than one contract, or in the award of contracts in separate parts (hereinafter referred to as “recurring contracts”), the calculation of the estimated maximum total value shall be based on:

the total maximum value of the procurement over its entire duration;

the value of recurring contracts of the same type of good or service awarded during the preceding 12 months or the procuring entity’s preceding fiscal year, adjusted, where possible, to account for anticipated changes in the quantity or value of the good or service being procured over the following 12 months; or

the estimated value of recurring contracts of the same type of good or service to be awarded during the 12 months following the initial contract award or the procuring entity’s fiscal year.

If the total estimated maximum value of a procurement over its entire duration is not known, the procurement shall be deemed a covered procurement, unless otherwise excluded under this Agreement.

The Parties recognize the importance of government procurement in trade relations and set as their objective the effective, reciprocal, and gradual opening of their government procurement markets, in order to maximize, inter alia, competitive opportunities for the suppliers of the Parties.

Subject to the requirement that the measure is not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination between Parties where the same conditions prevail, or a disguised restriction on international trade between the Parties, nothing in this Chapter shall be construed to prevent a Party, including its procuring entities, from adopting or maintaining a measure:

necessary to protect public morals, order or safety;

necessary to protect human, animal, or plant life or health;

necessary to protect intellectual property; or

relating to the good or service of a person with disabilities, of philanthropic or not-for-profit institutions, or of prison labor.

Nothing in this Chapter shall be construed to prevent a Party from taking any action or not disclosing any information that it considers necessary for the protection of its essential security interests related to the procurement of arms, ammunition, or war materials, or to procurement indispensable for national security or for national defense purposes.

National Treatment and Non-Discrimination

With respect to any measure regarding covered procurement, each Party, including its procuring entities, shall accord

immediately and unconditionally to the goods and services of the other Party and to the suppliers of the other Party, treatment no less favorable than the treatment that the Party, including its procuring entities, accords to domestic goods, services, and suppliers.

With respect to a measure regarding covered procurement, neither Party, including its procuring entities, shall:

treat a locally established supplier less favorably than another locally established supplier on the basis of degree of foreign affiliation to or ownership by, a person of the other Party; or

discriminate against a locally established supplier on the basis that the good or service offered by that supplier for a particular procurement is a good or service of the other Party.

All orders under contracts awarded for covered procurement shall be subject to paragraphs 1 and 2.

Procurement Methods

A procuring entity shall use an open tendering procedure for covered procurement unless Article 11.9 or 11.10 applies.

A procuring entity shall conduct covered procurement in a transparent and impartial manner that:

is consistent with this Chapter, using methods such as open tendering, selective tendering, and limited tendering;

avoids conflicts of interest; and

prevents corrupt practices.

Rules of Origin

For the purposes of covered procurement, a Party shall not apply rules of origin to goods or services imported from or supplied from the other Party that are different from the rules of origin the Party applies at the same time in the normal course of trade to imports or supplies of the same goods or services from the same Party.

Measures Not Specific to Procurement

Paragraphs 1 and 2 shall not apply to customs duties and charges of any kind imposed on or in connection with importation, the method of levying such duties and charges, other import regulations or formalities, and measures affecting trade in services other than measures governing covered procurement.

Use of Electronic Means

The Parties shall seek to provide opportunities for covered procurement to be undertaken through electronic means, including for the publication of procurement information, notices and tender documentation, for the receipt of tenders and generally, [for] the full cycle of procure to pay.

When conducting covered procurement by electronic means, a procuring entity shall:

ensure that the procurement is conducted using financial systems, information technology systems, and software, including those related to authentication and encryption of information, that are generally available and interoperable with other generally available financial systems, information technology systems, and software; and

establish and maintain mechanisms that ensure the integrity of information provided by suppliers, including requests for participation and tenders.

Offsets

With regard to covered procurement, a Party, including its procuring entities, shall not

seek, take account of, impose, or enforce offsets except as otherwise provided in its Schedule, included in Annex 11-A (Government Procurement Schedules).

Each Party shall promptly publish any measure of general application relating to covered procurement, and any change or addition to this information.

Each Party shall list in Section H of its Schedule to Annex 11-A (Government Procurement Schedules) the paper or electronic means through which the Party publishes the information described in paragraph 1 and the notices required by Articles 11.7 and 11.9.4.

Each Party shall, on request, provide an explanation in response to an inquiry relating to the information referred to in paragraph 1.

For each covered procurement, except in the circumstances described in Article 11.10, a procuring entity shall publish a notice of intended procurement through the appropriate paper or electronic means listed in Annex 11-A (Government Procurement Schedules). The notices shall remain readily accessible to the public until at least the expiration of the time period for responding to the notice or the deadline for submission of the tender.

Each Party shall ensure for covered procurements that its procuring entities, as set out in Section A of its Schedule, included in Annex 11-A (Government Procurement Schedules), publish notices of intended procurement in a single point of entry to an electronic publication, that is accessible free of charge through the internet or a comparable network.

Unless otherwise provided in this Chapter, each notice of intended procurement shall include the following information, unless that information is provided in the tender documentation that is made available free of charge to all interested suppliers at the same time as the notice of intended procurement:

the name and address of the procuring entity and other information necessary to contact the procuring entity and obtain all relevant documents relating to the procurement, and the cost and terms of payment to obtain the relevant documents, if any;

a description of the procurement, including, if appropriate, the nature and quantity of the goods or services to be procured and a description of any options, or the estimated quantity if the quantity is not known;

if applicable, the time-frame for delivery of goods or services or the duration of the contract;

if applicable, the address and any final date for the submission of requests for participation in the procurement;

the address and the final date for the submission of tenders;

the language or languages in which tenders or requests for participation may be submitted, if they may be submitted in a language other than an official language of the Party of the procuring entity;

a list and a brief description of any conditions for participation of suppliers, that may include any related requirements for specific documents or certifications that suppliers must provide;

if, pursuant to Article 11.9, a procuring entity intends to select a limited number of qualified suppliers to be invited to tender, the criteria that will be used to select them and, if applicable, any limitation on the number of suppliers that will be permitted to tender; and

an indication that the procurement is covered by this Chapter.

Notice of Planned Procurement

Procuring entities shall be encouraged to publish as early as possible in each fiscal year a notice regarding their future procurement plans (hereinafter referred to as “notice of planned procurement”), which should include the subject matter of the procurement and the planned date of publication of the notice of intended procurement.

A procuring entity shall limit any conditions for participation in a covered procurement to those that are essential to ensure that a supplier has the legal and financial capacities and the commercial and technical abilities to fulfil the requirements of that procurement.

In establishing the conditions for participation, a procuring entity:

shall not impose the condition that, in order for a supplier to participate in a procurement, the supplier has previously been awarded one or more contracts by a procuring entity of a given Party or that the supplier has prior work experience in the territory of that Party; and

may require relevant prior experience if essential to meet the requirements of the procurement.

In assessing whether a supplier satisfies the conditions for participation, a procuring entity shall:

evaluate the financial capacity, the commercial and technical abilities, the regulatory compliance practices, and the corporate social responsibility practices of a supplier on the basis of that supplier’s business activities both inside and outside the territory of the Party of the procuring entity;1 and

base its evaluation solely on the conditions that the procuring entity has specified in advance in notices or tender

documentation.

If there is supporting evidence, a Party, including its procuring entities, may exclude a supplier on grounds such as:

bankruptcy or insolvency;

1 For greater certainty, it is the responsibility of the supplier to provide accurate information, and the procuring entity may reasonably rely on information provided to it by the supplier.

false declarations;

significant or persistent deficiencies in the performance of any substantive requirement or obligation under a prior contract or contracts;

final judgments in respect of serious crimes or other serious offences;

professional misconduct or actions or omissions that adversely reflect on the commercial integrity of the supplier; or

failure to pay taxes.

Registration Systems and Qualification Procedures

A Party, including its procuring entities, may maintain a supplier registration system under which interested suppliers are required to register and provide certain information and documentation.

Each Party shall ensure that:

its procuring entities make efforts to minimize differences in their qualification procedures; and

where its procuring entities maintain registration systems, the entities make efforts to minimize differences in their registration systems.

Neither Party, including its procuring entities, shall:

adopt or apply any registration system or qualification procedure with the purpose or the effect of creating unnecessary obstacles to the participation of suppliers of the other Party in its procurement; or

use such registration system or qualification procedure to prevent or delay the inclusion of suppliers of the other Party on a list of suppliers or prevent those suppliers from being considered for a particular procurement.

Selective Tendering

If a procuring entity intends to use selective tendering, the procuring entity shall:

publish a notice of intended procurement that invites qualified suppliers to submit a request for participation in a covered procurement; and

include in the notice of intended procurement the information specified in Article 11.7.3(a), (b), (d), and (g) through (i).

The procuring entity shall:

publish the notice sufficiently in advance of the procurement to allow interested suppliers to request participation in the procurement;

provide, by the commencement of the time period for tendering, at least the information in Article 11.7.3(c), (e), and (f) to the qualified suppliers that it notifies as specified in Article 11.14.3(b); and

allow all qualified suppliers to submit a tender, unless the procuring entity stated in the notice of intended procurement a limitation on the number of suppliers that will be permitted to tender and the criteria or justification for selecting the limited number of suppliers.

If the tender documentation is not made publicly available from the date of publication of the notice referred to in paragraph 4, the procuring entity shall ensure that the tender documentation is made available at the same time to all the qualified suppliers selected in accordance with paragraph 5(c).

Multi-Use Lists

A Party, including its procuring entities, may establish or maintain a multi-use list provided that it publishes annually, or

otherwise makes continuously available by electronic means, a notice inviting interested suppliers to apply for inclusion on the list. The notice shall include:

a description of the goods and services, or categories thereof, for which the list may be used;

the conditions for participation to be satisfied by suppliers for inclusion on the list and the methods that the procuring entity or other government agency will use to verify a supplier's satisfaction of those conditions;

the name and address of the procuring entity or other government agency and other information necessary to contact the procuring entity and to obtain all relevant documents relating to the list;

the period of validity of the list and the means for its renewal or termination or, if the period of validity is not provided, an indication of the method by which notice will be given of the termination of use of the list;

the deadline for submission of applications for inclusion on the list, if applicable; and

an indication that the list may be used for procurement covered by this Chapter, unless that indication is publicly available through information published pursuant to Article 11.6.2.

A Party, including its procuring entities, that establishes or maintains a multi-use list, shall include on the list, within a reasonable period of time, all suppliers that satisfy the conditions for participation set out in the notice referred to in paragraph 7.

Notwithstanding paragraph 7, where a multi-use list will be valid for three years or less, a procuring entity may publish the notice referred to in paragraph 7 only once, at the beginning of the period of validity of the list, provided that the notice:

states the period of validity and that further notices will not be published; and

is published by electronic means and is made available continuously during the period of its validity.

