Central America Free Trade Agreement and Panama

The Government of the Republic of Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua, on the one hand, and the Government of the Republic of Panama, on the other,

Determined to:

To facilitate the regional and hemispheric integration;

Strengthen the traditional ties of friendship and spirit of cooperation between their peoples;

To achieve a better balance in their trade relationship;

Promote a wider market and insurance for the facilitation of trade in goods, services and capital flows and technology in their territories;

Prevent distortions in their reciprocal trade;

Establish clear rules and mutual benefits for the promotion and protection of investments, as well as for trade in goods and services;

Respecting their respective rights and obligations under the Marrakesh Agreement Establishing the World Trade Organization (WTO and other bilateral and multilateral instruments of cooperation and integration;

Strengthen the competitiveness of their enterprises in global markets;

Creating job opportunities and to improve the standard of living of its peoples in their respective territories;

To promote economic development in a manner consistent with the protection and conservation of the environment and sustainable development;

Preserving its ability to safeguard the public welfare; and

Promoting the active participation of the various economic operators, in particular the private sector, in efforts to deepen trade relations between the parties and to develop and to maximize the opportunities for its joint presence in international markets;

This held Free Trade Agreement

Article 1.01. Establishment of the Free Trade Area

1. Through the present Treaty, the parties establish the basis for establishing and implementing a free trade area in accordance with Article XXIV of GATT 1994 and the Article V of the GATS.

2. Except as otherwise provided, the Republics of Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua individually, shall apply the rules and procedures of this Treaty bilaterally with the Republic of Panama.

Article 1.02. Objectives

1. The main objectives of this Treaty is as follows:

a) The Free Trade Area;

b) Encourage expansion and diversification of trade in goods and services between the parties;

c) Promote conditions of fair competition in the Free Trade Area;

d) Eliminate barriers to trade and facilitate the movement of goods and services in the Free Trade Area;

e) To promote, protect and substantially increase investment in each party; and

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

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

Article 1.03. Compliance

Each Party shall ensure, in accordance with its constitutional rules, to take all necessary measures to implement the provisions of this Treaty in its territory and at all levels of government.

Article 1.04. Relation to other International Agreements

1. The Parties confirm their rights and obligations existing between them under the WTO Agreement and other agreements to which they are party.

2. In the event of any inconsistency between the provisions of the agreements referred to in paragraph 1 and the provisions of this Treaty, the latter shall prevail to the extent of the inconsistency, except as otherwise provided in this Treaty.

3. In the event of any inconsistency between this Agreement and the specific trade obligations contained in:

a) The Convention on International Trade in Endangered Species of Wild Fauna and Flora, in Washington on 3 March 1973 with its amendment of 22 June 1979;

b) The Montreal Protocol on Substances that Deplete the Ozone Layer, 16 September 1987. as amended on 29 June 1990; or

c) The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, on 22 March 1989; such obligations shall prevail to the extent of the inconsistency, provided that where a Party has a choice among equally effective and reasonably available means at its disposal to comply with such obligations, choose to submit the lesser degree of inconsistency with the other provisions of this Treaty.

Article 1.05. Succession of Treaties

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

Chapter 2. General Definitions

Article 2.01. Definitions of General Application

For purposes of this Treaty, except as otherwise provided in another chapter:

Substantial business activity: that an enterprise in the territory of a party if such enterprise performs an ascertainable and stable economic activity, which it may verify with any of the following criteria:

a) Be registered as a source of income tax, the territory of that Party;

b) Payroll or possess a spreadsheet duly registered with the relevant authority of the territory of that Party; or

c) Having a local or facilities or permanent office in the territory of that party but not limited to the receipt of notification;

Customs valuation agreement means the Agreement on Implementation of article VII of the General Agreement on Tariffs and Trade 1994, including its interpretative notes, which is part of the WTO agreement;

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

The TRIPS Agreement means the Agreement on Trade-Related Aspects of Intellectual Property Rights related to trade, which is part of the WTO agreement;

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

Tariff: any customs import duty or tax or charge of any other kind imposed in connection with the importation of goods, including any form of surtax or surcharge on imports, except any:

a) Charge equivalent to an internal tax established in accordance with paragraph 2 of article III of the GATT 1994;

b) Anti-dumping or countervailing measures to be applied in accordance with the legislation of each party and is not applied inconsistently with chapter 7 (unfair trading practices);

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

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

Chapter means the first two digits of the Harmonized System;

Central America: the Republics of Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua;

The Commission: administering the Treaty Commission established in accordance with article 19.01 (commission administering the treaty);

- calendar days means calendar days; or

Enterprise means any entity constituted or organized under the applicable law of a party, whether or not for profit and whether private or government owned, including companies, corporations, foundations, trusts, shares, firms, sole proprietorship enterprise co-investments or other associations;

State ENTERPRISE means an enterprise that is owned by a party or under the control of the same through ownership rights;

Understanding: the Understanding on Rules and Procedures Governing the Settlement of Disputes, which is part of the WTO agreement;

Existing means in effect on the date of Entry into Force of this Treaty;

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

Measure means any law, regulation, procedural provision, requirement or practice, among others;

Goods, means any material or product part;

Goods of a Party means a national product as understood in GATT 1994 or goods such as the parties agree to confer the nature and includes originating goods of that Party. A good of a Party may include materials of other countries;

Goods originating a good means that qualifies as originating in accordance with chapter 4 (rules of origin);

National means a natural person or a party according to annex 2.01; Central American country: a Central American country;

A Party: each individual country in Central America and Panama, over which has entered into force this Treaty;

Heading means the first four digits of the Harmonized System;

Person means a natural person or an enterprise; or

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

Producer means a person who cultivate, extract, harvest, farming, fishing, hunting, manufacture, processing or assembles a good;

Programme of tariff relief ": schedule of tariff relief", established in accordance with Annex (3.04 tariff relief);

Uniform regulations: "" uniform regulations, established in accordance with article 5.12 (uniform regulations);

Secretarial: "" secretariat established in accordance with article 19.03 (Secretariat);

Harmonized System (HS) means the Harmonized Commodity Description and Coding System of goods which is in force, including its general rules of interpretation and their legal notes, of section, chapter headings and subheadings, in the form in which the parties have adopted and implemented in their respective laws;

Subheading means the first six digits of the Harmonized System; and

Territory: the land, sea and air space of each party as well as the exclusive economic zone and continental shelf over which it exercises sovereign rights and jurisdiction in accordance with its legislation and international law.

Country-specific definitions

For purposes of this Treaty, except as otherwise provided in another chapter:

National:

In the case of Costa Rica:

a) Costa Ricans by birth according to article 13 of the Political Constitution of the Republic of Costa Rica;

b) Costa Ricans by naturalization according to article 14 of the Political Constitution of the Republic of Costa Rica; and

c) A person who, in accordance with the legislation, having the character of a permanent resident;

In the case of El Salvador:

a) Salvadorans by birth, as defined in article 90 of the Constitution of the Republic of El Salvador;

b) Salvadorans by naturalization, as defined in article 92 of the Constitution of the Republic of El Salvador; and

c) A person who, in accordance with the legislation, having the character of a permanent resident;

In the case of Guatemala:

a) Those born in the territory of the Republic of Guatemala, Guatemalan ships and aircraft and Guatemalan, born abroad, with the exception of diplomatic officials and their legally equated;

b) Nationals by birth republics that formed the Federation of Central America, if they acquire domicile in Guatemala and sworn statement, by a competent authority, would be Guatemalans. In this case shall retain their nationality of origin without prejudice to what is established in Central American treaties or conventions; and

c) Who obtain naturalization according to law; in the case of Honduras:

a) The Honduran by birth, as defined in article 23 of the Constitution of the Republic of Honduras; and

b) The Honduran by naturalization, as defined in article 24 of the Constitution of the Republic of Honduras;

In the case of Nicaragua:

a) A Nicaraguan pursuant to article 15 of the Political Constitution of the Republic of Nicaragua;

b) Notwithstanding the above, foreigners with permanent resident status, within the meaning of article 9 of the Migration Act, Act No 153, published in the Official Journal, No. 80 of 30 April 1993 shall enjoy the benefits, rights and obligations that this treaty accorded to nationals, only in relation to the implementation of the Treaty; and

In the case of Panama:

a) The Panamanian by birth according to article 9 of the Political Constitution of the Republic of Panama;

b) The Panamanian naturalization by according to article 10 of the Political Constitution of the Republic of Panama;

c) The Panamanian by adoption according to article 11 of the Constitution of the Republic of Panama; and

d) A person who, in accordance with the law, having the character of a permanent resident or final.

Part two. Trade In Goods

Chapter three. National Treatment and Market Access of Goods

Section A. Definitions and Scope of Application

Article 3.01. Definitions

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

Temporary admission of goods: the temporary admission of temporary admission of goods or goods;

Used:

a) Actually consumed; or

b) Processed or manufactured so as to result in a substantial change in value, form or use of the good or good in the production of another;

Printed materials advertising: brochures, pamphlets, leaflets, yearbooks trade catalogues, business associations, materials and posters tourism promotion, used to promote or publish, advertise a good or service and distributed free of charge, classified in chapter 49 of the Harmonized System;

Goods admitted for sports purposes means sports equipment for use in competitions, sports events or training in the territory of the Party to which is imported;

Agricultural goods: goods classified in chapters, any of the following headings or subheadings of the harmonized system according to the 1996 amendment:

(note: the description is provided for purposes of reference)

Tariff classification description

Chapters 01 to 24 (except fish and fish products)

Subheading 2905.43 manitol

Subheading 2905.44 Sorbitol

Heading 33.01 Essential oils

Headings 35.01 to 35.05 Albuminoidal substances, modified starch or starch based products

Subheading 3809.10 Finishes and finishing products

Subheading 3824.60 Sorbitol, except that of subheading 2905.44

Headings 41.01 to 41.03 Leather and skins

Item 43.01 Raw furrings

Headings 50.01 to 50.03 Raw silk and silk waste

Headings 51.01 to 51.03 Wool and hair

Headings 52.01 to 52.03 Cotton, twigs, cotton and cotton waste carded or combed

Heading 53.01 Unbleached linen

Heading 53.02 Raw hemp

Goods intended for display or demonstration, ancillary apparatus: includes components and accessories;

Commercial samples of negligible value: the commercial or non-commercial samples valued (individually or in the aggregate sent) in no more than one United States dollar (US) or the equivalent amount in the currency of either parties or that are marked, broken, perforated or treated so that the disqualifying for sale or for any use that is not the samples;

Advertising films: recorded visual media, with or without sound which are essentially images showing the nature or operation of goods or services offered for sale or lease or established by a person resident in the territory of a Party, provided that the motion pictures suitable for exhibition to prospective customers but not for broadcast to the general public, which are imported in each packets that contain no more than one copy of each film and do not form part of a larger consignment;

Fish and fish products: fish, crustaceans, molluscs or any other aquatic invertebrates, marine mammals and their derivatives, classified in any of the following chapters, headings or subheadings of the Harmonized System, according to the 1996 amendment:

(Note: descriptions are provided for reference purposes)

Tariff classification Description

Chapter 03 Fish and crustaceans, molluscs and other aquatic invertebrates

Heading 05.07 Ivory, turtle shell, marine mammals, horns, antlers, hooves, hooves, claws, claws and their products

Heading 05.08 Coral and similar products

Heading 05.09 Natural sponges of animal origin

Subheading 0511.91 Products of fish or crustaceans, molluscs or any other invertebrate seafarer; the dead animals of chapter 03

Heading 15.04 Fats or oils and their fractions, of fish or marine mammals

Heading 16.03 Extracts and juices other than meat

Heading 16.04 Prepared or preserved fish

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

Subheading 2301.20 Flour, food, fish pellets;

Repairs or alterations: those that do not include operations or processes that destroy the essential characteristics of a merchandise or convert it into a new or commercially different merchandise. For these purposes, it will be understood that an operation or process that forms part of the production or assembly of an unfinished merchandise to transform it into a finished merchandise, is not a repair or alteration of the unfinished merchandise; the component of a commodity is a commodity that may be subject to repair or modification; and

Export subsidies for agricultural goods means those which relate to:

a) The granting of direct subsidies for export, including payments in kind, by governments or government agencies, to an enterprise and a branch of production, to an agricultural producers of goods to a cooperative or other producers of such association or to a marketing board;

b) The sale or export for disposal of non-commercial stocks of agricultural goods, by governments or government agencies at a price lower than the comparable price charged to buyers in the domestic market for a similar agricultural goods;

c) Payments on the export of agricultural goods that are financed by virtue of governmental measures, whether or not a charge on the public accounts, including payments financed from the proceeds of a levy imposed on the agricultural goods concerned or to an agricultural product from which the exported agricultural goods;

d) The award of subsidies to reduce the costs of marketing services exports of agricultural goods (other than the easy availability of promotion and advice on exports), including the costs of handling, processing and other processing costs and the costs of international transport and freight;

e) The costs of the internal transport and freight charges on export shipments, established or imposed by Governments on terms more favourable than for domestic shipments; or

f) Subsidies on agricultural goods contingent on their incorporation in exported goods.

Article 3.02. Scope

This chapter applies to trade in goods between the parties.

1. Each Party shall accord to the National Treatment goods of the other Party in accordance with article III of the GATT 1994, including its interpretative notes are incorporated into this Agreement and form an integral part thereof.

2. For purposes of paragraph 1, each Party shall accord to the goods of the other party treatment no less favourable than the most favourable treatment accorded by that Party to or similar goods directly competing substitute of national origin.

Section C. Tariffs

Article 3.04. Programme of Tariff Relief

1. From the entry into force of this Treaty, the parties undertake to ensure access to their respective markets through the final and total elimination of the tariff.

Customs import and any other duty or charge, the trade of goods originating except those contained in annex 3.04.

2. Except as otherwise provided in this Treaty, this article is not intended to preclude a Party from maintaining or increasing a customs tariff as may be permitted in accordance with the provisions of the WTO Agreement or any other agreement which is part of the WTO.

3. Paragraph 1 does not prohibit a party from increasing a customs tariff to a level not exceeding the established in the schedule of tariff relief, when the Customs Tariff previously been unilaterally reduced to a level lower than that established in the schedule of tariff relief. During the process of tariff relief, the parties undertake to apply in their mutual trade of goods originating, the lesser of the customs duties resulting from a comparison between the established in accordance with the schedule of tariff relief and applied in accordance with article 1 of the GATT 1994.

4. At the request of any of the Parties, the Parties shall consult to consider accelerating the elimination of customs duties set out in the schedule of tariff relief.

5. Notwithstanding paragraphs 1 to 4, any Party may maintain or adopt or modify a customs tariff on goods excluded from the tariff relief program contained in annex 3.04.

Article 3.05. Temporary Admission of Goods

1. Each Party shall allow the temporary admission of goods free of customs tariff, including:

a) Professional equipment necessary for carrying out the activity, trade or profession of a business person who meets the requirements for temporary entry under the provisions of Chapter 14 (temporary entry for business persons);

b) Equipment for the press or for transmission to air of radio or television broadcasting and cinematographic equipment;

c) Admitted for sports purposes and goods intended for display or demonstration;

And

d) Commercial Samples and Advertising films;

Admitted to the territory of the other party, regardless of their origin and that in the territory of the Party are available directly or similar goods competing substitutable.

2. Except as otherwise provided in this Treaty, any party subject the temporary admission free of customs tariff of a good of the type indicated in paragraph 1 (a), (b) or (c), other than the following conditions:

a) Where the goods are accepted by a national or resident of the other party who seeks temporary entry;

b) Where the goods are used exclusively by the visitor or person under the personal supervision in the performance of its activity, trade or profession;

c) That the goods not be sold or leased while in its territory;

d) If the goods to be accompanied by a bond not exceeding one hundred ten percent (110 percent of the charges that would otherwise due to his case by the final importation, or by another form of guarantee reimbursable at the time of the exportation of goods is not required, except that a bond for customs duties on goods originating whichever is;

e) Where the good be capable of identification when outside its territory;

f) Where the goods leave together with that person or within a reasonably time period corresponding to the purpose of the temporary admission; and

g) If the goods to be admitted in quantity no greater than is reasonable for its intended use it.

3. Except as otherwise provided in this Treaty, any party subject the temporary admission free of customs tariff of a good of the type indicated in paragraph 1 (d), other than the following conditions:

a) Where the goods are allowed only for purposes of live orders for goods of the other party, regardless of their origin, or services provided from the territory of the other party;

b) Where the goods are not intended for sale or lease, and is used only for demonstration or exhibition while in its territory;

c) Where the good be capable of identification when outside its territory;

d) Where the goods leave within a period reasonably corresponding to the purpose of the temporary admission; and

e) If the goods to be admitted in quantity no greater than is reasonable in agreement with the use to which it is intended.

4. Where a good is temporarily admitted free of customs tariff in accordance with paragraph 1 fails to comply with any of the conditions that imposes a Party under paragraphs 2 and 3, that party may apply:

a) The customs duty and any other charge that would be due to the final importation of the same; and

b) Any criminal, civil or administrative penalties that the circumstances warrant.

5. Subject to the provisions of Chapters 10 (investment) and eleven (cross-border trade in services):

a) Each Party shall permit containers and vehicles used in international transport which have entered into its territory from the other party to its territory on any exit route that is reasonably related to the economic and prompt departure of such vehicle or container;

b) A Party may require any bond or impose any penalty or charge solely by reason of the entry of a vehicle or container is different from that of departure;

c) No party will condition the release of any obligation, including a bond that has applied for the entry of a vehicle or container into its territory on its exit is made by a port in particular; and

d) No party may require that the carrier bringing a vehicle or container into its territory from the territory of the other party, is the same as that in the territory of the other party.

6. For purposes of paragraph 5: means a vehicle, trailer truck, tractocamión 1.tractor, trailer or unit or locomotive freight railroad or other equipment.

Article 3.06. Import Free of Customs Tariff for Commercial Samples of Negligible Value or No Commercial Value and Printed Materials Advertising

Each Party shall authorize the free customs tariff for Importation of Commercial Samples of negligible value or no commercial value and printed materials advertising, regardless of their origin, if imported from the territory of the other party, but may require that:

a) Such commercial samples be imported solely for purposes of live orders for goods or services of the other party, regardless of their origin, or services are supplied from the territory of the other party or of a non- Party; or

b) Such advertising materials be imported in printed packets containing no more than one copy of each form, and that neither the materials nor packets form part of a larger consignment.

Article 3.07. Re-imported Goods after Having Been Repaired or Altered

1. No party may apply a customs duty to a good regardless of their origin, which is being re-imported into its territory after being or having left temporarily exported to the territory of the other party to be repaired or altered, regardless of whether such repair or alteration could be performed in its territory.

2. No party may apply the customs duties on goods, regardless of their origin, are admitted temporarily from the territory of the other party to be repaired or altered.

3. Both the reimportation referred to in paragraph 1 as temporary admission referred to in paragraph 2 shall be made within the time period established in the respective laws of the Parties.

Article 3.08. Customs Valuation

1. The Customs Valuation Agreement shall govern the customs valuation rules applied by the parties in their reciprocal trade in the manner in which the parties have taken.

2. Notwithstanding paragraph 1, the Central American countries that have negotiated reservations to the WTO in light of

annex III to the Agreement on Implementation of article VII of GATT 1994, after two years (2) of the entry into force of this Treaty, shall apply between the parties fully the Customs Valuation Agreement, including its Annexes and notes, and shall determine the value of the goods on the basis of minimum values.

Article 3.09. Restrictions on Domestic Support and Programmes to Support Exports

The Parties shall establish the treatment to domestic support for agricultural goods and to support programmes for exports in annex 3.09

Article 3.10. Restrictions on Imports and Exports

1. The parties undertake to complete immediately and eliminate non-tariff barriers, with the exception of the Rights of the Parties in accordance with Articles XX and XXI of the GATT 1994 and those covered in chapter 8 (sanitary and phytosanitary medidas.3 - 9) and chapter 9 (measures of standardization, metrology and authorization procedures).

2. Except as otherwise provided in this Treaty, no Party may adopt or maintain a prohibition or restriction on the importation of any goods of the other party or on the exportation for sale or export of any good destined for the Territory of the other party, except as provided in article XI of the GATT 1994, including its interpretative notes. To this end article XI of GATT 1994 and its interpretative notes are incorporated into this Agreement and form an integral part thereof.

3. The parties understand that the rights and obligations of GATT 1994 as incorporated in paragraph 2, prohibit in any circumstances in which any other form of restriction is, the requirements of export prices and except as permitted for the Implementation of Resolutions and Commitments anti-dumping and countervailing measures, the requirements of import prices.

4. In cases where a party adopts or maintains a prohibition or restriction on the importation or exportation of goods to non- or a party, no provision of this Treaty.

a) Shall be construed as to prevent the other party limiting or prohibiting the importation of the goods in the country no party from the territory of the other party; or

b) To allow the requiring party as a condition of the export of goods to the territory of the other party, which shall not be re-exported non-party to the country, directly or indirectly, without being consumed in the territory of that other party.

5. In the event that a party adopts or maintains a prohibition or restriction on the importation of goods of a non- Party, at the request of the other party the Parties shall consult with a view to avoiding undue interference with or distortion pricing mechanisms, marketing and distribution in that other party.

6. Paragraphs 1 through 4 shall not apply to the measures set out in annex 3.10 (6).

Article 3.11. Rights of Customs Formalities and Consular Rights

1. From the entry into force of this agreement, either of the Parties to apply the right of existing customs formalities, or adopt new customs formalities on goods originating, except as provided in annex 3.11 (1).

2. Neither party will consular fees or charges or require consular formalities on goods originating from the entry into force of this Treaty, except as provided in annex 3.11 (2).

Article 3.12. Geographical Indications and Designations of Origin

1. Each Party shall recognize and protect the geographical indications and designations of origin of the other Party in accordance with this article.

2. Neither Party shall permit the import, manufacture or sale of goods using a geographical indication or designation of origin in the other party unless it has been drawn up and certified in accordance with its applicable legislation to that good.

3. The provisions of paragraphs 1 and 2 shall only those effects in respect of geographical indications and designations of origin and protected by the legislation of the party claiming the protection and whose definition consistent with paragraph 1 of article 22 of the TRIPS Agreement. Furthermore, for access to the protection, each Party shall notify the other party of geographical indications or designations of origin that complying with the requirements set forth above, should be considered within the scope of protection.

4. The foregoing is without prejudice to the recognition that the parties may accord to geographical indications and designations of origin may lawfully homonymous non- belong to a party.

Article 3.13. Country of Origin

1. Each Party shall apply to the goods of the other party, where appropriate, legislation relating to their country of origin marking, pursuant to Article IX of GATT 1994. To this end article XI of GATT 1994 is incorporated into this Agreement and form an integral part thereof.

2. Each Party shall accord to the goods of the other party treatment no less favourable than that accorded to goods of a non- party with regard to the implementation of the rules relating to country of origin marking, pursuant to Article IX of GATT 1994.

3. Each Party shall ensure that the establishment and implementation of their respective laws on country of origin marking does not have the purpose or effect of creating unnecessary obstacles to trade between the parties.

Article 3.14. Export Taxes

Without prejudice to annex 3.14, no party shall adopt or maintain taxes, levies or charge on the export of goods from the territory of the other party, unless it is adopted or maintained on such goods, when it is intended for domestic consumption.

Article 3.15. International Obligations

A party, before taking a measure pursuant to an intergovernmental agreement on goods under subparagraph (h) of the article XX of GATT 1994, that may affect trade between the parties shall consult with the other party for avoiding nullification or impairment of a concession granted by the Party in accordance with article 3.04.

1. The parties establish a committee on trade in goods as set out in annex 3.16.

2. The Committee shall hear matters relating to this chapter and chapter 4 (rules of origin), chapter 5 (procedures) and the uniform customs regulations.

3. Without prejudice to article 1905 (2) (Committees), the Committee shall have the following functions:

a) The Committee refer to matters that impede access of goods to the territory of the Parties, in particular those related to the application of non-tariff measures; and

b) Promoting trade in goods through consultations between the parties

Studies and to modify the time-limits set out in annex 3.04 to accelerate tariff relief.

Committee on Trade in Goods the Committee on Trade in Goods established in article 3.16 shall consist of:

a) In the case of Costa Rica, a representative of the Ministry of Foreign Trade or its successor;

b) In the case of El Salvador, a representative of the Ministry of Economy, or its successor;

c) In the case of Guatemala, a representative of the Ministry of Economy, or its successor;

d) In the case of Honduras, a representative of the Ministry of Industry and Trade, or its successor;

e) In the case of Nicaragua, a representative of the Ministry of Development, Industry and Trade, or its successor; and

f) In the case of Panama, the Ministry of Trade and Industries through the Vice-Ministry of Foreign Trade or its successor.

Chapter 4. Rules of Origin

Article 4.01. Definitions

For purposes of this chapter:

CIF means the value of the good imported and includes the cost of insurance and freight up to the port or place of entry into the country of importation;

FOB means the value of the good free on board regardless of the means of transport to final site or the port of shipment abroad;

A good means material that is used in the transformation of production or another includes goods and components, inputs, raw materials, parts and components;

Indirect means a good material used in production, testing or inspection of another good but not physically incorporated into the Party; or a good used in the maintenance of buildings or the operation of equipment associated with the production of a good including:

a) Fuel and energy; catalysts and solvents;

b) Aircraft, equipment and devices used for testing or inspecting the goods;

c) Gloves, spectacles, footwear, clothing, equipment and devices;

d) Tools and moulds, dies;

e) Spare parts and materials used in the maintenance of equipment and buildings;

f) Lubricants, fats, composite products and other products used in production, operation or maintenance of equipment and buildings;

g) Any other matters or product that is not incorporated into the good but properly documented a part of that production;

Fungible goods means interchangeable goods for commercial purposes and whose properties are essentially identical and which cannot be distinguished from one another for mere visual examination;

Goods wholly obtained or produced entirely in the territory of one or more Parties:

a) Minerals extracted in the territory of one or more of the Parties;

b) Vegetable products harvested in the territory of one or more of the Parties;

c) Live animals born and raised in the territory of one or more of the Parties;

d) Goods obtained from hunting or fishing in the territory of one or more of the Parties;

e) Fish, crustaceans and other marine species obtained from the sea outside the territorial waters and the maritime areas where the parties exercise jurisdiction, either by vessels registered or recorded with a party and carry the flag of the party or rented vessels by firms established in the territory of a party;

f) Goods produced on board ships from the factory goods identified in subparagraph (e) provided such factory ships are registered or recorded in a party and carry the flag of that Party factory ships or leased by a company established in the territory of a party;

g) Goods extracted from the seabed beneath the seabed or outside the territorial waters, by a party or a person of a Party provided that the Party has rights to exploit such seabed subsoil; or

h) Waste and scrap derived from:

i) The production in the territory of one or more Parties; or

ii) Used goods collected in the territory of one or more parties, provided that such goods are only for the recovery of raw materials; or

i) Goods produced in the territory of one or more of the Parties exclusively from goods referred to in subparagraphs (a) to (h) or from their derivatives, at any stage of production;

Generally accepted accounting principles means the principles used in the territory of each Party which confer substantial authoritative support with respect to the recording of income, expenditure, assets and liabilities involved in information and the preparation of financial statements. These indicators may be broad guidelines of general application as well as those standards and practices usually employed in the accounting procedures;

Production: the cultivation, production, harvesting, the birth and upbringing, fishing, hunting, processing, manufacture or assembly of goods;

Value shall be: the value of a good or a material, under the Rules of the Customs Valuation Agreement;

The transaction value of a good means the price actually paid or payable for a good with respect to a transaction of the producer of the good in accordance with the principles of article 1 of the Customs Valuation Agreement, adjusted in accordance with the principles of paragraphs 1, 3 and 4 of Article 8 of the same without considering that the good is sold for export. For the purposes of this definition, the seller referred to in the agreement on customs valuation shall be the producer of the goods; and

The transaction value of a material means the price actually paid or payable for a material with respect to a transaction of the producer of the good in accordance with the principles of article 1 of the Customs Valuation Agreement, adjusted in accordance with the principles of paragraphs 1, 3 and 4 of Article 8 of the same without considering that the material is sold for export. For the purposes of this definition, the seller referred to in the agreement on customs valuation shall be the supplier of the material and the buyer referred to in the agreement on customs valuation shall be the producer of the goods.

Article 4.02. Instruments of Application and Interpretation

1. For purposes of this chapter:

a) The Harmonized System shall be the basis for the tariff classification of goods; and

b) The principles and norms of the Customs Valuation Agreement shall be used for the determination of value of a good or a material.

2. For purposes of this chapter, in applying the Agreement on customs valuation to determine the origin of a good:

a) The principles and norms of the Customs Valuation Agreement shall apply to domestic transactions with such modifications as circumstances require, as would apply to international standards; and

b) The provisions of this chapter shall prevail over the customs valuation agreement to the extent of the inconsistency.

