Free Trade Agreement between the Republic of Colombia and the Republic of Costa Rica

PREAMBLE

The Government of the Republic of Colombia and the Government of the Republic of Costa Rica, hereinafter referred to as the "Parties", determined to:

STRENGTHEN the traditional bonds of friendship and the spirit of cooperation between their peoples;

PROMOTE economic development in a manner consistent with the protection and conservation of the environment, as well as with sustainable development;

PROMOTE the creation of employment opportunities and improve the living standards of their peoples in their respective territories in order to reduce poverty;

CREATE a larger and more secure market for goods and services produced in their respective territories;

CONTRIBUTE to regional economic integration;

ESTABLISH clear and mutually beneficial rules for the commercial exchange of their goods and services, as well as for the promotion and protection of investments in their territories;

RECOGNIZE that the promotion and protection of investments of one Party in the territory of the other Party will contribute to increase the flow of investments and stimulate mutually beneficial commercial activity;

AVOID distortions in their reciprocal trade;

PROMOTE the competitiveness of their enterprises in global markets;

STIMULATE creativity and innovation and promote trade in the innovative sectors of their economies;

FACILITATE trade by promoting efficient, transparent and predictable customs procedures for their importers and exporters;

PROMOTE transparency in international trade and investment;

PRESERVE their ability to safeguard public welfare and public order;

DEVELOP their respective rights and obligations under the Marrakesh Agreement Establishing the World Trade Organization, as well as other treaties to which they are a party; and

RECOGNIZE that Colombia as a member of the Andean Community and Costa Rica as a member of the Central American Integration System are subject to rights and obligations within the framework of their respective integration processes,

HAVE AGREED, in pursuit of the foregoing, to conclude the following Free Trade Agreement (hereinafter referred to as the "Agreement"):

Chapter 1. INITIAL PROVISIONS AND GENERAL DEFINITIONS

Section A. INITIAL PROVISIONS

Article 1.1. ESTABLISHMENT OF THE FREE TRADE AREA

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

Article 1.2. RELATIONSHIP WITH OTHER INTERNATIONAL AGREEMENTS

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

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

Article 1.3. SCOPE OF OBLIGATIONS

Each Party shall ensure the adoption of all measures necessary to give effect to the provisions of this Agreement in its territory and at all levels of government.

Section B. GENERAL DEFINITIONS

Article 1.4. DEFINITIONS OF GENERAL APPLICATION

For the purposes of this Agreement, unless otherwise specified:

Antidumping Agreement means the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 of the WTO;

Customs Valuation Agreement means the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 of the WTO;

SPS Agreement means the WTO Agreement on the Application of Sanitary and Phytosanitary Measures; TBT Agreement means the WTO Agreement on TBT;

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

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

TRIPS Agreement means the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (1);

Agreement on Safeguards means the Agreement on Safeguards of the WTO;

Agreement on Subsidies means the WTO Agreement on Subsidies and Countervailing Measures;

GATS means the WTO General Agreement on Trade in Services; GATS means the WTO General Agreement on Trade in Services;

customs duty means any duty or charge of any kind imposed on or in connection with the importation of a good, including any form of surcharge or additional charge on or in connection with such imports. A "customs duty" does not include any:

(a) charge equivalent to an internal tax imposed pursuant to Article III of GATT 1994;

(b) antidumping duty, countervailing duty or safeguard measure applied in accordance with GATT 1994, the Antidumping Agreement, the Agreement on Subsidies and the Agreement on Safeguards, as the case may be;

(c) duty or other charge imposed in accordance with Article VIII of GATT 1994;

Chapter means the first two digits of the Harmonized System Tariff Classification number;

Commission means the Free Trade Commission established under Article 20.1 (The Free Trade Commission);

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

days means calendar days;

enterprise means any entity incorporated or organized under applicable law, whether or not for profit, or whether privately or governmentally owned, including corporations, trusts, partnerships, sole proprietorships, joint ventures, and other forms

of associations;

GATT 1994 means the General Agreement on Tariffs and Trade 1994 of the WTO;

measure includes any measure adopted by a Party, whether in the form of law, regulation, procedure, administrative decision or ruling, requirement, practice, or in any other form;

good means any product, article or material;

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

originating good means a good that qualifies under the rules of origin set out in Chapter 3 (Rules of Origin and Origin Procedures);

national means a natural person who is a national of a Party in accordance with Annex 1-A or a permanent resident of a Party;

MFN means Most Favored Nation;

central level of government means the national level of government;

local level of government means for:

(a) Colombia, the departments, districts and municipalities; and.

(b) Costa Rica, the municipalities;

WTO means the World Trade Organization;

item means the first four digits of the Harmonized System tariff classification number;

person means a natural person or a company;

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

subheading means the first six digits of the tariff classification number under the Harmonized System; and

territory means, for a Party, the territory of that Party as set out in Annex 1-A.

(1) For greater certainty, TRIPS Agreement includes any waiver in force between the Parties of any provision of the TRIPS Agreement granted by WTO Members pursuant to the WTO Agreement.

Annex 1-A. PARTY-SPECIFIC DEFINITIONS

For purposes of this Agreement, unless otherwise specified:

natural person having the nationality of a Party means:

(a) with respect to Colombia, Colombians by birth or adoption, as determined by Article 96 of the Political Constitution of Colombia; and.

(b) with respect to Costa Rica, a Costa Rican as defined in Articles 13 and 14 of the Political Constitution of the Republic of Costa Rica.

territory (2) means:

(a) with respect to Colombia, its land territory, both continental and insular, its airspace and the maritime areas over which it exercises sovereignty, sovereign rights or jurisdiction in accordance with its Political Constitution, its domestic law and international law, including applicable international treaties; and

(b) with respect to Costa Rica, the national territory including airspace and maritime areas, where the State exercises complete and exclusive sovereignty or special jurisdiction in accordance with Articles 5 and 6 of the Political Constitution of the Republic of Costa Rica and International Law.

(2) For greater certainty, the definition and references to "territory" contained in this Agreement apply exclusively for purposes of determining the geographic scope of application of this Agreement.

Annex 1-B. OBJECTIVES OF THE AGREEMENT

The objectives of this Agreement are as follows:

(a) to stimulate the expansion and diversification of trade between the Parties;

(b) to contribute, through the elimination of barriers to trade, to the harmonious development and expansion of trade between the Parties and to facilitate the cross-border movement of goods and services between them;

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

(d) increasing investment opportunities in the territories of the Parties; and

(e) to create effective procedures within the framework of this Agreement for its implementation and enforcement, its joint administration, and for preventing and resolving disputes.

Chapter 2. NATIONAL TREATMENT AND MARKET ACCESS FOR GOODS

Article 2.1. SCOPE OF APPLICATION

Except as otherwise provided in this Agreement, this Chapter applies to trade in goods of a Party.

Section A. NATIONAL TREATMENT

Article 2.2. NATIONAL TREATMENT

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

2. Paragraph 1 shall not apply to the measures set out in Annex 2-A.

Section B. TARIFF ELIMINATION

Article 2.3. TARIFF ELIMINATION

1. Except as otherwise provided in this Agreement, no Party may increase any existing customs duty, or adopt any new customs duty, on a good originating in the other Party.

2. Except as otherwise provided in this Agreement, each Party shall eliminate its customs duties on originating goods of the other Party in accordance with Annex 2-B.

3. The tariff elimination program provided for in this Chapter shall not apply to used goods, including goods that are identified as such in headings or subheadings of the Harmonized System. Used goods also include goods that have been rebuilt, remanufactured, remanufactured, or any other similar appellation given to goods that after having been used have undergone some process to restore them to their original characteristics or specifications, or to restore them to the functionality they had when new.

4. At the request of any Party, consultations shall be held to consider the improvement of tariff conditions for market access in accordance with Annex 2-B.

5. Notwithstanding Article 20.1 (The Free Trade Commission), an agreement between the Parties to improve tariff market access conditions for a good shall prevail over any customs duty or category defined in Annex 2-B for such good, when approved by the Parties in accordance with their applicable legal procedures.

6. For greater certainty, a Party may:

(a) following a unilateral reduction, increase a customs duty to the level set out in Annex 2-B; or

(b) maintain or increase a customs duty where authorized by the WTO Dispute Settlement Body.

Section C. SPECIAL REGIMES

Article 2.4. CUSTOMS DUTY EXEMPTIONS

1. No Party may adopt a new waiver of customs duties, or extend the application of an existing waiver of customs duties with respect to existing beneficiaries, or extend it to new beneficiaries, where the waiver is conditioned, explicitly or implicitly, on compliance with a performance requirement.

2. No Party may condition, explicitly or implicitly, the continuation of any existing customs duty exemption on the fulfillment of a performance requirement.

Article 2.5. TEMPORARY ADMISSION OF GOODS

1. Each Party shall allow temporary admission free of customs duties for the following goods, irrespective of their origin:

(a) professional equipment, including equipment for scientific research, medical activities, press or television, computer software, and broadcasting and cinematography equipment necessary for the exercise of the business, trade or profession of a person that qualifies for temporary entry under the legislation of the importing Party;

(b) goods intended for display or demonstration at exhibitions, fairs, meetings or similar events;

(c) commercial samples, advertising films and recordings; and

(d) goods admitted for sporting purposes.

2. Each Party shall, at the request of the person concerned and for reasons deemed valid by its customs authority, extend the period for temporary admission beyond the period initially fixed in accordance with its legislation.

3. No Party may condition the temporary duty-free admission of a good referred to in paragraph 1 on conditions other than that the good:

(a) is used only by or under the personal supervision of a national or resident of the other Party in the exercise of that person's business, trade, professional or sporting activity;

(b) is not for sale or lease while it remains in its territory;

(c) is accompanied by a bond or guarantee in an amount not exceeding the charges that would otherwise be due for entry or final importation, refundable upon departure of the good;

(d) is capable of identification upon export;

(e) is exported upon the departure of the person referred to in paragraph (a), or within such period of time corresponding to the purpose of the temporary admission as the Party may establish, or within one year, unless extended;

(f) is admitted in quantities no greater than is reasonable in accordance with its intended use; and

(g) is otherwise admissible into the territory of the Party in accordance with its legislation.

4. If any of the conditions imposed by a Party under paragraph 3 have not been met, the Party may apply the customs duty and any other charges that would normally be due on the good, plus any other charges or penalties established in accordance with its law.

5. Each Party shall adopt and maintain procedures to facilitate the expeditious release of goods admitted under this Article. To the extent possible, such procedures shall provide that when such merchandise accompanies a national or resident of the other Party who is requesting temporary entry, the merchandise shall be cleared simultaneously with the entry of that national or resident.

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

7. Each Party shall provide that the importer or other person responsible for a good admitted under this Article shall not be

liable for the inability to export the good upon presentation of evidence satisfactory to the importing Party that the good has been destroyed within the original time limit fixed for temporary admission or any lawful extension.

8. Subject to Chapter 12 (Investment) and Chapter 13 (Cross-Border Trade in Services), no Party may:

(a) prevent a vehicle or container used in international transportation that has entered its territory from the other Party from leaving its territory by any route that has a reasonable relationship to the prompt and economic departure of such vehicle or container;

(b) require a bond or impose any penalty or charge solely on the ground that the port of entry of the vehicle or container is different from the port of departure;

(c) condition the release of any obligation, including any bond, which it has applied to the entry of a vehicle or container into its territory, on its departure from a particular port; and

(d) require that the vehicle or carrier bringing a container into its territory from the territory of the other Party be the same vehicle or carrier that brings it into the territory of the other Party.

9. For the purposes of paragraph 8, vehicle means a truck, tractor-trailer, tractor-trailer, trailer or trailer unit, locomotive or railcar or other railway equipment.

Article 2.6. GOODS REIMPORTED AFTER REPAIR OR ALTERATION

1. No Party may apply a customs duty to a good, regardless of its origin, that has been re-entered into its territory after having been temporarily exported from its territory to the territory of the other Party for repair or alteration, regardless of whether such repair or alteration could have been carried out in the territory of the Party from which the good was exported for repair or alteration.

2. No Party may apply a customs duty to a good that, regardless of its origin, is temporarily admitted from the territory of the other Party to be repaired or altered.

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

(a) destroys the essential characteristics of a good or creates a new or commercially different good; or

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

Article 2.7. DUTY-FREE IMPORTATION OF COMMERCIAL SAMPLES OF NEGLIGIBLE VALUE AND PRINTED ADVERTISING MATERIALS

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

(a) such samples are imported only for the purpose of soliciting orders for goods or services provided from the territory of the other Party or another non-Party; or

(b) such advertising materials are imported in packages containing not more than one printed copy each and that neither the materials nor the packages are part of a larger consignment.

Section D. NON-TARIFF MEASURES

Article 2.8. IMPORT AND EXPORT RESTRICTIONS

1. Except as otherwise provided in this Agreement, no Party may adopt or maintain any non-tariff measure that prohibits or restricts the importation of any good of the other Party or the exportation or sale for export of any good destined for the territory of the other Party, except as provided in Article XI of the GATT 1994 and its interpretative notes, and to this end, Article XI of the GATT 1994 and its interpretative notes are incorporated into this Agreement and form an integral part thereof, mutatis mutandis.

2. The Parties understand that the rights and obligations of the GATT 1994 embodied in paragraph 1 prohibit, in any circumstances in which any other type of restriction is prohibited, a Party from adopting or maintaining:

(a) export and import price requirements, except as permitted for the enforcement of antidumping and countervailing duty

provisions and undertakings;

(b) import licensing conditioned on compliance with a performance requirement; or

(c) voluntary export restraints inconsistent with Article VI of GATT 1994, implemented under Article 18 of the Subsidies Agreement and Article 8.1 of the Anti-Dumping Agreement.

3. Paragraphs 1 and 2 shall not apply to the measures set out in Annex 2-A.

4. No Party may require that, as a condition of an import commitment or for the importation of a good, a person of the other Party establish or maintain a contractual or other relationship with a distributor in its territory.

5. For the purposes of paragraph 4, distributor means a person of a Party who is responsible for the commercial distribution, agency, dealership or representation in the territory of that Party of goods of the other Party.

Article 2.9. IMPORT LICENSING

1. No Party shall maintain or adopt a measure that is inconsistent with the WTO Agreement on Import Licensing Procedures (hereinafter referred to as the "Import Licensing Agreement"). For this purpose, the Agreement on Import Licensing and its interpretative notes are incorporated into and form an integral part of this Agreement, mutatis mutandis.

2. Upon entry into force of this Agreement, each Party shall notify the other Party of any existing import licensing procedures.

3. Each Party shall notify the other Party of any new import licensing procedures and any modifications to its existing import licensing procedures within 60 days prior to their entry into force. A notification provided under this Article shall:

(a) shall include the information set out in Article 5 of the Import Licensing Agreement; and

(b) shall be without prejudice to whether the import licensing procedure is consistent with this Agreement.

4. No Party may apply an import licensing procedure to a good of the other Party without having provided a notification in accordance with paragraph 2 or 3, as appropriate.

Article 2.10. ADMINISTRATIVE BURDENS AND FORMALITIES

1. Each Party shall ensure, in accordance with Article VIII of the GATT 1994 and its interpretative notes, that all fees and charges of whatever nature (other than customs duties, charges equivalent to an internal tax or other internal charges applied pursuant to Article III: 2 of GATT 1994, and antidumping and countervailing duties), imposed on or in connection with importation or exportation, shall be limited to the approximate cost of services rendered and shall not represent an indirect protection to domestic goods, nor a tax on imports or exports for fiscal purposes. For this purpose, Article VIII of the GATT 1994 and its interpretative notes are incorporated into this Agreement and form an integral part thereof, mutatis mutandis.

2. No Party shall require consular transactions, including related fees and charges, in connection with the importation of any good of the other Party.

3. Each Party shall make available and maintain, through the Internet, an up-to-date list of fees or charges imposed in connection with importation or exportation.

Article 2.11. TAXES AND OTHER CHARGES ON EXPORTS

Except as provided in Annex 2-C, neither Party shall adopt or maintain a tax, levy, or other charge on the exportation of any good to the territory of the other Party.

Section E. OTHER MEASURES

Article 2.12. STATE TRADING ENTERPRISES

The rights and obligations of the Parties with respect to state trading enterprises shall be governed by Article XVII of the GATT 1994, its interpretative notes, and the Understanding on the Interpretation of Article XVII of the GATT 1994, which are incorporated into and form an integral part of this Agreement, mutatis mutandis.

Article 2.13. CUSTOMS VALUATION

1. The Customs Valuation Agreement and any successor agreement shall govern the customs valuation rules applied by the Parties in their reciprocal trade. To this effect, the Customs Valuation Agreement and any successor agreement are incorporated into and form an integral part of this Agreement, mutatis mutandis.

2. The customs legislation of each Party shall comply with Article VII of the GATT 1994 and the Customs Valuation Agreement.

Section F. AGRICULTURE

Article 2.14. SCOPE AND COVERAGE

This Section applies to measures adopted or maintained by a Party relating to trade in agricultural goods.

Article 2.15. AGRICULTURAL EXPORT SUBSIDIES

1. The Parties share the objective of the multilateral elimination of export subsidies on agricultural goods and shall work together towards an agreement in the WTO to eliminate such subsidies and to prevent their reintroduction in any form.

2. Neither Party may adopt or maintain any export subsidy on any agricultural good destined for the territory of the other Party.

3. Notwithstanding the provisions of the preceding paragraph, if a Party maintains, introduces or reintroduces an export subsidy on a good listed in Annex 2-B, the importing Party shall request in writing to the exporting Party the initiation of consultations to verify the existence or non-existence of the export subsidy. If, after 90 days of the request for consultations, the existence of the subsidy is confirmed and the exporting Party does not suspend the subsidy, the importing Party may increase the rate of duty on imports to the applied MFN tariff rate for the period during which the export subsidy is maintained. In order for the additional duty to be eliminated, the other Party shall provide detailed information on the applied subsidy demonstrating that it complies with the provisions of this Article. The foregoing is without prejudice to the right of the Parties to make use of the mechanism provided for in Chapter 18 (Dispute Settlement).

Section G. INSTITUTIONAL PROVISIONS

Article 2.16. COMMITTEE ON TRADE IN GOODS

1. The Parties hereby establish the Committee on Trade in Goods (hereinafter referred to as the "Committee"), composed of representatives of each Party.

2. The meetings of the Committee, and of any Ad Hoc Working Group, shall be chaired by representatives of the Ministry of Commerce, Industry and Tourism of Colombia and of the Ministry of Foreign Trade of Costa Rica, or their successors.

3. The functions of the Committee shall include, inter alia:

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

(b) reporting to the Commission on the implementation and administration of this Chapter, as appropriate;

(c) promoting trade in goods between the Parties, including through consultations on the expansion and acceleration of tariff elimination under this Agreement, and other matters as appropriate;

(d) address obstacles to trade in goods between the Parties, in particular those relating to the application of nontariff measures, and, as appropriate, submit such matters to the Commission for its consideration;

(e) provide the Commission with advice and recommendations on technical assistance needs in matters relating to this Chapter;

(f) review the conversion to the Harmonized System nomenclature in force to ensure that the obligations of each Party under this Agreement are not altered, and conduct consultations to resolve any conflicts between:

(i) the Harmonized System nomenclature in force and Annex 2-B; and

(ii) domestic nomenclatures and Annex 2-B;

(g) consult and make best efforts to resolve any differences that may arise between the Parties on matters relating to the classification of goods under the Harmonized System;

(h) establish Ad-Hoc Working Groups with specific mandates; and

(i) to deal with any other matter related to this Chapter.

4. Unless otherwise agreed by the Parties, the Committee shall meet at least once a year, on the date and according to the agenda previously agreed. The first meeting of the Committee shall be held no later than one year after the date of entry into force of this Agreement. By mutual agreement, the Parties may hold extraordinary meetings.

5. The meetings may be held by any means agreed upon by the Parties. When they are face-to-face, they shall be held alternately in the territory of each Party, and it shall be the responsibility of the host Party to organize the meeting.

6. Unless otherwise agreed by the Parties, the Committee shall be of a permanent nature and shall develop its working rules.

7. All decisions of the Committee shall be taken by mutual agreement.

8. The Parties establish the Ad-Hoc Working Group on Trade in Agricultural Goods, which shall report to the Committee. For the purpose of discussing any matter related to market access for agricultural goods, this group shall meet at the request of a Party no later than 30 days after the request is made.

Section H. DEFINITIONS

Article 2.17. DEFINITIONS

For the purposes of this Chapter:

consumed means:

(a) actually consumed; or

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

duty-free means free of customs duty;

import license means an administrative procedure that requires the submission of an application or other documents (other than those generally required for customs clearance purposes) to the relevant administrative body as a condition precedent to importation into the territory of the importing Party; import license means an administrative procedure that requires the submission of an application or other documents (other than those generally required for customs clearance purposes) to the relevant administrative body as a condition precedent to importation into the territory of the importing Party;

printed advertising materials means those goods classified in Chapter 49 of the Harmonized System including brochures, leaflets, printed matter, loose sheets, trade catalogs, yearbooks published by trade associations, tourist promotion materials and posters, used to promote, publicize or advertise a good or service, with the intention of advertising a good or service, and which are distributed free of charge;

goods temporarily admitted for sporting purposes means sporting equipment for use in sporting competitions, events or training in the territory of the Party into which they are admitted;

agricultural goods means those goods referred to in Article 2 of the WTO Agreement on Agriculture;

commercial samples of negligible value means commercial samples valued, individually or in the aggregate shipped, at not more than one United States dollar (US$1) or the equivalent amount in the currency of the other Party, or which are marked, torn, perforated or otherwise treated in a manner that disqualifies them for sale or for any use other than as samples;

goods for exhibition or demonstration include their components, ancillary apparatus and accessories;

advertising films and recordings means visual media or recorded audio materials consisting essentially of images and/or sound showing the nature or performance of goods or services offered for sale or hire by a person established or resident

in the territory of a Party, provided that such materials are suitable for exhibition to potential customers, but not for dissemination to the general public;

performance requirement means a requirement to:

(a) export a specified volume or percentage of goods or services;

(b) to replace imported goods or services with goods or services of the Party granting the exemption from customs duties or import licenses;

(c) a person benefiting from a customs duty exemption or import license purchases other goods or services in the territory of the Party granting the customs duty exemption or import license, or grants a preference to domestically produced goods;

(d) a person benefiting from a customs duty exemption or import license produces goods or services in the territory of the Party granting the customs duty exemption or import license, with a certain level or percentage of domestic content; or

(e) relate in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows,

but does not include a requirement that an imported good be:

(f) subsequently exported;

(g) used as a material in the production of another good that is subsequently exported;

(h) substituted for an identical or similar good used as a material in the production of another good that is subsequently exported; or

(i) substituted for an identical or similar good that is subsequently exported;

export subsidies shall have the meaning assigned to that term in Article 1(e) of the WTO Agreement on Agriculture, including any modification of that Article; and

consular transactions shall mean the requirements that goods of one Party, intended for export to the territory of the other Party, must first be presented to the supervision of the consul of the importing Party in the territory of the exporting Party for the purpose of obtaining consular invoices or consular visas for commercial invoices, certificates of origin, manifests, shipper's export declarations or any other customs documents required for or in connection with importation.

Chapter 3. RULES OF ORIGIN AND ORIGIN PROCEDURES

Section A. RULES OF ORIGIN

Article 3.1. ORIGINATING GOODS

Except as otherwise provided in this Chapter, a good is originating when:

(a) it is wholly obtained or wholly produced in the territory of one or both of the Parties, as defined in Article 3.2;

(b) it is produced in the territory of one or both of the Parties from non-originating materials that comply with the change in tariff classification, regional value content, or other specific rules of origin contained in Annex 3-A; or

(c) is produced in the territory of one or both of the Parties exclusively from originating materials,

and complies with the other provisions of this Chapter.

Article 3.2. WHOLLY OBTAINED OR WHOLLY PRODUCED GOODS

For purposes of Article 3.1(a), the following goods shall be considered to be wholly obtained or wholly produced in the territory of one or both Parties:

(a) plants and plant products harvested or collected in the territory of one or both Parties;

(b) live animals born and raised in the territory of one or both Parties;

(c) goods obtained from live animals raised in the territory of one or both Parties;

(d) goods obtained from hunting, trapping, fishing or aquaculture in the territory of one or both Parties;

(e) fish, crustaceans and other marine species taken from the sea or seabed, outside the territory of a Party, by a vessel registered or recorded in a Party and flying its flag;

(f) goods produced on board factory ships registered or recorded in a Party and flying its flag, exclusively from the goods referred to in paragraph (e);

(g) minerals and other inanimate natural resources extracted from the soil, waters, seabed or subsoil in the territory of one or both Parties;

(h) commodities, other than fish, crustaceans, and other living marine species, obtained or taken by a Party from marine waters, seabed, or subsoil outside the territory of a Party, provided that Party has rights to exploit such marine waters, seabed, or subsoil;

(i) wastes and residues derived from:

(i) manufacturing operations conducted in the territory of one or both of the Parties; or

(ii) used goods collected in the territory of one or both Parties,

(ii) used goods collected in the territory of one or both Parties, provided that such waste or scrap serves only for the recovery of raw materials; and

(j) goods produced in one or both Parties exclusively from goods referred to in paragraphs (a) through (i).

Article 3.3. REGIONAL VALUE CONTENT

1. The regional value content (hereinafter referred to as "RVC") of a good shall be calculated on the basis of the following method:

RVC = TV - VMN / TV x 100

where:

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

TV: is the transaction value of the good, adjusted on an FOB basis; and

VMN: is the value of non-originating materials.

2. The value of non-originating materials shall be:

(a) the transaction value adjusted on a CIF basis at the time of importation of the material; or

(b) the first determinable price paid or payable for the non-originating materials in the territory of the Party where the processing or transformation took place. Where the producer of a good acquires non-originating materials within that Party, the value of such materials shall not include freight, insurance, packing costs, and all other costs incurred in transporting the material from the supplier's warehouse to the place where the producer is located.

3. The values referred to above shall be determined in accordance with the Customs Valuation Agreement.

Article 3.4. MINIMUM OPERATIONS OR PROCESSES

1. The operations or processes which, individually or in combination with each other, do not confer origin on a good are the following:

(a) operations to ensure the preservation of goods in good condition during transportation and storage;

(b) grouping or splitting of packages;

(c) packing, unpacking or repacking operations for retail sale;

(d) slaughtering of animals;

(e) washing, cleaning and removal of dust, rust, oil, paint or other coatings;

(f) ironing or pressing of textile products;

(g) simple (1) painting and polishing operations;

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

(i) simple packaging in bottles, cans, jars, flasks, bags, cases and boxes and placing on cardboard or boards, and any other simple packaging operation;

(j) affixing of marks, labels, logos and other similar distinctive signs on the goods or on their packaging;

(k) simple mixing of products; mixing of sugar with any material; the operations of coloring or flavoring of sugar or sugar lumps; the total or partial milling of sugar crystals;

(l) simple assembly of parts of goods to constitute a complete good or the disassembly of goods into their parts;

(m) shelling, de-seeding and peeling of fruits, nuts and vegetables;

(n) sharpening, simple grinding or simple cutting; or

(o) sifting, screening, sorting, classifying, grading, grading, preparation (including formation of sets of articles).

2. The provisions of this Article shall prevail over the specific rules of origin contained in Annex 3-A.

(1) For the purposes of this Article, simple means activities that do not require either special skills or specially manufactured or installed machines, apparatus and equipment to carry out the activity. However, simple mixing does not include chemical reaction, as the latter term is defined in Annex 3-A.

Article 3.5. INTERMEDIATE MATERIAL

When an intermediate material is used in the production of a good, no account shall be taken of the non-originating materials contained in such intermediate material for purposes of determining the origin of the good.

Article 3.6. CUMULATION

1. Goods or materials originating in the territory of a Party, incorporated in a good in the territory of the other Party, shall be considered originating in the territory of that other Party.

2. A good shall be considered originating when it is produced in the territory of one or both Parties by one or more producers, provided that the good meets the requirements set out in Article 3.1 and all other applicable requirements of this Chapter.

3. Where each Party has established a preferential trade agreement with the same country or group of non-Party countries, the goods or materials of such country or group of non-Party countries incorporated in the territory of a Party may be considered as originating in the territory of that Party, provided that the rules of origin applicable to such good or material under this Agreement are complied with.

4. For the application of paragraph 3, each Party shall have agreed equivalent provisions to those set out in that paragraph with the non-Party country or group of countries, as well as such conditions as the Parties deem necessary for the purposes of its application.

Article 3.7. DE MINIMIS

1. A good shall be considered to be originating if the value of all non-originating materials used in its production that do not comply with the change in tariff classification pursuant to Annex 3-A does not exceed 10% of the FOB value of the good.

2. Where the good referred to in paragraph 1, is subject to a change in tariff classification and regional value content requirement, the value of all non-originating materials shall be included in the calculation of the regional value content of the good.

3. Paragraph 1 shall not apply to non-originating materials used in the production of goods classified in Chapters 1 through 24 of the Harmonized System, unless they are classified in a subheading other than that of the goods whose origin is

determined under this Article.

4. Paragraph 1 shall not apply to non-originating materials classified in Chapter 15 of the Harmonized System that are used in the production of goods classified in headings 15.01 to 15.08 or 15.11 to 15.15 of the Harmonized System.

5. Notwithstanding paragraph 1, a good of the textile and apparel sector classified in Chapters 50 through 63 of the Harmonized System that is non-originating because certain fibers or yarns used in the production of the component of the good that determines its tariff classification do not undergo the change in tariff classification set out in Annex 3-A shall be considered an originating good if the total weight of all such fibers or yarns in that component does not exceed 10% of the total weight of such component.

6. In all cases, the good shall comply with all other applicable requirements of this Chapter.

Article 3.8. FUNGIBLE GOODS AND MATERIALS

In order to determine whether a good is originating, any good or fungible material shall be determined by:

(a) a physical separation of the goods or materials; or

(b) an inventory management method recognized in the Generally Accepted Accounting Principles of the exporting Party.

2. The inventory management method selected, in accordance with paragraph 1, for a particular fungible good or material shall continue to be used for that good or material during the taxable year of the person who selected the inventory management method.

Article 3.9. ACCESSORIES, SPARE PARTS AND TOOLS

1. Accessories, spare parts or tools delivered with the good, shall be treated as originating if the good is originating and shall be disregarded in determining whether all non-originating materials used in the production of the good meet the applicable change in tariff classification, provided that:

(a) the accessories, spare parts, or tools are classified with the good and have not been separately invoiced, regardless of whether each is separately identified on the invoice itself; and

(b) the quantities and value of such accessories, spare parts or tools are customary for the merchandise.

If a good is subject to a regional value content requirement, the value of the accessories, spare parts or tools described in paragraph 1 shall be considered as originating or non-originating materials, as the case may be, in calculating the regional value content of the good.

Article 3.10. SETS OF GOODS

If goods are classified as a set as a result of the application of General Interpretative Rule 3 of the Harmonized System, the set shall be considered as originating only if each good in the set is originating, and both the set and the goods comply with all other applicable requirements of this Chapter.

Notwithstanding paragraph 1, a set of goods is originating if the value of all the non-originating goods in the set does not exceed 15% of the FOB value of the set.

Article 3.11. CONTAINERS AND PACKING MATERIALS FOR RETAIL SALE

1. Where retail containers and packing materials are classified with the good, they shall not be taken into account in determining the origin of the good.

2. Where the goods are subject to a regional value content requirement, the value of packaging materials and retail packaging shall be taken into account in determining the origin of the goods, as the case may be.

Article 3.12. CONTAINERS AND PACKING MATERIALS FOR SHIPMENT

Containers and packing materials for shipment shall not be taken into account for the determination of the origin of the goods.

Article 3.13. INDIRECT MATERIALS

1. For the purpose of determining whether a good is originating, indirect materials shall be considered as originating regardless of the place of their production.

2. Indirect materials means articles used in the production of a good that are not physically incorporated into or form part of the good, including:

(a) fuel, energy, catalysts and solvents;

(b) equipment, apparatus and attachments used for the verification or inspection of goods;

(c) gloves, goggles, footwear, clothing, safety equipment and attachments;

(d) tools, dies and molds;

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

(f) lubricants, greases, composites and other materials used in the production, operation of equipment or maintenance of buildings; and

(g) any other goods that are not incorporated in the good, but whose use in the production of the good can be adequately demonstrated to be part of that production.

Article 3.14. TRANSIT AND TRANSSHIPMENT

Each Party shall provide that a good shall not be considered to be originating if the good:

(a) undergoes further processing or is subject to any other operation, outside the territory of the Parties, except unloading, reloading, or any other operation necessary to maintain the good in good condition or to transport it to the territory of a Party; or

(b) does not remain under the control of the customs authorities in the territory of a non-Party.

Section B. ORIGIN PROCEDURES

Article 3.15. CERTIFICATION OF ORIGIN

1. The importer may apply for preferential tariff treatment based on a written or electronic certificate of origin, set out in Annex 3-B, issued by the competent authority of the exporting Party at the request of the exporter.

2. The certificate of origin referred to in paragraph 1 shall be valid for one year from the date of its issuance.

3. The certificate of origin shall cover one or more goods in a single shipment.

4. The exporter of the good applying for a certificate of origin shall submit all necessary documents proving the originating status of the good in question, as required by the competent authority. The exporter must also undertake to comply with the other requirements applicable to this Chapter.

5. In case of theft, loss or destruction of a certificate of origin, the exporter may request in writing to the competent authority that issued it, a duplicate of the original certificate on the basis of the export invoice or any other evidence that would have served as a basis for the issuance of the original certificate of origin, in the exporter's possession.

6. The duplicate issued in accordance with the previous paragraph shall have in the observations field the phrase "DUPLICATE of the Certificate of Origin number [...] dated [...]", so that the period of validity is counted from the indicated day.

Article 3.16. NOTIFICATIONS

1. Upon entry into force of this Agreement, each Party shall provide to the other Party a record of the names of the officials accredited to issue certificates of origin, as well as specimens of the signatures and impressions of the stamps used by the competent authority for the issuance of certificates of origin.

2. Any change in the register referred to in paragraph 1 shall be notified in writing to the other Party. The change shall take effect 15 days after receipt of the notification or within a later period specified in such notification.

Article 3.17. OBLIGATIONS RELATING TO IMPORTS

1. Except as otherwise provided in this Chapter, each Party shall require that an importer claiming preferential tariff treatment in its territory:

(a) declare on the customs import document, on the basis of a certificate of origin, that the good qualifies as originating in the other Party;

(b) has in its possession the certificate of origin at the time the declaration referred to in paragraph (a) is made;

(c) has in its possession documents certifying that the requirements set out in Article 3.14 have been met; and

(d) provides the certificate of origin, as well as all documentation referred to in paragraph (c), to the customs authority upon request.

2. Each Party shall provide that where the importer fails to comply with any of the requirements set out in paragraph 1, preferential tariff treatment shall be denied to the good imported from the territory of the other Party for which the preference was claimed.

3. Where the certificate of origin contains errors of form which do not give rise to doubts as to the accuracy of the information contained therein, such as typographical errors, they may be accepted by the customs authority of the importing Party.

4. When a certificate of origin is not accepted by the customs authority of the importing Party at the time of importation because of omissions in its completion or errors other than errors of form that do not affect compliance with origin or tariff preference, such customs authority shall not deny preferential tariff treatment. In this case, the customs authority of the importing Party shall request the importer, on a one-time, non-extendable basis, to present a new certificate of origin within a period of 15 days, counted from the day following the date of receipt of the notification of such omission or error, and may authorize the release, after adopting the measures it deems necessary to guarantee the fiscal interest, in accordance with its legislation.

5. At the end of the period established in paragraph 4, if a new certificate of origin correctly issued has not been presented, the importing Party shall deny preferential tariff treatment, and if measures have been taken to ensure the fiscal interest, it shall proceed to enforce them.

6. If a new certificate of origin correctly issued is presented and measures have been adopted to guarantee the fiscal interest, the measures shall be lifted within a period of no more than 90 days, counted from the day following the presentation of the request for the release of the measures by the importer to the customs authority of the importing Party, which may be extended for up to 30 additional days in exceptional cases.

Article 3.18. OBLIGATIONS RELATED TO EXPORTS

1. The exporter who has requested a certificate of origin shall provide or arrange for the producer to provide, at the request of the customs authority of the importing Party, all information used by such producer in the manufacture of the goods in the framework of a verification process pursuant to Article 3.24.

2. Each Party shall provide that:

(a) an exporter to whom a certificate of origin has been issued shall promptly notify in writing the customs authority of the importing Party, with a copy to the competent authority of the exporting Party and the importer, of any change that would affect the accuracy or validity of that certificate; and

(b) if an exporter has submitted a certificate of origin that contains or is based on false information and exported qualifying originating goods into the territory of the other Party, it shall be subject to penalties equivalent, with appropriate modifications, to those that would apply to an importer in its territory for contravening its customs laws and regulations by making false declarations and statements in connection with an importation.

3. No Party shall impose penalties on an exporter for providing a certificate of origin that contains or is based on incorrect information if it voluntarily communicates this in writing to the customs authority of the importing Party, with a copy to the competent authority of the exporting Party and to the importer, before the customs authority of the importing Party has

initiated the exercise of its verification and control powers, in accordance with the legislation of each Party.

Article 3.19. REIMBURSEMENT OF CUSTOMS DUTIES

Where an originating good is imported into the territory of a Party without the importer of the good having applied for preferential tariff treatment at the time of importation, the importer may apply, no later than one year after the date of acceptance of the customs import declaration, for reimbursement of any excess duty paid as a result of not having applied for preferential tariff treatment by submitting to the customs authority:

(a) the certificate of origin, which shall comply with the provisions set forth in Article 3.15; and

(b) other documentation related to the importation of the good, in accordance with the legislation of the importing Party.

Article 3.20. SUPPORTING DOCUMENTS

The documents used to demonstrate that the goods covered by a certificate of origin are considered originating goods and meet the requirements of this Chapter may include, inter alia, the following:

(a) direct evidence of the processes carried out by the exporter or producer to obtain the goods referred to, contained for example in its accounts or internal bookkeeping;

(b) documents proving the originating status of the materials used;

(c) documents proving the working or processing of the materials used; or

(d) certificates of origin proving the originating status of the materials used.

Article 3.21. PRESERVATION OF THE CERTIFICATE OF ORIGIN AND SUPPORTING DOCUMENTS

1. An exporter requesting the issuance of a certificate of origin shall maintain for a period of at least five years from the date of its issuance the documents referred to in Article 3.20.

2. The competent authority of the exporting Party issuing the certificate of origin shall maintain a copy of the certificate of origin for a period of at least five years from the date of its issuance.

3. An importer requesting preferential treatment for a good shall maintain, for a period of at least five years from the date of importation of the good, documentation related to the importation including the certificate of origin.

Article 3.22. EXCEPTIONS TO THE OBLIGATION TO PRESENT A CERTIFICATE OF ORIGIN

1. The Parties shall not require a certificate of origin demonstrating that a good is originating in the case of:

(a) an importation of goods whose customs value does not exceed one thousand United States dollars (US$1,000) or its equivalent in national currency or such greater amount as the Party may establish; or

(b) an importation of goods for which the importing Party has waived the requirement to present a certificate of origin.

2. Paragraph 1 shall not apply to imports, including staged imports, that are made or intended to be made for the purpose of evading compliance with the certification requirements of this Chapter.

Article 3.23. COOPERATION BETWEEN AUTHORITIES

1. In the event that doubts arise as to the authenticity or other elements related to the completion of the certificate of origin, including the origin criteria, the customs authority of the importing Party may request, by written request, information from the competent authority of the exporting Party, for the purpose of verifying the foregoing. The response to the request shall be based on the information provided by the exporter at the time of issuance of the certificate of origin.

2. In this case, the competent authority of the exporting Party shall have a period of 30 days following the date of receipt of the request to provide the requested information.

3. In the event that the customs authority of the importing Party does not receive the requested information within the established period or doubts persist regarding the elements of the certificate of origin, it may initiate a verification process

in accordance with Article 3.24.

4. In the event that the competent authority of the exporting Party does not recognize the authenticity of the certificate of origin, the customs authority of the importing Party may deny preferential tariff treatment to the goods covered by the certificate of origin under review.

Article 3.24. VERIFICATION PROCESS

1. In order to determine whether a good imported by one Party from the other Party qualifies as an originating good, the competent authority of the importing Party may conduct a verification of origin through:

(a) written requests for information to the exporter or producer;

(b) written questionnaires addressed to the exporter or producer;

(c) visits to the facilities of an exporter or producer in the territory of the other Party, for the purpose of observing the facilities and the production process of the good and reviewing the origin-related records, including accounting books and any supporting documents referred to in Article 3.20. The competent authority of the exporting Party may participate in these visits, as an observer; or

(d) such other procedures as the Parties may agree.

2. The customs authority of the importing Party shall notify the exporter, producer and importer of the initiation of the verification process and send a copy of the notification to the competent authority of the exporting Party.

3. For the purposes of this Article, the customs authority of the importing Party carrying out the verification of origin shall notify by certified mail with return receipt requested or by any means that provides evidence of receipt of the notification and of the written requests for information, questionnaires and visits to the exporters or producers.

4. For the purposes of paragraphs 1(a) and 1(b), the exporter or producer shall respond to the request for information or questionnaire made by the customs authority of the importing Party within a period of 30 days from the date of receipt thereof. During such period, the exporter or producer may, only once, request in writing to the customs authority of the importing Party the extension of such period, which may not exceed 30 additional days. If within the established period, the exporter or producer does not duly complete the questionnaire, does not provide the requested information or does not respond, the customs authority of the importing Party shall deny preferential tariff treatment for the good in question.

5. When the customs authority of the importing Party has received the response to the written request for information or the questionnaire referred to in paragraphs 1(a) and 1(b), within the corresponding time limit, and considers that it requires further information to verify the origin of the good subject to verification, it may make a new request to the exporter or producer, which shall be sent within a period not to exceed 30 days from the date of receipt of the request for additional information.

6. The importer within a period of 30 days from the notification of the initiation of the verification of origin process, may provide the documents, evidence or statements they deem relevant. Additionally, the importer may request, only once and in writing, an extension to the customs authority of the importing Party, which may not exceed 30 days. The mere fact that the importer does not provide documents, evidence or statements shall not be sufficient reason for the customs authority to deny preferential tariff treatment.

7. For the purposes of paragraph 1(c), the customs authority of the importing Party shall give written notice of such request at least 30 days prior to the verification visit to the exporter or producer. In the event that the exporter or producer does not consent in writing to the visit in written consent to the visit within 15 days from the date of receipt of the notification, the customs authority of the importing Party shall deny preferential tariff treatment to the good in question. The request for the visit shall be communicated to the competent authority of the exporting Party.

8. Where the exporter or producer receives a notification pursuant to paragraph 7, it may request, once only, within 15 days from the date of receipt of the notification, the postponement of the proposed verification visit for a period not exceeding 30 days from the date on which the notification was received, or for such longer period as may be agreed between the customs authority of the importing Party and the exporter or producer. For this purpose, the customs authority of the importing Party shall communicate the postponement of the visit to the competent authority of the exporting Party.

9. A Party shall not deny preferential tariff treatment solely on the basis of the postponement of the verification visit.

10. The customs authority of the importing Party shall draw up a record of the visit, which shall contain the facts found by it

and, if applicable, a list of the information or documentation collected. Said report may be signed by the producer or exporter. In the event that the producer or exporter refuses to sign the minutes, this fact shall be recorded, without affecting the validity of the visit.

11. The customs authority of the importing Party shall, within a period not exceeding 365 days from the date of receipt of the notification of the initiation of the verification process, notify the exporter or producer in writing of the results of the determination of origin of the merchandise, including the factual and legal grounds for the determination. It shall also send a copy to the competent authority of the exporting Party.

12. Once the period established in paragraph 11 has elapsed without the customs authority of the importing Party having issued a determination of origin, it shall proceed to accept the preferential tariff treatment corresponding to the good subject to verification.

13. The customs authority of the importing Party shall notify the importer in writing of the result of the origin verification process, which shall be accompanied by the legal and factual basis for the determination, respecting the confidentiality of the information provided by the exporter or producer.

14. If as a result of a verification of origin process, pursuant to this Article, the customs authority of the importing Party determines that the good does not qualify as originating, it shall deny preferential tariff treatment to the good subject to verification. Likewise, such customs authority of the importing Party may suspend preferential tariff treatment to any subsequent imports of identical goods that have been produced by the same producer, until it is demonstrated before the customs authority of the importing Party that the goods qualify as originating according to the provisions of this Chapter.

15. The suspension of preferential tariff treatment, pursuant to paragraph 14, shall be communicated by the customs authority of the importing Party to the exporter or producer, importer and the competent authority of the exporting Party, stating the factual and legal grounds justifying its determination, and respecting the confidentiality of the information.

Article 3.25. SANCTIONS

Each Party shall maintain or adopt criminal, civil or administrative penalties for violations related to the provisions of this Chapter, in accordance with its legislation.

Article 3.26. REVIEW AND APPEAL REMEDIES

Each Party shall ensure, with respect to its administrative acts related to the determination of origin, that importers, exporters, or producers have access to:

(a) a level of administrative review independent of the official or agency that issued the administrative act; and

(b) a level of judicial review of the administrative act.

Article 3.27. CONFIDENTIALITY

1. Each Party shall maintain, in accordance with its law, the confidentiality of information provided in the context of a verification of origin process.

2. Such information shall not be disclosed without the express consent of the person providing it, except where such information is required in the context of judicial or administrative proceedings.

3. Any breach of confidentiality of information shall be dealt with in accordance with the legislation of each Party.

Article 3.28. INVOICING BY A THIRD COUNTRY

In the case of an importation of originating goods in accordance with the provisions of this Chapter, the invoice presented at the time of importation may be issued by a person located in the territory of a non-Party. In such a case, this shall be reflected in the certificate of origin, in accordance with Annex 3-B.

Article 3.29. UNIFORM REGULATIONS

1. The Parties may, on the date of entry into force of this Agreement or on such other date as the Parties may agree, establish uniform regulations concerning the interpretation, application, and administration of this Chapter, which may be

adopted by the Commission.

2. Once the uniform regulations have been agreed, each Party shall put them into effect, including any modifications or additions thereto, no later than 180 days after the respective agreement between the Parties, or such other period as the Parties may agree.

Article 3.30. SENDING AND RECEIVING ELECTRONIC CERTIFICATES OF ORIGIN

1. The electronic certificate of origin:

(a) shall only be valid if digitally signed by an official of the competent authority, designated for that purpose;

(b) shall have a unique number by which each certificate may be individually identified; and

(c) shall be exchanged between the competent authorities by a pre-agreed electronic means.