A procuring entity shall allow suppliers to apply for inclusion on a multi-use list and shall include on the list all qualified suppliers within a reasonably short time.

If a supplier that is not included on a multi-use list submits a request for participation in a procurement based on the multi-use list and submits all required documents, within the time period provided for in Article 11.14.2, a procuring entity shall examine the request. The procuring entity shall not exclude the supplier from consideration in respect of the procurement on the grounds that the entity has insufficient time to examine the request, unless, in exceptional cases due to the complexity of the procurement, the entity is not able to complete the examination of the request within the time period allowed for the submission of tenders.

Information on Procuring Entity Decisions

A procuring entity or other entity of a Party shall promptly inform any supplier that submits a request for participation in a procurement or application for inclusion on a multi-use list of the decision with respect to the request or application.

If a procuring entity or other entity of a Party rejects a supplier's request for participation in a procurement or application for inclusion on a multi-use list, ceases to recognize a supplier as qualified, or removes a supplier from a multi-use list, the entity shall promptly inform the supplier and, on request of the supplier, promptly provide the supplier with a written explanation of the reason for its decision.

Subject to paragraph 2 and provided that it does not use this provision for the purpose of avoiding competition between suppliers, to protect domestic suppliers, or in a manner that discriminates against suppliers of the other Party, a procuring entity may use limited tendering.

If a procuring entity uses limited tendering, it may choose, according to the nature of the procurement, not to apply Articles 11.7 through 11.9 and Articles 11.11 through Article

11.15. A procuring entity may use limited tendering only under the following circumstances:

if, in response to a prior notice, invitation to participate, or invitation to tender:

no tenders were submitted or no suppliers requested participation;

no tenders were submitted that conform to the essential requirements in the tender documentation;

no suppliers satisfied the conditions for participation; or

the tenders submitted were collusive;

provided that the procuring entity does not substantially modify the essential requirements set out in the notices or tender documentation;

if the good or service can be supplied only by a particular supplier and no reasonable alternative or substitute good or service exists for any of the following reasons:

the requirement is for a work of art;

the protection of patents, copyrights, or other exclusive rights; or

due to an absence of competition for technical reasons;

for additional deliveries by the original supplier or its authorized agents, of goods or services that were not included in the initial procurement if a change of supplier for such additional goods or services:

cannot be made for technical reasons such as requirements of interchangeability or interoperability with existing equipment, software, services, or installations procured under the initial procurement, or due to conditions under original supplier warranties; and

would cause significant inconvenience or substantial duplication of costs for the procuring entity;

for a good purchased on a commodity market or exchange;

if a procuring entity procures a prototype or a first good or service that is intended for limited trial or that is developed at its request in the course of, and for, a particular contract for research, experiment, study, or original development. Original development of a prototype or a first good or service may include limited production or supply in order to incorporate the results of field testing and to demonstrate that the prototype or the first good or service is suitable for production or supply in quantity to acceptable quality standards, but does not include quantity production or supply to establish commercial viability or to recover research and development costs. Subsequent procurements of these newly developed goods or services, however, shall be subject to this Chapter;

for new services consisting of the repetition of similar services which conform to a basic project for which an initial contract was awarded and for which the entity has indicated in the notice of intended procurement concerning the initial service that limited tendering procedures might be used in awarding contracts for such new services;

for purchases made under exceptionally advantageous conditions that only arise in the very short term, such as from unusual disposals, liquidation, bankruptcy, or receivership, but not for routine purchases from regular suppliers;

if a contract is awarded to the winner of a design contest, provided that:

the contest has been organized in a manner that is consistent with this Chapter; and

(ii) the contest is judged by an independent jury with a view to award a design contract to the winner; or

(i) in so far as is strictly necessary if, for reasons of extreme urgency brought about by events unforeseeable by the procuring entity, the good or service could not be obtained in time by means of open or selective tendering.

For each contract awarded in accordance with paragraph 2, a procuring entity shall prepare a report in writing, or maintain a record, that includes the name of the procuring entity, the value and kind of good or service procured, and a statement that indicates the circumstances and conditions described in paragraph 2 that justified the use of limited tendering.

A Party may provide for its procuring entities to conduct negotiations in the context of covered procurement if:

the procuring entity has indicated its intent to conduct negotiations in the notice of intended procurement required under Article 11.7;

it appears from the evaluation that no tender is obviously the most advantageous in terms of the specific evaluation criteria set out in the notice of intended procurement or tender documentation;

there is a need to clarify the terms and conditions; or

all bids exceed the allocated prices provided for in the procuring entity’s budget.

A procuring entity shall:

ensure that any elimination of suppliers participating in negotiations is carried out in accordance with the evaluation criteria set out in the notice of intended procurement or tender documentation; and

when negotiations are concluded, provide a common deadline for the remaining participating suppliers to submit any new or revised tenders.

A procuring entity shall not prepare, adopt, or apply any technical specification or prescribe any conformity assessment procedure with the purpose or effect of creating an unnecessary obstacle to trade between the Parties.

In prescribing the technical specifications for the good or service being procured, a procuring entity shall, if appropriate:

set out the technical specifications in terms of performance and functional requirements, rather than design or descriptive characteristics; and

base the technical specifications on international standards, if these exist; otherwise, on national technical regulations, recognized national standards or building codes.

Where design or descriptive characteristics are used in the technical specifications, a procuring entity should indicate, where appropriate, that it will consider tenders of equivalent goods or services that demonstrably fulfil the requirements of the procurement by including words such as “or equivalent” in the tender documentation.

A procuring entity shall not prescribe technical specifications that require or refer to a particular trademark or trade name, patent, copyright, design, type, specific origin, producer, or supplier, unless there is no other sufficiently precise or intelligible way of describing the procurement requirements and provided that, in these cases, the procuring entity includes words such as “or equivalent” in the tender documentation.

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

For greater certainty, a procuring entity may conduct market research in developing specifications for a particular procurement.

For greater certainty, this Article is not intended to preclude a procuring entity from preparing, adopting, or applying technical specifications to promote the conservation of natural resources or the protection of the environment.

For greater certainty, this Chapter is not intended to preclude a Party, or its procuring entities, from preparing, adopting, or applying technical specifications required to protect sensitive government information, including specifications that may affect or limit the storage, hosting, or processing of such information outside the territory of the Party.

A procuring entity shall promptly make available or provide on request to any interested supplier tender documentation that includes all information necessary to permit the supplier to prepare and submit a responsive tender. Unless already provided in the notice of intended procurement, that tender documentation shall include a complete description of:

the procurement, including the nature, scope and, if known, the quantity of the good or service to be procured or, if the quantity is not known, the estimated quantity and any requirements to be fulfilled, including any technical specifications, conformity certification, plans, drawings, or instructional materials;

any conditions for participation, including any financial guarantees, information, and documents that suppliers are required to submit;

all criteria to be considered in the awarding of the contract and the relative importance of those criteria;

where there will be a public opening of tenders, the date, time, and place for the opening of tenders and, where appropriate, the persons authorized to be present;

where the procuring entity will conduct the procurement by electronic means, any authentication and encryption requirements or other requirements related to the submission of information by electronic means;

any other terms or conditions relevant to the evaluation of tenders;

any other terms or conditions, including terms of payment and any limitation on the means by which tenders may be submitted, e.g., paper or electronic means; and

any date for delivery of a good or supply of a service.

To the extent possible and subject to any applicable fees, an entity should make relevant tender documentation publicly available through electronic means or a computer-based telecommunications network openly accessible to all suppliers.

In establishing any date for the delivery of a good or the supply of a service being procured, a procuring entity shall take into account factors such as the complexity of the procurement.

A procuring entity shall promptly reply to any reasonable request for relevant information by an interested or participating supplier, provided that the information does not give that supplier an advantage over other suppliers.

Modifications

If, prior to the award of a contract, a procuring entity modifies the evaluation criteria or requirements set out in a notice of intended procurement or tender documentation provided to a participating supplier, or amends, or re-issues a notice or tender documentation, it shall publish or provide in writing those modifications, or the amended or re-issued notice or tender documentation:

to all suppliers that are participating in the procurement at the time of the modification, amendment, or re-issuance, if those suppliers are known to the procuring entity, and in all other cases, in the same manner as the original information was made available; and

in adequate time to allow those suppliers to modify and re-submit their initial tender, if appropriate.

General

A procuring entity shall, consistent with its own reasonable needs, provide sufficient time for a supplier to obtain the tender documentation and to prepare and submit a request for participation and a responsive tender, taking into account factors such as:

the nature and complexity of the procurement;

the extent of subcontracting anticipated; and

the time necessary for transmitting tenders by non-electronic means from foreign as well as domestic points if electronic means are not used.

Such time-periods, including any extension of the time-periods, shall be the same for all interested or participating suppliers.

Deadlines

A procuring entity that uses selective tendering shall establish that the final date for the submission of a request for participation shall not, in principle, be less than 25 days from the date of publication of the notice of intended procurement. If a state of urgency duly substantiated by the procuring entity renders this time period impracticable, the time period may be reduced to no less than 10 days.

Except as provided in paragraphs 4 and 5, a procuring entity shall establish that the final date for the submission of tenders shall not be less than 40 days from the date on which:

in the case of open tendering, the notice of intended procurement is published; or

in the case of selective tendering, the procuring entity notifies the suppliers that they will be invited to submit tenders, whether or not it uses a multi-use list.

A procuring entity may reduce the time period for tendering set out in paragraph 3 by five days for each one of the following circumstances:

the notice of intended procurement is published by electronic means;

the tender documentation is made available by electronic means from the date of the publication of the notice of intended procurement; and

the procuring entity accepts tenders by electronic means.

A procuring entity may reduce the time period for tendering set out in paragraph 3 to no less than 10 days if:

the procuring entity has published a notice of planned procurement under Article 11.7 at least 40 days and no more than 12

months in advance of the publication of the notice of intended procurement, and the notice of planned procurement contains:

a description of the procurement;

the approximate final dates for the submission of tenders or requests for participation;

the address from which documents relating to the procurement may be obtained; and

as much of the information that is required for the notice of intended procurement as is available;

the procuring entity, for recurring contracts, indicates in an initial notice of intended procurement that subsequent notices will provide time-periods for tendering based on this paragraph;

a state of urgency duly substantiated by the procuring entity renders impracticable the time period for tendering set out in paragraph 3; or

the procuring entity procures commercial goods or services.

The use of paragraph 4, in conjunction with paragraph 5, shall in no case result in the reduction of the time periods for tendering set out in paragraph 3 to less than 10 days, from the date on which the notice of intended procurement is published.

A procuring entity shall require all interested or participating suppliers to submit requests for participation or tenders in accordance with a common deadline. These time periods, and any extension of these time periods, shall be the same for all interested or participating suppliers.