Article 4.03. Goods Originating

1. Except as otherwise provided in this chapter shall be regarded as originating goods when:

a) Is wholly obtained or produced entirely in the territory of one or more of the Parties;

b) Is produced in the territory of one or more of the Parties exclusively from materials that qualify as originating under this chapter;

c) Is produced in the territory of one or more of the Parties from non-originating materials that conform to a change in tariff classification, a regional value content or other

Requirements as specified in annex 4.03 and the good complies with the other applicable provisions of this chapter; or

d) Is produced in the territory of one or more of the Parties but one or more of the non-originating materials used in the production of the good does not satisfy a change in tariff classification because:

i) The goods are imported into the territory of a party without assembling or desensamblada and has been classified as an assembled good pursuant to rule 2 (a) of the general rules for the interpretation of the Harmonized System;

ii) The goods and their parts are classified under the same heading and describes specifically provided that it is not divided into subheadings; or

iii) The goods and their parts are classified in the same subheading and describes it specifically;

Provided that the regional value content of the good determined in accordance with article 4.07, not less than 30 per cent (30%), and the good complies with the other applicable provisions of this chapter, unless the applicable rule of origin specified in annex 4.03 under which the good is classified specifies a requirement of different regional value content, in which case it shall be applied.

Nothing in this subparagraph does not apply to the goods covered in Chapters 61 to 63 of the Harmonized System.

2. If a party complies with the specific rule of origin established in annex 4.03, is not required in compliance with the requirement of regional value content established in paragraph 1 (d).

3. For purposes of this chapter, the production of a good from non-originating materials that conform to a change in tariff classification and other requirements as specified in annex 4.03, shall be done entirely in the territory of one or more parties, and all the regional value content of a good shall be met entirely in the territory of one or more parties.

4. Notwithstanding the provisions of this article shall not be regarded as originating goods that despite the requirement of a change in tariff classification under the materials are solely the result of operations provided for in article 4.04 performed in the territory of the Parties by the acquiring the final form in which they are marketed, where such operations using non-originating materials, unless the specific rule of origin of annex 4.03 otherwise.

Article 4.04. Minimal Operations or Processes

Minimal operations or processes which individually or in combination with each other, do not confer origin goods are the following:

a) Aeration, ventilation, drying, chilling, freezing;

b) Washing, cleaning, sifting screening, sorting, classifying, or zarandeo entresaque or rank;

c) Peeling husking or desconchado, desgranado boning estrujado, or who, macerado;

d) Removal of dust or damaged parts or damaged, implementation of oil or protective coatings, paint oxide;

e) Testing or division; calibration of bulk shipments, grouping in packs, accession of marks or labels, products or distinguishing signs on their packaging;

f) Packaging, repackaging or unpacking;

g) Dilution in water or in any other aqueous solution, ionization and salting;

h) Armed or simple assembly of parts of products to constitute a complete sets of goods, formation or sets of goods; and

i) The slaughter of animals.

Article 4.05. Indirect Materials

Indirect materials shall be treated as originating regardless of their development or production and the value of such materials shall be the same as in the accounting records of the producer of the goods.

Article 4.06. Cumulation

1. A Party may only accumulate origin of goods originating in countries in respect of which is in force of this Treaty.

2. Originating materials or goods originating in the territory of a Party incorporated into a good in the territory of another party, shall be considered as originating in the territory of the latter.

3. For purposes of establishing whether a product originating, is the producer of a good may accumulate its production with that of one or more producers in the territory of one or more Parties, of materials that are incorporated into the good so that the production of the materials is considered as that done by producer, provided that the good satisfies the requirements in article 4.03.

4. The cumulation shall be applied in the following manner:

a) If all parties of this Treaty with a specific rule of origin for a good; or

b) Where a group, not less than three (3) of this Treaty, the parties agree to a specific rule a common origin of goods and a period of tariff relief.

5. Two (2) years after the entry into force of this treaty for all parties, they shall establish a work program to examine the possibility of materials originating in Panama may be acquired for the purpose of the fulfilment of the rule of origin intracentroamericana. The foregoing, provided that the goods to which incorporates such materials enjoys free trade between Panama and each Central American country and between them.

6. Notwithstanding the provisions of paragraph 5, if the countries of Central America accord the treatment referred to in this paragraph to a non- party before that Panama, they shall accord no less favourable treatment to materials originating in

Panama.

Article 4.07. The Regional Value Content

1. The regional value content of the goods shall be calculated according to the following formula:

Where:

VCR: is the regional value content, expressed as a percentage;

MV: is the transaction value of the good adjusted on a FOB basis, except as provided in paragraph 2. In the event that there is no value or cannot be determined according to the principles of article 1 of the Customs Valuation Agreement; the same shall be calculated in accordance with the principles and provisions of articles 2 to 7 of this Agreement; and

Vmn: is the transaction value of non-originating materials adjusted on a CIF basis, except as provided in paragraph 5. In the event that there is no value or cannot be determined according to the principles of article 1 of the Customs Valuation Agreement; the same shall be calculated in accordance with the principles and provisions of articles 2 to 7 of this Agreement.

2. When the good is not a producer of the exported directly, the value shall be adjusted to the point at which the buyer receives the good within the territory where the producer is located.

3. When the origin is determined by the method of regional value content, the percentage required specified in annex 4.03.

4. All costs considered for the calculation of regional value content shall be recorded and maintained in accordance with generally accepted accounting principles applicable in the territory of the Party where the good is produced.

5. When the producer of a good acquires a non-originating material in the territory of the party where it is located, the value of a non-originating material shall not include freight and insurance costs, packing and all other costs incurred in transporting the material from the warehouse of the supplier to the place where the producer is located.

6. For purposes of calculating the regional value content of the value of the non-originating materials used in the production of a good shall not include the value of non-originating materials used in the production of material acquired and used an originating in the production of that good.

Article 4.08 . De Minimis

1. A good that does not satisfy a change in tariff classification as set out in annex 4.03 originating, shall be considered if the value of all the non-originating materials which do not meet the requirement change tariff classification used in production does not exceed ten percent (10%) of the value of the good determined pursuant to article 4.07.

2. In the case of goods classified in Chapters 50 to 63 of the Harmonized System, the percentage indicated in paragraph 1 shall relate to the weight of fibers and yarns with respect to the weight of the goods produced.

3. Paragraph 1 does not apply to a non-originating material used in the production of goods falling within chapters 01 to 24 of the Harmonized System unless the non-originating material is included in a different subheading than the good for which the origin is being determined under this article.

Article 4.09. Fungible Goods

1. Where in the development or production of goods are used and non-originating fungible goods originating, the origin of these goods may be determined by one of the inventory management methods, at the choice of the producer:

a) Method of first in, first out (FIFO);

b) Method of last in, first out (UEPs); or

c) Average method.

2. Where goods are originating fungible and non-originating materials are physically combined in mixed or inventory, and prior to their exportation do not undergo any production process or any other operation in the territory of the Party in which they were physically mixed or combined, other than reloading unloading, or any other movement necessary to maintain the goods in good condition or to transport in the territory of another party, the origin of the good may be determined by one of the inventory management methods.

3. Selected once one of the inventory management methods, it shall be used throughout the fiscal year or period.

Article 4.10. Sets or Sets of Goods

1. The games or sets of goods that are classified pursuant to rule 3 of the general rules for the interpretation of the Harmonized System and goods

Whose description according to the nomenclature of the Harmonized System is specifically that of a set or assortment, calificarán as originating, provided that each of the goods in the set or assortment complies with the established rules of origin in this chapter and in annex 4.03.

2. Notwithstanding paragraph 1. a set or assortment of goods originating shall be considered if the value of all non-originating goods used in the training of the Set assortment or does not exceed the percentage specified in Article 4.08 (1) in respect of the value of the Set or assortment adjusted on the basis indicated in article 4.07 (1) or (2), as the case may be.

3. The provisions of this article shall prevail over the specific rules established in annex 4.03.

Article 4.11. Accessories , Spare Parts and Tools

1. Spare parts and accessories, tools delivered with the good as a normal part thereof shall not be taken into account in determining whether all the non-originating materials used in the production of a good satisfy the applicable change in tariff classification set out in annex 4.03, provided that:

a) Accessories, spare parts and tools are not invoiced separately from the good regardless of whether they are disaggregated or detail each in the invoice; and

b) The quantity and value of the accessories, spare parts and tools are customary for the goods that are the subject of classification.

2. If the good is subject to a regional value content requirement, accessories, spare parts and tools shall be considered as originating or non-originating materials as the case may be in calculating the regional value content of the good.

3. A accessories, spare parts and tools that do not meet the conditions mentioned above shall apply the rule of origin for each of them separately.

Article 4.12. Packaging Materials and Containers In Which a Good Is Submitted for Retail Sale

1. Where the packaging materials and containers in which a good is submitted for retail sale are classified in the Harmonized System as containing goods, shall not be taken into account in determining whether all the non-originating materials used in the production of the good satisfy the applicable change in tariff classification set out in annex 4.03.

2. If the good is subject to a regional value content requirement, containers and packaging materials shall be considered as originating or non-originating, as the case may be in calculating the regional value content of the good.

Article 4.13. Packing Materials and Containers for Shipment

Packing materials and containers for shipment in which the goods for carriage empaca shall not be taken into account for purposes of establishing whether:

a) Non-originating materials used in the production of the good satisfy the applicable change in tariff classification set out in annex 4.03; and

b) The good satisfies a regional value content requirement.

Article 4.14. Transhipment and Direct Consignment or International Transit

Originating not lose when such goods exported from one party to the other party and pass in transit through the territory of any other Party or non-Party provided that they comply with the following requirements:

a) The transit is justified by reasons or by geographical considerations related to international transport requirements;

b) Has not been nationalized or is not intended for use or employment in the country of transit; or

c) During transport and storage is processed or not undergo operations other than packaging, handling, packaging, reempaque manipulation or to ensure the conservation; and

d) Remain under the control or monitoring of the customs authority in the territory of a country that is a Party or non-Party.

Otherwise, the goods lost their character as originating.

1. A requirement of a change in tariff classification applies only to non-originating materials.

2. Where a specific rule of origin is defined in the criterion of a change in tariff classification and shall exclude tariff headings of Chapter heading or subheading of the Harmonized System, shall be construed that materials for these positions shall be originating tariff for the good to qualify as originating.

3. Materials which are excepted with commas and with the choice "" originating or shall be for the good to qualify as originating in the same, whether used one or more production materials listed in the derogation.

4. Where a tariff heading or subheading alternative is subject to specific rules of origin, it shall be sufficient to comply with one of them.

5. Where a specific rule of origin established for a group of headings or subheadings change from a subheading or any other heading, it may take place within and outside the group of headings or subheadings rule, as specified in the case may be, unless otherwise specified.

Chapter 5. Customs Procedures

Article 5.01. Definitions

1. For purposes of this chapter:

The competent authority: that according to the legislation of each party is responsible for the administration and enforcement of its customs laws and regulations, and / or the administration and / or implementation of this chapter and chapters 3 (National Treatment and access of goods to the market) and (4) Rules of Origin, and the uniform regulations, which is originating. In the uniform regulations shall specify the competent authorities of each party;

Exporter means a person located in the territory of a Party from which the good was exported by it and that is required to maintain the Party in the territory of the records referred to in article 5.04 (5);

Import trading: the importation of a good into the territory of a Party for the purpose of sale or use it for commercial purposes, industrial or similar;

Importer means a person located in the territory of a Party from where the good is imported by it, and that is required to maintain the Party in the territory of the records referred to in article 5.03 (4);

Confidential information: the Party that is by nature of that nature and that has not previously been issued, is not available to third parties, whether or not otherwise publicly available;

Identical goods: "" identical goods as defined in the agreement on customs valuation;

Procedure for verifying the origin: administrative process that began with the notice of initiation of investigations by the competent authority of a party and concludes with the final resolution of a determination of origin;

Producer means a producer as defined in article (2.01 definitions of general application), located in the territory of a party who is obliged to remain in the territory of the party the records referred to in article 5.04 (5);

Resolution of: a determination of origin issued as a result of the resolution procedure to verify the origin, whether establishing a good qualifies as originating in accordance with chapter 4 (rules of origin); and

Preferential tariff treatment: the application of tariff rate corresponding to goods originating according to the schedule of tariff relief.

2. Except as set out in this article are incorporated into this chapter the definitions established in Chapter 4 (rules of origin).

Article 5.02. Certificate of Origin and Declaration

1. For purposes of this chapter, before the date of entry into force of this Treaty, the parties have developed a single form for the certificate of origin and a single format for the declaration of origin, which may be amended by agreement between the parties.

2. The certificate of origin referred to in paragraph 1 shall serve to certify that a good being exported from the territory of one party to the territory of the other party qualifies as originating. The certificate shall be valid for a maximum of one (1) year from the date of its signature.

3. Each Party shall provide its exporters that complete and sign a certificate of origin for the exportation of a good for which an importer may claim preferential tariff treatment.

4. Each Party shall provide that:

a) Where an exporter is not the producer of the good, complete and sign the certificate of origin on the basis of:

i) Its knowledge of whether the good qualifies as originating;

ii) The reasonable reliance on the producer written declaration that the good qualifies as originating; or

iii) The declaration of origin referred to in paragraph 1; and

b) The declaration of origin that covers the goods to be exported is filled out and signed by the producer of the good and voluntarily provided to the exporter. The declaration shall be valid for a maximum of one (1) year from the date of its signature.

5. Each Party shall provide that a Certificate of Origin filled and signed by the exporter in the territory of the other party cover:

a) A single importation of goods or one or more;

b) Several importations of identical goods to be undertaken by the same importer, within a specific time limit established by the exporter in the certificate, which shall not exceed one year (1).

Article 5.03. Obligations with Respect to Imports

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

a) A written declaration in the importation document required by its laws, based on a valid certificate of origin, that the good qualifies as originating;

b) The certificate of origin in its possession at the time the declaration referred to in subparagraph (a);

c) Provide a copy of the certificate of origin if requested by the competent authority; and

d) This, without delay, a declaration and the corrected pay corresponding customs tariffs, if it has reason to believe that the certificate of origin in its import declaration contains incorrect information. When the importer complies with the obligations shall not be penalized.

2. Each Party shall provide that where an importer in its territory fails to comply with any of the requirements established in this chapter, deny the preferential tariff treatment for goods imported from the territory of the other party.

3. Each Party shall provide that where the importer has not request preferential tariff treatment for a good imported into its territory that is qualified as originating, it shall, within one (1) year from the date of importation, request the return of customs duties paid in excess of not having been granted preferential tariff treatment to the goods, provided that the certificate of origin in its possession and the application is accompanied by:

a) Expressing a written declaration that the good qualified as originating at the time of importation;

b) A copy of the certificate of origin; and

c) Any other documentation relating to the importation of the goods, as required by that Party.

4. Each Party shall provide that where an importer requesting preferential tariff treatment for a good imported into its territory from the territory of the other party, retained for a minimum period of five (5) years after the date of importation,

the certificate of origin and all other documentation relating to the importation required by the importing Party.

Article 5.04. Obligations with Regard to Exports

1. Each Party shall provide that its exporter or producer that has completed and signed a declaration or certificate of origin shall deliver a copy of the certificate of origin or declaration to its competent authority upon request.

2. Each Party shall provide that its exporter or producer that has completed and signed a declaration or certificate of origin and has reason to believe that the certificate or declaration contains incorrect information, and without delay notify in writing of any change that could affect the accuracy or validity of the Declaration or certificate of origin to all persons to whom he re-delivered Declaration or the certificate of origin, as the case may be, as well as to its competent authority. In such cases the producer or exporter shall not be liable for having submitted an incorrect certificate or declaration.

3. Each Party shall provide that the competent authority of the exporting Party shall notify in writing to the competent authority of the importing Party on the notification referred to in paragraph 2.

4. Each Party shall provide that the certificate of origin or false declaration made by its exporter or producer that a good to be exported to the territory of the other party qualifies as originating, is similar, with such modifications as circumstances require that those that would apply to an importer that makes a false declarations or statements in contravention of its customs laws and regulations or other applicable.

5. Each Party shall provide that its exporter or producer who filled and signed a declaration or certificate of origin retained for a minimum period of five (5) years after the date of signature or certificate of this Declaration, all records and documents related to the origin of the goods, including those relating to:

a) The acquisition, costs, the value and payment for the good that is exported from its territory;

b) The acquisition, costs, the value and payment of all, including the indirect materials used in the production of the good that is exported from its territory; and

c) The production of the good in the form in which it was exported from its territory.

Article 5.05. Exceptions

If not Part Two (2) or more imports or seek for the purpose of avoiding the certification requirements of articles and 5.02 5.03, a Party shall not require a certificate of origin in the following cases:

a) In the case of a commercial importation of a good whose customs value does not exceed 1,000 United States dollars (US), or its equivalent in national currency or a higher amount as that party may establish, but may require that the commercial invoice contains or be accompanied by a statement from the importer or exporter that the good qualifies as originating;

b) In the case of a non-commercial importation of a good whose customs value does not exceed 1,000 United States dollars (US), or its equivalent in national currency or a higher amount as that party may establish; or

c) Where an importation of a good for which the importing Party has waived the requirement for a certificate of origin.

Article 5.06. Invoicing by a Third-country Operator

When the goods that are the subject of trade is invoiced by an operator of a third country that is a party or non-party, the producer or exporter of the country of origin shall draw on the certificate of origin, in the remarks "" box on which the goods subject to its statement shall be invoiced from that third country and identify the name, the name and address of the operator shall ultimately invoiced the operation of destination.

Article 5.07. Confidentiality

1. Each Party shall maintain in accordance with its laws, the confidentiality of the information that is such that has been obtained pursuant to this chapter and shall protect from any disclosure.

2. The confidential information collected pursuant to this chapter may be disclosed only to those authorities responsible for the administration and enforcement of determinations of origin of tax and customs matters or in accordance with the legislation of each party.

Article 5.08. Procedures for Verification of Origin

1. The importing Party may request information from the exporting Party to determine the origin of a good.

2. In determining whether a good imported from the territory of the other party under preferential tariff treatment qualifies as originating, the importing Party may, through its competent authority to verify the origin of the good through:

a) Written questionnaires and requests for information to an exporter or producer of the exporting Party;

b) Visits to the premises of the exporter or producer in the territory of the exporting Party to review the records and documents referred to in article 5.04 (5), in addition to inspect the facilities and materials or products that are used in the production of the goods; and

c) Other procedures as agreed by the parties.

3. The exporter or producer who receives a questionnaire or request for information under paragraph 2 (a) shall fill and return it within a period of thirty (30) days from the date on which it is received. During this period the exporter or producer may one-time request in writing to the importing Party extension, which may not exceed thirty (30) days.

4. In the event that the exporter or producer does not return the questionnaire duly responded within the time allowed or during its extension, the importing Party may deny preferential tariff treatment.

5. Prior to conducting a verification visit pursuant to paragraph 2 (b), the importing Party shall be bound, through its competent authority to notify in writing of its intention to conduct the visit. The notification shall be sent to the exporter or producer to be visited, the competent authority of the Party in whose territory the visit and, if so requested, to the embassy of that Party in the territory of the importing Party. The competent authority of the importing Party shall obtain the written consent of the exporter or producer who seeks to visit.

6. The notification referred to in paragraph 5 shall contain:

a) The identification of the competent authority making the notification;

b) The name of the exporter or producer to be visited;

c) The date and place of the proposed verification visit;

d) The object and scope of the proposed verification visit, with specific reference to the good or goods subject to verification;

e) The identification and titles of the officials who shall carry out the verification visit; and

f) The legal authority for the verification visit.

7. If within thirty (30) days after the date of receipt of the notification of the proposed verification visit according to paragraph 5, the exporter or producer has not given its written consent for the same, the importing Party may deny preferential tariff treatment to the good or goods that would have been the subject of the verification visit.

8. Each Party shall provide that when the exporter or producer receives notification pursuant to paragraph 5 shall, within fifteen (15) days after the date of receipt of the notification, once, request a postponement of the proposed verification visit for a period not exceeding sixty (60) days from the date on which the notification was received, or for a longer period as may be agreed by the parties. For this purpose, it shall notify the postponement of the visit to the competent authority of the importing Party and the exporting Party.

9. A Party shall not deny preferential tariff treatment based solely on the postponement of a verification visit pursuant to paragraph 8.

10. Each Party shall permit the exporter or producer whose goods are the subject of a verification visit to designate two observers to be present during the visit provided solely to intervene in that capacity. Not observers designated by the exporter or producer that omission shall not result in the postponement of the visit.

11. Each Party shall verify compliance with the requirements of the regional value content of the de minimis calculation or any other measure contained in chapter 4 (rules of origin) through its competent authority in accordance with the generally accepted accounting principles applicable in the territory of the Party from which the good was exported.

12. The procedure to verify the origin contained in this article shall be carried out for a maximum period of one (1) year. However, in duly substantiated cases for each case, it may extend that period in accordance with the uniform regulations.

13. Within the period referred to in paragraph 12 or extension set out in the uniform regulations for conducting the procedure for verification of origin, the competent authority shall provide the exporter or producer whose goods are the subject of the verification of origin, in determining whether a written decision

The goods or otherwise qualifies as originating, including findings of fact and the legal basis for the determination.

Each Party shall provide that if within the period referred to in paragraph 12 or extension set out in the uniform regulations, its competent authority does not issue a resolution of the determination of origin; the goods subject to verification of origin shall be eligible for preferential tariff treatment.

14. Where a verification by a party establishes that the exporter or producer has certified or certified more than once in a false or unfounded, that a good qualifies as originating, the importing party may suspend preferential tariff treatment to identical goods produced or exported by the same until such person proves that complies with the provisions of chapter 4 (rules of origin).

15. Each Party shall provide that where its competent authority determines that a good imported into its territory qualifies as originating in accordance with the tariff classification or the value applied by the Party to one or more materials used in the production of the good, and this differs from the tariff classification or value applied to the materials by the Party from whose territory the good was exported, the resolution of the importing Party shall not take effect until it notifies in writing the importer of both the good and the person that completed and signed the certificate of origin is protected.

16. A Party shall not apply to a decision issued pursuant to paragraph 15 an importation made before the date on which this decision takes effect, provided that:

a) The competent authority from whose territory the good was exported has issued an advance ruling pursuant to article 5.09, or any other ruling on the tariff classification or value of materials in which a person is entitled to rely; and

b) The aforementioned resolutions are prior to the notice of initiation of verification of origin.

Article 5.09. Resolution Advance

1. Each Party shall provide that, through its competent authority shall grant expeditiously advance written rulings prior to the importation of a good into its territory. Advance rulings shall be issued by the competent authority of the importing party at the request of the importer, or the exporter or producer in the territory of the other Party on the basis of the facts and circumstances expressed by the same with respect to:

a) Whether a good qualifies as originating in accordance with chapter 4 (rules of origin);

b) If the non-originating materials used in the production of a good satisfy the applicable change in tariff classification set out in annex 4.03 (specific rules of origin);

c) If the good complies with the regional value content established in Chapter 4 (rules of origin);

d) Whether the method applied by an exporter or producer in the territory of the other party, in accordance with the principles of the Customs Valuation Agreement for calculating the value of the good or of the materials used in the production of a good for which an advance ruling is suitable for determining whether the good complies with the regional value content requirement under rules of origin (chapter 4);

e) Whether a good re-enters that its territory after having been exported from its territory to the territory of the other party to be repaired or altered qualifies for preferential tariff treatment in accordance with Article (0307 re-imported goods after having been repaired or altered); and

f) Other matters as the parties may agree.

2. Each Party shall adopt or maintain procedures for the issuance of advance rulings, including:

a) The information reasonably required to process an application;

b) The competent authority may at any time request for additional information from the person requesting the advance ruling during the process of evaluating the application;

c) The obligation of the competent authority to issue the advance ruling after it has obtained all necessary information from the person requesting it; and

d) The obligation of the competent authority of dispatch fully informed and motivated the advance ruling.

3. Each Party shall apply to an advance ruling importations into its territory beginning on the date of the issuance of the resolution, or on a later date indicated in itself, except that the advance ruling was modified or revoked according to paragraph 5.

4. Each Party shall provide to any person requesting an advance ruling the same treatment including the same interpretation and application of the provisions of article (0307 re-imported goods after having been repaired or altered) and chapter 4 (a) Rules of Origin regarding determination of origin that has provided to any other person to whom it issued an advance ruling when facts and circumstances are identical in all substantial aspects.

5. The advance ruling may be modified or revoked by the competent authority in the following cases:

a) Where it is based on an error:

i) In fact;

ii) In the tariff classification of goods or materials;

iii) In the application of a regional value content requirement under rules of origin (chapter 4); or

(IV) In the application of the rules for determining whether a good re-enters that its territory after it has been exported from its territory to the territory of the other party for repair or alteration qualifies for duty-free treatment in accordance with article customs (0307 re-imported goods after having been repaired or altered);

b) If it is not in accordance with an agreed interpretation by the parties regarding chapter 3 (National Treatment and access of goods to market) or the rules of origin (chapter 4);

c) Where a change in the circumstances or facts therefor;

d) In order to comply with a modification to this chapter and chapter 3 (National Treatment and access of goods to the market), chapter 4 (rules of origin), or the uniform regulations; or

e) In order to comply with an administrative or judicial decision or a change in conformity with the legislation of the party that issued the advance ruling.

6. Each Party shall provide that any modification or revocation of an advance ruling takes effect on the date on which it is issued or on a later date that there is established. and shall not be applied to imports of goods made before those dates, unless the person to whom it was issued has not acted in accordance with its terms and conditions.

7. Notwithstanding paragraph 6, the party that issued the advance ruling shall postpone the date of entry into force of the modification or revocation for a period not exceeding ninety (90) days where the person to whom it issued an advance ruling was based on that basis and in good faith to its detriment.

8. Each Party shall provide that when considering the regional value content of a good for which it has issued an advance ruling, its competent authority evaluate whether:

a) The exporter or producer has complied with the terms and conditions of the advance ruling;

b) The exporter or producer operations are consistent with the material facts and circumstances underlying this resolution; and

c) The data supporting computations and used in applying the basis or method for calculating the correct value are substantial in all aspects.

9. Each Party shall provide that where its competent authority determines that has not been complied with any of the requirements established in paragraph 8, the Authority

Competent may modify or revoke the advance ruling as the circumstances warrant.

10. Each Party shall provide that where its competent authority determines that the advance ruling was based on incorrect information shall not penalize the person to whom it issued if it proves that it acted with reasonable care and good faith in stating the facts and circumstances on which the advance ruling.

11. Each Party shall provide that where it issues an advance ruling to a person that has omitted or falsely signified substantial facts or circumstances on which the advance ruling is based or has not acted in accordance with the terms and conditions of the same, the competent authority issuing the advance ruling may apply appropriate measures in accordance with its legislation.

12. The Parties shall provide that the holder of an advance ruling may use it only while maintaining the facts or circumstances that led to its issuance. In this case, the holder of the ruling may submit the information necessary for the appropriate authority that issued it pursuant to paragraph 5.

13. It shall not be the subject of an advance ruling a good that is subject to a procedure to verify the origin or a request of review or appeal in the territory of either party.

Article 5.10. Review and Challenge

1. Each Party shall grant to exporters or producers of the other party the same rights of appeal and review of determinations of origin and advance rulings referred to its importers, provided that:

a) Complete and sign a declaration or certificate of origin that covers a good that has been the subject of a determination of origin in accordance with article 5.08 (13); or

b) Has received an advance ruling pursuant to article 5.09.

2. The rights referred to in paragraph 1 shall include access to at least one level of administrative review of the independent office or official responsible for the determination of origin or an advance ruling subject to review and access to a level of judicial review of the determination or decision taken at the final level of administrative review, in accordance with the legislation of each party.

Article 5.11. Sanctions

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

2. Nothing in articles 5.03 (1) (d), 5.03 5.04 (2), (2), (4), 5.08 5.08 (7) or 5.08 (9) shall be construed to prevent a party from applying measures that apply under its law.

Article 5.12. Uniform Regulations

1. The Parties shall establish and implement through their respective laws or regulations by the date of entry into force of this Treaty and at any time thereafter, uniform regulations concerning the interpretation, application and administration of this chapter and chapter 3 (National Treatment and access of goods to the market), chapter 4 (rules of origin) and other matters as agreed by the parties.

2. The parties undertake to complete the negotiation of uniform regulations within sixty (60) days after the signature of this Treaty.

3. Once the uniform regulations, each Party shall implement any of modification or addition to within one hundred and eighty (180) days after the respective agreement between the parties or within any other period as they may agree.

Article 5.13. Cooperation

1. To the extent possible, a Party shall notify the other party of the following measures, determinations or resolutions, including those which are being applied:

a) A determination of origin issued as a result of the verification conducted pursuant to article 5.08, any high levels of review and appeal referred to in Article 5.10;

b) A determination of origin that the Party considers contrary to a ruling issued by the competent authority of the other Party on the tariff classification or value of a good or of the materials used in the production of a good;

c) A measure significantly establishing or modifying an administrative policy that could affect future resolutions of a determination of origin; and

d) An advance ruling or modification pursuant to article 5.09.

2. The Parties shall cooperate:

a) In the enforcement of their respective customs-related laws or regulations for the implementation of this Treaty, as well as any Customs Mutual Assistance Agreement or other customs agreement to which they are party;

b) For purposes of facilitating trade between their territories in customs matters such as the collection and exchange of statistics regarding the importation and exportation of goods, the harmonization of documentation used in trade, the standardization of data elements, the acceptance of an international data syntax and the exchange of information;

c) In the exchange of customs legislation;

d) In the verification of origin of a good for which the competent authority of the importing Party may request to the competent authority of the other party that this

In its territory last performed specific investigations leading to that end, the report referring to the competent authority of the importing Party;

e) In seeking a mechanism for the purpose of detecting and preventing the illicit transhipment of goods from a country Party or non-Party; and

f) In jointly organizing training programs on Customs matters which include training for officials and the users who participate directly in customs procedures related to the origin of the goods.