2. The procedure for sending and receiving the electronic certificate of origin is included in Annex 3-C.

Article 3.31. DEFINITIONS

For the purposes of this Chapter:

aquaculture means the farming or rearing of aquatic species, including but not limited to: fish, mollusks, crustaceans, other invertebrates and plants, covering their complete or partial life cycle, from seed such as eggs, immature fish, fry and larvae. It is carried out in a selected and controlled environment, in natural or artificial water environments, in marine, fresh or brackish waters. It includes stocking or seeding activities, and restocking or replanting, cultivation, as well as research activities and the processing of the products derived from such activity;

customs authority means:

(a) for the case of Colombia, the National Tax and Customs Directorate; and

(b) in the case of Costa Rica, the National Customs Service;

or its successors;

competent authority means:

(a) in the case of Colombia, the Dirección de Impuestos y Aduanas Nacionales; and.

(b) in the case of Costa Rica, the Promotora de Comercio Exterior de Costa Rica (PROCOMER);

or its successors;

CIF means the transaction value of the imported merchandise, including insurance and freight costs to the port or place of entry in the country of importation, regardless of the means of transportation;

containers and packing materials for shipment means goods used to protect a good during transportation and does not include containers and materials in which the good is packed for retail sale;

exporter means a person located in the territory of a Party from which the good is exported;

FOB means the value of the good free on board, including the cost of transportation to the final port or place of shipment, regardless of the mode of transport;

importer means a person located in the territory of a Party into which the good is imported;

material means a good that is used in the production of another good, including any component, ingredient, raw material, part or piece;

intermediate material means an originating material that is produced by the producer of a good and used in the production of that good;

good means any product, article or material;

non-originating good or non-originating material means a good or material that is non-originating in accordance with this

Chapter;

fungible goods or materials means goods or materials that are interchangeable for commercial purposes and whose properties are essentially identical and which cannot be distinguished from one another by simple visual examination;

identical goods means identical goods as defined in the Customs Valuation Agreement;

Generally Accepted Accounting Principles means recognized consensus or substantial support authorized and adopted in the territory of a Party with respect to the recording of revenues, expenses, costs, assets and liabilities, the disclosure of information and the preparation of financial statements. Generally Accepted Accounting Principles may encompass broad guidelines of general application, as well as those detailed standards, practices and procedures;

production means the growing, extracting, harvesting, fishing, fishing, breeding, trapping, hunting, shooting, manufacturing, processing, or assembling of a commodity; and

producer means a person who engages in the production of a good in the territory of a Party.

Chapter 4. TRADE FACILITATION AND CUSTOMS PROCEDURES

Article 4.1. PUBLICATION

1. Each Party shall publish its legislation, regulations, and customs procedures, either physically or on the Internet.

2. Each Party shall designate and maintain one or more inquiry points to address inquiries from interested persons regarding customs matters, and shall make available on the Internet information regarding the procedures to be followed in making such inquiries.

3. To the extent practicable, each Party shall publish in advance any regulations of general application on customs matters that it proposes to adopt, and shall provide interested persons with an opportunity to comment prior to their adoption.

4. Each Party shall endeavor to ensure that its customs legislation, regulations and procedures are transparent, trade facilitating and non-discriminatory.

5. Each Party shall endeavor to publish, in physical form or on the Internet, information regarding duties and charges imposed by customs and other government agencies for services rendered in connection with the import and export of goods.

Article 4.2. CLEARANCE OF GOODS

1. In order to facilitate trade between the Parties, each Party shall adopt or maintain simplified customs procedures for the efficient clearance of goods.

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

(a) provide for the release of goods within no longer than the period required to ensure compliance with its customs legislation, and to the extent possible, within 48 hours of arrival;

(b) allow goods to be cleared at the point of arrival, without compulsory transfer to warehouses or other premises, except where the customs authority has a need to exercise additional controls or for infrastructure reasons; and

(c) allow importers, in accordance with their legislation, to remove goods from customs before all applicable customs duties, taxes and fees have been paid. For this purpose, they may require the prior presentation of a security sufficient to cover the full payment of applicable customs duties, taxes and fees in connection with the importation.

3. Each Party shall endeavor to ensure that all competent administrative entities involved in the control and physical inspection of the imported or exported good, where possible, act simultaneously, at a single place and time.

Article 4.3. AUTOMATION

1. Each Party shall endeavor to use information technology that makes the procedures for the clearance of goods expeditious and efficient. In choosing the information technology to be used for this purpose, each Party shall:

(a) shall make efforts to use internationally recognized norms, standards and practices;

(b) make electronic systems accessible to users in its customs offices;

(c) permit the electronic submission and processing of information and data prior to the arrival of the good to enable its clearance in accordance with Article 4.2;

(d) employ electronic and/or automated systems for risk analysis and risk management;

(e) work to develop compatible electronic systems between the customs authorities of the Parties to facilitate the exchange of international trade data between them;

(f) work to develop the set of common data elements and processes in accordance with the World Customs Organization Customs Data Model and related recommendations and guidelines of the World Customs Organization (hereinafter referred to as the "WCO"); and

(g) support Customs operations, in the context of paperless commercial transactions, to the extent possible, taking into account developments in these matters within the WCO.

2. Each Party shall adopt or maintain, to the extent possible, procedures that allow for expeditious control of the means of transport of goods leaving or entering its territory.

Article 4.4. RISK MANAGEMENT OR ADMINISTRATION

1. Each Party shall maintain risk management or administration systems that enable its customs authority to focus its inspection activities on high-risk goods, and that simplify the clearance and movement of low-risk goods, while respecting the confidential nature of information obtained through such activities, in accordance with its legislation.

2. In implementing risk management, each Party shall inspect imported goods based on appropriate selectivity criteria, avoiding physical inspection of all goods entering its territory, and to the extent possible, with the aid of non-intrusive inspection instruments.

Article 4.5. EXPEDITED SHIPMENTS

1. Each Party shall adopt or maintain special customs procedures for fast delivery consignments, while maintaining appropriate systems of control and selectivity in accordance with the nature of these goods.

2. The procedures referred to in paragraph 1 shall:

(a) provide for separate and expeditious customs procedures for fast delivery consignments;

(b) provide for the submission and processing of information necessary for the clearance of an express delivery consignment prior to the arrival of such consignment;

(c) permit the filing of a single cargo manifest covering all goods contained in a shipment transported by an express delivery service through electronic means;

(d) providing for the clearance of certain goods with a minimum of documentation; and

(e) under normal circumstances, provide for the clearance of express delivery shipments within six hours of the presentation of the necessary customs documents, provided that the shipment has arrived.

Article 4.6. AUTHORIZED ECONOMIC OPERATOR

1. The Parties shall promote the implementation of Authorized Economic Operator programs in accordance with the WCO Framework of Standards to Secure and Facilitate Global Trade ("SAFE Framework of Standards").

2. The obligations, requirements and formalities of the programs, as well as the benefits to be offered to eligible companies, shall be established in accordance with the legislation of each Party.

3. The Parties shall promote negotiations to reach an agreement on mutual recognition of Authorized Economic Operator programs.

Article 4.7. INTEROPERABILITY OF SINGLE WINDOWS FOR FOREIGN TRADE

The Parties shall strive to implement the interconnection between their Single Windows for Foreign Trade (hereinafter referred to as "SWs"), and to this end, no later than six months after the entry into force of this Agreement, shall adopt the necessary actions to achieve the interoperability of the SWs by providing electronic services to facilitate export and import procedures under this Agreement. These actions shall promote a set of general principles that shall characterize the electronic services provided at the binational level, among them: accessibility, security, confidentiality and use of open standards. Likewise, the Parties shall adopt an interoperability framework to guide the technical work and establish the elements or data to be exchanged, as well as the specifications that will allow the interoperability of the SWs.

Article 4.8. CONFIDENTIALITY

1. Each Party shall maintain, in accordance with the provisions of its legislation, the confidentiality of information of that nature that has been collected pursuant to this Chapter, and shall protect it from disclosure.

2. Confidential information received pursuant to this Chapter may not be used for purposes other than those provided for in this Chapter, except with the authorization of the Party that provided the information.

Article 4.9. REVIEW AND APPEAL

Each Party shall ensure, with respect to administrative acts in customs matters, that natural or legal persons subject to such acts have access to:

(a) a level of administrative review, which is independent of the official or office that issued such act; and

(b) at least one level of judicial review.

Article 4.10. SANCTIONS

Each Party shall adopt or maintain measures to permit the imposition of administrative and, where appropriate, criminal penalties for violations of its customs laws and regulations, including those governing tariff classification, customs valuation, origin, and claims for preferential treatment under this Agreement.

Article 4.11. ADVANCE RULINGS

Each Party shall issue a written advance ruling prior to the importation of a good into its territory, where an importer in its territory, or an exporter or producer in the territory of the other Party (1) has so requested in writing, regarding:

(a) tariff classification;

(b) the application of customs valuation criteria for a particular case, in accordance with the application of the provisions contained in the Customs Valuation Agreement (2);

(c) whether a good is originating under Chapter 3 (Rules of Origin and Origin Procedures); and

(d) such other matters as the Parties may agree.

2. Each Party shall issue the advance ruling within 90 days of the filing of the request, provided that the requester has submitted all information that the Party requires, including, if requested, a sample of the good for which the requester is requesting the advance ruling. The above time limit may be extended in the events contemplated by the legislation of a Party. In issuing the advance ruling, the Party shall take into account the facts and circumstances presented by the applicant.

3. Each Party shall provide that advance rulings shall be effective from the date of issuance, or other date specified in the ruling, provided that the facts or circumstances on which the ruling is based have not changed.

4. The Party issuing the advance ruling may modify or revoke it after having notified the applicant, when the criteria, facts, circumstances, laws, regulations or rules that served as the basis for its issuance change, or when it has been based on incorrect or false information. In the event that such modification or revocation is based on a change in the criteria, facts, circumstances, laws, regulations or rules on which they were based, such modification or revocation may be applied from the date on which such criteria, facts, circumstances, laws, regulations or rules take effect. In case of incorrect or false information, such modification or revocation may be applied from the date of the issuance of such advance ruling.

5. Subject to confidentiality requirements under its law, each Party may make its advance rulings publicly available.

6. If an applicant provides false information or omits relevant facts or circumstances relating to the advance ruling, or fails to act in accordance with the terms and conditions of the advance ruling, the Parties may apply appropriate measures, including civil, criminal and administrative actions in accordance with the laws of each Party.

(1) References to importer, exporter or producer include their duly accredited representatives, in accordance with the legislation of the Party receiving the request.

(2) With respect to advance rulings on valuation, the customs authority shall rule only on the valuation method to be applied for the determination of the customs value, in accordance with the provisions of the Customs Valuation Agreement; that is to say, the ruling shall not be determinative of the amount to be declared as the customs value.

Article 4.12. COMMITTEE ON RULES OF ORIGIN, TRADE FACILITATION, AND TECHNICAL COOPERATION AND MUTUAL ASSISTANCE ON CUSTOMS MATTERS

1. The Parties establish the Committee on Rules of Origin, Trade Facilitation and Technical Cooperation and Mutual Assistance in Customs Matters (hereinafter referred to as the "Committee"), composed of representatives of each Party.

2. The functions of the Committee shall include, inter alia:

(a) monitoring the implementation and administration of Chapter 3 (Rules of Origin and Origin Procedures), Chapter 4 and Chapter 5 (Technical Cooperation and Mutual Assistance in Customs Matters);

(b) report to the Commission on the implementation and administration of the chapters referred to in paragraph (a), as appropriate;

(c) cooperate in the effective, uniform, and consistent administration of the chapters referred to in paragraph (a);

(d) promptly addressing matters that a Party proposes with respect to the development, adoption, implementation, application, or enforcement of the provisions of the chapters referred to in paragraph (a);

(e) review and recommend to the Commission any modifications to Annex 3-A (Specific Rules of Origin), including when amendments are made to the Harmonized System;

(f) to promote the joint cooperation of the Parties in the development, implementation, application, enforcement and improvement of all matters relating to the Chapters referred to in paragraph (a), including, in particular, customs procedures, customs valuation, customs and tariff regimes, customs nomenclature, customs cooperation, matters relating to customs matters, mutual administrative assistance in customs matters, and to provide a forum for consultation and discussion on such matters;

(g) at the request of a Party, resolve any matter arising under the Chapters referred to in paragraph (a) within a period of 30 days from the filing of the request, which may be extended by mutual agreement for a maximum of two equal periods;

(h) in the required matters, propose to the Commission alternative solutions to the obstacles or inconveniences related to the chapters referred to in paragraph (a) that arise between the Parties; and

(i) deal with any other matter related to the chapters referred to in paragraph (a).

Unless otherwise agreed by the Parties, the Committee shall meet at least once a year, on the date and according to the agenda previously agreed. The first meeting of the Committee shall be held no later than one year after the date of entry into force of this Agreement. Extraordinary meetings of the Committee may be held by mutual agreement of the Parties.

4. The meetings may be held by any means agreed upon by the Parties. When they are face-to-face, they shall be held alternately in the territory of each Party, and it shall be the responsibility of the host Party to organize the meeting.

5. Unless otherwise agreed by the Parties, the Committee shall be of a permanent nature and shall develop its working rules.

6. All decisions of the Committee shall be taken by mutual agreement.

7. A Party that considers that one or more provisions of the chapters referred to in paragraph 2(a) should be modified may submit a proposal for modification, together with the technical support and studies that support it, for consideration by the Commission. The Commission may refer the matter to this Committee to prepare a report including conclusions and

recommendations on the matter.

Chapter 5. TECHNICAL COOPERATION AND MUTUAL ASSISTANCE IN CUSTOMS MATTERS

Article 5.1. SCOPE OF APPLICATION

1. The provisions of this Chapter are intended to govern technical cooperation and mutual assistance in customs matters between the Parties in accordance with the provisions of this Chapter and the legislation of each Party.

2. The Parties, through their competent authorities, shall provide technical cooperation and mutual assistance to each other in order to ensure the proper application of customs legislation, the facilitation of customs procedures, and the prevention, investigation and punishment of customs offenses.

3. Technical cooperation includes the exchange of information, legislation, best practices in customs matters, as well as the exchange of experiences, training and any kind of technical or material support appropriate for the strengthening of the Parties' customs management.

4. Mutual assistance includes the cooperation provided for in this Chapter, for the prevention, investigation and punishment of customs infractions.

5. Compliance with this Chapter shall be without prejudice to mutual assistance provided for in other international agreements concluded between the Parties. If technical cooperation or mutual assistance is provided under other international agreements in force, the requested Party shall indicate the name of the respective agreement and the relevant authorities involved.

6. Assistance in the collection of duties, taxes or fines is not covered by this Chapter.

Article 5.2. TECHNICAL COOPERATION

1. Each Party shall, in accordance with its law and within the scope of its competence and available resources, promote and facilitate technical cooperation with the respective competent authority of the other Party in order to ensure the application of customs legislation and in particular to:

(a) facilitate and expedite the flow of goods between the Parties;

(b) promote mutual understanding of each Party's customs legislation, procedures, best practices, and techniques; and

(c) provide statistics, in accordance with the laws of each Party.

2. Technical cooperation shall address, inter alia:

(a) training for the development of specialized skills of their customs officials;

(b) the exchange of professional, scientific and technical information on new technologies and methods related to customs legislation and applicable procedures;

(c) the exchange of information to facilitate trade, simplify customs procedures, the movement of means of transport and their goods and with respect to restrictions and/or prohibitions on exports and imports applied, in accordance with the legislation of the Parties;

(d) cooperation in the areas of research, development and testing of new customs procedures; or

(e) the development of initiatives in mutually agreed areas.

3. A request for technical cooperation shall be complied with as soon as possible in consideration of the competence and available resources of the requested authority.

4. Technical cooperation shall promote the development, application, implementation and improvement of all matters related to this Chapter, in particular, customs control, customs procedures, customs valuation, customs procedures and tariff nomenclature.

Article 5.3. MUTUAL ASSISTANCE

The Parties shall assist each other, in the areas within their competence, in the manner and under the conditions provided for in this Chapter, to ensure the correct application of customs legislation, in particular for the prevention, investigation and punishment of customs offences.

Article 5.4. COMMUNICATION OF MUTUAL ASSISTANCE INFORMATION

1. Upon request and in accordance with its legislation, the requested authority shall provide the requested information and any other relevant information on investigations related to a customs infringement in the territory of the applicant authority.

2. The information exchanged by the competent authorities in accordance with their legislation shall concern:

(a) persons related to a request for information;

(b) goods destined for the customs territory of the applicant authority, or sent in international transit with or without temporary storage, for onward transit to that territory;

(c) customs operations carried out in its territory and means of transport used in connection with the application; or

(d) customs offenses that may be of interest to the other Party in the context of the application.

Article 5.5. EXECUTION OF MUTUAL ASSISTANCE REQUESTS

1. Upon request, the requested authority shall send to the requesting authority information on:

(a) the correspondence of the documents produced in support of the customs declaration made to the requesting authority;

(b) whether the goods exported from the territory of the requesting authority have been lawfully imported into the territory of the requested authority;

(c) whether the goods imported into the territory of the requesting authority have actually been exported from the territory of the requested authority; and

(d) information on the determination of the customs value.

2. At the request of the requesting authority, the requested authority shall, within the framework of its laws or regulations, take the necessary measures to ensure special surveillance of:

(a) goods transported or likely to be transported in such a way that there are indications that they are intended to be used in the commission of infringements of customs legislation; or

(b) means of transport being or likely to be used in such a way that there are indications that they are intended to be used in the commission of customs offences.

Article 5.6. FORM AND CONTENT OF MUTUAL ASSISTANCE REQUESTS

1. Requests for mutual assistance under this Chapter shall be addressed in writing to the requested authority by the applicant authority, in physical form or by electronic means, attaching applicable documents. The requested authority may request confirmation of requests in physical form when they are made by electronic means.

2. In cases of urgency a request may be made orally. Such a request shall be confirmed in writing, in physical form or by electronic means as soon as possible.

3. Requests made pursuant to paragraph 1 shall include the following details:

(a) the name, signature and position of the official making the request;

(b) the information requested and the reason for the request;

(c) a brief description of the subject matter including a summary of the relevant facts and of the investigations already carried out, if applicable, as well as the legal elements and the nature of the customs procedure;

(d) the names, addresses, identification document or any other known relevant information of the persons to whom the

application relates; and

(e) the necessary information available to identify the goods or the customs declaration related to the application.

4. The information referred to in this Chapter shall be communicated to the officials specially designated for this purpose by each competent authority. To this end, each Party shall keep the competent authority of the other Party informed of the updated list of designated officials.

5. If a request does not meet the formal requirements set forth above, the requested authority may request that it be corrected or completed; in the meantime, appropriate surveillance measures may be taken in accordance with the legislation of the relevant Party.

Article 5.7. EXECUTION OF MUTUAL ASSISTANCE REQUESTS

1. A complete response to a request for mutual assistance shall be provided within a maximum of 60 days from receipt of the written request.

2. Upon request, the requested authority may conduct an investigation in accordance with the powers established in the legislation, to obtain information related to a customs infringement and shall provide the requesting authority with the results of such investigation and all related information it deems relevant.

3. If the requested information is available in electronic form, the requested authority may provide it electronically to the requesting authority, unless the requesting authority has requested otherwise.

4. Duly authorized officials of a Party may, with the agreement of the requested authority and subject to the conditions, laws and other legal instruments established by the latter, be present at the offices and proceedings of the requested authority for the purpose of obtaining relevant information in the context of an investigation aimed at establishing a customs infringement.

Article 5.8. EXCEPTIONS TO THE OBLIGATION TO PROVIDE MUTUAL ASSISTANCE

1. Mutual assistance may be refused or may be subject to compliance with certain conditions or requirements in cases where a Party considers that assistance under this Chapter would:

(a) be prejudicial to the sovereignty of the Party from which assistance has been requested;

(b) be prejudicial to public order and safety;

(c) violate an industrial, commercial or professional secret duly protected by its law; or

(d) be unconstitutional or contrary to its law.

2. The requested authority may postpone assistance where it considers that it may interfere with an ongoing investigation, criminal prosecution or administrative proceeding. In such a case, the requested authority shall consult with the requesting authority to determine whether assistance should be given at a later stage.

3. Where the applicant authority seeks assistance which it would itself be unable to provide if so requested, it shall draw attention to that fact in its request. It shall then be for the requested authority to decide how to respond to such a request.

4. In the cases referred to in paragraphs 1 and 2, the decision of the requested authority and the reasons for it must be communicated without delay to the requesting authority.

Article 5.9. SPONTANEOUS ASSISTANCE

For the correct application of customs legislation, to the extent of its possibilities and competencies, each Party shall provide assistance on its own initiative, by supplying information in accordance with its legislation, related to:

(a) cases involving damage to the economy, public health, public safety or other vital interest of a Party;

(b) new means or practices employed in the commission of customs offenses; or

(c) in the other cases referred to in Article 5.4.

Article 5.10. VALIDITY OF INFORMATION

1. Upon request, the requested authority may certify copies of the documents requested.

2. Documents furnished under this Chapter shall not require for their evidentiary validity additional certification, authentication, or any other type of solemnity than that provided by the competent authority and shall be considered authentic and valid.

3. Any information to be exchanged under this Chapter may be accompanied by additional information that is relevant to interpret or use it.

Article 5.11. USE OF INFORMATION

Information, documents and other materials shall be used only for the purposes set forth in this Chapter, and subject to such restrictions as may be established by the Party, consistent with the provisions of its legislation, including in cases where it is required in the framework of administrative proceedings, judicial or investigative processes carried out by the competent authority or whoever appropriate.

Article 5.12. CONFIDENTIALITY

1. If requested by the competent authority of a Party, information, documents and other materials obtained in the framework of technical cooperation shall be treated as confidential.

2. Information, documents and other materials exchanged in the framework of mutual assistance shall always be treated as confidential by the Parties.

3. In the cases provided for in paragraphs 1 and 2, each Party shall grant a level of protection, in terms of confidentiality, similar to that applied to the same type of information, documents and other materials in its territory.

Article 5.13. EXPERTS OR EXPERTS

The delegated officials of the requested Party may be authorized to appear, within the limits of such authorization and in accordance with its legislation, as experts or experts in administrative proceedings or judicial processes, with respect to the matters regulated in this Chapter and to produce such objects, documents or certified copies thereof as may be necessary for the proceedings. The request for appearance shall specifically state the judicial or administrative authority before which the official is to appear, and on what matters and by virtue of what title or capacity the official is to be questioned.

Article 5.14. COSTS

The competent authorities shall waive any claim for reimbursement of costs and/or expenses incurred in the execution of the requests provided for in this Chapter, except those related to experts or experts, which shall be borne by the requesting authority.

Article 5.15. DEFINITIONS

For the purposes of this Chapter:

competent authority means:

(a) for the case of Colombia, the Dirección de Impuestos y Aduanas Nacionales (DIAN); and

(b) in the case of Costa Rica, the National Customs Service, or its successors;

requested authority means the competent authority from which cooperation or assistance is requested;

requesting authority means the competent authority that is requested to cooperate or assist;

information means documents, reports or other communications in any format, including electronic, as well as certified copies thereof;

customs infringement means any violation or attempted violation of customs legislation, whether administrative, fiscal or any other in accordance with the laws of each Party; and

customs legislation means any law, regulation or other legal instrument applicable in the territory of each Party governing the entry, exit, transit of goods, and their placing under any customs procedure, including, inter alia, measures of prohibition, restriction and control.

Chapter 6. SANITARY AND PHYTOSANITARY MEASURES

Article 6.1. OBJECTIVES

The objectives of this Chapter are:

(a) to protect human and animal life and health and to preserve plant health in the territories of the Parties;

(b) to ensure that sanitary and phytosanitary measures (hereinafter referred to as "SPS measures") do not constitute unjustified barriers to trade between the Parties;

(c) establish mechanisms and procedures aimed at resolving in a timely manner problems arising between the Parties as a result of the development and implementation of SPS measures;

(d) strengthen communication and collaboration between the competent authorities of the Parties on sanitary and phytosanitary matters aimed at improving mutual understanding and implementation of the Parties' SPS measures; and

(e) collaborate in the further implementation of the SPS Agreement.

Article 6.2. SCOPE OF APPLICATION

This Chapter applies to all SPS measures that directly or indirectly affect or may affect trade between the Parties.

Article 6.3. RIGHTS AND OBLIGATIONS OF THE PARTIES

The Parties reaffirm their rights and obligations under the SPS Agreement, taking as a reference the guidelines, procedures and standards of the Codex Alimentarius, the International Plant Protection Convention (hereinafter referred to as "IPPC") and the World Organization for Animal Health (hereinafter referred to as "OIE").

Article 6.4. RISK ASSESSMENT AND DETERMINATION OF THE APPROPRIATE LEVEL OF SANITARY AND PHYTOSANITARY PROTECTION

1. SPS measures applied by the Parties shall be based on an assessment appropriate to the circumstances of the risks to human, animal and plant life and health, taking into account the technical and scientific information generated by the Parties, the technical and scientific information generated by the Parties, the information available to the Parties, the scientific information generated by the Parties, as well as the standards, guidelines and recommendations of international reference organizations.

2. The Parties shall prioritize, in accordance with their legislation, the conduct of risk assessment for the establishment of SPS measures. For these purposes, the competent authorities of the Parties shall maintain close communication at each stage of the risk analysis process in order to expedite it and avoid undue delays.

3. The establishment of SPS measures derived from a risk assessment shall not become disguised restrictions on trade between the Parties.

Article 6.5. ADAPTATION TO REGIONAL CONDITIONS INCLUDING PEST OR DISEASE FREE AREAS AND AREAS OF LOW PEST OR DISEASE PREVALENCE

1. Parties shall recognize pest or disease free areas and areas of low pest or disease prevalence in accordance with the SPS Agreement, OIE and IPPC standards, recommendations or guidelines.

2. Parties recognize the recommendations expressed in the standards on compartmentalization established by the OIE and on pest freedom established by the IPPC.

3. If a Party does not recognize the determination of pest or disease free areas or areas of low pest or disease prevalence made by the other Party, it shall justify the technical and/or scientific reasons for such refusal in a timely manner, in order to

evaluate a possible alternative solution.

Article 6.6. CONTROL, INSPECTION AND APPROVAL PROCEDURES

The Parties shall establish inspection, control and approval procedures taking into consideration Article 8 and Annex C of the SPS Agreement.

Article 6.7. TRANSPARENCY

1. The Parties shall be governed in accordance with the provisions of Annex B of the SPS Agreement.

2. In addition:

(a) shall notify the competent authority of information on product rejections, including the justification on which they were based;

(b) notify the competent authority of the exporting Party of situations of non-compliance in the certification of export products subject to the application of SPS measures, including as much information as possible, as well as the reasons for their rejection;

(c) immediately notify any change in their sanitary and phytosanitary status, including findings of epidemiological significance that may affect trade between the Parties;

(d) report, upon request of a Party, product-specific SPS measures and/or the status of pending processes and measures regarding applications for product access; and

(e) provide timely notification of SPS measures and approval of exporting products and establishments.

3. Notifications shall be made in writing to the points of contact established in accordance with this Chapter. Written notification shall mean notifications by mail, facsimile or electronic mail.

4. When an amendment to an SPS measure has a significant effect on trade between the Parties, the Parties shall mutually agree on mechanisms to prevent the interruption of the flow of trade while such amendments are adopted and implemented.

5. The Parties shall also make their best efforts to improve mutual understanding of SPS measures and their implementation, and shall exchange information on matters relating to the development and implementation of SPS measures that affect or may affect trade between the Parties, with a view to minimizing their negative effects on trade.

Article 6.8. EQUIVALENCE

The recognition of equivalence of SPS measures may be granted considering the standards, guidelines and recommendations established by the competent international organizations and the decisions adopted by the Committee on Sanitary and Phytosanitary Measures of the WTO on the matter.

Article 6.9. COOPERATION AND TECHNICAL ASSISTANCE

The Parties may develop actions and/or programs of common interest in the area of cooperation and technical assistance.

Article 6.10. TECHNICAL CONSULTATIONS

1. The Parties shall promote active interaction between the competent authorities with a view to preventing unjustified restrictions on trade, achieving mutual understanding, and address issues related to the implementation of SPS measures, through the use of different means such as e-mails, telephone calls, official letters, among others.

2. In the event that the competent authorities do not reach an understanding regarding the application of an SPS measure that one of the Parties considers contrary to the obligations of this Chapter, it may request technical consultations within the framework of the Committee established in Article 6.11.

3. Unless otherwise agreed by the Parties, where a dispute is the subject of consultations in the Committee under the preceding paragraph, such consultations shall replace those provided for in Article 18.4 (Consultations) of this Agreement. Consultations in the Committee shall be deemed concluded within 60 days from the date of submission of the request,

unless the Parties agree to continue such consultations.

Article 6.11. COMMITTEE ON SANITARY AND PHYTOSANITARY MEASURES

1. The Parties establish the Committee on Sanitary and Phytosanitary Measures (hereinafter referred to as the "Committee"), composed of the competent national authorities of each Party, for the purpose of addressing issues relating to the application of this Chapter.

2. The functions of the Committee shall include, inter alia:

(a) monitoring the implementation and application of established SPS measures;

(b) reporting to the Commission on the implementation and administration of this Chapter, as appropriate;

(c) serve as a forum to discuss problems related to the development or application of SPS measures that affect or may affect trade between the Parties in order to establish solutions and determine the time frame for addressing them;

(d) attend to consultations arising from Article 6.10;

(e) promote cooperation, technical assistance, training, and the exchange of information on sanitary and phytosanitary matters;

(f) consult on the position of the Parties on matters to be discussed at meetings of the WTO Committee on Sanitary and Phytosanitary Measures, Codex Alimentarius committees and other fora of interest to the Parties; and

(g) deal with any other matter related to this Chapter.

3. Unless the Parties agree otherwise, the Committee shall meet at least once a year, on the date and according to the agenda previously agreed. The first meeting of the Committee shall be held no later than six months after the date of entry into force of this Agreement. Extraordinary meetings of the Committee may be held by mutual agreement of the Parties.

4. The meetings may be held by any means agreed upon by the Parties. When they are face-to-face, they shall be held alternately in the territory of each Party, and it shall be the responsibility of the host Party to organize the meeting.

5. Unless otherwise agreed by the Parties, the Committee shall be of a permanent nature and shall elaborate its working rules during its first meeting.

6. All decisions of the Committee shall be taken by mutual agreement.

Article 6.12. COMPETENT NATIONAL AUTHORITIES

The following national authorities are responsible for the implementation of this Agreement:

(a) for Colombia, the Ministry of Commerce, Industry and Tourism, as coordinator, the Ministry of Agriculture and Rural Development, the Colombian Agricultural Institute (ICA), the Ministry of Health and Social Protection, and the National Institute for the Surveillance of Drugs and Food (INVIMA); and

(b) for Costa Rica, the Ministry of Foreign Trade, as coordinator, the Ministry of Agriculture and Livestock, and the Ministry of Health.

Article 6.13. CONTACT POINTS

1. The points of contact are:

(a) for Colombia, the Ministry of Commerce, Industry and Tourism, the Colombian Agricultural Institute (ICA), and the National Institute for the Surveillance of Medicines and Food (INVIMA); and

(b) for Costa Rica, the Dirección General de Comercio Exterior del Ministerio de Comercio Exterior, the Servicio Fitosanitario del Estado del Ministerio de Agricultura y Ganadería, the Servicio Nacional de Salud Animal del Ministerio de Agricultura y Ganadería, and the Ministerio de Salud.

2. The Parties shall exchange information regarding the contact points established at the entry into force of this Agreement and shall communicate any changes thereto.

Article 6.14. SETTLEMENT OF DISPUTES

Once the consultation procedure under Article 6.10 has been exhausted, a Party that is not satisfied with the outcome of such consultations may have recourse to the dispute settlement procedure set out in Chapter 18 (Dispute Settlement).

Chapter 7. TECHNICAL BARRIERS TO TRADE

Article 7.1. OBJECTIVES

The objectives of the Chapter are to facilitate and increase trade in goods and to obtain effective access to the market of the Parties, through a better implementation of the TBT Agreement, avoiding the creation or promoting the elimination of unnecessary technical barriers to trade, as well as to promote cooperation between the Parties in matters covered by this Chapter.

Article 7.2. SCOPE OF APPLICATION

1. This Chapter applies to the preparation, adoption, and application of all standards, technical regulations, and conformity assessment procedures, including those relating to metrology, of each Party that may directly or indirectly affect trade in goods.

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

(a) sanitary and phytosanitary measures, which shall be covered by Chapter 6 (Sanitary and Phytosanitary Measures); and

(b) procurement specifications established by governmental bodies for the production or consumption needs of governmental bodies, which shall be governed by Chapter 10 (Government Procurement).

Article 7.3. RIGHTS AND OBLIGATIONS OF THE PARTIES

The Parties reaffirm their rights and obligations under the TBT Agreement, which is incorporated into and forms an integral part of this Agreement, mutatis mutandis.

Article 7.4. TRADE FACILITATION

1. The Parties shall seek to identify, develop, and promote trade facilitation initiatives relating to standards, technical regulations, and conformity assessment procedures, taking into consideration the Parties' respective experience in other appropriate bilateral, regional, or multilateral agreements.

2. The initiatives referred to in paragraph 1 may include:

(a) intensifying joint cooperation to facilitate access to their markets and increase knowledge and understanding of their respective systems;

(b) simplifying administrative procedures and requirements established by a technical regulation;

(c) working toward the possibility of converging, aligning, or establishing equivalence of technical regulations and conformity assessment procedures;

(d) use accreditation or designation as a tool to recognize conformity assessment bodies established in the territory of the other Party in accordance with internationally accepted practices and standards;

(e) promote and facilitate cooperation and exchange of information between public or private bodies of the Parties;

(f) to promote convergence or harmonization with international standards, to recognize and accept the results of conformity assessment procedures, as well as the supplier's declaration of conformity, and to use accreditation to qualify conformity assessment bodies, as well as cooperation through mutual recognition agreements.

3. When a Party detains at the port of entry a good originating in the territory of the other Party by virtue of having perceived non-compliance with a technical regulation, it shall immediately notify the importer of the reasons for the detention.

Article 7.5. REFERENCE STANDARDS

1. The Parties shall use international standards, guidelines, and recommendations as a basis for the development of their technical regulations, except where such international standards would be an ineffective or inappropriate means for the achievement of the legitimate objective pursued. Where international standards have not been used as a basis for the development of its technical regulations, at the request of a Party, the other Party shall explain the reasons.

2. In determining whether an international standard, guide or recommendation within the meaning of Article 2, Article 5 and Annex 3 of the TBT Agreement exists, each Party shall apply the Decision of the Committee on Principles for the Development of International Standards, Guides and Recommendations under Articles 2 and 5 and Annex 3 of the Agreement, adopted on November 13, 2000 by the Committee on Technical Barriers to Trade.

3. Each Party shall encourage its national standardizing bodies to cooperate with the relevant national standardizing bodies of the other Party in international standardization activities. Such cooperation may be effected through the activities of the Parties in regional and international standardizing bodies of which the Parties are members.

4. The Parties shall exchange information on the use of standards in connection with technical regulations and shall ensure, to the extent possible, that standards referenced in an indicative manner in draft technical regulations are provided upon request by the other Party.

5. The Parties shall recommend, as appropriate, that nongovernmental standardizing bodies located in their territory comply with the provisions of this Article.

Article 7.6. TECHNICAL REGULATIONS

1. Each Party shall favorably consider accepting as equivalent the technical regulations of the other Party, even if they differ from its own, provided that it is satisfied that they adequately fulfill the legitimate objectives of its own technical regulations.

2. When a Party does not accept a technical regulation of the other Party as equivalent to one of its own, it shall, at the request of the other Party, explain the reasons for its decision.

3. At the request of a Party that has an interest in developing a technical regulation similar to the other Party's technical regulation and to minimize duplication of costs, the other Party shall provide any available information, technical or risk assessment studies or other relevant documents on which it has based the development of that technical regulation, except for confidential information.

4. The Parties shall cooperate on regulatory matters by encouraging closer regulatory agencies to establish more compatible, transparent and simpler regulations and to reduce unnecessary barriers to trade.

Article 7.7. CONFORMITY ASSESSMENT

1. The Parties recognize that a wide range of mechanisms exist to facilitate the acceptance in the territory of one Party of the results of conformity assessment procedures conducted in the territory of the other Party. In particular, the Parties agree, among other mechanisms, to the following:

(a) acceptance by the importing Party of the supplier's declaration of conformity;

(b) the recognition of voluntary agreements between conformity assessment bodies in the territory of the Parties;

(c) acceptance of the results of conformity assessment procedures by bodies located in the territory of the other Party with respect to specific technical regulations;

(d) the acceptance of internationally recognized accreditation procedures to qualify conformity assessment bodies located in the territory of another Party; and

(e) the designation of conformity assessment bodies located in the territory of another Party.

2. The Parties shall intensify the exchange of information in relation to these and similar mechanisms to facilitate the acceptance of results of conformity assessment procedures.

3. In the event that a Party does not accept the results of a conformity assessment procedure carried out in the territory of the other Party, the latter shall, upon request of that other Party, explain the reasons for its decision.

4. Each Party shall accredit, license, or otherwise recognize conformity assessment bodies in the territory of the other Party

on terms no less favorable than those accorded to conformity assessment bodies in its territory. If a Party accredits, authorizes, or otherwise recognizes a body assessing conformity to a specific standard or technical regulation in its territory and refuses to accredit, authorize, or otherwise recognize a body assessing conformity to that same standard or technical regulation in the territory of the other Party, the other Party shall, on request of that other Party, explain the reasons for its decision.

5. The Parties may enter into negotiations aimed at the conclusion of agreements on mutual recognition of the results of their respective conformity assessment procedures, following the principles of the TBT Agreement. In the event that a Party does not agree to enter into such negotiations, it shall, at the request of that other Party, explain the reasons for its decision.

Article 7.8. TRANSPARENCY

Each Party shall transmit electronically to the other Party's contact point established under Article 10 of the TBT Agreement, at the same time it submits its notification to the WTO Central Registry of Notifications under the TBT Agreement:

(a) its draft technical regulations and conformity assessment procedures; and

(b) technical regulations and conformity assessment procedures adopted to address urgent safety, health, environmental protection or national security problems that arise or threaten to arise under the terms of the TBT Agreement.

2. Each Party shall publish on the website of the competent national authority those technical regulations and conformity assessment procedures that are consistent with the technical content of any relevant international standard. This publication shall remain publicly available as long as such technical regulations and conformity assessment procedures are in force.

3. Each Party shall allow a period of at least 60 days from the date of the notification referred to in paragraph 1(a) for the other Party to provide written comments on the proposal. A Party shall give sympathetic consideration to reasonable requests for an extension of the time period for comment.

4. Each Party shall publish or make publicly available, either in printed or electronic form, its responses to significant comments it receives from the other Party under paragraph 3 no later than the date on which it publishes the final version of the technical regulation or conformity assessment procedure.

5. The notification of draft technical regulations and conformity assessment procedures shall include an electronic link to, or a copy of, the full text of the notified document.

6. A Party shall, on request of the other Party, provide information about the objective and basis of the technical regulation or conformity assessment procedure that such Party has adopted or proposes to adopt.

7. The Parties agree that the period between publication and entry into force of technical regulations and conformity assessment procedures shall be not less than six months, unless this period is impracticable to achieve their legitimate objectives. The Parties shall give favorable consideration to reasonable requests for extension of the period.

8. The Parties shall ensure that all technical regulations and conformity assessment procedures adopted and in force are publicly available on a free official website, in such a way that they are easily located and accessible.

9. Each Party shall implement the provisions of paragraph 4 as soon as practicable and in no case later than three years after the entry into force of this Agreement.

Article 7.9. TECHNICAL COOPERATION

1. At the request of a Party, the other Party shall give sympathetic consideration to any sector-specific proposal that the requesting Party makes to promote further cooperation under this Chapter.

2. The Parties agree to cooperate and provide technical assistance in the field of standards, technical regulations and conformity assessment procedures, including metrology, with a view to facilitating access to their markets. In particular, the Parties shall consider the following activities, among others:

(a) furthering the implementation of this Chapter;

(b) promoting the implementation of the TBT Agreement;

(c) strengthening the capacities of their respective standardizing bodies, technical regulations, conformity assessment,

metrology, and information and notification systems under the TBT Agreement, including the training and education of human resources;

(d) increase participation in international organizations, including those of a regional nature, related to standardization, technical regulation, conformity assessment and metrology; and

(e) promote agreement on common views on good regulatory practices such as transparency, the use of equivalence and regulatory impact assessment, and the use of mechanisms to facilitate acceptance of the results of conformity assessment procedures conducted in the territory of the other Party.

Article 7.10. TECHNICAL CONSULTATIONS

1. The Parties shall make every effort to reach a mutually satisfactory solution on the consultations referred to in Article 7.11.2(g) within 30 days.

2. Unless the Parties agree otherwise, where a dispute is the subject of consultations in the Committee under Article 7.11.2(g), such consultations shall replace those provided for in Article 18.4 (Consultations) of this Agreement.

Article 7.11. COMMITTEE ON TECHNICAL BARRIERS TO TRADE

1. The Parties hereby establish the Committee on Technical Barriers to Trade (hereinafter referred to as the "Committee"), composed of representatives of each Party and coordinated in accordance with Annex 7-A.

2. The functions of the Committee shall include, inter alia:

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

(b) reporting to the Commission on the implementation and administration of this Chapter, as appropriate;

(c) promptly addressing matters that a Party proposes with respect to the development, adoption, application, or enforcement of standards, technical regulations, or conformity assessment procedures;

(d) encourage joint cooperation of the Parties in the development and improvement of standards, technical regulations, and conformity assessment procedures, including metrology;

(e) facilitate sectoral cooperation between governmental and non-governmental bodies on standards, technical regulations and conformity assessment procedures, including metrology, in the territories of the Parties, as appropriate;

(f) exchange information on the work being carried out in nongovernmental, regional and multilateral fora involved in activities related to standards, technical regulations and conformity assessment procedures;

(g) resolve consultations on any matter arising under this Chapter, at the request of a Party;

(h) review this Chapter in the light of any developments under the TBT Agreement, and decisions or recommendations of the WTO TBT Committee, and make suggestions on possible amendments to this Chapter;

(i) take any other action that the Parties consider will assist them in the implementation of this Chapter and the TBT Agreement and in the facilitation of trade between the Parties;

(j) recommend to the Commission the establishment of working groups to address specific matters related to this Chapter and the TBT Agreement; and

(k) address any other matter related to this Chapter.

3. The representatives of each Party shall be responsible for coordinating with the relevant bodies and persons in its territory, as well as for ensuring that such bodies and persons are convened.

4. Unless otherwise agreed by the Parties, the Committee shall meet at least once a year, on the date and as agreed by the Parties, at least once a year, on the date and according to the agenda previously agreed. The first meeting of the Committee shall be held no later than one year after the date of entry into force of this Agreement. Extraordinary meetings of the Committee may be held by mutual agreement of the Parties.

5. The meetings may be held by any means agreed upon by the Parties. When they are face-to-face, they shall be held alternately in the territory of each Party, and it shall be the responsibility of the host Party to organize the meeting.

6. Unless otherwise agreed by the Parties, the Committee shall be of a permanent nature and shall develop its working rules during its first meeting.

7. All decisions of the Committee shall be taken by mutual agreement.

Article 7.12. EXCHANGE OF INFORMATION

1. Any information or explanation that is provided at the request of a Party in accordance with the provisions of this Chapter shall be provided in printed or electronic form within 30 days, which may be extended upon justification by the reporting Party.

2. With respect to the exchange of information, in accordance with Article 10 of the TBT Agreement, the Parties shall apply the recommendations indicated in the document Decisions and Recommendations adopted by the TBT Committee of the WTO since January 1, 1995, G/TBT/1/Rev.10, June 9, 2011 Section V-B Exchange of Information issued by the TBT Committee.

Article 7.13. DEFINITIONS

For the purposes of this Chapter, the terms and definitions in Annex 1 of the TBT Agreement shall apply.

Chapter 8. TRADE DEFENSE

Section A. BILATERAL SAFEGUARD MEASURES

Article 8.1. IMPOSITION OF A BILATERAL SAFEGUARD MEASURE

1. During the transition period, if as a result of the reduction or elimination of a customs duty under this Agreement, a good originating in one of the Parties is being imported into the territory of the other Party in such increased quantities in absolute terms or relative to domestic production and under such conditions as to constitute a substantial cause of serious injury or threat of serious injury to the domestic industry producing a like or directly competitive good, the importing Party may adopt a bilateral safeguard measure described in paragraph 2.

2. If the conditions set out in paragraph 1 are met, a Party may, to the extent necessary to prevent or remedy serious injury or threat thereof and to facilitate adjustment:

(a) suspend the further reduction of any rate of duty provided for in this Agreement for the good; or

(b) increase the rate of duty for the good to a level that does not exceed the lesser of:

(i) the MFN rate of duty applied at the time the measure is applied; or

(ii) the prime rate of duty as set out in Annex 2-B (Tariff Elimination Program)(1) .

3. The adoption of a bilateral safeguard measure under this Section shall not affect goods that on the date of entry into force of the measure are actually shipped as evidenced by the shipping documents, provided that they are destined for final consumption or final importation no later than 20 days after the completion of unloading in the territory of the importing Party.

(1) The Parties understand that tariff quotas and quantitative restrictions would not be a permissible form of bilateral safeguard measure.

Article 8.2. RULES FOR A BILATERAL SAFEGUARD MEASURE

1. No Party may maintain a bilateral safeguard measure:

(a) except to the extent and for the period necessary to prevent or remedy serious injury and to facilitate readjustment;

(b) for a period exceeding two years; except that this period may be extended for an additional two years if the competent authority determines, in accordance with the procedures set out in Article 8.3, that the measure continues to be necessary to prevent or remedy serious injury and to facilitate adjustment and that there is evidence that the domestic industry is in the process of adjustment; or

(c) after the expiration of the transition period.

2. In order to facilitate adjustment in a situation where the expected duration of a bilateral safeguard measure exceeds one year, the Party applying the measure shall progressively liberalize it at regular intervals during the period of application.

3. A Party may not apply a bilateral safeguard measure more than once against the same good until a period equal to the duration of the previous bilateral safeguard measure, including any extension, has elapsed, starting from the termination of the previous bilateral safeguard measure, provided that the period of non-application is at least one year.