Treatment of Tenders

A procuring entity shall receive, open, and treat all tenders under procedures that guarantee the fairness and impartiality of the procurement process and the confidentiality of tenders.

If the tender of a supplier is received after the time specified for receiving tenders, the procuring entity shall not penalize that supplier if the delay is due solely to the mishandling on the part of the procuring entity.

If a procuring entity provides a supplier with an opportunity to correct unintentional errors of form between the opening of tenders and the awarding of the contract, the procuring entity shall provide the same opportunity to all participating suppliers.

Awarding of Contracts

To be considered for an award, a tender shall be submitted in writing and shall, at the time of opening, comply with the essential requirements set out in the notice and tender documentation and be submitted by a supplier who satisfies the conditions for participation.

Unless a procuring entity determines that it is not in the public interest to award a contract, it shall award the contract to the supplier that the procuring entity has determined to be fully capable of fulfilling the terms of the contract and that, based solely on the evaluation criteria specified in the notice and tender documentation has submitted:

the most advantageous tender; or

if price is the sole criterion, the lowest price.

If a procuring entity received a tender with a price that is abnormally lower than the prices in other tenders submitted, it may verify with the supplier that it satisfies the conditions for participation and is capable of fulfilling the terms of the contract.

A procuring entity shall not use options, cancel a covered procurement, or modify or terminate awarded contracts in order to avoid the obligations of this Chapter.

Information Provided to Suppliers

A procuring entity shall promptly inform suppliers that have submitted a tender of the contract award decision. The procuring entity may do so in writing or through the prompt publication of the notice, provided that the notice includes the date of award. If a supplier has requested the information in writing, the procuring entity shall provide it in writing.

Subject to Article 11.17, a procuring entity shall, on request, provide an unsuccessful supplier with an explanation of the reasons why the procuring entity did not select the unsuccessful supplier's tender or an explanation of the relative advantages of the successful supplier's tender.

Maintenance of Records

A procuring entity shall maintain the documentation, records and reports relating to tendering procedures and contract awards for covered procurement, including the records and reports provided for in Article: 11.10.3, for at least three years after the award of a contract.

Provision of Information to Parties

On request of the other Party, a Party shall provide promptly any information necessary to determine whether a procurement was conducted fairly, impartially and in accordance with this Chapter, including information on the characteristics and relative advantages of the successful tender. In cases where release of the information would prejudice competition in future tenders, the Party that receives the information shall not disclose it to any supplier, except after consulting with, and obtaining the agreement of, the Party that provided the information.

Non-Disclosure of Information

Notwithstanding any other provision of this Chapter, a Party, including its procuring entities, shall not, except to the extent required by law or with the written authorization of the supplier that provided the information, disclose information that would prejudice legitimate commercial interests of a particular supplier or that might prejudice fair competition between suppliers.

Nothing in this Chapter shall be construed to require a Party, including its procuring entities, authorities, and review bodies, to disclose confidential information if that disclosure:

would impede law enforcement;

might prejudice fair competition between suppliers;

would prejudice the legitimate commercial interests of particular persons, including the protection of intellectual property; or

would otherwise be contrary to the public interest.

Each Party shall ensure that criminal or administrative measures exist to address corruption in its government procurement. These measures may include procedures to render ineligible for participation in the Party's procurements, either indefinitely or for a stated period of time, suppliers that the Party has determined to have engaged in fraudulent or other illegal actions

in relation to government procurement in the Party's territory. Each Party shall also ensure that it has in place policies and procedures to eliminate to the extent possible or manage any potential conflict of interest on the part of those engaged in or having influence over a procurement.

Each Party shall maintain, establish, or designate at least one impartial administrative or judicial authority (hereinafter referred to as a "review authority") that is independent of its procuring entities to review, in a non-discriminatory, timely, transparent, and effective manner, a challenge or complaint (hereinafter referred to as a "complaint") by a supplier that there has been:

a breach of this Chapter; or

if the supplier does not have a right to directly challenge a breach of this Chapter under the law of a Party, a failure of a procuring entity to comply with the Party's measures implementing this Chapter,

arising in the context of a covered procurement, in which the supplier has, or had, an interest. The procedural rules for these complaints shall be in writing and made generally available.

In the event of a complaint by a supplier, arising in the context of covered procurement in which the supplier has, or had, an interest, that there has been a breach or a failure as referred to in paragraph 1, the Party of the procuring entity conducting the procurement shall encourage, the procuring entity and the supplier to seek resolution of the complaint through consultations. The procuring entity shall accord impartial and timely consideration to the complaint in a manner that is not prejudicial to the supplier's participation in ongoing or future procurement or to its right to seek corrective measures under the administrative or judicial review procedure. Each Party shall make information on its complaint mechanisms generally

available.

If a body other than the review authority initially reviews a complaint, a Party shall ensure that the supplier may appeal the initial decision to the review authority that is independent of the procuring entity that is the subject of the complaint.

If the review authority has determined that there has been a breach or a failure as referred to in paragraph 1, a Party may limit compensation for the loss or damages suffered to either the costs reasonably incurred in the preparation of the tender or in bringing the complaint, or both.

Each Party shall ensure that, if the review authority is not a court, its review procedures are conducted in accordance with the following procedures:

a supplier shall be allowed sufficient time to prepare and submit a complaint in writing, which in no case shall be less than 10 days from the time when the basis of the complaint became known or reasonably should have become known to the supplier;

a procuring entity shall respond in writing to a supplier's complaint and provide all relevant documents to the review authority;

a supplier that initiates a complaint shall be provided an opportunity to reply to the procuring entity's response before the review authority takes a decision on the complaint; and

the review authority shall provide its decision on a supplier's complaint in a timely manner, in writing, with an explanation of the basis for the decision.

Each Party shall adopt or maintain procedures that provide for:

prompt interim measures, pending the resolution of a complaint, to preserve the supplier's opportunity to participate in the procurement and to ensure that the procuring entities of the Party comply with its measures implementing this Chapter; and

corrective action that may include compensation under paragraph 4.

The procedures may provide that overriding adverse consequences for the interests concerned, including the public interest, may be taken into account when deciding whether those measures should be applied. Just cause for not acting shall be provided in writing.

A Party shall notify any proposed modification or rectification (hereinafter referred to as a "modification") to its Schedule in Annex 11-A (Government Procurement Schedules) by circulating a notice in writing to the other Party through the Joint Committee. A Party shall provide compensatory adjustments for a change in coverage if necessary to maintain a level of coverage comparable to the coverage that existed prior to the modification. The Party may include the offer of compensatory adjustment in its notice.

A Party is not required to provide compensatory adjustments to the other Party if the proposed modification concerns one of the following:

a procuring entity over which the Party has effectively eliminated its control or influence in respect of covered procurement by that procuring entity; or

rectifications of a purely formal nature and minor modifications to its Schedule in Annex 11-A (Government Procurement Schedules), such as:

changes in the name of a procuring entity;

the merger of one or more procuring entities listed in its Schedule;

the separation of a procuring entity listed in its Schedule into two or more procuring entities that are all added to the procuring entities listed in the same Section of the Annex; or

changes in website references;

and the other Party does not object under paragraph 3 on the basis that the proposed modification does not concern subparagraphs (a) or (b).

If a Party considers that its rights under this Chapter are affected by a proposed modification that is notified under paragraph 1, it shall notify the other Party of any objection to the proposed modification within 45 days of the date of

circulation of the notice.

If a Party objects to a proposed modification, including a modification regarding a procuring entity on the basis that government control or influence over the entity's covered procurement has been effectively eliminated, that Party may request additional information, including information on the nature of any government control or influence, with a view to clarifying and reaching agreement on the proposed modification, including the procuring entity's continued coverage under this Chapter. The modifying Party and the objecting Party shall make every attempt to resolve the objection through consultations.

The Joint Committee shall modify Annex 11-A (Government Procurement Schedules) to reflect any agreed modification.

The Parties recognize the important contribution that small- and medium-sized enterprises (hereinafter referred to as the "SMEs") can make to economic growth and employment and the importance of facilitating the participation of SMEs in government procurement.

If a Party maintains a measure that provides preferential treatment for SMEs, the Party shall ensure that the measure, including the criteria for eligibility, is transparent.

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

provide comprehensive procurement-related information that includes a definition of SMEs in a single electronic portal;

endeavor to make all tender documentation available free of charge;

conduct procurement by electronic means or through other new information and communication technologies; and

consider the size, design, and structure of the procurement, including the use of subcontracting by SMEs.

This Chapter shall not entail any financial obligations to the Parties.

Each Party is responsible for any financial expenses to fulfill their role in this Chapter.

To improve market access to each Party's procurement market, each Party shall, where possible, use English in its publication of materials or information pursuant to Article 11.7, including in the publications listed in Section H of each Party's Schedule in Annex 11-A (Government Procurement Schedules).

# Chapter TWELVE. COOPERATION ON INVESTMENT FACILITATION

## Article 12.1. Objectives

The Parties affirm their desire to promote an attractive investment climate. Consistent with Article 2.1 of the Agreement Between the Government of the United Arab Emirates and the Government of the Republic of Korea for the Promotion and Protection of Investments, done at Abu Dhabi, on 9 June 2002, and any subsequent amendments thereto, the Parties shall take appropriate measures to encourage and facilitate investment and to secure favorable conditions for the long-term economic development of the Parties.

## Article 12.2. Cooperation Activities

The Parties shall cooperate in promoting and facilitating investment activities. Cooperation on investment facilitation between the Parties may include the following:

(a) to promote and enhance the economic cooperation on investment facilitation between the Parties;

(b) to monitor investment relations, to identify opportunities for expanding investment, and to identify issues relevant to investment that may be appropriate for negotiation in an appropriate forum;

(c) to hold consultations on specific investment matters of interest to the Parties;

(d) to work toward the enhancement of investment flows;

(e) to identify and work toward the removal of impediments to investment flows; or

(f) to seek the views of the private sector, where appropriate, on matters related to the work of the Committee on Investment Facilitation.

### Article 12.3. Committee on Investment Facilitation

1. The Parties shall establish a Committee on Investment Facilitation (referred to as the “Committee” in this Chapter), which shall be composed of representatives of each Party. The Committee shall be co-chaired by the representatives of the Ministry of Finance of the UAE and the Ministry of Trade, Industry and Energy of Korea. The Committee may establish working groups as the Parties deem necessary.

2. The Committee shall meet at such times and venues as agreed by the Parties, but the Parties shall endeavor to meet at least once a year. A Party may refer a specific investment matter to the Committee by delivering a written request to the other Party that includes a description of the matter concerned. The Committee shall take up the matter promptly after the request is delivered unless the requesting Party agrees to postpone discussion of the matter. Each Party shall endeavor to provide an opportunity for the Committee to discuss a matter before taking actions that could adversely affect the investment interests of the other Party.