Article 5.14. Recognition and Acceptance of the Certificate of Origin

1. Without prejudice to paragraph 4, the parties establish the certificate of origin which is to identify that the goods are re-exported from a zone free of one party to the territory of the other party constitute a goods from a third country, provided that they comply with the following:

a) That the goods have remained under customs control of the re-exporting Party;

b) The goods do not undergo any further processing or any other operation, except the marketing, unloading and reloading or any other operation necessary to maintain the goods in good condition; and

c) The foregoing'proving is complete.

2. In paragraph 1, each Party shall provide that a re-exporter of goods located in the free zone complete and sign a certificate of origin, which shall be endorsed by the customs authorities and the authorities of the administration of re-exporting the free zone and will include a single importation of one or more goods into its territory.

3. Each Party through its Customs Authority may request the importer in its territory who imports goods from a free zone, that this certificate of origin at the time of importation and to provide a copy thereof if requested by its customs authority to those goods that qualify as originating in accordance with trade agreements or conventions signed by the importing Party with third parties and claiming the tariff preference granted therein.

4. Provided that it complies with the provisions in paragraphs 5 and 6, each Party shall provide that imports of goods covered by a certificate of origin that qualifies as originating under other trade agreements or conventions signed by the importing Party with third parties not lose the preference or tariff concessions granted by the importing Party, by virtue of such a zone free from.

5. For purposes of paragraph 4, the Parties shall:

a) Jointly establish a mechanism for the administration and control of such goods; and

b) Requiring the submission of a Certificate of Origin issued by those third countries benefiting from preferential tariff treatment described in paragraph 1 above.

6. For the purposes of this article, so that the goods originating from third countries with which the parties have trade agreements in force, have the right to enjoy the tariff preferences under the same, shall be required, in accordance with its laws, that party and that third country agree to the provision of that for re-export or marketing through a zone free of a good for preferential tariff treatment which is claimed, not lose its originating status.

Chapter 6. Safeguard Measures

Article 6.01. Definitions

For purposes of this chapter:

Agreement on safeguards means the Agreement on Safeguards, which is part of the WTO agreement;

Threat of serious harm: "" threat of serious harm as defined in the Agreement on Safeguards;

The investigating authority: "" investigating authority, as set out in annex 6.01;

Critical circumstances: those circumstances in which a delay in the application of the safeguard measure would cause damage that would be difficult to repair;

Serious injury: "" serious harm as defined in the Agreement on Safeguards;

Safeguard measure means any measure of tariff rate to be applied in accordance with the provisions of this chapter. Does not include any safeguard measure arising from such proceedings brought before the entry into force of this Treaty;

The transition period means tariff relief plus two (2) years, except in the case of products which benefit from free trade between the parties in accordance with the bilateral treaties concluded between them, in which case the transition period shall be one year (1);

The domestic industry means producers as a whole of the like or directly competing goods operating within the territory of a party or those whose collective output of the like or directly competing goods constitutes a major proportion of the total domestic production of those goods; and

Link: "causal link" as defined in the Agreement on Safeguards.

Article 6.02. Bilateral Safeguard Measures

1. For the application of the Bilateral safeguard measures, the investigating authority shall be referred to in this chapter and, subsidiarily, in accordance with Article XIX of GATT 1994 and the Agreement on Safeguards and their respective legislation.

2. Subject to paragraphs 4 through 6 and during the transition period, may apply a safeguard measure if as a result of the reduction or elimination of a customs duty pursuant to this Treaty, goods originating from the territory of a Party is being imported into the territory of the other party in such increased quantities in quantity in relation to domestic production and under such conditions that the imports of the good from that party alone constitute a substantial cause of serious injury or threat of serious injury to a domestic industry producing a like or directly competing goods. The party into whose territory the good is being imported may, to the minimum extent necessary to remedy or prevent the serious injury or threat of serious harm:

a) The suspend any further reduction of tariff rate under this Treaty for the goods; or

b) Increasing the tariff rate for the good to a level not to exceed the lesser of:

i) The Customs most-favoured-nation tariff applied at the time the measure is applied; and

ii) The Customs most-favoured-nation tariff applied on the day preceding the entry into force of this Treaty.

3. The following conditions and limitations shall apply to a proceeding that may result in the application of a safeguard measure pursuant to paragraph 2:

a) A Party shall notify the other party without delay and in writing, the initiation of a proceeding that could result in the application of a measure to safeguard an goods originating from the territory of the other party;

b) Any safeguard measure shall take effect within one (1) year from the date of initiation of the proceeding;

c) No safeguard measure may be maintained:

i) For more than two (2) years and may be extended for a period of one additional year (1), in accordance with the procedure laid down in article 6.04 (21); or

ii) After the expiration of the transition period, except with the consent of the Party whose good against the measure is applied;

d) During the transition period, the Parties may implement and extend the application of safeguard measures of the same goods only on two occasions (2);

e) A safeguard measure may be applied in a second time, provided that he has elapsed (1) at least a period equivalent to half of the safeguard that during which the measure was applied for the first time;

f) The period during which has been applied a provisional safeguard measure shall be counted for purposes of determining

the duration of the definitive Safeguard Measure set out in subparagraph (c);

g) Provisional measures that do not become final shall be excluded from the limitation provided for in subparagraph (d);

h) During the period of extension of a safeguard measure, the tariff rate shall be progressively reduced to become a party concerned in accordance with the schedule of tariff relief; and

i) Upon the termination of the safeguard measure, the tariff rate shall be the party concerned, in accordance with the schedule of tariff relief.

4. In critical circumstances where any delay would be difficult to repair the injury, Parties may apply a provisional bilateral safeguard measure pursuant to a preliminary determination of the existence of a clear evidence that the increased imports have been on goods originating from the other party as a result of the reduction or elimination of a customs tariff in accordance with this Treaty and at a pace and that such conditions have caused or threatened to cause serious injury. Provisional safeguard measures shall not exceed a period of one hundred and twenty (120 days).

5. Only with the consent of the other party; a party may apply a safeguard measure beyond the expiration of the transition period to deal with cases of serious injury or threat of serious injury to the domestic industry arising from the implementation of this Treaty.

6. The party applying a safeguard measure under this article shall provide to the other party mutually agreed compensation in the form of trade concessions having substantially equivalent effects or equivalent to the value of the additional customs duties expected of the safeguard measure. If the parties are unable to agree on compensation against the party whose product the safeguard measure is applied may impose tariff trade substantially action having effects equivalent to the safeguard measure applied pursuant to this article. The Party shall apply the tariff action only for the minimum period necessary to achieve the substantially equivalent effects.

Article 6.03. Global Safeguard Measures

1. Each Party retains its rights and obligations under article XIX of GATT 1994 and the Agreement on Safeguards, except those regarding compensation or retaliation and exclusion of a safeguard measure as incompatible with the provisions of this article.

2. A Party applying a safeguard measure in accordance with paragraph 1 of this measure, shall exclude imports of goods from the other party, unless:

a) Imports from the other party account for a substantial share of total imports; and

b) Imports from the other party contribute importantly to the serious injury or threat of serious injury caused by imports.

3. In determining whether:

a) Imports from the other party account for a substantial share of total imports, those normally shall not be considered to be substantial if that Party is not among the top five suppliers of the good subject to the procedure based its import share during the three (3) years immediately preceding; and

b) Imports from the other party contribute importantly to the serious injury or threat of serious harm, the competent investigating authority shall consider such factors as the change in the participation of that other Party on the total imports, as well as the volume of imports of that other Party that has suffered and volume changes. Normally shall not be considered as imports from a Party contribute importantly to the serious injury or threat of serious harm if its growth rate during the period in which the sudden increase harmful to the same is appreciably lower than the growth rate of total imports from all sources over the same period.

4. A Party shall without delay and in writing to the other party of the initiation of a proceeding that could result in the application of a safeguard measure in accordance with paragraph 1.

5. No party may apply a measure referred to in paragraph 1 to impose restrictions on a good without prior written notification to the Commission and provide adequate opportunity for prior consultations with the other party as early as practicable before application.

6. Where a Party determines, pursuant to this article, apply to goods originating a safeguard measure of the other party, the arrangements applied to those goods consist solely and exclusively in tariff measures.

7. The party applying a safeguard measure under this article shall provide to the other party mutually agreed compensation

liberalizing trade in the form of trade concessions having substantially equivalent effects or equivalent to the value of the additional customs duties expected of the safeguard measure.

8. If the parties are unable to agree on compensation against the party whose product the safeguard measure is applied may impose trade measures substantially having effects equivalent to the safeguard measure applied pursuant to paragraph 1.

Article 6.04. Procedures Concerning the Administration of Safeguard Measures

1. Each Party shall provide consistent and impartial application of its laws, regulations, decisions and rulings governing all procedures for the application of safeguard measures.

2. The procedures for the application of safeguard measures, the determination of the existence of serious injury or threat of serious harm, it shall correspond to the Authority

Researcher of each party. These decisions shall be subject to review by judicial or administrative bodies, to the extent provided for domestic legislation.

Negative resolutions on the existence of serious injury or threat of serious harm may not be modified by the investigating authority. The investigating authority empowered under domestic law to conduct such proceedings, it shall provide all the necessary facilities for the performance of its duties.

3. Each Party shall establish or maintain procedures equitable, timely, transparent and effective for the application of safeguard measures in accordance with the requirements set out in this article.

Initiation of proceedings

4. The investigating authority may initiate on its own initiative or on application by entities empowered under its laws, procedures for the application of safeguard measures. The Entity shall submit the request that it is representative of the domestic industry producing a like or directly competing goods imported goods. To this effect means that the major proportion may not be less than 25 percent (25 per cent).

5. Except as provided in this article, shall govern the deadlines that these procedures shall be established in the domestic legislation of each party.

Content of the application

6. The representative of the domestic industry to submit an application for an investigation, provide information in its request, to the extent that it is publicly available from governmental or other sources, or if that is not available, their best estimates and the basis for them to consist in:

a) Description of goods: the name and description of the imported goods in question, the tariff subheading which is classified and the current tariff treatment and the name and description of the like or directly competing national goods;

b) Representativeness:

i) The names and addresses the request of the submitting entities, as well as the locations of the establishments in which they produce the domestic goods in question;

ii) The percentage of domestic production of the like or directly competing goods that such entities account for and the basis for claiming that they are representative of the domestic industry; and

iii) The names and locations of all other establishments in which the domestic like or directly competing goods;

c) Figures on Importation: import data for each of the 3 full years immediately prior to the initiation of the proceedings relative to the application of a safeguard measure, which constitute the basis for the assertion

Concerned that the good is being imported in such increased quantities, either in absolute terms or relative to domestic production as appropriate;

d) Figures on domestic production: data on total domestic production of the like or directly competing goods, for each of the past three (3) years immediately prior to the initiation of the proceedings relative to the application of a safeguard measure;

e) Data showing injury or threat thereof: quantitative indicators and targets to reflect the nature and extent of injury or threat of injury to the domestic industry at issue, such as the showing changes in the level of sales, productivity, prices,

production capacity utilisation, market share, profits or losses, and employment;

f) A cause of injury - an enumeration and description of the alleged causes of injury or threat of serious harm, and a summary of the basis for the claim that the increased imports of such goods, under the domestic industry, is the cause of serious injury or threat of serious harm, supported by relevant information; and

g) Criteria for inclusion - quantitative and objective data indicating the share of imports from the territory of the other party as well as the considerations of the applicant on the extent to which such imports are contributing importantly to the serious injury or threat of serious harm.

7. Once the application is admitted, it shall without delay inform the public inspection, except information confidential.

Consultations

8. As soon as possible, once admitted an application pursuant to paragraph 6 and in any case before the initiation of an investigation, the Party that seeks to initiate shall notify to the other party and invited to hold consultations with a view to clarifying the situation.

9. During the period of the investigation shall be given to the Party whose goods are the subject of an adequate opportunity to continue consultations.

10. During the consultations the parties may seek, among other matters on the investigation procedure, the elimination of the measure, the matters referred to in article 6.02 (5) and, in general, exchanging views on the measure.

11. Without prejudice to the obligation to provide adequate opportunity for consultations, the provisions of paragraphs 8, 9 and 10 are not intended to prevent any party to the proceeding promptly to the initiation of an investigation or to the formulation of preliminary and final determinations, affirmative or negative, or from applying measures in accordance with the provisions of this Treaty.

12. The Party conducting an investigation shall, if so requested, access to the Party whose goods are the subject of the communication to the public, including the dossier Summary

Confidential non-confidential information used for the initiation or during the course of the investigation.

Notification requirements

13. To initiate a procedure for the application of safeguard measures, the investigating authority shall publish the initiation of the same in accordance with the domestic legislation of each party in the Official Journal or other national newspaper, within a period of thirty (30) days of the request. Such publication shall notify the other party without delay and in writing. The notification shall contain the following information: the name of the applicant; the indication of the imported goods subject to the proceeding and its tariff fraction; the nature and timing of delivery; resolution where the application and other documents submitted during the proceeding may be inspected; and the name, address and telephone number of the office where additional information is available. The time limits for the submission of evidence, reports, statements and other documents shall be established in accordance with the legislation of each party.

14. With respect to a proceeding for the application of safeguard measures, initiated on the basis of a petition filed by an entity claiming to be representative of the domestic industry, the investigating authority shall not publish the notice required in paragraph 13 without carefully evaluating the application if complies with the requirements established in paragraph 6.

Public hearing

15. Over the course of each procedure, the investigating authority:

a) Without prejudice to the legislation of the Party after providing reasonable notice, notify the interested parties the date and place of the public hearing fifteen (15) days prior to bring itself or through representatives, importers, exporters, consumer associations and other interested parties to submit evidence and arguments and to be heard on the serious injury or threat of serious harm and the appropriate remedy; and

b) Provide an opportunity to all interested parties, for appearing at the hearing and question interested parties to submit arguments in the same.

Confidential information

16. For the purposes of article 6.02, the investigating authority shall adopt or maintain procedures for the treatment of

confidential information protected by domestic legislation that is provided in the course of the proceedings and shall require the interested parties to provide such information, the delivery of written non-confidential summaries thereof. If the parties concerned are unable to summarize this information, explain the reasons preventing it. The authorities may disregard such information, unless it can be satisfactorily demonstrated from appropriate sources that the information is correct.

17. The investigating authority shall not disclose any confidential information provided pursuant to any undertaking concerning confidential information that has been made in the course of the proceedings.

Evidence of injury or threat of injury

18. For conducting the procedure, the investigating authority shall as far as possible any relevant information for the relevant resolution. Shall evaluate all relevant factors of an objective and quantifiable nature that affect the situation of domestic industry, including that the rate and the amount of increase in imports of the goods in question under the domestic industry; the share of the domestic market covered by increased imports; and changes in the level of production, sales, productivity, utilisation of capacity, profits or losses, and employment. For the resolution, the investigating authority may also consider other economic factors such as changes in prices and inventories and the ability of firms in the industry to generate capital.

Deliberation and resolution

19. Except in critical circumstances and in global agricultural safeguard measures concerning perishable goods, the investigating authority, before issuing an affirmative resolution in a proceeding for the application of safeguard measures, allow sufficient time to gather and consider the relevant information, shall hold a public hearing and provide an opportunity to all interested parties to prepare and submit their views.

20. The final determination is issued without delay in the Official Journal newspaper or other national and shall indicate the findings and reasoned conclusions on all pertinent issues of law and fact. The resolution shall describe the imported goods, fractions tariff, the applicable evidentiary standard applied and the finding made in the proceedings. Recitals shall state the grounds for resolution, including a description of:

a) The domestic industry which has been or is threatened with serious injury;

b) The information to support the conclusion that increasing imports; that the domestic industry is or is threatened with serious injury; that increased imports are causing or threatening to cause serious injury; and

c) If provided for by domestic legislation, any recommendation or finding regarding the appropriate remedy and the basis.

Extension

21. If the importing Party determines that the reasons that led to the application of the Bilateral safeguard measure shall be notified to the competent authority of the other party of its intention to renew at least ninety (90) days before the expiry of its validity and provide evidence that the reasons that led to their respective application to initiate consultations, which shall be made in accordance with this article.

22. In addition, the representative of the Entity domestic industry, to submit the extension request shall deliver a readjustment plan, including variables controllable by industry or national production involved in order to use the serious injury or threat of serious harm.

23. Notifications of the extension and compensation shall be implemented as provided for in this article before the expiry of the measure.

Article 6.05. Dispute Settlement In Safeguard Measures

No party may request the establishment of an arbitral panel under Article 2008 (Request for the integration of the arbitral group), when that safeguard measures have been merely proposals.

Chapter 7. UNFAIR TRADE PRACTICES

Article 7.01. Scope of Application

1. The Parties confirm their rights and obligations under Articles VI and XVI of GATT 1994, the Agreement on Implementation of Article VI of GATT 1994 and the Agreement on Subsidies and Countervailing Measures, which form part of the WTO

Agreement. In this regard, the Parties shall ensure that their legislation is in conformity with the commitments undertaken in these agreements.

2. Each Party may initiate an investigation procedure and apply countervailing or anti-dumping duties in accordance with the provisions of this Chapter, the Agreements and Articles referred to in paragraph 1, as well as with its legislation.

Article 7.02. Duration of Investigations on Unfair Trading Practices

The Authority shall immediately terminate the investigation without the imposition of definitive anti-dumping duties, where the investigation has been extended beyond eighteen (18) months from the date of the Declaration of the initiation of the investigation.

Article 7.03. Initiation of Back-to-back Investigations

During a period of twelve (12) months from the date of a final resolution which is not to impose an anti-dumping duty shall not initiate any new investigations on the same product from the same party unless the domestic industry to seek new opening is constituted by producers whose collective output constitutes at least fifty percent (50 per cent) of the total production of the like product produced by the domestic industry.

Article 7.04. Duration of Anti-dumping Duties

A definitive anti-dumping duty shall be eliminated in a period not exceeding sixty (60) months after the date of its imposition, without the possibility of extension.

Article 7.05. Establishment of Anti-dumping Duties

The Authority shall establish an anti-dumping duty, whether provisional or final, lower than the dumping margin where such lesser duty would be adequate to remove the injury to the domestic industry.

1. The parties share the objective of promoting significant reforms in this area to ensure that such measures are disguised barriers to trade.

In this regard, the Parties shall cooperate in an effort to achieve these reforms in the framework of the WTO and the Free Trade Area of the Americas (FTAA).

2. At least two (2) years of the entry into force of this treaty for all parties, they shall establish a work program to analyse criteria to develop more precisely the implementation of the following items, among others:

a) A determination of the reasonable profit margin; and

b) The determination of the existence of a threat of material injury.

Part Three. Technical Barriers to Trade

Chapter 8. Sanitary and Phytosanitary Measures

Article 8.01. Definitions

For purposes of this chapter, the Parties shall apply the terms and definitions set out:

a) In the Agreement on the Application of Sanitary and Phytosanitary Measures, which is part of the WTO Agreement, hereinafter amsf;

b) For the International Office of Epizootics, hereinafter referred to as OIE;

c) In the International Plant Protection Convention, hereinafter referred to as IPPC;

d) By the Codex Alimentarius Commission, hereinafter referred to as Codex; and

e) By other international organisations which are members of both parties and whose use is agreed by the parties.

Article 8.02. General Provisions

1. The competent authorities shall be considered as having legal responsibility for ensuring compliance with sanitary and phytosanitary requirements referred to in this chapter.

2. The Parties shall establish, based on the amsf, a framework of rules and disciplines that guide the adoption and enforcement of sanitary and phytosanitary measures, nothing in this chapter refers to the principles, rules and procedures relating to sanitary and phytosanitary measures regulating or may directly or indirectly affect trade between the parties.

3. Through mutual cooperation, the Parties shall facilitate trade without a sanitary or phytosanitary risks and undertake to prevent the introduction or spread of pests and plant diseases and to improve health, animal health and food safety.

Article 8.03. Rights of Parties

The Parties may, in accordance with the AMSF:

a) Establish, adopt, maintain or apply any sanitary or phytosanitary measure in its territory, only when necessary for the protection of human life and health (food safety) and to preserve animal or plant health, even those which are stricter than a measure, international standards, guidelines or recommendations, provided that there is scientific justification therefor;

b) Their sanitary and phytosanitary measures apply only to the extent necessary to achieve its appropriate level of protection, taking into account technical and economic feasibility; and

c) Verify that the plant, animal products and by-products for export are subject to a follow-up sanitary and phytosanitary, to ensure compliance with the requirements of sanitary and phytosanitary measures established by the importing Party.

1. The sanitary or phytosanitary measures shall not constitute a disguised restriction on trade and shall have the purpose or effect of creating unnecessary obstacles to the same between the parties.

2. The sanitary or phytosanitary measures shall be based on scientific principles; shall be maintained only when there are grounds corroborative and shall be based on a risk assessment, taking into account technical and economic feasibility.

3. The sanitary and phytosanitary measures shall be based on international standards, guidelines or recommendations, except when'proving scientifically that these measures, standards, guidelines or recommendations do not constitute an effective or appropriate means for the protection of human life and health (food safety) and animal or plant health in the territory of a party.

4. Where identical or similar conditions prevail, a sanitary or phytosanitary measure shall not discriminate arbitrarily or unjustifiably between its goods and similar to the other party, or between goods of the other party and similar goods of a non- party.

5. Where a Party considers that a sanitary or phytosanitary measure of another party is interpreted or applied in a manner inconsistent with the provisions of this Chapter shall have the burden of proving the incompatibility.

Article 8.04. Obligations of the Parties

1. Sanitary or phytosanitary measures shall not constitute a disguised restriction on trade or have the purpose or effect of creating unnecessary barriers to trade between the Parties.

2. Sanitary or phytosanitary measures shall be based on scientific principles; they shall be maintained only when there are grounds to support them and shall be based on a risk assessment, taking into consideration technical and economic feasibility.

3. Sanitary and phytosanitary measures shall be based on international measures, standards, guidelines or recommendations, except when it is scientifically demonstrated that these measures, standards, guidelines or recommendations do not constitute an effective or adequate means for the protection of human (food safety) and animal life and health, or for the preservation of plant health in the territory of a Party.

4. Where identical or similar conditions exist, a sanitary or phytosanitary measure shall not arbitrarily or unjustifiably discriminate between its goods and like goods of the other Party, or between goods of the other Party and like goods of a non-Party.

5. Where a Party considers that a sanitary or phytosanitary measure of the other Party is interpreted or applied in a manner inconsistent with the provisions of this Chapter, it shall have the burden of demonstrating the inconsistency.

Article 8.05. International Standards and Harmonization

For the purpose of implementing expeditiously sanitary and phytosanitary measures in the territory of the Parties and thereby facilitate trade flows, control procedures, inspection and approval of the sanitary and phytosanitary measures will be shown in the following principles:

a) Each Party shall use as a reference framework the international standards, guidelines or recommendations for its sanitary or phytosanitary measures in order to harmonize them or compatible with those of the other party;

b) Without prejudice to paragraph (a), each Party may adopt, implement, maintain or establish a sanitary or phytosanitary measure with a level of protection different from that which would be achieved by a measure based on international standards, guidelines or recommendations or, more stringent than those provided that there is scientific justification;

c) With the aim of reaching a higher degree of harmonization, each Party shall follow the guidelines of the relevant international organizations. In respect of plant health the IPPC on aspects of the OIE for animal health and on food safety and tolerance limits shall Codex standards;

d) The Parties shall consider the standards, guidelines or recommendations of other international organizations of which they are members; and

e) The Parties shall establish harmonized systems in the field of sanitary and phytosanitary diagnostic methods of sampling, inspection and certification of animals, plants, their products and by-products as well as food safety.

Article 8.06. Equivalence

For the purpose of applying more rapidly sanitary and phytosanitary measures in the territory of the Parties and thereby facilitate trade flows, control procedures, inspection and approval shall be implemented in accordance with the following principles:

a) Without reducing the level of protection of human life and health (food safety) and to preserve plant or animal health in their territories, the Parties shall, to the greatest extent possible, the equivalence of their respective sanitary or phytosanitary measures;

b) Each Party shall accept as equivalent Sanitary and Phytosanitary Measures of the other party, even if they differ from a own, when the latter'proving objectively, scientific information and risk assessment methodologies agreed upon by them, measures to achieve the appropriate level of protection; and

c) In order to establish equivalence between their sanitary and phytosanitary measures, the Parties shall facilitate access to their territories for purposes of inspection, testing and other relevant procedures.

Article 8.07. Risk Assessment and Determination of the Appropriate Level of Sanitary and Phytosanitary Protection

In accordance with the guidelines issued by the relevant international organizations:

a) The Parties shall ensure that their sanitary and phytosanitary measures are based on an appropriate evaluation to the circumstances of the risks for the protection of human life and health (food safety) and to preserve animal or plant health taking into account the guidelines and risk assessment techniques developed by the relevant international organizations;

b) The Parties shall grant the necessary facilities for assessing sanitary and phytosanitary services through existing procedures for verification of the inspections, checks, approvals, measures and programmes of health and plant health and based on the guidelines and recommendations of international organizations recognized by the WTO;

c) In assessing the risk of goods, and in establishing its appropriate level of protection, the Parties shall take into account among other factors:

i) The available scientific and technical information;

ii) The existence of pests or diseases and recognition of disease or pest free areas and areas of low disease or pest prevalence;

iii) The epidemiology of pests and diseases cuarentenario interest;

(IV) The analysis of the critical control points in the health aspects (food safety) and plant health;

v) Food additives and physical, chemical and biological pollutants;

(VI) The relevant environmental and ecological conditions;

(VII) processes and production methods and inspection methods of sampling and testing;

(VIII) The structure and organisation of sanitary or phytosanitary services;

ix) Procedures for the protection, epidemiological surveillance, diagnosis and treatment to ensure food safety;

x) The loss of production or sales in the event of entry, residence, spread or spread of disease or pest A;

xi) The applicable quarantine measures and treatments that satisfy the importing Party regarding risk mitigation; and

xii) Costs of control or eradication of the disease or pest in the territory of the importing Party and the cost-effectiveness of alternative methods to reduce the risk;

d) In establishing its appropriate level of protection, the Parties shall take into account the objective of minimizing the negative effects on trade and with the objective of achieving consistency in such levels of protection, shall avoid arbitrary or unjustifiable distinctions that may result in discrimination or constitute a disguised restriction on trade between the parties;

e) When the importing Party makes a risk assessment and conclude that the scientific information is insufficient, it may adopt a provisional sanitary or phytosanitary measure based on scientific information, including from the competent international organizations recognized by the WTO and sanitary measures of the other party, the following procedure shall apply:

i) The importing Party that applied the Provisional Measure shall within thirty (30) days after the adoption of the provisional measure request to the other party of any technical information necessary to complete the assessment of risk; if such time has not been requested information, the provisional measure shall be withdrawn;

ii) If the importing party proceeded to seek the information shall have until sixty (60) days of the presentation of such information to modify the forthwith

Provisional measure or making shifted as final. In the event of failure to comply with the preceding period, the importing Party shall immediately withdraw the provisional measure;

iii) The importing Party may request clarification on the information submitted within thirty (30) days after receipt of the same;

(IV) the importing Party shall permit the exporting Party to submit its observations and shall be taken into account for the conclusion of the risk assessment; and

v) The adoption or modification of the provisional sanitary or phytosanitary measure shall be immediately notified to the other party through the information centres established before the amsf;

f) The risk analysis to develop a Party shall comply with the deadline previously agreed by the parties. If the results of the analysis implies non-acceptance of the import, shall notify in writing the scientific basis for the decision; and

g) If a party has reason to believe that a sanitary or phytosanitary measure established or maintained by the other party may restrict or restricts its exports and the measure is not based on the relevant international standards, guidelines or recommendations, or in the absence of such international standards, guidelines or recommendations, may request explanation of the reasons for such sanitary and phytosanitary measures and the parties to maintain such measures shall be given within a period of thirty (30) days after the competent authority receives the consultation.

Article 8.08. Recognition of Disease or Pest Free Areas and Areas of Low Disease or Pest Prevalence

1. The Parties shall recognize the disease or pest free areas and areas of low disease or pest prevalence in accordance with the guidelines and recommendations, considering among the main factors, the geographical situation, ecosystems, epidemiological surveillance and the effectiveness of sanitary or phytosanitary controls in the area.

2. The party that an area within its territory is free from a specific disease or pest shall demonstrate objectively to the importing Party that condition and that grant shall be regarded as such, based on the protection measures adopted by the

responsible for sanitary or phytosanitary services.

3. The party interested in obtaining recognition of a zone free of pests or diseases and making the request shall provide the relevant scientific and technical information to the other party.

4. The party receiving the request for recognition, shall act in a period agreed with the other party may conduct checks for inspection, testing and other relevant procedures. In case of non-acceptance, bring in writing of the reasons for its decision.

5. The Parties shall reach agreements on specific requirements which allows a good produced in an area of low disease or pest prevalence be imported if the appropriate level of protection under paragraph 7 of Annex A to the amsf.