4. Upon termination of the bilateral safeguard measure, the Party that has adopted the bilateral safeguard measure shall apply the tariff rate in accordance with its Schedule to Annex 2-B (Tariff Elimination Schedule).

Article 8.3. INVESTIGATION PROCEDURES AND TRANSPARENCY REQUIREMENTS

1. A Party may apply a bilateral safeguard measure only after an investigation conducted by the Party's competent authority in accordance with Articles 3 and 4.2(c) of the Agreement on Safeguards; and for this purpose, Articles 3 and 4.2(c) of the Agreement on Safeguards, and Articles 3 and 4.2(c) of the Agreement on Safeguards, shall apply a bilateral safeguard measure only after an investigation conducted by the Party's competent authority in accordance with Article 8.3 (c) of the Agreement on Safeguards are hereby incorporated into and made an integral part of this Agreement, mutatis mutandis.

2. In the investigation described in paragraph 1, the Party shall comply with the requirements of Articles 4.2(a) and 4.2(b) of the Agreement on Safeguards; and for this purpose, Articles 4.2(a) and 4.2(b) of the Agreement on Safeguards are incorporated into and made an integral part of this Agreement, mutatis mutandis.

3. Each Party shall ensure that its competent authorities complete this type of investigation within the time limits established in its legislation.

Article 8.4. PROVISIONAL BILATERAL SAFEGUARD MEASURES

1. In critical circumstances, where any delay would cause damage which would be difficult to repair, a Party may apply a provisional bilateral safeguard measure pursuant to a preliminary determination that there is clear evidence that increased imports of goods originating in the other Party, as a result of the reduction or elimination of a customs duty under this Agreement, have caused or are threatening to cause serious injury to the domestic industry.

2. The duration of the provisional bilateral safeguard shall not exceed 200 days, shall take any of the forms provided for in Article 8.1.2, and shall comply with the relevant requirements of Articles 8.1 and 8.3. Guarantees or funds received for provisional measures shall be released or refunded promptly, where the investigation does not determine that increased imports have caused or threatened to cause serious injury to the domestic industry. The duration of any provisional bilateral safeguard measure shall be counted as part of the duration of a definitive bilateral safeguard measure.

3. No Party shall apply provisional measures earlier than 45 days from the date of initiation of the investigation.

Article 8.5. NOTIFICATION AND CONSULTATION

1. A Party shall promptly notify the other Party in writing when it:

(a) initiates a bilateral safeguard proceeding pursuant to this Section;

(b) applies a provisional bilateral safeguard measure; and

(c) adopts a final decision to apply or extend a bilateral safeguard measure.

2. A Party shall provide to the other Party a copy of the public version of the report of its competent investigating authority required under Article 8.3.1.

3. On request of a Party whose good is subject to a bilateral safeguard proceeding under this Chapter, the Party conducting the proceeding shall, within 15 days of the request, initiate consultations with the requesting Party to review the notifications under paragraph 1 or any public notice or report issued by the competent investigating authority in connection with such proceeding.

Article 8.6. COMPENSATION

1. No later than 30 days after it implements a bilateral safeguard measure, a Party shall provide an opportunity for consultations with the other Party regarding appropriate trade liberalization compensation in the form of concessions

having substantially equivalent effect on trade, or equivalent to the value of the additional duties expected as a result of the measure.

2. If the Parties are unable to agree on compensation within 30 days after the initiation of consultations, the exporting Party may suspend the application of concessions substantially equivalent to the trade of the Party applying the bilateral safeguard measure.

3. The exporting Party shall notify the Party applying the bilateral safeguard measure in writing at least 30 days before suspending concessions under paragraph 2.

4. The right of suspension referred to in paragraph 2 shall not be exercised during the first two years that the bilateral safeguard measure is in effect, provided that the safeguard measure was taken as a result of an increase in absolute terms of imports and that such measure is in conformity with the provisions of this Agreement.

5. The obligation to provide compensation under paragraph 1 and the right to suspend concessions under paragraph 2 shall terminate on the date of termination of the bilateral safeguard measure.

Article 8.7. DEFINITIONS

For the purposes of this Section

threat of serious injury means the clear imminence of serious injury based on facts and not merely on allegation, conjecture or remote possibility;

competent investigating authority means:

(a) in the case of Colombia, the Ministry of Commerce, Industry and Tourism; and.

(b) in the case of Costa Rica, the Dirección de Defensa Comercial del Ministerio de Economía, Industria y Comercio,

or its successors;

substantial cause means a cause that is important and not less than any other cause;

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

transition period means the five-year period beginning on the date of entry into force of this Agreement, except for any good for which Annex 2-B (Tariff Elimination Schedule) of the Party applying the safeguard measure provides that the Party eliminates its duties on the good over a period of five years or more, where transition period means the period of tariff elimination for the good set out in Annex 2-B (Tariff Elimination Schedule) plus an additional two-year period.

Section B. AGGREGATE SAFEGUARD MEASURES

Article 8.8. AGGREGATE SAFEGUARD MEASURES

1. Each Party retains its rights and obligations under Article XIX of the GATT 1994 and the Agreement on Safeguards.

2. This Agreement confers no additional rights or obligations on the Parties with respect to actions taken pursuant to Article XIX of the GATT 1994 and the Agreement on Safeguards, except that the Party imposing a global safeguard measure may exclude imports of a good originating in the other Party if such imports do not constitute a substantial cause of serious injury or threat of serious injury.

3. For the purposes of paragraph 2, imports from the other Party shall normally be considered not to constitute a substantial cause of serious injury or threat of serious injury if that Party is not among the five principal suppliers of the good subject to the proceeding, based on its share of total imports during the three years immediately preceding the initiation of the investigation.

4. No Party shall apply with respect to the same good and during the same period:

(a) a bilateral safeguard measure under Section A; and

(b) a measure under Article XIX of the GATT 1994 and the Agreement on Safeguards.

5. For the purposes of this Section, competent investigating authority means:

(a) in the case of Colombia, the Ministry of Commerce, Industry and Tourism; and.

(b) in the case of Costa Rica, the Dirección de Defensa Comercial del Ministerio de Economía, Industria y Comercio,

or its successors.

6. Except as provided in paragraphs 2, 3 and 4, Chapter 18 (Dispute Settlement) shall not apply to this Section.

Section C. ANTIDUMPING AND COUNTERVAILING DUTIES

Article 8.9. ANTIDUMPING AND COUNTERVAILING DUTIES

1. Each Party retains its rights and obligations under Article VI of the GATT 1994, the Antidumping Agreement, and the Subsidies Agreement with respect to the application of antidumping and countervailing duties.

2. Except as provided in paragraphs 3 and 4, nothing in this Agreement shall be construed to impose any rights or obligations on the Parties with respect to antidumping and countervailing duties.

3. Upon receipt of a properly documented application for an antidumping or countervailing duty measure relating to imports of goods originating in the other Party, and prior to the initiation of the investigation, the competent investigating authority shall notify the other Party of the receipt of the application and provide adequate opportunity for informational or other technical meetings with respect to such application. Such technical meetings shall not interfere with the decision whether or not to initiate the investigation of dumping or subsidization.

4. In the event that price or other undertakings have been proposed in an antidumping or subsidy investigation, the competent investigating authority shall afford adequate opportunity for consultation with the other Party with respect to the proposed undertakings which, if accepted, could result in the suspension of the investigation without the imposition of antidumping or countervailing duties, in accordance with the laws of each Party.

5. For the purposes of this Section, competent investigating authoritymeans:

(a) in the case of Colombia, the Ministry of Commerce, Industry and Tourism; and.

(b) in the case of Costa Rica, the Dirección de Defensa Comercial del Ministerio de Economía, Industria y Comercio,

or its successors.

6. Except as provided in paragraphs 3 and 4, Chapter 18 (Dispute Settlement) shall not apply to this Section.

Section D. COOPERATION

Article 8.10. COOPERATION

The Parties agree to establish a mechanism for cooperation between their investigating authorities. Cooperation between the Parties may include, inter alia, the following activities:

(a) exchange of available non-confidential information on trade defense investigations, including circumvention investigations, that they have conducted with respect to imports originating in or coming from third countries, other than the Parties;

(b) technical assistance in trade defense matters; and

(c) exchange of information to improve understanding of this Chapter and the Parties' trade defense regimes.

Chapter 9. INTELLECTUAL PROPERTY

Article 9.1. BASIC PRINCIPLES

1. The Parties recognize that the protection and enforcement of intellectual property rights shall contribute to the generation of knowledge, the promotion of innovation, transfer and dissemination of technology, and cultural progress, to the mutual benefit of producers and users of technological and cultural knowledge, favoring the development of social and economic welfare and the balance of rights and obligations.

2. The Parties recognize the need to maintain a balance between the rights of intellectual property right holders and the interests of the general public, in particular in education, culture, research, public health, food safety, the environment and access to information.

3. Considering the provisions of this Chapter, the Parties, when formulating or amending their laws and regulations, may adopt the necessary measures to protect public health and nutrition of the population, or to promote the public interest in sectors of vital importance for their socioeconomic and technological development.

4. The Parties recognize that the transfer of technology contributes to the strengthening of national capabilities to establish a sound and viable technological base.

5. The Parties, in interpreting and implementing the provisions of this Chapter, shall observe the principles set out in the Declaration on the TRIPS Agreement and Public Health, adopted on 14 November 2001 at the Fourth Ministerial Conference of the WTO.

6. The Parties shall contribute to the implementation of and respect for the Decision of the WTO General Council of 30 August 2003 on paragraph 6 of the Declaration on the TRIPS Agreement and Public Health, and the Protocol amending the TRIPS Agreement, signed in Geneva on 6 December 2005. They also recognize the importance of promoting the gradual implementation of Resolution WHA61.21, Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property, adopted by the Sixty-first World Health Assembly on May 24, 2008.

7. The Parties shall ensure that the interpretation and implementation of the rights and obligations assumed under this Chapter shall be consistent with paragraphs 1 through 6.

Article 9.2. GENERAL PROVISIONS

1. Each Party shall apply the provisions of this Chapter and may, but shall not be obligated to, provide in its law more extensive protection than is required by this Chapter, provided that such protection does not contravene the provisions of this Chapter.

2. The Parties reaffirm their rights and obligations under the TRIPS Agreement, the Convention on Biological Diversity (hereinafter referred to as the "CBD"), and any other multilateral intellectual property agreements or treaties administered by the World Intellectual Property Organization (hereinafter referred to as "WIPO") to which the Parties are party. In this regard, nothing in this Chapter shall be to the detriment of the provisions of such multilateral treaties.

3. Each Party, in formulating or amending its domestic laws and regulations, may make use of the exceptions and flexibilities permitted by the multilateral treaties related to the protection of intellectual property to which the Parties are party.

4. A Party shall accord to nationals of the other Party treatment no less favorable than that it accords to its own nationals. Exceptions to this obligation shall be in accordance with the relevant provisions referred to in Articles 3 and 5 of the TRIPS Agreement.

5. With respect to the protection and enforcement of intellectual property rights referred to in this Chapter, any advantage, favor, privilege or immunity granted by a Party to nationals of any other country shall be accorded immediately and unconditionally to nationals of the other Party. Exceptions to this obligation shall be in accordance with the relevant provisions referred to in Articles 4 and 5 of the TRIPS Agreement.

6. Nothing in this Chapter shall prevent a Party from taking measures necessary to prevent the abuse of intellectual property rights by right holders or the resort to practices that unreasonably restrain trade or adversely affect the international transfer of technology. Likewise, nothing in this Chapter shall be construed to diminish the protections that the Parties agree or have agreed to benefit the conservation and sustainable use of biodiversity and associated traditional knowledge, nor shall it prevent the Parties from adopting or maintaining measures to this end.

7. The Parties recognize the importance of the development of multilateral rules in the field of intellectual property and therefore may agree to exchange expert opinions on activities related to existing or future international agreements on Intellectual Property Rights and any other matter related to Intellectual Property Rights, as agreed by the Parties.

Article 9.3. TRADEMARKS

1. The Parties shall protect trademarks in accordance with the TRIPS Agreement.

2. Article 6 bis of the Paris Convention for the Protection of Industrial Property shall apply, mutatis mutandis, to goods or services that are not identical or similar to those identified by a trademark that the competent authority of the country of

registration or use considers to be well known, whether registered or not, provided that the use of such trademark in connection with those goods or services indicates a connection between those goods or services and the trademark owner, and provided that the interests of the trademark owner would be prejudiced by such use.

3. In determining whether a trademark is well known (1), no Party shall require that the reputation of the trademark extend beyond the sector of the public that normally deals with the relevant goods or services. For greater certainty, the sector of the public that normally deals with the relevant goods or services is determined in accordance with each Party's legislation.

4. Each Party shall provide a system for the registration of trademarks, which shall provide for:

(a) written notification to the applicant stating the reasons for the refusal to register the trademark. If its national legislation so permits, notifications may be made by electronic means;

(b) an opportunity for interested parties to oppose an application for registration of a trademark or to request the invalidation of the trademark after it has been registered;

(c) that decisions in registration and invalidity proceedings be reasoned and in writing; and

(d) the opportunity for interested parties to challenge administratively or judicially, as provided in the legislation of each Party, decisions issued in trademark registration and invalidation proceedings.

5. Each Party shall use its best efforts to establish a system for electronic filing, electronic processing, registration and maintenance of trademarks (2), and to establish a publicly available electronic database, including an online database of trademark applications and registrations.

6. Each Party shall provide that applications for registration, publications of such applications and registrations shall indicate the goods and services by their names, grouped according to the classes of the classification established by the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, as revised and amended (hereinafter referred to as the "Nice Classification").

7. Goods or services may not be considered similar to each other solely on the ground that, in any registration or publication, they appear in the same class of the Nice Classification. Likewise, each Party shall provide that goods or services may not be considered to be dissimilar solely on the ground that, in any registration or publication, they appear in different classes of the Nice Classification.

(1) Notoriety shall be demonstrated within the territorial scope determined by the legislation of each Party.

(2) For greater clarity, such system shall be established in accordance with the legislation of each Party.

Article 9.4. GEOGRAPHICAL INDICATIONS

1. The Parties to this Agreement shall ensure in their national legislation adequate and effective means to protect geographical indications, including appellations of origin.

2. For the purposes of this Agreement, "geographical indications" are indications that identify a good as originating in the territory of a Party, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.

3. Nothing in this Article shall prevent the Parties from maintaining or adopting in their legislation measures relating to homonymous geographical indications, provided that such measures conform to the provisions of paragraph 3 of Article 23 of the TRIPS Agreement.

4. The names listed in Section A of Annex 9-A are protected geographical indications in Colombia, in accordance with the provisions of Article 22.1 of the TRIPS Agreement. Costa Rica, upon compliance with the requirements and the internal procedure, and at the request of the interested parties, shall recognize in accordance with its legislation the geographical indications of Colombia included in Annex 9-A.

5. The names listed in Section B of Annex 9-A are protected geographical indications in Costa Rica, in accordance with the provisions of Article 22.1 of the TRIPS Agreement. Colombia, upon compliance with the requirements and the internal procedure, and at the request of the interested parties, shall recognize the geographical indications of Costa Rica included in Annex 9-A in accordance with its legislation.

6. The Parties shall exchange information on the protections granted under paragraphs 4 and 5 through the contact points established in Article 19.1 (Contact Points).

7. The Parties shall protect the geographical indications, including appellations of origin, of the other Party registered and/or protected in their respective territories in accordance with the provisions of paragraphs 4, 5 and 6. Consequently, and without prejudice to the provisions of paragraph 3, the Parties shall not allow the importation, manufacture or sale of products identified under protected geographical indications, including appellations of origin, by unauthorized third parties.

8. The use of geographical indications, including appellations of origin, recognized and protected in the territory of a Party in relation to any type of product originating in the territory of that Party, shall be reserved exclusively for authorized producers, manufacturers and craftsmen and others authorized in accordance with their national legislation, who have their production or manufacturing establishments in the locality or region of the Party designated or evoked by such geographical indication.

9. The Parties shall protect geographical indications against any use of a false or misleading indication liable to mislead, deceive or confuse the public as to the source, origin, nature or essential characteristics of the product, and any other practice that may mislead the consumer as to the true origin of the product.

10. The Parties may grant the agreed protection to other geographical indications, including appellations of origin, protected in the Parties. To this end, the Party concerned shall notify the other Party of such protection, after which it shall proceed as provided in paragraphs 4, 5 and 6.

Article 9.5. MEASURES RELATED TO THE PROTECTION OF BIODIVERSITY AND TRADITIONAL KNOWLEDGE

1. The Parties recognize and reaffirm their rights and obligations under the CBD related to the sovereignty of the Parties over their natural resources and the authority to determine access to biological and genetic resources and their derived products, through mutually agreed terms, in accordance with the principles and provisions contained in relevant national and international standards. The Parties recognize paragraph 19 of the Doha Ministerial Declaration, adopted on 14 November 2001, on the relationship between the TRIPS Agreement and the CBD.

2. The Parties recognize the importance and value of the knowledge, innovations and practices of indigenous and local communities3 , as well as their past, present and future contribution to the conservation and sustainable use of biological and genetic resources and their derived products, and in general, the contribution of the traditional knowledge of such communities to the culture and to the economic and social development of nations. Each Party, in accordance with its legislation, reiterates its commitment to respect, preserve and maintain traditional knowledge,

3 If the legislation of each Party so provides, "indigenous and local communities" shall include Afro-American or Afro-descendant communities innovations and practices of indigenous and local communities in the territories of the Parties.

3. Access to biological and genetic resources and their derived products shall be conditioned to the prior informed consent of the Party that is the country of origin, on mutually agreed terms. Likewise, access to traditional knowledge of indigenous and local communities associated with such resources shall be conditioned to the prior informed consent of the holders or possessors, as the case may be, of such knowledge, on mutually agreed terms. Both cases shall be subject to the provisions of the legislation of each Party.

4. The Parties shall take measures to ensure a fair and equitable sharing of benefits arising from the utilization of biological and genetic resources and derived products and traditional knowledge of indigenous and local communities.

5. Each Party shall take policy, legal and administrative measures in order to ensure full compliance with the conditions for access to biological and genetic resources of biodiversity and associated traditional knowledge.

6. Any intellectual property rights generated from the use of biological and genetic resources and their derivative products, and/or traditional knowledge of indigenous and local communities, of which a Party is the country of origin, shall observe compliance with the specific national and international standards on the matter.

7. In accordance with their legislation, the Parties shall require that patent applications developed from biological and genetic resources and/or associated traditional knowledge, of which they are the country of origin, demonstrate legal access to such resources or knowledge, as well as the disclosure of the origin of the accessed resource and/or traditional knowledge.

8. The Parties may, through their competent national authorities, exchange information related to biodiversity and/or traditional knowledge and documented information related to biological and genetic resources and their derivatives, or if

applicable, of the traditional knowledge of their indigenous and local communities, in order to support the evaluation of patents.

9. The Parties agree, at the request of any of them, to collaborate in the provision of public information at their disposal for the investigation and follow-up of illegal access to genetic resources and/or traditional knowledge, innovations and practices in their territories.

10. The Parties shall cooperate, on mutually agreed terms, with the exchange of information and experiences regarding access to biological and genetic resources and their derivatives, and/or associated traditional knowledge.

Article 9.6. COPYRIGHT AND RELATED RIGHTS

1. The Parties shall recognize existing rights and obligations under the Berne Convention for the Protection of Literary and Artistic Works; the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations; the WIPO Copyright Treaty; and the WIPO Performances and Phonograms Treaty. (4)

2. In accordance with the international conventions referred to in paragraph 1 and with its national legislation, each Party shall accord adequate and effective protection to authors of literary and artistic works and to performers, producers of phonograms and broadcasting organizations, in their artistic performances, phonograms and broadcasts, respectively.

3. Independently of the economic rights of the author, and even after the transfer of such rights, the author shall retain, at least, the right to claim authorship of the work and to object to any distortion, mutilation or other modification thereof, or to any attack upon it, that would be prejudicial to his honor or reputation.

4. The rights recognized to the author in accordance with paragraph 3 shall be maintained after his death, at least until the extinction of his economic rights, and shall be exercised by the persons or institutions to whom the legislation of the country in which protection is claimed recognizes rights.

5. The rights granted under paragraphs 3 and 4 shall be granted, mutatis mutandis, to performers in respect of their live performances or fixed performances.

6. The Parties shall cooperate, through dialogues, on the protection of rights in favor of audiovisual performers, including the direct or indirect use for broadcasting or communication to the public of performances fixed in audiovisual fixations. (5)

7. Parties may provide in their legislation limitations and exceptions to copyright and related rights only in certain cases that do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the right holder.

(4) It is understood that this Article does not affect reservations made by any of the Parties in relation to any of the treaties referred to in paragraph 1.

(5) Notwithstanding paragraph 6, if a Party recognizes rights for performers of audiovisual works, that Party shall be entitled to limit the scope and duration of the protection it grants to performers of audiovisual works who are nationals of the other Party, by virtue of the provisions of the preceding paragraph, to the rights enjoyed by its own nationals in that other Party.

Article 9.7. ENFORCEMENT

1. Without prejudice to the rights and obligations established under the TRIPS Agreement, in particular Part III, the Parties may develop in their legislation, measures, procedures and remedies necessary to ensure the enforcement of intellectual property rights.

2. The Parties shall adopt procedures that allow the right holder, who has valid grounds to suspect that the importation, exportation, or transit of counterfeit trademark goods or pirated goods infringing copyright (6) is being prepared, to submit to the competent authorities, a request or complaint, according to the legislation of each Party, in order to have the customs authorities suspend the release of such goods.

3. Each Party shall provide that any right holder who initiates the procedure provided for in paragraph 2 shall be required to submit adequate evidence demonstrating to the satisfaction of the competent authorities that, under the law of the country of importation, there is a presumption of infringement of the right holder's intellectual property right; and to provide sufficient information on the goods that is reasonably known to the right holder so that the goods may be readily

recognizable by its competent authorities. The requirement to provide sufficient information shall not unreasonably deter recourse to such procedures.

4. Each Party shall provide that the competent authorities shall have the authority to require the right holder, who initiates the procedure referred to in paragraph 2, to provide a security or equivalent assurance sufficient to protect the defendant and the competent authorities and to prevent abuse. The bond or equivalent security shall not unduly deter access to such proceedings.

5. Where its competent authorities determine that the goods are counterfeit or pirated, the Party shall empower its competent authorities to inform the right holder, the name and address of the consignor, importer and consignee, as well as the quantity of the goods in question.

6. Each Party shall provide that the competent authorities shall have the authority to initiate border measures ex officio, without the need for a formal request from the right holder or a third party, where there is reason to believe or suspect that goods being imported, exported or in transit are counterfeit or pirated.

(6) For the purposes of paragraphs 2 to 6: (a) counterfeit trademark goods means any goods, including their packaging, which bear, without authorization, a trademark identical to the trademark validly registered for such goods, or which cannot be distinguished in its essential aspects from that trademark, and which thereby violates the rights granted by the legislation of the country of importation to the owner of the trademark in question; and (b) pirated copyright infringing goods means any copies made without the consent of the right holder or a person duly authorized by the right holder in the country of production and which are made directly or indirectly from an article where the making of such a copy would have constituted an infringement of copyright or a related right under the law of the country of importation.

Article 9.8. COOPERATION AND SCIENCE, TECHNOLOGY AND INNOVATION

1. The Parties shall exchange information and materials in education and dissemination projects regarding the use of intellectual property rights, consistent with their national laws, regulations, and policies, with a view to:

(a) improving and strengthening intellectual property administrative systems to promote efficient registration of intellectual property rights;

(b) stimulate the creation and development of intellectual property within the territory of the Parties, particularly small inventors and creators, as well as micro, small and medium-sized enterprises;

(c) promoting dialogue and cooperation in relation to science, technology, entrepreneurship and innovation; and

(d) other matters of mutual interest regarding intellectual property rights.

2. The Parties recognize the importance of promoting research, technological development, entrepreneurship and innovation, as well as the importance of disseminating technological information and building and strengthening their technological capabilities; to this end, they shall cooperate in these areas taking into consideration their resources.

3. The Parties shall encourage the establishment of incentives for research, innovation, entrepreneurship, transfer and dissemination of technology between the Parties, directed, among others, to companies, institutions of higher education, and research and technological development centers.

4. Cooperative activities in science, technology and innovation may take, among others, the following forms:

(a) participation in joint education, research, technological development and innovation projects;

(b) visits and exchanges of scientists and technical experts, as well as public, academic or private specialists;

(c) joint organization of scientific seminars, congresses, workshops and symposia, as well as participation of experts in these activities;

(d) promotion of scientific networks and training of researchers;

(e) concerted actions for the dissemination of results and the exchange of experiences in joint science, technology and innovation projects and for the coordination of such projects;

(f) exchange and loan of equipment and materials, including the shared use of advanced equipment;

(g) exchange of information on procedures, laws, regulations and programs related to cooperative activities carried out

pursuant to this Agreement, including information on science and technology policy; and

(h) any other modalities agreed by the Parties.

5. The Parties may also engage in cooperative activities with respect to the exchange of:

(a) information and experience on legislative processes and legal frameworks related to intellectual property rights and regulations relevant to protection and enforcement;

(b) experiences on the enforcement of intellectual property rights;

(c) staff and staff training in offices related to intellectual property rights;

(d) information and institutional cooperation on intellectual property policies and developments;

(e) information and experience on policies and practices on the promotion of the development of the handicrafts sector; and

(f) experience in intellectual property management and knowledge management in higher education institutions and research centers.

6. Each Party designates as contact entities, responsible for the fulfillment of the objectives of this Article, and for facilitating the development of collaboration and cooperation projects in research, innovation and technological development, the following entities:

(a) in the case of Colombia, the Ministry of Commerce, Industry, and Tourism in coordination with the Administrative Department of Science, Technology, and Innovation (COLCIENCIAS); and

(b) in the case of Costa Rica, to the Ministry of Foreign Trade, in coordination with the Ministry of Justice and Peace and the Ministry of Science, Technology and Telecommunications,

or their successors.

Chapter 10. PUBLIC PROCUREMENT

Article 10.1. SCOPE OF APPLICATION

Application of the Chapter

1. This Chapter applies to any measure adopted by a Party relating to covered procurement.

2. For the purposes of this Chapter, covered procurement means a procurement of goods, services, or both:

(a) not procured with a view to commercial sale or resale, or with a view to use in the production or supply of goods or services for commercial sale or resale;

(b) made through any contractual means, including purchase, lease, with or without option to purchase; and public works concession contracts;

(c) for which the value, as estimated in accordance with paragraph 4, equals or exceeds the value of the relevant threshold set forth in Schedule 10-A;

(d) which is carried out by a procuring entity; and

(e) is not expressly excluded from coverage.

3. This Chapter does not apply to:

(a) non-contractual arrangements or any form of assistance that a Party, including its procuring entities, provides, including cooperative arrangements, grants, loans, subsidies, capital transfers, guarantees, and tax incentives;

(b) the contracting or procurement of fiscal agency services or depository services, settlement and administration services for regulated financial institutions, or services related to the sale, redemption and distribution of public debt, including government loans and bonds and other securities. For greater certainty, this Chapter does not apply to the procurement of banking, financial or specialized services relating to the following activities:

(i) public borrowing; or

(ii) public debt management;

(c) procurement financed by grants, loans or other forms of international assistance;

(d) the hiring of public employees and employment-related measures;

(e) procurement by a governmental entity or enterprise from another governmental entity or enterprise of that Party;

(f) the acquisition or lease of land, existing real estate or other immovable property or rights thereon;

(g) purchases made on exceptionally favorable terms that are only for a very short period of time, such as extraordinary disposals by enterprises that are not normally suppliers or the disposal of assets of enterprises in liquidation or under receivership. For purposes of this paragraph (g), the provisions of Article 10.11.3 shall apply; and

(h) procurements made for the specific purpose of providing assistance abroad.

Valuation

4. In estimating the value of a procurement for the purpose of determining whether it is a covered procurement, a procuring entity:

(a) shall not divide a procurement into separate procurements, or use a particular method for estimating the value of the procurement for the purpose of avoiding the application of this Chapter;

(b) shall take into account all forms of remuneration, including premiums, fees, dues, fees, commissions, interest, other revenue streams that may be provided for in the procurement, and where the procurement provides for the possibility of option clauses, the total maximum value of the procurement, including optional purchases; and

(c) shall, where the procurement is to be conducted in multiple parts, and results in the award of contracts at the same time or over a given period to one or more suppliers, base its calculation on the total maximum value of the procurement over the entire period of the procurement.

5. No procuring entity may prepare, design, structure or divide a procurement for the purpose of evading the obligations of this Chapter.

6. Nothing in this Chapter shall prevent a Party from developing new procurement policies, procedures or contractual means, provided that they are consistent with this Chapter.

Article 10.2. SECURITY AND GENERAL EXCEPTIONS

1. Nothing in this Chapter shall be construed to prevent a Party from taking any action or refraining from disclosing any information that it considers necessary for the protection of its essential national security interests or for national defense.

2. Provided that such measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination between the Parties where the same conditions exist or a disguised restriction on trade between the Parties, nothing in this Chapter shall be construed to prevent a Party from adopting or maintaining measures:

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

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

(c) necessary to protect intellectual property; or

(d) relating to the goods or services of handicapped persons, charitable institutions, or correctional labor.

3. The Parties understand paragraph 2(b) to include environmental measures necessary to protect human, animal or plant life or health.

Article 10.3. GENERAL PRINCIPLES

National Treatment and Non-Discrimination

1. With respect to any measure covered by this Chapter, each Party shall accord immediately and unconditionally to goods and services of the other Party, and to suppliers of the other Party offering such goods or services, treatment no less

favorable than the most favorable treatment accorded by that Party to its own goods, services, and suppliers.

2. With respect to any measure covered by this Chapter, a Party may not:

(a) treat a locally established supplier less favorably than another locally established supplier because of its degree of foreign affiliation or ownership; or

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

Enforcement of Procurement

3. A procuring entity shall conduct covered procurement in a transparent and impartial manner that:

(a) is consistent with this Chapter;

(b) avoids conflicts of interest; and

(c) prevents corrupt practices.

Rules of Origin

4. Each Party shall apply to covered government procurement of goods or services imported from or supplied by the other Party the rules of origin that it applies in the normal course of trade in such goods or services.

Special Countervailing Duty Conditions

5. A procuring entity shall not seek, take into consideration, impose or use special countervailing conditions at any stage of a covered procurement.

Measures Not Specific to Procurement

6. Paragraphs 1 and 2 shall not apply to: customs duties and charges of any kind imposed on or in connection with importation; the method of collection of such duties and charges; other import regulations or formalities; or measures affecting trade in services, other than measures governing covered procurement.

Article 10.4. USE OF ELECTRONIC MEANS IN GOVERNMENT PROCUREMENT

1. The Parties recognize the need for and importance of the use of electronic means for the dissemination of information relating to covered procurement.

2. In order to facilitate business opportunities for suppliers of the other Party under this Chapter, each Party shall maintain or make best efforts to adopt an electronic single point of entry for the purpose of allowing access to complete information on procurement opportunities in its territory, as well as on procurement-related measures, especially those set out in Articles 10.5, 10.6.1, 10.6.3, 10.9.1, 10.9.7, and 10.14.2.

3. Where covered procurement is conducted through electronic means, a procuring entity shall:

(a) ensure that procurement is conducted using information technology systems and software, including those related to authentication and cryptographic encryption of information, that are generally accessible and compatible with other generally accessible information technology systems and software; and

(b) maintain mechanisms to ensure the integrity of requests for participation and bids, including the determination of the time of receipt and the prevention of inappropriate access.

Article 10.5. PUBLICATION OF PROCUREMENT INFORMATION

Each Party shall:

(a) publish in a timely manner all generally applicable regulations with respect to covered procurement, and any amendments to such regulations, in an electronic medium listed in Annex 10-A; and

(b) on request of the other Party, provide an explanation regarding such information.

Article 10.6. PUBLICATION OF NOTICES

Notice of Future Procurement

1. For each covered procurement, a procuring entity shall publish in a timely manner a notice inviting suppliers to submit tenders, or where appropriate, an application to participate in the procurement, except in the circumstances described in Article 10.11.2. Such notice shall be published in one of the electronic media or in print media widely and easily accessible to the public listed in Annex 10-C, and each such notice shall be accessible to the public for the full tendering period for the procurement concerned.

2. Each notice of future procurement shall include:

(a) the description of the prospective procurement, including the nature of the goods or services to be procured;

(b) the method of procurement to be used and whether it will involve negotiation;

(c) any conditions that suppliers must satisfy in order to participate in the procurement, including requirements relating to specific documents or certifications that suppliers must submit in order to participate in the procurement; and

(c) any conditions that suppliers must satisfy in order to participate in the procurement, including requirements relating to specific documents or certifications that suppliers must submit in connection with their participation, unless such requirements are included in the solicitation documents that are made available to all interested suppliers at the same time that notice of the intended procurement is made;

(d) the name and address of the procuring entity and other information necessary to contact it and to obtain all relevant documentation relating to the procurement, as well as its cost and payment terms, where applicable;

(e) where applicable, the address and final date for the submission of requests for participation in the procurement;

(f) the address and final date for the submission of bids;

(g) the dates of delivery of the goods or services to be procured, or the duration of the contract; and

(h) an indication that the procurement is covered by this Chapter.

Notice of Procurement Plans

3. Each Party shall encourage its procuring entities to publish in an electronic or print medium, as early as practicable in each fiscal year, a notice regarding its future procurement plans. Such notices shall include the subject matter or category of goods and services to be procured and the estimated period in which the procurement will be conducted.

Article 10.7. CONDITIONS FOR PARTICIPATION

When establishing conditions for participation, a procuring entity shall:

(a) shall limit these conditions to those that are essential to ensure that the supplier possesses the legal and financial capabilities, and the commercial and technical skills, to meet the requirements and technical specifications of the procurement on the basis of the supplier's business activities conducted both within and outside the territory of the Party of the procuring entity;

(b) base its decision only on the terms and conditions that the procuring entity has specified in advance in the notices or procurement documents;

(c) shall not make it a condition of participation in a procurement or the award of a procurement contract that the supplier has previously been awarded one or more procurement contracts by a procuring entity of the Party concerned;

(d) may require prior relevant experience where essential to meet the requirements of the procurement; and

(e) shall allow all domestic suppliers and suppliers of the other Party that have satisfied the conditions for participation to be recognized as qualified and to participate in the procurement.

2. Where there is evidence to justify it, a Party, including its procuring entities, may exclude a supplier from a procurement for reasons such as:

(a) bankruptcy;

(b) misrepresentation;

(c) significant or persistent deficiencies in the performance of any substantive requirement or obligation under a prior contract or contracts;

(d) final convictions for felonies or other serious violations;

(e) professional misconduct or acts or omissions that call into question the business integrity of the supplier; or

(f) nonpayment of taxes.

3. Procuring entities shall not adopt or apply a registration system or qualification procedure with the purpose or effect of creating unnecessary obstacles to the participation of suppliers of the other Party in their respective procurement.

4. A procuring entity shall promptly inform any supplier that has applied for qualification of its decision with respect to that application. Where a procuring entity rejects an application for qualification or ceases to recognize a supplier as one that meets the conditions for participation, the procuring entity shall promptly inform the supplier and, on request, provide the supplier with a timely written explanation of the reasons for the entity's decision.

Article 10.8. REGISTRATION AND QUALIFICATION OF SUPPLIERS

Registration systems and qualification procedures

1. Parties, including their procuring entities, may maintain a supplier registration system where interested suppliers register and provide certain information.

2. Each Party shall endeavor to ensure that its procuring entities:

(a) make efforts to minimize differences between their respective qualification procedures;

(b) where they maintain registration systems, make efforts to minimize differences between the systems.

3. The Parties, including their procuring entities, shall not adopt or apply any registration system or qualification procedures for the purpose of, or with the effect of, creating unnecessary obstacles to the participation of suppliers of the other Party in their procurement.

Article 10.9. INFORMATION ON FUTURE PROCUREMENT

Procurement Documents

1. A procuring entity shall provide in a timely manner to suppliers interested in participating in a procurement, procurement documents that include all information necessary to enable them to prepare and submit responsive tenders, in accordance with Annex 10-B. Where a procuring entity does not publish the procurement documents by electronic means accessible to all interested suppliers, it shall make them promptly available in written form.

2. A procuring entity shall respond promptly to any reasonable request for information submitted by suppliers participating in a covered procurement, provided that the entity does not make available information that would give the requesting supplier an advantage over its competitors in the specific procurement.

Technical Specifications

3. A procuring entity shall not prepare, adopt, or apply any technical specification, or require any conformity assessment procedure, that has the purpose or effect of creating unnecessary obstacles to trade between the Parties.

4. In establishing any technical specification for goods or services to be procured, a procuring entity shall, where appropriate:

(a) set the technical specification in terms of performance and functional requirements, rather than descriptive or design characteristics; and

(b) base the technical specification on international standards, where applicable, or otherwise on national technical regulations, recognized national standards, or building codes.

5. A procuring entity shall not prescribe technical specifications that require or refer to a particular trademark or trade name, patent, copyright, design, type, specific origin, producer or supplier, unless there is no other sufficiently precise or intelligible way of describing the procurement requirements, and provided that, in such cases, expressions such as "or equivalent" shall also be included in the procurement documents.

6. A procuring entity shall not solicit or accept, in a manner that may have the effect of precluding competition, advice that could be used in preparing or adopting any technical specification for a specific procurement from any person that may have a commercial interest in that procurement.

7. For greater certainty, this Article is not intended to prevent a procuring entity from preparing, adopting or applying technical specifications to promote the conservation of natural resources or protect the environment.

Modifications

8. Where, in the course of a covered procurement, a procuring entity modifies the criteria or technical requirements set forth in a notice or procurement document provided to participating suppliers, or modifies a notice or procurement document, it shall transmit such modifications in writing:

(a) to all suppliers participating at the time of the modification of the information, if the identification of such suppliers is known, and in all other cases, in the same manner as the original information was transmitted; and

(b) in sufficient time to allow suppliers to modify and resubmit their corrected bids, as appropriate.

Article 10.10. TIME LIMITS

1. A procuring entity shall provide suppliers with sufficient time to submit applications to participate in a procurement and to prepare and submit responsive tenders, taking into account the nature and complexity of the procurement. A procuring entity shall allow a period of not less than 40 days from the date on which the notice of intended procurement is published and the final date for submission of tenders.

2. Notwithstanding paragraph 1, a procuring entity may provide for a period of less than 40 days, but in no case less than 10 days, in the following circumstances:

(a) where the procuring entity has published a separate notice containing a description of the procurement, the approximate time limits for the

(a) where the procuring entity has published a separate notice containing a description of the procurement, the approximate time limits for submission of tenders or, where appropriate, conditions for participation in a procurement, and the address where documentation relating to the procurement may be obtained, not less than 40 days and not more than 12 months in advance;

(b) in the case of a new, second or subsequent publication of notices for a procurement of a recurring nature;

(c) when an urgent situation duly justified by a procuring entity makes it impracticable to comply with the time limit stipulated in paragraph 1; or

(d) when the procuring entity purchases commercial goods or services.

3. A Party may provide that a procuring entity may reduce the deadline for submitting tenders set out in paragraph 1 by five days in each of the following circumstances:

(a) when the notice of intended procurement is published by electronic means;

(b) when all procurement documents that are made publicly available by electronic means are published as of the date of publication of the notice of intended procurement; and

(c) if the entity accepts bids by electronic means.

The use of this paragraph, in conjunction with paragraph 2, may not result in reducing the tendering periods set forth in paragraph 1 to less than 10 days from the date of publication of the notice of intended procurement.

Article 10.11. PROCUREMENT PROCEDURES

Open Tendering

A procuring entity shall award its procurement contracts by means of open tendering procedures.

Direct Procurement

Provided that this provision is not used to prevent competition among suppliers or in a manner that discriminates against

suppliers of the other Party, or protects domestic suppliers, a procuring entity may use a direct procurement procedure and consider not applying Articles 10.6 through 10.10, 10.13, 10.14.1 through 10.14.4, 10.14.6, and 10.15.1, only in the following circumstances:

(a) provided that the requirements of the procurement documents are not substantially modified, when:

(i) no bid was submitted or no supplier has requested to participate;

(ii) no bid meeting the essential requirements of the bidding documents was submitted;

(iii) no supplier complied with the conditions for participation; or

(iv) there was collusion in the submission of bids;

(b) where the goods or services can be supplied only by a particular supplier and there is no reasonable alternative or substitute goods or service due to any of the following reasons:

(i) the requirement is for the performance of a work of art;

(ii) the protection of patents, copyrights or other exclusive intellectual property rights; or

(iii) due to the absence of competition for technical reasons, as in the case of the procurement of intuitu personae services;

(c) for additional deliveries or performance by the initial supplier of goods or services that were not included in the initial procurement, where the change of supplier of such additional goods or services:

(i) cannot be made for economic or technical reasons such as interchangeability or compatibility requirements with existing equipment, software, services, or facilities that were the subject of the initial procurement; and

(ii) would cause significant inconvenience or substantial duplication of costs to the procuring entity,

in the case of construction services, the total value of contracts awarded for such additional services shall not exceed 50 percent of the amount of the initial contract, provided that such services were contemplated in the objectives contained in the procurement documents and have become necessary to complete the work due to unforeseen reasons;

(d) to the extent strictly necessary, when for reasons of extreme urgency occasioned by events unforeseen by the procuring entity, the goods or services cannot be obtained in time through open bidding procedures, and the use of such procedures would result in serious prejudice to the procuring entity; (e) to the extent strictly necessary, when for reasons of extreme urgency occasioned by events unforeseen by the procuring entity, the goods or services cannot be obtained in time through open bidding procedures, and the use of such procedures would result in serious prejudice to the procuring entity;

(e) for purchases of goods in a commodity market;

(f) when a procuring entity procures a prototype or a first limited quantity of goods or contracts for a service that is developed on request in the course of, and for, a particular contract for research, experiment, study, or original development; or

(g) where a contract is awarded to the winner of a design competition, provided that:

(i) the competition has been organized in a manner that is consistent with the principles of this Chapter, in particular with respect to the publication of notice of the prospective procurement; and

(ii) the participants are qualified or evaluated by an independent jury or body with a view to the conclusion of a design contract that is awarded to a winner.

3. A procuring entity shall maintain records or prepare a written report for each procurement awarded under Article 10.15.3. Where a Party prepares written reports under this paragraph, they shall include the name of the procuring entity, the value and nature of the goods or services procured, and a justification indicating the circumstances and conditions described in paragraph 2 that justify the use of direct procurement. Where a Party maintains records, such records shall indicate the circumstances and conditions described in paragraph 2 that justify the use of other procurement procedures.

Article 10.12. ELECTRONIC AUCTIONS

Where a procuring entity intends to conduct a covered procurement using an electronic auction, the procuring entity shall provide to each participant, prior to the commencement of the electronic auction, the following information:

(a) the automatic evaluation method, including the mathematical formula, that is based on the evaluation criteria set out in the procurement documents and that will be used in the automatic ranking or reclassification during the auction;

(b) the results of any initial evaluation of the elements of its bid when the contract is awarded on the basis of the most advantageous bid; and

(c) any other relevant information on the conduct of the auction.

Article 10.13. NEGOTIATIONS

1. A Party may provide that its procuring entities may engage in negotiations:

(a) where in the context of a procurement in which such intention has been indicated in the notice of intended procurement; or

(b) if it appears from the evaluation that no tender is clearly the most advantageous in accordance with the specific evaluation criteria set forth in the notice of intended procurement or the tender documents.

2. In the course of negotiations, procuring entities shall not discriminate among participating suppliers.

3. Procuring entities shall:

(a) ensure that any elimination of suppliers participating in the negotiations is carried out in accordance with the evaluation criteria set forth in the notice of intended procurement or tendering documents; and

(b) at the conclusion of negotiations, allow all participants, who have not been eliminated, an equal maximum period of time to submit new or revised tenders.

Article 10.14. OPENING OF BIDS AND AWARD OF CONTRACTS

Treatment of Tenders

1. A procuring entity shall receive and process all tenders under procedures that ensure the equality and fairness of the procurement process.

2. A procuring entity shall treat tenders confidentially, at least until the tenders are opened. In particular, a procuring entity shall avoid providing information to suppliers that could prejudice fair competition among suppliers.

3. Where a procuring entity provides suppliers the opportunity to correct any unintentional errors of form between the period of bid opening and contract award, the procuring entity shall provide the same opportunity to all participating suppliers.

Contract Award

4. A procuring entity shall require that, in order to be considered for an award, a tender:

(a) is submitted in writing by a supplier that complies with all conditions for participation; and

(b) at the time of opening, be in conformity with the essential requirements specified in the notices and procurement documents.

5. Unless a procuring entity determines that the award of a procurement contract would be against the public interest, the procuring entity shall award the contract to the supplier that the procuring entity has determined meets the conditions of participation and is fully capable of performing the contract and, whose tender is considered the most advantageous based solely on the requirements and evaluation criteria specified in the notices and procurement documents, or where price is the sole evaluation criterion, that of the lowest price.

6. When a procuring entity receives a tender whose price is abnormally lower than the prices of the other tenders submitted, the entity may verify with the supplier whether the supplier complies with the conditions for participation and has the capacity to perform under the contract.

7. A procuring entity may not cancel a procurement or terminate or modify a contract that has been awarded for the purpose of circumventing this Chapter.

Article 10.15. TRANSPARENCY OF PROCUREMENT INFORMATION

Information to be Provided to Suppliers

1. A procuring entity shall promptly inform participating suppliers of its decision on the award of a procurement contract, and upon request, shall do so in writing. Subject to Article 10.16, a procuring entity shall, upon request, provide to the unsuccessful supplier the reasons for its decision and the relative advantages of the successful tender.

Publication of Award Information

2. Not later than 60 days after an award, a procuring entity shall publish in an electronic medium or by print media that is widely disseminated and easily accessible to the public, a notice that includes, at a minimum, the following information about the contract award:

(a) the name of the procuring entity;

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

(c) the date of the award;

(d) the name of the supplier to whom the contract was awarded;

(e) the value of the contract; and

(f) the type of procurement method used and, where direct procurement was used, an indication of the circumstances justifying the use of such procedure in accordance with Article 10.11.2.

Record Keeping

3. A procuring entity shall maintain reports or records of procurement proceedings relating to covered procurement, including the reports referred to in Article 10.11.3, and shall maintain such reports or records for a period of at least three years from the date of award of a contract.