### Article 12.4. Non-application of Chapter Fifteen (Dispute Settlement)

Neither Party shall have recourse to dispute settlement under Chapter Fifteen (Dispute Settlement) for any matter arising under this Chapter.

## Chapter THIRTEEN. ECONOMIC COOPERATION

### Article Article 13.1: Objectives

The Parties shall promote cooperation under this Agreement for their mutual benefit in order to liberalize and facilitate trade and investment between them and foster economic growth.

Economic cooperation under this Chapter shall be built upon a common understanding between the Parties to support the implementation of this Agreement, with the objective of maximizing its benefits, supporting pathways to trade and investment facilitation, and further improving market access and openness to contribute to the sustainable and inclusive economic growth and prosperity of the Parties.

Economic cooperation under this Chapter shall support the effective and efficient implementation and utilization of this Agreement through activities that relate to trade and investment.

Economic cooperation under this Chapter shall initially focus on the following areas:

energy and resources;

advanced industry;

circular economy;

audiovisual services and co-production;

smart farming and climate-smart agriculture;

healthcare industry;

tourism;

transport;

shipping and maritime;

digital economy/trade;

precious metals;

supply chain;

competition;

bioeconomy; and

any other areas as may be agreed by the Parties.

The Parties may agree in the Annual Work Program on Economic Cooperation Activities to modify the above list, including by adding other areas for economic cooperation.

Annexes 13-A-E form an integral part of this Chapter.

The Committee on Economic Cooperation shall adopt an Annual Work Program on Economic Cooperation Activities (hereinafter referred to as the "Annual Work Program") based on proposals submitted by the Parties.

Each activity in the Annual Work Program developed under this Chapter shall:

be guided by the objectives agreed in Article 13.1;

be related to trade or investment facilitation and support the implementation of this Agreement;

involve both Parties;

address the mutual priorities of the Parties; and

avoid duplicating existing economic cooperation activities.

The Parties recognize the need to ensure secure and resilient supply chains and to minimize disruptions and vulnerabilities, which may require improving coordination between public institutions and private sectors.

To achieve the goal of resilient supply chains that can anticipate, withstand, or rapidly recover from shocks and strengthen the competitiveness

of our economies, the Parties intend to undertake relevant activities based on the principles of transparency, diversification, security, and sustainability, while being in full observance of their respective laws and regulations.

The Parties recognize the importance of free and undistorted competition in their trade relations. The Parties may cooperate to exchange information relating to the development of competition policy, subject to their domestic laws, regulations, and available resources. The Parties may conduct such cooperation through their competent authorities.

The Parties may consult on matters related to anti-competitive practices and their adverse effects to trade. The consultations shall be without prejudice to the autonomy of each Party to develop, maintain, and enforce its domestic competition laws and regulations.

Resources for economic cooperation under this Chapter shall be provided in a manner as agreed by the Parties and in accordance with each Party's laws and regulations.

The Parties, on the basis of mutual benefit, may consider cooperation with, and contributions from, external Parties to support the implementation of the Annual Work Program.

The Parties shall endeavor to encourage technical, technological, and scientific economic cooperation, through the following means:

joint organization of conferences, seminars, workshops, meetings, training sessions and outreach and education programs;

exchanges of delegations, professionals, technicians and specialists from the academic sector, institutions dedicated to research, private sector, and governmental agencies, including study visits and internship programs for professional training;

dialogue and exchange of experiences between the Parties' private sectors and agencies involved in trade promotion;

initiation of the knowledge-sharing platform aiming to transfer experience and best practices in the field of government development and modernization to other countries through UAE's Government Experience Exchange Program;

promotion of joint business initiatives between entrepreneurs of the Parties; and

any other form of cooperation that may be agreed by the Parties.

For purposes of the effective implementation and operation of this Chapter, the Parties hereby establish a Committee on Economic Cooperation (hereinafter referred to as the "Committee").

The Committee shall undertake the following functions:

monitor and assess the implementation of this Chapter;

identify new opportunities and agree on new ideas for prospective cooperation or capacity building activities;

formulate and develop Annual Work Program proposals and their implementation mechanisms;

coordinate, monitor and review progress of the Annual Work Program to assess its overall effectiveness and contribution to the implementation and operation of this Chapter;

suggest amendments to the Annual Work Program through periodic evaluations;

cooperate with other Committees or subsidiary bodies established under this Agreement to perform stocktaking, monitoring, and benchmarking on any issues related to the implementation of this Chapter, as well as to provide feedback and assistance in the implementation and operation of this Chapter; and

report to and, if deemed necessary, consult with the Joint Committee in relation to the implementation and operation of

this Chapter.

The Committee shall be coordinated by:

in the case of Korea, the Ministry of Trade, Industry and Energy, or its successor; and

in the case of the UAE, the Ministry of Economy, or its successor.

Neither Party shall have recourse to dispute settlement under Chapter Fifteen (Dispute Settlement) for any matter arising under this Chapter.

The Parties shall promote cooperation under this Chapter as a means of building a stronger, more stable, and mutually beneficial partnership in the field of energy and resources.

The Parties agree that their joint objective shall be to foster cooperation across the entire energy supply chain including, but not limited to:

upstream activities such as the exploration, exploitation, and production of oil and gas;

downstream and midstream activities such as the refining of oil, processing of petrochemicals, liquefaction of gas, and transportation and distribution of crude oil and oil products; and

hydrogen production, storage, transportation, applications, and fueling stations.

Areas of energy and resources cooperation may include, but are not limited to:

development and use of alternative and renewable energy sources such as natural gas, sustainable hydrocarbon energy (including CCUS and hydrogen), and bioenergy;

design and development of mechanisms that allow an efficient use and administration of the territories of the Parties related to energy and resources; and

construction of energy infrastructure with low environmental impact.

The Parties shall promote cooperation on advanced industry with the purpose of enhancing conditions for economic development, stability and prosperity that are grounded in resilience and sustainability.

Areas of advanced industry cooperation include, but are not limited to:

advanced manufacturing, such as smart machinery and autonomous manufacturing; and

advanced technology, such as artificial intelligence (AI), information technology (IT), and biotechnology.

The Parties shall foster cooperation in advanced industry through:

implementing collaborative projects, strengthening business-to-business (B2B) and business-to-government (B2G) ties, promoting government-to-government (G2G) collaboration, and scaling cooperation into third countries (multilateral G2G);

joint R&D and joint establishment of start-ups or joint ventures, as well as the provision of funding for such projects; and

any other forms of cooperation on advanced industry as agreed by the Parties.

Smart Farming and Climate-Smart Agriculture

Recognizing sustainable farming as a shared vision, the Parties shall promote cooperation under this Chapter as a means of building a stronger, more stable, and mutually beneficial partnership in the field of smart farming and climate-smart agriculture.

The Parties shall endeavor to take the necessary measures to support, facilitate, and promote cooperation in the following areas:

exchange of experiences, information, best practices, innovation, and modern technologies in the field of smart farming and climate-smart agriculture;

research to find innovative solutions to the challenges related to smart farming and climate-smart agriculture that emphasizes economically beneficial technologies for smallholder farms;

enhancement of opportunities and investment for collaboration between the Parties' private sectors in the field of smart farming and climate-smart agriculture;

joint arrangement of projects in areas of mutual interest to the Parties; and

any other areas of cooperation that may be jointly decided upon by the Parties through consultations.

Both Parties shall encourage cooperation in the healthcare industry on the basis of mutual benefit and in accordance with the national legislations of each country.

Areas of healthcare industry cooperation include, but are not limited to:

public health policy and management;

medical and pharmaceutical policy and management;

hospital healthcare;

digital healthcare; and

new technologies in health care and medical equipment.

The Parties shall foster cooperation in the healthcare industry through:

personnel training in the fields of health care and medical and pharmaceutical science;

improving access to the healthcare services of the Parties;

promotion of medical institutions of one Party in the other Party; and

cooperation on investment and financial support for promoting the healthcare industry.

Scope and Coverage

For purposes of this Annex:

The bioeconomy sector may include biopharmaceuticals, biochemical and bioenergy, bioenvironmental, biomedical equipment, bioinstrument and bioequipment, and bioresource sectors.

The Parties recognize the importance of innovation in the bioeconomy sectors and shall cooperate to create an innovation ecosystem to encourage and promote technical innovation between the Parties. Cooperation to create an innovation ecosystem may include the following areas:

designation of a specific area agreed upon by the Parties;

actively supporting match-making between research institutes, enterprises, and investors. The Parties shall organize match-making events, including business forums and business roundtables. These events will be held at least twice a year and will encourage participants to exchange information, discuss ideas, and develop collaborative relationships to enable innovation; and

designing joint research projects, designating the research institutes and enterprises of the Parties to implement the

projects, and providing financial and administrative support for the projects, as available and in accordance with national economic development and industry policies. The ownership and utilization of developed technologies and outputs through the projects shall be determined by prior agreement between the Parties and the project implementers.

The Parties hereby establish a Bioeconomy Task Force comprising officials of each Party to carry out the areas set out in paragraph 2 and any other activities as the Parties may agree. The Task Force shall hold regular meetings at least once a year to review progress, exchange ideas, and plan future activities. The Task Force shall make best efforts to ensure that the designation of areas for cooperation as set out in paragraph 2(a) of this Section is initiated promptly after the entry into force of this Agreement. The Task

Force shall also make best efforts to ensure that the other areas set out in paragraph 2(b) of this Section are initiated promptly after the entry into force of this Agreement.

Both Parties shall cooperate to enhance the understanding of open innovation models by relevant government representatives and research professionals. This will include the exchange and dissemination of information and experiences on the organization and functioning of open innovation, its advantages, and the necessary regulatory framework to encourage such models.

Definitions

For purposes of this Section:

Bio Supply Chains means the economic, commercial, and trade relationships between and among enterprises in the bioeconomy sector of the Parties.

Supply Chain Disruptions include severe interruptions, delays, or shortages that:

impact either Party; and

significantly impair cross-border movement of, or access to, materials, articles, or commodities.

Cooperation on Supply Chain Resilience

The Parties shall endeavor to minimize unnecessary, arbitrary, and unjustifiable restrictions or impediments affecting Bio Supply Chains in accordance with the rights and obligations of the Parties under this Agreement. The Parties shall endeavor to share relevant information if requested.

In developing, adopting, and applying a measure, and in accordance with the rights and obligations of the Parties under this Agreement, the Parties shall endeavor to consider the effect of measures on Bio Supply Chains.

Both Parties shall endeavor to monitor import dependencies, prices and trade volumes, and changes of global supply and demand where appropriate and feasible to assess Bio Supply Chains vulnerabilities.

Both Parties shall endeavor to promote diversification of sources where market concentration exists for the sector or good regarding raw material needs, demand expectations, manufacturing, and processing capacities.