Article 8.09. Control Procedures, Inspection and Approval

1. The parties, in accordance with this Chapter, apply the provisions contained in Annex C of AMSF, as regards the control procedures, inspection and approval, including the adoption of the use of additives or establishment of tolerances for contaminants in foodstuffs, or beverages in fodder.

2. When the competent authority of the exporting Party requests for the first time to the competent authority of the importing Party the inspection of a productive unit or productive processes in its territory, the competent authority of the importing Party shall make such inspection within a period not exceeding ninety (90) days from the date on which the request was raised, except for the first year of entry into force of the Treaty, where the competent authorities of Panama shall have a period of one hundred and five days (105). Once an inspection, the competent authority of the importing Party shall issue a decision based on the outcome of the inspection and shall notify the exporting party within a period of thirty (30) days from the date on which the inspection was completed.

If the competent authority of the importing Party fails to comply with the deadlines referred to the competent authority of the exporting Party may request in writing to the competent authority of the importing Party conducting consultations pursuant to Chapter 20 (dispute settlement).

3. In the case of productive units or productive processes that have a certification in force in the importing Party shall apply its renewal at least one hundred and twenty (120) days before the date of expiry. A productive units or production process that complies with the stipulated in this paragraph shall be allowed by the competent authorities of the importing party, continue to export these competent authorities until complete inspection procedures for

Those production units or productive processes that do not apply to renewals within a period of one hundred and twenty (120 days), shall be governed by the procedure referred to in paragraph 2.

4. The certificates of productive units or productive processes issued by the competent authority of the importing Party shall be valid for at least one (1) year.

Paragraph transitional

Upon the entry into force of this Treaty, those production units or productive processes that have a certification before the expiration of the period of one hundred and twenty (120 days), may submit its request within a period of one hundred and twenty (120) days starting from the entry into force of the Treaty. Aproductive units or productive processes that complies with the stipulated in this paragraph shall be allowed by the competent authorities of the importing Party, to continue until these export

Competent authorities complete inspection procedures. Those production units or productive processes that do not apply for renewal within the time period established in this paragraph shall be governed by the procedure referred to in paragraph 2.

Article 8.10 . Transparency

1. Each Party shall propose to the adoption or modification of a sanitary or phytosanitary measure of general application at the central level, through their competent authorities shall:

a) Adoption and amendment of such measures. It shall provide information on the same, in accordance with the provisions of Annex B to the amsf and shall make the pertinent adaptations;

b) The changes or amendments of the sanitary or phytosanitary measures that have a significant effect on trade between the parties, at least sixty (60) days before the entry into force of the new provision to allow the other party to make comments. Emergency situations shall be exempted from the deadline referred to above in accordance with Annex B of

amsf;

c) Changes in the field of animal health, as the occurrence of exotic diseases and the list of the OIE, within twenty-four (24) hours following the detection of the problem;

d) Changes in the field of plant health such as the occurrence of quarantine pests and diseases or spread of pests and diseases under official control within seventy two (72) hours of their verification;

e) The findings of epidemiological importance and significant changes in relation to pests and diseases not included in subparagraphs (c) and (d) that may affect trade between the parties, within a maximum period of ten (10) days;

f) Disease outbreaks which are scientifically verified grounds as consumption of foodstuffs imported, processed or natural; and

g) The causes or reasons for goods of the exporting Party is rejected.

2. The Parties shall use the notification and information centres established before the amsf as a communication channel. In case of emergency measures, the Parties shall be notified immediately in writing, indicating briefly the objective and purpose of the measure as well as the nature of the problem.

3. Pursuant to article (18.02 Information Centre) Each Party shall respond to reasonable requests for information from the other party, and provide the relevant documentation in accordance with the principles set out in paragraph 3 of Annex B of amsf.

Article 8.11. Committee on Sanitary and Phytosanitary Measures

1. The parties establish a Committee on Sanitary and Phytosanitary Measures, as set out in annex 8.11.

2. The Committee shall hear matters relating to this chapter and without prejudice to article 1905 (2) (Committees), shall have the following functions:

a) Promote the necessary facilities for training and specialization of technical staffs;

b) Promoting the active participation of the parties in international bodies; and

c) Establish and maintain a roster of qualified specialists in the areas of food safety, animal and plant health, for purposes of article (1907) expert groups.

Article 8.12. Technical Cooperation

The Parties shall provide the other party with information and advice, technical cooperation, on mutually agreed terms and conditions to strengthen their sanitary and phytosanitary measures, as well as their activities, processes and systems in this field.

The Committee on Sanitary and Phytosanitary Measures established in Article 8.11 (1), shall comprise:

a) In the case of Costa Rica, the Ministry of Foreign Trade and the entities responsible for sanitary and phytosanitary measures that designates the Ministry, or their successors;

b) In the case of El Salvador, the Ministry of Economy, the Ministry of Agriculture and the Ministry of Health and Social Welfare, or their successors;

c) In the case of Guatemala, the Ministry of Economy, the Ministry of Agriculture and Food and the Ministry of Health and Social Welfare, or their successors;

d) In the case of Honduras, the Ministry of Trade and Industry, the Ministry of Health and the Ministry of Agriculture and Livestock, or their successors;

e) In the case of Nicaragua, the Ministry of Industry, Trade and Development, the Ministry of Agriculture and Forestry and the Ministry of Health, or their successors; and

f) In the case of Panama, the Ministry of Trade and Industries through the Vice-Ministry of Foreign Trade, Ministry of Agricultural Development and the Ministry of Health or their successors.

Chapter 9. STANDARDIZATION MEASURES, METROLOGY AND APPROVAL PROCEDURES

Article 9.01. Definitions

1. For purposes of this chapter:

TBT Agreement means the Agreement on Technical Barriers to Trade, which is part of the WTO agreement;

Risk assessment: the assessment of potential harm to the legitimate objectives could lead to any goods or service market;

Make compatible: standardization carry different measures adopted by various bodies standardisation, but with the same extent, at a level which are identical or equivalent, have the effect of allowing goods or services are used interchangeably or for the same purpose;

Standardization measures: technical regulations or standards, conformity assessment procedures;

Standard means a document approved by a recognised body that provides for common and repeated use, rules, guidelines or characteristics for products or related processes and production methods, or services or related to methods of operation, and with which compliance is not mandatory. It may also include requirements of terminology, symbols, packaging, marking or labelling applicable to goods, services, process or production method or operation, or related exclusively to them;

International Standard: a standard or other guides or recommendations adopted by an international body standardisation and made available to the public;

Objectives: the legitimate national security requirements; the prevention of practices which may mislead consumers, the protection of human health or safety, animal or plant life or health or the environment;

The International Organization for Standardization and Metrology: a standardizing body is open to the relevant bodies of at least every member of the TBT Agreement, including the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC), the Codex Alimentarius Commission), the International Organization of Legal Metrology (OIML) and the International Commission on Radiation Units and Measurements (ICRU) or any other body designated by the parties;

Authorisation procedure: any administrative process for the issuance of a compulsory licence, permit register, or any other authority to which a good or service is produced, sold or used for purposes defined or under conditions laid down;

Conformity assessment procedure procedure used any means, directly or indirectly, to determine compliance with the relevant requirements stipulated

For technical regulations or standards, including sampling, testing and inspection, verification and security; evaluation of conformity; registration, accreditation and adoption, either separately or in different combinations;

Administrative refusal: actions taken by a body of public administration of the importing Party, in the exercise of its powers, to prevent the entry into its territory a shipment of or the provision of a service, for breach of technical regulations and conformity assessment procedures and metrology;

Technical regulation means a document which lays down the characteristics of the goods or their related processes and production methods, services or characteristics or their related methods of operation, including any applicable administrative provisions; and with which compliance is mandatory. It may also include requirements of terminology, symbols, packaging, marking or labelling applicable to goods, services, process or production method or operation, or related exclusively to them;

Services means any service subject to measures of standardization, metrology and authorization procedures in accordance with article 9.12 (G).

Comparable situation: that guarantees the same level of safety or protection to achieve a legitimate objective.

2. Except as defined in paragraph 1, the Parties shall use the terms contained in the current ISO / IEC guide 2 ", general terms and definitions concerning their standardization and related activities.

Article 9.02. General Provisions

In addition to the provisions of the TBT Agreement, the Parties shall apply the provisions of this chapter.

Article 9.03. Scope of Application

1. The provisions of this chapter shall apply to measures of standardization, metrology and authorization procedures the parties, as well as the related actions that may directly or indirectly affect trade in goods or services between them.

2. The provisions of this chapter does not apply to sanitary and phytosanitary measures. The right to adopt measures for Standardisation

Article 9.04 . Basic Rights and Obligations

1. Each Party shall develop, adopt, implement and maintain:

a) The measures of standardization, metrology and authorization procedures as set out in this chapter; and

b) Technical regulations and conformity assessment procedures applicable to them, to ensure the achievement of its legitimate objectives.

Unnecessary obstacles

2. No party shall adopt or maintain measures or apply for standardization, metrology and authorization procedures with the purpose or the effect of creating unnecessary obstacles to trade with the other party.

Non-discriminatory treatment

3. In relation to measures of standardization, metrology and authorization procedures, each Party shall accord to the goods and services suppliers of the other party National Treatment and treatment no less favourable than that accorded to similar similar goods and service suppliers of any other country.

The use of international standards

4. In the development or implementation of its authorization procedures or measures standardization and metrology, each Party shall use international standards or imminent, or their parts, except when such relevant international standards do not constitute an effective or appropriate means for achieving their legitimate objectives because of fundamental climatic factors such as geographical, technological infrastructure, or for reasons scientifically verified.

Article 9.05. Risk Assessment

1. In pursuing its legitimate objectives, each Party shall carry out risk assessments, and in so doing, shall take into account:

a) Risk assessments carried out by international standardisation bodies;

b) The scientific evidence or technical information available;

c) Related processing technology; or

d) To that end uses for the goods or services.

2. Once the level of protection that it considers appropriate to achieve their legitimate objectives, when conducting a risk assessment, each Party shall avoid arbitrary or unjustifiable distinctions between similar goods or services between similar, if such distinctions:

a) Result in arbitrary or unjustifiable discrimination against goods or service suppliers of the other party;

b) Constitute a disguised restriction on trade between the parties; or

c) Discriminate between similar goods or services for the same use under the same conditions that pose the same level of risk and provide similar benefits.

3. A Party shall provide to the other party, at its request, the relevant documentation on its risk-assessment processes, as well as the factors considered for conducting the assessment and in establishing levels of protection in accordance with Article 9.04.

Article 9.06. Compatibility and Equivalence

1. Without prejudice to the rights conferred by this Chapter and taking into account international standardization and metrology, to the extent possible, the Parties shall make compatible their respective measures of standardization and metrology, without reducing the level of safety or of protection of human life or health, animal or plant, the environment or to consumers.

2. A Party shall accept a technical regulation of the other party as equivalent to its own where, in cooperation with the other party, the importing Party determines that the technical regulations of the exporting Party adequately comply with the legitimate objectives of the importing Party.

3. At the request of the exporting party and the importing Party shall provide written reasons for not accepting a technical regulation under paragraph 2.

Article 9.07. Conformity Assessment

1. Each Party shall adopt and apply conformity assessment procedures to accord similar like access to goods and services in the territory of the other party under conditions no less favourable than those accorded to its similar goods and services similar to or any other country not party, in a comparable situation.

2. With respect to its conformity assessment procedures, each Party shall be bound to:

a) These procedures shall begin and conclude as quickly as possible and in a non-discriminatory manner;

b) The procedure and shall publish the normal period of each procedure or, upon request, communicate such information to the applicant;

c) The competent body or authority review without delay upon receipt of an application if the documentation is complete and communicate to the Applicant all deficiencies precise and complete; transmits to the applicant as soon as possible the results of the assessment in a complete and precise so that corrective action can be taken if necessary; even when the application to continue this deficiencies, conformity assessment as far as practicable, if the applicant so requests; and, upon request, inform the applicant of the stage of the proceedings, explaining any delays;

d) Only the information necessary to assess conformity and calculate the fees;

e) The confidentiality of the information relating to a good or service of the other Party resulting from these procedures or that has been provided to them, is respected in the same manner as in the case of a good or service that party so as to protect the legitimate trade interests;

f) Any fees imposed for assessing the conformity of a good or service of the other party are equitable in relation to those who are otherwise for assessing the conformity of a good or service of that party, taking into account the cost of communications, transportation and other costs arising from differences between location of facilities of the applicant and the conformity assessment body;

g) The location of facilities used in conformity assessment procedures and the selection of samples does not cause unnecessary inconvenience to applicants or their agents;

h) Provided that they alter the specifications of a good or service after having declared its conformity with applicable regulations or technical standards, conformity assessment the modified procedure for the good or service is limited to that necessary to determine whether there is assurance that due the good or service continues to conform to the technical standards or applicable regulations; and

i) A procedure exists to examine claims relative to the implementation of a conformity assessment procedure and adopt corrective measures if the claim is justified.

3. In order to promote trade facilitation, a Party shall consider favourably, at the request of the other party to engage in negotiations for the conclusion of agreements on mutual recognition of the results of their respective conformity assessment procedures.

4. To the extent possible, each Party shall accept the results of conformity assessment procedures conducted in the territory of the other Party provided that offer satisfactory guarantees, equivalent to that provided the procedures that the party accepting or in its territory and whose outcome accepts that the good or service complies with the applicable technical regulation or standard adopted or maintained in the territory of that Party.

5. Prior to accepting the results of a conformity assessment procedure in accordance with paragraph 4, and with the aim of

strengthening the sustained reliability of the results of conformity assessment, each of the Parties may consult on matters such as the technical competence of the conformity assessment bodies concerned, including verified compliance with relevant international standards through such means as accreditation.

6. In recognition of the fact that it would be in the mutual benefit of the parties involved, each Party shall adopt or otherwise recognise the

Conformity assessment bodies in the territory of the other party under conditions no less favourable than those accorded to those bodies in its territory.

7. For conformity assessment procedures, the Parties may use the technical infrastructure and capacity of accredited bodies established in the territory of the Parties.

Article 9.08 . Authorization Procedures

1. Each Party shall adopt and apply authorization procedures to accord similar like access to goods and services in the territory of the other party under conditions no less favourable than those accorded to its similar goods and services similar to or any other country not party, in a comparable situation.

2. In relation to its approval procedures each party shall be bound to:

a) These procedures shall begin and conclude as quickly as possible and in a non-discriminatory manner;

b) The procedure and shall publish the normal period of each procedure or, upon request, communicate such information to the applicant;

c) The competent body or authority review without delay upon receipt of an application if the documentation is complete and communicate to the Applicant all deficiencies precise and complete; transmits to the applicant as soon as possible the results of the authorisation of a complete and precise so that corrective action can be taken if necessary even when the application; this deficiencies, proceed with the authorization as far as practicable, if the applicant so requests; and, upon request, inform the applicant of the stage of the proceedings, explaining any delays;

d) Only the information necessary to permit and calculate the fees;

e) The confidentiality of the information relating to a good or service of the other Party resulting from these procedures or that has been provided to them, is respected in the same manner as in the case of a good or service that party so as to protect the legitimate trade interests;

f) The rights that are imposed by the authorization procedure for a good or service of the other party are equitable in relation to receive from the authorization procedure for a good or service of that party, taking into account the cost of communications, transportation and other costs arising from differences between location of facilities of the applicant and the authorization procedure; and

g) A procedure exists to examine claims relative to the implementation of an authorization procedure and adopt corrective measures if the claim is justified.

Article 9.09. Metrology

Each Party shall, as far as possible, of their documented traceability standards and the calibration of measuring instruments, as recommended by the International Bureau of Weights and Measures (BIPM) and the International Organization of Legal Metrology (OIML), in accordance with the principles set out in this chapter.

Article 9.10 . Notification

1. In cases where there is no relevant international standard or where the technical content of a technical regulation or conformity assessment procedure applicable to a technical regulation in project is not in conformity with the technical content of the relevant international standards, and provided that such a technical regulation may have a significant effect on trade between the parties, each Party shall notify the other party in writing of the proposed measure at least sixty (60) days prior to its adoption so as to enable interested parties during this period and submit comments and consultations so that the notifying party may take into account.

2. If a Party is cause or threaten plantéarsele urgent problems of safety, health, environmental protection or national security, that Party may omit prior notification to the project but, once adopted shall notify the other party.

3. The notifications under paragraphs 1 and 2 shall be conducted in accordance with the formats established in the TBT Agreement.

4. Within thirty (30) days following the entry into force of this Treaty, each Party shall notify the other party of the institution designated to carry out the notifications under this article.

5. Each Party shall report annually in writing to the other party of its standardization plans and programmes.

6. When a Party administratively refuses a shipment or the provision of services, it shall without delay and in writing to the person of lading or the service provider, the technical justification for rejection.

7. Once generated the information referred to in paragraph 5, the Party shall immediately provide the information centre of the other party.

Article 9.11 . Information Centers

1. Each Party shall ensure that an information centre in its territory able to answer questions and all reasonable requests of the Party and other interested persons and provide the relevant documentation update under any measure of standardization, metrology, conformity assessment procedures or authorization procedures adopted or proposed in its territory by government agencies or non-governmental.

2. Each Party designates the information as specified in annex 9.11 (2).

3. Where an information centre requests copies of the documents referred to in paragraph 1 shall be provided free of charge. Interested persons of the other party

A Party shall provide copies of documents at the same price as nationals of the party, the actual cost of shipment.

Article 9.12. Committee of Standardization, Metrology and Authorization Procedures

1. The Parties shall establish the Committee of standardization, metrology and authorization procedures as set out in annex 9.12.

2. The Committee shall hear matters relating to this chapter and without prejudice to article 1905 (2) (Committees), shall have the following functions:

a) Analysis and propose solutions to those measures of standardization, metrology and authorization procedures that a Party considers a technical obstacle to trade;

b) Facilitating the process by which the parties make compatible their measures of standardization and metrology, giving priority to, inter alia, the packaging and labelling and packaging;

c) Promote technical cooperation activities between the parties;

d) To assist in risk assessments carried out by the parties;

e) Work to develop and strengthen standardization and metrology measures of the Parties;

f) Facilitating the process by which the parties shall provide mutual recognition agreements; and

g) At the request of a Party, evaluate and recommend to the Commission for its approval, including sectors or sub-sectors of services subject to measures of standardization, metrology and authorization procedures.

The designation shall be made through a decision of the Commission.

Article 9.13. Technical Cooperation

1. Each Party shall promote technical cooperation of its agencies of standardization and metrology, providing information or technical assistance to the extent possible and on mutually agreed terms, in order to assist in the implementation of this chapter and strengthen activities, processes, systems and measures of standardization and metrology.

2. The Parties shall undertake joint efforts to manage technical cooperation from countries not party.

Part IV. Investment, Services and Related Matters

Chapter 10.

Section A. Investment

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

a) Investors of the other party in all matters relating to their investment;

b) Investments of investors of the other party in the territory of the Party;

c) All investments of investors of a Party in the territory of the other party with respect to article 10.07 hours.

2. This chapter does not apply to measures adopted or maintained by a Party relating to:

a) Financial services;

b) The measures taken by a party to restrict the participation of investments of investors of the other party in its territory for reasons of public order or national security;

c) Economic activities reserved for each Party in accordance with its legislation in force at the date of signature of this Treaty, which are listarán in Annex III relating to economic activities reserved to each party;

d) Government services or functions such as law enforcement services, social rehabilitation, pension or unemployment insurance or social security services, social welfare, education, training and public health care or protection of children;

e) Claims or disputes arising prior to the entry into force of this Treaty, or related events which occurred prior to its entry into force, even if their effects are still thereafter.

3. This chapter applies across the territory of the Parties and at any level of Government despite inconsistent measures that may exist in the laws of such levels of government.

4. Notwithstanding paragraph 2 (d), if an investor of a Party, being duly authorized, or services carried out functions such as social rehabilitation services, pension or unemployment insurance or social security services, social welfare, education, training and public health care or protection of children, of investments that investor shall be protected by the provisions of this chapter.

5. This chapter covers both existing investments at the date of entry into force of this Treaty as well as to investments made or acquired thereafter.

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

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

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

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

Article 10.04. Standard of Treatment

Each Party shall accord to investors of the other party and to investments of investors of the other party the better of the treatment required by articles 10.02 and 10.03.

Article 10.05. Treatment In Case of Loss

Each Party shall accord to investors of the other party, in respect of investments suffer losses in its territory owing to armed

conflict or civil strife, non-discriminatory treatment with respect to any measure that it adopts or maintains in relation to such losses.

Article 10.06. Minimum Standard of Treatment

A Party shall accord to investments of investors of the other party treatment in accordance with international law, including fair and equitable treatment and full protection and security.

Article 10.07. Performance Requirements

1. Neither party may impose or enforce any of the following requirements or enforce any commitment or obligation with regard to the establishment, expansion and acquisition, administration, operation or conduct of an investment of an investor of a Party on its territory to:

a) Export a given level or percentage of goods or services;

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

c) Purchase or use a or accord preference to produced goods or services provided in its territory or to purchase goods or services from persons in its territory;

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

This paragraph does not apply to any requirement other than those specified therein.

2. Neither party may condition the receipt of an advantage or which shall continue to receive the same in connection with an investment in its territory by an investor of a Party on compliance with any of the following requirements:

a) To achieve a given level or percentage of domestic content;

b) To purchase or use a accord preference to goods produced in its territory or to purchase goods from producers in its territory; or

c) In any way relate to the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with such investment; this paragraph does not apply to any requirement other than those specified therein.

3. The provisions of:

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

b) Paragraph 1 (b) and (c) and paragraph 2 (a) and (b) do not apply to procurement by a party or a state enterprise;

c) Paragraph 2 (a) and (b) do not apply to requirements imposed by an importing party relating to the content of goods necessary to qualify for preferential tariffs or fees.

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

5. Provided that such measures are not applied in an arbitrary or unjustified or do not constitute a disguised restriction on international trade or investment, nothing in paragraphs 1 (b) or (c) or 2 (a) or (b) shall be construed to prevent a Party from adopting or maintaining environmental nature, including measures necessary to:

a) To ensure compliance with laws and regulations that are not inconsistent with the provisions of this Treaty;

b) Protect human life or health, animal or plant; or

c) Preservation of non-renewable natural resources, living or not.

6. In the event that a party, the imposition by the other party of any of the following requirements adversely affect the flow of trade or constitutes a significant barrier to investment by an investor of a party, the matter shall be considered by the

Commission:

a) To restrict sales of goods in its territory that such investment produces, by such sales in any way relating to the volume or value of its exports or to generate foreign exchange earnings;

b) Transfer to a person in its territory, technology, knowledge production process or other reserved except when the requirement is imposed by a judicial or administrative tribunal or competent authority to remedy an alleged violation of competition laws or to act in a manner not inconsistent with other provisions of this treaty; or

c) To act as the exclusive supplier of the goods it produces to a specific regional market or to the world.

7. A measure that requires an investment to use a technology to meet requirements of health, safety or environmental of general application shall not be considered inconsistent with paragraph 6 (b). For greater certainty, and articles 10.02 10.03 apply to the measure.

8. If the Commission finds that the requirement in question adversely affects the trade or constitutes a significant barrier to investment by an investor of the other party, recommend arrangements to eliminate the practice in question. The Parties shall consider these provisions as incorporated into this Treaty.

Article 10.08. Senior Executives and Boards of Directors or Boards of Executive Officers

1. Neither party may require that an enterprise of that Party that is an investment of an investor appoint individuals of the other party of any particular nationality to senior management positions in that enterprise.

2. A Party may require that a majority of the members of the governing bodies or boards of directors of an enterprise of that Party that is an investment of an investor of the other party be of a particular nationality, provided that the requirement does not materially impair the ability of the investor to exercise control over its investment.

Article 10.09. Reservations and Exceptions

1. Articles 10.02, 10.03, 10.07 10.08 hours and do not apply to:

a) Any Non-Conforming Measure existing Non-Conforming Measure that is maintained by:

i) A Party at the national level as set out in its schedule to Annex I or ill; or

ii) A local or municipal government;

b) The continuation or prompt renewal of any Non-Conforming Measure referred to in subparagraph (a); or (c) an amendment to any Non-Conforming Measure referred to in subparagraph (a), provided that the amendment does not decrease the level of conformity of the measure as it was in force before the amendment, with articles 10.02 10.03, 10.07 and 10.08 hours.

2. Articles 10.02, 10.03, 10.07 10.08 hours and do not apply to any measure that adopts or maintains a Party with respect to the sectors or sub-sectors or activities as set out in its schedule to annex Il.

3. Neither party may require under any measure adopted after the date of entry into force of this Agreement and covered by its schedule to annex LI, to an investor of the other party, by reason of their nationality, to sell or otherwise dispose of an existing investment at the time the measure copper.

4. Article 10.03 does not apply to treatment accorded by a Party pursuant to the treaties, or with respect to the sectors, as set out in annex IV to its schedule.

5. Articles 10.02 10.03 10.08, and do not apply to:

a) Procurement by a party or a state enterprise; or

b) Subsidies or grants or inputs, including loans, guarantees and insurance supported by the Government issued by a party or a State enterprise.

Article 10.10. Transfers

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

a) Profits, dividends, interests, capital gains, royalties, fees payments for administration, technical assistance and other fees; returns and other amounts in kind derived from the investment;

b) Products derived from the sale or the total or partial liquidation of the investment; 10 - 7

c) Payments made under a contract of which is a party to an investor or investment including its payments made pursuant to a loan agreement;

d) Payments made pursuant to article 10.11; and

e) Payments arising out of the implementation of the provisions on dispute settlement contained in section B of this chapter.

2. Each Party shall permit transfers to be made in a freely convertible currency at the market rate of exchange prevailing on the date of transfer.

3. Neither party may require its investors to transfers carried out their income, profits, or other profits or amounts derived from or attributable to investments in the territory of the other party, nor shall not make the transfer.

4. Notwithstanding paragraphs 1 and 2, a Party may establish mechanisms to prevent a transfer through the equitable and non-discriminatory application of its laws in the following cases:

a) Bankruptcy or insolvency or the protection of the rights of creditors;

b) Criminal or administrative rulings in strong;

c) Failure to submit reports of transfers of currency or other monetary instruments;

d) Ensuring compliance with orders or awards rendered in contentious proceedings; or

e) Relating to ensure compliance with laws and regulations for the issuance of securities, and trade operations.

5. Paragraph 3 shall not be interpreted as an impediment to a party through the application of their laws on an equitable, non-discriminatory, impose any action under paragraph 4 (a) to (e).

Article 10.11. Expropriation and Compensation

1. Neither party may expropriate or nationalize directly or indirectly an investment of an investor of the other party in its territory or take any measure equivalent to expropriation or nationalization of such investment (expropriation), except:

a) For reasons of public purpose or social interest or public order, in accordance with annex 10.11 (1);

b) On a non-discriminatory basis;

c) In accordance with the principles of due process of law and article 10.06; and

d) On payment of compensation in accordance with the provisions of this article.

2. Compensation shall be equivalent to the fair market value of the expropriated investment immediately before the expropriation took place (date of expropriation), and shall not reflect any change in value occurring because the intended expropriation had become known earlier date of expropriation. Valuation criteria shall include the asset value, including tax value declared value of tangible property as well as other criteria that are relevant to determine fair market value.

3. The compensation shall be paid without delay and shall be fully realized.

4. Without prejudice to paragraph 5, the amount of compensation shall be not less than the equivalent that according to the rate of exchange prevailing on the date of the determination of the fair market value is paid on that date the expropriated investor in a freely convertible currency at the international financial market. The compensation shall include interest calculated from the date of dispossession of the expropriated investment until the date of payment, which shall be calculated on the basis of a passive or catchment average rate for that currency from the national banking system of the Party where the expropriation.

5. In the event that the compensation shall be paid in a freely convertible currency, compensation shall include interest calculated from the date of dispossession of the expropriated investment until the date of payment, which shall be calculated on the basis of a passive or catchment average rate for that currency from the national banking system of the Party where the expropriation.

6. Once the compensation paid, shall be freely transferable in accordance with article 10.10.

7. This article does not apply to the Issuance of Licenses Complusory in relation to Intellectual Property Rights, limitation or revocation, or creation of Intellectual Property Rights to the extent that such issuance, revocation, limitation or creation is consistent with the TRIPS Agreement.

8. For the purposes of this article and for greater certainty shall not be considered as a measure of non-discriminatory general application is a measure tantamount to an expropriation of a debt or a loan covered by this chapter solely because the Measure imposes costs on the debtor that cause the non-payment of debt.

Article 10.12. Special Formalities and Information Requirements

1. Nothing in Article 10.02 shall be construed to prevent a Party from adopting or maintaining a measure that prescribes special formalities connected with the establishment of investments by investors of the other party, such as that investments be constituted in accordance with the laws and regulations of the Party provided that such formalities do not materially impair the protections afforded by a Party pursuant to this chapter.

2. Notwithstanding articles 10.02 and 10.03, a Party may require an investor of the other party or its investment in its territory to provide routine information concerning that investment or informational solely for statistical purposes. The Party shall protect any disclosure of confidential business information that is, which could prejudice the competitive position of the investor or the investment.