Article 10.16. DISCLOSURE OF INFORMATION

Disclosure of Information to the other Party

1. On request of a Party, the other Party shall provide in a timely manner information necessary to determine whether a procurement has been conducted fairly, impartially, and in accordance with this Chapter. Such information shall include information on the characteristics and relative advantages of the successful tender. Where the disclosure of such information would prejudice fair competition, the Party receiving the information shall not disclose it to any supplier unless it obtains the consent of the Party that provided such information, after consultation with that Party.

Non-Disclosure of Information

2. No Party, including its procuring entities, authorities or review bodies, may disclose information that the person providing the information has designated as confidential in accordance with its law, except with the authorization of that person.

3. Nothing in this Chapter shall be construed to require a Party, including its contracting entities, authorities and review bodies, to disclose confidential information under this Chapter if such disclosure would:

(a) impede law enforcement;

(b) prejudice fair competition between suppliers;

(c) prejudice the legitimate commercial interests of private parties, including the protection of intellectual property; or

(d) otherwise be contrary to the public interest.

Article 10.17. DOMESTIC REVIEW PROCEDURES FOR THE PROVISION OF REMEDIES

1. Each Party shall ensure that its procuring entities consider, in a fair and timely manner, any complaint by its suppliers regarding an allegation of non-compliance with this Chapter arising in the context of a covered procurement in which they have or have had an interest. Each Party shall encourage its suppliers to seek clarification from its procuring entities through consultations with a view to facilitating the resolution of any such complaint.

2. Each Party shall provide a timely, effective, transparent and non-discriminatory administrative or judicial review procedure, in accordance with the principle of due process, through which a supplier may submit a complaint alleging a breach of this Chapter or, where the supplier is not entitled to directly allege a breach of the Chapter under a Party's law, a failure to comply with measures taken by a Party to implement the Chapter, arising in the context of covered procurement in which the supplier has or has had an interest.

3. Each Party shall establish or designate at least one impartial administrative or judicial authority, independent of its procuring entities, to receive and review a challenge brought by a supplier in a covered procurement, and to issue appropriate determinations and recommendations.

4. Where a body other than the authority referred to in paragraph 3 initially reviews a challenge, the Party shall ensure that the supplier may appeal the initial decision to an impartial administrative or judicial authority that is independent of the procuring entity whose procurement is the subject of the challenge.

5. Each Party shall adopt or maintain procedures that provide for:

(a) expeditious interim measures to preserve the supplier's ability to participate in the procurement, to be applied by the procuring entity or by the impartial authority referred to in paragraph 3. Such measures may have the effect of suspending the procurement proceedings. The procedures may provide that the prevailing adverse consequences for the interests concerned, including the public interest, may be taken into account in deciding whether such measures should be applied. The reason for not taking such measures shall be stated in writing; and

(b) where a review body has determined the existence of a breach referred to in paragraph 2, remedial measures or compensation for loss or damage suffered, in accordance with the law of each Party.

Article 10.18. MODIFICATIONS AND AMENDMENTS TO COVERAGE

1. Where a Party modifies its procurement coverage under this Chapter, the Party shall:

(a) notify the other Party in writing; and

(b) include in the notification a proposal for appropriate compensatory adjustments to the other Party to maintain a level of coverage comparable to that existing prior to the modification.

2. Notwithstanding paragraph 1(b), a Party need not grant compensatory adjustments where:

(a) the modification in question is a minor amendment or a rectification purely of a formal nature; or

(b) the proposed modification covers an entity over which the Party has effectively eliminated control or influence.

3. If the other Party does not agree that:

(a) a proposed adjustment under the scopes of paragraph 1(b) is adequate to maintain a comparable level of a mutually agreed coverage;

(b) the proposed modification is a minor amendment or rectification under the scope of paragraph 2(a); or

(c) the proposed modification covers a contracting entity over which the Party has effectively eliminated its control or influence under the scope of paragraph 2(b),

must object in writing within 30 days of receipt of the notification referred to in paragraph 1 or agreement on the proposed change or modification shall be deemed to have been reached even for the purposes of Chapter 18 (Dispute Settlement).

4. Where the Parties agree on the proposed modification, rectification or amendment, including where a Party has not objected within 30 days under the scope of paragraph 3, the Parties shall give effect to the agreement by immediately amending Annex 10-A through the Commission.

Article 10.19. INTEGRITY IN GOVERNMENT PROCUREMENT PRACTICES

Each Party shall establish or maintain procedures for declaring the ineligibility to participate in the Party's procurement, either indefinitely or for a prescribed period, of suppliers that the Party determines to have engaged in illegal or fraudulent activities in connection with illegal or fraudulent activities related to government procurement. Upon request of the other Party, the Party receiving the request shall identify the suppliers determined to be ineligible under these procedures and, where appropriate, exchange information with respect to such suppliers or the fraudulent or illegal activity.

Article 10.20. FURTHER NEGOTIATIONS

At the request of a Party, the other Party may consider additional negotiations for the purpose of expanding the scope and coverage of this Chapter. If as a result of these negotiations the Parties agree to modify the Annexes to this Chapter, the result shall be submitted to the Committee on Government Procurement established in Article 10.23 for implementation.

Article 10.21. PARTICIPATION OF MICRO, SMALL, AND MEDIUM-SIZED ENTERPRISES

1. The Parties recognize the importance of the participation of micro, small and medium-sized enterprises in government procurement.

2. The Parties also recognize the importance of business alliances between suppliers of each Party, and in particular micro, small and medium-sized enterprises, including joint participation in tendering procedures.

Article 10.22. COOPERATION

1. The Parties recognize the importance of cooperation as a means of achieving a better understanding of their respective government procurement systems, as well as improved access to their respective markets, in particular for micro, small, and medium-sized enterprises.

2. The Parties shall make their best efforts to cooperate on issues such as:

(a) exchange of experiences and information, including regulatory framework, best practices and statistics;

(b) development and use of electronic means of information in government procurement systems;

(c) training and technical assistance to suppliers on access to the public procurement market; and

(d) institutional strengthening for compliance with this Chapter, including training of public officials.

Article 10.23. GOVERNMENT PROCUREMENT COMMITTEE

1. The Parties hereby establish the Committee on Government Procurement (hereinafter referred to as the "Committee"), composed of representatives of each Party.

2. The functions of the Committee shall include, inter alia:

(a) monitor the implementation and administration of this Chapter, including its use and shall recommend appropriate activities to the Commission;

(b) report to the Commission on the implementation and administration of this Chapter, as appropriate;

(c) evaluate and monitor cooperative activities;

(d) consider additional negotiations with the objective of expanding the coverage of this Chapter; and

(e) discuss any other matter related to this Chapter.

3. Unless otherwise agreed by the Parties, the Committee shall meet at least once a year, on the date and according to the agenda previously agreed. The first meeting of the Committee shall be held no later than one year after the date of entry into force of this Agreement. By mutual agreement, the Parties may hold extraordinary meetings.

4. The meetings may be held by any means agreed upon by the Parties. When they are face-to-face, they shall be held alternately in the territory of each Party, and it shall be the responsibility of the host Party to organize the meeting.

5. Unless otherwise agreed by the Parties, the Committee shall be of a permanent nature and shall develop its working rules during its first meeting.

6. All decisions of the Committee shall be taken by mutual agreement.

Article 10.24. DEFINITIONS

For the purposes of this Chapter:

notice of intended procurement means a notice published by the procuring entity inviting interested suppliers to submit a request for participation, a tender, or both;

special countervailing conditions means any condition or commitment that encourages local development or improves a Party's balance of payments accounts, such as local content requirements, technology licensing, investment requirements, countertrade or similar requirements; and

requirements, technology licensing, investment requirements, countertrade or similar requirements;

conditions for participation means any registration, qualification or other prerequisites for participation in a procurement;

procuring entity means an entity listed in Annex 10-A;

written or in writing means any expression in words, numbers or other symbols, which can be read, reproduced and subsequently communicated. It may include information transmitted and stored electronically;

technical specification means a procurement requirement that:

(a) sets out the characteristics of the goods or services to be procured, including quality, performance, safety and dimensions, or the processes and methods for their production or provision; or

(b) establishes terminology, symbols, packaging, marking or labeling requirements, as applicable to a good or service;

commercial goods or services means goods or services of the type that are generally sold or offered for sale in the commercial marketplace to, and normally purchased by, nongovernmental purchasers for nongovernmental purposes;

standard means a document approved by a recognized body, which provides, for common and repeated use, rules, guidelines or characteristics for goods, or services or related processes and methods of production, compliance with which is not mandatory. It may also include or refer exclusively to terminology, symbols, packaging, markings or labeling requirements as they apply to a product, service, process or method of production;

open tendering procedures means any type of procurement method of a Party, except direct procurement methods as set out in Article 10.11.2, provided that such methods are consistent with this Chapter;

supplier means a person that provides or may provide goods or services to a procuring entity;

services includes construction services, unless otherwise specified;

construction service means a service the object of which is the performance by whatever means of civil or construction work, based on Division 51 of the provisional version of the United Nations Central Product Classification (hereinafter referred to as "CPC"); and

electronic auction means an iterative process in which suppliers use electronic means to submit new prices or new values for non-price quantifiable elements of the tender, hereinafter referred to as the "CPC".

quantifiable non-price bid elements, or both, that are linked to the evaluation criteria, and that results in a ranking or reclassification of bids.

Chapter 11. COMPETITION POLICY AND CONSUMER PROTECTION

Article 11.1. OBJECTIVES

The purpose of this Chapter is to:

(a) to ensure that the benefits of trade liberalization under this Agreement are not undermined by anticompetitive practices;

(b) to promote cooperation between the Parties in the enforcement of their respective competition laws; and

(c) ensuring the enforcement and protection of consumer rights.

Article 11.2. NATIONAL LEGISLATION AND AUTHORITIES

1. Each Party shall adopt or maintain domestic legislation that comprehensively and effectively addresses anticompetitive practices and consumer protection.

2. Each Party shall establish or maintain an authority responsible for the enforcement of its respective competition and consumer protection laws.

3. Each Party shall maintain its autonomy to develop and implement its respective competition and consumer protection laws and policies.

4. Each Party shall ensure that its respective national authorities act in accordance with the principles of transparency, non-discrimination and due process in the application of their respective competition and consumer protection laws.

Article 11.3. COOPERATION

1. The Parties recognize the importance of cooperation and coordination between their respective national authorities in promoting the effective enforcement of their respective competition and consumer protection laws.

2. Accordingly, the Parties shall cooperate on matters relating to the enforcement of competition and consumer protection policy and law, including notification, exchange of information, and consultations, in accordance with Articles 11.4, 11.5, and 11.6, respectively.

3. The Parties, through their national authorities, may sign cooperation agreements or arrangements for the purpose of strengthening cooperation in matters related to competition and consumer protection.

Article 11.4. NOTIFICATIONS

1. The national authority of a Party shall notify the national authority of the other Party of activities in the application of its competition and consumer protection laws if it considers that such activities may affect important interests of the other Party.

2. Provided that it is not contrary to the laws of the Parties, nor does it affect an ongoing investigation, the notification shall be made at an early stage of the administrative procedure. The national authority of the Party carrying out the enforcement activity of its competition or consumer protection law may, in its determinations, take into consideration the comments received from the other Party.

Article 11.5. EXCHANGE OF INFORMATION

In order to facilitate the effective enforcement of their respective competition and consumer protection laws, the national authorities may exchange information at the request of one of them, provided that this is not contrary to their laws and does not affect any ongoing investigation.

Article 11.6. CONSULTATIONS

To promote understanding between the Parties or to address specific matters arising under this Chapter, each Party shall, at the request of the other Party, enter into consultations on matters referred to it. The requesting Party shall indicate how the matter affects trade or investment between the Parties. The requested Party shall give the utmost consideration to the concerns of the other Party.

Article 11.7. DISPUTE SETTLEMENT

Neither Party may have recourse to the dispute settlement procedures set out in Chapter 12 (Investment) and Chapter 18 (Dispute Settlement) with respect to any matter arising under this Chapter.

Article 11.8. DEFINITIONS

For the purposes of this Chapter:

national authorities are:

(a) in the case of Colombia, the Superintendencia de Industria y Comercio (SIC) and other authorities determined by the Ley para la Defensa del Consumidor (Law for the Defense of Consumers); and

(b) in the case of Costa Rica, the Commission to Promote Competition and the National Consumer Commission of the Ministry of Economy, Industry and Commerce,

or their successors;

competition and consumer protection legislation is:

(a) in the case of Colombia, Law 155 of 1959, Law 1340 of 2009, Decree 2153 of 1992 and its regulations, Law 1480 of 2011 and other special regulatory norms; and.

(b) in the case of Costa Rica, Law 7472 on Promotion of Competition and Effective Consumer Defense, as amended;

anti-competitive practices means:

(a) any agreement, decision, recommendation, or concerted practice that has the object or effect of preventing, restricting, or distorting competition in accordance with the provisions of their respective competition laws;

(b) the abuse of a dominant position or substantial market power in accordance with the provisions of their respective competition laws; and

(c) concentrations of undertakings, which significantly impede effective competition in accordance with the provisions of their respective competition laws.

Chapter 12. INVESTMENT

Section A. SUBSTANTIVE OBLIGATIONS

Article 12.1. SCOPE OF APPLICATION (1)

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

(a) investors of the other Party;

(b) covered investments; and

(c) with respect to Articles 12.6, 12.8, and 12.9, all investments in the territory of the Party.

2. A Party's obligations under this Section shall apply to a state enterprise or other person where it exercises regulatory, administrative, or other governmental authority delegated to it by that Party, such as the authority to expropriate, grant licenses, approve commercial transactions, or impose fees, duties, or other charges.

3. For greater certainty, this Chapter does not bind a Party in relation to any act, fact or dispute that took place before the date of entry into force of this Agreement, even if its effects continue after that date.

4. For greater certainty, nothing in this Chapter shall be construed to impose an obligation on a Party to privatize any investment that it owns or controls, or to prevent a Party from designating a monopoly.

5. Nothing in this Chapter shall obligate a Party to protect investments made with capital or assets derived from illegal activities, and shall not be construed to prevent a Party from adopting or maintaining measures aimed at the preservation of public order, the performance of its duties to maintain or restore international peace and security, or the protection of its own essential security interests.

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

7. A Party's requirement that a service supplier of the other Party post a bond or other form of financial security as a condition for supplying a cross-border service does not, of itself, make this Chapter applicable to measures adopted or maintained by the Party with respect to the cross-border supply of the service. This Chapter applies to measures adopted or maintained by the Party with respect to the bond or financial security, to the extent that such bond or financial security constitutes a covered investment.

8. This Chapter does not apply to measures adopted or maintained by a Party to the extent that they are covered by Chapter 14 (Financial Services).

(1) For greater certainty, this Chapter is subject to and shall be interpreted in accordance with Annexes 12-A, 12-B, 12-C and 12-D.

Article 12.2. NATIONAL TREATMENT

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

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

Article 12.3. MOST-FAVORED-NATION TREATMENT

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

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

3. For greater certainty, the treatment with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments referred to in paragraphs 1 and 2 does not include dispute settlement procedures, such as those provided for in Section B of this Chapter, that are set forth in international treaties, including trade or investment agreements.

Article 12.4. MINIMUM STANDARD OF TREATMENT2 (2)

1. Each Party shall accord to covered investments treatment consistent with customary international law, including fair and equitable treatment and full protection and security.

2. For greater certainty, paragraph 1 prescribes that the minimum standard of treatment of aliens under customary international law is the minimum standard of treatment that may be accorded to covered investments. The concepts of fair and equitable treatment and full protection and security do not require treatment in addition to or beyond that required by that standard and do not create significant additional rights. The obligation in paragraph 1 to provide:

(a) fair and equitable treatment includes the obligation not to deny justice in criminal, civil or administrative adjudicatory proceedings, in accordance with the principle of due process embodied in the principal legal systems of the world; and

(b) full protection and security requires each Party to provide the level of police protection that in no case shall be higher than that accorded to nationals of the Party where the investment has been made.

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

(2) For greater certainty, Article 12.4 shall be interpreted in accordance with Annex 12-A.

Article 12.5. SENIOR MANAGEMENT AND BOARDS OF DIRECTORS

1. No Party may require an enterprise of that Party that is a covered investment to appoint natural persons of a particular nationality to senior management positions.

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

Article 12.6. PERFORMANCE REQUIREMENTS

1. No Party may, in connection with the establishment, acquisition, expansion, management, conduct, operation, sale, or other disposition of an investment of an investor in the territory of a Party, require the investor to meet performance requirements.

(a) to export a specified level of exports or to export a specified amount of goods or services to a Party or to a non-Party in its territory, to impose or enforce any requirement or to enforce any obligation or commitment to (3):

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

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

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

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

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

(f) to transfer a particular technology, production process or other proprietary knowledge to a person in its territory, except where the requirement is imposed or the obligation or commitment is enforced by a judicial or administrative tribunal or a competition authority to remedy a practice that has been determined after judicial or administrative proceedings to be anticompetitive under the Party's competition laws; (4) or

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

2. A measure that requires an investment to use a technology to comply with general regulations applicable to health, safety or the environment shall not be considered inconsistent with paragraph 1(f).

3. Paragraph 1(f) does not apply where a Party authorizes the use of an intellectual property right pursuant to Article 31 (5) of the TRIPS Agreement or to measures requiring the disclosure of proprietary information that falls within the scope of application of, and are consistent with Article 39 of the TRIPS Agreement (6).

4. For greater certainty, nothing in paragraph 1 shall be construed to prevent a Party, in connection with the establishment, acquisition, expansion, management, conduct, operation or sale or other disposition of a covered investment or an investment of an investor of a non-Party in its territory, from imposing or enforcing a requirement or enforcing an obligation or commitment to train workers in its territory.

5. No Party may condition the receipt of an advantage, or the continued receipt of an advantage, in connection with the establishment, acquisition, expansion, management, conduct, operation, sale or other disposition of an investment in its territory by an investor of a Party or of a non-Party on compliance with any of the following requirements:

(a) attaining a specified degree or percentage of domestic content;

(b) to purchase, use or grant preferences to goods produced in its territory or to purchase goods from persons in its territory;

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

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

6. Nothing in paragraph 5 shall be construed to prevent a Party from conditioning the receipt of an advantage, or the continued receipt of an advantage, in connection with an investment in its territory by an investor of a Party or of a non-Party on compliance with a requirement that it locate production, provide services, train or employ workers, construct or expand particular facilities, or carry out research and development, in its territory.

7. Paragraphs 1 and 5 shall not apply to any requirement other than the commitment, obligation or requirements set out in those paragraphs.

8. The provisions of paragraphs 1 and 5 shall not apply to any other requirement other than the commitment, obligation or requirements set forth in those paragraphs:

(a) paragraphs 1(a), (b) and (c), and 5(a) and (b) shall not apply to qualification requirements for goods or services with respect to export promotion programs and foreign aid programs; and

(b) paragraphs 5(a) and (b) shall not apply to requirements imposed by an importing Party with respect to the content of goods necessary to qualify for preferential duties or quotas.

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

(a) necessary to secure compliance with laws and regulations that are not inconsistent with the provisions of this Agreement;

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

(c) related to the preservation of living or non-living non-renewable natural resources.

10. Paragraphs 1(b), (c), (f) and (g), and 5(a) and (b) do not apply to government procurement.

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

(3) For greater certainty, a condition for the receipt or continued receipt of an advantage referred to in paragraph 5 does not constitute an "obligation or commitment" for purposes of paragraph 1.

(4) The Parties recognize that a patent does not necessarily confer market power.

(5) The reference to Article 31 of the TRIPS Agreement includes footnote 7 to that Article.

(6) For greater certainty, the reference to the TRIPS Agreement in this paragraph includes the provisions of the Protocol Amending the TRIPS Agreement, done at Geneva on December 6, 2005.

Article 12.7. NON-CONFORMING MEASURES

1. Articles 12.2, 12.3, 12.5, and 12.6 shall not apply to:

(a) any existing non-conforming measure that is maintained by a Party at:

(i) the central level of government, as set out by that Party in its Schedule to Annex I; or

(ii) the local level of government;

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

(c) the modification of any nonconforming measure referred to in paragraph (a), provided that such modification does not diminish the degree of conformity of the measure, as in effect immediately before the modification, with Article 12.2, 12.3, 12.5 or 12.6.

2. Articles 12.2, 12.3, 12.5 and 12.6 shall not apply to any measure that a Party adopts or maintains, in relation to sectors, sub-sectors or activities, as set out in its Schedule to Annex II.

3. Articles 12.2 and 12.3 shall not apply to any measure adopted under the exceptions under Articles 3, 4 and 5 of the TRIPS Agreement.

4. Neither Party may require, pursuant to any measure adopted after the date of entry into force of this Agreement and included in its Schedule to Annex II, an investor of the other Party, by reason of its nationality, to sell or otherwise dispose of an investment existing at the time the measure becomes effective.

5. The provisions of Articles 12.2, 12.3, and 12.5 shall not apply to:

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

(b) government procurement.

Article 12.8. MEASURES RELATED TO HEALTH, SAFETY, ENVIRONMENT, AND LABOR RIGHTS

1. The Parties recognize that it is inappropriate to promote investment by weakening or reducing protections under their domestic health, safety, environmental, and labor laws. Accordingly, each Party shall endeavor to ensure that it shall not waive or derogate from, or offer to waive or derogate from, such laws in a manner that weakens or reduces the protection afforded by such laws as a means of encouraging the establishment, acquisition, expansion or retention of an investment in its territory.

2. Nothing in this Chapter shall be construed to prevent a Party from adopting, maintaining or enforcing any measure otherwise consistent with this Chapter that it considers appropriate to ensure that investments in its territory are made taking into account health, safety, environmental and labor concerns.

Article 12.9. CORPORATE SOCIAL RESPONSIBILITY

Each Party shall encourage enterprises operating in its territory or subject to its jurisdiction to voluntarily incorporate into their internal policies internationally recognized standards of corporate social responsibility that have been approved by the Parties. These principles address issues such as labor rights, the environment, human rights, community relations, and anti-corruption.

Article 12.10. TREATMENT IN CASE OF DISPUTE

1. Notwithstanding Article 12.7.5(a), each Party shall accord to investors of the other Party and to covered investments nondiscriminatory treatment with respect to any measures it adopts or maintains with respect to losses suffered by investments in its territory as a result of armed conflict or civil strife.

2. Paragraph 1 shall not apply to existing measures relating to subsidies or grants that would be inconsistent with Article 12.2, with the exception of Article 12.7.5(a).

Article 12.11. EXPROPRIATION AND COMPENSATION (7)

1. No Party shall nationalize or expropriate a covered investment, whether directly or indirectly, by measures tantamount to expropriation or nationalization ("expropriation"), except:

(a) for a public purpose or in the social interest, in the case of Colombia; and

(b) for a public purpose or in the public interest, in the case of Costa Rica,

in accordance with due process, in a non-discriminatory manner and through the payment of prompt, adequate and effective compensation.

2. The compensation shall be paid without delay and shall be fully liquidable and freely transferable. Such 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 due to the fact that the intention to expropriate was known in advance of the date of expropriation.

3. If the fair market value is denominated in a freely usable currency, the compensation referred to in paragraph 1 shall not be less than the fair market value on the date of expropriation, plus interest at a commercially reasonable rate for that currency, accrued from the date of expropriation to the date of payment.

4. If the fair market value is denominated in a currency that is not freely usable, the compensation referred to in paragraph 1 - converted into the currency of payment at the market rate of exchange prevailing on the date of payment - shall not be less than:

(a) the fair market value on the date of expropriation, converted into a freely usable currency at the market rate of exchange prevailing on that date, plus;

(b) interest at a commercially reasonable rate for that freely usable currency, accrued from the date of expropriation to the date of payment.

5. The affected investor shall be entitled, under the national law of the Party enforcing the expropriation, to a review of its case by a judicial or other independent authority of that Party, and to the valuation of its investment in accordance with the

principles set forth in this Article.

6. The provisions of this Article shall not apply to the issuance of compulsory licenses granted in relation to intellectual property rights, or to the revocation, limitation or creation of intellectual property rights to the extent that such issuance, revocation, limitation or creation is consistent with the TRIPS Agreement.

(7) For greater certainty, Article 12.11 shall be interpreted in accordance with Annex 12-B on the explanation of indirect expropriation.

Article 12.12. TRANSFERS

Each Party shall, in accordance with its law, permit investors of the other Contracting Party to make transfers freely and without undue delay of:

(a) capital contributions;

(b) profits, dividends, interest, capital gains, royalty payments, management fees, technical assistance and other charges, returns in kind and other amounts derived from the investment;

(c) proceeds from the sale or liquidation of all or part of the covered investment;

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

(e) payments made pursuant to paragraph 1 of Articles 12.10 and 12.11; and

(f) payments arising from the application of Section B.

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

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

(a) bankruptcy, insolvency or protection of creditors' rights (8);

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

(c) criminal offenses;

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

(e) ensuring compliance with awards or judgments rendered in judicial or administrative proceedings.

(8) For greater certainty, creditors' rights include, inter alia, rights arising from social security, public pensions or compulsory savings programs.

Article 12.13. DENIAL OF BENEFITS

A Party may deny the benefits of this Agreement to:

(a) an investor of the other Party that is an enterprise of that other Party and to investments of such investor if a person of a non-Party owns or controls the enterprise and the enterprise does not conduct substantial business activities in the territory of the other Party; or

(b) an investor of the other Party that is an enterprise of that other Party and to the investments of such investor if the enterprise does not carry on substantial business activities in the territory of any Party, other than the denying Party, and a person of the denying Party owns or controls the enterprise.

Article 12.14. SPECIAL FORMALITIES AND REPORTING REQUIREMENTS

1. Nothing in Article 12.2 shall be construed to prevent a Party from adopting or maintaining a measure that prescribes special formalities in connection with a covered investment, such as a requirement that investors be residents of the Party

or that covered investments be constituted in accordance with the Party's laws or regulations, provided that such formalities do not significantly impair protection afforded by a Party to investors of the other Party and to investments covered under this Chapter.

2. Notwithstanding Articles 12.2 and 12.3, a Party may require an investor of the other Party or its covered investment to provide information concerning that investment solely for informational or statistical purposes. A Party may request information of a confidential nature only if its domestic law so permits. In such a case, that Party shall protect the information that is confidential from any disclosure that could adversely affect the competitive position of the investor or the covered investment. Nothing in this paragraph shall be construed to prevent a Party from obtaining or disclosing information relating to the equitable and good faith application of its domestic law.

Article 12.15. SUBROGATION

1. Where a Party or an agency authorized by it has provided insurance or some other financial guarantee against noncommercial risks in respect of an investment of one of its investors in the territory of the other Party, the latter Party shall recognize the rights of the former Party, or an agency authorized by it, to be subrogated to the rights of the investor where it has made a payment under such insurance or guarantee. The subrogated or transferred right or claim shall not be greater than the original right or claim of the investor.

2. Where a Party or a designated agency of the Party has made a payment to an investor of that Party and has assumed the rights and claims of the investor, that investor may not, unless it has been authorized to act on behalf of the Party or the designated agency of the Party that has made the payment, assert such rights and claims against the other Party.

Section B. INVESTOR-STATE DISPUTE SETTLEMENT

Article 12.16. CONSULTATIONS AND NEGOTIATION

1. In the event of a dispute concerning an investment, the disputing parties shall first seek to settle the dispute through consultations and negotiation, which may include the use of non-binding third-party procedures. The consultation and negotiation procedure shall be initiated by the request sent to the address designated in Annex 12-C. Such a request shall be sent to the respondent prior to the notice of intent referred to in Article 12.17 and shall include the information set forth in paragraphs 12.17.2(a), (b) and (c).

2. Consultations shall be held for a period of at least six months, which may be extended by agreement of the disputing parties, and may include face-to-face meetings in the capital of the respondent.

Article 12.17. SUBMISSION OF A CLAIM TO ARBITRATION

1. After the minimum period referred to in Article 12.16.2, if a disputing party considers that an investment dispute cannot be resolved through consultation and negotiation:

(a) the claimant, at its own expense, may submit to arbitration a claim alleging:

(i) that the respondent has breached an obligation under Section A, other than an obligation under Article 12.8, 12.9, or 12.14; and

(ii) the claimant has suffered loss or damage by reason of, or as a result of, such breach; and

(b) the claimant, on behalf of an enterprise of the respondent that is a legal person owned or controlled directly or indirectly by the claimant, may, in accordance with this Section, submit to arbitration a claim alleging:

(i) that the respondent has breached an obligation under Section A, other than an obligation under Article 12.8, 12.9, or 12.14; and

(ii) that the enterprise has suffered loss or damage by reason of or as a result of such breach.

2. Upon completion of the consultation and negotiation process under Article 12.16, the claimant shall deliver to the respondent a written notice of its intention to submit the claim to arbitration ("notice of intent") at least 90 days before a claim is submitted to arbitration under this Section. The notice shall specify:

(a) the name and address of the claimant and, if the claim is submitted on behalf of a corporation, the name, address and place of incorporation of the corporation;

(b) for each claim, the provision of Section A alleged to have been violated and any other applicable provision;

(c) the legal and factual issues on which each claim is based, including the relief at issue; and

(d) the relief sought and the approximate amount of damages claimed.

3. The claimant must also submit, together with its notice of intent, evidence establishing that it is an investor of the other Party.

4. After satisfying the conditions set out in paragraph 2 and Article 12.19, the claimant may submit the claim referred to in paragraph 1:

(a) in accordance with the ICSID Convention and the ICSID Rules of Procedure for Arbitral Proceedings, provided that both the respondent and the Party of the claimant are parties to the ICSID Convention;

(b) in accordance with the ICSID Additional Facility Rules, provided that either the respondent or the Party of the claimant is a party to the ICSID Convention;

(c) under the UNCITRAL Arbitration Rules; or

(d) if the disputing parties agree, before an ad hoc arbitration institution, or any other arbitration institution or under any other arbitration rules.

5. A claim shall be deemed to be submitted to arbitration under this Section when the claimant's notice or request for arbitration ("notice of arbitration"):

(a) referred to in Article 36(1) of the ICSID Convention, is received by the Secretary-General;

(b) referred to in Article 2 of Annex C of the ICSID Additional Facility Rules, is received by the Secretary-General;

(c) referred to in Article 3 of the UNCITRAL Arbitration Rules, together with the statement of claim referred to in Article 18 of the UNCITRAL Arbitration Rules, is received by the respondent; or

(d) referred to any other arbitration institution or under any arbitration rules selected under paragraph 4(d), is received by the respondent.

Where, subsequent to the submission of a claim to arbitration, an additional claim is submitted under the same arbitral proceedings, it shall be deemed submitted to arbitration under this Section on the date of its receipt under the applicable arbitral rules and the time limitation set forth in Article 12.19 shall apply.

6. The arbitration rules applicable pursuant to paragraph 4, and in effect on the date of the claim or claims submitted to arbitration under this Section, shall govern the arbitration except to the extent that they are modified or supplemented by this Agreement.

7. Liability between the disputing parties for the bearing of expenses, including, where appropriate, the award of costs pursuant to Article 12.22, arising out of their participation in the arbitration shall be established:

(a) by the arbitral institution before which the claim has been submitted to arbitration, in accordance with its rules of procedure; or

(b) in accordance with the rules of procedure agreed upon by the disputing parties, where applicable.

8. The claimant shall deliver with the notice of arbitration referred to in paragraph 5:

(a) the name of the arbitrator appointed by the claimant; or

(b) the claimant's written consent to the appointment of such arbitrator by the Secretary-General.

Article 12.18. CONSENT OF EACH PARTY TO ARBITRATION

1. Each Party consents to the submission of a claim to arbitration under this Section in accordance with this Agreement.

2. The consent referred to in paragraph 1 and the submission of the claim to arbitration under this Section shall comply with the requirements set out in:

(a) Chapter II of the ICSID Convention (Jurisdiction of the Centre) and the ICSID Additional Facility Rules, which require the

written consent of the parties to the dispute;

(b) Article II of the New York Convention, which requires an "agreement in writing"; and

Article I of the Inter-American Convention, which requires an agreement in writing.

Article 12.19. CONDITIONS AND LIMITATIONS ON EACH PARTY'S CONSENT

1. In order to submit a claim under this Section, domestic administrative procedures (9) must first be exhausted in accordance with applicable domestic law. These procedures shall not preclude the investor from requesting the consultations referred to in Article 12.16.

2. No claim may be submitted to arbitration under this Section if more than three years have elapsed from the date on which the claimant knew or should have known of the alleged breach under Article 12.17.1, and knowledge that the claimant, for claims brought under Article 12.17.1(a), or the enterprise, for claims brought under Article 12.17.1(b), suffered loss or damage.

3. No claim may be submitted to arbitration under this Section unless:

(a) the claimant consents in writing to arbitration in accordance with the procedures provided for in this Agreement; and

(b) the notice of arbitration referred to in Article 12.17.5 is accompanied by:

(i) for claims submitted to arbitration under Article 12.17.1(a), the written waiver of the claimant; and the written waiver of the claimant and the written waiver of the enterprise where the claim is made for loss or damage to its interest in an enterprise of the respondent Party that is a juridical person that the investor owns or controls directly or indirectly, at the time the notice is given; and

(ii) for claims submitted to arbitration under Article 12.17.1(b), of written waivers by the claimant and the enterprise of any right to initiate before any judicial or administrative tribunal under the law of any Party, or other dispute settlement procedures, any action with respect to any measure alleged to constitute a breach referred to in Article 12.17.

4. Notwithstanding paragraph 3(b), the claimant, for claims brought under Article 12.17.1(a), and the claimant or the enterprise, for claims brought under Article 12.17.1(b), may initiate or continue an interim measure of protection, not involving the payment of monetary damages, before a judicial or administrative tribunal of the respondent, provided that such measure is brought for the sole purpose of preserving the rights and interests of the claimant or the enterprise while the arbitration proceedings continue (10).

5. The waiver of an enterprise set forth in paragraph 3(b)(i) or 3(b)(ii) shall not be required only where it is alleged that the respondent deprived the claimant of control of the enterprise.

6. No claim may be submitted to arbitration under this Section if the claimant (for claims submitted under Article 12.17.1(a)) or the claimant or the enterprise (for claims submitted under Article 12.17.1(b)), has previously submitted the same alleged violation to an administrative or judicial tribunal of the respondent, or to any other binding dispute resolution procedure.

7. For greater certainty, if the Claimant elects to submit a claim described under this Section to an administrative or judicial tribunal of the Respondent or to any other binding dispute resolution mechanism, that election shall be final and the Claimant may not submit the same claim under this Section.

8. Failure to comply with any of the conditions precedent described in paragraphs 1 through 6 shall nullify the consent given by the Parties in Article 12.18.

(9) For greater certainty, domestic administrative procedures means for Colombia "vía gubernativa" and for Costa Rica "vía administrativa".

(10) In an interim measure, including measures seeking to preserve evidence and property pending the arbitration of the claim submitted to arbitration, a court or administrative tribunal of the respondent in a dispute submitted to arbitration pursuant to Section B shall apply the national law of that Party.

Article 12.20. PROCEDURE WITH RESPECT TO PRUDENTIAL MEASURES

1. Where an investor submits a claim to arbitration under this Section and the respondent invokes as a defense Article

12.12.3, or Article 21.5 (Balance of Payments Safeguards Exception), the tribunal established under Article 12.21 shall, at the request of the respondent, request a written report from the Parties, or from each Party, on the issue of whether and to what extent the provisions indicated are a valid defense to the investor's claim. The tribunal may not proceed until it receives the report or reports pursuant to this paragraph, except as provided in paragraph 2.

2. Where, within 90 days of request, the tribunal has not received the report or reports, the tribunal may proceed to decide the matter.

Article 12.21. SELECTION OF ARBITRATORS

1. Unless the disputing parties agree otherwise, the tribunal shall be composed of three arbitrators, one arbitrator to be appointed by each of the disputing parties and the third, who shall be the presiding arbitrator, to be appointed by agreement of the disputing parties.

2. The Secretary-General shall serve as appointing authority for the arbitrators in arbitration proceedings pursuant to this Section.

3. Arbitrators shall:

(a) have experience or expertise in public international law, international investment rules, or in the settlement of disputes arising under international investment agreements; and

(b) not be affiliated with, be bound by, or receive instructions from, either Party or the claimant.

4. Where a tribunal other than a tribunal established under Article 12.27 is not constituted within 90 days from the date on which the claim is submitted to arbitration under this Section, the Secretary-General shall, at the request of any disputing party, appoint, after consultation with the disputing parties, the arbitrator or arbitrators not yet appointed. Unless otherwise agreed by the Parties, the presiding arbitrator or arbitrators shall not be a national of either Party.

5. For the purposes of Article 39 of the ICSID Convention and Article 7 of Part C of the ICSID Additional Facility Rules, and without prejudice to objecting to an arbitrator on grounds other than nationality:

(a) the respondent accepts the appointment of each of the members of the tribunal established pursuant to the ICSID Convention or the ICSID Additional Facility Rules;

(b) the claimant referred to in Article 12.17.1(a) may submit a claim to arbitration under this Section, or continue a claim under the ICSID Convention or the ICSID Additional Facility Rules, only on condition that the claimant consents in writing to the appointment of each member of the tribunal; and

(c) the claimant referred to in Article 12.17.1(b) may submit a claim to arbitration under this Section, or continue a claim under the ICSID Convention or the ICSID Additional Facility Rules, only on condition that the claimant and the enterprise consent in writing to the appointment of each member of the tribunal.

Article 12.22. CONDUCT OF THE ARBITRATION

1. The disputing parties may agree on the legal place where any arbitration is to be held in accordance with the arbitration rules applicable under Article 12.17.4. In the absence of agreement between the disputing parties, the tribunal shall determine such place in accordance with the applicable arbitral rules, provided that the place is in the territory of a State that is a party to the New York Convention.

2. The tribunal shall have the authority to accept and consider written amicus curiae submissions from a person or entity that is a non-disputing party. Any non-disputing party that wishes to make written submissions to a tribunal (the applicant) may apply to the tribunal for permission in accordance with Annex 12-D.

3. Without prejudice to the tribunal's power to hear other objections as a preliminary question, such as an objection that the dispute is not within the tribunal's jurisdiction, a tribunal shall hear and decide as a preliminary question any objection by the respondent that, as a matter of law, the claim submitted is not a claim for which an award in favor of the claimant may be made under Article 12.28.

(a) Such objection shall be submitted to the tribunal as soon as practicable after the constitution of the tribunal, and in no event later than the date the tribunal fixes for the respondent to file its statement of defense (or in the case of an amendment to the notice of arbitration referred to in Article 12.17.5, the date the tribunal fixes for the respondent to file its response to the amendment).

(b) Upon receipt of an objection under this paragraph, the tribunal shall suspend any proceedings on the merits of the dispute, establish a timetable for consideration of the objection that is consistent with any timetable that has been established for consideration of any other preliminary issue and issue a decision or award on the objection, stating the grounds therefor.

(c) In deciding an objection under this paragraph, the tribunal shall take as true the factual allegations submitted by the claimant in support of any claim set forth in the notice of arbitration (or any amendment thereto) and, in disputes brought under the UNCITRAL Arbitration Rules, the statement of claim referred to in Article 18 of those rules. The tribunal may also consider any other relevant facts not in dispute.

(d) The Respondent does not waive any objection with respect to jurisdiction or any argument on the merits merely because it has or has not raised an objection under this paragraph, or avails itself of the expedited procedure set forth in paragraph 4.

4. If the respondent so requests, the tribunal shall, within 45 days after the date of the constitution of the tribunal, decide, in an expeditious manner, an objection under paragraph 3 and any other objection that the dispute is not within the competence of the tribunal. The tribunal shall suspend any action on the merits of the dispute and shall render a decision or award on such objection, stating the grounds therefor, not later than 150 days after the date of the request. However, if a disputing party requests a hearing, the tribunal may take an additional 30 days to issue the decision or award. Regardless of whether a hearing has been requested, the tribunal may, upon a showing of extraordinary cause, delay issuing its decision or award for an additional brief period, which may not exceed 30 days.

5. When the tribunal decides a respondent's objection under paragraph 3 or 4, it may, if warranted, award to the prevailing disputing party reasonable costs and attorney's fees incurred in making or opposing the objection. In determining whether such an award is warranted, the tribunal shall consider whether the claimant's claim or the respondent's objection was frivolous, and shall give the disputing parties a reasonable opportunity to comment.

6. The respondent shall not assert as a defense, counterclaim or right of set-off or on any other ground that the claimant has received or will receive indemnification or other compensation for all or any part of the alleged damages pursuant to an insurance or surety agreement.

7. The tribunal may recommend an interim measure of protection to preserve the rights of a disputing party, or for the purpose of ensuring the full exercise of the tribunal's jurisdiction, including an order to preserve evidence in the possession or control of a disputing party or to protect the tribunal's jurisdiction. The tribunal may not order the attachment or prevent the enforcement of a measure that is alleged to be a breach referred to in Article 12.17.

8. In any arbitration conducted under this Section, at the request of any disputing party, the tribunal shall, before rendering a decision or award on liability, communicate its proposed decision or award to the disputing parties and to the Party of the claimant. Within 60 days after such proposed decision or award is communicated, the disputing parties may submit written comments to the tribunal concerning any aspect of its proposed decision or award. The tribunal shall consider such comments and render its decision or award not later than 45 days after the expiration of the 60-day comment period. This paragraph shall not apply to any arbitration in which an appeal is available under paragraph 9.

9. If a separate multilateral treaty enters into force between the Parties establishing an appellate body for the purpose of reviewing awards rendered by tribunals constituted under international trade or investment agreements to hear investment disputes, the Parties shall endeavor to reach agreement that such appellate body shall review awards rendered under Article 12.28 in arbitrations commenced after the multilateral treaty enters into force between the Parties.

Article 12.23. ARTICLE 12.23: TRANSPARENCY IN ARBITRAL PROCEEDINGS

1. Subject to paragraphs 2 and 4, the respondent shall, after receiving the following documents, make them available to the non-disputing party and to the public:

(a) the notice of intent referred to in Article 12.17.2;

(b) the notice of arbitration referred to in Article 12.17.5;

(c) the pleadings, statements of claim and explanatory notes submitted to the tribunal by a disputing party and any written communications submitted pursuant to Article 12.22 and Article 12.27;

(d) orders, awards and decisions of the tribunal; and

(e) minutes or transcripts of tribunal hearings, when available.

2. The tribunal shall conduct hearings open to the public and shall determine, in consultation with the disputing parties, the appropriate logistical arrangements. However, any disputing party that intends to use information classified as protected information in a hearing shall so inform the tribunal. The tribunal shall make appropriate arrangements to protect the information from disclosure.

3. Nothing in this Section requires a respondent to make available protected information or to provide or permit access to information that it may withhold pursuant to Article 21.2 (Essential Security) and Article 21.4 (Disclosure of Information).

4. Any protected information that is submitted to the court shall be protected from disclosure in accordance with the following procedures:

(a) pursuant to paragraph (d), neither the disputing parties nor the tribunal shall disclose to the claimant Party or to the public any protected information, where the disputing party providing the information clearly so designates it in accordance with paragraph (b);

(b) any disputing party claiming that particular information constitutes protected information shall clearly designate it at the time it is submitted to the tribunal;

(c) a disputing party shall, at the same time it submits a document that contains information claimed to be protected information, submit a redacted version of the document that does not contain the information. Only the redacted version shall be provided to the non-disputing parties and shall be made public in accordance with paragraph 1; and

(d) the tribunal shall rule on any objection to the designation of information claimed to be protected information. If the tribunal determines that such information was not properly designated, the disputing party that submitted the information may:

(i) withdraw all or part of the submission containing such information; or.

(ii) agree to resubmit complete and redacted documents with corrected designations in accordance with the tribunal's determination and paragraph (c).

In either case, the other disputing party shall, where necessary, resubmit complete and redacted documents that omit the information withdrawn pursuant to paragraph (d)(i) by the disputing party that first submitted the information or redesignate the information in a manner consistent with the designation made pursuant to paragraph (d)(ii) of the disputing party that first submitted the information.

5. Nothing in this section requires a respondent to deny the public access to information that, under its law, is required to be disclosed.

Article 12.24. APPLICABLE LAW

1. Subject to paragraph 2, where a claim is brought under Article 12.17.1(a) or 12.17.1(b), the tribunal shall decide the issues in dispute in accordance with this Agreement and the prevailing rules of international law and, where applicable, the law of the Party in whose territory the investment was made.

2. A decision of the Commission declaring the interpretation of a provision of this Agreement under Article 20.1.3(c) (The Free Trade Commission) shall be binding on a tribunal established under this Section and any decision or award rendered by a tribunal shall be consistent with that decision.

Article 12.25. INTERPRETATION OF ANNEXES

1. Where the respondent raises as a defense that the measure alleged to be a breach is within the scope of Annex I or Annex II, the tribunal shall, at the request of the respondent, request an interpretation of the matter from the Commission. Within 60 days after delivery of the request, the Commission shall submit in writing to the tribunal any decision stating its interpretation under Article 20.1.3(c) (The Free Trade Commission).

2. The decision issued by the Commission under paragraph 1 shall be binding on the tribunal, and any decision or award issued by the tribunal shall be consistent with that decision. If the Commission fails to issue such a decision within 60 days, the tribunal shall decide the matter.

Article 12.26. EXPERT REPORTS

Without prejudice to the appointment of other types of experts where authorized by the applicable arbitration rules, the

tribunal, at the request of a disputing party or, on its own initiative, unless the disputing parties do not agree, may appoint one or more experts to report in writing on any factual issue concerning environmental, health, safety or other scientific matters raised by a disputing party in a proceeding, on such terms and conditions as the disputing parties may agree.

Article 12.27. CONSOLIDATION OF PROCEEDINGS

1. In cases where two or more separate claims have been submitted to arbitration under Article 12.17.1, and the claims raise in common a question of fact or law and arise out of the same facts or circumstances, any disputing party may seek a consolidation order in accordance with the agreement of all disputing parties in respect of which the consolidation order is sought or in accordance with the terms of paragraphs 2 through 10.

2. A disputing party seeking a joinder order pursuant to this Article shall deliver a written request to the Secretary-General and to all disputing parties in respect of which the consolidation order is sought and shall specify in the request the following:

(a) the name and address of all disputing parties in respect of which the order of consolidation is sought;

(b) the nature of the consolidation order sought; and

(c) the basis on which the request is made.