Both Parties shall jointly determine which materials, articles, or commodities are essential for the bioeconomy, and shall endeavor to assess storage capacities on their respective territories for such products. Each Party shall endeavor to promote the optimization and enhancement of its storage capacities for such products and assess available capacity as requested by the other Party, to the extent practicable.

Cooperation in Times of Supply Chain Disruptions

The Parties shall endeavor to cooperate to respond promptly to Supply Chain Disruptions and support each other to recover from Supply Chain Disruptions.

Upon request of a Party experiencing Supply Chain Disruptions, the Parties shall endeavor to:

establish a Working Group comprising government representatives of each Party and meet either in-person or virtually within a reasonable timeframe from the receipt of a request;

share information on the sector or product experiencing Supply Chain Disruptions (hereinafter referred to as “affected sector or product”), such as: the cause of the Supply Chain Disruptions; the expected duration of the Supply Chain Disruptions; and assistance that would be helpful from the other Party; and

discuss measures or policies to respond to Supply Chain Disruptions such as expediting customs procedures for the

affected sector or product, providing information on enterprises willing to export the necessary product, and other measures or policies that both Parties consider helpful.

If a Party imposes measures that may significantly affect Bio Supply Chains during a Supply Chain Disruption, those measures shall be targeted, proportionate, transparent, temporary, and in conformance with their rights and obligations under this Agreement, under the WTO Agreement and other relevant international agreements. A Party which has imposed or maintained such measures or policies shall endeavor to:

ensure the timely publication and dissemination of all relevant information about the measure, in accordance with the relevant provisions of this Agreement;

upon request of the other Party, undertake consultations regarding the measure. These consultations shall take place as

soon as possible, and may be held by e-mail, video or telephone conference, or any means agreed between the Parties; and

undertake any steps as may be agreed in such consultations.

The Parties shall cooperate to develop and operate demand-based workforce training programs that meet the needs of the bioeconomy industry, with a specific focus on areas as agreed by the Parties. The Parties shall collaborate on the development of training curricula, methodologies, and materials, leveraging each Party's know-how and expertise.

The Parties shall cooperate to develop and operate training programs for relevant government officials and to promote exchanges of information and knowledge between government officials. The Parties shall facilitate cooperation among the government agencies in the bioeconomy sector.

The Parties shall exchange information on policies and strategies related to capacity building and professional personnel exchanges in the bio industry and share best practices and experiences in the development and operation of training programs.

# Chapter FOURTEEN. SMALL AND MEDIUM-SIZED ENTERPRISES

## Article 14.1. General Principles

1. The Parties, recognizing the fundamental role of small and medium-sized enterprises (SMEs) in maintaining dynamism and enhancing the competitiveness of their respective economies, shall foster close cooperation between SMEs of the Parties and cooperate in promoting jobs and growth in SMEs.

2. The Parties recognize the integral role of the private sector in the SME cooperation to be implemented under this Chapter.

## Article 14.2. Cooperation to Increase Trade and Investment Opportunities for SMEs

With a view to more robust cooperation between the Parties to enhance commercial opportunities for SMEs, each Party shall seek to increase trade and investment opportunities, and in particular shall:

(a) promote cooperation between the Parties' small business support infrastructure, including dedicated SME centers, incubators and accelerators, export assistance centers, and other centers as appropriate, to create an international network for sharing best practices, exchanging market research, and promoting SME participation in international trade, as well as business growth in local markets;

(b) strengthen its collaboration with the other Party on activities to promote SMEs owned by women and youth, as well as start-ups, and promote partnerships among these SMEs and their participation in international trade;

(c) enhance its cooperation with the other Party to exchange information and best practices, including on improving SME access to capital and credit, SME participation in covered government procurement opportunities, and helping SMEs adapt to changing market conditions; and

(d) encourage participation in purpose-built mobile or web-based platforms, for business entrepreneurs and counselors to share information and best practices to help SMEs link with international suppliers, buyers, and other potential business partners.

## Article 14.3. Information Sharing

1. Each Party shall establish or maintain its own free, publicly accessible website containing information regarding this Agreement, including:

(a) the text of this Agreement;

(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 would be useful for SMEs interested in benefitting from the opportunities provided by this Agreement.

2. Each Party shall include in its website links or information through automated electronic transfer to:

(a) the equivalent websites of the other Party; and

(b) the websites 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. Subject to each Party's laws and regulations, the information described in paragraph 2(b) may include:

(a) customs regulations, procedures, or enquiry points;

(b) regulations or procedures concerning intellectual property, trade secrets, and patent protection rights;

(c) technical regulations, standards, and quality or conformity assessment procedures;

(d) sanitary or phytosanitary measures relating to importation or exportation;

(e) foreign investment regulations;

(f) business registration;

(g) trade promotion programs;

(h) competitiveness programs;

(i) SME investment and financing programs;

(j) taxation and accounting;

(k) government procurement opportunities; and

(l) other information which the Party considers to be useful for SMEs.

4. Each Party shall regularly review the information and links on the website referred to in paragraphs 1 and 2 to ensure the information and links are up-to-date and accurate.

5. To the extent possible, each Party shall make the information described in this Article available in English. If this information is available in another authentic language of this Agreement, the Party shall endeavor to make this information available, as appropriate.

## Article 14.4. Committee on SME Issues

1. The Parties hereby establish the Committee on SME Issues (hereinafter referred to as the "SME Committee"), comprising national and local government representatives of each Party.

2. The SME Committee shall:

(a) identify ways to assist SMEs in the Parties' territories to take advantage of the commercial opportunities resulting from this Agreement and to strengthen SME competitiveness;

(b) identify and recommend ways for further cooperation between the Parties to develop and enhance partnerships between SMEs of the Parties;

(c) exchange and discuss each Party's 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, digital trade, identifying commercial partners in the territories of the Parties, and establishing good business credentials;

(d) promote seminars, workshops, webinars, mentorship sessions, or other activities to inform SMEs of the benefits available to them under this Agreement;

(e) explore opportunities for capacity building to facilitate each Party's work in developing and enhancing SME export counseling, assistance, and training programs;

(f) recommend additional information that a Party may include on the website referred to in Article 14.3;

(g) review and coordinate its work program with the work of other Ccommittees, working groups, and other subsidiary bodies established under this Agreement, as well as of other relevant international bodies, to avoid duplication of work programs and to identify appropriate opportunities for cooperation to improve the ability of SMEs to engage in trade and investment opportunities resulting from this Agreement;

(h) collaborate with and encourage Ccommittees, working groups, and other subsidiary bodies established under this Agreement to consider SME-related commitments and activities into their work;

(i) review the implementation and operation of this Chapter and SME-related provisions within this Agreement and report findings and make recommendations to the Joint Committee that can be included in future work and SME assistance programs as appropriate;

(j) facilitate the development of programs to assist SMEs to participate and integrate effectively into the Parties' regional and global supply chains;

(k) promote the participation of SMEs in digital trade in order to take advantage of the opportunities resulting from this Agreement and rapidly access new markets;

(l) facilitate the exchange of information on entrepreneurship education and awareness programs for youth and women to promote the entrepreneurial environment in the territories of the Parties;

(m) submit on an annual basis, unless the Parties decide otherwise,a report of its activities and make appropriate recommendations to the Joint Committee; and

(n) consider any other matter pertaining to SMEs as the SME Committee may decide, including issues raised by SMEs regarding their ability to benefit from this Agreement.

3. The SME Committee shall convene within one year after the date of entry into force of this Agreement and thereafter meet annually, unless the Parties decide otherwise. Meetings may be held in person or virtually, as the Parties may decide.

4. The SME Committee may seek to collaborate with appropriate experts and international donor organizations in carrying out its programs and activities.

### Article 14.5. Non-Application of Chapter Fifteen (Dispute Settlement)

Neither Party shall have recourse to dispute settlement under Chapter Fifteen (Dispute Settlement) for any matter arising under this Chapter.

# Chapter FIFTEEN. DISPUTE SETTLEMENT

### Article Article 15.1: Objective

The objective of this Chapter is to establish an effective and efficient mechanism for settling disputes between the Parties concerning the interpretation and application of this Agreement with a view to reaching, where possible, a mutually agreed solution.

### Article Article 15.2: Cooperation

The Parties shall endeavor to agree on the interpretation and application of this Agreement, and shall make every attempt through cooperation to arrive at a mutually satisfactory resolution of any matter that might affect its operation.

### Article Article 15.3: Scope of Application

Except as provided in Articles 15.3.2 and 15.3.3, this Chapter shall apply with respect to the settlement of any dispute between the Parties concerning the interpretation or application of this Agreement (hereinafter referred to as “covered provisions”), wherever a Party considers that:

a measure of the other Party is inconsistent with its obligations under this Agreement; or

the other Party otherwise failed to carry out its obligations under this Agreement.

This Chapter shall not cover non-violation complaints and other situation complaints.

The Parties agree that neither Party shall have recourse to dispute settlement under this Chapter for any matter arising under the following Chapters of this Agreement: Chapter Five (Sanitary and Phytosanitary Measures), Chapter Twelve (Cooperation on Investment Facilitation), Chapter Thirteen (Economic Cooperation), and Chapter Fourteen (Small and Medium-sized Enterprises).

## Article Article 15.4: Contact Points

Each Party shall designate a contact point to facilitate communications between the Parties with respect to any dispute initiated under this Chapter.

Any request, notification, written submission, or other document made in accordance with this Chapter shall be delivered to the other Party through its designated contact point.

## Article Article 15.5: Request for Information

Before a request for consultations, good offices, conciliation or mediation is made pursuant to Article 15.6 or 15.7 respectively, a Party may request in writing any relevant information with respect to a measure at issue. The Party to which that request is made shall make all efforts to provide the requested information in a written response to be submitted no later than 20 days after the date of receipt of the request.

## Article Article 15.6: Consultations

The Parties shall endeavor to resolve any dispute referred to in Article

15.3 by entering into consultations in good faith with the aim of reaching a mutually agreed solution.

A Party shall seek consultations by means of a written request delivered to the other Party identifying the reasons for the request, including the measure at issue and a description of its factual basis and the legal basis specifying the covered provisions that it considers applicable.

The Party to which the request for consultations is made shall reply to the request promptly, but no later than 10 days after the date of receipt of the request. Consultations shall be held within 30 days of the date of receipt of the request. The consultations shall be deemed to be concluded within 60 days of the date of receipt of the request, unless the Parties agree otherwise.

Consultations on matters of urgency including those which concern perishable goods or where appropriate, seasonal goods or seasonal services, shall be held within 15 days of the date of receipt of the request. The consultations shall

be deemed to be concluded within those 15 days unless the Parties agree otherwise.

During consultations each Party shall provide sufficient information so as to allow a complete examination of the measure at issue including how that measure is affecting the operation and application of this Agreement.

Consultations, including all information disclosed and positions taken by the Parties during consultations, shall be confidential, and without prejudice to the rights of either Party in any further proceedings.