Article 10.13. Relationship with other Chapters

1. In the event of incompatibility between any provision of this chapter and the provision of another, the latter shall prevail to the extent of the inconsistency.

2. If a Party to requires a service provider of the other party post a bond or other form of financial security as a condition of providing a service into its territory does not of itself make this chapter applicable to the provision of cross-border that service. This chapter applies to that party to the treatment accorded posted bond or financial security.

Article 10.14. Denial of Benefits

Subject to prior notification and consultation in accordance with articles 18.04 (provision of information) and 20.06 (consultations), a Party may deny the benefits of this chapter to an investor of the other Party that is of such an enterprise and party to such investments of investor if investors of a non-party own or control the enterprise in the terms listed in the definition of "investment of an investor of a Party" Article 40 and that has no substantial business activities in the territory of the party under whose law it is constituted or organized.

Article 10.15. Environmental Measures

1. Nothing in this chapter shall be construed as preventing a party from maintaining or implement any measure consistent with this chapter that it considers appropriate to ensure that investment activity in its territory observe the environmental legislation or the environment in that party.

2. The Parties recognize that it is inappropriate to encourage domestic investment by relaxing measures applicable to the safety or health or on the environment or the environment. Accordingly, no party shall eliminate or undertakes to exempt from the application of such measures of an investor to investment, as a means to induce the establishment, acquisition, expansion or retention of an investment of an investor in its territory. If a Party considers that the other party has encouraged an investment in such a manner, it may request consultations with the other party.

Section B. Settlement of Disputes between an Investor of One Party and the other Party

Article 10.16. Objective

Without prejudice to the rights and obligations of the Parties under chapter 20) (dispute settlement, this section establishes a mechanism for the Settlement of Investment Disputes arising as a result of the breach of an obligation under section A of this chapter; and ensures equal treatment between both investors of the Parties in accordance with the principle of reciprocity, as the proper performance of the security and defence within a due process before an arbitral tribunal.

Article 10.17. Claim by an Investor of a Party on Its Own Behalf

1. In accordance with this section, an investor of a Party may submit to arbitration a claim which founded on the other party or an enterprise controlled directly or indirectly by that party has breached an obligation under this chapter, provided

If the investor has suffered losses or damages under that breach or as a result of it.

2. An investor may not make a claim if more than three (3) years from the date on which the first knew or should have had knowledge of the alleged breach and knowledge that has suffered losses or damages.

Article 10.18. Claim by an Investor of a Party on Behalf of an Enterprise

1. An investor of a Party on behalf of an enterprise of the other Party that is a juridical person that the investor owns or controls directly or indirectly, may submit to arbitration under this section a claim which founded on the other party or an enterprise controlled directly or indirectly by that party has breached an obligation under this chapter, provided that the enterprise has incurred loss or damage by virtue of such violation or as a result of it.

2. An investor may not make a claim on behalf of the enterprise referred to in paragraph 1 if more than three (3) years from the date on which the first enterprise knew or should have had knowledge of the alleged breach and knowledge that has suffered losses or damages.

3. Where an investor makes a claim under this article and, in parallel an investor that does not have control of an enterprise, submit a claim under article 10.17 as a result of the same events that gave rise to the submission of a claim under this article or two or more claims submitted to arbitration under article 10.21, the Tribunal established under article 10.27 shall jointly such claims, unless the Tribunal finds that the interests of cumulation of a Party combatant be prejudiced thereby.

4. An investment may not make a claim to arbitration under this section.

Article 10.19. Dispute Settlement Through Consultation and Negotiation

First warring parties shall endeavour to resolve the dispute through negotiation or consultation.

Article 10.20. Notification of Its Intention to Submit the Claim to Arbitration

The Investor combatant shall notify in writing the opposing side of its intention to submit a claim to arbitration at least ninety (90) days before the claim and the notice shall specify:

a) The name and address of the investor combatant and where a claim is made under article 10.18, shall include the name and address of the enterprise;

b) The provisions of this chapter alleged to have been breached and any other relevant provisions;

c) The issues of fact and law to substantiate the claim; and

d) The relief sought and the approximate amount of damages claimed.

Article 10.21. Submission of a Claim to Arbitration

1. Except as provided in annex 10.21 and provided that six (6) months since the events giving rise to the claim, an investor litigants may submit the claim to arbitration under:

a) The ICSID Convention provided that both the opposing side as the party of the investor are parties to the Convention;

b) The ICSID Additional Facility Rules, when the opposing side or the party of the investor, but not both, is a party to the ICSID Convention; or

c) The UNCITRAL Arbitration Rules.

2. The rules pertaining to each of the arbitral proceedings established in this chapter shall govern the arbitration except to the extent modified by this section.

Article 10.22. Conditions Precedent to Submission of a Claim to Arbitration Proceedings

1. The consent of the Parties to the conflict to arbitration under this Chapter shall be regarded as consent to such arbitration to the exclusion of any other mechanism.

2. Each Party may require the exhaustion of local administrative remedies as a condition of its consent to arbitration under this chapter. However, if within six (6) months from the date on which they were administrative remedies for administrative authorities have not delivered its final decision, the investor may submit to arbitration under this section.

3. An investor litigants may submit a claim to arbitration under article 10.17 only if:

a) Subject to the consent to arbitration in accordance with the procedures set out in this section; and

b) The investor and where the claim is for loss or damage to an interest in an enterprise of the other Party that is a juridical person that the investor owns or controls directly or indirectly, the enterprise waive their right to initiate or continue any proceedings before any court under the law of either party or other dispute settlement procedures with respect to the measure of the opposing side alleged breach of the provisions referred to in article 10.17 except procedures that are not intended to the payment of damages which may be requested precautionary measures of suspensive effect,

Declaratory or special before an administrative tribunal or court under the law of the opposing side.

Accordingly, once the investor or the enterprise has submitted a claim to arbitration under this section, the choice of the procedure shall be final and only exclude the possibility of submitting the claim before the competent national court of the opposing side or other dispute settlement procedures, without prejudice to the exceptions referred to above regarding precautionary measures.

4. An investor litigants may submit a claim to arbitration under article 10.18 only if both the investor and the Enterprise:

a) Consent to be submitted to arbitration in accordance with the procedures set out in this section; and

b) Waive their right to initiate or continue any proceedings with respect to the measure of the opposing side alleged to be a breach referred to in article 10.18 before any court under the law of a party or other dispute settlement procedures, except that procedures are not intended to the payment of damages which may be requested precautionary measures of suspensive effect, declaratory or special before an administrative tribunal or court under the law of the opposing side.

Accordingly, once the investor or the enterprise has submitted a claim to arbitration under this section, the choice of the procedure shall be final and only exclude the possibility of submitting the claim before the competent national court of the opposing side or other dispute settlement procedures, without prejudice to the exceptions referred to above regarding precautionary measures.

5. The consent and waiver required by this article would result in writing, shall be delivered to the opposing side and included in the submission of a claim to arbitration.

6. In the event that the Challenger party has deprived the investor of control of an enterprise litigants, shall not require a waiver from the enterprise under paragraphs 3 (b) and 4 (b).

Article 10.23. Consent to Arbitration

1. Each party consents to submit a claim to arbitration in accordance with the procedures and requirements set out in this section.

2. The consent under paragraph 1 and the submission of a claim to arbitration by an investor combatant shall have complied with the requirements set out in:

a) Chapter II of the ICSID Convention (Jurisdiction of the Centre) and the Additional Facility Rules for written consent of the Parties;

b) Article II of the New York Convention for an agreement in writing; and

c) Article I of the Inter-American Convention, which requires an agreement.

Article 10.24. Number and Method of Appointment of Arbitrators

Except as regards the Tribunal established under article 10.27 and unless the parties agree otherwise, the Tribunal shall be composed of three arbitrators (3). Each of the Parties involved shall appoint one (1). The third arbitrator who shall be the Chairman of the Tribunal shall be appointed by agreement of the parties involved.

Article 10.25. Integration of the Tribunal If a Party Fails to Appoint an Arbitrator or Combatant Warring Parties Fail to Agree on the Designation of the Chairman of the Tribunal

1. If a Party fails to appoint an arbitrator or litigant does not reach an agreement on the designation of the Chairman of the Tribunal, the Secretary-General shall appoint the arbitrator in the arbitration proceedings under this section.

2. Where a tribunal, which is not established in accordance with article 10.27, are not engage in a period of ninety (90) days from the date that the claim is submitted to arbitration, the Secretary General at the request of any of the Parties to the conflict and, where possible, after consultation, shall appoint the arbitrator or arbitrators not yet appointed, but not to the Chairman of the Tribunal who shall be appointed pursuant to paragraph 3. In any case, the majority of the arbitrators shall not be nationals of the opposing side or a national of the Party of the investor litigants.

3. The Secretary-General shall appoint the presiding judge of the list of arbitrators referred to in paragraph 4, ensuring that the President of the Court is not a national of the opposing side or a national of the Party of the investor litigants. In the event that is not available in the list an arbitrator as Chairman of the Tribunal, the Secretary-General shall appoint the arbitrators of the ICSID List of the President of the Court, wherever nationality different from the opposing side or the party of the investor litigants.

4. From the date of entry into force of this Treaty, the Parties shall establish and maintain a list of eighteen (18) as arbitrators possible Presiding Judge, none of whom shall be a national of a party who meet the requirements established by the ICSID Convention and the rules referred to in article 10.21 and with experience in International Law and investment. Roster members shall be appointed by mutual agreement regardless of nationality for a period of two (2) years, renewable by consensus if the parties so agree. In the event of the death or the resignation of a member of the list, the parties agree to designate another person to replace in its functions for the remainder of the period for which it was appointed.

Article 10.26. Agreement to Appointment of Arbitrators

For the purposes of article 39 of the ICSID Convention and article 7 of part C of the rules of the additional facility, and without prejudice to an objection to an arbitrator in accordance with article 10.25 (3) or on a basis other than the nationality:

a) The opposing side agrees to the appointment of each individual member of a tribunal established under the Convention or the ICSID Additional Facility Rules;

b) An investor combatant referred to in article 10.17 may submit a claim to arbitration or continue the procedure under the Convention or the ICSID Additional Facility Rules only if the investor combatant expresses its consent in writing to the appointment of each member of the Tribunal;

c) The Investor combatant referred to in article 10.18 (1) may submit a claim to arbitration or continue the procedure under the Convention or the ICSID Additional Facility Rules only if the investor and the enterprise that is litigants express their consent in writing to the appointment of each member of the Tribunal.

Article 10.27. Accumulation of Procedures

1. A tribunal established under this article cumulation will be in accordance with the UNCITRAL Arbitration Rules and shall conduct as laid down in these rules, except as provided in this section.

2. Where a tribunal established under this article cumulation determines that claims submitted to arbitration under article 10.21 raises a question of law or fact, the Tribunal cumulation, in the interest of fair and efficient resolution, and having listened warring parties may order that:

a) Assume jurisdiction, known and resolve all or part of the claims; jointly; or

b) Assume jurisdiction, known and resolution of one or more of the claims on the basis of which would contribute to the resolution of the others.

3. A party seeking a litigant cumulation order under paragraph 2 shall request the Secretary-General to establish a tribunal of cumulation and in the request shall specify:

a) On behalf of the party or parties litigant investors against which the order is sought to obtain cumulation;

b) The nature of the order sought and cumulation;

c) The rationale underlying the request.

4. The opposing side shall deliver a copy of its request to the party opposing combatants or to investors against which the order is sought.

5. Within a period of sixty (60) days from the date of receipt of the request, the General Secretary shall install an Accumulation Court composed of three (3) arbitrators. The Secretary General shall appoint the president of the Accumulation Court from the list of arbitrators referred to in Article 10.25 (4). In the event that one (1) arbitrator available to preside over the Accumulation Court is not on the list, the Secretary General shall designate, from the ICSID Arbitrators List, the president of the Accumulation Court who shall not be a national of any of the Parties. The Secretary General shall designate the other two (2) members of the Accumulation Court of the list referred to in Article 10.25 (4) and, when they are not available in said list, shall select them from the ICSID Arbitrators List; if there are no arbitrators available on this List, the Secretary General will make the missing appointments at his discretion. One (1) of the members shall be a national of the disputing Party and the other member of the Accumulation Court shall be a national of the Party of the contending investors.

6. Where a tribunal has been established under this article, the cumulation investor litigant who has submitted a claim to arbitration under article 10.17 or 10.18 and that has not been named in a request for cumulation made under paragraph 3 may submit a written request to the Tribunal that it be included in a request for cumulation cumulation in accordance with paragraph 2. and in the request shall specify:

a) The name and address of the investor and Challenger where the name and address of the enterprise;

b) The nature of the order sought and cumulation;

c) The reasons for the request.

7. An investor combatant referred to in paragraph 6 shall deliver a copy of its request to the parties to the conflict identified in a request made under paragraph 3.

8. A tribunal established under article 10.21 shall not have jurisdiction to decide a claim. or a part thereof, which has assumed jurisdiction cumulation A Tribunal established under this article.

9. At the request of a party, a litigant cumulation tribunal established under this article may, pending its decision under paragraph 2, provided that the proceedings of a tribunal established under article 10.21 be postponed unless the latter Tribunal has suspended its proceedings pending the resolution on the cumulation of origin.

10. A Party to the secretariat shall deliver a litigant within fifteen (15) days from the date of receipt by the opposing side, a copy of:

a) A request for arbitration made under paragraph 1 of Article 36 of the ICSID Convention;

b) A notice of arbitration under article 2 of part C of the ICSID Additional Facility Rules; or

c) A notice of arbitration in accordance with the UNCITRAL Arbitration Rules.

11. A Party combatant shall deliver to the Secretariat a copy of a request made under paragraph 3:

a) Within a period of fifteen (15) days of receipt of the request in the case of a request made by the investor combatant;

b) Within a period of fifteen (15) days from the date on which the request was made in the case of a request made by the opposing side.

12. A Party combatant shall deliver to the Secretariat a copy of a request made under paragraph 6 within fifteen (15) days from the date of receipt of the request.

13. The secretariat shall maintain a public register of the documents referred to in paragraphs 10, 11 1 and 2.

Article 10.28. Notification

The opposing side shall deliver to the other party:

a) Written notice of a claim that has been submitted to arbitration no later than thirty (30) days after the date of submission of a claim to arbitration; and

b) Copies of all pleadings of pleadings filed in the arbitration proceedings.

Article 10.29. A Party

Upon written notice to the parties to the conflict, a Party may raise a tribunal established under this section their views on a question of interpretation of this Treaty.

1. A Party shall, at its own expense, entitled to receive a copy of the opposing side:

a) The evidence provided to any tribunal established pursuant to this section; and

b) The arguments written submissions by the parties to the conflict.

2. A Party receiving information pursuant to paragraph 1 shall treat the confidential information as if it were a party litigants.

Article 10.30 . Documentation

A Party shall, at its own expense, be entitled to receive from the disputing Party a copy of:

(a) evidence offered to any Tribunal established under this Section; and.

b) the written arguments submitted by the disputing Parties.

2. A Party that receives information pursuant to paragraph 1 shall treat the information as confidential as if it were a disputing Party.

Article 10.31. The Arbitral Proceedings

Unless otherwise agreed by the parties to the conflict, a tribunal established under this section shall conduct the arbitration proceedings in the territory of a Party that is a party to the New York Convention, which shall be elected in accordance with:

a) The ICSID Additional Facility Rules if the arbitration rules or those is under the ICSID Convention; or

b) The UNCITRAL Arbitration Rules if the arbitration is under those rules.

Article 10.32. Applicable Law

1. A tribunal established under this section shall decide the dispute to be submitted to it in accordance with this Treaty and applicable rules of international law.

2. An interpretation by the commission of a provision of this Treaty shall be binding on a tribunal established under this section.

Article 10.33. Interpretation of Annexes

1. When a party claims that the measure as a defence alleged to be a breach is within the scope of a reservation or exception set out in annexes at the request of the opposing side, any tribunal established under this section shall request the Commission interpretation on this matter. The Commission shall, within sixty (60) days of the delivery of the request in writing and shall submit its interpretation to the Tribunal.

2. Pursuant to article 10.32 (2), a commission interpretation submitted under paragraph 1 shall be binding on a tribunal established under this section. If the Commission fails to submit an interpretation within a period of sixty (60) days, the Tribunal shall decide on the matter.

Article 10.34. Expert Opinions

Without prejudice to the appointment of other kinds of experts where this is authorized by the applicable arbitration rules, the Tribunal, at the request of a party or on its own initiative, litigants may appoint one or more experts to rule in writing any matter related to the dispute.

Article 10.35. Interim Measures of Protection

A tribunal established under this section shall apply to national courts or warring parties an interim measure of protection to preserve the rights of the opposing side or to ensure that the jurisdiction or competence of the Tribunal takes full effects. A tribunal may not order attachment or freezing or adherence to, or the suspension of the application of the measure alleged to have been breached or referred to in article 10.17 10.18.

Article 10.36. Final Award

1. Where a tribunal established under this section to obtain a final award against a party, the Tribunal shall decide on:

a) Monetary damages and interest as appropriate; or

b) Restitution of property in which case the award shall provide that the opposing side may pay pecuniary damage, plus interest, in lieu of restitution.

A tribunal may also award costs in accordance with the applicable arbitration rules.

2. Pursuant to paragraph 1. where a claim is made under article 10.18 (1):

a) The award for the restitution of property that shall provide restitution be made to the enterprise;

b) The award granted monetary damages and interest, shall provide that the sum be paid to the enterprise.

3. For purposes of paragraphs 1 and 2, the damage was determined in the currency in which the investment has been made.

4. The award shall be made without prejudice the rights that a Party has a legal interest on compensation for the damage suffered, in accordance with the applicable legislation.

Article 10.37. Finality and Enforcement of the Award

1. An award made by a tribunal established under this section shall be binding only for opposing parties and only in respect of the particular case.

2. Subject to paragraph 3 and the procedure for revision or clarification annulment, applicable to an award under the mechanism which is appropriate in the opinion of the Secretary-General, a Party combatant abide by and comply with an award without delay.

3. A party litigants may seek enforcement of a final award until:

a) In the case of a final award made under the ICSID Convention:

i) Within one hundred and twenty (120) days from the date the award was rendered and without any opposing side has requested revision or annulment of the same; or

ii) Have concluded the procedures for clarification, revision or annulment; and

b) In the case of a final award under the ICSID Additional Facility Rules or the UNCITRAL Arbitration Rules:

i) Within three (3) months from the date the award was rendered and without any opposing side has commenced a proceeding to set aside or revised, annul it; or

ii) A tribunal of the opposing side has dismissed or allowed an application for reconsideration, revocation or cancellation of the award to the parties to the conflict resolution that has been submitted and may not be used.

4. Each Party shall provide for the enforcement of an award in its territory.

5. Where a Party combatant fails to comply with the final award, the Commission, on delivery of a request by a Party whose investor was a party to the arbitration procedure will Arbitral Panel under Article 2008 (Request for the integration of the arbitral group). The requesting party may invoke the procedures for:

a) A determination that the failure or refusal of the terms of the final award is inconsistent with the obligations of this Treaty; and

b) A recommendation that abide by the Party or comply with the final award.

6. The Investor litigants may seek enforcement of an arbitration award under the ICSID Convention or the New York

Convention or the Inter-American Convention regardless of whether or not commenced the procedures referred to in paragraph 5.

7. For the purposes of article 1 of the New York Convention and article I of the Inter-American Convention shall be considered a claim that is submitted to arbitration under this section, arises out of a commercial relationship or transaction.

Article 10.38. General Provisions

When a claim is submitted to the arbitral proceedings

1. A claim shall be deemed submitted to arbitration under this section when:

a) The request for arbitration under paragraph 1 of Article 36 of the ICSID Convention has been received by the Secretary-General;

b) The notice of arbitration under article 2 of part C of the ICSID Additional Facility Rules has been received by the Secretary-General; or

c) The notice of arbitration under the UNCITRAL Arbitration Rules has been received by the opposing side.

Delivery of notice and other documents

2. Delivery of notice and other documents on a party shall be done in the place designated by it in Annex 10.38 (2).

Payments under a contract of insurance or guarantee

3. In an arbitration under this section a Party not used as a counterclaim, defence, right of set-off or other litigant, that the investor has received or will receive pursuant to a contract of insurance or guarantee, indemnification or other compensation for all or part of the alleged damages whose refund sought.

Publication of an award

4. The awards will be issued only in the event that a written agreement between the parties to the conflict.

Article 10.39. Exclusions

The dispute settlement provisions of this section or chapter of dispute settlement (20) shall not apply to cases contained in annex 10.39.

Article 10.40. Definitions

For purposes of this chapter:

ICSID means the International Centre for Settlement of Investment Disputes;

New York Convention means the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards done at New York on 10 June 1958;

Inter-American Convention: the Inter-American Convention on International Commercial Arbitration, held in Panama; 30 January 1975

ICSID Convention means the Convention on the Settlement of Investment Disputes between States and Nationals of Other States done at Washington on 18 March 1965;

Enterprise: "enterprise" as defined in Chapter 2 (General definitions);

Enterprise of a party constituted means an enterprise or organized under the law of a party; and a branch located in the territory of a party and carrying out business activities there;

Investment means every kind of assets or rights of any kind, acquired or used for the purpose of obtaining an economic benefit or other business purposes, with resources transferred or acquired by an investor reinvested and includes:

a) A company, shares of a company or interests in the capital of an enterprise that allow the owner to participate in its income or profits. Debt instruments of an enterprise and loans to an enterprise where:

i) The enterprise is an affiliate of the investor, or

ii) The original maturity of the debt instrument or loan is at least three (3) years;

b) An interest in an enterprise that grants to the owner the right to participate in the assets of that enterprise in liquidation, provided that it does not result in a debt instrument or a loan excluded under subparagraph (a);

c) Real estate or other property, tangible or intangible rights, including in the field of intellectual property as well as any other proprietary right (such as mortgages, pledge, usufruct and similar rights), acquired with the expectation of used or with the purpose of obtaining an economic benefit or other business purposes; and

d) Participation or benefit resulting of capital or other resources committed for the development of an economic activity in the territory of a party, inter alia, under:

i) Contracts involving the presence of an investor property in the territory of the party, including concessions and contracts for construction and turnkey; or

ii) Contracts where remuneration depends substantially on the production, income or profits of an enterprise;

But investment does not mean,

- A payment obligation or a credit granted to the State or a state enterprise;

- Monetary claims derived exclusively from:

i) Commercial contracts for the sale of goods or services by a national or enterprise in the territory of a party to an enterprise in the territory of the other party; or

ii) The granting of credit in connection with a commercial transaction, the expiry date is less than three (3) years, such as trade financing; except a loan covered by the provisions of a loan to an enterprise as defined in subparagraph (a); or

- Any other monetary claim that does not involve the kinds of interests set out in subparagraphs (a) to (d);

Claimant investor: an investor that makes a claim under section B of this chapter;

Investment of an investor Party a means of an investment owned or controlled directly or indirectly by an investor of that Party.

In case of a company, an investment is owned by an investor if the investor of a Party has an ownership of more than fifty percent (50%) of its equity capital.

An investment is controlled by an investor of a party if the investor has the power to:

i) Designate a majority of its directors; or

ii) Otherwise legally direct its operations;

An investor of a Party means a Party or a company of the same or a national of that Party or an enterprise that seeks to perform or performs or has made an investment in the territory of the other party. The intention to make an investment may occur, inter alia, through legal acts aimed at achieving the investment, or are in the process of committing resources required therefor;

Opposing side: the party against which a claim is made under the terms of section B of this chapter;

The opposing side: investor combatant or the opposing side;

"disputants combatant: the investor and the opposing side;

Claim: the request made by the investor litigants against a Party under the terms of section B of this chapter;

UNCITRAL Arbitration Rules means the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL) adopted by the United Nations General Assembly on 15 December 1976;

Secretary-General: the Secretary-General of ICSID;

transfers: international transfers and payments;

Tribunal: an arbitral tribunal established under Article 10.21; and

Consolidation tribunal: an arbitral tribunal established under Article 10.27.

Chapter 11. Cross-border Trade In Services

Article 11.01. Definition

For purposes of this chapter:

Cross-border trade in services or service: the Cross-Border Supply of a service:

a) The territory of a party into the territory of the other party;

b) In the territory of one party to the service consumer of the other party; or

c) By a service provider of a party through the presence of natural persons of a Party in the territory of the other party;

But does not include the provision of a service in the territory of a party by an investment as defined in article 1 (Definitions), in that Territory;

Enterprise: "enterprise" as defined in Chapter 2 (General definitions);

Enterprise of a party constituted means an enterprise or organized under the law of a party; and a branch located in the territory of a party and carrying out business activities there;

Service provider of a Party means a person of a Party that seeks to provide or provides a service transfronterizamente;

A quantitative restriction: non-discriminatory measure which imposes limitations on:

a) The number of service suppliers whether in the form of a quota monopoly or an economic needs test or by any quantitative or other means;

b) The operations of any service provider, either through a quota or an economic needs test; or by any other quantitative means;

Specialty Air Services: cross-border air services, surveying, mapping aerial photography, control of forest fires, aerial firefighting, advertising, towing services, cross-border planeadores parachutists, cross-border air services for construction, air transport logs, sawn wood or flights overview, training, inspection and monitoring and aerial spraying Air; and

Services supplied in the exercise of governmental functions: any cross-border service provided by a public institution, which are not paid on a commercial basis nor in competition with one or more service suppliers.

Article 11.02. Scope of Application

1. This chapter applies to measures that a party adopts or maintains relating to cross-border services by service providers of the other party, including those relating to:

a) The production, distribution, marketing, sale and the provision of a cross-border service;

b) The purchase, use or the payment of a cross-border service;

c) Access to and use of distribution and transportation systems in connection with the provision of a cross-border service;

d) The presence in its territory of a service provider of the other party; and

e) The provision of a bond or other form of financial security as a condition for the provision of a cross-border service.

2. For purposes of this chapter shall apply to measures adopted or maintained by a Party includes measures adopted or maintained by institutions or agencies not

In the exercise of governmental authority and administrative regulations or other governmental delegated to them by that Party.

3. This chapter does not apply to:

a) Subsidies or grants provided by a party or a state enterprise, including loans, guarantees and insurance supported by a party;

b) Air services including domestic and international air transportation, l scheduled and non-scheduled and ancillary activities in support of air services except:

i) Maintenance services and repair of aircraft during the period in which an aircraft is withdrawn from service;

ii) Air and specialty services;

iii) Computer reservation systems;

c) Government services or functions such as law enforcement services, social rehabilitation, pension or unemployment insurance or social security services, social welfare, education, training and public health care or protection of children;

d) Cross-border financial services; and

e) Government procurement by a party or a State enterprise.

4. Nothing in this chapter shall be construed to impose any obligation on a Party with respect to a national of the other party who wish to enter the labour market or who is permanently employed in its territory, or confer any right on that with respect to that national access or employment.

Article 11.03. National Treatment

Each Party shall accord to cross-border services and service providers of the other party treatment no less favourable than that accorded to its own like services and service providers.

Article 11.04. Most Favoured Nation Treatment

Each Party shall accord immediately and unconditionally to cross-border services and service providers of the other party treatment no less favourable than that it accords to like services and service providers of any other country.

Article 11.05. Standard of Treatment

Each Party shall accord to cross-border services and service providers of the other party the better of the treatment required by articles 1103 and 11.04.

Article 11.06. Local Presence

No Party shall require a service provider of the other party to establish or maintain a representative office or other company or resident in its territory as a condition to the provision of a cross-border service.

Article 11.07. Granting Licences, Authorizations or Licences, Certifications

With a view to ensuring that any measure that adopts or maintains a Party with respect to the requirements and procedures for the granting of permits and authorizations, licenses or certifications to nationals of the other party does not constitute an unnecessary barrier to cross-border services each Party shall endeavour to ensure that such measure:

a) Based on objective and transparent criteria, such as the capacity and ability to provide a cross-border service;

b) Not more burdensome than necessary to ensure the quality of a cross-border service; and

c) Do not constitute a disguised restriction on the cross-border provision of a service.

Article 11.08. Reservations

1. Articles 1106, 11.04 1103 and do not apply to:

a) Any Non-Conforming Measure existing Non-Conforming Measure that is maintained by:

i) A Party at the national level, as provided for in its list of annex 1; or

ii) A local or municipal government;

b) The continuation or prompt renewal of any Non-Conforming Measure referred to in subparagraph (a); or

c) The modification of any Non-Conforming Measure referred to in subparagraph (a), provided that the amendment does not decrease the level of conformity of the measure as currently in force immediately before the amendment with articles 1106 and 1103, 11.04.

2. Articles 1106 and 1103, 11.04 shall not apply to any measure that adopts or maintains a Party with respect to the sectors or sub-sectors or activities as set out in annex II to its schedule.

Article 11.09. Non-discriminatory Quantitative Restrictions

1. Each Party shall establish a list of existing measures that constitute non-discriminatory quantitative restrictions, which are set out in annex V.

2. Each Party shall notify the other party of any measure constitutes a quantitative restriction non-discriminatory different from those of a local or municipal government level that is adopted after the entry into force of this Treaty, and shall set out the restriction in the list referred to in paragraph 1.