Unless the Secretary-General determines, within 30 days after receipt of a request pursuant to paragraph 2, that the request is manifestly unfounded, a tribunal shall be established under this Article.

4. Unless otherwise agreed by all disputing parties in respect of which the order for consolidation is sought, the tribunal to be established under this Article shall consist of three arbitrators:

(a) one arbitrator appointed by agreement of the claimants;

(b) one arbitrator appointed by the respondent; and

(c) the presiding arbitrator appointed by the Secretary-General, who shall not be a national of either Party.

5. If, within 60 days after receipt by the Secretary-General of the request made pursuant to paragraph 2, the respondent or the claimants fail to appoint an arbitrator pursuant to paragraph 4, the Secretary-General shall, at the request of any disputing party in respect of which the consolidation order is sought, appoint the arbitrator or arbitrators not yet appointed. If the respondent fails to appoint an arbitrator, the Secretary-General shall appoint a national of the respondent and, if the claimants fail to appoint an arbitrator, the Secretary-General shall appoint a national of a Party of the claimants.

6. Where the tribunal established under this Article has found that two or more claims under Article 12.17.1 are submitted to arbitration raising a common question of law or fact and arising out of the same facts or circumstances, the tribunal may, in the interest of reaching a fair and efficient resolution of the claims and after hearing the disputing parties, by order:

(a) assume jurisdiction, hear and determine jointly all or part of the claims;

(b) assume jurisdiction over, hear and determine one or more claims, the determination of which it considers would assist in the resolution of the other claims; or

(c) direct a tribunal established under Article 12.21 to assume jurisdiction over, hear and determine jointly all or part of the claims, provided that:

(i) that tribunal, upon the request of any claimant that was not previously a disputing party before that tribunal, is reinstated with its original members, except that the arbitrator on the claimants' side shall be appointed under paragraph 4(a) and paragraph 5; and

(ii) that tribunal decides whether to repeat any previous hearing.

7. Where a tribunal has been established under this Article, a claimant who has submitted a claim to arbitration under Article 12.17.1, and whose name is not mentioned in a request made under paragraph 2, may make a written request to the tribunal to the effect that such claimant be included in any order made under paragraph 6 and shall specify in the request:

(a) the name and address of the claimant;

(b) the nature of the order sought; and

(c) the grounds on which the application is based.

The applicant shall deliver a copy of its application to the Secretary-General and to the disputing parties named in the application under paragraph 2.

8. A tribunal established under this Article shall conduct the proceedings in accordance with the UNCITRAL Arbitration Rules, except as modified by this Section.

9. A tribunal established under Article 12.21 shall not have jurisdiction to decide a claim, or part of a claim, in respect of which a tribunal established or instructed under this Article has assumed jurisdiction.

10. On the request of a disputing party, a tribunal established under this Article may, pending its decision under paragraph 6, order that the proceedings of a tribunal established under Article 12.21 be adjourned, unless the latter tribunal has already adjourned its proceedings.

Article 12.28. AWARDS

1. Where a tribunal makes a final award against the respondent, the tribunal may award, separately or in combination, only:

(a) monetary damages and interest thereon; and

(b) restitution of property, in which case the award shall provide that the respondent may pay monetary damages plus interest in lieu of restitution.

The tribunal may also award costs and attorney's fees in accordance with this Section and the applicable arbitration rules.

2. Subject to paragraph 1, where a claim under Article 12.17.1(b) is submitted to arbitration:

(a) the award providing for restitution of property shall provide that restitution shall be awarded to the enterprise;

(b) the award providing for monetary damages and interest thereon shall provide that the sum of money be paid to the enterprise; and

(c) the award shall provide that the award is without prejudice to any right that any person may have to relief under applicable domestic law.

3. A tribunal is not authorized to order the payment of damages that are punitive in nature.

4. For greater certainty, a court shall not have jurisdiction to rule on the legality of the measure in respect of domestic law.

Article 12.29. FINALITY AND ENFORCEMENT OF AN AWARD

1. For greater certainty, an award rendered by a tribunal shall have no binding force except upon the disputing parties and then only in respect of the particular case.

2. Subject to paragraph 3 and to the review procedure applicable to an interim award, the disputing party shall promptly comply with and enforce the award.

3. The disputing party may not request enforcement of the final award until:

(a) in the case of a final award made under the ICSID Convention:

(i) 120 days have elapsed from the date on which the award was rendered and no disputing party has requested revision or annulment of the award; or

(ii) the revision or annulment proceedings have been completed; and

(b) in the case of a final award made under the ICSID Additional Facility Rules or the UNCITRAL Arbitration Rules or the rules selected pursuant to Article 12.17.4(d):

(i) 90 days have elapsed from the date on which the award was rendered and no disputing party has commenced proceedings to revise, set aside or annul the award; or

(ii) a tribunal has dismissed or allowed an application for revision, setting aside or annulment of the award and the decision is not subject to appeal.

4. Each Party shall provide for the proper enforcement of an award in its territory.

5. Where the respondent fails to comply with or abide by a final award, upon delivery of a request by the Party of the claimant, a panel shall be established in accordance with Article 18.6 (Establishment of a Panel). The requesting Party may request in such proceedings:

(a) a determination that the failure or disregard of the terms of the final award is contrary to the obligations of this Agreement; and

(b) in accordance with the procedures set forth in Article 18.11 (Panel Report) a recommendation that the respondent abide by or comply with the final award.

6. A disputing party may seek enforcement of an arbitral award under the ICSID Convention, the New York Convention or the Inter-American Convention, whether or not the procedures referred to in paragraph 5 have been initiated.

7. For the purposes of Article I of the New York Convention and Article I of the Inter-American Convention, a claim submitted to arbitration under this Section shall be deemed to arise out of a commercial relationship or transaction.

Article 12.30. SERVICE OF DOCUMENTS

Delivery of the notice and other documents to a Party shall be made at the place designated by it in Annex 12-C.

Section C. DEFINITIONS

Article 12.231. DEFINITIONS

For purposes of this Chapter:

ICSID means the International Centre for Settlement of Investment Disputes;

UNCITRAL means the United Nations Commission on International Trade Law;

New York Convention means the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York on June 10, 1958;

Inter-American Convention means the Inter-American Convention on International Commercial Arbitration, done at Panama on January 30, 1975;

ICSID Convention means the Convention on the Settlement of Investment Disputes between States and Nationals of other States, done at Washington on March 18, 1965;

respondent means the Party that is a party to an investment dispute;

claimant means the investor of a Party that is a party to an investment dispute with the other Party;

enterprise means an enterprise as defined in Article 1.4 (Definitions of General Application) and a branch of an enterprise;

enterprise of a Party means an enterprise incorporated or organized under the domestic law of a Party, and a branch office located in the territory of a Party and carrying on substantial business activities, in that territory;

protected information means:

(a) confidential business information; or

(b) information that is privileged or otherwise protected from disclosure under the Party's domestic law;

investment means any asset owned or controlled by an investor, directly or indirectly, that has the characteristics of an investment, including such characteristics as the commitment of capital or other resources, the expectation of gain or profit, or the assumption of risk. The forms that an investment may take include:

(a) an enterprise;

(b) shares, equity and other forms of participation in the assets of an enterprise;

(c) bonds, debentures, other debt instruments, and loans; (11)

(d) futures, options, and other equity investments.

(d) futures, options and other derivatives;

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

(f) intellectual property rights;

(g) licenses, authorizations, permits and similar rights granted in accordance with national law (12); and (h) licenses, authorizations, permits and similar rights granted in accordance with national law.

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

but investment does not include:

(i) an order or judgment entered in a judicial or administrative action;

(j) loans granted by a Party to the other Party or to a State enterprise;

(k) loans granted by an enterprise to the other Party or to a State enterprise;

(l) public debt transactions, debt of public institutions or a debt obligation of a Party or a state enterprise;

(m) pecuniary claims arising exclusively from:

(i) commercial contracts for the sale of goods or services by a national or enterprise in the territory of a Party to a national or enterprise in the territory of the other Party; or

(ii) the extension of credit in connection with a commercial transaction, such as trade financing, other than a loan covered by the provisions of paragraph (d); or

(n) any other pecuniary claim, not involving the interest rates set out in paragraphs (a) through (i),

a modification in the manner in which the assets have been invested or reinvested does not affect their investment status under this Agreement, provided that such modification falls within the definitions of this Article and is made in accordance with the domestic law of the Party into whose territory the investment has been admitted;

covered investment means, with respect to a Party, an investment in its territory of an investor of the other Party existing on the date of entry into force of this Agreement, as well as investments made, acquired or expanded thereafter;

investor of a Party means a Party or an enterprise of the State of the Party, or a national or enterprise of the Party, that intends to make, through specific actions (13), is making or has made an investment in the territory of the other Party; provided, however, that a natural person who has dual nationality shall be deemed to be exclusively a national of the State of his dominant and effective nationality;

measure includes any law, regulation, procedure, requirement, act or practice;

freely usable currency means "freely usable currency" as determined by the International Monetary Fund under the Articles of Agreement of the International Monetary Fund;

national means a natural person who has the nationality of a Party in accordance with Annex 1-A (Party-Specific Definitions);

disputing party means the claimant or the respondent;

disputing party means the claimant and the respondent;

non-disputing party means a person of a Party, or a person of a non-Party with a significant presence in the territory of a Party, that is not a party to an investment dispute under Section B;

UNCITRAL Arbitration Rules means the Arbitration Rules of the United Nations Commission on International Trade Law;

ICSID Additional Facility Rules means the Additional Facility Rules for the Administration of Proceedings by the Secretariat of the International Centre for Settlement of Investment Disputes;

Secretary-General means the Secretary-General of ICSID; and

tribunal means an arbitral tribunal established under Article 12.21 or 12.27.

(11) Some forms of debt, such as bonds, debentures, and long-term notes, are more likely to have the characteristics of an investment, while other forms of debt, such as claims for payment due immediately and as a result of sales of goods and services, are less likely to have these characteristics.

(12) Whether a type of license, authorization, permit or similar instrument (including a concession, to the extent that it is in the nature of such an instrument) has the characteristics of an investment depends on factors such as the nature and extent of the holder's rights under the Party's law. Among the licenses, authorizations, permits or similar instruments that do not have the characteristics of an investment are those that do not generate rights protected by domestic law. For greater certainty, the foregoing is without prejudice to whether an asset associated with such a license, authorization, permit or similar instrument has the characteristics of an investment.

(13) An investor means an investor intends to make an investment when it has taken the essential actions necessary to make the investment, such as providing funds to establish the capital of the enterprise, obtaining permits and licenses, among others.

Annex 12-A. CUSTOMARY INTERNATIONAL LAW

The Parties confirm their common understanding that customary international law, generally and as specifically referred to in Article 12.4, results from a general and consistent practice of States, followed by them in the sense of a legal obligation. With respect to Article 12.4, the minimum standard of treatment accorded to aliens by customary international law refers to all principles of customary international law that protect the economic rights and interests of aliens.

Annex 12-B. EXPROPRIATION

The Parties confirm their common understanding that:

(a) a measure or series of measures of a Party cannot constitute an expropriation unless it interferes with a tangible or intangible property right or with the essential attributes or powers of ownership of an investment;

(b) Article 12.11 addresses two situations. The first is direct expropriation, where an investment is nationalized or otherwise directly expropriated through the formal transfer of title or right of ownership;

(c) the second situation addressed by Article 12.11 is indirect expropriation, where a measure or series of measures by a Party has an effect equivalent to that of a direct expropriation without the formal transfer of title or right of ownership;

(d) the determination of whether a measure or series of measures of a Party, in a specific factual situation, constitutes an indirect expropriation requires a factual, case-by-case inquiry that considers among other factors:

(i) the economic impact of a Party's measure or series of measures, although the mere fact that a Party's measure or series of measures has an adverse effect on the economic value of an investment, standing alone, does not establish that an indirect expropriation has occurred;

(ii) the extent to which the measure or series of measures of a Party interferes with unambiguous and reasonable expectations of the investment; and

(iii) the character of the measure or series of measures of a Party;

(e) except in exceptional circumstances, such as where a measure or series of measures are disproportionate in light of their objective such that they cannot reasonably be considered to have been adopted and applied in good faith, non-discriminatory regulatory actions of a Party that are designed and applied to protect legitimate public welfare objectives, such as public health, safety, labor, and the environment, do not constitute an indirect expropriation (14).

(14) For greater certainty, the list of legitimate public welfare objectives in this paragraph is not exhaustive.

Annex 12-C. SERVICE OF DOCUMENTS ON A PARTY UNDER SECTION B (INVESTOR-STATE DISPUTE SETTLEMENT)

Notices and other documents in disputes under Section B shall be served by delivery to:

(a) Colombia:

Dirección de Inversión Extranjera y Servicios Ministerio de Comercio, Industria y Turismo Calle 28 No. 13ª-15 piso 3.

Bogotá, Colombia; and

(b) Costa Rica:

Ministry of Foreign Trade

Plaza Tempo Building, adjacent to the CIMA Hospital, on the Próspero Fernández Highway, Escazú

San José, Costa Rica, or their successors.

Annex 12-D. COMMUNICATIONS FROM NON-DISPUTING PARTIES

In determining whether to grant leave to make a non-disputing party's submission, the tribunal should consider, among other things, the extent to which:

(a) the non-disputing party's submission would assist the tribunal in the determination of a legal or factual issue relating to the arbitration by providing a perspective, particular knowledge, understanding that is different from that of the disputing parties;

(b) the non-disputing party's submission would address an issue within the scope of the dispute;

(c) the non-disputing party would have a significant interest in the arbitration; and

(d) there would be a public interest in the subject matter of the arbitration.

2. The tribunal must ensure that:

(a) any submission by a non-disputing party does not disrupt the proceedings; and

(b) no disputing party is unduly burdened or unfairly prejudiced by such submissions.

3. An application for leave to file written submissions by a non-disputing party shall be filed within the time limit set by the tribunal and shall:

(a) be in writing, be dated and signed by the applicant, and include the address and other contact details of the applicant;

(b) be no more than five pages in length;

(c) describe the applicant, including, where relevant, its membership and legal status (e.g., corporation, trade association or other non-governmental organization), its general objectives, the nature of its activities, and any parent organization (including any organization that the applicant directly or indirectly controls);

(d) disclose whether the applicant has any affiliation, directly or indirectly, with any disputing party;

(e) identify any government, person or organization that provided financial or other assistance during the preparation of the submission;

(f) specify the nature of the applicant's interest in the arbitration;

(g) identify the specific factual or legal issues in the arbitration to which the applicant will refer in its written submission;

(h) be in the language of the arbitration.

4. A written submission by a non-disputing party shall:

(a) be submitted within the time limit set by the tribunal;

(b) be dated and signed by the applicant;

(c) be concise and in no case exceed 20 pages, including annexes and appendices;

(d) duly substantiate its position; and

(e) refer only to the matters indicated in its application, in accordance with paragraph 3(g).

Chapter 13. CROSS-BORDER TRADE IN SERVICES

Article 13.1. SCOPE OF APPLICATION

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

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

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

(c) access to and use of distribution and transportation systems, or telecommunications networks and services related to the supply of a service;

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

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

2. For the purposes of this Chapter, measures adopted or maintained by a Party means measures adopted or maintained by:

(a) central or local governments or authorities; and

(b) non-governmental institutions in the exercise of powers delegated to them by central or local governments or authorities.

3. This Chapter shall not apply to:

(a) air services (1), including scheduled and non-scheduled domestic and international air transport services, as well as related services in support of air services, except:

(i) aircraft repair and maintenance services while the aircraft is out of service;

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

(iii) computer reservation system (CRS) services;

(b) government procurement; and

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

4. Articles 13.2, 13.5, 13.9, and 13.10 shall apply to measures of a Party that affect the supply of a service in its territory by a covered investment.2 5.

5. This Chapter does not impose any obligation on a Party with respect to a national of the other Party seeking to enter its labor market or to have permanent employment in its territory, or to confer any rights on that national with respect to such access or employment, nor shall it apply to measures relating to citizenship or residence on a permanent basis.

6. Nothing in this Chapter shall be construed to impose any obligation on a Party with respect to its immigration measures.

7. This Chapter does not apply to services supplied in the exercise of governmental authority. A service supplied in the exercise of governmental authority means any service that is supplied neither on a commercial basis nor in competition with one or more service suppliers.

8. This Chapter does not apply to measures adopted or maintained by a party with respect to financial services 3 except as provided in Chapter 14 (Financial Services).

9. For the purposes of this Agreement, the extraction of natural resources, the generation of electricity, the refining of crude oil and petroleum products, hunting and fishing shall not be considered services.

(1) For greater certainty, the term air services includes traffic rights and specialized air services.

Article 13.2. SUBSIDIES

1. Notwithstanding Article 13.1.3(c), if the results of the negotiations relating to Article XV.1 of the GATS enter into force for each Party, this Article shall be reviewed jointly, as appropriate, with a view to determining whether this Article should be modified so that those results are incorporated into this Agreement. The Parties agree to coordinate such negotiations, as appropriate.

2 The Parties understand that nothing in this Chapter, including this paragraph, is subject to Section B (Investor-State Dispute Settlement) of Chapter 12 (Investment).

3 For greater certainty, the supply of financial services shall mean the supply of services as defined in Article I.2 of the GATS.

Article 13.3. NATIONAL TREATMENT

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

Article 13.4. MOST-FAVORED-NATION TREATMENT

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

Article 13.5. MARKET ACCESS

No Party may adopt or maintain, on the basis of a regional subdivision or its entire territory, measures that:

(a) impose limitations on:

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

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

(iii) the total number of service transactions or the total amount of service output, expressed in designated numerical units, in the form of quotas or through the requirement of an economic needs test (4);

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

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

(4) Paragraph (iii) does not cover measures of a Party that limit inputs for the supply of services.

Article 13.6. LOCAL PRESENCE

No Party may require a service supplier of the other Party to establish or maintain a representative office or other form of business, or to reside in its territory, as a condition for the cross-border supply of a service.

Article 13.7. NON-CONFORMING MEASURES

1. Articles 13.3, 13.4, 13.5, and 13.6 shall not apply to:

(a) any existing non-conforming measure that is maintained by a Party at:

(i) the central level of government, as set out by that Party in its Schedule to Annex I; or

(ii) the local level of government;

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

(c) the modification of any non-conforming measure referred to in paragraph (a), provided that such modification does not decrease the degree of conformity of the measure, as in effect immediately prior to the modification, with Article 13.3, 13.4, 13.5 or 13.6.

2. Articles 13.3, 13.4, 13.5, and 13.6 shall not apply to any measure that a Party adopts or maintains with respect to sectors, subsectors, or activities as set out in its Schedule to Annex II.

Article 13.8. NOTIFICATION5

1. In the event that a Party makes an amendment or modification to any existing non-conforming measure set out in its Schedule to Annex I, in accordance with Article 13.7.1(c), the Party shall notify the other Party of such amendment or modification at the meetings of the Commission.

2. In the event that a Party adopts a measure after the entry into force of this Agreement with respect to the sectors, subsectors or activities set out in its Schedule to Annex II, the Party shall, to the extent possible, notify the other Party of such measure.

5 The Parties understand that nothing in this Article is subject to the dispute settlement procedure of this Agreement set out in Chapter 18 (Dispute Settlement).

Article 13.9. TRANSPARENCY IN THE DEVELOPMENT AND APPLICATION OF REGULATIONS (6)

In addition to Chapter 19 (Transparency):

(a) each Party shall establish or maintain appropriate mechanisms to respond to inquiries from interested persons concerning its regulations relating to the subject matter of this Chapter (7);

(b) at the time of adopting final regulations relating to the subject matter of this Chapter, each Party shall respond in writing, to the extent practicable, including upon request, to substantive comments received from interested persons with respect to the draft regulations; and

(c) to the extent possible, each Party shall provide a reasonable period of time between the publication of final regulations and the date on which they become effective.

(6) For greater certainty, regulations include regulations establishing or applying licensing criteria or authorizations.

(7) The implementation of the obligation to establish appropriate mechanisms for small administrative bodies may need to take into account budgetary and resource constraints.

Article 13.10. DOMESTIC REGULATIONS

1. Each Party shall ensure that all measures of general application to which this Chapter applies are administered in a reasonable, objective, and impartial manner. This obligation shall not apply to the measures covered by Annex I or to the measures covered by Annex II of each Party.

(a) Each Party shall maintain or establish as soon as practicable judicial, arbitral or administrative tribunals or procedures that permit, at the request of an affected service supplier of the other Party, the prompt review of administrative decisions affecting trade in services and, where warranted, the application of appropriate remedies. Where such procedures are not independent of the body responsible for the administrative decision in question, the Party shall ensure that they do in fact permit an objective and impartial review.

(b) The provisions of paragraph 2(a) shall not be construed to impose an obligation on any Party to establish such tribunals or procedures where this would be inconsistent with its constitutional structure or the nature of its legal system.

3. Where a Party requires authorization for the supply of a service, the competent authorities of that Party shall, within a reasonable period of time after the submission of an application that is considered complete under its national laws and regulations shall inform the applicant of the decision on its application. At the request of such applicant, the competent

authorities of the Party shall, without undue delay, provide information concerning the status of the application. This obligation shall not apply to authorization requirements covered by Article 13.7.2.

4. In order to ensure that measures relating to qualification requirements and procedures, technical standards, and licensing requirements do not constitute unnecessary barriers to trade in services, each Party shall endeavor to ensure, in a manner appropriate to each individual sector, that such measures:

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

(b) are no more burdensome than necessary to ensure quality of service; and

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

5. In determining whether a Party is in conformity with its obligations under paragraph 4, account shall be taken of the provisions of Article VI.5(b) of the GATS.

6. The Parties recognize their mutual obligations relating to domestic regulation in Article VI.4 of the GATS and affirm their commitment to the development of any necessary disciplines under Article VI.4. To the extent that any such disciplines are adopted by WTO Members, the Parties shall jointly review them, as appropriate, with a view to determining whether this Article should be modified so that such results are incorporated into this Agreement.

Article 13.11. MUTUAL RECOGNITION

1. For the purposes of complying, in whole or in part, with its standards or criteria for the authorization or certification of service suppliers or the licensing of service suppliers, and subject to the requirements of paragraph 4, a Party may recognize education or experience obtained, requirements met, or licenses or certificates granted in a particular country. Such recognition, which may be effected through harmonization or otherwise, may be based on an agreement or arrangement with the country concerned or may be granted autonomously.

2. Where a Party recognizes, autonomously or by agreement or arrangement, education or experience obtained, qualifications completed, or licenses or certificates granted in the territory of a non-Party, nothing in Article 13.4 shall be construed to require the Party to grant such recognition to education or experience obtained, qualifications completed, or licenses or certificates granted in the territory of the other Party.

3. A Party that is a party to an existing or future agreement or arrangement of the type referred to in paragraph 1 shall provide adequate opportunities for the other Party, if the other Party is interested, to negotiate its accession to such agreement or arrangement or to negotiate comparable agreements or arrangements with it. Where a Party grants recognition autonomously, it shall provide adequate opportunities for the other Party to demonstrate that education, experience, licenses or certificates obtained or requirements fulfilled in the territory of that other Party should be subject to recognition.

4. No Party shall grant recognition in a manner that would constitute a means of discrimination between countries in the application of its standards or criteria for the authorization or certification of, or the licensing of service suppliers, or a disguised restriction on trade in services.

5. The Parties shall endeavor, to the extent possible, to encourage relevant professional services bodies in their territory to consider the use of standards and criteria in Annex 13-A in discussions for a potential agreement or arrangement referred to in paragraph 1.

Article 13.12. TRANSFERS AND PAYMENTS

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

2. Each Party shall permit all transfers and payments related to the cross-border supply of services to be made in freely usable currency at the market rate of exchange prevailing on the date of the transfer.

3. Notwithstanding paragraphs 1 and 2, a Party may prevent or delay the completion of the transfer or payment by the equitable, non-discriminatory and good faith application of its laws with respect to:

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

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

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

(d) criminal or penal offenses; or

(e) securing compliance with judicial or administrative orders or judgments.

Article 13.13. DENIAL OF BENEFITS

Subject to prior notification in accordance with Article 19.3 (Provision of Information) and consultations (8), a Party may deny the benefits of this Chapter to:

(a) a service supplier of the other Party if the service supplier is an enterprise owned or controlled by persons of a non-Party and the enterprise does not have substantial business activities in the territory of the other Party; or

(b) a service supplier of the other Party if the service supplier is an enterprise owned or controlled by persons of the denying Party and the enterprise does not have substantial business activities in the territory of the other Party.

(8) The term consultations in this Article does not refer to the consultations in Article 18.4 (Consultations).

Article 13.14. IMPLEMENTATION

The Parties shall consult annually, or as otherwise agreed, to review the implementation of this Chapter and to consider other matters of trade in services of mutual interest.

Article 13.15. DEFINITIONS

For purposes of this Chapter:

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

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

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

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

but does not include the supply of a service in the territory of a Party by a covered investment or by an investor of the other Party, as defined in Article 12.31 (Definitions);

enterprise means an enterprise as defined in Article 1.4 (Definitions of General Application) and a branch of an enterprise;

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

service supplier of a Party means a person of that Party that intends to supply or does supply a service (9);

specialized air services means any air services other than transportation, such as aerial mapping, aerial surveying, aerial photography, forest fire control, firefighting, aerial advertising, glider towing, parachute services, construction air services, log or log timber transport, scenic flights, training flights, aerial inspection and surveillance and spraying, and other air services related to agriculture and industry;

aircraft repair and maintenance services means activities performed on an aircraft or part of an aircraft while the aircraft is out of service and does not include so-called line maintenance;

computer reservation system (CRS) services means services provided by means of computerized systems containing information about air carrier schedules, available seats, fares and fare setting rules, and by means of which reservations can be made or tickets issued;

professional services means services which for their supply require higher education (10) or equivalent training or experience and the exercise of which is authorized or restricted by a Party, but does not include services supplied by persons engaged in a trade or to crew members of merchant ships and aircraft; and

sale or marketing of an air transport service means the opportunities for the air carrier concerned to freely sell and market

its air transport services, and all aspects of marketing, such as market research, advertising and distribution, but does not include the pricing of air transport services or the applicable conditions.

(9) The Parties understand that for purposes of Articles 13.3, 13.4, and 13.5, service suppliers has the same meaning as services and service suppliers as used in GATS Articles XVII, II, and XVI, respectively.

(10) For greater certainty, higher education shall be understood as provided for in the legislation of the Parties.

Annex 13-A. PROFESSIONAL SERVICES

Development of Professional Services Standards

1. Each Party shall encourage the relevant bodies in its respective territory to develop mutually acceptable standards and criteria for the licensing and certification of professional service suppliers and to submit recommendations to the Commission on their mutual recognition.

2. The standards and criteria referred to in paragraph 1 may be developed in relation to the following:

(a) education: accreditation of educational institutions or academic programs;

(b) examinations: qualifying examinations for licensing, including alternative methods of evaluation, such as oral examinations and interviews;

(c) experience: length and nature of experience required to obtain a license;

(d) conduct and ethics: standards of professional conduct and the nature of disciplinary action in the event of contravention of those standards;

(e) professional development and recertification: continuing education and the corresponding requirements for maintaining professional certification;

(f) scope of practice: scope or limits of authorized activities; and

(g) local knowledge: requirements regarding knowledge of aspects such as laws, regulations, language, geography or local climate.

3. Upon receipt of a recommendation referred to in paragraph 1, the Commission shall review it within a reasonable time to decide whether it is consistent with this Agreement. Based on the Commission's review, each Party shall encourage its respective competent authorities to implement that recommendation, where appropriate, within a mutually agreed time period.

Temporary Licenses

4. For mutually agreed individual professional services, each Party shall encourage the competent bodies in its territory to develop procedures for the temporary licensing of professional service suppliers of the other Party.

Working Group on Professional Services

5. The Parties, by mutual agreement, may establish a Working Group on Professional Services, including representatives of the relevant professional bodies of each Party, to facilitate the activities listed in paragraphs 1 and 4.

6. The Working Group may consider the following matters:

(a) procedures to encourage the development of mutual recognition agreements or arrangements between their relevant professional bodies;

(b) developing workable procedures on standards for licensing and certification of professional service providers;

(c) identify priority professional services for their work; and

(d) other matters of mutual interest related to the provision of professional services.

7. Pursuant to paragraph 1, the Parties shall use their best efforts to establish the Working Group no later than one year

after the entry into force of this Agreement.

8. Within one year of the establishment of the Working Group, the Working Group shall report to the Commission on its progress and future work plan.

Review

9. The Commission shall review the implementation of this Annex at least once every three years.

Chapter 14. FINANCIAL SERVICES

Article 14.1. SCOPE OF APPLICATION

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

(a) financial institutions of the other Party;

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

(c) cross-border trade in financial services.

2. Chapters 12 (Investment) and 13 (Cross-Border Trade in Services) shall apply to the measures described in paragraph 1 only to the extent that those Chapters or Articles of those Chapters are incorporated into this Chapter.

(a) Articles 12.8 (Measures Relating to Health, Safety, Environment, and Labor Rights), 12.11 (Expropriation and Compensation), 12.12 (Transfers), 12.13 (Denial of Benefits), 12.14 (Special Formalities and Information Requirements) and 13.13 (Denial of Benefits) are incorporated into and form an integral part of this Chapter.

(b) Section B (Investor-State Dispute Settlement) of Chapter 12 (Investment) is incorporated into and made part of this Chapter only for claims that a Party has breached Article 12.11 (Expropriation and Compensation), 12.12 (Transfers), and 12.13 (Denial of Benefits), or 12.14 (Special Formalities and Information Requirements), as incorporated into this Chapter.

(c) Article 13.12 (Transfers and Payments) is incorporated into and forms an integral part of this Chapter to the extent that cross-border trade in financial services is subject to the obligations under Article 14.5.

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

(a) activities or services that are part of a public retirement plan or statutory social security scheme; or

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

provided, however, that this Chapter shall apply if a Party permits any of the activities or services referred to in paragraph (a) or (b) to be performed by its financial institutions in competition with a public entity or a financial institution.

Article 14.2. NATIONAL TREATMENT

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

3. For purposes of the national treatment obligations in Article 14.5.1, a Party shall accord to cross-border financial service suppliers of the other Party treatment no less favorable than that it accords, in like circumstances, to its own financial service suppliers with respect to the supply of the relevant service.

Article 14.3. MOST-FAVORED-NATION TREATMENT

1. Each Party shall accord to investors of the other Party, to financial institutions of the other Party, to investments of investors in financial institutions, and to cross-border financial service suppliers of the other Party, treatment no less

favorable than that it accords, in like circumstances, to investors, to financial institutions, to investments of investors in financial institutions, and to cross-border financial service suppliers of a non-Party.

2. A Party may recognize prudential measures of a non-Party in the application of measures covered by this Chapter. Such recognition may be:

(a) granted unilaterally;

(b) achieved by harmonization or other means; or

(c) based on a convention or agreement with a non-Party.

3. A Party granting recognition of prudential measures under paragraph 2 shall provide the other Party with adequate opportunity to demonstrate that circumstances exist in which there are or will be equivalent regulation, supervision and enforcement and, if appropriate, that there are or will be procedures relating to the exchange of information between the Parties.

4. Where a Party grants recognition of prudential measures in accordance with paragraph 2(c) and the circumstances set out in paragraph 3 exist, the Party shall provide adequate opportunity for the other Party to negotiate accession to the convention or agreement, or to negotiate a comparable convention or agreement.

Article 14.4. RIGHT OF ESTABLISHMENT

1. A Party shall permit an investor of the other Party that does not control or own a financial institution in the Party's territory to establish a financial institution authorized to supply financial services that such financial institution may supply in accordance with the Party's domestic law at the time of establishment, without the imposition of numerical restrictions or specific types of legal form requirements. The obligation not to impose requirements of specific types of legal form does not, subject to Article 14.2, preclude a Party from imposing terms, conditions, or other requirements in connection with the establishment of a particular type of entity chosen by an investor of the other Party.

2. A Party shall permit an investor of the other Party that controls or owns a financial institution in the territory of the Party to establish such additional financial institutions as may be necessary for the supply of the full scope of financial services permitted under the Party's domestic law at the time of the establishment of the additional financial institutions. Subject to Article 14.2, a Party may impose terms, conditions, or other requirements for the establishment of additional financial institutions and determine the institutional and legal form to be used for the supply of specific financial services or to carry out specific activities.

3. The right of establishment under paragraphs 1 and 2 shall include the acquisition of existing entities.

4. Subject to Article 14.2, a Party may prohibit a specific financial service or activity. Such prohibition shall not apply to all financial services or to an entire subsector of financial services, such as banking services.

5. For the purposes of this Article, numerical restrictions means limitations imposed, whether on a regional subdivision basis or on the entire territory of a Party, on the number of financial institutions, whether in the form of numerical quotas, monopolies, exclusive service suppliers or by requiring an economic needs test.

Article 14.5. CROSS-BORDER TRADE

1. Each Party shall permit, on terms and conditions that accord national treatment, cross-border financial service suppliers of the other Party to supply the services specified in Annex 14-A.

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 the other Party. This does not oblige a Party to allow such suppliers to do business or advertise in its territory. Each Party may define doing business and advertising for the purposes of this obligation, provided that such definitions are not inconsistent with paragraph 1.

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

Article 14.6. NEW FINANCIAL SERVICES (1)

1. Each Party shall permit a financial institution of the other Party to supply any new financial service that that Party would permit its own financial institutions to supply in like circumstances, without further legislative action by the Party.

2. A Party may determine the legal and institutional form through which the new financial service may be supplied and may require authorization for the supply of the new financial service. Where a Party requires authorization to supply a new financial service, the decision shall be made within a reasonable period of time and the authorization may be refused only on prudential grounds or for failure to meet requirements.

(1) The Parties understand that nothing in Article 14.6 prevents a financial institution of a Party from requesting the other Party to consider authorizing the supply of a financial service that is not supplied in the territory of either Party. The request shall be subject to the domestic regulations of the Party to which the request is made, and for greater certainty, shall not be subject to the obligations of Article 14.6.

Article 14.7. TREATMENT OF CERTAIN TYPES OF INFORMATION

Nothing in this Chapter obliges a Party to disclose or allow access to:

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

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

Article 14.8. SENIOR EXECUTIVES AND BOARDS OF DIRECTORS

No Party may require that financial institutions of the other Party employ persons of a particular nationality for senior executive or other key personnel.

No Party may require that more than a minority of the Board of Directors of a financial institution of the other Party be composed of nationals of the Party, persons residing in the territory of the Party, or a combination of both.

Article 14.9. NON-CONFORMING MEASURES

1. Articles 14.2 through 14.5 and 14.8 shall not apply to:

(a) any existing non-conforming measure that is maintained by a Party at:

(i) the central level of government, as set out by that Party in its Schedule to Annex III; or

(ii) the local level of government;

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

(c) the modification of any nonconforming measure referred to in paragraph (a), provided that such modification does not diminish the degree of conformity of the measure as in effect:

(i) immediately prior to the modification, with Article 14.2, 14.3, 14.4 or 14.8; or

(ii) as of the date of entry into force of this Agreement, with Article 14.5.

2. Articles 14.2 through 14.5 and 14.8 shall not apply to any measures that a Party adopts or maintains with respect to sectors, subsectors, or activities as set out in its Schedule to Annex III.

3. A non-conforming measure set out in a Party's Schedule to Annex I or II as a measure to which Article 12.2 (National Treatment), 12.3 (Most-Favored-Nation Treatment), 13.3 (National Treatment), or 13. 4 (Most-Favored-Nation Treatment) shall be treated as a non-conforming measure to which Article 14.2 or 14.3, as the case may be, does not apply, to the extent that the measure, sector, subsector, or activity set out in the Schedule is covered by this Chapter.

Article 14.10. EXCEPTIONS

1. Nothing in this Chapter or this Agreement shall be construed to prevent a Party from adopting or maintaining measures for prudential reasons (2), including for the protection of investors, financial market participants, depositors, policyholders, policyholders, insureds, or beneficiaries, or persons to whom a financial institution or cross-border financial service supplier owes a fiduciary duty, or to ensure the integrity and stability of the financial system. Where such measures are not in accordance with the provisions of this Chapter or this Agreement, they shall not be used as a means of avoiding the

Party's obligations under those provisions.

2. Nothing in this Chapter or this Agreement applies to non-discriminatory measures of a general nature taken by any governmental entity in pursuance of monetary, credit, related or exchange rate policies. This paragraph shall not affect a Party's obligations under Article 12.6 (Performance Requirements) with respect to measures covered by Chapter 12 (Investment) or under Articles 12.12 (Transfers) or 13.12 (Transfers and Payments).

3. Notwithstanding the provisions of Articles 12.12 (Transfers) and 13. 12 (Transfers and Payments) as incorporated into this Chapter, a Party may prevent or limit transfers by a financial institution or cross-border financial service supplier to or for the benefit of a person affiliated or related to such institution or supplier through the equitable, non-discriminatory and good faith application of measures relating to the maintenance of the safety, soundness, integrity or financial responsibility of financial institutions or cross-border financial service suppliers. This paragraph is without prejudice to any other provision of this Agreement that allows the Party to restrict transfers.

4. For greater certainty, nothing in this Chapter shall be construed to prevent a Party from adopting or applying measures necessary to secure compliance with laws or regulations that are not inconsistent with this Chapter, including those relating to the prevention of deceptive and fraudulent practices or to address the effects of a breach of financial services contracts, subject to the requirement that such measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on investment in financial institutions or on cross-border trade in financial services.

2 The term "prudential reasons" is understood to include the maintenance of the safety, soundness, integrity or financial responsibility of individual financial institutions or cross-border financial service suppliers.

Article 14.11. TRANSPARENCY

1. The Parties recognize that transparent regulations and policies governing the activities of financial institutions and cross-border financial service suppliers are important to facilitate financial institutions and cross-border financial service suppliers' access to and operations in each Party's market. Each Party undertakes to promote regulatory transparency in financial services.

2. In lieu of Article 19.2 (Publication), each Party shall, to the extent practicable:

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

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

3. The regulatory authorities of each Party shall make publicly available the requirements, including any necessary documentation, for completing applications relating to the supply of financial services.

4. Upon request, the regulatory authority of a Party shall inform the interested party of the status of its application. Where the authority requires additional information from the applicant, it shall notify the applicant without undue delay.

5. Within 120 days, the regulatory authority of a Party shall make an administrative decision on a complete application of an investor in a financial institution, a financial institution or a cross-border financial service supplier of the other Party relating to the supply of a financial service, and shall promptly notify the applicant of the decision. An application shall not be considered complete until all relevant hearings have been held and all necessary information has been received. Where it is not practicable to make a decision within 120 days, the regulatory authority shall notify the applicant without undue delay and shall attempt to make the decision subsequently within a reasonable period of time.

6. Each Party shall maintain or establish appropriate mechanisms for responding to inquiries from interested parties regarding measures of general application covered by this Chapter.

7. Each Party shall ensure that standards of general application adopted or maintained by self-regulatory organizations of the Party are published in a timely manner or otherwise made available so that interested persons may become aware of them.

8. To the extent practicable, each Party shall allow a reasonable period of time between the publication of final regulations and their entry into force.

9. In adopting final regulations, the Party shall, to the extent practicable, consider in writing substantive comments received

from interested parties with respect to the proposed regulations.

Article 14.12. SELF-REGULATORY BODIES

Where a Party requires a financial institution or cross-border financial service supplier of another Party to be a member of, participate in, or have access to a self-regulatory entity in order to provide a financial service in or into the territory of that Party, the Party shall ensure that such self-regulatory entity complies with the obligations in Article 14.2.

Article 14.13. PAYMENT AND CLEARING SYSTEMS

Each Party shall grant, on terms and conditions that accord national treatment, to financial institutions of another Party established in its territory, access to payment and clearing systems administered by public entities and to official means of financing and refinancing available in the ordinary course of business. This paragraph is not intended to grant access to the Party's lender of last resort facilities.

Article 14.14. FINANCIAL SERVICES COMMITTEE

1. The Parties establish the Financial Services Committee (hereinafter referred to as the "Committee"), composed of representatives of each Party. The principal representative of each Party shall be an official of the Party's authority responsible for financial services set out in Annex 14-B.

2. The functions of the Committee shall include, inter alia:

(a) overseeing the implementation of this Chapter and its further development;

(b) considering matters relating to financial services referred to it by a Party; and

(c) participating in dispute settlement procedures under Article 14.17.

3. Unless otherwise agreed by the Parties, the Committee shall meet at least once a year, on a date and according to an agenda previously agreed, to evaluate the operation of this Agreement with respect to financial services. By mutual agreement, the Parties may hold extraordinary meetings. The Committee shall report to the Commission on the results of each meeting.

4. The meetings may be held by any means agreed by the Parties. When they are face-to-face, they shall be held alternately in the territory of each Party, and it shall be the responsibility of the host Party to organize the meeting.

5. Unless otherwise agreed by the Parties, the Committee shall be of a permanent nature and shall draw up its working rules.

6. All decisions of the Committee shall be taken by mutual agreement.

Article 14.15. CONSULTATIONS

1. A Party may request consultations with the other Party with respect to any matter under this Agreement affecting financial services. The other Party shall give due consideration to the request. The Parties shall inform the Committee of the results of the consultations.

2. Consultations under this Article shall include officials of the authorities set out in Annex 14-B.

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

4. Nothing in this Article shall be construed to require a Party to derogate from its relevant legislation relating to the exchange of information between financial regulators or the requirements of an agreement or arrangement between the Parties' financial authorities.

Article 14.16. DISPUTE SETTLEMENT

1. Chapter 18 (Dispute Settlement) shall apply, as modified by this Article, to the settlement of disputes arising out of the application of this Chapter.

2. Where a Party claims that a dispute arises under this Chapter, Article 18.9 (Panel Selection) shall apply, except:

(a) where the disputing Parties so agree, the panel shall be composed entirely of panelists who meet the qualifications set out in paragraph 3; and

(b) in any other case:

(i) each disputing Party may select panelists that meet the qualifications set out in paragraph 3 or in Article 18.8 (Panelist Qualifications); and

(ii) if the Party complained against invokes Article 14.10, the chair of the panel shall meet the qualifications set out in paragraph 3, unless the disputing Parties agree otherwise.

3. Financial services panelists shall:

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

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

(c) be independent and not be bound by or take instructions from any Party; and

(d) comply with the Code of Conduct to be established by the Commission.

4. Notwithstanding Article 18.14 (Non-Compliance - Suspension of Benefits), where a panel finds that a measure is inconsistent with this Agreement and the measure under dispute affects:

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

(b) only a sector other than the financial services sector, the complaining Party may not suspend benefits in the financial services sector; or

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

Article 14.17. FINANCIAL SERVICES INVESTMENT DISPUTES

1. Where an investor of a Party submits a claim under Section B (Investor-State Dispute Settlement) of Chapter 12 (Investment) and the respondent invokes Article 14.10, the tribunal shall, at the request of the respondent, refer the matter in writing to the Committee for a decision. The tribunal may not proceed pending receipt of a decision or report under this Article.

2. In the referral made pursuant to paragraph 1, the Committee shall decide whether and to what extent Article 14.10 is a valid defense to the investor's claim. The Committee shall send a copy of its decision to the tribunal and to the Commission. The decision shall be binding on the tribunal.

3. Where the Committee has not decided the matter within 60 days of receipt of the referral pursuant to paragraph 1, the respondent or the Party of the claimant may request the establishment of a Panel pursuant to Article 18.6 (Establishment of a Panel). The Panel shall be composed in accordance with Article 14.16. The Panel shall send its final report to the Committee and to the tribunal. The report shall be binding on the tribunal.

4. Where the establishment of a Panel has not been requested in accordance with paragraph 3 within 10 days after the expiration of the 60-day period referred to in paragraph 3, the tribunal may proceed to decide the case.

5. For purposes of this Article, tribunal means a tribunal established under Article 12.21 (Selection of Arbitrators).

Article 14.18. UNDERSTANDINGS AND COMMITMENTS OF THE PARTIES

Annex 14-C sets out certain understandings and commitments of the Parties with respect to the provisions of this Chapter.

Article 14.19. DEFINITIONS

For purposes of this Chapter:

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

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

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

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

but does not include the supply of a financial service in the territory of a Party by an investment in that territory;

self-regulatory entity means any non-governmental entity, including any securities or futures exchange or market, clearing house or other body or association, that exercises proprietary or delegated regulatory or supervisory authority over financial service suppliers or financial institutions;

public entity means a central bank or monetary authority of a Party, or any financial institution owned or controlled by a Party;

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

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

investment means "investment" as defined in Article 12.31 (Definitions), except that, with respect to "loans" and "debt instruments" referred to in that Article:

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

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

for greater certainty, a loan provided by a cross-border financial service supplier, or a debt instrument owned by a cross-border financial service supplier, other than a loan to a financial institution or a debt instrument issued by a financial institution, is an investment if such loan or debt instrument meets the criteria for investments set out in Article 12.31 (Definitions);

investor of a Party means a Party or State enterprise, or a person of a Party, that intends to make, is making, or has made an investment in the territory of the other Party; provided, however, that a natural person that is a dual national shall be considered exclusively a national of the State of its dominant and effective nationality;

new financial service means a financial service not supplied in the territory of the Party, but which is supplied in the territory of the other Party, and includes any new form of supply of a financial service or the sale of a financial product that is not sold in the territory of the Party;

person of a Party means a "person of a Party" as defined in Article 1.4 (Definitions of General Application) and, for greater certainty, does not include a branch of a company of a non-Party;

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

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

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

Insurance and insurance-related services.

(a) direct insurance (including coinsurance):

(i) life insurance;

(ii) non-life insurance;

(b) reinsurance and retrocession;

(c) insurance intermediation activities, such as those of insurance brokers and agents;

(d) services auxiliary to insurance, such as consulting, actuarial, risk assessment and claim settlement services;

Banking and other financial services (excluding insurance); (e) acceptance of deposits and other financial services (excluding insurance); and

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

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

(g) financial leasing services;

(h) all payment and money transfer services, including credit, payment and similar cards, traveler's checks and bank drafts;

(i) guarantees and commitments;

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

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

(ii) foreign currencies;

(iii) derivative products, including futures and options;

(iv) exchange and money market instruments, e.g., swaps and forward rate agreements;

(v) transferable securities;

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

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

(l) foreign exchange brokerage;

(m) asset management, e.g., cash or portfolio management, collective investment management in all its forms, pension fund management, depository and custodial services, and trust services;

(n) payment and clearing services in respect of financial assets, including securities, derivatives and other negotiable instruments;

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

(p) advisory, intermediation and other auxiliary financial services in respect of any of the activities set forth in paragraphs (e) through (o), including credit reporting and analysis, investment and portfolio research and advice, and advice on acquisitions and on corporate restructuring and strategy.