Consultations may be held in person or by any other means of communication agreed by the Parties. Unless the Parties agree otherwise, consultations, if held in person, shall take place in the territory of the Party to which the request is made.

If the Party to which the request is made does not respond to the request for consultations within 10 days of the date of its receipt, or if consultations are not held within the timeframes laid down in Article 15.6.3 or 15.6.4 respectively, or if the Parties agree not to have consultations, or if consultations have been concluded and no mutually agreed solution has been

reached, the Party that sought consultations may have recourse to Article 15.8.

## Article Article 15.7: Good Offices, Conciliation, or Mediation

The Parties may at any time agree to enter into procedures for good offices, conciliation, or mediation. They may begin at any time, and be terminated by either Party at any time.

Proceedings involving good offices, conciliation, or mediation and the particular positions taken by the Parties in these proceedings, shall be confidential and without prejudice to the rights of either Party in any further proceedings under this Chapter or any other proceedings before a forum selected by the Parties.

If the Parties agree, procedures for good offices, conciliation, or mediation may continue while the panel procedures proceed.

## Article Article 15.8: Establishment of a Panel

The complaining Party may request the establishment of a panel if:

the respondent Party does not reply to the request for consultations in accordance with the time frames referred in Article 15.6; or

the consultations referred to in Article 15.6.8 of this Agreement are not held within 30 days or 15 days in relation to urgent matters including those which concern perishable goods or where appropriate, seasonal goods or seasonal services, if the Parties agree not to have consultations, or fail to settle a dispute within 60 days of the date of the receipt of the request for consultations by the respondent Party.

The request for the establishment of a panel shall be made by means of a written request delivered to the other Party and shall identify the measure at issue and indicate the factual basis of the complaint and the legal basis specifying the relevant covered provisions in a manner sufficient to present how such measure is inconsistent with those provisions.

When a request is made by the complaining Party in accordance with paragraph 1, a panel shall be established.

## Article Article 15.9: Composition of a Panel

Unless the Parties agree otherwise, a panel shall consist of three panelists.

Within 20 days of the request for the establishment of a panel is made in accordance with Article 15.8.2, each Party shall appoint a panelist. The Parties shall, by common agreement, appoint the third panelist, who shall serve as the chairperson of the panel, within 40 days of the establishment of a panel in accordance with Article 15.8.3.

If either Party fails to appoint a panelist within the period established in paragraph 2, the other Party, within a period of 20 days, may request the Director-General of the WTO to appoint the unappointed panelists within 20 days of that request.

If the Director-General of the WTO notifies the Parties to the dispute that he or she is unavailable or does not appoint the unappointed panelist within 20 days of the date of the request made pursuant to paragraph 3, any Party to the

dispute may request the Secretary-General of the Permanent Court of Arbitration to appoint the unappointed panelist within 20 days of that request.

If the Parties do not agree on the chairperson of the panel within the time period established in paragraph 2, they shall within the next 10 days, exchange their respective lists comprising three nominees each who shall not be nationals of either Party. The chairperson shall then be appointed by draw of lot from the lists within 10 days of the expiry of the time period during which the Parties shall exchange their respective lists of nominees. The selection by lot of the chairperson of the panel shall be made by the Joint Committee.

If a Party fails to submit its list of three nominees within the time period established in paragraph 5, the chairperson shall be appointed by draw of lot from the list submitted by the other Party.

The date of composition of the panel shall be the date on which the last of the three selected panelists is appointed.

## Article Article 15.10: Decision on Urgency

If a Party so requests, the panel shall give a preliminary ruling, within 15 days of its composition, determining whether the

dispute concerns matters of urgency.

## Article Article 15.11: Requirements for Panelists

Each panelist shall:

have demonstrated expertise in law, international trade, and other matters covered by this Agreement;

be independent of, and not be affiliated with or take instructions from, either Party;

serve in their individual capacities and not take instructions from any organization or government with regard to matters related to the dispute;

comply with the Code of Conduct established in Annex 15-B; and

be chosen strictly on the basis of objectivity, reliability, and sound judgment.

The chairperson shall also have experience in dispute settlement procedures.

Persons who provided good offices, conciliation, or mediation to the Parties, pursuant to Article 15.7 in relation to the same or a substantially equivalent matter, shall not be eligible to be appointed as panelists in that matter.

## Article Article 15.12: Replacement of Panelists

If any of the panelists of the original panel becomes unable to act, withdraws, or needs to be replaced because that panelist does not comply with the requirements of the Code of Conduct, a successor panelist shall be appointed in the same manner as prescribed for the appointment of the original panelist under Article

15.9 and the work of the panel shall be suspended during the appointment of the successor panelist.

## Article Article 15.13: Functions of the Panel

Unless the Parties otherwise agree, the panel:

shall make an objective assessment of the matter before it, including an objective assessment of the facts of the case and the applicability of and conformity of the measure at issue with the covered provisions;

shall set out, in its decisions and reports, the findings of fact and law and the rationale behind any findings and conclusions that it makes; and

should consult regularly with the Parties and provide adequate opportunities for the development of a mutually agreed solution.

## Article Article 15.14: Terms of Reference

Unless the Parties otherwise agree within 15 days of the date of establishment of the panel, the terms of reference of the panel shall be:

“to examine, in the light of the relevant covered provisions of this Agreement cited by the Parties, the matter referred to in the request for

the establishment of the panel, to make findings on the conformity of the measure at issue with the relevant covered provisions of this Agreement as well as recommendations, if any, on the means to resolve the dispute, and to deliver a report in accordance with Articles 15.18 and 15.19.”

If the Parties agree on other terms of reference than those referred to in paragraph 1 within the timeline specified therein, they shall notify the agreed terms of reference to the panel no later than five days after their agreement.

## Article Article 15.15: Rules of Interpretation

The panel shall interpret the covered provisions in accordance with customary rules of interpretation of public international law.

When appropriate, the panel may also take into account relevant interpretations in reports of panels established under this Agreement and reports of panels and the Appellate Body adopted by the Dispute Settlement Body of the WTO.

The rulings of the panel cannot add to or diminish the rights and obligations of the Parties provided under this Agreement.

## Article Article 15.16: Procedures of the Panel

Unless the Parties otherwise agree, the panel shall follow the model Rules of Procedure set out in Annex 15-A.

There shall be no ex parte communications with the panel concerning matters under its consideration.

The deliberations of the panel and the documents submitted to it shall be kept confidential.

A Party asserting that a measure of the other Party is inconsistent with the provisions of this Agreement shall have the burden of establishing such inconsistency. A Party asserting that a measure is subject to an exception under this Agreement shall have the burden of establishing that the exception applies.

The panel should consult with the Parties as appropriate and provide adequate opportunities for the development of a mutually agreed solution.

The panel shall make its decisions, including its reports, by consensus, but if consensus is not possible, then by majority vote. Any member of the panel may furnish separate opinions on matters not unanimously agreed, and such separate opinions shall not be disclosed.

Rulings of the panel shall be binding on the Parties.

## Article Article 15.17: Receipt of Information

Upon the request of a Party, or on its own initiative, the panel may seek from the Parties relevant information it considers necessary and appropriate. The Parties shall respond promptly and fully to any request by the panel for information.

Upon the request of a Party or on its own initiative, the panel may seek from any source any information it considers appropriate.

Upon the request of a Party, or on its own initiative, the panel may seek technical advice or expert opinion from any individual or body that it deems appropriate, and subject to any terms and conditions as the Parties agree.

Any information obtained by the panel under this Article shall be made available to the Parties and the Parties may provide comments on that information.

## Article Article 15.18: Interim Report

The panel shall deliver an interim report to the Parties within 90 days of the date of composition of the panel. When the panel considers that this deadline cannot be met, the chairperson of the panel shall notify the Parties and the Joint Committee in writing, stating the reasons for the delay and the date on which the panel plans to deliver its interim report. Under no circumstances shall the delay exceed 30 days after the deadline. The interim report shall not be made public.

The interim report shall set out a descriptive part and the panel's findings and conclusions.

Each Party may submit to the panel written comments and a written request to review precise aspects of the interim report within 15 days of the date of issuance of the interim report. A Party may comment on the others Party's request within six days of the delivery of the request.

After considering any written comments and requests by each Party on the interim report, the panel may modify the interim report and make any further examination it considers appropriate.

## Article Article 15.19: Final Report

The panel shall deliver its final report to the Parties and Joint Committee within 135 days of the date of composition of the panel. When the panel considers that this deadline cannot be met, the chairperson of the panel shall notify the Parties in writing, stating the reasons for the delay and the date on which the panel plans to deliver its final report. Under no circumstances shall the delay exceed 30 days after the deadline.

The final report shall include a discussion of any written comments and requests made by the Parties on the interim report. The panel may, in its final report, suggest ways in which the final report could be implemented.

The final report shall be made public within 15 days of its delivery to the Parties unless the Parties otherwise agree to publish the final report only in parts or not to publish the final report.

## Article Article 15.20: Implementation of the Final Report

Where the panel finds that the respondent Party has acted inconsistently with a covered provision pursuant to Article 15.3, the respondent Party shall take any measure necessary to comply promptly and in good faith with the Panel's ruling.

If it is impracticable to comply immediately, the respondent Party shall, no later than 30 days after the delivery of the final report, notify the complaining Party and the Joint Committee of the reasonable period of time necessary for compliance with the final report and the Parties shall endeavor to agree on the reasonable period of time required for compliance with the final report.

## Article Article 15.21: Reasonable Period of Time for Compliance

If the Parties have not agreed on the length of the reasonable period of time, the complaining Party shall, no later than 20 days after the date of receipt of the notification made by the respondent Party in accordance with Article 15.20.2 request in writing the original panel to determine the length of the reasonable period of time. Such request shall be notified simultaneously to the respondent Party and the Joint Committee. The 20-day period referred to in this paragraph may be extended by mutual agreement of the Parties.

The original panel shall deliver its decision to the Parties and the Joint Committee within 20 days of the relevant request.

The length of the reasonable period of time for compliance with the final report may be extended by mutual agreement of the Parties.

## Article Article 15.22: Compliance Review

The respondent Party shall deliver a written notification of its progress in complying with the final report to the complaining Party and the Joint Committee at least one month before the expiry of the reasonable period of time for compliance with the final report unless the Parties agree otherwise.

The respondent Party shall, no later than at the date of expiry of the reasonable period of time, deliver a notification to the complaining Party and the Joint Committee of any measure that it has taken to comply with the final report along with a description on how the measure ensures compliance sufficient to allow the complaining Party to assess the measure before the expiry of the reasonable period of time.

Where the Parties disagree on the existence of measures to comply with the final report, or their consistency with the covered provisions, the complaining Party may request in writing the original panel to decide on the matter before compensation can be sought or suspension of benefits can be applied in accordance with Article 15.23.1(c). Such request shall be notified simultaneously to the respondent Party and the Joint Committee.