3. Periodically, at least once every two (2) years, the Parties shall endeavour to negotiate for liberalizing or eliminate:

a) Existing quantitative restrictions maintained by a party, the list referred to in paragraph 1; or

b) Quantitative restrictions adopted by a Party after the entry into force of this Treaty.

Article 11.10. Denial of Benefits

Subject to prior notification and consultation in accordance with articles 18.04 (provision of information) and 20.06 (consultations), a Party may deny the benefits of this chapter to a service provider of the other party, when it determines that the service is being provided by an enterprise that has no substantial business activities in the territory of the other party and that, in accordance with the other party of legislation that is owned or controlled by persons of a non- party.

Article 11.11. Future Liberalization

Through future negotiations to be convened by the Commission, the parties reached the deepen liberalization in services sectors with a view to achieving the elimination of the remaining restrictions listed in accordance with article 1108 (1) And (2).

Article 11.12. Proceedings

The Parties shall establish procedures for:

a) A Party shall notify the other Party and include in its relevant schedule:

i) Amendments of the measures referred to in article 1108 (1) and (2); and

ii) Quantitative restrictions in accordance with article 6 -; 11.09 .11

b) Indicate their commitments to liberalize quantitative restrictions, licensing requirements, and other measures and non-discriminatory;

c) Consultations on reservations or quantitative restrictions or commitments with a view to achieving further liberalisation.

Article 11.13. Recognition of Higher Education Degrees

In ANNEX 11.13 lays down the rules to be observed by the parties for the recognition of certificates issued by any of the Parties.

Article 11.14. Disclosure of Confidential Information

Nothing in this chapter shall be construed to impose obligations on the parties to provide the disclosure of confidential information which could constitute a

Impede law enforcement or otherwise be contrary to the public interest or would prejudice legitimate commercial interests of particular public or private enterprises.

Article 11.15. Committee on Investment and Cross-border Trade In Services

1. The parties establish a committee on investment and cross-border trade in services, whose composition stated in annex 11.15.

2. The Committee shall hear matters relating to this chapter and chapter 10 (investment), and without prejudice to article 1905 (2) (Committees), shall have the following functions:

a) Monitor the implementation and administration of 10 chapters (investment) and eleven (cross-border trade in services);

b) Discuss matters on investment and cross-border trade in services that are submitted by either party;

c) Discuss issues related to these matters discussed in other international fora;

d) To facilitate the exchange of information between the parties and cooperate in the field of advice on investment and cross-border trade in services; and

e) Create working groups or convene expert groups on topics of mutual interest to the parties.

3. The Committee shall meet when necessary or at any time upon the request of either party. It may also include representatives of other institutions where the responsible authorities as appropriate.

Article 11.16. International Inland Freight Transport

Annex 11.16 establishes the rules to be observed by the Parties to apply the measures that will regulate international land cargo transportation services.

Chapter 12. Financial Services

Article 12.01. Definitions

For purposes of this chapter:

Regulatory authorities: any government entity or supervisory authority over Financial Services service or financial institutions;

Public entity means a central bank or monetary authority of a party, or any financial institution of public nature, owned by a party or under its control, when it is not exercising business functions;

Enterprise: "enterprise" as defined in Chapter 2 (General definitions);

Financial institution means any financial intermediary or other enterprise that is authorized to do business or supervised and regulated Financial Services as a financial institution under the law of the Party in whose territory it is located;

Financial institution of the other party means a financial institution including a branch of the same constituted in accordance with the legislation in force in the territory of a Party that is owned or controlled by persons of the other party;

Investment means every kind of assets or rights of any kind, acquired or used for the purpose of obtaining an economic benefit or other business purposes, with resources transferred or acquired by an investor reinvested and includes:

a) A company, shares of a company; shares in the capital of an enterprise that allow the owner to participate in its income or profits. Debt instruments of an enterprise and loans to an enterprise where:

i) The enterprise is an affiliate of the investor; or

ii) The original maturity of the debt instrument or loan is at least three (3) years;

b) An interest in an enterprise that grants to the owner the right to participate in the assets of that enterprise in liquidation, provided that it does not result in a debt instrument or a loan excluded under subparagraph (a) 12 - 2;

c) Real estate or other property, tangible or intangible rights, including in the field of intellectual property as well as any other proprietary right (such as mortgages, pledge, usufruct and similar rights), acquired with the expectation of used or with the purpose of obtaining an economic benefit or other business purposes;

d) Participation or benefit resulting of capital or other resources committed for the development of an economic activity in the territory of a party, inter alia, under:

i) Contracts involving the presence of an investor property in the territory of the party, including concessions and contracts for construction and turnkey; or

ii) Contracts where remuneration depends substantially on the production, income or profits of an enterprise; and

e) A loan granted by a service or a Financial Services value of debt owned by the same except a loan to a financial institution or a value of debt issued by the same;

But investment does not mean,

- A payment obligation or a credit granted to the State or a state enterprise;

- Monetary claims derived exclusively from:

i) Commercial contracts for the sale of goods or services by a national or enterprise in the territory of a party to an enterprise in the territory of the other party; or

ii) The granting of credit in connection with a commercial transaction, the expiry date is less than three (3) years, such as trade financing; except a loan covered by the provisions of subparagraph (a);

- Any other monetary claim that does not involve the kinds of interests set out in subparagraphs (a) to (e);

- A loan to a financial institution or a debt owned by a financial institution, except a loan to a financial institution that is treated as capital for regulatory purposes, by any Party in whose territory the financial institution is located;

Investment of an investor Party a means of an investment owned or controlled directly or indirectly by an investor of that Party.

In case of a company, an investment is owned by an investor if the investor of a Party has an ownership of more than fifty percent (50%) of its equity capital.

An investment is controlled by an investor of a party if the investor has the power to:

i) Designate a majority of its directors; or

ii) Otherwise legally direct its operations;

An investor of a Party means a Party or a company of the same or a national of that Party or an enterprise that seeks to perform or performs or has made an investment in the territory of the other party. The intention to make an investment may occur, inter alia, through legal acts aimed at achieving the investment, or are in the process of committing resources required therefor;

Investor combatant: an investor to submit a claim to arbitration under article 12.19 and section B of chapter 10 (investment);

New financial service means a financial service not paid in the territory of a Party that is provided in the territory of the other party, including any new form of delivery of a financial service or the sale of a financial product that is not sold in the territory of the Party;

Agencies autoregulados: a non-governmental entity, including an exchange or securities and futures, central securities clearing house or any other organisation or association that exercises its own or delegated authority, regulatory or supervisory;

Cross-border supply of financial services or cross-border trade

Financial services means the supply of a financial service:

a) The territory of a party into the territory of the other party;

b) In the territory of one party to the service consumer of the other party; or

c) By a service provider of a party through the presence of natural persons of a Party in the territory of the other party;

Financial Services Service of a Party means a person of a Party that is engaged in the business of providing financial services in the territory of the Party;

Financial Services Service of a Party means a person of a Party that is engaged in the business of providing financial services in its territory that seeks to perform or performs the cross-border supply of financial services; and

Financial service means a service of a financial nature including banking, insurance, reinsurance and any related auxiliary service or to a service of a financial nature.

Article 12.02. Scope of Application

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

a) Financial institutions of the other party;

b) A Party of investors and investments of investors in those financial institutions in the territory of the other party; and

c) Cross-border trade in financial services.

2. Nothing in this chapter shall be construed as preventing a party or its public entities, leading or provide exclusively in its territory:

a) Activities carried out by the monetary authorities or by any other public institution in pursuit of monetary or exchange rate policies;

b) Activities or services forming part of a public retirement plan or statutory system of social security; or

c) Other activities or services for the account or with the guarantee or using the financial resources of the same or its public entities.

3. The provisions of this chapter shall take precedence over the other, except in cases where reference is made to those chapters.

4. Article (10.11 expropriation and compensation) form an integral part of this chapter.

Article 12.03. Autoregulados Agencies

When a party requires that a financial institution or a Financial Services Service is member of the other party engages in, or have access to an agency autoregulado to provide a financial service in or into its territory, the Party shall make every effort to that body complies with the obligations of this chapter.

1. The Parties recognize the principle that investors of one party, they should be permitted to establish a financial institution in the territory of the other party, by any of the modalities for the establishment and operation of the legislation of that Party.

2. Each party may impose, at the time of the establishment of a financial institution, terms and conditions that are consistent with Article 12.06.

Article 12.04. Right of Establishment

1. No party will increase the degree of inconsistency of its measures relating to cross-border trade in financial services, under the provisions of this Treaty, by Financial Services Service of the other party, after the entry into force of this Treaty, except as provided in section B of the list of the Party in annex VI.

2. Each Party shall permit persons located in its territory and to its nationals, wherever located, to purchase Financial Services Financial Services Service of the other party located in the territory of that other party. It does not require a party to permit such suppliers to do business Financial Services or advertising in its territory. The Parties may define what is "notice" and "business" for purposes of this obligation.

3. Without prejudice to other means of prudential regulation of cross-border trade in Financial Services, a Party may require the registration of Financial Services Service of the other party and of financial instruments.

Article 12.05. Cross-border Trade

1. No Party shall increase the degree of non-conformity of its measures relating to cross-border trade in financial services with respect to the provisions of this Agreement undertaken by cross-border financial service suppliers of the other Party

after the entry into force of this Agreement, except as provided for in Section B of the Party's Schedule to Annex VI.

2. Each Party shall permit persons located in its territory and its nationals, wherever located, to purchase financial services from cross-border financial service suppliers of the other Party located in the territory of that other Party. This does not oblige a Party to allow such cross-border financial service suppliers to do business or advertise in its territory. Parties may define "advertising" and "doing business" for purposes of this obligation.

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

Article 12.06. National Treatment

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

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

3. Pursuant to article 12.05 pm, where a Party permits the cross-border provision of a financial service it shall accord to the Financial Services Service of another party treatment no less favourable than that it accords to its own Financial Services service with respect to the provision of that service.

4. A Party that the treatment accorded to similar financial institutions and similar Financial Services Service of the other party, whether the same or different to that accorded to its own institutions or providers of similar services is consistent with paragraphs 1 to 3, if affords equal competitive opportunities.

5. The treatment of a Party does not provide equal opportunities at a competitive disadvantage if similar financial institutions and similar Financial Services Service of the other party in their ability to provide financial services as compared with the ability to its own similar financial institutions and service providers of the other party to provide such services.

Article 12.07. Most Favoured Nation Treatment

Each Party shall accord to investors of the other party in financial institutions of the other party and to investments of investors in financial institutions and Financial Services Service of another party treatment no less favourable than that accorded to investors of similar financial institutions and to investments of investors in similar financial institutions and similar Financial Services Service of the other party or of a non- party.

Article 12.08. Recognition and Harmonization

1. In applying measures under this chapter, a Party may recognize prudential measures of the other party or of a non- party. Such recognition may be:

a) Accorded unilaterally;

b) Achieved through harmonization or other means; or

c) Based on an agreement or arrangement with the other party or non-party country.

2. The party that grants recognition of prudential measures under paragraph 1 shall provide adequate opportunity to the other party to demonstrate that circumstances exist in which there are or would be equivalent regulations, monitoring and implementation

Implementation of the regulation and, where appropriate, procedures for the sharing of information between the parties.

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

4. Nothing in this article shall be interpreted as the implementation of a mandatory revision of the financial system or prudential measures of a party by the other party.

Article 12.09. Exceptions

1. Nothing in this chapter shall be construed as preventing a party maintains adopts or prudential measures such as:

a) Protect fund managers, investors, depositors, participants in the financial market, holders or beneficiaries of policies, or persons of fiduciary duties owed by a financial institution or a Financial Services service;

b) Maintaining security, integrity, responsibility or financial soundness of financial institutions or Financial Services Service; and

c) Ensuring the integrity and stability of the financial system of a party.

2. Nothing in this chapter applies to non-discriminatory application of general measures taken by a public entity in the conduct of monetary policies or policies related credit or exchange rate policies. This paragraph shall not affect the obligations of any Party deriving from investment performance requirements with respect to measures covered by chapter 10 (investment) or article 12.17.

3. Article 12.06 does not apply to the issuance of exclusive rights that makes a party to a financial institution, to provide a Financial Services referred to in paragraph 2 (b) of Article 12.02.

4. Notwithstanding paragraphs 1 to 3 of Article 12.17, a Party may prevent or limit transfers by a financial institution or a Financial Services Service, or for the benefit of an affiliate of related to such person or institution or in such a service provider, through the fair and non-discriminatory application of measures relating to maintenance of security, integrity, responsibility or financial soundness of financial institutions or Financial Services Service. Nothing in this paragraph shall be without prejudice to any other provision of this agreement that permits a party to restrict transfers.

Article 12.10 . Transparency

1. In addition to the provisions of article 18.03 (publication), each Party shall ensure that any measure taken on matters related to this chapter is published

Opportunity formally to disclose or with which it was addressed by any other written means.

2. Regulatory authorities of each Party shall make available to all interested parties information concerning the requirements to fill and submit a request to the supply of financial services.

3. At the request of the applicant, the regulatory authority shall inform the applicant of the status of its application. If such authority requires additional information from the applicant shall notify, without undue delay.

4. Each of the regulatory authorities shall within a period of one hundred and twenty (120 days), an administrative decision on a complete application relating to the provision of a financial service, submitted by an investor in a financial institution, by a financial institution or a Financial Services Service of the other party. The Authority shall notify the applicant without delay. An application shall not be considered complete until all relevant hearings are held and all necessary information is received. Where it is not feasible to issue a decision within one hundred and twenty (120 days), the regulatory authority shall notify the applicant without undue delay and shall endeavour to make the decision within sixty (60) days.

5. Nothing in this chapter requires a party to disclose or allow access to:

a) Information related to the accounts and financial affairs of individual customers of financial institutions or Financial Services service; or

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

Article 12.11. Financial Services Committee

1. The parties establish the Financial Services Committee as set out in annex 12.11.

2. The Committee shall hear matters relating to this chapter and without prejudice to article 1905 (2) (Committees), shall have the following functions:

a) Monitoring the implementation of this chapter and its further development;

b) Consider issues regarding Financial Services that are submitted by a party;

c) Participate in the dispute settlement procedures in accordance with articles 12.18 and 12.19; and

d) To facilitate the exchange of information between supervisory authorities and cooperate in the field of advice on prudential regulation, ensuring the harmonization of regulatory frameworks as well as other policies, when it deems appropriate.

3. The Committee shall meet when necessary or at the request of one of the Parties in evaluating the implementation of this chapter.

Article 12.12. Consultations

1. Without prejudice to article 20.06 (consultations), a Party may request consultations with the other Party regarding any matter arising under this Agreement that affects financial services. The other party shall favourably consider that request.

Consulting the parties to the Committee shall make available the results of their consultations, during meetings of the Tribunal.

2. In consultations under this article shall include officials of the authorities specified in annex 12.11.

3. A Party may request that regulatory authorities of the other party participate in consultations under this article or to discuss measures of general application of that other party which may affect the operations of financial institutions or Financial Services service in the territory of the party requested that the consultations.

4. Nothing in this article shall be construed to require regulatory authorities participating in consultations to disclose information under paragraph 3 or to act in a manner that would interfere with specific matters regulatory supervision, administration and implementation of measures.

5. In cases where, for the purpose of monitoring, information concerning a Party may require a financial institution in the territory of the other party or on Financial Services service in the territory of the other party, the party may have recourse to a regulatory authority responsible in that territory the other party to seek information.

Article 12.13. New Financial Services and Data Processing

1. Each Party shall permit a financial institution of the other party to provide any new financial service similar to those of a type that party, in accordance with its laws, to provide to its financial institutions. A Party may determine the institutional and juridical form through which the service to be provided and may require authorization for the provision of the same. Where such authorization is required, the decision shall be made within a reasonable time and may only be refused for prudential reasons, provided that they are not contrary to the legislation of the party, and articles and 12.06 12.07.

2. Each Party shall allow a financial institutions of the other Party to transfer, for processing information, within or outside the territory of the Party, using any means authorized therein when necessary for carrying out the business activities of such institutions.

3. Each Party undertakes to respect the confidentiality of the information processed within its territory by a financial institution located in the other party.

Article 12.14. Senior Management and Boards of Directors or Governing Council

1. No party may require financial institutions of the other party to employ staff of a particular nationality to senior management positions of business or other charges.

2. No party may require that the Board of Directors or the board of directors of a financial institution of the other party is incorporated by nationals of the party, by resident in its territory or a combination of the two.

Article 12.15. Reserves and Specific Commitments

1. Articles 12.04 12.07 The, 12.14 12.13 and do not apply to:

a) Any Non-Conforming Measure existing Non-Conforming Measure that is maintained by a party at the national level, as indicated in section A of its schedule in annex VI;

b) The continuation or prompt renewal of any Non-Conforming Measure referred to in subparagraph (a); or

c) The modification of any Non-Conforming Measure referred to in subparagraph (a) in both the amendment does not decrease the conformity of the measure with the articles 12.04 12.07 12.13 12.14 and, as the measure was in force immediately prior to the modification.

2. Articles 12.04 12.07 The, 12.14 12.13 and do not apply to any measure that adopts or maintains a Party in accordance with section B of annex VI to its schedule.

3. Section C of the list of each Party in Annex VI may establish certain specific commitments by that Party.

4. Where a Party has set out in chapters 10 (investment) and eleven (cross-border trade in services), a reservation to issues relating to local presence, National Treatment and most-favoured-nation treatment, and senior management and board of directors or boards, the reservation shall be construed as references to articles 12.04 12.07 The 12.13 12.14, and, as the case may be, to the extent that the measure, sector and subsector activity or set out in the reservation covered by this chapter.

Article 12.16. Denial of Benefits

A Party may deny, partially or totally, the benefits of this chapter a Financial Services to service the other party or a Financial Services Service of the other party, subject to prior notification and consultation in accordance with articles 12.10 and 12.12, where the party establishes that the service is being provided by an enterprise that has no substantial business activities in the territory of that other party and which is owned by persons of a non- party or under the control of the same.

Article 12.17. Transfers

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

a) Profits, dividends, interests, capital gains, royalties, fees payments for administration, technical assistance and other fees; returns and other amounts in kind derived from the investment;

b) Products derived from the sale or the total or partial liquidation of the investment;

c) Payments made under a contract of which is a party to an investor or investment including its payments made pursuant to a loan agreement;

d) Payments made pursuant to article 10.11 (expropriation and compensation); and

e) Payments arising out of a dispute settlement procedure between an investor and a party of the other party pursuant to this chapter and section B of chapter 10 (investment).

2. Each Party shall permit transfers to be made in a freely convertible currency at the market rate of exchange prevailing on the date of transfer.

3. No party may require its investors to transfers carried out their income, profits, or other profits or amounts derived from investments carried out in the territory of the other party or attributable to the same or in case shall not to transfer.

4. Notwithstanding paragraphs 1 and 2, a Party may establish mechanisms to prevent a transfer through the equitable and non-discriminatory application of its laws in the following cases:

a) Bankruptcy or insolvency or the protection of the rights of creditors;

b) Criminal or administrative rulings in strong;

c) Failure to submit reports of transfers of currency or other monetary instruments;

d) Ensuring compliance with orders or awards rendered in contentious proceedings; or

e) Relating to ensure compliance with laws and regulations for the issuance of securities, and trade operations.

5. Paragraph 3 shall not be interpreted as an impediment to a party through the application of their legislation in an equitable and non-discriminatory manner, any measure to impose related subparagraphs of paragraph 4.

Article 12.18. Settlement of Disputes between the Parties

1. In terms of this chapter, amending article 20 (dispute settlement) applies to the settlement of disputes between the parties concerning this chapter.

2. The Financial Services Committee shall be by consensus a list of up to eighteen (18) individuals comprising three (3) of each party individuals who have the skills and necessary provisions to serve as arbitrators in disputes related to this chapter. Members of the roster shall, in addition to satisfy the requirements set out in Chapter 20 (dispute settlement), have expertise or experience in financial matters arising from the exercise of responsibilities in the financial sector or in its regulation.

3. For the purposes of the Constitution of the arbitral group shall be used the list referred to in paragraph 2, except that warring parties agree that may be part of the arbitral group individuals not included in the list provided that they comply with the requirements established in paragraph 2. The Chairman shall always be selected from the roster.

4. In any dispute arbitration where the Panel has found that a measure is inconsistent with the obligations of this chapter as appropriate the suspension of benefits referred to in Chapter 20 (dispute settlement) and the measure affects:

a) Only the financial services sector, the complaining party may suspend benefits only in this sector;

b) The financial services sector and any other sectors, the complaining party may suspend benefits in the financial services sector that have an effect equivalent to the effect of the measure in the financial services sector; or

c) Any other sector other than the Financial Services, the complaining party may not suspend benefits in the financial services sector.

Article 12.19. Investment Dispute Settlement In Financial Services between an Investor of One Party and Party a

1. Section B of chapter 10 (investment) is incorporated into chapter and this is an integral part thereof.

2. Where an investor of the other Party in accordance with article 10.17 (claim by an investor of a Party on its own behalf) or 10.18 (claim by an investor of a Party on behalf of an enterprise) and under section B of chapter 10 (investment) referred to arbitration a claim against a party and the opposing side invokes article 1209 to request it, the Tribunal shall refer the matter in writing to the Committee for its decision. The Tribunal may not proceed pending receipt of a decision in accordance with the terms of this article.

3. In a referral of the matter pursuant to paragraph 1, the Committee shall decide whether article 1209 is a valid defence to the claim of the investor and the extent to which it is. The Committee shall transmit a copy of its decision to the Tribunal and to the Commission. Such decision shall be binding on the Tribunal.

4. Where the Committee has not taken a decision within sixty (60) days of the receipt of the referral under paragraph 1, the opposing side or the party of the investor litigants may request the establishment of an arbitral panel under Article 2008 (Request for the integration of the arbitral group). The arbitral panel shall be constituted in accordance with article 12.18 and shall submit to the Committee to the Tribunal and its final determination shall be binding on the Tribunal.

5. When it has requested the establishment of an arbitral group under the terms of paragraph 4 within a period of ten (10) days after the expiry of the period of sixty (60) days referred to in that paragraph, the tribunal may proceed to decide the matter.

Chapter 13. Telecommunications

Article 13.01. Exclusion

This chapter does not apply between Panama and Costa RIC to.

Article 13.02. Definitions

For purposes of this chapter:

Internal communications of an enterprise subject to: (1), annex 13.03 Telecommunications communicates through which an enterprise:

a) Internally or with or among its subsidiaries and branches and subsidiaries, as defined by each Party; or

b) A non-commercial basis with other persons that are fundamental to the economic activity of the enterprise and that have a continuing contractual relationship with it;

But does not include telecommunications services supplied to persons other than those described in this definition;

Authorized: the terminal equipment or other equipment that has been adopted to connect to the public telecommunications network in accordance with the conformity assessment procedures of a party;

Terminal equipment means any device capable of analogue or digital processing, commute, marking, receiving or transmitting signals by electromagnetic means and be connected to the public telecommunications network, through broadcast or cable connections, at a terminal;

Measures related to standardization: "" standardization measures as defined in article 9.01 (definitions);

Monopoly means an entity, including a consortium or government agency that is maintained or designated according to its legislation, if it so permits, as the sole supplier of public telecommunications networks or services in any relevant market in the territory of a party;

Conformity assessment procedure: "conformity assessment procedure" as defined in article 9.01 (definitions) and includes the procedures referred to in annex 13.03 (2);

Protocol: a set of rules and formats governing the exchange of information between two peer entities (2), for the purpose of transfer of information and data;

Main incumbent provider or operator: a supplier which has the ability to materially affect the terms of participation (having regard to price and supply) in the relevant market for telecommunications services as a result of control over essential facilities or use of its position in the market;

The network of terminal point: the final demarcation of the public telecommunications network user facilities;

Subject to private telecommunications network: 13.03 (annex 1), the telecommunications network used exclusively for internal communications between persons of a company or predetermined;

Public telecommunications network means the telecommunications network used to exploit commercially telecommunications services designed to meet the needs of the general public, excluding telecommunications terminal equipment or users of telecommunications networks that are beyond the point of the network;

Telecommunications service means a service provided by means of transmission and reception of signals by physical line, radioelectricidad, optical or other electromagnetic systems, but does not mean cable broadcasting or other electromagnetic distribution of radio or television programming;

Public telecommunications service telecommunications means any service that requires a party explicitly or indeed to be offered to the public generally, including telegraph, telex, telephone and data transmission typically involves real-time transmission of information provided by the user between two or more points without any change of end-to-end "" in the form or content of the information of the user;

Improved telecommunications services employing services: computer processing systems that:

a) Acting on the format, content and protocol, code or similar aspects of information transmitted user;

b) Additional information provided to the client, or different restructured; or

c) Involve user interaction with the stored information; and

Telecommunications means any emission, transmission or reception of signs, signals, writings, images and sounds and information on any kind of physical line, radioelectricidad, optical or other electromagnetic systems.

Article 13.03. Scope of Application

1. This chapter applies to:

a) Subject to the provisions of annex 13.03 (1); measures adopted or maintained by a Party relating to access to and use of public telecommunications networks or services by persons of the other party, including pricing and access and use by

private persons operating such networks so as to carry out their internal communications of enterprises;

b) Measures adopted or maintained by a Party relating to the provision of enhanced services by persons of the other party in the territory of the first or across its borders; and

c) Standardization measures relating to the attachment of terminal or other equipment to the public telecommunications networks.

2. This chapter does not apply to measures that a party adopts or maintains relating to broadcast or cable distribution of radio or television programming, except that they are intended to ensure that persons operating broadcast stations and cable systems have access to and use of public telecommunications networks and services.

3. Nothing in this chapter shall be construed as:

a) To require a party to authorize a person of the other party to establish, construction, acquisition, leases, operate or supply telecommunications networks or services;

b) Oblige a party or that it may require a person to establish, construction, acquisition, leases, operate or supply telecommunications networks or services not offered to the public generally;

c) Prevent a Party from prohibiting persons operating private networks from using their telecommunications networks or to supply public telecommunications networks or services to third persons; or

d) To require a party to compel any person engaged in the broadcast or cable distribution of radio or television programming to make available its cable broadcast or as a public telecommunications network.

Article 13.04. Access to Public Telecommunications Networks and Services and Its Use

1. For the purposes of this article, "" non-discriminatory terms and conditions no less favourable than those accorded to any other customer or user of public telecommunications networks or services in like circumstances.

2. Each Party shall ensure that persons of the other party have access to and use of any public telecommunications network or service offered in its territory or across borders, including private leased circuits on reasonable and non-discriminatory terms and conditions, for the conduct of business, including as set out in the other paragraphs of this article.

3. Subject to paragraphs 7, 8 and Annex 13.03 (1), each Party shall ensure that persons of the other party are permitted to:

a) Purchase or lease and interconnect terminal equipment or other equipment that interfaces with the public telecommunications network;

b) Interconnect private owned or leased circuits with public telecommunications networks in the territory of that Party or across its borders through marking including direct access to and from their customers or users or with leased circuits or owned by another person on mutually agreed terms and conditions by those persons, in accordance with annex 1304;

c) Functions switching, marking and processing; and

d) Operating protocols use of their choice in accordance with the technical plans of each party.

4. Without prejudice to the applicable legislation, each Party shall ensure that the pricing of public telecommunications services reflects economic costs directly related to providing the services. Nothing in this paragraph shall be construed as preventing a party from establishing cross-subsidization between public telecommunications services.

5. Subject to the provisions of annex 13.03 (1), each Party shall ensure that persons of the other Party may use public telecommunications networks or services to transmit the information in its territory or across its borders including for internal communications of enterprises, and for access to information contained in databases or otherwise stored in machine-readable form by a machine in the territory of the other party.

6. In addition to the provisions of article 21.02 (general exceptions), nothing in this chapter shall be construed as preventing a Party may adopt or apply any measure necessary to:

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

b) Protect the privacy of subscribers to public services or telecomuni caciones networks.

7. In addition to the provisions of article 13.06, each Party shall ensure that no condition is imposed more access to public

telecommunications networks or services and their use, that necessary to:

a) Safeguard the public service responsibilities of providers of public telecommunications networks or services. in particular their ability to make their networks or services available to the public generally or;

b) Protect the technical integrity of public telecommunications networks or services.

8. Provided that conditions for access to public telecommunications networks or services and their use fulfil the criteria set out in paragraph 7, such conditions may include:

a) Restrictions on resale or shared use of such services;

b) Requirements for the use of specific technical interfaces, interface, including protocols for interconnection with such networks or services;

c) Restrictions on interconnection of private owned or leased circuits with such networks or services or with leased circuits or owned by another person; and when they are used for the supply of public telecommunications networks or services; and

d) Procedures for licensing, permitting, concessions, records or notifications, adopted or maintained, are transparent and to the processing of applications is expeditiously resolved.

Article 13.05. Conditions for the Provision of Enhanced Services

1. Each Party shall ensure that:

a) Any procedure that it adopts or maintains for licensing, permitting, concessions, records or notifications relating to the provision of enhanced services is transparent and non-discriminatory and that applications are resolved expeditiously; and

b) The information required under such procedures is in accordance with the legislation in force in the parties to initiate the provision of the Service, which may include services or equipment or other terminal equipment the applicant to comply with applicable technical standards or regulations of the party.