Annex 17-A. MIGRATION MEASURES IN FORCE

For Colombia:

(a) Decree 0834 of 2013 and Resolutions 5707 of 2008, or those that modify them.

For Costa Rica:

(b) Law No. 8764, General Law on Migration and Aliens of August 19, 2009 and its regulations, as amended.

Annex 17-B. CATEGORIES OF BUSINESS PERSONS

Section A. BUSINESS VISITORS

1. Each Party shall authorize temporary entry to a business person who intends to carry out any of the business activities referred to in Appendix 17-B.1 of this Section, without requiring the person to obtain a work permit or employment authorization, provided that such person, in addition to complying with existing immigration measures applicable to temporary entry, exhibits:

(a) evidence attesting to the nationality of a Party;

(b) documentation showing that the business person will engage in any business activity set forth in Appendix 17-B.1 of this Section and indicating the purpose of entry; and

(c) evidence of the international character of the business activity proposed to be undertaken and that the business person does not intend to enter the local labor market.

2. Each Party shall provide that a business person meets the requirements of paragraph 1(c) where it demonstrates that:

(a) the principal source of remuneration for the proposed business activity is outside the territory of the Party authorizing temporary entry; and

(b) the principal place of business of that person and where the earnings are actually earned is predominantly outside the territory of the Party granting temporary entry.

Normally, a Party will accept a declaration as to the principal place of business and the actual place where the profits are actually earned. In the event that the Party requires any additional verification in accordance with its national legislation, it shall normally consider a letter from the employer or the organization it represents stating the circumstances described in paragraphs 2(a) and 2(b) to be sufficient proof.

3. No Party may:

(a) require, as a condition for authorizing temporary entry under paragraph 1, prior approval procedures, proof of labor certification, or other procedures of similar effect; nor.

(b) impose or maintain any numerical restrictions on temporary entry under paragraph 1.

4. A Party may require a business person requesting temporary entry under this Section to obtain a pre-entry visa.

Section B. TRADERS AND INVESTORS

1. Each Party shall authorize temporary entry and issue immigration documentation to a business person that intends to:

(a) carry on a substantial commercial exchange of goods or services, principally between the territory of the Party of which he is a national and the territory of the Party from which entry is sought; or

(b) to establish, develop, or manage an investment, in which the business person or his enterprise has committed or is in the process of committing a substantial amount of capital, in accordance with national legislation,

provided that the business person also complies with existing immigration measures applicable to temporary entry.

2. No Party may:

(a) require proof of labor certification or other procedures of similar effect as a condition for authorizing temporary entry under paragraph 1; nor.

(b) impose or maintain numerical restrictions in connection with temporary entry under paragraph 1.

3. A Party may require a business person requesting temporary entry under this Section to obtain a pre-entry visa.

Section C. INTRA-CORPORATE TRANSFERS OF PERSONNEL

1. Each Party shall authorize temporary entry and issue supporting documentation to a business person employed by an enterprise who is transferred to serve as an executive, manager, or specialist in that enterprise or in one of its subsidiaries or affiliates, provided that such person and that enterprise comply with existing immigration measures applicable to temporary entry. Each Party may require that the person must have been employed by the enterprise continuously for one year within the three years immediately preceding the date of submission of the application.

2. For greater certainty, nothing in this Section shall be construed to affect the labor or employment law of each Party.

3. For greater certainty, in accordance with its legislation, a Party may require that the transferred business person perform the services under a subordinate relationship in the receiving enterprise.

4. A Party may require a business person requesting temporary entry under this Section to obtain a pre-entry visa.

Appendix 17-B.1. BUSINESS VISITORS

Business activities covered under Section A include:

1. Meetings and Consulting:

Business persons attending meetings, seminars, or conferences, or conducting consulting or advising clients.

Research and Design:

Technical, scientific and statistical researchers conducting independent research or investigations for an enterprise established in the territory of the other Party.

3. Cultivation, Manufacturing and Production:

Procurement and production personnel, at the managerial level, who conduct business operations for an enterprise established in the territory of the other Party.

4. Marketing:

(a) Market researchers and analysts conducting research or analysis independently or for an enterprise established in the territory of the other Party.

(b) Trade show and promotional personnel attending trade conventions.

5. Sales:

(a) Sales representatives and sales agents who take orders or negotiate contracts for goods or services for an enterprise established in the territory of the other Party, but who do not deliver the goods or provide the services.

(b) Buyers who make purchases for an enterprise established in the territory of the other Party.

6. Distribution:

Customs brokers who provide advisory services to facilitate the importation or exportation of goods.

7. After Sales Services:

Installation, repair, maintenance, and supervisory personnel, who have the specialized technical knowledge essential to fulfill the seller's contractual obligation, and who provide services or train workers to provide such services pursuant to a warranty or other service contract related to the sale of commercial or industrial equipment or machinery, including computer software purchased from a company established outside the territory of the Party from which temporary entry is requested, during the term of the warranty or service contract.

8. General Services:

(a) Management and supervisory personnel engaged in business operations for an enterprise located in the territory of the other Party.

(b) Public relations and advertising personnel providing advice to clients or attending or participating in conventions.

(c) Tourism personnel (tour and travel agents, tour guides or tour operators) attending or participating in conventions.

(d) Specialized cooking personnel attending or participating in gastronomic events or exhibitions, training or advising clients, related to gastronomy in the territory of the other Party.

(e) Translators or interpreters providing services as employees of an enterprise located in the territory of the other Party, except for services that in accordance with the legislation of the Party authorizing temporary entry must be provided by authorized translators.

(f) Information and communications technology service providers attending meetings, seminars or conferences or conducting consultancies.

(g) Marketers and franchise development consultants wishing to offer their services in the territory of the other Party.

ANNEX 17-C. TERMS OF STAY

Section A. COLOMBIA

1. Business Visitors entering Colombia under Section A of Annex 17-B shall be granted a period of stay of up to 90 days.

2. Entry for Traders and Investors entering Colombia under Section B of Annex 17-B shall be granted a period of stay of up to two years. The period of stay may be extended, provided that the conditions on which it was based remain in force.

3. Entry for Intra-Corporate Transfers entering Colombia under Section C of Annex 17-B shall be granted a period of stay of up to two years. The period of stay may be extended, provided the conditions on which it was based remain in force.

4. Costa Rican business persons who receive a visa with a duration of more than three months and who wish to stay more than 15 days in Colombia, must register as foreigners with the competent immigration office.

Section B. COSTA RICA

For Costa Rica, the length of stay will be established on a discretionary basis by the Directorate General of Immigration and Foreigners within the following maximum periods:

1. Business Visitors:

(a) Initial term: from one day up to 30 days.

(b) Request for extension of stay: from 30 days up to 90 days.

(c) Request for stay: one year with the possibility of extension for up to two years.

2. Merchants and Investors:

(a) Traders:

(i) Initial term: from one day up to 30 days.

(ii) Request for extension of stay: from 30 days to 90 days.

(iii) Request for stay: one year with the possibility of extension for up to two years.

(b) Investors:

(i) Stay: from 90 days up to two years, extendable for up to two years.

3. Transfers of Personnel within a Company:

Permanence: one year with the possibility of extension for up to two years.

Annex 17-D. TEMPORARY ENTRY COMMITTEE FOR BUSINESS PERSONS

The Temporary Entry Committee for Business Persons shall be composed of:

(a) For Colombia:

Point of Contact:

Coordinator

Coordination of Visas and Immigration Ministry of Foreign Affairs,

or its successor

And the following entities:

Director

Directorate of Foreign Investment and Services Ministry of Commerce, Industry and Tourism, or its successor.

(b) For Costa Rica:

Point of Contact:

Director General

Dirección General de Comercio Exterior Ministerio de Comercio Exterior de Costa Rica, or its successor.

In consultation with:

Head of the International Affairs Department

Ministry of Labor and Social Security

Head of the Department of Institutional Planning

General Directorate of Migration and Alien Affairs,

or their successors

Chapter 18. SETTLEMENT OF DISPUTES

Article 18.1. COOPERATION

The Parties shall at all times endeavor to reach agreement on the interpretation and application of this Agreement and shall make every effort, through cooperation, consultations or other means, to reach a mutually satisfactory resolution of any matter that might affect its operation.

Article 18.2. SCOPE OF APPLICATION

Except as otherwise provided in this Agreement, the dispute settlement provisions of this Chapter shall apply to the prevention or settlement of disputes between the Parties concerning the interpretation or application of this Agreement, or where a Party considers that:

(a) an existing or proposed measure of the other Party may be inconsistent with the obligations of this Agreement;

(b) the other Party has failed in any way to comply with the obligations of this Agreement; or

(c) an existing or proposed measure of the other Party causes or is likely to cause nullification or impairment within the meaning of Annex 18-A.

Article 18.3. CHOICE OF FORUM

1. In the case of any dispute arising under this Agreement and under another free trade agreement to which the disputing Parties are party or the WTO Agreement, the complaining Party may select the forum for resolving the dispute.

2. Once the complaining Party has requested the establishment of a panel under one of the treaties referred to in paragraph 1, the forum selected shall be exclusive of the others.

Article 18.4. CONSULTATIONS

1. A Party may request in writing to the other Party consultations with respect to any existing or proposed measure or any other matter that may affect the operation of this Agreement, in accordance with Article 18.2.

2. The requesting Party shall deliver the written request to the other Party, and shall explain the reasons for its request, including identification of the measure in force or proposed measure or other matter at issue and an indication of the legal basis for the complaint.

3. The other Party shall respond in writing and, except as provided in paragraph 4, shall consult with the requesting Party no later than 30 days from the date of receipt of the request, unless the Parties agree otherwise.

4. In cases of urgency, including those involving perishable goods or goods or services that rapidly lose their commercial value, such as certain seasonal goods or services, consultations shall begin within 15 days from the date of receipt of the request by the other Party.

5. The requesting Party may require the other Party to make available to it personnel of its governmental institutions or other regulatory agencies having technical knowledge of the subject matter of the consultations.

6. The Parties shall make every effort to arrive at a mutually satisfactory resolution of any matter through consultations, in accordance with the provisions of this Article. To this end, each Party shall:

(a) shall provide sufficient information to permit a full review of the measure in force or proposed to be taken or of any other matter that could affect the operation and implementation of this Agreement; and

(b) treat confidential or proprietary information received in the course of consultations on the same basis as the Party providing the information.

7. Consultations shall be confidential and without prejudice to the rights of the Parties in proceedings under this Chapter.

8. Consultations may be held in person or by any technological means agreed by the Parties. In the event that the consultation is face-to-face, it shall be held in the capital of the Party consulted, unless the Parties agree otherwise.

Article 18.5. GOOD OFFICES, CONCILIATION OR MEDIATION

1. The Parties may agree at any time to use methods such as good offices, conciliation or mediation. Such procedures may be commenced at any time and may be suspended or terminated at any time by either Party.

2. The procedures established pursuant to this Article shall be conducted in accordance with the procedures agreed upon by the Parties.

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

Article 18.6. ESTABLISHMENT OF A PANEL

1. Unless the Parties agree otherwise, and without prejudice to paragraph 5, if a matter referred to in Article 18.4 has not been resolved within:

(a) 40 days after receipt of the request for consultations;

(b) 25 days after receipt of the request for consultations in the case of matters referred to in Article 18.4.4; or

(c) such other period as the consulting Parties may agree, the complaining Party may refer the matter to a panel.

2. The complaining Party shall deliver to the other Party a written request for the establishment of a panel, which shall state the reason for the request, identify the specific measures or other matter complained of, and provide a brief summary of the legal basis of the complaint with sufficient information to present the problem clearly.

3. With the submission of the request, it shall be understood that the panel has been established.

4. Unless the Parties agree otherwise, the panel shall be composed and perform its functions in accordance with the provisions of this Chapter.

5. A panel may not be established to review a proposed measure.

Article 18.7. LISTS OF PANELISTS

1. Each Party shall, no later than six months after the entry into force of this Agreement, appoint to its "Indicative Panelist Roster" five individuals who are qualified and willing to serve as panelists. Each Party may modify the panelists on its roster as it deems necessary, after notifying the other Party. Such designations shall be forwarded to the Commission.

2. The Parties shall also select by mutual agreement, no later than six months after the entry into force of this Agreement, 10 individuals who are not nationals or permanent residents of either Party to serve as chairpersons of the panel to serve on the "Indicative List of Non-Party State Panelists". At the request of any Party, the Commission may modify the "Indicative List of Non-Party State Panelists" at any time. Such designations shall be forwarded to the Commission.

3. The members of the lists drawn up pursuant to paragraphs 1 and 2 shall meet the qualifications set forth in Article 18.8.1.

4. The Parties may use the lists of panelists developed pursuant to paragraphs 1 and 2, even if the lists have not been completed.

Article 18.8. QUALIFICATIONS OF PANELISTS

1. All panelists shall:

(a) have expertise or experience in law, international trade, other matters relating to this Agreement or the settlement of disputes arising under international trade agreements;

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

(c) be independent, independent of, and not connected with, and not receive instructions from, any of the Parties; and

(d) comply with the Code of Conduct to be established by the Commission pursuant to Article 20.1.2(d) (The Free Trade Commission).

2. Persons who have been involved in any of the proceedings referred to in Article 18.5 may not serve as panelists in the same dispute.

Article 18.9. PANEL SELECTION

1. The panel shall consist of three members.

2. Each Party shall, within 15 days after the date of receipt of the request for the establishment of the panel, appoint a panelist, nominate up to four candidates who are neither nationals nor permanent residents of the Parties for the position of chair of the panel and notify the other Party in writing of that nomination and of its proposed candidates for the position of chair of the panel.

3. If a Party fails to appoint a panelist within the time limit set out in paragraph 2, such appointment shall be made by the other Party within five days of the expiration of that time limit from among the panelists on the "Indicative List of Panelists" of the Party that failed to make the appointment.

4. The Parties shall, within 30 days of the date of receipt of the request for the establishment of a panel, endeavor to reach agreement and appoint the chairperson from among the candidates that have been proposed. If within that time the Parties are unable to agree on the chairperson, the chairperson shall be selected by lot from among the members of the "Indicative List of Non-Party Panelists" within seven days after the expiration of the 30-day period. Failure of a Party to attend the drawing of lots shall not prevent the drawing of lots.

5. If a panelist appointed by a Party resigns, is removed or is unable to serve, that Party shall appoint a new panelist within 15 days, failing which the appointment of the new panelist shall be made in accordance with paragraph 3. If the chair of the panel resigns, is removed or is unable to serve, the Parties shall agree on the appointment of a replacement within 15 days, failing which the replacement shall be appointed in accordance with paragraph 4. In either case, any period shall be suspended from the date on which the panelist or the chair resigns, is removed or is unable to serve, and the suspension shall end on the date of selection of the replacement.

6. Each Party may appoint a panelist who is not on the "Indicative List of Panelists" provided that he or she meets the requirements set out in Article 18.8.1.

7. The Parties may by mutual agreement appoint a panelist who is not on the "Indicative List of Non-Party State Panelists" provided that he or she meets the requirements set out in Article 18.8.1.

Article 18.10. RULES OF PROCEDURE

1. The Commission shall establish Rules of Procedure in accordance with Article 20.1.2(d) (The Free Trade Commission).

2. A panel established under this Chapter shall follow the Rules of Procedure. A panel may establish, in consultation with the Parties, supplementary rules of procedure that do not conflict with the provisions of this Chapter.

3. Unless the Parties agree otherwise, the Rules of Procedure shall ensure that:

(a) that the procedures shall guarantee the right to at least one hearing before the panel, as well as the opportunity to

present written submissions and rebuttals;

(b) that panel hearings, deliberations, and all written submissions and communications made in the proceeding shall be confidential;

(c) that all submissions and comments made by a Party to the panel shall be made available to the other Party;

(d) the protection of information that either Party designates as confidential information; and

(e) the possibility of using technological means to conduct the proceedings, provided that the means used does not diminish the right of a Party to participate in the proceedings and that its authenticity can be guaranteed.

4. Unless otherwise agreed by the Parties within 15 days of the establishment of the panel, the terms of reference of the panel shall be:

"To examine, in an objective manner and in the light of the relevant provisions of this Agreement, the matter referred to in the request for establishment of the panel and to make findings, rulings and recommendations as provided in Article 18.11."

5. If the complaining Party alleges in the request for establishment of the panel that a matter has caused nullification or impairment of benefits within the meaning of Article 18.2(c), the terms of reference shall so state.

6. If a Party wishes the panel to make findings on the level of adverse trade effects on a Party arising from any measure found to be inconsistent with the obligations of this Agreement, or a measure of a Party found to have caused nullification or impairment within the meaning of Article 18.2(c), the terms of reference shall so state.

7. On request of a Party or on its own initiative, the panel may seek information and technical advice from such experts as it deems necessary, provided that the Parties so agree, and on such terms and conditions as the Parties may agree, in accordance with the Rules of Procedure.

8. The panel may delegate to the chairperson the authority to make administrative and procedural decisions.

9. The panel may, in consultation with the Parties, modify any time limit for its proceedings and make such other administrative or procedural adjustments as may be required for the transparency and efficiency of the proceeding.

10. The findings, determinations and recommendations of the panel, as provided in Article 18.11, shall be made by a majority of its members.

11. The panelists may submit separate opinions on matters on which a unanimous decision was not reached. The panel may not disclose the identity of the panelists who have delivered majority or minority opinions.

12. Unless otherwise agreed by the Parties, the expenses of the panel, including the remuneration of its members, shall be borne equally in accordance with the Rules of Procedure.

Article 18.11. PANEL REPORT

1. Unless the Parties agree otherwise, the panel shall base its report on the relevant provisions of this Agreement, the submissions and arguments of the Parties, or any information received by the panel pursuant to Article 18.10.

2. Unless the Parties agree otherwise, the panel shall submit the initial report to the Parties within 90 days, or 60 days in urgent cases, of the appointment of the last panelist.

3. Only in exceptional cases, if the panel considers that it cannot issue its initial report within 90 days or 60 days in urgent cases, it shall inform the Parties in writing of the reasons for the delay, together with an estimate of the time within which it will issue its report. Any delay shall not exceed an additional 30 days, unless the Parties agree otherwise.

4. The report shall contain:

(a) findings of fact and conclusions of law;

(b) determinations as to whether or not a Party has complied with its obligations under this Agreement and any other determinations requested in the terms of reference; and

(c) its recommendations for the implementation of the decision, where either Party so requests.

5. The panel shall not disclose confidential information in any of its reports, but may state findings derived from such information.

6. A Party to the dispute may submit written comments or request clarification in writing on the initial report to the panel within 15 days of the submission of the initial report, or within any other period of time established by the panel. After considering such comments and requests, the panel shall endeavor to respond to such comments and requests and, to the extent it deems appropriate, shall develop additional analysis. For this purpose, the panel may, on its own motion or at the request of any Party:

(a) request observations from any Party;

(b) conduct any due diligence it considers appropriate; or

(c) reconsider the initial report.

7. The Panel shall submit the final report to the Parties within 30 days of the submission of the initial report, unless the Parties agree on a different time period.

8. Unless the Parties agree otherwise, the Parties shall make the final report publicly available within 15 days of its submission to the Parties, subject to the protection of confidential information.

Article 18.12. REQUEST FOR CLARIFICATION OF THE REPORT

1. Within 10 days of the submission of the final report, a Party may request in writing that the panel clarify its final report. The panel shall respond to such a request within 10 days of the submission of the request. The panel's clarification shall not change the substance of its findings, determinations or recommendations.

2. The submission of a request under paragraph 1 shall not affect the time limits described in Articles 18.13 and 18.14, unless the panel decides otherwise.

Article 18.13. COMPLIANCE WITH THE REPORT

1. After receiving a panel report, the Parties shall reach an agreement on the settlement of the dispute, which shall conform to the findings and recommendations of the panel, if any, unless the Parties agree otherwise.

2. If possible, the settlement shall consist of the elimination of any measure that does not comply with this Agreement or the removal of the nullification or impairment within the meaning of Article 18.2(c).

3. If the Parties do not agree on a solution within 30 days after the submission of the report, or within such other period as the Parties may agree, the Party complained against shall, at the request of the complaining Party, enter into negotiations with a view to agreeing on compensation. Such compensation shall be of a temporary nature and shall be granted until the dispute is settled.

Article 18.14. NON-COMPLIANCE - SUSPENSION OF BENEFITS

1. If the Parties:

(a) have not reached an agreement on the settlement of the dispute and compensation has not been requested in accordance with Article 18.13 within 30 days of the submission of the report; or

(b) do not agree on compensation in accordance with Article 18.13 within 30 days of the filing of the request by the complaining Party; or

(c) have reached an agreement on dispute settlement or compensation pursuant to Article 18.13 and the complaining Party considers that the Party complained against has not complied with the terms of the agreement,

the complaining Party may, upon notification to the Party complained against, suspend benefits of equivalent effect to such Party complained against. In the notification, the complaining Party shall specify the level of benefits it proposes to suspend.

2. In considering the benefits to be suspended pursuant to paragraph 1:

(a) the complaining Party shall first seek to suspend benefits within the same sector or sectors that are affected by the measure or other matter that the panel has found to be inconsistent with the obligations under this Agreement or to have caused nullification or impairment within the meaning of Article 18.2(c); and

(b) a complaining Party that considers that it is impracticable or ineffective to suspend benefits within the same sector or sectors may suspend benefits in other sectors.

3. The suspension of benefits shall be temporary in nature and shall be applied by the complaining Party only until:

(a) the measure found to be inconsistent with the obligations of this Agreement is brought into conformity with this Agreement or the required adjustments are made in the case of nullification or impairment of benefits within the meaning of Article 18.2(c);

(b) the time at which the Parties reach agreement on the settlement of the dispute; or

(c) the panel described in Article 18.5 concludes in its report that the Party complained against has complied.

Article 18.15. COMPLIANCE REVIEW AND SUSPENSION OF BENEFITS

1. A Party may, by written communication to the other Party, request that the panel established under Article 18.6 be reconvened to determine:

(a) whether the level of suspension of benefits applied by the complaining Party pursuant to Article 18.14.1 is manifestly excessive;

(b) on any disagreement as to the existence of the measures taken to comply with the report of the panel originally established or as to the compatibility of such measures with this Agreement.

2. In the written communication, the Party shall state the specific measures or matters in dispute and provide a brief summary of the legal basis of the complaint sufficient to present the problem clearly.

3. If the original panel or any of its members cannot be reconvened, the provisions of Article 18.9 shall apply mutatis mutandis.

4. The provisions of Articles 18.10 and 18.11 apply mutatis mutandis to procedures adopted and reports issued by a panel that is reconvened under the terms of this Article, except that, subject to Article 18.10.9, the panel shall submit an initial report within 60 days of the appointment of the last panelist if the request relates only to paragraph 1(a) and within 90 days when the request relates only to paragraph 1(b) or to both paragraphs.

5. A panel reconstituted under paragraph 1(b) shall determine whether it is appropriate to terminate any suspension of benefits. If the panel is reconstituted under paragraph 1(a) and determines that the level of suspended benefits is manifestly excessive, it shall determine the level of benefits it considers to be of equivalent effect.

Article 18.16. MATTERS RELATING TO JUDICIAL AND ADMINISTRATIVE PROCEEDINGS

1. The Commission shall endeavor to issue, as soon as possible, an appropriate non-binding interpretation or response where:

(a) a Party considers that a question of interpretation or application of this Agreement arising in an internal judicial or administrative proceeding of the other Party warrants interpretation by the Commission; or

(b) a Party notifies it of the receipt of a request for an opinion on a question of interpretation or application of this Agreement in a judicial or administrative proceeding of that Party.

2. The Party in whose territory the court or administrative body is located shall submit the interpretation agreed to by the Commission to the court or administrative body, in accordance with the procedures of the court or administrative body concerned.

3. If the Commission is unable to reach agreement, each Party may submit its own views to the court or administrative body, in accordance with the procedures of that body.

Article 18.17. SUSPENSION AND TERMINATION OF THE PROCEEDINGS

1. The Parties may agree to suspend the work of the panel at any time for a period not longer than 12 months following the date of such agreement. If the work of the panel remains suspended for more than 12 months, the authority of the panel shall lapse unless the Parties agree otherwise. If the authority of the panel lapses and the Parties have not reached an agreement on the settlement of the dispute, nothing in this Article shall preclude a Party from requesting a new proceeding on the same matter.

2. The Parties may agree to terminate the panel proceedings by joint notification to the chair of the panel at any time prior

to the notification of the report.

Annex 18-A. NULLIFICATION AND IMPAIRMENT

1. A Party may have recourse to the dispute settlement mechanism under this Chapter where, by virtue of the application of a measure not inconsistent with this Agreement, it considers that the benefits that it could reasonably have expected to accrue to it from the application of any of the following provisions are nullified or impaired:

(a) Chapter 2 (Market Access for Goods);

(b) Chapter 3 (Rules of Origin and Origin Procedures);

(c) Chapter 10 (Government Procurement); or

(d) Chapter 13 (Cross-Border Trade in Services).

2. No Party may invoke Article 18.2(c) with respect to any measure subject to an exception under Article 21.1 (General Exceptions).

3. In determining the elements of nullification or impairment, the Parties may take into consideration the principles set out in the jurisprudence of paragraph 1(b) of Article XXIII of the GATT 1994.

Chapter 19. TRANSPARENCY

Article 19.1. CONTACT POINTS

1. Each Party shall designate, within 60 days after the date of entry into force of this Agreement, a contact point to facilitate and receive all communications, notifications, and information provided by the Parties on any matter covered by this Agreement.

2. At the request of the other Party, the contact point shall indicate the office or official responsible for the matter and provide such support as may be necessary to facilitate communication with the requesting Party.

Article 19.2. PUBLICATION

1. Each Party shall ensure, to the extent permitted by its law, that its laws, regulations, procedures and administrative rulings of general application that relate to any matter covered by this Agreement are, to the extent practicable, promptly published or otherwise made available for the information of interested persons and the other Party.

2. To the extent practicable, and to the extent permitted by its law, each Party shall:

(a) publish any measure referred to in paragraph 1 that it proposes to adopt relating to matters covered by this Agreement; and

(b) provide an opportunity for interested persons and the other Party to comment on such measures.

Article 19.3. PROVISION OF INFORMATION

1. On request of a Party, and to the extent permitted by its law, the other Party shall provide information and respond promptly to questions concerning any matter that could substantially affect this Agreement.

2. Any provision of information provided under this Article shall be without prejudice to whether or not the measure is consistent with this Agreement.

3. Where a Party providing information pursuant to this Agreement designates such information as confidential, the other Party shall maintain the confidentiality of such information.

Article 19.4. ADMINISTRATIVE PROCEDURES

In order to administer in a consistent, impartial, and reasonable manner all measures of general application affecting matters covered by this Agreement, each Party shall ensure that, in its administrative procedures applying the measures referred to in Article 19.2.1 with respect to particular persons, goods, or services of the other Party in specific cases:

(a) whenever possible, persons of the other Party who are directly affected by a proceeding receive, in accordance with law, reasonable notice of the initiation of the proceeding, including a description of its nature, a statement of the legal basis under which the proceeding is initiated, and a general description of all issues in dispute;

(b) when time, the nature of the proceeding, and the public interest permit, such persons are afforded 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 laws.

Article 19.5. REVIEW AND CHALLENGE

1. Each Party shall establish or maintain judicial or administrative tribunals or procedures for the purpose of the prompt review and, where warranted, correction of final administrative actions relating to matters covered by this Agreement. Such tribunals shall be impartial and not connected with the administrative enforcement agency or authority, and shall have no substantial interest in the outcome of the matter.

2. Each Party shall ensure that, before such tribunals or in such proceedings, the parties are entitled to:

(a) a reasonable opportunity to support or defend their respective positions; and

(b) a decision based on the evidence and arguments or, in cases where required by domestic law, on the record compiled by the administrative authority.

3. Each Party shall ensure that, subject to any means of challenge or further review available under its domestic law, such rulings are implemented by its agencies or authorities and govern the practice of those agencies or authorities with respect to the administrative action in question.

Article 19.6. SPECIFIC RULES

The provisions of this Chapter are without prejudice to the specific rules set forth in other Chapters of this Agreement.

Article 19.7. DEFINITIONS

For the purposes of this Chapter

administrative ruling of general application means an administrative ruling or interpretation that applies to all persons and factual situations that generally fall within its scope, and that establishes a standard of conduct, but does not include:

(a) rulings or decisions in an administrative proceeding that applies to a particular person, good or service of the other Party in a specific case; or

(b) a ruling that resolves with respect to a particular act or practice.

Chapter 20. ADMINISTRATION OF THE AGREEMENT

Article 20.1. THE FREE TRADE COMMISSION

1. The Parties hereby establish the Free Trade Commission, composed of representatives at the Ministerial level of each Party, in accordance with Annex 20-A, or their designees.

2. The Commission shall:

(a) ensure compliance with and proper application of this Agreement;

(b) supervise the implementation of this Agreement and evaluate the further development of this Agreement;

(c) supervise the work of all bodies established under this Agreement;

(d) to approve at its first meeting, unless otherwise agreed by the Parties, the Rules of Procedure and Code of Conduct referred to in Chapter 18 (Dispute Settlement), and to amend them as necessary;

(e) fix the amount of remuneration and expenses to be paid to panelists, assistant panelists and experts referred to in Chapter 18 (Dispute Settlement);

(f) to deal with any other matter that may affect the operation of the Agreement; and

(g) establish and modify its rules of procedure.

3. The Commission may:

(a) establish and delegate responsibilities to the bodies established pursuant to this Agreement;

(b) modify in furtherance of the objectives of this Agreement:

(i) the Schedules set out in Annex 2-B (Tariff Elimination Program) by improving tariff conditions for market access, including the possibility of accelerating tariff elimination and including one or more goods excluded in the Tariff Elimination Program;

(ii) the uniform regulations referred to in Article 3.29 (Uniform Regulations), the rules of origin set out in Annex 3-A (Specific Rules of Origin), Annex 3-B (Certificate of Origin), and Annex 3-C (Procedure for Sending and Receiving the Electronic Certificate of Origin); and

(iii) Annex 10-A (Coverage) and Annex 10-C (Means of Publication);

(c) issue interpretations of the provisions of this Agreement, which shall be binding on panels established under Article 18.6 (Establishment of a Panel) and tribunals established under Chapter 12 (Investment);

(d) review any proposed amendments to this Agreement in order to make a recommendation to the Parties;

(e) review the impacts of this Agreement on micro, small and medium-sized enterprises of the Parties;

(f) seek the advice of persons or groups with no governmental connection; and

(g) take any other action for the exercise of its functions as agreed by the Parties.

4. Each Party shall implement, in accordance with its law, any modification referred to in paragraph 3(b), within the period agreed by the Parties.

5. All decisions of the Commission shall be adopted by mutual agreement.

6. The Commission shall meet at least once a year in regular session, unless the Commission decides otherwise, or at the request of any Party. The regular sessions of the Commission shall be held alternately in the territory of the Parties or by any technological means.

Article 20.2. AGREEMENT COORDINATORS

1. Each Party shall designate an Agreement Coordinator, in accordance with Annex 20-B.

2. The Coordinators of this Agreement shall jointly perform the following functions:

(a) work on the development of agendas, as well as other preparations for the meetings of the Commission;

(b) prepare and review the technical files necessary for decision-making within the framework of this Agreement;

(c) to follow up on the decisions taken by the Commission;

(d) on the instructions of the Commission, to support the supervision of the work of all bodies established under this Agreement; and

(e) to take cognizance of any other matter that may affect the operation of this Agreement, which may be entrusted to it by the Commission.

Annex 20-A. THE FREE TRADE COMMISSION

The Commission shall be composed of:

(a) Colombia, the Minister of Commerce, Industry and Tourism; and

(b) Costa Rica, the Minister of Foreign Trade, or his successor.

Annex 20-B. IMPLEMENTATION OF THE AMENDMENTS APPROVED BY THE FREE TRADE

COMMISSION

In the case of Costa Rica, the decisions of the Commission under Article 20.1.3(b) shall be equivalent to the instrument referred to in Article 121.4, third paragraph, (lower-ranking protocol), of the Constitución Política de la República de Costa Rica.

Annex 20-C. AGREEMENT COORDINATORS

The Agreement Coordinators shall be for:

(a) Colombia, the Director of the Directorate of Economic Integration of the.

(a) Colombia, the Director of the Directorate of Economic Integration of the Ministry of Commerce, Industry and Tourism or his designee; and

(b) Costa Rica, the Director General of Foreign Trade of the Ministry of Foreign Trade or his designee,

or his successors.

Chapter 21. EXCEPTIONS

Article 21.1. GENERAL EXCEPTIONS

1. For purposes of Chapter 2 (Market Access for Goods), Chapter 3 (Rules of Origin and Origin Procedures), Chapter 4 (Trade Facilitation and Customs Procedures), Chapter 5 (Technical Cooperation and Mutual Assistance in Customs Matters), Chapter 6 (Sanitary and Phytosanitary Measures), and Chapter 7 (Technical Barriers to Trade), Article XX of the GATT 1994 and its interpretative notes are incorporated into this Agreement and form an integral part thereof, mutatis mutandis. The Parties understand that the measures referred to in Article XX(b) of GATT 1994 include environmental measures necessary to protect human, animal or plant life or health, and that Article XX(g) of GATT 1994 applies to measures relating to the conservation of living or non-living exhaustible natural resources.

2. For the purposes of Chapter 12 (Investment), Chapter 13 (Cross-Border Trade in Services), Chapter 14 (Financial Services), Chapter 15 (Telecommunications), Chapter 16 (Electronic Commerce) and Chapter 17 (Temporary Entry of Business Persons), Article XIV of the GATS (including the footnotes) are incorporated into and form an integral part of this Agreement, mutatis mutandis. The Parties understand that the measures referred to in Article XIV(b) of the GATS include environmental measures necessary to protect human, animal or plant life or health. The Parties understand that the measures referred to in Article XIV(a) of the GATS include measures necessary to maintain domestic law and order.

Article 21.1. ESSENTIAL SECURITY

Nothing in this Agreement shall be construed to:

(a) to compel a Party to provide or give access to information the disclosure of which it considers contrary to its essential security interests; or

(b) to prevent a Party from implementing measures it considers necessary to carry out its obligations with respect to the maintenance or restoration of international peace or security, or to protect its essential security interests.

Article 21.3. 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 the Parties under any tax convention. In the event of any inconsistency between this Agreement and any such treaty, the treaty shall prevail to the extent of the inconsistency. In the case of a tax treaty between the Parties, the competent authorities under that treaty shall have sole responsibility for determining whether there is any inconsistency between this Agreement and that treaty.

3. Notwithstanding paragraph 2:

(a) Article 2.2 (National Treatment) and such other provisions in this Agreement 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 2.11 (Taxes and Other Export Charges) shall apply to taxation measures.

4. Subject to paragraph 2:

(a) Articles 13.3 (National Treatment) and 14.2 (National Treatment) shall apply to taxation measures on income, capital gains, or on the taxable capital of enterprises relating to the acquisition or consumption of specified services, except that nothing in this paragraph shall prevent a Party from conditioning the receipt or continued receipt of an advantage related to the acquisition or consumption of specified services on the requirement to supply the service in its territory; and

(b) Articles 12.2 (National Treatment) and 12.3 (Most-Favored-Nation Treatment), 13.3 (National Treatment) and 13.4 (Most-Favored-Nation Treatment), and 14.2 (National Treatment) and 14.3 (Most-Favored-Nation Treatment). 3 (Most-Favored-Nation Treatment) shall apply to all tax measures except those on income, capital gains, or taxable business capital, estate, inheritance, gift, and generation-skipping transfers.

5. Nothing in paragraph 4 shall apply:

(a) to any MFN obligation with respect to the benefit conferred by a Party pursuant to any tax convention;

(b) to any non-conforming provision of any existing taxation measure;

(c) to the continuation or prompt renewal of a non-conforming provision of any existing taxation measure;

(d) to an amendment to a non-conforming provision of any existing taxation measure, to the extent that such amendment does not, at the time it is made, reduce its degree of conformity with any of the items referred to in paragraph (4);

(e) the adoption or application of any taxation measure aimed at ensuring the equitable or effective application or collection of taxes (as permitted under Article XIV(d) of the GATS); or

(f) to a provision conditioning the receipt, or continued receipt, of an advantage in respect of contributions to, or income from, pension trusts or pension plans on the requirement that the Party maintain continuing jurisdiction over the pension trust or pension plan.

6. Subject to paragraph 2 and without prejudice to the rights and obligations of the Parties under paragraph 3, paragraphs 3, 5, 6, 7, 8, 9 and 10 of Article 12.6 (Performance Requirements) shall apply to taxation measures.

(a) Article 12.11 (Expropriation and Compensation and 12.17 (Submission of a Claim to Arbitration) shall apply to a taxation measure that is claimed to be expropriatory. However, no investor may invoke Article 12.11 (Expropriation and Compensation) as a basis for a claim where it has been determined in accordance with this paragraph that the measure does not constitute an expropriation (1). An investor seeking to invoke Article 12.11 (Expropriation and Compensation) with respect to a taxation measure shall first submit the matter to the competent authorities of the respondent and claimant Party referred to in paragraph (b) at the time it delivers written notice of its intent to submit a claim to arbitration under Article 12.17 (Submission of a Claim to Arbitration), for such authorities to determine whether the tax measure constitutes an expropriation. If the competent authorities do not agree to examine the matter or, having agreed to examine the matter, do not agree that the measure does not constitute an expropriation, within six months after the matter has been submitted to them, the investor may submit its claim to arbitration in accordance with Article 12.17 (Submission of a Claim to Arbitration).

(b) For purposes of this paragraph, competent authorities means:

(i) in the case of Colombia, the Technical Vice-Ministry of the Ministry of Finance and Public Credit; and.

(ii) in the case of Costa Rica, the Ministry of Finance, or its successors.

8. For the purposes of this Article:

tax convention means a convention for the avoidance of double taxation or other international convention or arrangement on tax matters; and

taxes and taxation measures do not include:

(a) a customs duty as defined in Article 1.4 (Definitions of General Application); or

(b) measures listed in exceptions (b) and (c) to the definition of customs duty in Article 1.4 (Definitions of General Application).

(1) With reference to Article 12.11 (Expropriation and Compensation) in assessing whether a taxation measure constitutes expropriation, the following considerations are relevant: (a) the imposition of taxes does not generally constitute expropriation. The mere introduction of new tax measures or the imposition of taxes in more than one jurisdiction in respect of an investment does not constitute, and is not in itself, expropriation; (b) tax measures consistent with internationally recognized tax policies, principles and practices do not constitute expropriation, and in particular, tax measures aimed at preventing tax avoidance or evasion should generally not be considered expropriatory; and (c) tax measures applied on a non-discriminatory basis, as opposed to being targeted at investors of a particular nationality or at specific individual taxpayers, are less likely to constitute expropriation. A tax measure should not constitute expropriation if, when the investment is made, it was already in effect, and information about the measure was made public or otherwise publicly available.

Article 21.4. DISCLOSURE OF INFORMATION

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

Article 21.5. EXCEPTION TO SAFEGUARD BALANCE OF PAYMENTS

1. Nothing in this Agreement shall be construed to prevent a Party from adopting or maintaining restrictive measures with respect to trade in goods and services and with respect to payments and capital movements, including those related to investment:

(a) in cases of serious balance of payments difficulties or threats of balance of payments or external financial difficulties; or

(b) when, in special circumstances, payments for current transactions and payments and capital movements cause or threaten to cause serious difficulties in macroeconomic management, in particular for the management of the monetary policy or exchange rate policy of either Party.

2. All measures referred to in the preceding paragraph shall comply with the terms and conditions set forth in the WTO Agreement and the Articles of Agreement of the International Monetary Fund.

Chapter 22. FINAL PROVISIONS

Article 22.1. ANNEXES, APPENDICES AND FOOTNOTES

The Annexes, Appendices, and footnotes to this Agreement constitute an integral part of this Agreement.

Article 22.2. AMENDMENTS

1. The Parties may agree on any amendment to this Agreement.

2. When the amendment is agreed and approved in accordance with the legal procedures of each Party, the amendment shall constitute an integral part of this Agreement and shall enter into force in accordance with Article 22.5, unless the Parties agree on a different time period.

Article 22.3. AMENDMENTS TO THE WTO AGREEMENT

If any provision of the WTO Agreement that has been incorporated into this Agreement is amended, the Parties shall consult with a view to amending the corresponding provision of this Agreement, as appropriate, in accordance with Article 22.2.

Article 22.4. RESERVATIONS AND INTERPRETATIVE DECLARATIONS

This Agreement may not be the subject of reservations or unilateral interpretative declarations.

Article 22.5. ENTRY INTO FORCE

The Parties shall exchange written notifications confirming the fulfillment of the internal legal requirements necessary for the entry into force of this Agreement. This Agreement shall enter into force 60 days after the second such notification, or on such date as the Parties may agree.

Article 22.6. PROVISIONAL APPLICATION FOR COLOMBIA

Notwithstanding the provisions of Article 22.5, Colombia may provisionally apply this Agreement prior to its entry into force and until it enters into force in accordance with Article 22.5. Provisional application shall also cease at the moment that Colombia notifies Costa Rica of its intention not to become a Party to this Agreement, or of its intention to suspend provisional application.

Article 22.7. DENUNCIATION

Any Party may denounce this Agreement. The denunciation shall take effect 180 days after its notification in writing to the other Party, without prejudice that the Parties may agree on a different term to make the denunciation effective.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE at Cali, in two equally authentic and valid copies on the 22nd day of the month of May, 2013.

FOR THE GOVERNMENT OF THE REPUBLIC OF COLOMBIA:

Juan Manuel Santos Calderón

President of the Republic of Colombia

FOR THE GOVERNMENT OF THE REPUBLIC OF COSTA RICA:

Laura Chinchilla Miranda President of the Republic of Costa Rica.

Annex I. EXPLANATORY NOTES

1. The Schedule of a Party to this Annex establishes, in accordance with Articles 12.7 (Nonconforming Measures) and 13.7 (Nonconforming Measures), the existing measures of a Party that are not subject to some or all of the obligations imposed by:

(a) Articles 12.2 (National Treatment) or 13.3 (National Treatment);

(b) Article 12.3 (Most-Favored-Nation Treatment) or 13.4 (Most-Favored-Nation Treatment);

(c) Article 12.5 (Senior Management and Boards of Directors);

(d) Article 12.6 (Performance Requirements);

(e) Article 13.5 (Market Access); or

(f) Article 13.6 (Local Presence).

2. Each tab of the Schedule sets out the following elements:

(a) Sector refers to the sector for which the tab has been made;

(b) Obligations Affected specifies the obligation or obligations referred to in the Articles described in paragraph 1 that, by virtue of Articles 12.7 (Nonconforming Measures) and 13.7 (Nonconforming Measures), do not apply to the listed measure or measures, as provided in paragraph 3;

(c) Measures identifies the laws, regulations or other measures in respect of which the entry has been made. A measure cited in the Measures element:

(i) means the measure as modified, continued or renewed, as of the date of entry into force of this Agreement; and

(ii) includes any measure subordinated to, adopted or maintained under the authority of, and consistent with, such measure; and

(iii) includes any measure adopted or maintained under the authority of, and consistent with, such measure.

(d) a description sets out the liberalization commitments, if any, as of the date of entry into force of this Agreement and the remaining non-conforming aspects of the existing measures on which the record has been made.

3. In interpreting a Schedule entry, all elements of the entry shall be considered. A fiche shall be interpreted in light of the relevant obligations of the Chapters in respect of which the fiche has been made. To the extent that:

(a) the Measures element is qualified by a liberalization commitment of the Description element, the Measures element so qualified shall prevail over any other element; and

(b) the Measures element is not qualified, the Measures element shall prevail over any other element, except where any discrepancy between the Measures element and the other elements taken as a whole is so substantial and material that it would be unreasonable to conclude that the Measures element should prevail, in which case, the other elements shall prevail to the extent of the discrepancy.

4. Pursuant to Articles 12.7 (Nonconforming Measures) and 13.7 (Nonconforming Measures), the Articles of this Agreement specified in the Affected Obligations element of a tab do not apply to the law, regulation or other measure identified in the Measures element of that tab.

5. Where a Party maintains a measure that requires a service supplier to be a national, permanent resident, or resident in its territory as a condition for the supply of a service in its territory, a Schedule entry made for that measure in connection with Articles 13.3 (National Treatment), 13.4 (Most-Favored-Nation Treatment), or 13.6 (Local Presence) shall operate as a Schedule entry in relation to Articles 12.2 (National Treatment), 12.3 (Most-Favored-Nation Treatment) or 12.6 (Performance Requirements) with respect to such measure.

6. For greater certainty, Article 13.5 (Market Access) refers to non-discriminatory measures.

Annex I. Schedule of Colombia

Sector: All Sectors

Obligations Concerned: Local Presence (Article 13.6)

Measures: Commercial Code of 1971, Arts. 469, 471 and 474

Description: Cross-Border Trade in Services

A legal person incorporated under the laws of another country and having its principal place of business in another country, must be established as a branch or other legal form in Colombia in order to develop a concession granted by the Colombian State.

Sector: All Sectors Obligations Concerned: National Treatment (Article 12.2) Measures: Decree 2080 of 2000, Art. 26

Description: Investment

Foreign investors may make portfolio investments in securities in Colombia only through an Administrator.

Sector: All Sectors

Obligations Concerned: National Treatment (Article 12.2)

Senior Executives and Boards of Directors (Article 12.5)

Measures: As established in the Description element, including Articles 3 and 11 of Law 22.1.

Articles 3 and 11 of Law 226 of 1995

Description: Investment

Colombia in selling or disposing of its equity interests or the assets of an existing state enterprise or governmental entity, may prohibit or impose limitations on the ownership of such interests or assets, and on the power of the owners of such interests or assets to control any resulting enterprise, by Costa Rican or non-Party investors or their investments. In connection with any such sale or other disposition, Colombia may adopt or maintain any measure relating to the nationality of senior executives or members of the board of directors.

Relevant existing legislation related to this non-conforming measure includes Law 226 of 1995. In that sense, if the Colombian State decides to sell all or part of its participation in an enterprise to a person other than another Colombian State enterprise or other Colombian governmental entity it will first offer such participation on an exclusive basis and in accordance with the conditions set forth in Article 11 of Law 226 of 1995, to:

(a) current workers, pensioners and former workers (other than former workers terminated with just cause) of the company and of other companies owned or controlled by such company;

(b) associations of employees or former employees of the company;

(c) labor unions;

(d) federations and confederations of workers' unions;

(e) employee funds;

(f) severance and pension funds; and

(g) cooperative entities (1).