The request shall provide the factual and legal basis for the complaint, including the identification of the specific measures at issue and an indication of

why any measures taken by the respondent Party fail to comply with the final report or are otherwise inconsistent with the covered provisions.

The panel shall deliver its decision to the Parties and the Joint Committee within 60 days of the date of submission of the request.

## Article Article 15.23: Temporary Remedies In Case of Non-Compliance

If the respondent Party:

fails to notify any measure taken to comply with the final report before the expiry of the reasonable period of time;

notifies the complaining Party in writing that it is not possible to comply with the final report within the reasonable period of time; or

the original panel finds that no measure taken to comply exists or that the measure taken to comply with the final report as notified by the respondent Party is inconsistent with the covered provisions;

The respondent Party shall, on request of the complaining Party, enter into consultations with a view to agreeing on mutually satisfactory compensation or any alternative arrangement.

If the Parties fail to reach a mutually satisfactory agreement within 20 days of the date of receipt of the request made in accordance with paragraph 1, the complaining Party may deliver a written notification to the respondent Party that it intends to suspend the application of concessions or other obligations under this Agreement.

The complaining Party may begin the suspension of concessions or other obligations referred to in the preceding paragraph 20 days after the date when it served notice on the respondent Party, unless the respondent Party made a request under paragraph 7.

The suspension of concessions or other obligations:

shall be at a level equivalent to the nullification or impairment that is caused by the failure of the respondent Party to comply with the final report; and

shall be restricted to benefits accruing to the respondent Party under this Agreement.

In considering what concessions or other obligations to suspend in accordance with paragraph 2, the complaining Party shall apply the following principles:

the complaining Party should first seek to suspend the concessions or other obligations in the same sector or sectors as that affected by the measure that the panel has found to be inconsistent with this Agreement; and

the complaining Party may suspend concessions or other obligations in other sectors, if it considers that it is not practicable or effective to suspend concessions or other obligations in the same sector(s). The communication in which it notifies such a decision shall indicate the reasons on which it is based.

The suspension of concessions or other obligations or the mutually satisfactory agreement foreseen in paragraph 1 shall be temporary and shall only apply until the inconsistency of the measure with the relevant covered provisions has been removed, or until the Parties have reached a mutually agreed solution pursuant to Article 15.28.

If the respondent Party considers that the suspension of concessions or other obligations does not comply with paragraphs 4 and 5, that Party may request in writing the original panel to examine the matter no later than 15 days after the date of receipt of the notification referred to in paragraph 2. That request shall be notified simultaneously to the complaining Party and to the Joint Committee. The original panel shall notify to the Parties and the Joint Committee its decision on the matter no later than 45 days after the receipt of the request from the respondent Party, or if the original panel cannot be established with its original members, from the date on which the last panelist of the newly established panel is appointed. Concessions or other obligations shall not be suspended until the panel has delivered its decision pursuant to this paragraph. The suspension of concessions or other obligations shall be consistent with this decision.

## Article Article 15.24: Review of Any Measure Taken to Comply after the Adoption of Temporary Remedies

Upon the notification by the respondent Party to the complaining Party and the Joint Committee of the measure taken to comply with the final report:

in a situation where the right to suspend concessions or other obligations has been exercised by the complaining Party in accordance with Article 15.23, the complaining Party shall terminate the suspension of concessions or other obligations no later than 30 days after the date of receipt of the notification, with the exception of the cases referred to in paragraph 2; or

in a situation where necessary compensation has been agreed, the respondent Party may terminate the application of such compensation no later than 30 days after the date of receipt of the notification, with the exception of the cases referred to in paragraph 2.

If the Parties do not reach an agreement on whether the measure notified in accordance with paragraph 1 is consistent with the relevant covered provisions within 30 days of the date of receipt of the notification, the complaining Party shall request in writing the original panel to examine the matter. That request shall be notified simultaneously to the respondent Party and the Joint Committee. The decision of the panel shall be notified to the Parties and the Joint Committee no later than 30 days after the date of submission of the request. If the panel decides that the measure notified in accordance with

paragraph 1 is consistent with the covered provisions, the suspension of concessions or other obligations, or the application of the compensation, as the case may be, shall be terminated no later than 15 days after the date of the decision. If the panel determines that the notified measure achieves only partial compliance with the covered provisions, the level of suspension of benefits or other obligations, or of the compensation, shall be adapted in light of the decision of the panel.

## Article Article 15.25: Suspension and Termination of Proceedings

If both Parties so request in writing, the panel shall suspend its work for a period agreed by the Parties and not exceeding 12 consecutive months from such request. In the event of a suspension of the work of the panel, the relevant time periods under this Chapter shall be extended by the same period of time for which the work of the panel was suspended. The panel shall resume its work before the end of the suspension period at the written request of both Parties. If the work of the panel has been suspended for more than 12 consecutive months, the authority of the panel shall lapse and the dispute settlement procedure shall be terminated.

## Article Article 15.26: Choice of Forum

Unless otherwise provided in this Article, this Chapter is without prejudice to the rights of the Parties to have recourse to dispute settlement procedures available under other international trade agreements to which they are both Parties.

If a dispute with regard to a particular measure arises under this Agreement and under another international trade agreement to which both Parties are party, including the WTO Agreement, the complaining Party may select the forum in which to settle the dispute.

Once a Party has selected the forum and initiated dispute settlement proceedings under this Chapter or under the other international agreement with respect to the particular measure referred to in paragraph 2, the selected forum shall be used to the exclusion of other fora.

For purposes of paragraph 3:

dispute settlement proceedings under this Chapter are deemed to be initiated when a Party requests the establishment of a panel in accordance with Article 15.8;

dispute settlement proceedings under the WTO Agreement are deemed to be initiated when a Party requests the establishment of a panel in accordance with Article 6 of the DSU; and

dispute settlement proceedings under any other agreement are deemed to be initiated in accordance with the relevant provisions of that agreement.

## Article Article 15.27: Costs

Unless the Parties otherwise agree, the costs of the panel and other expenses associated with the conduct of its proceedings shall be borne in equal parts by the Parties.

Each Party shall bear its own expenses and other legal costs incurred in relation to the panel proceedings.

## Article Article 15.28: Mutually Agreed Solution

The Parties may reach a mutually agreed solution at any time with respect to any dispute referred to in Article 15.3.

If a mutually agreed solution is reached during the panel procedure, the Parties shall jointly notify that solution to the chairperson of the panel. Upon such notification, the panel shall be terminated.

Each Party shall take measures necessary to implement the mutually agreed solution within the agreed time period.

No later than at the expiry of the agreed time period, the implementing Party shall inform the other Party, in writing, of any measure that it has taken to implement the mutually agreed solution.

## Article Article 15.29: Time Periods

All time periods laid down in this Chapter shall be counted in calendar days from the day following the act or fact to which they refer, unless otherwise specified in this Chapter.

Any time period referred to in this Chapter may be modified by mutual agreement of the Parties.

All time periods laid down in this Chapter for cases of urgency shall be cut by half except as otherwise provided in this Chapter.

## Article Article 15.30: Annexes

The Joint Committee may modify the Annexes 15-A and 15-B.

Annex 15-A

Rules of Procedure for the Panel

Timetable

After consulting the Parties, the panel shall, whenever possible within seven days of the appointment of the final panelist, fix the timetable for the panel process.

The panel process shall, as a general rule, not exceed 135 days from the date of establishment of the panel until the date of the final report, unless the Parties otherwise agree.

Should the panel consider there is a need to modify the timetable, it shall inform the Parties in writing of the proposed modification and the reason for it. In cases of urgency in accordance with Article 15.10 the panel, after consulting the Parties, shall adjust the timetable as appropriate and shall notify the Parties of such adjustment.

Written Submissions and other Documents

Unless the panel otherwise decides, the complaining Party shall deliver its first written submission to the panel no later than 20 days after the date of composition of the panel. The respondent Party shall deliver its first written submission to the panel and to the complaining Party no later than 20 days after the date of delivery of the complaining Party's first written submission unless the arbitral panel decides otherwise.

A Party shall provide a copy of its written submission to each of the panelists and to the other Party.

Within 20 days of the conclusion of the hearing, each Party may deliver to the panel and the other Party a supplementary written submission responding to any matter that arose during the hearing.

The Parties shall transmit all information or written submissions, written versions of oral statements and responses to questions put by the panel to the other Party to the dispute at the same time as it is submitted to the panel.

The Parties and the panellist shall transmit any request, notice, written submissions or other document by delivery against receipt, registered post, courier,

facsimile, telex, telegram or any other means of telecommunication that provides a record of the sending thereof.

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

Operation of the Panel

The chairperson of the panel shall preside at all of its meetings, and shall fix the date and time of the hearing in consultation with the Parties and other members of the panel. The panel may delegate to the chairperson the authority to make administrative and procedural decisions.

Panel deliberations shall be confidential. Only panelists may take part in the deliberations of the panel, but the panel may permit assistants of the panel to be present during such deliberations. The reports of panels shall be drafted without the presence of the Parties in the light of the information provided and the statements made.

Opinions expressed in the panel report by individual panelists shall be anonymous.

Hearings

The Parties shall be given the opportunity to attend hearings and meetings of the panel.

The panel shall provide for at least one hearing for the Parties to present their cases to the panel.

Unless a Party disagrees, the Panel may decide to convene additional hearings or not to convene a hearing at all.

All panelists shall be present at hearings. Panel hearings shall be held in closed session with only the panelists and the Parties in attendance. However, in consultation with the Parties, assistants, translators, advisers of the disputing Parties, administration personnel, interpreters, or designated note takers may also be present at hearings to assist the panel in its work. Any such arrangements established by the panel may be modified with the agreement of the Parties.

The hearing shall be conducted by the panel in a manner ensuring that the complaining Party and the respondent Party are afforded equal time to present

their case. The panel shall, as a general rule, conduct the hearing in the following manner: argument of the complaining Party; argument of the respondent Party; the reply of the complaining Party; the counter-reply of the respondent Party; closing statement of the complaining Party; and closing statement of the respondent Party. The chairperson may set time limits for oral arguments to ensure that each Party is afforded equal time.

Written Questions

The panel may direct written questions to either Party at any time during the proceedings. A Party to whom the panel addresses a written question shall deliver a written reply to the panel and the other Party in accordance with the timetable established by the panel.

Each Party shall be given the opportunity to provide written comments on the response of the other Party within the timetable established by the panel.

Confidentiality

The panel's hearings and the documents submitted to it shall be confidential. Each Party shall treat as confidential information submitted to the panel by the other Party which that Party has designated as confidential.