2. Without prejudice to the legislation of each party, no Party shall require a service provider improved:

a) Such services to the public generally;

b) Tariffs or justify their prices in accordance with its costs;

c) A fee or price;

d) Its interconnect networks with any particular customer or network; or

e) Satisfy any standard or technical regulation for interconnection other than for interconnection to a public telecommunications network.

3. Notwithstanding paragraph 2 (c), a Party may require the filing of a tariff by:

a) A service provider to remedy a practice that of provider has found that the Party in a particular case as anti-competitive, in accordance with its laws; or

b) A monopoly, main provider or incumbent operator to implement the provisions of article 13.07.

Article 13.06. Measures Related to Standardization

1. Each Party shall ensure that its measures relating to the normalization relating to the attachment of terminal or other equipment to the public telecommunications networks, including those measures relating to the use of measuring equipment for testing and conformity assessment procedure, are adopted or maintained only to the extent necessary to:

a) Technical prevent damage to public telecommunications networks;

b) Technical prevent interference with public telecommunications services, or deterioration;

c) Prevent electromagnetic interference, and ensure compatibility with other uses of spectrum;

d) Prevent the malfunctioning of valuation, collection and invoicing;

e) User ensuring safety and access to public telecommunications networks or services; or

f) To ensure the efficient use of spectrum.

2. Each Party may establish the approval requirement for the attachment to the public telecommunications network of terminal or other equipment that is not authorized, provided that the criteria for approval are consistent with paragraph 1.

3. Each Party shall ensure that the endpoints of public telecommunications networks are defined on a reasonable and transparent basis.

4. Neither party may require separate authorization for equipment that is connected on customer side of the authorized equipment that serves as a protective device fulfilling the criteria of paragraph 1.

5. Each Party shall:

a) Ensure that its conformity assessment procedures are transparent and non-discriminatory and that applications filed in effect are diligently processed;

b) Permit any technically qualified entity to perform the required testing to terminal equipment or other equipment to be attached to the public telecommunications network, in accordance with the conformity assessment procedures of that Party, subject to the right of the same to review the accuracy and completeness of the test results; and

c) It shall ensure that are not discriminatory measures it adopts or maintains to authorize individuals as agents for suppliers of telecommunications equipment before the competent authorities of that Party for conformity assessment.

6. When conditions permit, each Party shall endeavour to adopt, as part of its conformity assessment procedures, the provisions necessary to accept the test results from laboratories or testing facilities in the territory of the other party, in accordance with the measures and procedures relating to the standardization of the Party to which it relates to accept.

Article 13.07. Monopolies or Anticompetitive Practices

1. Where a party maintains or designates a monopoly or a main provider or incumbent operator to provide public telecommunications networks and services and it competes directly or through a branch in the provision of enhanced or other goods or services associated with telecommunications, that Party shall seek to ensure that monopoly, the main provider or incumbent operator does not use its position to engage in anticompetitive practices in these markets, either directly or through its dealings with its subsidiaries, so that affects desventajosamente to a person of the other party. Such practices may include predatory conduct and cross-subsidization or discrimination in access to public telecommunications networks and services.

2. Each Party shall adopt or maintain effective measures to prevent anticompetitive conduct referred to in paragraph 1, such as:

a) Accounting requirements;

b) Requirements for structural separation;

c) Rules to ensure that monopoly, the main provider or incumbent operator accorded to its competitors access to and use of their networks or its public telecommunications services on terms and conditions no less favourable than those it accords to itself or its affiliates; or

d) Rules for the timely disclosure of technical changes to public telecommunications networks and their interfaces.

Article 13.08. Transparency

In addition to the provisions of article 18.03 (publication), each Party shall make publicly available its measures relating to access to public telecommunications networks or services and its use, including measures relating to:

a) Price or tariffs and other terms and conditions of service;

b) Technical specifications of 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 the attachment of terminal or other equipment to public telecommunications networks; and

e) Notification requirements, licensing or permit registration certificate concession.

Article 13.09. Relationship to other Chapters

In the event of incompatibility between any provision of this chapter and any other provision of the chapter shall prevail to the extent of the inconsistency.

Article 13.10. Relationship with Organizations and International Treaties

The Parties recognise the importance of international standards for global compatibility and interoperability of networks or telecommunications services and undertake to promote such standards through the work of relevant international bodies, including the International Telecommunication Union and the International Organization for Standardization and the Inter-American Commission telecommunications.

Article 13.11. Technical Cooperation and other Consultations

1. In order to encourage the development of interoperable telecommunications services, the Parties shall cooperate in the exchange of technical information in the development of training programs and other related intergovernmental activities. In pursuance of this obligation, the Parties shall put special emphasis to existing exchange programs.

2. The Parties shall consult with a view to determining the feasibility of further liberalizing trade in services, including all telecommunications networks and services telecomuni caciones.

Chapter 14. TEMPORARY ENTRY OF BUSINESS PERSONS

Article 14.01. Definitions

1. For purposes of this chapter:

Business activities: activities legitimate commercial nature established and operated in order to gain market. Does not include the possibility of obtaining employment and wages or remuneration from a source of employment in the territory of a party;

Labour: the certification procedure conducted by the competent administrative authority to determine whether a national of a party who seeks temporary entry into the territory of the other party, displaces domestic labour force in the same sector or significantly affects the working conditions;

Temporary entry means business entry by a person of a Party in the territory of the other party without the intent to establish permanent residence;

National: "National" as defined in Chapter 2 (General definitions), but does not include a permanent residents or permanent residents;

National business means a person who is engaged in trade in goods or services or investment activities; and

Recurrent practice: a practice carried out by the immigration authorities in the form of a Party representative repetitive during a period immediately preceding and the implementation of the same.

2. For purposes of Annex: 14.04:

Executive functions: those functions within an organization under which the person is primarily the following responsibilities:

a) The direct management of the organization or a component or function within it;

b) Establishing the policies and objectives of the Organization, component or function; or

c) Receiving supervision or general direction from only executives in a higher level, the Board of Directors or the Administrative Council of the Organization or shareholders;

Managerial functions: those functions within an organization under which the person is primarily the following responsibilities:

a) Managing the organization or an essential function within it;

b) Supervising and controlling the work of other professional employees, supervisors or administrators;

c) Having the authority to dismiss or to engage and recommend these actions, as well as other over the handling of personnel being directly supervised by that person and to perform functions within the Organization senior hierarchy or functions related to his position; or

d) Implementing actions under its discretion with regard to the daily operation of the function over which this person has the authority; and

Functions involving know-how: those functions involving a special knowledge of the goods, services, research, equipment, techniques and administration of the Organization or its interests and its implementation in international markets, or an advanced level of expertise or experience in processes and procedures of the Organization.

Article 14.02. General Principles

In addition to the provisions of article 0102 (objectives), this chapter reflects the preferential trading relationship between the parties; the desirability of facilitating entry

Under the principle of reciprocity and temporary basis to establish transparent criteria and procedures for this purpose. It also reflects the need to ensure border security and to protect the domestic labour force and permanent employment in their respective territories.

Article 14.03. General Obligations

1. Each Party shall apply its measures relating to the provisions of this chapter in accordance with article 14.02 and in particular the apply expeditiously to avoid undue hardship or delay trade in goods or services or investment activities under this Treaty.

2. The Parties shall endeavour to develop and adopt common standards, definitions and interpretations for the implementation of this chapter.

Article 14.04. Temporary Entry Authorization

1. In accordance with the provisions of this chapter including those contained in annex 14.04: and 14.04: (1), each Party shall grant temporary entry to business persons who meet the other applicable measures relating to public health and safety and national security.

2. A Party may deny entry to a temporary business person where the temporary entry adversely affecting:

a) The settlement of any labour dispute in progress at the place or intended to be used; or

b) The employment of any person who is involved in such dispute.

3. When a party refuses to temporary entry in accordance with paragraph 2, that Party:

a) It shall inform in writing the reasons for the refusal to the business person affected; and

b) Shall without delay and in writing of the reasons for the refusal to the Party in whose national refused entry.

4. Each Party shall limit the amount of fees for processing applications for temporary entry to the approximate cost of services rendered.

5. An authorization of temporary entry under this chapter does not replace the requirements needed to carry out a profession or activity according to the specific rules in force in the territory of the party authorizing the temporary entry.

Article 14.05. Provision of Information

1. In addition to the provisions of article 18.03 (publication), each Party shall:

a) The other party to provide information materials to know the measures relating to this chapter; and

b) Not later than one (1) year after the date of entry into force of this Treaty, shall publish and make available in its own

territory and the other party a consolidated document with materials explaining the requirements for temporary entry under this chapter to know the business persons of the other party.

2. Each Party shall collect and maintain and make available to the other party information regarding the granting of temporary entry of authorisations under this chapter to the other party of business persons who have been issued immigration documentation. This compilation shall include information for each category authorised.

Article 14.06. Dispute Resolution

1. A Party may not initiate proceedings under article 20.06 (consultations) regarding a refusal of authorisation of temporary entry under this chapter or a particular case falling under article 14.03 unless:

a) The case concerns a recurrent practice; and

b) The person affected business have exhausted the available administrative remedies regarding the particular matter.

2. The remedies referred to in paragraph 1 (b) shall be deemed to be exhausted if the competent authority has issued a final decision within six (6) months from the start of the administrative procedure, and resolution is not attributable to delay caused by the business person.

Article 14.07. Relationship to other Chapters

Except as provided in this chapter and initial provisions) (chapters 1, 2 (General definitions), 19 (Administration of the Agreement) and 22 (Final provisions), and articles (18.02 Information Centre), 18.03 (publication), 18.04 (provision of information) and 18.06 (administrative proceedings for the adoption of measures of general application), no provision of this Agreement shall impose any obligation on a Party regarding its immigration measures.

Chapter 15. COMPETITION, MONOPOLIES AND STATE-OWNED ENTERPRISES POLICY

Section A. Competition Policy

Article 15.01. Cooperation

1. The Parties shall ensure that the benefits of this treaty are not undermined by anticompetitive business practices. Similarly, endeavour to move towards the adoption of common provisions to prevent such practices.

2. Furthermore, the Parties shall endeavour to establish mechanisms to facilitate and promote the development of competition policy and ensure the implementation of the rules on competition between and within the parties to avoid negative effects of anti-competitive business conduct in the Free Trade Area.

Article 15.02. Future Work Programme

Within two (2) years of the entry into force of this Treaty, the Parties shall, in accordance with its specific legislation on the matter, the possibility to develop and expand the content of this chapter within the limits laid down in this legislation. In this context, the development and expansion of the content of this chapter shall be conducted with particular reference to practices which have as their object or effect unduly damages or any action that prevents the process of free economic competition and free competition in the production, processing, marketing, distribution or supply of goods or services.

Section B. State Monopolies and Enterprises

Article 15.03. Monopolies and State-owned Enterprises

1. Nothing in this Treaty shall be construed as preventing the parties designate or maintain a monopoly or State enterprises, provided that its law so permits.

2. If its law so permits, when a party intends to designate a monopoly and the designation of persons may affect the interests of the other party, the Party:

a) Wherever possible, shall notify the designation to the other party, in advance and in writing; and

b) At the time of the designation, endeavour to introduce in the operation of the monopoly as will minimize or eliminate any nullification or impairment of benefits.

3. If its law so permits, each Party shall ensure that any monopoly that the Party shall designate or maintain any enterprise or state:

a) Acts in a manner that is consistent with the obligations of the Parties in this Treaty, when such a monopoly exercises regulatory powers, administrative or other governmental functions that the Party has delegated to it in connection with the monopolized good or service, such as the power to grant import or export permits, approve or commercial transactions, fees impose quotas or other charges;

b) Accord non-discriminatory treatment to investments of investors, to service providers of goods and to the other party to buy and sell monopolized the good or service in the relevant market; and

c) Does not use its monopoly position to carry out anti-competitive practices that adversely affect an investment of an investor of the other Party, directly or indirectly.

4. Paragraph 3 does not apply to the procurement of goods or services by government agencies, for governmental purposes and without the intent of commercial resale or use in the production of goods or the supply of services for commercial sale.

Part VI. Procurement

Chapter 16. Procurement

Article 16.01. Definitions

For purposes of this chapter:

Special conditions: countervailing measures that impose or an entity shall take into account before or during the procurement procedure to encourage local development or improve balance of payments accounts by means of local content requirements, licensing of the use of technology, investments, counter-trade or similar requirements;

Government procurement means any type of procurement of goods, services or works or procurement of goods, services and works jointly referred to in the respective laws and conducted by public entities of the Parties;

Entities: all public entities of the Parties, except those specified in annex 16.01;

Technical specification: one which lays down the characteristics of goods or related processes and production methods, or the characteristics of a service or their related methods of operation and the characteristics of the works to be carried out. It may also include or deal exclusively with matters relating to terminology, symbols, packaging, marking or labelling process applicable to goods, or production method or operation;

Privatisation means a process by which a public entity is no longer subject to the control of the State, through public supply of actions of the entity or other methods, referred to in their respective laws; and

Supplier means a person of a Party that has provided, provides or could provide goods or services in accordance with this chapter.

1. The objective of this chapter is to create and maintain a single market of public procurement with the aim of maximizing business opportunities for suppliers and reducing trade costs of the public and private sectors of the Parties.

2. In order to achieve this objective, each Party shall:

a) That suppliers of the other Party to participate on an equal footing in public procurement;

b) The principles of non-discrimination and transparency in public procurement in accordance with this chapter; and

c) The development of mechanisms for cooperation and technical assistance.

3. Except as provided in annexes and 16.01 16.02, this chapter applies to procurements covered by the respective laws of the Parties and make its entities concerning:

a) Goods;

b) Services, subject to the provisions of the annexes of eleven chapters (cross-border trade in services) and 12 (Financial

Services); and

c) Public works.

4. This chapter does not apply to procurements undertaken by the Panama Canal Authority or its successor.

5. Notwithstanding paragraph 3 (b), this chapter shall not apply to:

a) Subsidies or grants provided by a party or a state enterprise, including loans, guarantees and insurance supported by a party; and

b) Government services or functions such as law enforcement services, social rehabilitation, pension or unemployment insurance or social security services, social welfare, education, training and public health care or protection of children.

1. The parties agree to the following rights and obligations pursuant to this chapter:

a) Implementation of the measures regarding government procurement, while respecting the principles of transparency and non-discrimination, as well as the other provisions in this chapter;

b) To ensure maximum simplicity and advertising in the implementation of actions of public procurement;

c) Maintenance and promotion of business opportunities in public procurement for suppliers of the other party; and

d) Does not apply to a measure that:

i) Is discriminatory;

ii) Arbitrary; or

iii) Has the effect of denying equal access or opportunity to a supplier of the other party.

2. Nothing in this chapter shall prevent a party to develop a new recruitment policy, provided that this does not contravene the provisions of this chapter.

1. With respect to procurement by all entities through procurement procedures, except direct recruitment, each Party shall accord to the goods and services suppliers of the other party treatment no less favourable than that accorded to its own like similar goods and services suppliers of goods and similar services.

2. Without prejudice to the foregoing, in public procurement procedures that use other than those set out in paragraph 1, the Parties shall take the necessary measures that are reasonably available to it to ensure compliance with the obligations under article 16.03 (1) (d).

3. Each Party shall ensure that its entities do not require special conditions to countervailing suppliers of the other Party to participate in the procurement.

4. This article shall not apply to measures concerning customs duties or on other charges of any kind or in connection with the method of importation; levying charges or such other duties and import regulations, including restrictions and formalities.

Article 16.05. Technical Specifications

Each Party shall ensure that its entities do not develop, adopt or apply technical specifications which have the purpose or effect of creating unnecessary obstacles to trade.

Article 16.06. Denial of Benefits

Subject to prior notification and consultation in accordance with articles 18.04 (provision of information) and 20.06 (consultations), a Party may deny the benefits of this chapter to a service supplier of the other party, when it determines that the service is being provided by an enterprise that has no substantial business activities in the territory of the other party and that, in accordance with the legislation of the other party, is owned or controlled by persons of a non- party.

Article 16.07. Challenge Procedures

1. Each Party shall maintain or establish, where they do not exist, avoidance proceedings in administrative and judicial allow,

at the request of an affected supplier of the other party, the review of administrative decisions affecting procurements covered by this chapter.

2. Each Party shall ensure that:

a) Challenge procedures are timely, transparent and consistent with the principle of non-discrimination, which is granted the right of hearing to suppliers who may be represented and accompanied; and submit any mode of proof recognised by the legislation of the Party, access to the proceedings, which shall be held in public unless for reasons of legal limiting advertising; and

b) Resolutions shall deliver a written and reasoned in law, disseminating them to suppliers means established by the legislation of the party.

Article 16.08. Modifications to Coverage

1. Except as provided in paragraph 4 of Article 16.02 The Parties shall consult, at the request of any of them to examine the possibility of incorporating the scope of application of this chapter the entities listed in annex 16.01.

2. The Parties shall adopt these agreements subject to article 19.01 (3) (b) (commission administering the treaty).

Article 16.09. Privatization

1. Nothing in this chapter shall be construed as preventing a party to privatise an entity covered in this chapter. In such cases, the other party may not require compensation.

2. Privatized entities shall not be subject to the implementation of this chapter.

Article 16.10. Information Technology

1. The Parties shall, as far as possible, use electronic means of communication to permit efficient dissemination of information on Government Procurement, in particular those relating to business opportunities offered by entities.

2. With the aim of reaching an enlarged market of public procurement, the Parties shall endeavour to implement an electronic information system and brokerage for their respective entities. The main objective of the system shall consist in the dissemination of business opportunities offered by entities.

3. Notwithstanding paragraphs 1 and 2, the parties shall disseminate procedures established in their respective laws in place of business opportunities offered by entities in the area of public procurement.

Article 16.11. Public Procurement Committee

1. The parties establish a committee on Government Procurement, whose composition stated in annex 16.11.

2. The Committee, without prejudice to article 1905 (2) (Committees), shall have the following functions:

a) Unless the parties otherwise agree, reviewed every two (2) years of the results of the implementation of this chapter;

b) Except as provided in article 16.02 (4), consultations and studies to incorporate the scope of application of this chapter the entities listed in annex 16.01;

c) Coordinate the exchange of statistical information of its public procurement; and

d) Coordinate and promote the development of training programmes for the competent authorities of the Parties.

Article 16.12. Cooperation and Technical Assistance

The Parties shall endeavour to provide technical assistance and cooperation through the development of training programmes with a view to achieving a better understanding of their respective government procurement systems and statistics and better access to their respective markets.

Article 16.13. Relationship to other Chapters

In the event of incompatibility between any provision of this chapter and any other provision of the chapter shall prevail to the extent of the inconsistency.

Article 16.14. Settlement of Disputes

Chapter 20 (dispute settlement) shall not apply in any sense, to measures and / or legal and administrative decisions which exist at any stage of the procurement procedures of the Parties.

Article 16.15. Entry Into Force

This chapter shall apply to eighteen (18) months of the entry into force of this Treaty for the parties.

The classes of public procurement that are excluded from this chapter are the following:

a) Defence procurements of strategic nature and other procurements which relate to national security;

b) Public procurement staff for the performance of the functions of entities;

c) Procurements made with States, regional or multilateral institutions or persons requiring conditions inconsistent with the provisions of this chapter; and

d) Concessions.

The Committee on Government Procurement Committee on Government Procurement established in article 16.11, shall consist of:

a) In the case of Costa Rica, a representative of the Ministry of Foreign Trade or its successor;

b) In the case of El Salvador, the Ministry of Economy, or its successor;

c) In the case of Guatemala, the Ministry of Economy, or its successor; and the Ministry of Public Finance or his successor;

d) In the case of Honduras, Ministry of Industry and Trade, the Office of Comptroller General Directorate of Administrative Integrity and Transparency of the executive unit of government purchases of the Presidential Commission modernisation of the State or its successor;

e) In the case of Nicaragua, the Directorate of Integration and administration of the Ministry of Industry, Trade and Development or its successor, and the Directorate-General for procurements of State of the Ministry of Finance and Public Credit, or its successor; and

f) In the case of Panama, the Ministry of Trade and Industries through the Vice-Ministry of Foreign Trade or its successor, in consultation with the Ministry of Economy and Finance through the Directorate of Public contataciones, or its successor.

Chapter 17. Intellectual Property

Article 17.01. Implementation

The Parties confirm their rights and obligations existing between them in accordance with the TRIPS Agreement.

Article 17.02. Enforcement of Intellectual Property

Each Party shall in its legislation administrative, civil and criminal procedures effective with the aim of reaching an adequate protection of intellectual property rights. All proceedings referred to above shall take into account the due process, in relation to the claimant and the respondent.

Article 17.03. Border Measures

Each Party shall adopt legislation on border measures in accordance with the TRIPS Agreement.

Article 17.04. Transparency of Intellectual Property

The Parties shall notify laws, regulations and the provisions relating to the matter to the Committee on Intellectual Property.

The final judicial decisions and administrative rulings of general application are published or otherwise made publicly available to enable Governments and right holders to become aware "primafacie".

Article 17.05.

1. The parties establish a committee on intellectual property as described in annex 17.

2. The Committee shall hear matters relating to this chapter and without prejudice to article 1905 (2) (Committees), shall have a central role to seek the most appropriate measures to implement stipulated in article 17.01, as well as any other tasks assigned to it by the Commission.

Article 17.06. Settlement of Disputes

When a Party requests and consultations so notified to the Committee, it shall facilitate. Where the parties have had recourse to consultations under this article without satisfactory results, they shall constitute consultations under Article 20.06 (consultations), if the parties so agree.

The Committee on Intellectual Property referred to in article 1705, shall consist of:

a) In the case of Costa Rica, a representative of the Ministry of Foreign Trade or its successor;

b) In the case of El Salvador, the Ministry of Economy, or its successor;

c) In the case of Guatemala, the Ministry of Economy, or its successor;

d) In the case of Honduras, the Ministry of Trade and Industry, or its successor;

e) In the case of Nicaragua, the Ministry of Development, Industry and Trade, or its successor; and

f) In the case of Panama, the Ministry of Trade and Industries through the Vice-Ministry of Foreign Trade or its successor.

Part VIII. Administrative and Institutional Provisions

Chapter 18. Transparency

Article 18.01. Definitions

For purposes of this chapter, "Administrative Ruling of general application means an administrative ruling or interpretation that applies to all persons and fact situations that generally fall within its scope, and that establishes a standard of conduct, but does not include:

a) Orders or judgements in administrative procedures applicable to a person, in particular goods or service of the other party in a specific case; or

b) A decision to deal with respect to a particular act or practice.

Article 18.02. Information Center

1. Each Party shall designate a branch or office as an information centre to facilitate communication between the parties on any matter covered by this Treaty.

2. When a party so requests, the Information Centre of the other party shall indicate the office or official responsible for the matter and provide the required support to facilitate communication with the requesting party.

Article 18.03. Publication

Each Party shall ensure that its laws, regulations, procedures and administrative rulings of general application relating to any matter covered by this

Treaty are promptly published or otherwise made available to the parties and to any interested person.

Article 18.04. Provision of Information

1. Each Party shall notify the other party to the extent possible, any existing or proposed measure considers that it might affect or substantially affect the interests of the other party under the terms of this Treaty.

2. Each Party, at the request of the other Party shall provide information and respond promptly to questions pertaining to any existing or proposed measure.

3. Notification and provision of information referred to in this article shall be without prejudice to whether the measure is consistent with this Treaty.

Article 18.05. Hearing, Legality and Due Process Guarantees

Each Party shall ensure that in judicial and administrative procedures concerning the implementation of any measure referred to in article 18.03, shall observe the hearing of the rule of law and due process embodied in their respective laws, within the meaning of articles 18.06 and 18.07.

Article 18.06. Administrative Procedures for the Adoption of Measures of General Application

With a view to administering in a manner consistent and impartial manner and all reasonable measures of general application affecting matters covered in this Treaty, each Party shall ensure that in its Administrative Proceedings applying measures referred to in article 18.03 with respect to persons, in particular goods or services of the other party in specific cases that:

a) Wherever possible, the persons of the other party that are directly affected by a proceeding are in accordance with the internal rules, reasonable notice of the initiation of the same, including a description of the nature, a statement of the legal authority to which it may initiate and a general description of any issues in controversy;

b) When the time, the nature of the proceeding and the public interest, permit such persons a reasonable opportunity to present facts and arguments in support of their claims, prior to any final administrative action; and

c) Its procedures are in accordance with its legislation.

Article 18.07 . Review and Challenge

1. Each Party shall maintain judicial tribunals or procedures or administrative nature according to the legislation of the Parties for the purpose of the prompt review and, where warranted, the correction of final administrative actions regarding matters covered by this Treaty. Such tribunals shall be impartial and shall not be linked with

The office or authority entrusted with administrative and enforcement shall not have any substantial interest in the outcome of the matter.

2. Each Party shall ensure that, before such tribunals or procedures the parties have the right to:

a) A reasonable opportunity to defend or support their respective arguments and evidence; and

b) A decision based on the evidence and arguments presented by the same.

3. Each Party shall ensure that, with respect to the avoidance or subsequent review to which it would apply in accordance with its legislation, these resolutions are implemented by the offices or authorities.

Article 18.08. Communications and Notifications

1. For purposes of this Treaty, all notifications or communications addressed to a Party or by a Party shall be made through its national section of the secretariat, report succinctly of this fact to national sections of the other parties.

2. Except as otherwise provided, shall be delivered a communication or notification by one party from the date of its receipt by the national section of the secretariat of that Party.

Chapter 19. TREATY ADMINISTRATION

Section A. Committee, Subcommittee and Secretariat

Article 19.01. Treaty Administrative Commission

1. The parties to the Treaty establishing the administering commission composed of officials referred to in annex 19.01 (1) or persons to whom they designate.

2. The Commission shall have the following functions:

a) To ensure the fulfillment and correct application of the provisions of this Treaty;

b) Assess the results achieved in the implementation of this Treaty;

c) Monitoring and recommend to the parties any amendments;

d) To resolve disputes that may arise regarding the interpretation or application of this Treaty in accordance with Chapter 20 (dispute settlement);

e) Supervise the work of all committees created or established under this Treaty, pursuant to article 3 (1905); and

f) Consider any other matter that may affect the operation of this Treaty or any other entrusted to it by the parties.

3. The Commission may:

a) Create adhoc or permanent committees or expert groups as required by this Treaty and assign functions;

b) Modify in fulfillment of the objectives of this Treaty.

i) The list of goods of a party contained in annex 3.04 (tariff relief), with the aim of incorporating one or more goods excluded in the tariff relief;

ii) The time-limits set out in annex 3.04 (tariff relief programme), to accelerate tariff relief;

iii) The rules of origin set out in annex 4.03 (specific rules of origin);

iv) The uniform regulations;

v) Incorporate sectors or sub-sectors of services subject to measures of standardization, metrology and authorization procedures in accordance with article 9.12 (g);

vi) Annexes I, II, III and IV of chapter 10 (investment);

vii) Annexes I, II and V of chapter 11 (cross-border trade in services);

vii) Annex VI (iii) of Chapter 12 (Financial Services); and

ix) The list of entities of a party contained in annex 16.01 (entities), with the aim of incorporating one or more entities to the scope of application of Chapter 16 (Government Procurement).

c) To seek the advice of non-governmental groups or persons without linkage;

d) Develop and adopt regulations required for the implementation of this Treaty; and

e) If the parties so agree, take any other action in the exercise of its functions.

4. The amendments referred to in paragraph 3 (b) shall be implemented by the parties in accordance with annex 19.01 (4).

5. Notwithstanding paragraph 1, the Commission may meet and adopt decisions when representatives of Panama and attend one or more Central American countries on matters of interest to the bilateral parties, provided that it notifies in advance to the other party or parties to participate in the meeting.

6. The decisions adopted by the Commission under paragraph 5, shall not take effect on a party that had not attended the meeting.

7. The Commission may establish its rules and procedures and all decisions shall be taken by consensus.

8. The Committee shall meet at least once a year in regular session and, at the request of any party, in special session. Meetings may be conducted alternating headquarters between the parties. In the case of Central America by each Party shall rotate successively in alphabetical order.

Article 19.02. Treaty Administrative Subcommittee

1. The parties to the Treaty establishing the administering subcommittee consisting of officials referred to in annex 19.02 or persons to whom they designate.

2. The Sub-Commission administering the treaty shall have the following functions:

a) Prepare and revise the technical files required for decisions within the framework of the Treaty;

b) Follow up on any decisions taken by the Commission;

c) Without prejudice to article 19.01 (2), may also supervise the work of all committees and sub-committees expert groups established under this Treaty in accordance with article 3 (1905); and

d) Consider any other matter that may affect the operation of this Treaty which is entrusted to it by the Commission.

3. The Commission may establish rules and procedures for the proper functioning of the Subcommittee administering the Treaty.

Article 19.03. Secretariat

1. The Commission shall establish and oversee a secretariat comprising national sections.

2. Each Party shall:

a) Shall designate a permanent office or official unit, which shall serve as national section of the secretariat of that Party and shall notify the Commission of the location of its section;

b) Shall:

i) The operation and costs of its section; and

ii) The remuneration and expenses to be paid to the arbitrators, their assistants and experts appointed under this Treaty, as set out in annex 19.03; and

c) The Secretary-General shall appoint a national of its Section, who shall be the official responsible for its administration.