However, once such participation has been transferred or sold, Colombia does not reserve the right to control subsequent transfers or other sales of such participation.

For purposes of this reservation:

(a) any measure maintained or adopted after the date of entry into force of this Agreement that, at the time of sale or other disposition, prohibits or imposes limitations on the ownership of equity interests or assets, or imposes nationality requirements described in this reservation, shall be deemed to be an existing measure; and

(b) State enterprise means an enterprise owned, or controlled through ownership rights, by Colombia and includes an enterprise established after the date of entry into force of this Agreement solely for the purpose of selling or disposing of equity interests in, or assets of, an existing State enterprise or governmental entity.

(1) For greater certainty, Law 454 of 1998 establishes the types of cooperative entities that exist in Colombia, including, inter alia, "savings and credit cooperatives", "financial cooperatives" and "multi-active or integral cooperatives".

Sector: All sectors Obligations Concerned: Local Presence (Article 13.6) Measures: Law 915 of 2004, Art. 5

Description: Cross Border Trade in Services

Only a person with its principal place of business in the Free Port of San Andres, Providencia and Santa Catalina may provide services in this region.

For greater certainty, this measure does not affect the cross-border supply of services as defined in Article 13.15.

Sector: Accounting Services

Obligations Concerned: National Treatment (Article 13.3)

Local Presence (Article 13.6)

Measures: Law 43 of 1990, Art. 3 Par. 1

Resolution No. 160 of 2004, Art. 2 Par. and Art. 6

Description: Cross Border Trade in Services

Only persons registered with the Central Board of Accountants may practice as accountants. A foreigner must have been domiciled in Colombia uninterruptedly for at least three years prior to the application for registration and demonstrate accounting experience in the territory of Colombia for at least one year. This experience may be acquired simultaneously or subsequent to the public accounting studies.

For natural persons, the term "domiciled" means to be resident and have the intention to remain in Colombia.

Sector: Research and Development Services Obligations Concerned: National Treatment (Article 13.3) Measures: Decree 309 of 2000, Art. 7

Description: Cross Border Trade in Services

Any foreign person planning to conduct scientific research on biological diversity in the territory of Colombia must involve at least one Colombian researcher in the research or in the analysis of its results.

For greater certainty, this measure does not require or prohibit that foreign persons and Colombian researchers reach an agreement regarding the rights with respect to the scientific research or analysis.

Sector: Fisheries and Fisheries-Related Services

Obligations Concerned: National Treatment (Articles 12.2 and 13.3)

Most-Favoured-Nation Treatment (Article 13.4) Market Access (Article 13.5)

Measures: Decree 2256 of 1991, Art. 27, 28 and 67 Agreement 005 of 2003, Section II and VII.

Description: Investment and Cross-Border Trade in Services

Only Colombian nationals may engage in artisanal fishing.

A foreign flag vessel may obtain a permit and engage in fishing and related activities in Colombian territorial waters only in association with a Colombian company holding a permit. In this case, the value of the permit and the fishing patent are higher for foreign-flagged vessels than for Colombian-flagged vessels.

If the flag of a foreign flag vessel corresponds to a country that is party to another bilateral agreement with Colombia, the terms of that other bilateral agreement will determine whether or not the requirement to associate with a Colombian company holding the permit applies.

Sector: Services directly related to the exploration and exploitation of minerals and hydrocarbons.

Obligations Concerned: Local Presence (Article 13.6)

Measures: Law 685 of 2001, Art. 19 and 20

Legislative Decree 1056 of 1953, Art. 10.

Code of Commerce, 1971, Art. 471 and 474

Description: Cross Border Trade in Services

In order to provide services directly related to the exploration and exploitation of minerals and hydrocarbons in Colombia, any legal person incorporated under the laws of another country must establish a branch, affiliate or subsidiary in Colombia.

For greater certainty, this tab does not apply to service providers involved in such services for less than one year.

Sector: Private Security and Surveillance Services

Obligations Concerned: National Treatment (Articles 12.2 and 13.3)

Access to Markets (Article 13.5) Local Presence (Article 13.6)

Measures: Decree 356 of 1994, Art. 8, 12, 23 and 25

Description: Investment and Cross-Border Trade in Services

Only a company organized under Colombian law as a limited liability company or as private security and surveillance cooperatives (2) may provide private security and surveillance services in Colombia. The partners or members of these companies must be Colombian nationals.

Companies incorporated prior to February 11, 1994 with foreign partners or capital may not increase the participation of foreign partners. Cooperatives incorporated prior to this date may retain their legal nature.

(2) Article 23 of Decree 356 of 1994 defines a private security and surveillance cooperative as a non-profit associative company in which the workers are simultaneously the contributors and managers of the company, created for the purpose of providing private security and surveillance services, and related services, on a paid basis.

Sector: Journalism

Obligations Concerned: Senior Executives and Boards of Directors (Article 12.5).

Measures: Law 29 of 1944, Art. 13

Description: Investment

The director or general manager of any newspaper published in Colombia that deals with national politics must be a Colombian national.

Sector: Travel and Tourism Agents

Obligations Concerned: National Treatment (Article 13.3)

Local Presence (Article 13.6)

Measures: Law 32 of 1990, Art. 5

Decree 502 of 1997, Arts. 1 to 7

Description: Cross Border Trade in Services

Foreigners must be domiciled in Colombia to provide travel and tourism agent services within the territory of Colombia.

For greater certainty, this tab does not apply to services provided by tourist guides, nor does it affect the cross-border supply of services as defined in Article 13.15 (a) and (b) (Definitions).

Sector: Notarial and Registration Services

Obligations Concerned: National Treatment (Article 13.3)

Market Access (Article 13.5)

Measures: Decree Law 960 of 1970, Art. 123, 124, 126, 127 and 132.

Decree Law 1250 of 1970, Art. 60

Description: Cross Border Trade in Services

Only Colombian nationals may be Notaries and/or Registrars.

The establishment of new notaries is subject to an economic necessity test that considers the population of the area of interest, service needs and communication facilities, among other factors.

Sector: Public Utilities

Obligations Concerned: National Treatment (Article 12.2)

Market Access (Article 13.5) Local Presence (Article 13.6)

Measures: Law 142 of 1994, Art. 1, 17, 18, 19 and 23 Commercial Code, Art. 471 and 472

Description: Investment and Cross-Border Trade in Services

A domiciliary public utilities company must be established under the regime of "Empresas de Servicios Públicos", "E.S.P.", must be domiciled in Colombia and legally constituted under Colombian law as a joint stock company. The requirement to be organized as a joint stock company does not apply in the case of decentralized entities that take the form of an industrial and commercial enterprise of the State.

For the purposes of this sheet, domiciliary public utilities include the provision of water, sewage, sanitation, electric power and fuel gas distribution services, basic public switched telephone service (TPBC) and its complementary activities. For basic public switched telephony services, complementary activities means long distance public telephony and mobile telephony in the rural sector, but does not include commercial mobile services.

In public tenders conducted under the same conditions for all participants, to grant concessions or licenses for the provision of domiciliary public services for organized local communities, the companies where these communities have a majority will be preferred over any other equal offer.

Sector: Electric Energy

Obligations Concerned: Access to Markets (Article 13.5)

Measures: Law 143 of 1994, Art. 74

Description: Cross Border Trade in Services

Only companies legally incorporated in Colombia prior to July 12, 1994, may carry out the activity of commercialization and transmission of electric energy or carry out more than one of the following activities at the same time: generation, distribution and transmission of electric energy. For greater certainty, a company legally incorporated in Colombia may not carry out the activity of commercialization and transmission of electric energy.

Sector: Customs Services

Obligations Concerned: Local Presence (Article 13.6)

Measures: Decree 2685 of 1999, Art. 74 and 76

Description: Cross Border Trade in Services

To perform customs brokerage activities, intermediation for postal and specialized courier services (3) (including express shipments), warehousing of goods, transportation of goods under customs control, international freight forwarder, and act as Permanent Customs Users or Highly Exporters, a person must be domiciled in Colombia or have a representative domiciled and legally responsible for its activities in Colombia.

(3) Specialized courier service means the kind of postal service provided independently of the official national and international postal networks, which requires the application and adoption of special procedures for the reception, collection and personalized delivery of mail and other postal items, transported by surface or air, within and from the territory of Colombia.

Sector: Postal and Specialized Courier Services

Obligations Concerned: Local Presence (Article 13.6)

Measures: Law 1369 of 2009, Art. 4

Description: Cross Border Trade in Services

Only legal persons legally incorporated in Colombia may provide postal and specialized courier services (as defined in the previous measure) in Colombia.

Sector: Telecommunications Services

Obligations Concerned: National Treatment (Article 13.3)

Local Presence (Article 13.6)

Measures: Law 671 of 2001

Decree 1616 of 2003, Art. 13 and 16.

Decree 2542 of 1997, Art. 2

Decree 2926 of 2005, Art. 2

Decree 2870 of 2007, Title II (Arts. 3 to 7)

Description: Cross Border Trade in Services

Only companies legally incorporated in Colombia may receive concessions for the supply of telecommunications services in Colombia.

Colombia may grant licenses for the supply of long distance basic public switched telephone service on less favorable terms, only with respect to payment and duration, than those granted to Colombia Telecomunicaciones S.A. E.S.P. pursuant to Article 2 of Decree 2542 of 1997, Articles 13 and 16 of Decree 1616 of 2003 and Decree 2926 of 2005.

Sector: Cinematography

Obligations Concerned: Performance Requirements (Article 12.6)

National Treatment (Article 13.3)

Measures: Law 814 of 2003, Arts. 5, 14, 15, 18, and 19.

Description: Investment and Cross-Border Trade in Services

The exhibition or distribution of foreign films is subject to the Film Development Fee which is set at 8.5 percent of the monthly net income derived from such exhibition or distribution.

The Exhibitor's fee will be reduced to 2.25 percent when the exhibition of foreign films is presented in conjunction with a domestic short film.

The Distributor's Fee will be reduced to 5.5 percent until 2013, provided that during the immediately preceding year the percentage of Colombian feature film titles distributed by the distributor to theaters or other exhibitors equaled or exceeded the percentage target established by the government.

Sector: Sound Broadcasting

Obligations Concerned: National Treatment (Articles 12.2 and 13.3)

Senior Executives and Boards of Directors (Article 12.5) Market Access (Article 13.5)

Local Presence (Article 13.6)

Measures: Law 80 of 1993, Art. 35

Law 74 of 1966, Art. 7

Decree 1447 of 1995, Arts. 7, 9 and 18.

Description: Investment and Cross-Border Trade in Services

Concessions to provide radio broadcasting services may only be granted to Colombian nationals or to legal entities legally incorporated in Colombia. The number of concessions for the provision of radio broadcasting services is subject to an economic necessity test that applies criteria established by law.

The directors of news or journalistic programs must be Colombian nationals.

Sector: Television Broadcasting

Audiovisual production services

Obligations Concerned: National Treatment (Articles 12.2 and 13.3)

Performance Requirements (Article 12.6) Market Access (Article 13.5) Local Presence (Article 13.6)

Measures: Law 014 of 1991, Art. 37.

Law 680 of 2001, Arts. 1 and 4.

Law 335 of 1996, Arts. 13 and 24.

Law 182 of 1995, Art. 37 numeral 3, Arts. 47 and 48.

Agreement 002 of 1995, Art. 10 Paragraph

Agreement 023 of 1997, Art. 8 Paragraph

Agreement 024 of 1997, Arts. 6 and 9

Agreement 020 of 1997, Arts. 3 and 4

Description: Investment and Cross-Border Trade in Services

Only Colombian nationals or legal entities legally constituted in Colombia may obtain concessions to provide broadcast

television services.

To obtain a concession for a privately operated national channel to provide broadcast television services, a legal entity must be organized as a corporation.

The number of concessions for the provision of national and local for-profit broadcast television services is subject to an economic necessity test in accordance with criteria established by law.

Foreign capital in any open television concession company is limited to 40 percent.

National Television

Providers (operators and concessionaires of slots) of national free-to-air television services must broadcast on each channel programming of national production as follows:

(a) a minimum of 70 percent between 19:00 hours and 22:30 hours;

(b) a minimum of 50 percent between 10:30 p.m. and midnight;

(c) a minimum of 50 percent between 10:00 a.m. and 7:00 p.m.; and

(d) a minimum of 50 percent for Saturdays, Sundays and holidays during the hours described in paragraphs (a),

(b) and (c).

Regional and Local Television

Regional television may only be provided by state-owned entities.

Regional and local free-to-air television service providers must broadcast on each channel a minimum of 50 percent of nationally produced programming.

Sector: Subscription television Audiovisual production services

Obligations Affected: Performance Requirements (Article 12.6)

Market Access (Article 13.5) Local Presence (Article 13.6)

Measures: Law 680 of 2001. Arts. 4 and 11

Law 182 of 1995, Art. 42

Agreement 014 of 1997, Arts. 14, 16 and 30.

Law 335 of 1996, Art. 8

Agreement 032 of 1998, Arts. 7 and 9.

Description: Cross-Border Investment and Trade in Services

Only legal entities legally constituted in Colombia may provide subscription television services. Such legal entities must make available to subscribers the reception, at no additional cost, of Colombian national, regional and municipal open television channels available in the authorized coverage area. The transmission of regional and municipal channels will be subject to the technical capacity of the subscription television operator.

Satellite television service providers are only obliged to include in their basic programming the transmission of Colombian State public interest channels. When rebroadcasting programming of an open television channel subject to domestic content quota, the subscription television service provider may not modify the content of the original signal.

Subscription Television not including Satellite

The subscription television service concessionaire that transmits commercials other than those of origin must comply with the minimum percentages of nationally produced programming to which the providers of national free-to-air television services are obliged, as described in the Open Television tab on pages 21 and 22 of this Annex. Colombia interprets Article 16 of Agreement 014 of 1997 as not requiring subscription television service providers to comply with minimum percentages of nationally produced programming when commercials are inserted in programming outside the territory of Colombia. Colombia shall continue to apply this interpretation, subject to Article 13.7(1)(c) (Nonconforming Measures).

There will be no restrictions on the number of subscription television concessions at the zonal, municipal and district levels once the current concessions at these levels expire and in any event no later than October 31, 2011.

Cable television service providers must produce and broadcast in Colombia a minimum of one hour of such programming daily, between 6:00 p.m. and midnight.

Sector: Community Television

Obligations Concerned: Access to Markets (Article 13.5)

Local Presence (Article 13.6)

Measures: Law 182 of 1995, Art. 37 numeral 4.

Agreement 006 of 1999, Arts. 3 and 4

Description: Cross Border Trade in Services

Community television services may only be provided by communities organized and legally constituted in Colombia as foundations, cooperatives, associations or corporations governed by civil law.

For greater certainty, these services have restrictions regarding the area of coverage, number and type of channels; they may be offered to no more than 6000 associates or community members; and they must be offered under the modality of local access channels of closed networks.

Sector: Toxic Waste Processing, Disposal, and Disposal Services

Obligations Concerned: National Treatment (Article 12.2)

Measures: Decree 2080 of 2000, Art. 6

Description: Investment

Foreign investment is not allowed in activities related to the processing, disposal and elimination of toxic, hazardous or radioactive wastes not produced in Colombia.

Sector: Transportation

Obligations Concerned: Local Presence (Article 13.6)

Measures: Law 336 of 1996, Arts. 9 and 10.

Decree 149 of 1999, Art. 5

Description: Cross Border Trade in Services

Suppliers of public transportation services within Colombian territory must be companies legally incorporated and domiciled in Colombia.

Only foreign companies with an agent or representative domiciled and legally responsible for their activities in Colombia may supply multimodal cargo transportation services within and from Colombian territory.

Sector: Maritime and Fluvial Transportation

Obligations Concerned: Performance Requirements (Article 12.6)

Senior Executives and Boards of Directors (Article 12.5) National Treatment (Article 13.3)

Local Presence (Article 13.6)

Measures: Decree 804 of 2001, Arts. 2 9 and 4 clause 4 Code of Commerce of 1971, Art. 1455

Decree Law 2324 of 1984, Arts. 99, 101 9 and 124.

Law 658 of 2001, Art. 11

Decree 1597 of 1988, Art. 23.

Description: Investment and Cross Border Trade in Services

Only companies legally incorporated in Colombia using Colombian flag vessels may provide public maritime and river transportation services between two points within Colombian territory (cabotage).

Any foreign flag vessel arriving at a Colombian port must have a representative domiciled and legally responsible for its activities in Colombia.

The public maritime and fluvial pilotage service in Colombian territorial waters shall be provided only by Colombian nationals.

In Colombian registered vessels and foreign flag vessels (except fishing vessels) operating in Colombian jurisdictional waters for a term of more than six months, continuous or discontinuous from the date of issuance of the respective permit, the captain, officers and at least 80 percent of the rest of the crew must be Colombian nationals.

Sector: Port Services

Obligations Concerned: National Treatment (Article 13.3)

Market Access (Article 13.5) Local Presence (Article 13.6)

Measures: Law 1 of 1991, Arts. 5.20 and 6.

Decree 1423 of 1989, Art. 38.

Description: Cross-Border Trade in Services

Holders of a concession to provide port services must be legally incorporated in Colombia as a corporation, whose corporate purpose is the construction, maintenance and administration of ports.

Only Colombian flag vessels may provide port services in Colombian jurisdictional maritime spaces. However, in exceptional cases, the General Maritime Directorate may authorize the rendering of such services by foreign flag vessels if there are no Colombian flag vessels capable of rendering the service. The authorization will be given for a term of six months, but may be extended up to a maximum total period of one year.

Sector: Air Services

Obligations Concerned: National Treatment (Article 12.2)

Performance Requirements (Article 12.6)

Measures: Commercial Code of 1971, Arts. 1795, 1803 and 1804

Description: Investment

Only Colombian nationals or legal persons legally constituted in Colombia may own and have real and effective control of any aircraft registered to provide commercial air services in Colombia.

Any air services company that has established an agency or branch in Colombia must employ Colombian workers in a proportion of not less than 90 percent for its operation in Colombia.

Annex I. Schedule of Costa Rica

1. Sector: All Sectors

Obligations Concerned: Local Presence (Article 13.6)

Measures: Law No. 3284 of April 30, 1964 - Commercial Code - Article 226.

Law No. 218 of August 8, 1939 - Law of Associations - Article 16.

Executive Decree No. 29496-J of April 17, 2001 - Regulations to the Law of Associations - Article 34.

Description: Cross Border Trade of Services

Associations domiciled abroad that wish to operate in Costa Rica and foreign legal entities that have or wish to open branches in the territory of Costa Rica, are obliged to constitute and maintain in the country a general attorney-in-fact for the business of the branch.

2. Sector: All Sectors

Obligations Concerned: National Treatment (Articles 12.2 and 13.3) Access to Markets (Article 13.5) Local Presence (Article 13.6)

Measures: Law No. 6043 of March 2, 1977 - Law on the Maritime Terrestrial Zone - Chapters 2, 3 and 6 and Article 31.

Law No. 2825 of October 14, 1962- Land and Colonization Law (ITCO IDA) - Chapter 2.

Regulation No. 10 of April 28, 2008- Autonomous Regulation of Border Leases - Chapters 1 and 2.

Description: Investment and Cross Border Trade in Services.

A concession is required to carry out any type of development or activity in the maritime-terrestrial zone. (1) Such concession shall not be granted to or held by:

(a) foreigners who have not resided in the country for at least five years;

(b) companies with bearer shares;

(c) companies domiciled abroad;

(d) companies incorporated in the country solely by foreigners; or

(e) companies whose shares or capital quotas are owned in more than 50 percent by foreigners.

In the maritime-terrestrial zone, no concession shall be granted within the first 50 meters counted from the high tide line or in the area between the high tide line and the low tide line.

The following shall be considered inalienable and not subject to acquisition:

The land included in a zone of 2000 meters wide along the borders with Nicaragua and Panama, can be acquired by denouncement or possession, except those that are under private domain, with legitimate title. In the case of natural persons, in order to be a lessee of these lands, foreigners must demonstrate, by means of a certification issued by the General Directorate of Immigration and Foreigners, that they are within the category of permanent residents. In the case of juridical persons, whose capital stock belongs to foreign citizens in more than 50 percent, the requirement of permanent residence applies to the foreign owners.

(1) The maritime-terrestrial zone is the strip of 200 meters wide along the entire length of the Atlantic and Pacific coasts of the Republic, measured horizontally from the ordinary high tide line. The maritime-terrestrial zone includes all the islands within the territorial sea of Costa Rica.

3. Sector: All Sectors

Obligations Concerned: National Treatment (Articles 12.2 and 13.3) Access to Markets (Article 13.5) Local Presence (Article 13.6)

Measures: Law No. 7762 of April 14, 1998 - General Law of Concession of Public Works with Public Services - Chapter 4.

Description: Investment and Cross-Border Trade in Services.

For public works concession contracts and public works concession contracts with public services defined in accordance with Costa Rican law, in the event of a tie in the selection parameters under the cartel rules, the Costa Rican bid will win the bid over the foreign bid. The successful bidder is obliged to incorporate a national corporation with which the concession contract will be executed. Likewise, it will be jointly and severally liable with this corporation.

4. Sector: Professional Services

Obligations Concerned: National Treatment (Articles 12.2 and 13.3) Most-Favored-Nation Treatment (Articles 12.3 and 13.4) Market Access (Article 13.5) Local Presence (Article 13.6)

Measures: Law No. 7221 of April 6, 1991 - Organic Law of the College of Agronomists - Articles 5, 6, 8, 10, 15, 16, 18, 19, 20, 23, 24 and 25.

Executive Decree No. 22688-MAG-MIRENEM of November 22, 1993- General Regulations to the Organic Law of the College of

Agronomists of Costa Rica - Articles 6, 7 and 9.

Executive Decree No. 29410-MAG of March 2, 2001- Regulations for the Registry of Appraisers - Appraisers of the College of Agronomists - Articles 6, 20 and 22.

Law No. 5230 of July 2, 1973- Organic Law of the College of Geologists of Costa Rica - Article 9.

Executive Decree No. 6419-MEIC of October 18, 1976- Regulations of the College of Geologists of Costa Rica - Articles 4, 5 and 37.

Law No. 15 of October 29, 1941- Organic Law of the College of Pharmacists - Articles 2, 9 and 10.

Executive Decree No. 3503 of February 6, 1974- General Organic Regulations or Internal Regulations of the College of Pharmacists of Costa Rica - Articles 2 and 6.

Regulation of Pharmaceutical Specialties of the College of Pharmacists of Costa Rica of October 27, 2010- Articles 4, 6, 9, 17 and 18.

Law No. 5784 of August 19, 1975- Organic Law of the College of Dental Surgeons of Costa Rica - Articles 2, 5, 6, 9, 10, 14 and 15.

Law No. 3663 of January 10, 1966- Organic Law of the Federated College of Engineers and Architects - Articles 5, 9, 11, 13, 14 and 52.

Executive Decree No. 3414-T of December 3, 1973- General Internal Regulations of the Federated College of Engineers and Architects of Costa Rica - Articles 1, 3, 7, 9, 54, 55 and 60.

Special Regulations of Incorporation of the Federated College of Engineers and Architects of Costa Rica of December 6, 1982 - Articles 7 and 8.

Law No. 1038 of August 19, 1947 - Law of Creation of the College of Public Accountants - Articles 3, 4, 12 and 15.

Executive Decree No. 13606-E of May 5, 1982- Regulations of the College of Public Accountants of Costa Rica - Articles 4, 5, 8, 10 and 30.

Regulation No.9 of May 25, 2010- Regulation of the Procedure and Requirements for Incorporation to the College of Public Accountants of Costa Rica - Article 3.

Law No. 3455 of November 14, 1964- Organic Law of the College of Veterinarians - Articles 2, 4, 5, 7 and 27.

Executive Decree No. 19184-MAG of July 10, 1989 - Regulations to the Organic Law of the College of Veterinarians - Articles 6, 7, 10, 11, 19 and 24.

Law No. 2343 of May 4, 1959 - Organic Law of the College of Nurses - Articles 2, 22, 23, 24 and 28.

Executive Decree No. 37286 of April 19, 2012- Regulations to the Organic Law of the College of Nurses of Costa Rica - Articles 1, 6, 7, 12, 13, 155 and 158.

Regulation No. 2044 of July 07, 2011- Regulation of Incorporation of the College of Nurses of Costa Rica - Article 11.

Law No. 7764 of April 17, 1998- Notarial Code - Articles 3 and 10.

Law No. 13 of October 28, 1941- Organic Law of the Bar Association - Articles 2, 6, 7, 8 and 18.

Executive Decree No. 20 of July 17, 1942- Internal Regulations of the Bar Association - Article 1.

Agreement No. 2008-45-034 of December 09, 2008- Manual of Incorporation of Law Graduates to the Bar Association - Articles 2, 7 and 8.

Law No. 1269 of March 2, 1951- Organic Law of the College of Private Accountants of Costa Rica - Articles 2 and 4.

Executive Decree No. 3022 of May 21, 1973- Regulations of the Organic Law of the College of Private Accountants of Costa Rica - Articles 5 and 39.

Regulation No. 90-1 of May 18, 2004- Regulations for the Procedures and Requirements for Incorporation to the College of Private Accountants of Costa Rica - Article 3.

Law No. 8412 of April 22, 2004- Organic Law of the College of Chemical Engineers and Related Professionals and Organic Law of the College of Chemists of Costa Rica - Articles 7, 16, 17, 18, 19, 20, 21, 61, 67, 77, 82, 83, 84, 86 and 92.

Executive Decree No. 34699-MINAE-S of April 15, 2008- Regulations to Title II of the Organic Law of the College of Chemical Engineers and Related Professionals and Organic Law of the College of Chemists of Costa Rica, Law No. 8412 of April 22, 2004, Regulations of the College of Chemists of Costa Rica - Articles 2, 3, 14, 15 and 16 and Chapter VI.

Executive Decree No. 35695-MINAET of May 25, 2009- Regulations to Title I of the Organic Law of the College of Chemical Engineers and Related Professionals of Costa Rica and Organic Law of the College of Chemists of Costa Rica, Law No. 8412 - Articles 1, 3, 6, 8, 13, 110, 111, 114, 115, 116, 117,118, 119, 121, 122, 123, 125, 128, 130, 145, 154, 155, 156, 158 and 161and Chapter XVII, Chapter XIX, Chapter XXI, Chapter XXIV.

Law No. 3019 of August 9, 1962- Organic Law of the College of Physicians and Surgeons - Articles 4, 5, 6 and 7.

Executive Decree No. 23110-S of March 22, 1994- Regulations to the Organic Law of the College of Physicians and Surgeons - Article 10.

Executive Decree No. 2613-SPSS of November 3, 1972- General Regulations to Authorize the Practice of Professionals of Dependent Branches of the Medical Sciences and Technicians in Medical and Surgical Matters - Articles 1 and 4.

Regulation No. 9 of September 19, 2012- Regulations for Technologists in Medical Sciences, authorized by the College of Physicians and Surgeons- Articles 4, 7 and 44.

Regulation No. 12 of February 12, 2007- Chapter of Professionals Related to Medical Sciences - Article 14.

Law No. 3838 of December 19, 1966- Organic Law of the College of Optometrists of Costa Rica - Articles 6 and 7.

Law No. 4420 of December 22, 1969- Organic Law of the College of Journalists of Costa Rica - Articles 2, 24, 25 and 27.

Executive Decree No. 32599 of June 13, 2005- Regulations of the College of Journalists of Costa Rica - Articles 1, 3, 47 and 48.

Law No. 7106 of November 4, 1988- Organic Law of the College of Professionals in Political Sciences and International Relations - Articles 26 and 29.

Executive Decree No. 19026-P of May 31, 1989- Regulations to the Organic Law of the College of Professionals in Political Science and International Relations - Articles 1, 10, 19, 21 and 22.

Law No. 4288 of December 20, 1968- Organic Law of the College of Biologists - Articles 6 and 7.

Executive Decree No. 39 of May 6, 1970- Regulations of the Organic Law of the College of Biologists of Costa Rica - Articles 10, 11, 16, 17, 18 and 19.

Law No. 5402 of April 30, 1974- Organic Law of the College of Librarians of Costa Rica - Article 5.

General Regulations of the College of Librarians of Costa Rica, approved at the Ordinary General Assembly of October 2, 1991 - Articles 12 and 17.

Law No. 7537 of August 22, 1995- Organic Law of the College of Professionals in Informatics and Computing - Articles 6 and 8.

Executive Decree No.35661-MICIT of November 18, 2009- General Regulations of the Organic Law of the College of Professionals in Informatics and Computing - Articles 1, 22 and 23.

Law No. 8142 of November 5, 2001- Law of Official Translations and Interpretations - Article 6.

Executive Decree No. 30167-RE of January 25, 2002- Regulations to the Law of Official Translations and Interpretations - Article 10.

Law No. 7105 of October 31, 1988- Organic Law of the College of Professionals in Economic Sciences - Articles 4, 6, 15, 19 and 20.

Executive Decree No. 20014-MEIC of September 19, 1990- General Regulations of the College of Professionals in Economic Sciences of Costa Rica - Articles 10, 14 and 17.

Regulation No. 77 of June 20, 2009- Admission Regulations of the College of Professionals in Economic Sciences of Costa Rica, - Articles 10, 12, 13 and 24.

Executive Decree No. 24686 of September 19, 1995- Regulation of Professional Audit of Consulting Entities - Articles 2 and 5.

Law No. 7503 of May 3, 1995- Organic Law of the College of Physicists - Articles 6 and 10.

Executive Decree No. 28035-MINAE-MICIT of April 14, 1999- Regulations to the Organic Law of the College of Physicists - Articles 6, 7, 10, 11, 18 and 21.

Law No. 8863 of September 18, 2010- Organic Law of the College of Guidance Professionals - Articles 3, 4, 8 and 10.

Law No. 6144 of November 28, 1977- Organic Law of the Professional Association of Psychologists of Costa Rica - Articles 4, 5, 6 and 7.

Regulations to the Organic Law of the Professional Association of Psychologists of Costa Rica, approved in session No. 3 of the Ordinary General Assembly of March 9, 1977.

General Assembly of March 9, 1979 - Articles 9, 10 and 11.

Regulation of Incorporation and Change of Grade of the Professional College of Psychologists of Costa Rica of December 7, 2000- Article 5.

Regulation of Psychological Specialties of May 26, 2010- Articles 1, 4, 5 and 18.

Law No. 8676 of November 18, 2008- Organic Law of the College of Nutrition Professionals - Articles 2, 7, 11 and 13.

Regulation No.18 of September 23, 2009- Regulation of Incorporation to the College of Nutrition Professionals of Costa Rica - Articles 2, 3, 9 and 10.

Law No. 3943 of September 6, 1967- Organic Law of the College of Social Workers - Articles 2 and 12.

Executive Decree No. 26 of July 15, 1969- Regulations to the Organic Law of the College of Social Workers - Articles 14, 66, 67, 69 and 70.

Law No. 7912 of September 21, 1999- Organic Law of the College of Chiropractic Professionals - Article 7.

Executive Decree No. 28595-S of March 23, 2000- Regulation of the Organic Law of the College of Chiropractic Professionals - Articles 5, 8 and 15.

Law No. 7559 of November 9, 1995- Law of Compulsory Social Service for Professionals in Health Sciences - Articles 2, 3, 5, 6 and 7.

Executive Decree No. 25068-8 of March 21, 1996- Regulation of Compulsory Social Service for Professionals in Health Sciences - Articles 7, 13, 14, 17, 18, 21 and 22,

Law No. 8831 of April 28, 2010- Organic Law of the College of Professionals in Criminology of Costa Rica - Articles 4, 7, 8, 12 and 14.

Law No. 4770 of October 13, 1972- Organic Law of the College of Licentiates and Professors in Letters and Philosophy, Sciences and Arts - Articles 3, 4 and 7.

Regulation No. 91 of November 13, 1999- General Regulations of the College of Licentiates and Professors in Letters, Philosophy, Sciences and Arts - Articles 32 and 33.

Regulation No. 96 of August 28, 2008- Manual of Incorporation of the College of Licentiates and Professors in Letters, Philosophy, Sciences and Arts - Articles 5, 6, 7 and 8.

Law No. 771 of October 25, 1949- Organic Law of the College of Microbiologists - Articles 2 and 8.

Executive Decree No. 12 of September 30, 1957- Internal Regulations of the College of Microbiologists - Articles 17, 79 and 80.

Executive Decree No. 21034-S of January 28, 1992- Regulations to the Statute of Microbiology and Clinical Chemistry Services - Article 63.

Law No.8794 of August 04, 2011- Creation of the College of Sociology Professionals of Costa Rica- Articles 3, 9, 30, 37 and 39.

Law No.8989 of September 12, 2011- Law of the College of Therapists- Articles 8, 9, 11, 37, 40, 41 and 42.

Regulation of Medical Specialties and Subspecialties of the College of Physicians and Surgeons of November 09, 2011- Article 7.

Regulations for Academic Masters and Doctorates in areas of Medical Sciences of the College of Physicians and Surgeons of Costa Rica of November 09, 2011- Article 7.

Description: Investment and Cross Border Trade of Services

Only professional service providers duly incorporated to the respective professional association in Costa Rica are authorized to practice the profession in the territory of Costa Rica, including advisory and consulting services. Foreign professional service suppliers must be incorporated to the respective professional association in Costa Rica and comply, among others, with nationality, residency, incorporation exams, accreditations, experience, social service or evaluations requirements. For the requirement of social service

For the social service requirement, priority will be given to Costa Rican professional service providers.

In order to be incorporated in some of the professional associations in Costa Rica, foreign professional service suppliers must demonstrate that in their country of origin where they are authorized to practice, Costa Rican professional service suppliers can practice the profession under similar circumstances.

In some cases, the contracting of foreign professional service suppliers by the State or private institutions may only occur when there are no Costa Rican professional service suppliers willing to provide the service under the required conditions or under the declaration of inopia.

This form applies to Agronomists, Geologists, Pharmacists, Specialist Pharmacists, Dental Surgeons, Engineers and Architects, Public Accountants, Veterinarians, Nurses, Lawyers, Notaries, Private Accountants, Chemists, Chemical Engineers and Related Professionals, Physicians and Surgeons, Professionals in Medical Sciences and Technicians in Medical and Surgical Matters, Optometrists, Journalists, Specialists in Political Sciences and International Relations, Biologists, Librarians, Professionals in Informatics and Computers, Social Workers, Nutritionists, Official Translators and Interpreters, Economists, Physicists, Counselors, Psychologists, Specialist Psychologists, Chiropractors, Professionals in Health Sciences, Microbiologists, Teachers, Nutritionists, Sociologists, Therapists.

5. Sector: Maritime Services

Obligations Concerned: Access to Markets (Article 13.5)

Measures: Law No. 7593 of August 09, 1996 - Law of the Public Services Regulatory Authority - Articles 5, 9 and 13.

Description: Cross Border Trade in Services

Costa Rica reserves the right to limit the number of concessions for the supply of maritime services in national ports based on the demand for such services. Priority will be given to concessionaires that are already supplying the service.

6. Sector: Land Transportation Services - Road Cargo Transportation

Obligations Concerned: National Treatment (Articles 12.2 and 13.3) Most-Favored-Nation Treatment (Articles 12.3 and 13.4) Senior Executives and Boards of Directors (Article 12.5) Market Access (Article 13.5)

Measures: Executive Decree No. 31363-MOPT of June 2, 2003 - Regulation of Highway Traffic based on Weight and Dimensions of Cargo Vehicles - Articles 69 and 71.

Executive Decree No. 15624-MOPT of August 28, 1984- Regulation of Local Automotive Cargo Transportation - Articles 5, 7, 8, 9, 10, and 12.

Description: Investment and Cross Border Trade of Services.

No motor vehicle, trailer or semi-trailer with foreign license plates may transport goods within the territory of Costa Rica. Vehicles, trailers or semi-trailers registered in one of the Central American countries are exempted from the above prohibition.

Only Costa Rican nationals or companies may provide cargo transportation services between two points within the territory of Costa Rica. Such company must meet the following requirements:

(a) at least 51 percent of its capital must be owned by Costa Rican nationals; and

(b) the effective control and management of the company must be in the hands of Costa Rican nationals.

Foreign multimodal international cargo transportation companies shall be required to contract with companies incorporated under Costa Rican law to transport containers and semi-trailers within Costa Rica.

7. Sector: Land Transportation Services - Transportation of Passengers

Obligations Concerned: National Treatment (Articles 12.2 and 13.3) Most-Favored-Nation Treatment (Articles 12.3 and 13.4) Market Access (Article 13.5)

Measures: Executive Decree No. 26 of November 10, 1965 - Regulations for the International Transportation of Persons - Articles 1, 3, 4, 5, 9, 12, 15 and 16 as amended by Executive Decree No. 20785-MOPT of October 4, 1991 - Article 1.

Law No. 3503 of May 10, 1965- Regulatory Law of Paid Transportation of Persons in Motor Vehicles - Articles 1, 3, 4, 6, 10, 11 and 25.

Executive Decree No. 33526 of December 7, 2006- Regulation on Characteristics of the Public Taxi Service - Articles 1, 2 and 4.

Law No. 7969 of December 22, 1999- Regulatory Law of the Public Service of Paid Transportation of Persons in Taxi Vehicles - Articles 1, 2, 3, 29, 30 and 33.

Executive Decree No. 5743-T of February 12, 1976- Regulations to the Regulatory Law of Paid Transportation of Persons in Taxi Vehicles - Articles 1, 2, 5 and 14.

Executive Decree No. 28913-MOPT of September 13, 2000- Regulation of the First Special Abbreviated Procedure for the Paid Transportation of Persons in Taxi Vehicles - Articles 1, 3 and 16.

Law No. 5066 of August 30, 1972- General Law of Railroads - Articles 1, 4, 5 and 41.

Executive Decree No. 28337-MOPT of December 16, 1999- Regulation on Policies and Strategies for the Modernization of Paid Collective Transportation of Persons by Urban Buses for the Metropolitan Area of San José and Surrounding Areas that Directly or Indirectly Affects it - Article 1.

Executive Decree No. 15203-MOPT of January 31, 1984- Regulation for the Exploitation of Special Paid Motor Transport Services of Persons - Articles 2, 3 and 4.

Executive Decree No. 36223-MOPT-TUR of June 6, 2010- Regulations for the Regulation and Operation of Land Transportation Services for Tourism - Articles 1, 2 and 3.

Executive Decree No. 35847-MOPT of February 11, 2010- Regulation of Special Bases for the Paid Transportation Service of Persons in the Taxi Modality - Articles 1 and 2.

Executive Decree No. 34992-MOPT of January 09, 2009- Regulation for the Granting of Operation Permits for the Regular Service of Paid Transportation of Persons in Collective Motor Vehicles - Articles 3 and 5.

Law No. 7593 of August 09, 1996- Law of the Regulatory Authority of Public Services - Articles 5, 9, 10 and 13.

Executive Decree No. 35985 of April 16, 2010- Regulation of the first special abbreviated procedure of cabs, of the operation base of the Juan Santamaría International Airport - Articles 2 and 4.

Description: Investment and Cross Border Trade in Services

Costa Rica reserves the right to limit the number of concessions to operate domestic lines of remunerated transportation routes of persons in motor vehicles (including special services of transportation of persons defined in Articles 2 and 3 of Executive Decree No. 15203-MOPT of February 22, 1984 - Regulation for the Exploitation of Special Services of Remunerated Automobile Transportation of Persons). Said concessions must be granted through a bidding process, and the operation of a line will only be tendered when the Ministry of Public Works and Transportation has established the need to provide the service, according to the respective technical studies.

When there are multiple bids, including one from a Costa Rican supplier that satisfies all the requirements to the same extent, the Costa Rican bid will be preferred over the foreign one, whether natural persons or companies.

A permit to operate an international service of transportation of persons for remuneration will be granted only to companies incorporated under Costa Rican law or those whose capital is composed of at least 60 percent of contributions from Central American nationals.

In addition to the restriction described above, the principle of reciprocity will be applied in the granting of permits for the

international transportation of persons for remuneration.

International service vehicles may not transport passengers between points located within the national territory.

A permit will be required to provide remunerated passenger transportation services by land. New concessions may be granted if justified by the demand for the service. Priority will be given to concessionaires already providing the service.

Costa Rica reserves the right to limit the number of permits or concessions to provide the paid domestic passenger transportation service by land, based on the demand for the service. Priority will be given to concessionaires that are already providing the service.

The Ministry of Public Works and Transportation reserves the right to annually fix the number of concessions to be granted in each district, canton and province for cab services. Only one cab concession may be granted to each natural person and each concession grants the right to operate only one vehicle. Cab concession bids are awarded on the basis of a point system, which gives an advantage to existing providers.

Each concession to provide regular public services of remunerated transportation of persons in motor vehicles, excluding cabs, may only be granted to one person, unless an economic needs test evidences the need for additional suppliers. Additionally, a natural person may not own more than two companies nor may he/she be a majority shareholder in more than three companies operating different routes.

A permit will be required to exploit the service of transportation of persons in the door to door modality, in order to satisfy a limited, residual need for a service directed to a closed group of persons, a permit will be required to operate the special cab service. For the provision of the special stable cab service, it is required to obtain a permit granted by the Public Transportation Board, subject to proof of economic need and demand for the service. The stable special cab permit holders of this service shall be limited to provide the service within a geographic area to be determined by reason of the authorized license plate. Due to the principles of proportionality, reasonableness and necessity, the authorized percentage of special stable cab services may not exceed three percent of the authorized concessions per operating base. The State is obliged to guarantee the economic and financial equilibrium of the contract to the concessionaires, avoiding a competition that may be ruinous, as a result of a concurrence of operators in a given zone that may be higher than the need of that residual demand of the operational zone where the service is authorized, given that each zone presents different characteristics from one to another, authorizing the number of permits it deems necessary.

Permits to provide non-tourist bus transportation services within the Greater Metropolitan Area of the Central Valley of Costa Rica should only be granted once it has been demonstrated that the regular public bus service cannot satisfy the demand.

Tourist ground transportation permits will be granted in case it is technically determined that there is a need to increase the number of units dedicated to this type of service.

Costa Rica reserves the right to maintain a monopoly on railroad transportation. However, the State may grant concessions to private individuals. Concessions may be granted if the demand for the service justifies it. Priority will be given to concessionaires that are already providing the service.

Concessions are required to provide cab services from the base of operation of the Juan Santamaria International Airport. Only Costa Ricans or residents may apply for concessions.

8. Sector: Tourist Guides

Obligations Concerned: National Treatment (Article 13.3)

Measures: Executive Decree No. 31030-MEIC-TUR of January 17, 2003 - Regulations for Tourist Guides - Article 11.

Description: Cross Border Trade in Services

Only Costa Rican nationals or residents may apply for tourist guide licenses.

9. Sector: Tourism and Travel Agencies

Obligations Concerned: National Treatment (Articles 12.2 and 13.3) Performance Requirements (Article 12.6) Access to Markets (Article 13.5)

Measures: Law No. 5339 of August 24, 1973 - Law Regulating Travel Agencies - Article 8.

Law 6990 of July 15, 1985- Law on Incentives for Tourism Development - Articles 6 and 7.

Law No. 8724 of July 17, 2009- Promotion of Rural Community Tourism - Articles 1, 4 and 12.

Executive Decree No. 24863-H-TUR of December 5, 1995- Regulation of the Law of Incentives for Tourism Development - Articles 18, 32, 33, 34, 35, 36 and 36bis.

Executive Decree No. 25148-H-TUR of March 20, 1996- Regulates Vehicle Leasing to Domestic and Foreign Tourists - Article 7.

Description: Investment and Cross Border Trade of Services

Costa Rica reserves the right to limit the number of travel agencies authorized to operate in Costa Rica based on the demand for that service.

Costa Rica reserves the right to limit the granting of incentives for tourism development based on its contribution to the balance of payments, the use of domestic raw materials and inputs, the creation of direct or indirect jobs, the effects on regional development, the modernization or diversification of the national tourism supply, the increases in domestic and international tourism demand, and the benefits that are reflected in other sectors.

Rural community-based tourism activities may only be carried out by enterprises incorporated in Costa Rica as rural area self-management associations or cooperatives, in accordance with Costa Rican legislation.

In the evaluation of applications for companies that wish to opt for the benefits for the rural community-based tourism sector,

The use of raw materials produced in the project's area of influence will be taken into account.

The activities of tourist cabotage, in any of its forms, from Costa Rican port to Costa Rican port, are reserved to yachts, tourist cruise ships and similar of national flag.

10. Sector: Transportation Services - Customs Agents - Auxiliaries of the Customs Public Function - Customs Carriers

Obligations Concerned: National Treatment (Article 13.3) Local Presence (Article 13.6)

Measures: Law No. 7557 of October 20, 1995 - General Customs Law - Title III.

Executive Decree No. 25270-H of June 14, 1996- Regulations to the General Customs Law - Title IV.

Description: Cross Border Trade of Services

Only natural persons or companies that have a legal representative and are incorporated in Costa Rica, may act as customs transportation agents, international freight forwarders, customs warehouses, or perform any other function as an auxiliary of the public customs function. Only Costa Rican nationals may act as customs agents.

11. Sector: Fishing and Fishing Related Services

Obligations Concerned: National Treatment (Article 12.2) Performance Requirements (Article 12.6) Local Presence (Article 13.6)

Measures: Political Constitution of the Republic of Costa Rica - Article 6.

Law No. 8436 of March 1, 2005 - Fisheries and Aquaculture Law - Articles 6, 7, 16, 18, 19, 47, 49, 49, 53, 53, 54, 55, 57, 58, 62, 64, 65, 112 and 123.

Executive Decree No. 23943-MOPT-MAG of January 05, 1995- Regulatory Regulation of the Procedure for Granting Fishing Licenses to Foreign Vessels that Wish to Engage in Fishing Activities in Costa Rican Jurisdictional Waters - Articles 6, 6 bis and 7.

Executive Decree No. 12737-A of June 23, 1981- Exclusive Reservation of Fishing for Commercial Purposes to Costa Ricans - Article 1.

Executive Decree No. 17658-MAG of July 17, 1987- Classifies Permits for Shrimp Fishing in the Pacific Coast - Articles 1, 2 and 3.