Where a Party designates as confidential its written submissions to the panel, it shall, on request of the other Party, provide the panel and the other Party with a non-confidential summary of the information contained in its written submissions that could be disclosed to the public no later than 10 days after the date of request. Nothing in these Rules shall prevent a Party from disclosing statements of its own positions to the public.

Working language

The working language of the panel proceedings, including for written submissions, oral arguments or presentations, the report of the panel, and all written and oral communications between the Parties and with the panel, shall be English.

Venue

The venue for the hearings of the panel shall be decided by agreement between the Parties. If there is no agreement, the first hearing shall be held in the territory of the respondent Party, and any additional hearings shall alternate between the territories of the Parties.

Expenses

The panel shall keep a record and render a final account of all general expenses incurred in connection with the proceedings, including those paid to its assistants, designated note takers or other individuals that it retains.

Ex Parte Contacts

The panel shall not meet or communicate with a Party in the absence of the other Party.

Neither Party shall meet or communicate with any panelist in relation to the dispute in the absence of the other Party or other panelists.

No panelist shall discuss any aspect of the subject-matter of the proceedings with a Party in the absence of the other Party and other panelists.

Annex 15-B

Code of Conduct for Panelists and Others Engaged in Dispute Settlement Proceedings Under This Agreement1

Definitions

For purposes of this Annex:

assistant means a person who, under the terms of appointment of a panelist, conducts research or provides support for the panelist works under the direction and control of a panelist to assist with case-specific tasks;

candidate means a person who is under consideration for selection as a panelist;

panelist means a member of a panel established under Article 15.8;

proceeding, unless otherwise specified, means the proceeding of a panel under this Chapter; and

staff, in respect of a panelist, means persons under the direction and control of the panelist, other than assistants.

Responsibilities to the Process

Every panelist shall avoid impropriety and the appearance of impropriety, shall be independent and impartial, shall avoid direct and indirect conflicts of interests and shall observe high standards of conduct so that the integrity and impartiality of the dispute settlement process are preserved. Former panelists shall comply with the obligations established in paragraphs 18 through 22.

Disclosure Obligations

Prior to confirmation of his or her selection as a panelist under this Agreement, a candidate shall disclose any interest, relationship or matter that is likely to affect his or her independence or impartiality or that might reasonably

1 This Code of Conduct shall apply mutatis mutandis to persons appointed to provide good offices, conciliation, or mediation under Article 15.7, unless otherwise agreed by the Parties.

create an appearance of impropriety or bias in the proceeding. To this end, a candidate shall make all reasonable efforts to become aware of any such interests, relationships, and matters.

Once selected, a panelist shall continue to make all reasonable efforts to become aware of any interests, relationships and matters referred to in paragraph

3 and shall disclose them by communicating them in writing to the Joint Committee for consideration by the Parties. The obligation to disclose is a continuing duty, which requires a panelist to disclose any such interests, relationships and matters that may arise during any stage of the proceeding.

Performance of Duties by Panelists

A panelist shall comply with the provisions of this Chapter and its Annexes.

On selection, a panelist shall perform his or her duties thoroughly and expeditiously throughout the course of the proceeding with fairness and diligence.

A panelist shall not deny other panelists the opportunity to participate in all aspects of the proceeding.

A panelist shall consider only those issues raised in the proceeding and necessary to rendering a decision and shall not delegate the duty to decide to any other person.

A panelist shall take all appropriate steps to ensure that the panelist's assistant and staff are aware of, and comply with, paragraphs 2 through 4 and 19 through 21.

A panelist shall not engage in ex parte contacts concerning the proceeding.

A panelist shall not communicate matters concerning actual or potential violations of this Annex by another panelist unless the communication is to both Parties or is necessary to ascertain whether that panelist has violated or may violate this Annex. Each panelist shall keep a record and render a final account of the time devoted to the panel proceedings and of his or her expenses, as well as the time and expenses of his or her staff and assistants.

Independence and Impartiality of Panelists

A panelist shall be independent and impartial. A panelist shall act in a fair manner and shall avoid creating an appearance of impropriety or bias.

A panelist shall not be influenced by self-interest, outside pressure, political considerations, public clamor, loyalty to a Party or fear of criticism.

A panelist 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 the panelist's duties.

A panelist shall not use his or her position on the panel to advance any personal or private interests. A panelist shall avoid actions that may create the impression that others are in a special position to influence the panelist. A panelist shall make every effort to prevent or discourage others from representing themselves as being in such a position.

A panelist shall not allow past or existing financial, business, professional, family or social relationships or responsibilities to influence the panelist's conduct or judgment.

A panelist shall avoid entering into any relationship, or acquiring any financial interest, that is likely to affect the panelist's impartiality or that might reasonably create an appearance of impropriety or bias.

Duties in Certain Situations

A panelist or former panelist shall avoid actions that may create the appearance that the panelist was biased in carrying out the panelist's duties or would benefit from the decision or report of the panel.

Maintenance of Confidentiality

A panelist or former panelist shall not at any time disclose or use any non-public information concerning the proceeding or acquired during the proceeding except for the purposes of the proceeding and shall not, in any case, disclose or use any such information to gain personal advantage, or advantage for others, or to affect adversely the interest of others.

A panelist shall not disclose a panel report, or parts thereof, prior to its publication.

A panelist or former panelist shall not at any time disclose the deliberations of a panel, or any panelist's view, except as required by legal or constitutional requirements.

A panelist shall not make a public statement regarding the panel proceeding.

# Chapter CHAPTER SIXTEEN EXCEPTIONS

## Article Article 16.1: General Exceptions

For purposes of Chapter Two (Trade in Goods), Chapter Three (Rules of Origin), Chapter Four (Customs Procedures and Trade Facilitation), Chapter Five (Sanitary and Phytosanitary Measures), and Chapter Six (Technical Barriers to Trade), Article XX of GATT 1994 and its interpretative note are incorporated into and form part of this Agreement, mutatis mutandis.

For purposes of Chapter Eight (Trade in Services) and Chapter Nine (Digital Trade)1, Article XIV of GATS, including its footnotes, is incorporated into and forms part of this Agreement, mutatis mutandis.

## Article Article 16.2: Security Exceptions

Nothing in this Agreement shall be construed:

to require any Party to furnish any information, the disclosure of which it considers contrary to its essential security interests; or

to prevent any Party from taking any action which it considers necessary for the protection of its essential security interests:

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

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

1 This paragraph is without prejudice to whether a Party considers a digital product to be a good or service.

relating to the supply of services as carried out directly or indirectly for the purpose of provisioning a military establishment;

taken in time of war or other emergency in international relations; or

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

## Article Article 16.3: Taxation

Nothing in this Agreement shall apply to any taxation measure.2

Nothing in this Agreement shall affect the rights and obligations of any Party under any tax convention. In the event of any inconsistency between this Agreement and any such tax convention, that tax convention shall prevail to the extent of the inconsistency.

In the case of a tax convention between the Parties, the competent authorities are those listed under that convention.

2 For the avoidance of doubt, provisions where corresponding rights and obligations are also granted or imposed under the WTO Agreement shall apply to taxation measures. Taxes and taxation measures do not include customs duties as defined in Article 1.1 (General Definitions) and measures listed in exceptions (b), (c), and (d) of that definition.

# Chapter CHAPTER SEVENTEEN ADMINISTRATION OF THE AGREEMENT

## Article Article 17.1: Joint Committee

The Parties hereby establish a Joint Committee.

The Joint Committee:

shall be composed of representatives of the UAE and Korea; and

may establish standing or ad hoc committees or working groups and assign any of its powers thereto.

The Joint Committee shall meet within one year from the entry into force of this Agreement. Thereafter, it shall meet every two years unless the Parties agree otherwise, to consider any matter relating to this Agreement. The regular sessions of the Joint Committee shall be held alternately in the territories of the Parties.

The Joint Committee shall also hold special sessions without undue delay from the date of a request thereof from either Party.

The functions of the Joint Committee shall be as follows:

to review and assess the results and overall operation of this Agreement in the light of the experience gained during its application and its objectives;

to consider any amendments to this Agreement that may be proposed by either Party, including the modification of concessions made under this Agreement;

to endeavor to amicably resolve disputes between the Parties arising from the interpretation or application of this Agreement;

to supervise and coordinate the work of all committees and working groups established under this Agreement;

to consider any other matter that may affect the operation of this Agreement;

if requested by either Party, to propose a mutually agreed interpretation to be given to the provisions of this Agreement;

to adopt decisions or make recommendations as envisaged by this Agreement; and

to carry out any other functions as may be agreed by the Parties.

The Joint Committee shall establish its own rules of working procedures.

Meetings of the Joint Committee and of any standing or ad hoc committees or working groups may be conducted in person or by any other means as determined by the Parties.

The Joint Committee shall take decisions and make recommendations by mutual agreement.

## Article Article 17.2: Communications

Each Party shall designate a contact point to receive and facilitate official communications between the Parties on any matter relating to this Agreement.

All official communications in relation to this Agreement shall be in the English language.

# Chapter CHAPTER EIGHTEEN FINAL PROVISIONS

## Article Article 18.1: Annexes, Appendices, Side Letters, and Footnotes

The Annexes, Appendices, Side letters, and footnotes to this Agreement constitute an integral part of this Agreement.

## Article Article 18.2: Amendments

Either Party may submit proposals for amendments to this Agreement to the Joint Committee for consideration and recommendation.

Amendments to this Agreement shall, after recommendation by the Joint Committee, be submitted to the Parties for ratification, acceptance, or approval in accordance with the constitutional requirements or legal procedures of each Party.

Amendments to this Agreement shall enter into force in the same manner as provided for in Article 18.5, unless otherwise agreed by the Parties.

## Article Article 18.3: Accessions

Any country or group of countries may accede to this Agreement subject to such terms and conditions as may be agreed between the country or group of countries and the Parties and following approval in accordance with the applicable legal requirements and procedures of each Party and acceding country.

## Article Article 18.4: Duration and Termination

This Agreement shall be valid for an indefinite period.

Either Party may terminate this Agreement by written notification to the other Party, and such termination shall take effect six months after the date of the notification.

## Article Article 18.5: Entry Into Force

The Parties shall ratify this Agreement in accordance with their domestic legal procedures.

When a Party has ratified this Agreement in accordance with its domestic legal procedures, that Party shall notify the other Party of such ratification, approval, or acceptance in writing, through diplomatic channels, within a period of 60 days from such ratification.

Unless the Parties agree otherwise, where both Parties have notified each other of such ratification, approval, or acceptance, this Agreement shall enter into force on the first day of the second month following the date of receipt of the last written notification.

## Article Article 18.6: Authentic Texts

This Agreement is done in duplicate in the Korean, Arabic, and English languages. All texts shall be equally authentic. In case of any divergence, the English text shall prevail.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE at [ ], on the [ ] day of [ ], in duplicate, in the Korean, Arabic and English languages.

For the Government of the Republic of Korea

For the Government of the United Arab Emirates