3. The secretariat shall have the following functions:

a) Provide assistance to the Commission and the Sub-Commission;

b) Provide administrative support to the arbitral panels established under Chapter 20 (dispute settlement), in accordance with the procedures established under article 20.12 (model rules of procedure);

c) On the instructions of the Commission; to support the work of the committees, subcommittees and expert groups established under this Treaty;

d) Conducting communications and notifications under article 18.08 (communications and notifications); and

e) Other functions assigned by the Commission.

Section B. Committees , Subcommittees and Expert Groups

Article 19.04. General Provisions

1. The provisions of this section shall apply a default to all committees and sub-committees expert groups established under this Treaty.

2. Each committee, subcommittee and the Panel of Experts shall be composed of representatives of each party and all decisions shall be taken by consensus.

3. Notwithstanding paragraph 2, a committee, subcommittee or experts group may meet and take decisions without that meets all its members, when addressing issues of interest exclusive one or more of Panama and Central American countries provided that they are representatives of the Parties and that it notifies the Agenda for the meeting in advance to the other parties.

4. With regard to chapters 8 (sanitary and phytosanitary measures (9), measures of standardization, metrology and authorization procedures) and intellectual property (17), a Party may request in writing that the Commission intervention under Article 2007 Commission (Good offices, conciliation and mediation) where a committee or sub-committee of these chapters has met for consultations within the meaning of article 20.06 (consultations) and has not reached a mutually satisfactory solution to the dispute.

5. For the remainder of chapters of this Treaty, shall require that Parties by consensus upon request to the other committees or subcommittees to meet to hold consultations within the meaning of article 20.06 (consultations), a Party may request in writing that the Commission meet within the meaning of article 2007 (intervention of the Commission, good offices, conciliation and mediation).

6. For purposes of paragraphs 4 and 5 of this article and notwithstanding article 19.06 (2) shall not require that the Sub-Committee has brought the respective Committee prior to a Party may request the Commission intervention under Article 2007 Commission (Good offices, conciliation and mediation).

Article 19.05. Committees

1. The Commission may create Committees other than those set out in annex 1905.

2. Each committee shall have the following functions:

a) To monitor the implementation of the chapters of this treaty within its competence;

b) Hear matters referred to it by a Party which considers that an existing or proposed measure of the other party affects the effective implementation of any commitment within chapters of this Treaty falling within its competence;

c) Seek technical reports to the competent authorities and to take the necessary steps to help resolve the matter;

d) The Commission to evaluate and recommend proposals for amendment or modification, in addition to the provisions of chapters of this treaty within its competence;

e) The Commission to propose the review of measures in force or in a Party deems to be inconsistent with the obligations of this Agreement or cause nullification or impairment in the sense of nullification and impairment (annex 20); and

f) Comply with the other tasks entrusted to it by the Commission under the provisions of this Agreement and other instruments deriving therefrom.

3. The Commission and the Sub-Commission shall supervise the work of all committees created or established under this Treaty.

4. Each committee may establish its own rules and procedures, which shall meet at the request of either party or the Commission.

Article 19.06. Subcommittees

1. For the purpose of delegate its responsibilities and permanently only for purposes of specific provisions under its jurisdiction, the Committee may establish one or more Sub-Committees shall supervise their work. Each sub-committee shall have the same functions as a Committee on matters assigned to it.

2. Similarly, each sub-committee shall report to the Committee has established on the fulfilment of its mandate.

3. The rules and procedures of a sub-committee may be established by the Committee itself that established it. The Sub-Committee shall meet at the request of either party or the relevant committee.

Article 19.07. Expert Groups

1. Notwithstanding article 19.01 (3) (a), a committee or sub-committee may also create Adhoc Expert groups, with the object of making the technical studies as it deems necessary for the performance of its duties, shall supervise their work. The Group

Experts shall comply strictly with which is entrusted with the deadlines. The Panel of Experts shall be reported to the Committee or Sub-Committee that created it.

2. The rules and procedures of a group of experts may be established by the Committee or Sub-Committee that created it.

Chapter 20. DISPUTE SETTLEMENT

Section A. Dispute Resolution

Article 20.01. Definitions

For purposes of this chapter:

Consultant Party: any Party that conducts consultations pursuant to Article 20.06;

Disputing party: the complaining Party or the Party complained against;

Disputing Parties: the complaining Party and the Party complained against;

Defendant Party: the party against whom a claim is made, which may be composed of one or more Parties; and

Claiming party: the party that makes a claim, which may be composed of one or more Parties.

Article 20.02. General Provisions

1. If the parties shall endeavour to agree on the interpretation and application of this Treaty and through cooperation and consultations shall endeavour to reach a mutually satisfactory resolution of any matter that might affect its operation.

2. All solutions on matters arising under the provisions of this chapter shall be consistent with this Treaty and shall not impair or nullify the benefits arising from the same to the parties, nor shall place obstacles to the achievement of the objectives of the Treaty.

3. The mutually satisfactory solutions reached between warring parties on matters arising under the provisions of this chapter shall be notified to the Commission within a period of fifteen (15) days of the Agreement.

Article 20.03. Scope

Except as otherwise provided in this Treaty, the procedure of this chapter shall apply:

a) To the avoidance or settlement of disputes between all the parties concerning the interpretation or application of this treaty; or

b) Where a Party considers that an existing or proposed measure of the other party is or would be inconsistent with the obligations of this Treaty or would cause nullification or impairment in the sense of annex 20.

Article 20.04. Election of the Fora

1. Disputes arising under the provisions of this Treaty and under the WTO agreement or agreements negotiated in accordance with the latter may be settled in either forum at the discretion of the complaining party.

2. When a Party has requested the establishment of an arbitral panel under Article 2008, or has requested the establishment of a Panel under Article 6 of the Understanding, the Forum selected in accordance with paragraph 1 is exclusive.

Article 20.05. Cases of Urgency

1. In cases of urgency including those cases referred to in paragraphs 2 and 3, the warring parties and the arbitral groups shall make every effort to accelerate the proceedings.

2. In cases of perishable agricultural goods, fish and fish products that are perishable:

a) Consulting a Party may request in writing that the Commission meet whenever an issue is not resolved in accordance with article 20.06 within fifteen (15) days of the delivery of the request for consultations; and

b) The Party that has requested the intervention of the Commission under article 2007 may request in writing, the establishment of an arbitral group when the issue has not been resolved within fifteen (15) days after the meeting of the

Commission or, if it has not been made within fifteen (15) days after the delivery of the request for a meeting of the Commission.

3. In cases of urgency other than those referred to in paragraph 2, the Parties shall, as far as possible, to halve the periods specified in articles 2007 and 2008 to request the Commission and the establishment of an arbitral group respectively.

Article 20.06. Consultations

1. Any Party may request in writing to the other party holding consultations with respect to any measure adopted or planned, or any other matter it considers that might affect the operation of this treaty in terms of article 20.

2. The party requesting consultations shall deliver a copy of the request to the other parties, which may participate in the same as the parties rejects in writing, provided that demonstrate its substantial trade interest in the matter, within ten (10) days following the submission of the request for consultations.

3. Through consultations under this article and the provisions referred to in article 4 (1904) (General provisions), the Parties shall make every effort to reach a mutually satisfactory resolution of any matter. To this end, the parties are entitled to:

a) Provide information to examine the manner in which the measure adopted or proposed or any other matter might affect the operation of this Treaty; and

b) Treat any confidential information exchanged in the course of consultations in the same manner as the party providing the information.

Article 20.07. Intervention of the Commission, Good Offices, Mediation and Conciliation

1. Consulting Any Party may request in writing that the Commission meet provided that:

a) An issue is not resolved in accordance with article 20.06 within thirty (30) days after the delivery of the request for consultations, unless the parties agree to another deadline by consensus; or

b) The Party to which it was addressed to the request for consultations had not replied within ten (10) days of the delivery of the same.

2. A Party may also request in writing that the Commission in accordance with article 4 (1904) (General provisions).

3. The request referred to in paragraph 1 shall bring the measure or any other matter complained of and indicate the provisions of this Agreement that it considers applicable.

4. Unless it decides otherwise, the Commission shall convene within ten (10) days of the delivery of the request and with the aim of reaching a mutually satisfactory solution to the dispute, shall:

a) Convene technical advisers or create expert groups as it deems necessary;

b) Seek the good offices, conciliation or mediation a person or group of persons or other alternative means of dispute settlement; or

c) Make recommendations.

5. Unless it decides otherwise, the Commission shall carry forward two (2) or more before proceedings according to this article regarding the same measure. The Commission may consolidate two or more proceedings regarding other matters before under this article, when it deems appropriate to be considered jointly.

Article 20.08. Request for Integration of the Arbitration Panel

1. The Party that has requested the intervention of the Commission under article 2007 may request in writing, the establishment of an arbitral group when the issue has not been resolved within:

a) Thirty (30) days after the meeting of the Commission, or, if this is not done, thirty (30) days after the delivery of the request for a meeting of the Commission;

b) Thirty (30) days after the meeting of the Commission and the most recent matter pursuant to article 5 (2007); or

c) Any deadline disputing parties agree.

2. The party requesting the integration of the arbitral panel shall deliver the request to the party or parties against which makes its claim and, if any, to the other Party in accordance with paragraph 1 have the power to request the establishment of an arbitral panel. The latter shall be a period of ten (10) days of the receipt of the request, to express their interest in participating in the arbitration as a party complaining.

3. The request for the integration of the arbitral panel shall be made in writing and shall indicate whether consultations have been held, and in the event that the Commission has been met, actions taken; identify the specific measures in conflict and provide a brief summary of the legal basis of the complaint to the dispute clearly present sufficient.

4. Within fifteen (15) days of the delivery of the request or, where appropriate, within fifteen (15) days after the expiry of the period referred to in paragraph 2, the Parties involved shall meet to integrate the arbitral group under article 20.11. Such a meeting shall take place with the parties or attending.

5. A Party in accordance with paragraph 1 has the power to request the integration of the arbitral group and decide not to participate as a complaining party in accordance with the terms of paragraph 2, may participate only as a third party before the arbitral group when it has a substantial interest in accordance with article 20.13 subject to express their interest in participating as such within ten (10) days of the receipt of the request for the integration of the arbitral panel.

6. If a Party, pursuant to paragraph 5, decides not to intervene as a complaining party or third party, refrain from initiating thereafter in respect of the same matter, in the absence of a significant change of economic or commercial circumstances:

a) A dispute settlement procedure under this chapter; and

b) A dispute settlement procedure in accordance with the understanding.

7. Unless otherwise agreed between the parties - the arbitral group shall be composed of and perform its functions in accordance with the provisions of this chapter.

Article 20.09. List of Arbitrators

1. Before the entry into force of this Treaty, the parties agree to establish the list of arbitrators and the national list of arbitrators of "non-Party countries. For this purpose, each party shall appoint five (5) National arbitrators which shall form the list of arbitrators "National" and five (5) arbitrators of non- party, which shall form the list of arbitrators of "non-Party countries.

2. The rosters of arbitrators may be modified every three (3) years. Notwithstanding the above, at the request of a party, the Committee may revise the rosters of arbitrators before the expiry of this period.

3. Members of the roster of arbitrators shall meet the qualifications set out in article 20.10 (1).

Article 20.10. Qualities of Arbitrators

1. All the arbitrators shall meet the following qualifications:

a) Have expertise or experience in law and international trade or other matters related to this Treaty or in the settlement of disputes arising under international trade agreements;

b) If elected strictly according to their reliability and objectivity, probity, sound judgment;

c) Be independent, not linked with either of the Parties and not receive instructions from the same; and

d) Comply with the code of conduct established by the Commission.

2. Persons that have participated in a dispute under article 4 (2007), may not be arbitrators for the same dispute.

Article 20.11. Integration of the Arbitral Group

1. In the event to the integration of the arbitral group warring parties shall observe the following procedure:

a) The arbitral group shall be composed of three (3) members;

b) The Parties involved shall endeavour to agree on the designation of the Chair of the arbitral panel;

c) In the event that the warring parties fail to agree on the designation of the Chair of the arbitral panel shall be selected by lot from the list of arbitrators of "non-Party countries;

d) Each Party shall select one arbitrator litigants national of the other party "combatant between the list of arbitrators". Notwithstanding the above, opposing parties concerned may agree that the arbitral group shall serve as arbitrators of countries not part of a party;

e) If a Party fails to select a litigant, the arbitrator shall be appointed by lot from among the members of the nationals of other combatant Party included in the list of arbitrators ".

2. In the event that a party combatant composed of two (2) or more countries of Central America, one of them elected, by lot shall represent the other in respect of the procedure set out in paragraph 1.

3. The arbitrators shall preferably be selected from the roster. Any Party may challenge litigants at the meeting, without giving due to any person that is not included in the lists and that is proposed as an arbitrator from the other party litigants.

4. Where a Party considers that an arbitrator litigants is in violation of the Code of Conduct, opposing parties shall consult and agreement of that arbitrator, contemporaneous and select a new one pursuant to the provisions of this article.

Article 20.12. Model Rules of Procedure

1. The Commission shall establish the model rules of procedure, in accordance with the following principles:

a) The procedures shall ensure the right to a hearing before the arbitration panel as well as the opportunity to submit arguments and written responses; and

b) The hearings before the arbitration panel discussions and the initial report and written submissions and to all communications presented in the same, shall be of a confidential nature.

2. Unless otherwise agreed between the parties - the arbitral proceedings before the Group shall be governed by the Model Rules of Procedure.

3. Unless otherwise agreed between the parties to the conflict, the terms of reference of the arbitration panel shall be:

"review in the light of the provisions of this Treaty, the dispute referred to it in the request for a meeting of the Commission, and issue reports referred to in article 20.15 and 20.16".

4. If the complaining party claims that a matter has been a cause of nullification or impairment of benefits in the sense of annex 20, the terms of reference shall so indicate.

5. Where a Party combatant request the arbitration panel to make findings as to the degree of adverse trade effects caused to the measure adopted by the other party that it considers incompatible with this Agreement or to have caused nullification or impairment in the sense of annex 20, the terms of reference shall so indicate.

Article 20.13. Third Parties

In accordance with article 1.01 (2) (Establishment of a free trade area), a third party shall have the opportunity to be heard by the arbitral group in accordance with the model rules of procedure and submit a written submissions. Such communications shall also be made available to the parties to the conflict.

Article 20.14. Information and Technical Advice

At the request of a party or on its own initiative, the arbitral panel litigant may seek information and technical advice from persons or institutions as it deems appropriate.

Article 20.15. Preliminary Report

1. The arbitral panel shall deliver a preliminary report based on the submissions and arguments presented by the parties and on any information received in accordance with article 20.14, unless the parties agree otherwise. The preliminary report also reflect communications by third parties.

2. Unless otherwise agreed between the parties - the arbitration panel shall present to the parties, within ninety (90) days after the meeting at which has been integrated, a preliminary report shall contain:

a) The findings of fact, including any resulting from a request pursuant to article 20.12 (5);

b) The determination as to whether the measure at issue is or would be inconsistent with the obligations of this Agreement or cause nullification or impairment in the sense of annex 20, or any other determination requested in the terms of reference; and

c) The Hague, when its recommendations for the resolution of the dispute.

3. The arbitrators shall explain its vote in writing on matters in respect of which there is unanimous decision.

4. Warring parties may submit written comments to the arbitration panel on the initial report within fourteen (14) days following the submission.

5. In this case and after examining the written comments, the arbitral group may on its own initiative or at the request of a combatant Party:

a) Seek the views of the Parties to the conflict;

b) Reconsider its preliminary report; and

c) Any steps it deems appropriate.

Article 20.16. Final Report

1. The arbitration panel shall notify the Parties to the conflict its final report, decided by majority and, where appropriate, the written reasoned opinions on issues where there is unanimous decision within a period of thirty (30) days of the presentation of the initial report unless the parties agree otherwise.

2. No arbitration panel may disclose in its initial report or its final report, the identity of the arbitrators who have voted with the majority or minority.

3. The final report shall be published within fifteen (15) days of its notification to the parties to the conflict, unless they agree otherwise.

Article 20.17. Implementation of the Final Report

1. The final report shall be binding for the parties involved in the terms and within the time it orders. The timeframe for implementing the final report shall not exceed six (6) months from the date on which the last of warring parties has been notified of the final report, unless they agree otherwise.

2. When the final report of the arbitral panel declares that the measure is inconsistent with this Treaty, the respondent Party shall refrain from executing the measure or repealed.

3. When the final report of the arbitral panel declares that the measure is a cause of nullification or impairment in the sense of annex 20, it shall determine the level of nullification or impairment and may suggest that the adjustments it considers mutually satisfactory for the parties involved.

Article 20.18. Suspension of Benefits

1. The conflict unless the parties to notify the Commission has been completed to the satisfaction of the same final report within fifteen (15) days of the expiration of the period specified in the final report the arbitral panel shall determine whether the responding party has complied with the report.

2. The complaining party may suspend the application to the responding party of benefits arising from this Agreement that have an effect equivalent to the benefits, if not the arbitral Group decides:

a) A measure that is inconsistent with the obligations of this Treaty and that the responding party does not comply with the final report within the timeframe determined by the arbitral group; or

b) A measure that is a cause of nullification or impairment in the sense of 20, annex and warring parties fail to reach a mutually satisfactory agreement on the dispute within the timeframe determined by the arbitral group.

3. The suspension of benefits shall last until the defendant complies with the final report or until the parties reach a mutually satisfactory agreement on the dispute, as the case may be. However, if the respondent consists of two or more

parties (2), and one complies with the final report or reached a mutually satisfactory agreement with the complaining party, it shall terminate the suspension of benefits in respect of that Party.

4. In considering the benefits to be suspended in accordance with this article:

a) The complaining party should first seek to suspend benefits in the same as that sector or sectors affected by the measure or other matter that the arbitration panel has found to be inconsistent with the obligations of this Agreement or that has been a cause of nullification or impairment in the sense of Annex 20; and

b) If the complaining party considers that it is not practicable or effective to suspend benefits in the same sector or sectors may suspend benefits in other sectors.

5. Once the benefits have been suspended pursuant to this article, the parties - Upon written request of a Party, shall establish an arbitral group if necessary to determine if they have not complied with the final report or if it is manifestly excessive the level of benefits that the complaining party has suspended the respondent party in accordance with this article. To the extent possible, the arbitral group will be integrated with the same arbitrators who heard the dispute.

6. The proceedings before the arbitral group established for the purposes of paragraph 5 shall be settled in accordance with the Model Rules of Procedure provided for in article 20.12 and shall present its final report within sixty (60) days after the meeting at which the arbitral group has been integrated, or at any other time that warring parties agree In the event that the arbitral group shall be composed of the same arbitrators who heard the dispute shall present its final report within thirty (30) days following the submission of the request referred to in paragraph 5.

Section B. Domestic and Private Commercial Dispute Settlement Proceedings

Article 20.19. Interpretation of the Treaty to Domestic Judicial and Administrative Bodies

1. The Commission shall endeavour to agree as soon as possible, an adequate response non-binding interpretation or, when:

a) A Party considers that a matter of interpretation or application of this agreement arises out or in a judicial or administrative proceeding of the other party warrants the interpretation of the Commission; or

b) A Party notifies the receipt of a request for an opinion on a question of interpretation or application of this Treaty in a judicial or administrative proceeding of that Party.

2. The Party in whose territory the court or administrative proceedings or response presented in the interpretation of the Commission, in accordance with the procedures of that forum.

3. If the Commission is unable to agree on the interpretation or response, any Party may submit its own views to the court or administrative proceedings in accordance with the procedures of that forum.

Article 20.20. Rights of Individuals

No Party may grant a right of action under its law against the other Party on the ground that a measure of the latter party is inconsistent with this Treaty.

Article 20.21. Alternative Means of Dispute Settlement between Individuals

1. Each Party shall promote and facilitate the arbitration and other means of alternative for the settlement of international commercial disputes between private parties in the Free Trade Area.

2. For the purposes of paragraph 1, each Party shall provide appropriate procedures to ensure observance of agreements to arbitrate which has ratified, and the recognition and enforcement of arbitral awards in such disputes.

3. The Commission shall establish an advisory committee on private commercial disputes comprising persons with expertise or experience in the resolution of private international commercial disputes. Once established, the Committee shall report and general recommendations to the Commission on the existence, use and effectiveness of arbitration and other procedures for the resolution of disputes.

Chapter 21. Exceptions

Article 21.01. Definitions

For purposes of this chapter:

Tax convention means a convention for the avoidance of double taxation or other international agreement or arrangement taxation;

The Fund: international Monetary Fund;

Payments for current international transactions means payments for current international transactions as defined under the Articles of Agreement of the International Monetary Fund;

International capital transactions "means international capital transactions as defined under the Articles of Agreement of the International Monetary Fund; and

Transfers means international transactions and related international transfers and payments.

Article 21.02. General Exceptions

1. This Treaty shall be incorporated into and form an integral part thereof, article XX of GATT 1994 and its interpretative notes for purposes of:

a) Part two (trade in goods), except to the extent that some of its provisions apply to services or investment;

b) Part Three (Technical Barriers to Trade), except to the extent that some of its provisions apply to services or investment;

c) Chapter 15 (competition policy, State monopolies and enterprises), to the extent that some of its provisions apply to goods; and

d) (chapter 16 government procurement), to the extent that some of its provisions apply to goods.

2. This Treaty shall be incorporated into and form an integral part thereof, subparagraphs (a), (b) and (c) of article XIV of the GATS, for purposes of:

a) Part two (trade in goods), to the extent that some of its provisions apply to services;

b) Part Three (Technical Barriers to Trade), to the extent that some of its provisions apply to services;

c) Chapter 10 (investment);

d) Chapter 11 (cross-border trade in services);

e) Chapter 12 (Financial Services);

f) Chapter 13 (telecommunications);

g) Chapter 14 (temporary entry for business persons);

h) Chapter 15 (competition policy, State monopolies and enterprises), to the extent that some of its provisions apply to services; and

i) (chapter 16 government procurement), to the extent that some of its provisions apply to services.

Article 21.03. National Security

Nothing in this Treaty shall be construed as:

a) To require a party to furnish or allow access to information the disclosure of which it considers contrary to its essential security interests;

b) Prevent a Party from taking any action which it considers necessary to protect its essential security interests:

i) Relating to trade in arms, munitions and war materiel and trade operations and on goods, materials, technology and

services undertaken directly or indirectly for the purpose of supplying a military establishment or other establishment of defence;

ii) Applied in time of war or other serious international tension or;

iii) With regard to the implementation of national policies or international agreements in the field of non-proliferation of nuclear weapons or other nuclear explosive devices; or

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

Article 21.04. Balance of Payments

1. Nothing in this Treaty shall be construed as preventing a party from maintaining or adopting measures that restrict transfers where the party faces serious difficulties in their balance of payments, or threat thereof, provided that such restrictions are consistent with this article.

2. As soon as practicable after a party to apply a measure under this article, in accordance with the provisions of its international obligations, the Party:

a) Subject to revision of all restrictions on current account transactions in accordance with article VIII of the Articles of Agreement of the International Monetary Fund;

b) Shall enter into consultations in good faith with the IMF on economic adjustment measures to address the fundamental underlying problems in the economic difficulties; and

c) Endeavour to adopt or maintain economic policies consistent with such consultations.

3. The measures that apply or maintain in accordance with this Article shall:

a) To avoid unnecessary damage to the economic, commercial or financial interests of the other party;

b) Shall not be more burdensome than necessary to deal with the balance of payments difficulties or threat thereof;

c) Be temporary and phased out progressively as the situation improves the balance of payments;

d) Consistent with paragraph 2 (c) and with the Articles of Agreement of the International Monetary Fund; and

e) Application of agreement with the most favourable, including the principles of National Treatment and most-favoured nation.

4. A Party may adopt or maintain a measure under this article that gives priority to services that are essential to its economic programme, provided that the Party does not impose a measure for the purpose of protecting a specific industry or sector unless the measure is consistent with paragraph 2 (c) and with article VIII (3) of the Articles of Agreement of the International Monetary Fund.

5. Restrictions imposed on transfers:

a) Shall be consistent with article VIII (3) of the Articles of Agreement of the International Monetary Fund, where they apply to payments for current international transactions;

b) Shall be consistent with article VI of the Articles of Agreement of the IMF and be imposed only in conjunction with measures on payments for current international transactions under paragraph 2 (a), where they apply to international capital transactions; and

c) May not take the form of surcharges, tariff quotas, licensing or similar measures.

Article 21.05. Exceptions to Disclosure of Information

Nothing in this Treaty shall be construed as requiring a party to furnish or allow access to information the disclosure of which would impede the enforcement or otherwise be contrary to the Constitution, to the public interest or their laws concerning the protection of the privacy of individuals, the accounts and financial affairs of individual customers of financial institutions.

Article 21.06. Taxation

1. Except as provided in this article nothing in this Agreement shall apply to Taxation Measures.

2. Nothing in this Agreement shall affect the rights and obligations of either party under any tax convention. In the event of incompatibility between any of these treaties and this treaty, they shall prevail to the extent of the inconsistency.

3. Notwithstanding paragraph 2:

a) Article 3.03 (National Treatment) and such other provisions in this Treaty necessary to give effect to that article shall apply to taxation measures to the same extent as article III of the GATT 1994; and

b) Article 3.14 (export taxes) shall apply to taxation measures.

4. For the purposes of this article: Taxation Measures do not include:

a) A customs tariff "as defined in article (2.01 definitions of general application); or

b) The measures listed exceptions in (b), (c) and (d) that definition.

5. Subject to paragraph 2:

a) Articles 1103 (National Treatment), and 12.06 (National Treatment) shall apply to Taxation Measures on income or capital gains on the capital of taxable corporations, relating to the purchase or consumption of particular services;

b) Articles 10.02 (National Treatment), (10.03 most-favoured-nation treatment); 1103 (National Treatment) and 11.04 (most-favoured-nation treatment); and (12.06 National Treatment) and 12.07 (most-favoured-nation treatment) apply to all taxation measures, other than those on income or capital gains on the capital of taxable corporations, as well as taxes on capital, inheritance and gifts.

Nothing in these rules shall not apply to:

i) Any most favoured nation obligations with respect to advantages accorded by a Party pursuant to a tax convention;

ii) Any dissenting provision of any existing taxation measure;

iii) The continuation or renewal of a provision of any dissenting existing taxation measure;

(IV) reforms to dissenting A provision of any existing taxation measure, in both the amendment does not decrease, at the time of his grade in accordance with any of those articles; or

v) Any new taxation measure aimed at ensuring the implementation and tax collection of fair and effective, and that does not arbitrarily discriminate between individuals, goods or services of the Parties or nullifies or impairs similarly advantages granted pursuant to those articles, in the sense of nullification and impairment (annex 20).

Chapter 22. Final Provisions

Article 22.01. Amendments

1. Without prejudice to articles 19.01 (5) (Committee administering the treaty 2203) (2), and any amendment to this Treaty shall require the agreement of all the parties.

2. The agreed amendments shall enter into force after approval by the appropriate legal procedures of the Parties, and shall constitute an integral part of this Treaty.

Article 22.02. Reservations

This Treaty shall not be subject to reservations and interpretative declarations at the time of ratification.

Article 22.03. Duration

1. This Treaty shall have indefinite duration and shall enter into force between Panama and each Central American country on the thirtieth day after the date on which respectively have exchanged their respective instruments of ratification certifying that the necessary legal procedures and formalities have been completed.

2. For the present treaty takes effect between Panama and each Central American country, in the instruments of ratification shall be that the legal procedures and formalities have been completed on bilateral protocol containing:

a) Annex 3.04 (tariff relief) on the programme of tariff relief between Panama and the Central American country;

b) Section C of annex 4.03 (specific rules of origin) applicable between Panama and the Central American country;

c) Annexes I, II, III and IV of chapter 10 (investment) relating to reservations and restrictions on investment applicable between Panama and the Central American country;

d) Annexes I, II and V of chapter 11 (cross-border trade in services), relating to reservations and restrictions on cross-border services applicable between Panama and the Central American country;

e) Chapter 12 of annex VI (Financial Services), relating to reservations and restrictions on financial services applicable between Panama and the Central American country;

f) Annexes 3.10 (6) (restrictions on the importation and exportation) and 16.01 (entities), where appropriate; and (g) Such other matters as the parties may agree.

3. Protocols to be concluded pursuant to paragraph 2 shall be an integral part of this Treaty.

Article 22.04. Annexes

The annexes to this Agreement constitute an integral part of it.

Article 22.05. Denunciation

1. Any Party may denounce this Treaty. If Panama is not a party to the complaint, the Treaty shall remain in force for the other parties.

2. Denunciation shall take effect one hundred and eighty (180) days after be communicated to the other parties, without prejudice to the parties may agree on a different period.

Done in Panama City, Panama, six days of March two thousand six two original copies in equally authentic.

Miguel Ángel Rodríguez Echeverría President of the Republic of Costa Rica

Francisco Flores Pérez

The President of the Republic of El Salvador

Alfonso Portillo Cabrera

The President of the Republic of Guatemala

Enrique Bolaños Geyer

The President of the Republic of Nicaragua

Mireya Moscoso Rodríguez President of the Republic of Panama

Vincent Williams

First appointed Chair Honduras

In witness honour

Fernando Henrique Cardoso

President of the Federative Republic of Brazil