Regulation for the Authorization of Landings of Fishery Products from Vessels Belonging to the National or Foreign Commercial Fishing Fleet (Acuerdo Junta Directiva de INCOPESCA A.J.D.I.P/042-2009) of January 31, 2009 - Articles 2 and 3.

The unloading of fishery products, coming from longline vessels of foreign flag shall be carried out at the Dock of the Multiservice Fishing Terminal of Barrio del Carmen from December 1st, 2010 (Agreement Board of Directors of INCOPESCA

A.J.D.I.P./371-2010) of October 19, 2010- Article 1.

Regulation for the suspension of the beginning of the unloading of fishery products from foreign flag vessels at the Incopesca Fishing Terminal, Barrio El Carmen, Puntarenas (Acuerdo Junta Directiva de INCOPESCA A.J.D.I.P./266-2011) of July 01, 2011- Article 1.

Law No.7384 of March 16, 1994- Law of Creation of the Costa Rican Institute of Fisheries and Aquaculture (INCOPESCA) of March 16, 1994- Article 45.

Executive Decree No.32527-MAG-MINAE of June 03, 2005- Regulation to Articles 45 of Law No. 7384 and 123 second paragraph of Law No. 8436 for the granting of fuel for the national non-sport fishing sector at a price competitive with the international price- Articles 1, 2 and 3.

Regulation for the regulation, control and efficient use of fuel at international competitive prices, for the national non-sport commercial fishing fleet and the national tourist fishing fleet in Costa Rican jurisdictional waters or outside of it (Agreement of the Board of Directors of INCOPESCA AJDIP/085-2010) of March 12, 2010 - Articles 6, 7, 8, 9 and 64.

Executive Decree No. 37386-MAG of July 9, 2012- Regulations for the utilization of the Tuna Purse Seine Fishing Capacity recognized to Costa Rica within the Inter-American Tropical Tuna Commission- Articles 2, 3, 4, 5, 6, 7, 9, 10 and 14.

Description: Investment

The State exercises complete and exclusive sovereignty over its territorial waters within a distance of 12 miles from the low sea line along its coasts, its continental shelf and its insular socket in accordance with the principles of international law. It also exercises a special jurisdiction over the seas adjacent to its territory in an extension of 200 miles from the same line, in order to protect, conserve and exploit with exclusivity all the resources and natural wealth existing in the waters, soil and subsoil of those areas, in accordance with those principles.

The foreign flag tuna purse seine vessel may enjoy a free fishing license for 60 calendar days if it delivers the totality of its catch to national canning or processing companies.

Fishing activities by foreign vessels are prohibited, except for tuna purse seine fishing.

Commercial fishing within 12 miles of Costa Rica's territorial waters is exclusively reserved for Costa Rican nationals and Costa Rican companies, who must carry out this activity with vessels flying the national flag.

Licenses to catch shrimp for commercial purposes in the Pacific Ocean will only be granted to vessels flying the Costa Rican flag and registered in Costa Rica, as well as to Costa Rican individuals or legal entities.

Longline and gillnet fishing may only be authorized to national flag and registry vessels. Likewise, squid fishing with bait pots may be authorized only for small and medium scale artisanal vessels, as well as those classified as Costa Rican longline fishing.

The landing of fishery products in Costa Rican territory by foreign vessels may be authorized according to criteria of supply and demand, consumer protection and the national fishing sector.

The national fishing fleet has preferential treatment with respect to the payment of taxes and the sale of fuel.

Temporary authorizations are required for tuna fishing in the Eastern Pacific Ocean. The owner of the vessel must sign an operating agreement with the Ministry of Agriculture and Livestock (MAG). Foreign flag vessels must be endorsed by their national fisheries authority, who guarantees that their country will respect and enforce the obligations of such agreement and waive any claims.

The exercise of the rights granted to foreign flag vessels to use the authorized tuna fishing capacity is subject to the payment of an annual fee to the Instituto de Pesca y Acuicultura. This fee is US$150 per cubic meter of gross carrying capacity registered in the Regional Purse Seine Vessel Register of the Inter-American Tropical Tuna Commission. The owners or proprietors of foreign flag vessels must designate or appoint a legal representative domiciled in Costa Rica, with sufficient faculties for the purposes of procedures and notifications to them.

12. Sector: Scientific, Research and Sports Services

Services related to Agriculture, Forestry and Aquaculture.

Obligations Concerned: National Treatment (Article 13.3) Local Presence (Article 13.6)

Measures: Law No. 7788 of April 30, 1998 - Biodiversity Law - Articles 7 and 63.

Law No. 7317 of October 30, 1992- Wildlife Conservation Law - Articles 2, 28, 29, 31, 38, 39, 61, 64 and 66.

Executive Decree No. 32633-MINAE of March 10, 2005- Regulations to the Wildlife Conservation Law - Chapter V.

Description: Cross Border Trade of Services

Foreign nationals or companies domiciled abroad that provide scientific research and bioprospecting (2) services, with respect to biodiversity (3) in Costa Rica, must designate a legal representative with residence in Costa Rica.

A license for scientific or cultural harvesting of species, scientific hunting and scientific or cultural fishing will be issued for a maximum period of one year to nationals or residents and six months or less for all other foreigners. Nationals and residents shall pay a lower fee than non-resident aliens to obtain this license.

(2) "Bioprospecting" includes the systematic search, classification and investigation, for commercial purposes, of new sources of chemical compounds, genes, proteins, microorganisms or other products with actual or potential economic value, found in biodiversity.

(3) "Biodiversity" includes the variability of living organisms from all sources found on land, in the air, in aquatic or marine ecosystems, or in any other ecological ecosystem, as well as the diversity among species and between species and the ecosystems of which they are part. Biodiversity also includes intangible elements such as: knowledge, innovation and traditional practices - individual or collective - with actual or potential economic value, associated with genetic or biochemical resources, whether or not protected by intellectual property rights or sui generis registration systems.

13. Sector: Free Trade Zones

Obligations Concerned: Performance Requirements (Article 12.6)

Measures: Law No. 7210 of November 23, 1990 - Law of Free Zones Regime - Article 22.

Executive Decree No. 34739-COMEX-H of August 29, 2008- Regulations to the Free Zone Regime Law - Article 71 and Chapter 13.

Description: Investment

Companies under the Free Trade Zone Regime may introduce into the national customs territory up to 25 percent of their total sales. However, in the case of industries and service companies that export them, they may introduce into the national customs territory a maximum percentage of 50 percent.

A non-producing export trading company, established in the Free Zone Regime in Costa Rica, that merely handles, repackages or redistributes non-traditional merchandise and products for export or re-export, may not introduce into the national customs territory any percentage of its total sales.

14. Sector: News Agency Services

Obligations Concerned: National Treatment (Article 13.3) Local Presence (Article 13.6)

Measures: Executive Decree No. 32599 of June 13, 2005 - Regulations of the Costa Rican Association of Journalists - Articles 3, 47 and 48.

Description: Cross Border Trade of Services

Unless authorized, a foreign journalist may cover events in Costa Rica only if he/she is a resident of Costa Rica.

The Board of Directors of the College of Journalists may grant non-resident foreigners a special permit to cover events in Costa Rica for up to one year, extendable as long as they do not harm or oppose the interests of the members of the College of Journalists.

If the College of Journalists decides that an event of international importance will occur or has occurred in Costa Rica, the College of Journalists may grant a non-resident foreigner with appropriate professional credentials a temporary permit to cover such event for the foreign media that the journalist represents. Such permit shall only be valid for up to one month after the event.

15. Sector: Tourist Marinas and Related Services

Obligations Concerned: National Treatment (Articles 12.2 and 13.3) Market Access (Article 13.5) Local Presence (Article 13.6)

Measures: Law No. 7744 of December 19, 1997 - Law of Concession and Operation of Tourist Marinas - Articles 1, 5, 12 and 21.

Executive Decree No. 27030-TUR-MINAE-S-MOPT of May 20, 1998- Regulations to the Law of Concession and Operation of Tourist Marinas - Article 52.

Description: Investment and Cross Border Trade of Services.

In order to obtain concessions for the development of marinas or tourist berths, companies whose principal place of business is located abroad, must establish themselves in Costa Rica.

Foreign nationals must appoint a representative with sufficient legal authority and permanent residence in Costa Rica.

All foreign flag vessels that use the services offered by a marina will enjoy a permit to remain in national waters and territory for two years, extendable for equal periods. During their permanence in Costa Rican waters and territory, foreign flag vessels and their crew may not provide water transportation services or fishing, diving or other activities related to sport and tourism.

16. Sector: Commercialization of alcoholic beverages

Obligations Affected: Market Access (Article 13.5).

Measures: Law No. 9047 of June 25, 2012 - Law on Regulation and Commercialization of beverages with alcoholic content - Articles 2, 3, 4, 5, 8 and 9.

Description: Cross Border Trade of Services

License is required for the retail marketing of beverages with alcoholic content by individuals or legal entities. Licenses are granted by the municipality where the business is located. Licenses are classified in four classes (A, B, C, D and E) (4) and will be valid for five years, automatically renewable for an equal period, and may not be sold, exchanged, leased, transferred, conveyed, or in any way alienated or traded.

The licenses will be granted in accordance with the following criteria:

(a) To the provisions of the respective regulatory plan in force or, as the case may be, to the regulation that governs in its place.

(b) The applicable land use regulations.

(c) Criteria of convenience, rationality, proportionality, reasonableness, best interest of the minor, social risk and balanced development of the canton, as well as respect for the freedom of commerce and the right to health; to this end, the municipalities may collaborate with the Ministry of Health and the Institute of Alcoholism and Drug Addiction.

(d) In the case of type B licenses, only one license may be granted for a maximum of 300 inhabitants.

The use of class A, B and C licenses may not be granted or authorized to businesses located in areas demarcated as residential use or in accordance with the provisions of the regulatory plan or the regulation by which it is governed. For class A and B licenses, no licenses will be granted to businesses located at a minimum distance of 400 meters from public or private educational centers, children's nutrition centers, facilities where religious activities are carried out that have the corresponding operating permit, care centers for senior citizens, hospitals, clinics and Ebais. In the case of class C licenses, this distance will be 100 meters.

(4) The definitions of the types of licenses are described in Article 9 of Law No. 7094, Law for the regulation and commercialization of beverages with alcoholic content. For transparency, a brief description of the type of activities and businesses that each license includes is included below: - License A: businesses where alcoholic beverages are commercialized and cannot be consumed on the premises. - License B: businesses where alcoholic beverages are marketed and may be consumed on the premises, such as cantinas, bars, taverns, dance halls, discotheques, nightclubs and cabarets. - License C: businesses where alcoholic beverages are marketed and may be consumed on the premises with food. - License D: mini-supermarkets and supermarkets. - License E: activities and businesses declared of tourist interest by the Costa Rican Tourism Institute (ICT).

17. Sector: Retail and Wholesale Distribution - Crude Oil and its Derivatives

Obligations Affected: Access to Markets (Article 13.5)

Measures Law No. 7356 of August 24, 1993- Law of the State Monopoly of Hydrocarbons Administered by Recope "Establishes a Monopoly in favor of the State for the Importation, Refining and Distribution of Petroleum, Fuels, Asphalts and Naphtha" - Articles 1, 2 and 3.

Law No. 7593 of August 9, 1996 - Law of the Regulatory Authority of Public Services - Articles 5, 9 and 13.

Executive Decree 36627-MINAET of May 23, 2011- Regulation for the Regulation of Fuel Transportation.

Description: Cross Border Trade of Services

The import and wholesale distribution of crude oil and its derivatives, including fuels, asphalts and naphtha, to satisfy the national demand, are a State monopoly.

Costa Rica reserves the right to limit the number of concessions or permits for the supply of hydrocarbon derived fuels - including petroleum derivatives, asphalts, gas and naphthas destined to supply the national demand in distribution plants and petroleum derivatives, asphalts, gas and naphthas destined to the final consumer - based on the demand for the service. Priority will be given to the concessionaires that are already supplying the service.

18. Sector: Telecommunications Services (5)

Obligations Affected: National Treatment (Articles 12.2 and 13.3) Market Access (Article 13.5) Local Presence (Article 13.6).

Measures: Political Constitution of the Republic of Costa Rica - Article 121, paragraph 14.

Law No. 8642 of June 4, 2008- General Telecommunications Law - Articles 1, 5, 7, 10, 11, 12, 19, 20, 21, 22, 23, 24, 25, 26, 28 and 30.

Executive Decree No. 34765-MINAET of September 22, 2008- Regulations to the General Telecommunications Law - Articles 2, 6, 7, 10, 10, 21, 22, 33, 34, 35, 37, 43, 45, 45 bis and 46.

Law No. 8660 of August 08, 2008- Law for the Strengthening and Modernization of the Public Entities of the Telecommunications Sector - Articles 5, 7, 18 and 39.

Law No.7789 of April 30, 1998- Law for the Transformation of Empresa de Servicios Públicos de Heredia ESPH - Articles 7 and 15.

Description: Investment and Cross Border Trade of Services

In Costa Rica, wireless services may not definitively leave the domain of the State and may only be exploited by the public administration or by private parties, in accordance with the law or by means of a special concession granted for a limited period of time and under the conditions and stipulations established by the Legislative Assembly.

Concessions, authorizations and permits will be required to supply telecommunications services in Costa Rica. Economic needs tests are required to grant such concessions, authorizations and permits.

A special concession granted by the Legislative Assembly will be required to supply traditional basic telephone services.

The participation in the capital of companies incorporated or acquired by the Instituto Costarricense de Electricidad will be limited to 49 percent.

Empresa de Servicios Públicos de Heredia may establish strategic alliances with public or private persons, as long as the latter have at least 51 percent of Costa Rican capital.

(5) Defined as all services consisting, wholly or mainly, of the transport of signals through telecommunication networks, except broadcasting.

19. Sector: Advertising, Audiovisual, Film, Radio, Television and other Entertainment Services.

Affected Obligations: National Treatment (Articles 12.2 and 13.3). Most-Favored-Nation Treatment (Articles 12.3 and 13.4) Performance Requirements (Article 12.6) Market Access (Article 13.5) Local Presence (Article 13.6)

Measures: Law No. 6220 of April 20, 1978 - Law that Regulates Broadcasting Media and Advertising Agencies - Articles 3 and 4.

Law No. 1758 of June 19, 1954 - Radio and Television Law - Article 11.

Law No. 4325 of February 17, 1969 - Law on Advertising of Nationally Produced Artistic Programs - Article 1.

Law No. 5812 of October 10, 1975- Law that Regulates Contracting and Taxation of Foreign Performing Artists - Article 3.

Executive Decree No. 34765-MINAET of September 22, 2008- Regulations to the General Telecommunications Law - Articles 5, 127, 128 and 131.

Description: Investment and Cross Border Trade of Services.

Broadcasting media and advertising agencies may be operated by individuals or legal entities, under the form of personal or capital companies with nominative shares. Such companies must be registered in the Public Registry.

It is absolutely forbidden to constitute encumbrances on the shares or quotas of a company owning any broadcasting media or advertising agency, in favor of corporations with bearer shares, or foreign individuals or legal entities.

The spots, announcements or filmed commercials used in the programs sponsored by the autonomous or semi-autonomous institutions of the State, the Government of the Republic and all the entities that receive a subsidy from the State, must be of national production.

The announcers of commercial announcements for cinema, radio and television must be registered in the Radio Department of the Ministry of Environment, Energy and Telecommunications. Foreign broadcasters must be residents in order to register with the Radio Department. The broadcasting of commercials in which the announcer is not registered as stipulated in the Regulations to the General Telecommunications Law will not be authorized.

Commercials that have been produced and edited in the country are considered national. Also considered national are those commercials coming from the Central American area with which there is reciprocity in the matter.

Radio, television and cinema programming shall be governed by the following rules:

(a) if the commercials consist of tunes (jingles) recorded abroad, a certain sum shall be paid for each one that is broadcasted;

(b) of the filmed commercial spots shown by each television station or movie theater each day, only 30 percent may be of foreign origin;

(c) the importation of commercial shorts outside the Central American area shall pay a tax of 100 percent of their value;

(d) commercial radio, film or television shorts made in any of the other Central American countries with which there is reciprocity in this matter shall be considered as national;

(e) the number of radio programs and radio soap operas recorded abroad shall not exceed 50 percent of the total number of such programs and soap operas broadcast by each radio station on a daily basis; and

(f) the number of programs filmed or videotaped abroad shall not exceed 60 percent of the total number of programs shown daily.

The person contracting or employing foreign artists shall contract an equal number of national artists for the same show, unless the respective majority union expresses the impossibility of supplying them.

20. Sector: Water Transportation Services

Obligations Concerned: National Treatment (Articles 12.2 and 13.3) Access to Markets (Article 13.5) Local Presence (Article 13.6)

Measures: Law No. 7593 of August 9, 1996 - Law of the Public Services Regulatory Authority - Articles 5, 9 and 13.

Law No. 104 of June 6, 1853 - Code of Commerce of 1853 - Book III of Maritime Commerce - Articles 537 and 580.

Law No. 12 of October 22, 1941 - Ship Flagging Law - Articles 5, 41 and 43.

Law No. 2220 of June 20, 1958- Law of Cabotage Service of the Republic - Articles 5, 8, 9, 11 and 12.

Executive Decree No. 66 of November 4, 1960- Regulation of the Cabotage Services Law of the Republic - Articles 10, 12, 15 and 16.

Executive Decree No. 12568-T-S-H of April 30, 1981- Regulation of the Costa Rican Naval Registry - Articles 8, 10, 11, 12 and 13.

Executive Decree No. 23178-J-MOPT of April 18, 1994- Transfer of the National Ship Registry to the Public Registry of Movable Property - Article 5.

Description: Investment and Cross Border Trade of Services.

Costa Rica reserves the right to limit the number of concessions for water transportation services based on the demand for such service. Priority will be given to concessionaires that are already providing the service.

Only Costa Rican nationals, national public entities, companies incorporated and domiciled in Costa Rica, and representatives of shipping companies may register vessels in Costa Rica. Foreigners or foreign companies wishing to register vessels under 50 tons for non-commercial use are exempted from this rule.

Any natural or juridical person domiciled abroad who owns one or more foreign registered vessels located in Costa Rica, must appoint and maintain an agent or legal representative in Costa Rica, who acts as a liaison with the official authorities in all matters related to the vessel.

Commercial and tourist cabotage from Costa Rican port to Costa Rican port will be done exclusively in Costa Rican registered vessels.

Foreigners who wish to be captains of a vessel of Costa Rican registration and flag must provide a guarantee equivalent to at least half the value of the vessel under their command.

At least 10 percent of the crew on Costa Rican-registered international traffic vessels docking in Costa Rican ports must be Costa Rican nationals, provided that such trained personnel are available domestically.

21. Sector: Air Transport Services and Specialized Air Services

Obligations Concerned: National Treatment (Article 12.2) Most-Favored-Nation Treatment (Article 12.3)

Measures: Law No. 5150 of May 14, 1973 - General Civil Aviation Law - Articles 36, 37, 42, 128, 143, 149, 150, 156 and 172.

Executive Decree No. 3326-T of October 25, 1973- Regulations for the Granting of Operating Certificates-Article 6.

Executive Decree No. 4440-T of January 3, 1975- Regulations for the Operation of the Costa Rican Aeronautical Registry-Articles 20 and 38.

Executive Decree No. 32420 of April 15, 2005- RAC- LPTA Costa Rican Aeronautical Regulations - Aeronautical Technical Personnel Licenses.

Executive Decree No. 31520-MS-MAG-MINAE-MOPT- MGPSP of October 16, 2003- Regulations for Agricultural Aviation Activities-Article 13.

Description: Investment

Certificates for the provision of airworthiness services will be issued to foreign companies incorporated under foreign legislation, based on the principle of reciprocity.

Only Costa Rican individuals or legal entities may register in the National Aircraft Registry, aircraft destined for remunerated aerial activities. Foreigners with legal residence in the country may also register aircraft used exclusively for non-commercial purposes.

In the absence of agreements or conventions, certificates for the provision of international air transportation will be issued based on the principle of reciprocity.

At least 51 percent of the capital of companies wishing to obtain an operating certificate to develop agricultural aviation activities must be owned by Costa Ricans.

22. Sector: Electric Energy

Obligations Concerned: National Treatment (Articles 12.2 and 13.3) Market Access (Article 13.5) Local Presence (Article 13.6)

Measures: Political Constitution of the Republic of Costa Rica - Article 121.

Law No. 7200 of April 28, 1990 - Law Authorizing Autonomous or Parallel Electric Generation - Articles 1, 2, 3, 5, 7 and 26

amended by Law No. 7508 of May 9, 1995 - Law on Amendments to the Law Authorizing Autonomous or Parallel Generation - Articles 2 and 3.

Law No. 7789 of April 30, 1998 - Transformation of Empresa de Servicios Públicos de Heredia - Article 15.

Executive Decree No. 37124 of March 19, 2012- Regulation to Chapter I of Law No. 7200 "Law Authorizing Autonomous or Parallel Electric Generation" - Articles 3, 4, 8, 9 and 12.

Executive Decree No. 24866-MINAE of December 12, 1995 - Regulation to Chapter II of the Parallel Generation Law: Competition Regime - Article 34.

Law No. 7593 of August 9, 1996 - Law of the Regulatory Authority of Public Utilities - Articles 5, 9 and 13.

Law No. 8345 of February 20, 2003 - Law on the Participation of Rural Electrification Cooperatives and Municipal Utilities in National Development - Articles 1, 2, 3, 6, 7, 9, 11, 12 and 13.

Law No. 8723 of April 22, 2009- Framework Concession Law for the Use of Hydraulic Forces for Hydroelectric Generation - Articles 1, 2, 4, 5, 6, 7 and 8.

Law No. 8660 of August 8, 2008 - Law of Strengthening and Modernization of the Public Entities of the Telecommunications Sector - Article 5.

Description: Investment and Cross Border Trade in Services

Costa Rica reserves the right to grant by legislation concessions for the transmission, distribution and commercialization of electric energy based on the demand for the service. Priority will be given to the concessionaires that are already supplying the service.

For greater certainty, the following companies currently have concessions to provide these services: Instituto Costarricense de Electricidad (ICE); Empresa de Servicios Públicos de Heredia; Junta Administrativa del Servicio Eléctrico Municipal de Cartago (JASEC); Compañía Nacional de Fuerza y Luz; and cooperative associations, cooperative consortiums and municipal public service companies subject to the provisions of Law No. 8345.

All these companies may participate in strategic alliances with public or private companies to supply their services, subject to the provisions stipulated by law. In the case of the Empresa de Servicios Públicos de Heredia, no less than 51 percent of the capital of the private company must belong to Costa Rican nationals.

Private individuals may invest in activities for the operation of power plants of limited capacity6 that do not exceed 20,000 kW, provided that the following requirements are met:

(a) ICE may purchase electricity from companies in which not less than 35 percent of the capital is owned by Costa Rican nationals.

(b) Companies organized under foreign legislation and that enter into a power purchase agreement may purchase electricity from ICE.

6 For greater certainty, ICE may authorize the operation of a limited capacity plant, provided that the energy generated by all private plants in Costa Rica does not represent more than 15 percent of the total energy produced by all public and private plants in the national electricity system. Also for greater certainty, any hydropower generated by waters in the public domain must be supplied only by the State or by private parties holding a concession, in accordance with the Constitution.

In order to purchase energy with ICE, they must establish a branch office in Costa Rica.

Private participation in the capital of companies incorporated or acquired by the Instituto Costarricense de Electricidad shall be limited to 49 percent.

23. Sector: Railroads, Ports and Airports

Obligations Concerned: Market Access (Article 13.5) Local Presence (Article 13.6)

Measures: Political Constitution of the Republic of Costa Rica - Article 121, paragraph 14.

Law No. 7762 of April 14, 1998 - General Law of Concession of Public Works with Public Services - Articles 2, 3, 4, 5, 5, 30 and 31

Description: Cross Border Trade of Services

The national railroads, docks and airports - the latter while in service - may not be alienated, leased or encumbered, directly or indirectly, nor leave in any form the domain and control of the State.

The Executive Branch may grant concessions for railroads, railroads, docks and international airports. In the case of the docks of Limón, Moín, Caldera and Puntarenas, concessions may only be granted for future works or expansions.

All concessionaire companies of railroads, docks or airports must be incorporated in accordance with Costa Rican law and have their domicile in Costa Rica.

24. Sector: Irrigation and Drainage Services

Obligations Concerned: Market Access (Article 13.5)

Measures: Law No. 7593 of August 9, 1996 - Law of the Regulatory Authority of Public Services - Articles 5, 9 and 13.

Description: Cross Border Trade in Services

Costa Rica reserves the right to limit the number of concessions for the supply of irrigation services based on the demand for such services. Priority will be given to concessionaires that are already supplying the service.

25. Sector: Waste Management Services

Obligations Concerned: Access to Markets (Article 13.5)

Measures: Law No. 7593 of August 9, 1996 - Law of the Public Services Regulatory Authority - Articles 5, 9 and 13.

Law No. 8839 of June 24, 2010 - Law for Integral Waste Management - Articles 22, 31, 32, 34 and 35.

Executive Decree No. 35906-S of January 27, 2010- Regulation of Reclamation Centers for Recoverable Waste - Article 5.

Executive Decree No. 35933-S of February 12, 2010- Regulation for the Integral Management of Electronic Waste- Article 16.

Executive Decree No. 36093 of July 15, 2010- Regulation on Ordinary Solid Waste Management- Articles 5, 6 and 48.

Executive Decree No. 37567-S-MINAET-H of November 2, 2012- General Regulations to the Law for Integral Waste Management- Articles 4, 46, 47 and 61.

Description: Cross Border Trade in Services

Costa Rica reserves the right to limit the number of concessions for the supply of solid waste treatment services based on the demand for such services. Priority will be given to concessionaires that are already supplying the service.

Construction or operating permits or licenses are required for the collection, processing, storage, recovery, treatment, disposal, and elimination of ordinary and hazardous waste.

Costa Rica may adopt measures to prohibit the importation of materials whose valorization or integral management is limited or inexistent in the country; to restrict or prohibit the importation, manufacture and commercialization of products that hinder compliance with national policies for the integral management of waste; and to prohibit or temporarily limit the exportation of waste when it has strategic value for the country.

The importation and cross-border movement through the national territory of hazardous, radioactive and bioinfectious waste, and of products and their parts that are expired, damaged, obsolete, as well as those whose registration has been cancelled by the authorities in their country of origin or have reached the end of their useful life is prohibited.

The Ministry of Health may authorize the importation of ordinary waste to be recovered in the country, provided it determines, based on technical studies and applying the precautionary principle, that it does not endanger health and the environment. One of the conditions for granting the authorization is that, for reasons of economies of scale, such importation allows or promotes the establishment of an environmentally adequate technology, duly recognized and accepted at the international level, for the treatment of similar waste generated in the country that otherwise could not be managed locally in a responsible manner.

Annex II. Explanatory Notes

1. The Schedule of a Party to this Annex sets out, in accordance with Articles 12.7 (Non-Conforming Measures) and 13.7 (Non-Conforming Measures), the specific sectors, sub-sectors, or activities for which that Party may maintain existing measures, or adopt new or more restrictive measures that are inconsistent with the obligations imposed by:

(a) Articles 12.2 (National Treatment) or 13.3 (National Treatment);

(b) Article 12.3 (Most-Favored-Nation Treatment) or 13.4 (Most-Favored-Nation Treatment);

(c) Article 12.5 (Senior Management and Boards of Directors);

(d) Article 12.6 (Performance Requirements);

(e) Article 13.5 (Market Access); or

(f) Article 13.6 (Local Presence).

2. Each tab of the Schedule sets out the following elements:

(a) Sector refers to the sector for which the tab has been made;

(b) Obligations Affected specifies the obligation or obligations referred to in the Articles described in paragraph 1 that, by virtue of Articles 12.7 (Nonconforming Measures) and 13.7 (Nonconforming Measures), do not apply to the sectors, subsectors, or activities listed in the schedule; and

(c) Description indicates the coverage of the sectors, subsectors or activities covered by the fiche.

3. Pursuant to Article 12.7 (Nonconforming Measures) and 13.7 (Nonconforming Measures), the Articles of this Agreement specified in the Affected Obligations element of a tab do not apply to the sectors, subsectors, and activities identified in the Description element of that tab.

4. In the interpretation of a reservation all its elements shall be considered. The Description element shall prevail over the other elements.

Annex II. Schedule of Colombia

Sector: Some Sectors

Obligations Concerned: Market Access (Article 13.5)

Description: Cross-Border Trade in Services

Colombia reserves the right to adopt or maintain any measure on:

(a) research and security services;

(b) research and development services;

(c) the establishment of exclusive service areas for services related to the distribution of energy and fuel gas so as to ensure the provision of universal service;

(d) distribution services - wholesale and retail commercial services in sectors in which the Government establishes a monopoly, in accordance with Article 336 of the Political Constitution of Colombia, whose revenues are dedicated to public or social services. As of the date of signature of this Agreement, Colombia has established monopolies only with respect to liquor and luck and chance;

(e) primary and secondary education services, and the requirement of a specific type of legal entity form for higher education services;

(f) services related to the environment that are established or maintained for reasons of public interest;

(g) health and social services, and health-related professional services;

(h) library, archives and museum services;

(i) sports and other recreational services;

(j) the number of concessions and the total number of operations for road passenger transport services, rail passenger and freight transport services, pipeline transport services, ancillary services in connection with all modes of transport, and other transport services.

For greater certainty, no measure shall be inconsistent with Colombia's obligations under Article XVI of the GATS.

Sector: All Sectors

Obligations Concerned: National Treatment (Article 12.2)

Description: Investment

Colombia reserves the right to adopt or maintain measures relating to the ownership of real estate by foreigners in Colombia's border regions, national coasts or island territory.

For the purposes of this tab:

(a) border region means an area two kilometers wide, parallel to the national boundary line;

(b) national coast is an area two kilometers wide, parallel to the line of the highest tide; and

(c) insular territory means the islands, islets, cays, keys, morros, and banks that are part of the territory of Colombia.

Sector: All Sectors

Obligations Concerned: Most-Favored-Nation Treatment (Articles 12.3 and 13.4)

Description: Investment and Cross Border Trade in Services

Colombia reserves the right to adopt or maintain any measure that grants different treatment to countries under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.

Colombia reserves the right to adopt or maintain any measure that accords different treatment to countries under any bilateral or multilateral international agreement in force or entered into after the date of entry into force of this Agreement with respect to:

(a) aviation;

(b) fisheries; and

(c) maritime matters, including salvage.

Sector: Social Services

Obligations Concerned: National Treatment (Articles 12.2 and 13.3)

Most-Favored-Nation Treatment (Articles 12.3 and 13.4) Senior Executives and Boards of Directors (Article 12.5) Performance Requirements (Article 12.6)

Market Access (Article 13.5) Local Presence (Article 13.6)

Description: Investment and Cross-Border Trade in Services

Colombia reserves the right to adopt or maintain any measure with respect to the application and enforcement of laws and the supply of correctional services, and of the following services to the extent that they are social services that are established or maintained for reasons of public interest: social rehabilitation, income insurance or security, social security services, social welfare, public education and training, health and child care.

For greater certainty, the comprehensive social security system in Colombia is currently comprised of the following mandatory systems: the General Pension System, the General System of Social Security in Health, the General System of Professional Risks and the Unemployment and Unemployment Assistance Regime.

Sector: Minority and Ethnic Group Issues

Obligations Concerned: National Treatment (Articles 12.2 and 13.3)

Most-Favored-Nation Treatment (Articles 12.3 and 13.4) Senior Executives and Boards of Directors (Article 12.5) Performance Requirements (Article 12.6) Market Access (Article 13.5) Local Presence (Article 13.6)

Description: Investment and Cross-Border Trade in Services

Colombia reserves the right to adopt or maintain any measure that grants rights or preferences to socially or economically disadvantaged minorities and their ethnic groups, including with respect to communal lands owned by ethnic groups in accordance with Article 63 of the Colombian Constitution. The ethnic groups in Colombia are: the indigenous and ROM

(gypsy) peoples, the Afro-Colombian communities, and the Raizal community of the Archipelago of San Andrés, Providencia, and Santa Catalina.

Sector: Cultural Industries and Activities

Obligations Concerned: National Treatment (Articles 12.2 and 13.3) Most-Favored-Nation Treatment (Articles 12.3 and 13.4)

Description: Investment and Cross-Border Trade in Services

For the purposes of this fact sheet, the term cultural industries and activities means:

(a) publication, distribution, or sale of books, magazines, periodicals, or electronic or printed newspapers, excluding the printing or typesetting of any of the foregoing;

(b) production, distribution, sale or exhibition of film or video recordings;

(c) production, distribution, sale or exhibition of musical recordings in audio or video format;

(d) production and presentation of performing arts;

(e) production or exhibition of visual arts;

(f) production, distribution or sale of printed music, or machine-readable music;

(g) design, production, distribution and sale of handicrafts;

(h) broadcasting directed to the general public, as well as all radio, television and activities related to cable television, satellite television and broadcasting networks; or

(i) creation and design of advertising content.

Colombia reserves the right to adopt or maintain any measure granting preferential treatment to persons of any other country through any treaty between Colombia and such other country that contains specific commitments regarding cultural cooperation or co-production with respect to cultural industries and activities.

Colombia may adopt or maintain any measure that grants to a person of the other Party treatment equivalent to that accorded by that other Party to Colombian persons in the audiovisual, musical or publishing sectors.

Sector: Jewelry design Performing arts Music

Visual arts Audiovisuals Publishing

Obligations Concerned: Performance Requirements (Article 12.6) National Treatment (Article 13.3)

Description: Investment and Cross-Border Trade in Services

Colombia reserves the right to adopt or maintain any measure conditioning the receipt or continued receipt of government support (1) for the development and production of jewelry design, performing arts, music, visual arts, audiovisual, and publishing, on the recipient achieving a given level or percentage of domestic creative content.

For greater certainty, this fact sheet does not apply to advertising and performance requirements shall in all cases be consistent with the WTO Agreement on Trade-Related Investment Measures.

(1) For the purposes of this fact sheet, government support means tax incentives, incentives for reduction of compulsory contributions, grants provided by a government, loans provided by a government, and guarantees, autonomous estates or insurance provided by a government, regardless of whether a private entity is wholly or partially responsible for the administration of the government support.

Sector: Craft Industries

Obligations Concerned: Performance Requirements (Article 12.6) National Treatment (Article 13.3)

Description: Investment and Cross-Border Trade in Services

Colombia reserves the right to adopt or maintain any measure relating to the design, distribution, retail, or display of handicrafts identified as Colombian handicrafts.

For greater certainty, performance requirements shall in all cases be consistent with the WTO Agreement on Trade-Related Investment Measures.

Sector: Audiovisual

Advertising

Obligations Concerned: Performance Requirements (Article 12.6) National Treatment (Article 13.3)

Description: Investment and Cross-Border Trade in Services

Cinematographic Works

(a) Colombia reserves the right to adopt or maintain any measure requiring that a specified percentage (not to exceed 15 percent) of the total number of cinematographic works shown annually in cinemas or exhibition halls in Colombia consist of Colombian cinematographic works. To establish such percentages, Colombia shall take into account the conditions of national cinematographic production, the existing exhibition infrastructure in the country and the attendance averages.

Cinematographic Works on Television Broadcasting

(b) Colombia reserves the right to adopt or maintain any measure requiring that a specified percentage (not to exceed 10 percent) of the total number of cinematographic works shown annually on free television channels consist of Colombian cinematographic works. In establishing such percentage, Colombia shall take into account the availability of national cinematographic works for free-to-air television. Such works shall count as part of the domestic content requirements that apply to the channel as described in the Open Television tab on page 21 and 22, paragraph 5, of Annex I.

Community Television (2)

(c) Colombia reserves the right to adopt or maintain any measure requiring that a specified portion of the weekly community television programming (not to exceed 56 hours per week) consist of domestic programming produced by the community television operator.

Commercial Television Broadcasting on Multichannel

(d) Colombia reserves the right to impose the minimum programming requirements set forth in the Open Television tab on page 21 and 22, paragraph 5 of Annex I on multichannel commercial open television, except that such requirements may not be imposed on more than two channels or 25 percent of the total number of channels (whichever is greater) made available by any one provider.

Advertising

(e) Colombia reserves the right to adopt or maintain any measure requiring that a specified percentage (not to exceed 20 percent) of the total advertising orders contracted annually with media services companies established in Colombia, other than newspapers, journals and subscription services headquartered outside Colombia, be produced and created in Colombia. Any such measures shall not apply to: (i) the advertising of movie premieres in theaters or exhibition halls; and (ii) any media where the programming or content originates outside Colombia or to the rebroadcasting or rebroadcasting of such programming within Colombia.

(2) As defined in Agreement 006 of 1999.

Sector: Traditional Expressions

Obligations Concerned: National Treatment (Articles 12.2 and 13.3)

Description: Investment and Cross-Border Trade in Services

Colombia reserves the right to adopt or maintain any measure that grants rights or preferences to local communities with respect to the support and development of expressions related to intangible cultural heritage declared under Resolution No. 0168 of 2005.

Such measures must not be inconsistent with Chapter 9 (Intellectual Property).

Sector: Interactive Audio and/or Video Services

Obligations Concerned: Performance Requirements (Article 12.6)

National Treatment (Article 13.3)

Description: Investment and Cross-Border Trade in Services

Colombia reserves the right to adopt or maintain measures to ensure that, where the Government of Colombia finds that Colombian audiovisual content is not readily available to Colombian consumers, access to Colombian audiovisual content programming through interactive audio and/or video services is not unreasonably denied to Colombian consumers.

Sector: Professional Services

Obligations Concerned: National Treatment (Article 13.3)

Most-Favored-Nation Treatment (Article 13.4) Market Access (Article 13.5)

Local Presence (Article 13.6)

Description: Cross-Border Trade in Services

Colombia reserves the right to adopt or maintain any measure that allows a professional who is a national of the other Party to practice, only to the extent that the Party where that professional practices offers treatment consistent with the obligations referred to in this tab to Colombian nationals in the processes and requirements of authorization, licensing or certification to practice such profession. Notwithstanding the foregoing, Colombia shall allow professionals who were practicing in its territory prior to the entry into force of this Agreement, in accordance with Colombian regulations, to continue to practice in accordance with existing laws.

For the purposes of this tab, the Party in which the professionals practice is the territory within which the professional obtained his professional license to practice and has practiced most of the time during the last 12 months.

This measure does not apply to a country that has a bilateral agreement in force on the recognition of professional titles with Colombia.

Sector: Land and River Transportation

Obligations Concerned: Most-Favored-Nation Treatment (Article 13.4)

Description: Cross-Border Trade in Services

Colombia reserves the right to adopt or maintain any measure that grants different treatment to countries under any bilateral or multilateral international agreement signed after the date of entry into force of this Agreement on land and river transport services.

Sector: Sale and Marketing of Air Transportation Services

Obligations Concerned: National Treatment (Articles 12.2 and 13.3)

Market Access (Article 13.5) Local Presence (Article 13.6)

Description: Investment and Cross-Border Trade in Services

Colombia reserves the right to adopt or maintain any measure on commissions and/or payments from carriers to travel agents and intermediaries in general.

Annex II. Schedule of Costa Rica

1. Sector: All Sectors

Obligations Concerned: Most-Favored-Nation Treatment (Articles 12.3 and 13.4)

Description: Investment and Cross-Border Trade in Services

Costa Rica reserves the right to adopt or maintain any measure that grants differential treatment to countries pursuant to:

(a) any bilateral or multilateral international treaty in force or entered into prior to the date of entry into force of this Agreement;

(b) any international treaty in force or entered into after the date of entry into force of this Agreement involving:

(i) air services;

(ii) fisheries; and

(iii) maritime matters, including salvage.

2. Sector: Social Services

Obligations Concerned: National Treatment (Articles 12.2 and 13.3) Most-Favored-Nation Treatment (Articles 12.3 and 13.4) Senior Executives and Boards of Directors (Article 12.5) Performance Requirements (Article 12.6) Market Access (Article 13.5) Local Presence (Article 13.6)

Description: Cross-Border Investment and Trade in Services

Costa Rica reserves the right to adopt or maintain any measure with respect to the enforcement of laws and the supply of social rehabilitation services as well as the following services, to the extent that they are social services that are established or maintained in the public interest: income insurance or security, social security services, social welfare, public education, public training, health, child care, public sewerage services, and water supply services.

3. Sector: Minority and Indigenous Affairs

Obligations Concerned: National Treatment (Articles 12.2 & 13.3)

Most-Favored-Nation Treatment (Articles 12.3 and 13.4) Senior Executives and Boards of Directors (Article 12.5) Performance Requirements (Article 12.6)

Market Access (Article 13.5) Local Presence (Article 13.6)

Description: Cross-Border Investment and Trade in Services

Costa Rica reserves the right to adopt or maintain any measure that grants rights or preferences to disadvantaged social or economic groups or indigenous groups.

4. Sector: Cultural Industries

Obligations Concerned: Most-Favored-Nation Treatment (Articles 12.3 and 13.4)

Description: Investment and Cross-Border Trade in Services

Costa Rica reserves the right to adopt or maintain any measure that grants differential treatment to countries under any existing or future bilateral or multilateral international treaty with respect to cultural industries, such as audiovisual cooperation treaties. For greater certainty, government support programs through subsidies for the promotion of cultural activities are not subject to the limitations or obligations of this Agreement.

Cultural industries means persons engaged in any of the following activities:

(a) publication, distribution or sale of books, magazines, periodicals, or printed or electronic newspapers, excluding the printing and typesetting of any of the foregoing;

(b) production, distribution, sale or exhibition of film or video recordings;

(c) production, distribution, sale or exhibition of audio or video recordings of music;

(d) production, distribution, or sale of machine-readable printed music; or

(e) radio broadcasting for the general public, as well as all activities related to radio, television and cable transmission, satellite programming services and broadcasting networks.

5. Sector: Lottery, Betting and Gaming

Obligations Concerned: National Treatment (Articles 12.2 and 13.3) Most-Favored-Nation Treatment (Articles 12.3 and 13.4) Senior Executives and Boards of Directors (Article 12.5) Performance Requirements (Article 12.6) Market Access (Article 13.5) Local Presence (Article 13.6)

Description: Investment and Cross-Border Trade in Services

Costa Rica reserves the right to adopt or maintain any measure with respect to lottery, betting and gambling.

6. Sector: Natural Resources (1)

Obligations Concerned: National Treatment (Articles 12.2 and 13.3)

Most-Favored-Nation Treatment (Articles 12.3 and 13.4) Senior Executives and Boards of Directors (Article 12.5) Performance Requirements (Article 12.6)

Market Access (Article 13.5) Local Presence (Article 13.6)

Description: Cross-Border Investment and Trade in Services

Costa Rica reserves the right to adopt or maintain any measure with respect to natural resources, including conservation, management, protection, exploration, extraction, and exploitation.

(1) This fact sheet does not apply to fisheries because non-conforming aspects of Costa Rica's existing measures regarding fisheries are covered in Costa Rica's Schedule to Annex I.

7. Sector: Environmental Services (2)

Obligations Concerned: National Treatment (Articles 12.2 and 13.3) Most-Favored-Nation Treatment (Articles 12.3 and 13.4) Senior Executives and Boards of Directors (Article 12.5) Performance Requirements (Article 12.6) Market Access (Article 13.5) Local Presence (Article 13.6)

Description: Cross-Border Investment and Trade in Services

Costa Rica reserves the right to adopt or maintain any measure with respect to environmental services.

(2) Waste management services are excluded from this fact sheet.

8. Sector: Postal Services

Obligations Concerned: National Treatment (Articles 12.2 and 13.3)

Most-Favored Nation Treatment (Articles 12.3 and 13.4) Senior Executives and Boards of Directors (Article 12.5) Performance Requirements (Article 12.6) Market Access (Article 13.5) Local Presence (Article 13.6)

Description: Cross-Border Investment and Trade in Services

Costa Rica reserves the right to adopt or maintain any measure with respect to postal services that do not constitute express delivery services (3).

(3) For the purposes of this Agreement, express delivery services means the expeditious collection, transportation and delivery of documents, printed matter, packages, goods or other articles while keeping track of and maintaining control over these articles throughout the supply of the service. Express delivery services do not include (i) air transport services, (ii) services provided in the exercise of governmental authority or reserved to the state and its enterprises in accordance with national legislation, (iii) social postal communication services, or (iv) maritime transport services.

9. Sector: Radio and Television Broadcasting Services (Broadcasting (4))

Obligations Concerned: National Treatment (Articles 12.2 and 13.3) Most-Favored-Nation Treatment (Articles 12.3 and 13.4) Senior Executives and Boards of Directors (Article 12.5) Performance Requirements (Article 12.6) Market Access (Article 13.5) Local Presence (Article 13.6)

Description: Investment and Cross-Border Trade in Services

Costa Rica reserves the right to adopt or maintain any measure with respect to radio and television (broadcasting) services.

(4) Broadcasting is defined as the uninterrupted chain of transmission required for the distribution of television and radio program signals to the general public, but does not cover the contribution links between operators.

10. Sector: Arms and Explosives

Obligations Concerned: National Treatment (Articles 12.2 and 13.3) Most-Favored-Nation Treatment (Articles 12.3 and 13.4) Senior Executives and Boards of Directors (Article 12.5) Performance Requirements (Article 12.6) Market Access (Article 13.5) Local Presence (Article 13.6)

Description: Cross-Border Investment and Trade in Services

Costa Rica reserves the right to adopt or maintain any measure with respect to arms and explosives. The manufacture, use, sale, storage, transport, import, export, and possession of arms and explosives are regulated for the protection of a security interest.

11. Sector: Investigative and Security Services

Obligations Concerned: National Treatment (Articles 12.2 and 13.3) Most-Favored-Nation Treatment (Articles 12.3 and 13.4) Senior Executives and Boards of Directors (Article 12.5) Performance Requirements (Article 12.6) Market Access (Article 13.5) Local Presence (Article 13.6)

Description: Cross-Border Investment and Trade in Services

Costa Rica reserves the right to adopt or maintain any measure with respect to research and security services.

12. Sector: All Sectors

Obligations Concerned: Market Access (Article 13.5)

Description: Investment and Cross-Border Trade in Services

Costa Rica reserves the right to adopt or maintain any measure with respect to the "Market Access" obligation that is not inconsistent with Costa Rica's obligations under Article XVI of the GATS.

Notwithstanding the provisions of the preceding paragraph, Costa Rica respects the bound level of access in the sectors or sub-sectors listed in the terms of Annex I.